BOND RESOLUTION

AUTHORIZING THE ISSUANCE OF JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY TAXABLE REVENUE BONDS (BAYMARE LLC PROJECT), SERIES 2021

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A RESOLUTION AUTHORIZING THE ISSUANCE BY THE JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY OF ITS TAXABLE REVENUE BONDS (BAYMARE LLC PROJECT), SERIES 2021. IN A MAXIMUM AGGREGATE PRINCIPAL AMOUNT OF \$42,000,000,000, TO PAY OR REIMBURSE THE COSTS OF ACQUIRING, CONSTRUCTING, EQUIPPING, AND INSTALLING A PROJECT CONSISTING OF LAND, TOGETHER WITH IMPROVEMENTS THERETO AND EQUIPMENT THEREON, TO BE LEASED TO BAYMARE LLC FOR USE AS A DATA CENTER AND ECONOMIC DEVELOPMENT **PROJECT** UNDER O.C.G.A. § 36-62-2(6)(N); PROVIDING FOR THE TERMS OF SUCH BONDS AND FOR THE RIGHTS AND REMEDIES OF THE HOLDER OF SUCH BONDS: AUTHORIZING THE VALIDATION AND SALE OF SUCH BONDS; APPROVING AND AUTHORIZING THE EXECUTION OF A LEASE AND OTHER DOCUMENTS RELATING TO SUCH BONDS; AND FOR OTHER **PURPOSES**

WHEREAS, capitalized terms used in the recitals hereto that are not defined therein shall be defined as provided in Article I hereof or in the Lease (as defined below); and

WHEREAS, the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County (the "Issuer") is a joint development authority and public body corporate and politic, duly created pursuant to the Development Authorities Law of the State of Georgia, codified at O.C.G.A. § 36-62-1, et seq. (the "Act"), in particular O.C.G.A. § 36-62-5.1 thereof, by joint and concurrent resolutions adopted by the respective Boards of Commissioners of Jasper County, Morgan County, Newton County, and Walton County (each a "County" and together, the "Counties"); and

WHEREAS, the Issuer: (i) has the territorial area of each of the Counties as its area of operation; (ii) is located in and has its principal office and legal residence located at 118 North Main Street, Madison, Georgia 30650; (iii) maintains its primary deposit accounts in Morgan County; (iv) has members which have each been duly appointed and lawfully hold office; and (v) is in compliance with the requirements of Georgia law requiring financial reporting to and registration with the Georgia Department of Community Affairs; and

WHEREAS, the Issuer was created for the public purpose of promoting trade, commerce, industry, and employment opportunities in the territorial areas of the Counties, and for such other purposes as set forth in the Act; and

WHEREAS, the Act authorizes the Issuer to issue its revenue bonds to acquire "projects" (as defined in the Act) to be located within the Issuer's defined area of operation, and the Issuer's revenue bonds are to be issued and validated under and in accordance with the applicable provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, et seq.); and

WHEREAS, the Act further authorizes and empowers the Issuer (i) to lease any such projects; (ii) to pledge, mortgage, convey, assign, hypothecate or otherwise encumber such

projects and the revenues therefrom as security for the Issuer's revenue bonds; and (iii) to do any and all acts and things necessary or convenient to accomplish the purpose and powers of the Issuer; and

WHEREAS, the Act further authorizes and empowers the Issuer to borrow money and issue its revenue bonds and to use the proceeds thereof for the purpose of paying all or part of the cost of any project, and to pay all other costs incident to or necessary and appropriate for such purposes; and

WHEREAS, the Issuer proposes to issue a series of its revenue bonds, in installments (collectively, the "Bonds"), to be designated "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021" in a maximum aggregate principal amount of \$42,000,000,000, to finance the costs of acquiring, constructing, equipping, and installing a capital project (the "Project"), consisting of certain land within the Issuer's defined area of operation, together with improvements thereto and equipment thereon, to be leased by the Issuer to Baymare LLC, a Delaware limited liability company (the "Company"), pursuant to a Lease Agreement (the "Lease"), for use as a data center; and

WHEREAS, pursuant to the Lease and as more fully set forth therein, the Issuer agrees to finance the cost of the acquisition, construction, equipping, and installation of the Project, and the Company, in its capacity as the lessee under the Lease (in such capacity, the "Lessee"), agrees to pay to the Issuer under the Lease specified rents and other payments that will be fully sufficient to pay the principal of, and the redemption premium (if any) and the interest on, the Bonds as the same become due and to pay certain administrative expenses in connection with the Bonds; and

WHEREAS, the most feasible method of acquiring the Project is by the issuance of the Bonds; and

WHEREAS, in order to finance the acquisition, construction, equipping, and installation of the Project, the Issuer shall issue the Bonds from time to time and the Company, in its capacity as purchaser of the Bonds (in such capacity, the "Purchaser"), shall pay for and fund the Bonds in multiple installments as and when moneys are required to complete the acquisition, construction, equipping, and installation of the Project; and

WHEREAS, the Bonds shall be secured by a Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement (the "Security Document") from the Issuer, as debtor, in favor of the Purchaser; and

WHEREAS, under the terms of the Lease, the Issuer will receive specified rents and other payments from the Lessee, which payments shall be assigned and pledged, together with the Lease itself, all rental payments and other payments to be received pursuant to the Lease, and all amounts on deposit from time to time in the Bond Fund and the Project Fund (as defined herein) as security for the payment of the principal of, and the redemption premium (if any) and the interest on, the Bonds; and

WHEREAS, in addition to the significant capital investment, the Project is expected to create new jobs in the area served by the Issuer; and

WHEREAS, it is desirable for the Issuer to (i) authorize the Bonds, (ii) provide for the sale of the Bonds, and (iii) provide for the execution of the Issuer Documents (defined herein) relating to the Bonds; and

WHEREAS, after careful study and investigation of the nature of the Project, the Issuer hereby finds and determines that the Project may be financed as a "project" as defined in the Act; the Project will develop and promote industry, trade, commerce and employment opportunities in the area served by the Issuer for the public good and the general welfare of the State of Georgia (the "State"); that the Project and the issuance of the Issuer's revenue bonds to finance all or a part of the cost thereof will be in the public interest of the inhabitants of the area served by the Issuer and the State and will be in furtherance of the public purposes for which the Issuer was created and is existing, as provided in the Act; and

WHEREAS, after careful study and investigation of the nature of the Project, the Issuer hereby finds and determines that: (i) the Project is located within the area of operation of the Issuer and constitutes and may be financed as a "project" as defined in the Act and specifically, but without limitation, that the Project may be financed and acquired by the Issuer as a "project" as defined in O.C.G.A. § 36-62-2(6)(N) (and not as a "project" described in any other provision of the Act defining the term "project" or authorizing "projects"); (ii) the Project will create jobs and thereby develop and promote trade, commerce, industry, and employment opportunities for the public good and the general welfare and promote the general welfare of the State of Georgia (the "State"); (iii) the Project, the issuance of the Bonds to finance all or a part of the cost of the Project, and the leasing of the Project to the Company will be in the public interest of the inhabitants of the area served by the Issuer and of the State; (iv) the Project and the use thereof will further the public purposes of the Act for which the Issuer was created and is existing; and (v) the Project and the Bonds will be sound, feasible and reasonable; and

WHEREAS, the Issuer further finds and determines that the economic benefits that will inure to the area served by the Issuer and the State from the Project and the operation thereof and the payments to be made under the Lease and under the Inducement and PILOT Agreement (as defined herein) will be equal to or greater than the benefits to be derived by the Company under the Lease and under the purchase option granted to the Company in the Option Agreement (as defined herein); therefore, the use of proceeds of the Bond to finance the Project, the leasing of the Project under the Lease and the granting of the purchase option contained in the Option Agreement, and the transactions contemplated hereby do not violate the prohibition in the Georgia constitution on the payment by public bodies of gratuities to private sector persons or entities; and

WHEREAS, the Issuer further finds and determines that the payments in lieu of taxes payable pursuant to the Lease and the Inducement and PILOT Agreement, when so collected and administered by the Issuer pursuant to the Inducement and PILOT Agreement, represent a binding, fair and equitable allocation of said payments in lieu of taxes based upon the benefits and burdens incurred by each of the parties to the Inducement and PILOT Agreement and the Counties; and

WHEREAS, the Issuer further finds and determines that as to the governmental parties thereto, the provisions of the Inducement and PILOT Agreement related to the determination of exemption and non-taxability of the Issuer's and the Company's respective interests in the Project and administration of the PILOT Payments by the Issuer as to the provision of services by each of

said governmental parties, as authorized by laws of the State more fully set forth in the Inducement and PILOT Agreement, shall collectively constitute an intergovernmental agreement under the Georgia Constitution Art. IX, Sec. III, Para. I, with such intergovernmental agreement being subject to the 50-year term limit contained in such provision of the Georgia Constitution; and

WHEREAS, the Issuer further finds and determines that (i) the adoption of this Bond Resolution and the subsequent issuance of the Bonds to finance the Project does not constitute a "business loan" or confer any other "public benefit" within the meaning of O.C.G.A. § 50-36-1, and (ii) neither the Company nor any other participant in the transaction involving the Bonds or the Project or their respective counsel constitute an "applicant for public benefits" within the meaning of O.C.G.A. § 50-36-1 in connection with the issuance of the Bonds; therefore, such persons are not subject to Systematic Alien Verification of Entitlement pursuant to such code section in connection with the issuance of the Bond; and

WHEREAS, the Issuer further finds and determines that the Project is not a public project and is therefore not subject to the Georgia Local Government Public Works Construction Law (O.C.G.A. § 36-91-1 et seq.); and

WHEREAS, the Issuer further finds and determines that that no payments in lieu of taxes payable pursuant to the Lease or the Inducement and PILOT Agreement are pledged to secure payment of the Bonds, and the Bonds are therefore not subject to the PILOT Restriction Act (O.C.G.A. § 36-80-16.1); and

WHEREAS, the Issuer desires to elect to waive the requirements of O.C.G.A. § 36-82-100, requiring a performance audit or performance review to be conducted with respect to the Bond, and in connection therewith, to include language, in bold face type, in the Notice to the Public regarding the validation hearing for the Bonds stating that no performance audit or review will be conducted; and

WHEREAS, the proposed form of the following documents are attached hereto as Exhibits:

Exhibit A being the proposed form of the Bonds;

Exhibit B being the proposed form of the Lease between the Issuer and the Company, under which the Issuer is to lease the Project to the Company, as lessee;

Exhibit C being the proposed form of the Bond Purchase Loan Agreement (the "Bond Purchase Loan Agreement") between the Issuer and Company, in its capacity as lessee under the Lease and separately in its capacity as the purchaser of the Bonds, under which the Issuer is to sell the Bonds to the Purchaser;

Exhibit D being the proposed form of the Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement (the "Security Document") between the Issuer, as debtor, and the Purchaser, as secured party, under which the Issuer creates a security interest in the hereinafter defined Pledged Security in favor of the Purchaser and each successor Holder of the Bonds;

Exhibit E being the proposed form of the Option Agreement (the "Option

Agreement") between the Issuer, as optionor, and the Company, as optionee, under which the Issuer grants to the Company an option to

purchase the Project; and

Exhibit F being the proposed form of the Inducement and PILOT Agreement (the

"Inducement and PILOT Agreement") by and between the Issuer, the Company, the Board of Tax Assessors of Morgan County, the Board of Tax Assessors of Newton County, and the Board of Tax Assessors of Walton County, under which the Issuer and the Company establish the terms and conditions upon which the Company will agree to locate the Project within the jurisdiction of the Issuer, and upon which the Issuer will agree to provide certain incentives for the development of the Project.

<u>Exhibits B</u> through <u>F</u> to this Bond Resolution are collectively referred to as the "**Bond Documents**," and this Bond Resolution, the Bond Documents and the Pledged Security (as defined herein) are collectively called the "**Pledged Security**;" and

WHEREAS, this Bond Resolution has been duly adopted and all things necessary to make the Bonds, when validated, issued and delivered as provided in this Bond Resolution, the legal, valid, binding, and enforceable limited obligation of the Issuer according to the import thereof, and to create a valid pledge of the Pledged Security for the Bonds, have been done and performed, and the execution and delivery of the Issuer Documents and the execution, issuance, and delivery of the Bond, subject to the terms hereof, have in all respects been authorized.

NOW, THEREFORE, BE IT RESOLVED by the Issuer, as follows:

ARTICLE I DEFINITIONS AND OTHER MATTERS

Section 1.1. <u>Definitions</u>. Certain words and terms in bold-face type set forth above in the recitals hereof shall have the meanings, as applicable, set forth in the recitals, set forth below, or as given in the Lease, and the Lease is by this reference incorporated herein. Words such as "acquisition," "acquire," and "acquiring," and other words of similar import shall, when used with respect to the Project or any portion or component thereof, mean and include the acquisition of the Project or such portion or component thereof as the context may permit or require. In addition to the words and terms defined in the recitals and the Lease, the following words and terms shall have the meanings specified below unless the context or use indicates another or different meaning or intent:

"Act" means the Development Authorities Law, O.C.G.A. § 36-62-1, et seq.

"Affiliate" means a person or entity (as used herein, "entity" includes, without limitation, any public body) that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with, a specified person or entity. As used herein, the term "control" of a person or entity means the possession, directly or indirectly, of the power: (a) to vote 50% or more of the voting securities of such person or entity (on a fully diluted basis)

having ordinary power to vote in the election of the governing body of such person or entity, or (b) to direct or cause the direction of the management or policies of a person or entity, whether through ownership or voting securities, by contract or otherwise.

"Basic Rent" means the rent payable by the Company to the Issuer under the Lease, as defined under and provided for in the Lease.

"Bond" or "Bonds" means any or all of the Issuer's Taxable Revenue Bonds (Baymare LLC Project), Series 2021, authorized by this Bond Resolution, in substantially the form attached hereto as Exhibit A.

"Bond Documents" means the documents, the forms of which are set forth in Exhibits B through \underline{F} hereto.

"Bondholder" and/or "Holder" means the registered owner of the Bonds.

"Bond Purchase Loan Agreement" means the Bond Purchase Loan Agreement, to be dated as of the Document Date, and to be entered into by and between the Issuer, the Company and the Purchaser, in substantially the form attached hereto as Exhibit C, as it may hereafter be amended in accordance with Article IX of this Bond Resolution.

"Bond Resolution" means this resolution, as it may hereafter be amended in accordance with Article IX hereof.

"Business Day" means a day that is not a Saturday, Sunday, a legal holiday, or any other day on which banking institutions are authorized to be closed in the State.

"Code" means the Internal Revenue Code of 1986, as amended, and applicable regulations and rulings thereunder.

"Company" means Baymare LLC, a limited liability company duly organized and existing under the laws of the State of Delaware, provided that if the Lease is assigned, then the assignee shall be deemed to be the Company.

"Company Documents" means those of the Bond Documents to which the Company is to be a party signatory.

"Costs of the Project" means those aggregate costs and expenses paid or incurred in connection with the acquisition, construction, equipping, and installation of the Project and permitted by the Act, the Lease and Section 2.2 hereof to be paid or reimbursed from proceeds of the Bond, whether prior to or after the date of this Bond Resolution.

"Custodian" means the Company, or any successor Custodian of the Sinking Fund and Project Fund for the Bonds designated pursuant to Section 5.5 hereof.

"Debt Service" and "debt service" mean the principal of, interest on, and redemption amount, if any, payable on the Bonds.

"Debt Service Payment Date" means each Principal Payment Date and Interest Payment Date and any date on which the Bonds are to be redeemed, in whole or in part, and includes any special Debt Service Payment Date established with respect thereto as provided in Section 2.3 hereof.

"Default Interest Rate" means, as to delinquent payments of Basic Rent under the Lease and the Debt Service on the Bonds, the Stated Interest Rate, and as to delinquent payments of Additional Rent under such Lease means the lesser of the Prime Rate plus 300 basis points or the maximum rate allowed by law.

"Document Date" means March 1, 2021, or such later date as may be agreed upon by the Issuer and the Company.

"Funds" means, collectively, the Project Fund and the Sinking Fund.

"Inducement and PILOT Agreement" means the Inducement and PILOT Agreement, to be dated as of the Document Date, by and between the Issuer, the Company, the Board of Tax Assessors of Morgan County, the Board of Tax Assessors of Newton County, and the Board of Tax Assessors of Walton County, in substantially the form attached hereto as Exhibit F.

"Interest Payment Date" means, as to any Bond, March 1 of each year during which such Bond is outstanding and the date on which the Bond matures or is retired in full by redemption.

"Issuer" means the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County.

"Issuer Documents" means those of the Bond Documents to which the Issuer is to be a party signatory.

"Lease" means the Lease Agreement, to be dated as of the Document Date, and to be entered into by and between the Issuer and the Company in substantially the form attached hereto as Exhibit B, as it may hereafter be amended in accordance with Article IX hereof.

"Leased Equipment" is defined in the Lease.

"Leased Improvements" is defined in the Lease.

"Leased Land" is defined in Lease.

"Lender" is defined in the Lease.

"Lessee" means the tenant under the Lease. The Company will be the initial Lessee under the Lease.

"Maturity Date" means the final maturity date of any Bond, as stated in such Bond.

"Maximum Principal Amount" means, as to the Bonds, \$42,000,000,000 (being the maximum aggregate principal amount of Bonds that may be issued by the Issuer under this Bond

Resolution and purchased in installments by the Purchaser under the Bond Purchase Loan Agreement).

"Net Proceeds" means, with respect to any gross proceeds of casualty insurance received relating to the Project and any proceeds of any eminent domain award (or proceeds received in lieu of a taking by eminent domain) or any other recovery on a contractual claim or claim for damage to or for taking of the Project, or any part thereof, the proceeds remaining from such insurance, eminent domain award, transfer or recovery after payment of all costs and expenses (including attorneys' fees and reimbursable expenses) incurred in the collection of such gross proceeds.

"Option Agreement" means the Option Agreement, to be dated as of the Document Date, and to be entered into between the Issuer and the Company in substantially the form attached hereto as Exhibit E, as it may hereafter be amended in accordance with Article IX hereof.

"Outstanding" means a Bond, or portion thereof, which has been duly delivered by the Issuer under this Bond Resolution, except:

- (a) a Bond, or portion thereof, theretofore surrendered to and canceled, or required by the Holder to be canceled by, the Issuer,
- (b) a Bond, or portion thereof, which is deemed to have been paid in accordance with Article XI hereof, and
- (c) a Bond, or portion thereof, in substitution for which another Bond has been delivered under Section 2.7 hereof.

If the Bonds, or any portion thereof, have been defeased pursuant to Article XI hereof, the Bonds or such portion shall not be deemed to be Outstanding within the meaning of this provision.

"Paying Agent" means the Company, acting as paying agent for the Issuer with respect to the payment of Debt Service on the Bonds, or a successor paying agent for the Bonds.

"Permitted Encumbrances" is defined in the Lease.

"Permitted Investments" means the authorized investments permitted from time to time by the laws of the State of Georgia for proceeds of the Bonds.

"Person" means a natural person or legal entity.

"Pledged Revenues" means the revenues received by the Issuer constituting (a) payments of Basic Rent pursuant to Section 5.3(a) of the Lease, (b) investment income, if any, earned from the Permitted Investments in the Sinking Fund and Project Fund, and (c) the contractual rights of the Issuer to receive the foregoing.

"Pledged Security" means and includes, among other things, (a) the interest of the Issuer in the Project, (b) the rights of the Issuer in and under the Lease (except for the Unassigned Rights), (c) the Pledged Revenues, (d) all Net Proceeds, (e) amounts, if any, in the Sinking Fund and Project

Fund, and (f) the proceeds of the foregoing, all as more specifically described in the Security Document.

"Prime Rate" means the index rate, base rate or reference rate from time to time published as the Wall Street Journal Prime Rate (being the base rate on corporate loans posted by at least 70% of the nation's top 10 banks by assets); the Prime Rate is not necessarily the lowest available interest rate on corporate loans.

"Principal Balance" means, as of any particular time, (i) the total aggregate principal amount of Bonds in all installments issued by the Issuer under this Bond Resolution and purchased by the Purchaser under the Bond Purchase Loan Agreement, reduced by (ii) any principal amounts which have theretofore been paid on the Bonds.

"Principal Payment Date" means, as to any Bond, the Maturity Date of such Bond, and any other date on which principal is scheduled to be paid as reflected in such Bond; the term Principal Payment Date shall also include, as to the principal being redeemed on such date, the redemption date of any principal of such Bond.

"Project" is means the Leased Land, the Leased Improvements and the Leased Equipment.

"Project Fund" means the "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021—Project Fund" established as provided in Article V hereof.

"Purchaser" means the purchaser of the Bonds; the Company is the initial Purchaser.

"Redemption Date" or "redemption date" means any date on which any Bond is to be prepaid and redeemed, in whole or in part, as established by the notice of redemption relating thereto.

"Register" means the registration books for the Bonds maintained and to be maintained by the Registrar.

"Registrar" means the Company, acting on behalf of the Issuer, as registrar for the Bonds, or any successor Registrar.

"Regular Record Date" means, with respect to any Debt Service Payment Date, the 15th day of the calendar month next preceding such Debt Service Payment Date.

"Security Document" means the Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement," to be dated as of the Document Date, and to be executed by the Issuer in favor of the Purchaser, its successors and assigns, securing payment of the Bonds, in substantially the form attached hereto as Exhibit D.

"Sinking Fund" means the "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021—Sinking Fund" established as provided in Article V hereof.

"Special Record Date" means a date that may be established pursuant to Section 2.3 hereof for the payment of delinquent Debt Service and deficiency interest thereon.

"State" means the State of Georgia.

"Stated Interest Rate" means the interest rate to be stated in each Bond.

"Superior Encumbrances" is defined in the Lease.

"Superior Security Document" is defined in the Lease.

"Unassigned Rights" is defined in the Lease.

- **Section 1.2.** Construction of Certain Terms. For all purposes hereof, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:
 - (a) The use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate.
 - (b) All references in this instrument to designated "Articles," "Sections," and other subdivisions are to the designated Articles, Sections, and other subdivisions hereof unless the context clearly indicates a reference to some other instrument or to a particular law or regulation. The words "herein," "hereof," and "hereunder" and other words of similar import refer to this Bond Resolution as a whole and not to any particular Article, Section, or other subdivision.
 - (c) The terms defined in this Article shall have the meanings assigned to them in this Article and include the plural as well as the singular.
 - (d) All accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants, on and as of the date of this instrument.
- Section 1.3. <u>Table of Contents</u>; <u>Titles and Headings</u>. The table of contents, the titles of the articles, and the headings of the sections hereof are solely for convenience of reference, are not a part hereof, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.
- Section 1.4. <u>Contents of Certificates or Opinions</u>. Every certificate or written opinion delivered by any director or official of the Issuer with respect to the compliance by the Issuer with any condition or covenant provided for in this Bond Resolution shall be delivered only after the person or persons signing the same has made such examination or investigation as is necessary to enable him, her or them to express an informed opinion as to whether or not such covenant or condition has been complied with. Any such certificate or opinion made or given by any director or official of the Issuer, insofar as it relates to legal or accounting matters, may be made or given

in reliance upon an opinion of counsel or a letter of such accountant, unless otherwise known by such Person. Any such opinion of counsel or accountant's letter may be based (insofar as it relates to factual matters with respect to information which is in the possession of a director or an official of the Issuer or any third party) upon the certificate or opinion of, or representations by, such director or official of the Issuer or such third party on whom such counsel or accountant may reasonably rely unless such counsel or such accountant knows that the certificate or opinion or representations with respect to the matters upon which his legal opinion or accountant's letter may be based, as aforesaid, is erroneous or in the exercise of reasonable care should have known that the same was erroneous. The same director or official of the Issuer or third party, or the same counsel or accountant, as the case may be, need not certify or opine to all of the matters required to be certified or opined under any provision hereof, but different directors, officials, counsel, or accountants may certify or opine to different matters, respectively.

Section 1.5. Findings. The findings and determinations set forth in the recitals contained herein are incorporated in the body of this Bond Resolution by this reference.

ARTICLE II AUTHORIZATION, FORM AND REGISTRATION OF BOND

Section 2.1. Authorization; Designation and Terms of the Bonds. The Issuer is hereby authorized to sell, execute, and deliver to the Purchaser its revenue bonds, which are to be issued in installments and designated "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021." The aggregate principal amount of the Bonds that may be issued shall not exceed the Maximum Principal Amount. The Bonds shall mature on December 31, 2046, and shall bear interest at a rate per annum of 6.00%, which interest shall be payable on the Interest Payment Date. The Bonds shall be in substantially the form set forth in Exhibit A to this Bond Resolution, with such variations, omissions, substitutions, legends and insertions as may be approved by the official of the Issuer who executes each Bond and by the Purchaser. The maximum amount of principal and interest payable on the Bonds in any twelve (12) month period during which the Bonds remain outstanding shall not exceed \$44,520,000,000. The Bonds shall be issued in installments to the Purchaser as provided in the Bond Purchase Loan Agreement, and shall be numbered from R-1, consecutively upwards in order of registration according to the records of the Registrar. Bonds will be issued under the Bond Purchase Loan Agreement when moneys are required to pay or reimburse Costs of the Project.

Section 2.2. <u>Use of Proceeds of the Bonds</u>. The Bonds are to be issued in installments to provide funds for the acquisition, construction, equipping, and installation of the Project in one or more phases as provided in the Lease and the Inducement and PILOT Agreement, which is to be leased by the Issuer to the Company for use as a data center. It is contemplated that all installments of Bonds issued will be made in exchange for conveyances of property of the Project, and that no actual cash will pass through the Project Fund in connection with such installments of Bonds issued. The Lessee is to convey property of the Project as it currently exists to the Issuer in exchange for the Bond representing such initial installment, subject to certain Permitted Encumbrances, and will lease the Project back from the Issuer. If any requests for installments of Bonds under the Bond Purchase Loan Agreement are to be made in exchange for property to

become part of the Project, such Costs of the Project shall be deemed to be recorded on the books of the Project Fund as a receipt of proceeds of the Bonds from the Purchaser and a reimbursement of the Purchaser for the purchase price of such property. Funds drawn under the Bond Purchase Loan Agreement with respect to the Bonds shall constitute proceeds of the Bonds and shall be used, together with any income from the investment thereof, only (i) to pay Costs of the Project, (ii) to reimburse the Lessee for Costs of the Project that have been paid by the Lessee or, if applicable, to reimburse the Issuer for Costs of the Project that have been paid by the Issuer, and (iii) to pay the issuance costs of such Bonds.

Section 2.3. Payment of Debt Service.

- (a) Principal of each Bond shall be payable on the Principal Payment Date and interest on each Bond shall be payable on the Interest Payment Dates. Interest shall accrue at the Stated Interest Rate on each Bond under the Bond Purchase Loan Agreement from the date such amount was drawn down. If any Debt Service on a Bond is not paid when due, interest on such overdue principal and, to the extent permitted by law, interest on such overdue interest, shall accrue at the Default Interest Rate from the due date thereof until such overdue Debt Service and interest at the Default Interest Rate thereon are paid. Interest shall be calculated on the basis stated in the Bonds (the form of which is attached as Exhibit A to this Bond Resolution).
- (b) Each Bond and the debt service thereon shall be payable solely from and secured solely by the Pledged Security.
- Debt Service payments on each Bond shall be paid to the Holder of that Bond as of the close of business of the Registrar on the Regular Record Date. If, and to the extent, however, that the Issuer shall fail to make payment or provision for payment of Debt Service on any Bond on any Debt Service Payment Date, that Debt Service shall cease to be payable to the Holder of that Bond as of the close of business on the Regular Record Date and shall be payable, together with any lawfully permitted interest at the Default Interest Rate ("deficiency interest") on such delinquent Debt Service, on a special Debt Service Payment Date to the Holder of such Bond as of the close of business of the Registrar on the Special Record Date which is established with respect to such special Debt Service Payment Date and Special Record Date. The Special Record Date shall be a date established by the Registrar when moneys are available in the Sinking Fund in the amount needed to pay such delinquent Debt Service and any lawfully permitted deficiency interest, and will be not more than fifteen (15) nor fewer than ten (10) days prior to the such special Debt Service Payment Date. The Registrar shall mail notice of such Special Record Date to the Holder. Such notice shall be mailed, not fewer than ten (10) days prior to the Special Record Date and such special Debt Service Payment Date, by the Registrar to the Holder at the address of the Holder as shown on the Bond Register for such Bond as of the close of business of the Registrar on the Special Record Date or to such other address as shall have been furnished in writing to the Registrar by the Holder prior to such Special Record Date. Debt Service payments shall be made on each Debt Service Payment Date or special Debt Service Payment Date by check or draft mailed by the Paying Agent to the Holder of such Bond on the applicable Regular Record Date or Special Record Date. Notwithstanding the foregoing, by written agreement between the Paying Agent and Holder of any Bond. Debt Service thereon may be paid by wire transfer or by direct deposit to a bank account designated in such agreement, provided that any costs associated with such

alternative method of payment shall, under such agreement, be paid by the Holder. This clause (c) is subject to the constructive payment provisions of clause (d), below.

- (d) Notwithstanding anything to the contrary contained herein, if the Lessee is also the Holder of a Bond, then the payment of Basic Rent under the Lease and the payment of Debt Service on such Bond shall be deemed to have been constructively made when due and shall be noted on the Schedule of Payments attached to that Bond. If the amount of any Debt Service payment is equal to the Principal Balance of such Bond plus accrued interest (including any accrued interest at the Default Interest Rate), such Bond shall be marked "canceled and paid" and shall be promptly surrendered by the Holder to the Registrar.
- (e) If any actual payments (as contrasted with constructive payments) are made on the Bonds, the Custodian, as Paying Agent, shall record the dates and amounts of any Basic Rent received and the dates and amounts of Debt Service payments made on the Bonds on the records of the Sinking Fund and shall retain canceled checks or other evidence of payment of Debt Service on the Bonds. If a successor Bond is issued upon transfer or replacement of a Bond, all the dates and amounts of all prior draws (including constructive draws evidenced by the transfer of property) under the Bond Purchase Loan Agreement and all prior payments of Debt Service (including constructive payments) thereon shall be noted on the Register. Notwithstanding the foregoing or any other provision hereof to the contrary, if the Lessee is also the Holder of the Bond and also the Custodian for the Sinking Fund, then it shall not be necessary to maintain records with respect to the Sinking Fund for the Bonds or to deposit any funds in that Sinking Fund and all Debt Service payments on the Bonds and Basic Rent payments shall be deemed to have been constructively made.
- Section 2.4. Sale of the Bonds. The Bonds are to be sold in a negotiated private placement to the Purchaser thereof at an initial purchase price equal to the principal amount of the first installment of the Bonds issued hereunder by the Issuer and purchased under the Bond Purchase Loan Agreement on the issue date of such Bond, which amount shall be the initial Principal Balance of the Bonds. Each time the Issuer issues an installment Bond to be purchased as provided in the Bond Purchase Loan Agreement, the principal amount of such installment Bond shall increase the Outstanding Principal Balance of the Bonds and such amount shall constitute an additional purchase price payment by the then Holder of such Bond.
- Section 2.5. Execution of Bonds. Each Bond and each replacement Bond that may be issued pursuant to the provisions of Section 2.7 hereof, if any, shall be executed in the name of the Issuer and shall bear the manual signature of the Chairman or Vice Chairman of the Issuer, attested by the manual signature of the Secretary or Treasurer of the Issuer and the actual seal of the Issuer may be affixed to or imprinted on the Bond. In case any official whose signature shall appear on a Bond shall cease to be such official before delivery of that Bond, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such official had remained in office until such delivery.
- Section 2.6. <u>Registration Books</u>; <u>Ownership of Bonds</u>. The Registrar, as agent for the Issuer, shall keep the Register for the initial registration of the Bonds and for the registration of transfers of the Bonds and replacements thereof as herein provided. Upon the initial issuance of a Bond, such Bond shall be registered on the Register in the name of the Purchaser. Upon the

issuance of a replacement Bond, as provided in Section 2.7 hereof, the replacement Bond shall be registered in the name of the Person who shall be entitled to receive the same, as provided in Section 2.7 hereof. The Person in whose name a Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and the payment of the principal of and interest on that Bond shall be made only to or upon the order of the registered owner thereof. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond and the interest thereon to the extent of the sums so paid.

Section 2.7. Transfer or Replacement of Bonds.

- (a) Neither any Bond nor the obligations embedded in such Bond have been, and are not expected to be, registered under the federal Securities Act of 1933, as amended (the "1933 Act"), or under the securities laws of any state and this Bond Resolution has not been, and is not expected to be, qualified under the federal Trust Indenture Act of 1939, as amended.
- Each Bond is to be issued in a private placement, and the Bonds may be transferred (b) in whole, but not in part, only in a single transaction to a transferee that is the Company (or an assignee of the Lessee under the Lease), an Affiliate of the Company or a Qualified Real Estate Investor or "qualified institutional buyer," as defined in Rule 144A promulgated under the 1933 Act. However, a qualified institutional buyer that is the registered holder of the Bonds may act as representative of a number of participating qualified institutional buyers, having joint ownership of the Bonds. Notwithstanding the foregoing, at any time a Superior Security Document is in effect, the Bonds may not be assigned except to the entity that is the Lessee under the Lease, unless the holder of such Superior Security Document consents thereto in writing. Except as expressly provided for in this Bond Resolution, a Bond may not be apportioned into multiple instruments and may not be exchanged for bonds of a denomination smaller than the unpaid Principal Balance of such Bond. In addition, prior to the earlier of (i) the date the Maximum Principal Amount of the Bonds has been drawn down by the Issuer under the Bond Purchase Loan Agreement, or (ii) the Expiration Date as defined in the Bond Purchase Loan Agreement, or the date on which the Lessee (as provided in the Bond Purchase Loan Agreement) waives in writing, its right to request further installments to be issued under such Bond Purchase Loan Agreement, the Bonds may not be transferred, unless (1) the Lessee has consented to such transfer, and (2) the transferee has agreed in writing to assume the Purchaser's obligations under the Bond Purchase Loan Agreement, so that the transferee shall be obligated to purchase installment Bonds under the Bond Purchase Loan Agreement pursuant to requests executed by such Lessee on behalf of the Issuer; in such case, the transferee shall thereafter be deemed to be the "Purchaser" under the Bond Purchase Loan Agreement.
- (c) Transfer of the Bonds, if such transfer is permitted hereby, shall be registered in the Register upon the surrender and presentation of the Bonds at the principal office of the Registrar duly endorsed for transfer or accompanied by an assignment duly executed by the registered owner or the registered owner's attorney duly authorized in writing in such form as shall be satisfactory to such Registrar, together with (1) transfer instructions containing the name and address of the transferee, (2) the federal E.I.N. of the transferee, (3) evidence that the transferee is the Lessee, or a "qualified institutional buyer," as defined in Rule 144A promulgated under of the 1933 Act, (4) a written instrument executed by the transferee, in form and in substance reasonably satisfactory to the Registrar stating, among other things, that: (i) the transferee is acquiring the Bonds as an

investment for its own account and not with a view to distribution or resale; (ii) the transferee understands the limited source of payment and the limited security for the Bonds and has conducted its own due diligence investigation as to the Bonds and sources of payment of the Bonds and interest thereon and in the conduct of such investigation, the transferee has not relied on any representations of the Issuer; (iii) the transferee understands the risks involved in investing in the Bonds (or in accepting the Bonds as collateral security if the transferee is a pledgee of such Bonds) and has the financial ability to accept such risk; (iv) the transferee understands that neither the Issuer, the Company, nor any other Person is required, by the terms of the Bonds or by the terms hereof, to provide continuing disclosure with respect to the Bonds under Securities and Exchange Commission Rule 15c2-12; (v) the subsequent transfer of the Bonds by the transferee shall also be subject to the restrictions contained in this Section 2.7; and (vi) if draws may then still be made under the Bond Purchase Loan Agreement, the transferee agrees to comply with the obligations of the Purchaser under the Bond Purchase Loan Agreement.

- (d) Upon any such registration of transfer, the Issuer shall deliver in exchange for the Bonds so surrendered, new Bonds registered in the name of the transferee of the same maturity, terms, and tenor and bearing a Bond number one integral number higher than the number of the Bond surrendered for transfer. Upon the issuance of new Bond certificates pursuant to the transfer or replacement of a Bond, the Issuer hereby directs the Custodian, as Registrar, to enter on the Schedule of Payments appearing at the end of such new Bond certificate, the date, type and amount of each payment of principal and interest under the surrendered Bond.
- (e) The Issuer and the Registrar may make a charge for the registration of transfer of a Bond sufficient to reimburse it and for reasonable fees and expenses of counsel in connection with any opinion required by a transferee or by law that the transfer of the Bond is a permitted transfer hereunder, but no other charge shall be made to the transferor or transferee for the privilege of registering the transfer of any Bond under this Bond Resolution. If a Bond is surrendered for registration of transfer, the Bond so surrendered shall be canceled and destroyed by the Registrar in accordance with Section 2.9 hereof at the time the replacement Bond is registered in the name of the transferee.
- (f) If a Bond is mutilated, lost, stolen, or destroyed, the Issuer will on request of the Holder execute and deliver a new Bond of the same maturity, interest rate, aggregate principal amount, and tenor in lieu of and in substitution for the Bond that has been mutilated, lost, stolen, or destroyed; provided that, in the case of any mutilated Bond, such mutilated Bond shall first be surrendered to the Registrar, and in the case of any lost, stolen, or destroyed Bond, there shall be first furnished to the Registrar confirmation in writing from the Holder as to such loss, theft, or destruction, together with an agreement to provide indemnity to the Issuer and the Lessee of the Project reasonably satisfactory to them which shall protect them against any loss which may arise as a result of any claim for payment that may be made with respect to the Bond which was purported to have been lost, stolen or destroyed, including any legal fees, legal expenses and costs they may incur with respect to any such claim. If a Bond shall have matured or been called for redemption in whole, instead of issuing a replacement Bond, the Issuer may pay and retire the same if immediately available funds are on deposit in the Sinking Fund in the amount needed to retire such Bond. A replacement Bond may also be issued to replace a Bond as provided in Section 9.2 hereof to reflect any amendment in the terms of that Bond as provided in Section 9.1 hereof.

- (g) As a condition of issuing a replacement Bond under this paragraph, the Issuer may make a charge for the replacement of the Bond sufficient to reimburse it for reasonable fees and expenses of counsel to the Issuer in confirming that the replacement of the Bond is a permitted replacement hereunder will be paid by the Holder, but no other charge shall be made to the owner in connection with such replacement, other than the payment obligation provided for in subparagraph (e) above.
- Section 2.8. <u>Blank Bond Certificates</u>. The Issuer shall make all necessary and proper provisions for the transfer and replacement of any Bond and shall, upon request of the Registrar, deliver to the Registrar an executed Bond form to be registered and delivered as a replacement Bond in accordance with the provisions of Section 2.7 hereof.
- Section 2.9. <u>Cancellation of Bonds</u>. Any Bond certificate surrendered in any registration of transfer or exchange and any mutilated Bond surrendered to the Registrar for replacement shall be forthwith marked "canceled" and such cancellation and the identity of the Bond issued in such transaction shall be entered in the Register by the Registrar. If the entire principal balance of that Bond is to be paid at maturity or by redemption, then such Bond must be promptly surrendered to the Registrar, shall be forthwith marked "canceled" by the Registrar and a record showing the payment in full and cancellation thereof shall be entered in the Register by the Registrar. The Registrar shall deliver all such canceled Bonds to the Issuer.

ARTICLE III REDEMPTION OF THE BONDS BEFORE MATURITY

Section 3.1. Redemption of the Bonds. A Bond is not subject to scheduled mandatory redemption unless expressly so provided therein (any such mandatory redemption provisions to be included in a Bond only at the written request of the Purchaser thereof and with the consent of the Lessee). A Bond is subject to mandatory redemption, in whole or in part, to the extent any Net Proceeds are required by the Lease and the Security Document to be used to pay principal of that Bond, in which case the accrued interest payable on the principal amount to be redeemed shall be paid with moneys provided by the Lessee. A Bond is subject to optional redemption by the Issuer prior to maturity, in whole or in part on any date, at a redemption price equal to the principal amount being redeemed plus accrued interest on such Bond or portion thereof being redeemed to the redemption date, but only upon the written direction of the Lessee as provided in Section 3.3 hereof. If a Bond is to be redeemed only in part, the redemption price shall be paid without the requirement that such Bond be surrendered and such prepayments shall be noted by the Holder on the Schedule of Payments attached to that Bond. If the entire principal balance of a Bond is to be paid, then the Bond must be marked "canceled and paid" by the Holder and promptly surrendered to the Registrar.

Section 3.2. <u>Notice of Redemption</u>. Except as provided later in this Section or unless waived by the registered Holder of a Bond, official notice of redemption of that Bond shall be given by the Registrar, on behalf of the Issuer, by mailing a copy of an official redemption notice by first class mail, postage prepaid, at least thirty (30) days and not more than sixty (60) days prior to the date fixed for redemption to the Person who was the registered Holder of the Bond to be redeemed as of the close of business of the Registrar on the Business Day immediately preceding

the mailing of such notice, at the address shown on the Register or at such other address as is furnished in writing by such registered Holder to the Registrar. Notwithstanding the foregoing, if the registered Holder of that Bond is also the Lessee or an Affiliate of the Lessee, notice of redemption shall be deemed to be waived.

All official notices of redemption shall be dated, shall contain the complete official name of the Bond to be redeemed, including the Bond number thereof, and shall state:

(a) the redemption date;

- (b) if less than the entire Principal Balance of a Bond is to be redeemed, the portion of the principal amount of that Bond (stated in dollars) that is to be redeemed and included in the redemption price, the amount of accrued interest (if any) to be paid as a part of the redemption price and the total amount of the redemption price;
- (c) that, on the redemption date, the redemption price will become due and payable upon that Bond or portion thereof called for redemption and that interest on such Bond or such portion shall cease to accrue from and after such date; and
- (d) if the entire Principal Balance of any Bond is to be redeemed, the address where that Bond is to be presented for payment of the redemption price (which place of payment shall be the office of the Paying Agent) and the name, address, and telephone number of a person or persons at the office of the Paying Agent who may be contacted with respect to the redemption.

Official notice of redemption having been given as described above, or if notice is waived by the Holder of a Bond or deemed to be waived, that Bond or portions of such Bond so to be redeemed shall, on the redemption date, become due and payable, and interest shall cease to accrue, as set forth in Section 3.4 hereof. The failure of the Holder of such Bond to receive any redemption notice given as herein provided shall not affect the validity of any proceeding for the redemption of that Bond. The Issuer shall have no responsibility whatsoever if any such notice is given as aforesaid but is not received by or receipt thereof is refused by the registered owner thereof. No defect in any such notice shall in any manner defeat the effectiveness of a call for redemption.

If any Bond is to be redeemed only in part, the redemption price shall be paid in the same manner as scheduled payments of interest, without the requirement that the Bond be surrendered.

If the entire principal balance of any Bond is to be paid, then that Bond must be surrendered to the Paying Agent for payment. In the latter situation, if, by the sixtieth day following the redemption date, the registered owner has failed to present such Bond for redemption, the Registrar shall mail a second notice of redemption not more than ninety (90) days following the redemption date to the registered owner of the Bond that was not presented for payment upon redemption within sixty (60) days following the redemption date, which notice shall be mailed by registered or certified mail, with a return receipt requested. If such Bond is not surrendered, the Paying Agent shall hold amounts payable on redemption of that Bond which has not been presented for redemption for the benefit of the registered owner, but without liability for interest on such unclaimed funds until the same shall escheat.

Section 3.3. Call of a Bond for Optional Redemption. If the Lessee elects to cause a Bond to be redeemed by optional redemption, in whole or in part, the Lessee, as agent for the Issuer, shall direct the Registrar in writing to give notice of such redemption. Such notice shall specify the Bond to be redeemed, the redemption date, and the amount of the Principal Balance of the Bond that is to be redeemed. Such direction shall be given at least five Business Days prior to the date such notice of redemption is to be given in accordance with Section 3.2 hereof. Consideration for the optional redemption of that Bond shall be provided by the Lessee (in cash, or by cancellation of the Bond in whole or by credit against the Principal Balance thereof, in the latter case by an entry on the Schedule of Payments).

Section 3.4. Effect of Notice of Redemption. Official notice of redemption having been given with respect to a Bond in the manner and under the conditions provided in Section 3.2 hereof, or if the Holder thereof waives notice of redemption or is deemed to have waived such notice, that Bond or portion of the Bond so called for redemption shall, on the redemption date, become and be due and payable at the redemption price provided for redemption of the Bond on such date, and interest on the Bond or portion of the Bond so called for redemption shall cease to accrue, that Bond or portion of such Bond shall cease to be entitled to any lien, benefit, or security under the Security Document, and the registered Holder of that Bond or portion of the Bond so called for redemption shall have no rights in respect thereof except to receive payment of the redemption price thereof, if moneys for payment of the redemption price are tendered to the Holder on the redemption date by the Paying Agent (or, if the entire principal balance of the Bond is to be redeemed, moneys for the payment thereof are held in the Sinking Fund on the redemption date). Upon redemption of the entire outstanding Principal Balance of a Bond, that Bond shall be cancelled and surrendered to the Registrar.

ARTICLE IV PLEDGED SECURITY

The Bonds shall be secured by the Pledged Security. Without limiting the generality of the foregoing, the Pledged Security is hereby pledged by the Issuer to the Holder of the Bonds to secure the prompt payment of the principal of and interest on the Bonds, as more specifically provided for in the Security Document and subject to any Superior Encumbrances. Any investment earnings on Permitted Investments in the Project Fund for the Bonds shall be retained in the Project Fund. Any investment earnings on Permitted Investments in the Sinking Fund for the Bonds shall be deposited upon receipt in the Sinking Fund for such Bond. Net Proceeds relating to the Project shall be deposited in the Project Fund. The Holder of any Bond, by becoming a Holder of that Bond, shall be deemed to have acknowledged the security interest on amounts and Permitted Investments held in the Project Fund and Sinking Fund for the Bonds, and investment income thereon will not be subject to perfected security interests under the Georgia Uniform Commercial Code so long as those Funds are held by the Company as Custodian.

The Holder of any Bond may enforce all rights of the Issuer under the Lease, other than the Unassigned Rights which may be enforced by the Issuer. So long as any Bond remains Outstanding, and for such longer periods when required by the respective Issuer Documents, the Issuer shall faithfully and punctually perform and observe all obligations and undertakings on its part to be performed and observed under the Issuer Documents.

The Issuer shall retain possession of an executed original or counterpart of each of the Issuer Documents. All of the Issuer Documents shall be available for inspection at reasonable times and under reasonable conditions by the Holders of the Bonds or the designee thereof.

ARTICLE V FUNDS

Section 5.1. Establishment of Funds. The following funds are hereby established with respect to the Project and the Bonds and the related moneys deposited in such funds and accounts for the Project and the Bonds shall be held in trust for the purposes set forth in this Bond Resolution and the Lease:

- (a) a fund for the Bonds entitled "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bond (Baymare LLC Project), Series 2021--Sinking Fund" (the "Sinking Fund") which shall be held by the Custodian for the account of the Issuer, subject to the pledge hereof as security for the Bonds; and
- (b) a fund for the Bonds entitled "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021--Project Fund" (the "Project Fund") which shall be held by the Custodian for the account of the Issuer, subject to the pledge hereof as security for the Bonds and further subject to the obligation of the Issuer to allow the Lessee to receive and apply amounts therein to pay Costs of the Project, to restore, repair or replace the Project, or to retire the Bonds as provided herein and in the Lease.

Nothing contained in this Bond Resolution shall be construed as prohibiting the Company, at its option, from making additional deposits or payments into any of the Funds described in this Section from any moneys which may be available for such purpose.

Section 5.2. <u>Sinking Fund</u>. Upon receipt, thereof by the Issuer or by the Custodian, for the account of the Issuer, all Pledged Revenues relating to the Project and the Bonds shall be deposited in the Sinking Fund for the Bonds. Notwithstanding the foregoing, if the Lessee of the Project is also the Custodian for the Sinking Fund, and if the Lessee or an Affiliate of the Lessee is also the Holder of the Bonds, then it shall not be necessary to maintain records with respect to the Sinking Fund or to deposit any funds in the Sinking Fund and, in that case (i) the Basic Rent shall be deemed to have been paid to the Custodian, and (ii) the Custodian shall be deemed to have applied such payment of Basic Rent to the payment of the Debt Service.

The Sinking Fund for the Bonds shall be administered by the Custodian for the benefit of the Holder of the Bonds, and the Issuer hereby authorizes and directs the Custodian to withdraw sufficient funds from such Sinking Fund to pay principal of and interest on the Bonds as the same become due and payable and to withdraw such funds for the purpose of paying the redemption price if the Bonds are redeemed in whole or in part. Except as provided in this Section, moneys in the Sinking Fund shall be used solely as a fund for the payment of the Debt Service on the Bonds, and for the redemption of the Bonds, in whole or in part, prior to maturity. No further payments

need be made into the Sinking Fund when the Bonds have been fully retired, defeased or surrendered and cancelled.

Section 5.3. Project Fund. All cash proceeds from the sale of the Bonds, if any, shall upon receipt by the Issuer, or by the Custodian, be immediately credited to the Project Fund. Investment income, if any, received from Permitted Investments in the Project Fund shall be deposited or, as applicable, retained in the Project Fund. Proceeds of the Bonds and investment income, if any, earned thereon in the Project Fund shall be held in the Project Fund by the Custodian and applied solely to the payment or reimbursement of the Costs of the Project. Proceeds of the Bonds may, at the direction of the Lessee, be disbursed under the Bond Purchase Loan Agreement directly to third parties to pay Costs of the Project, paid to the Lessee or to the Issuer to reimburse Costs of the Project, or paid directly to any Lender who has financed Costs of the Project pending the issuance of that Bond. Proceeds of the Bonds shall be deposited in the Project Fund and held therein until disbursed by the Custodian to pay Costs of the Project. Any cash or Permitted Investments remaining in a Project Fund after the Project has been completed and all Costs of the Project have been paid shall be transferred to the Sinking Fund. Following the completion of the Project, the payment of all Costs of the Project and the making of any transfer from the Project Fund to the Sinking Fund in accordance with the foregoing provisions of this Section, the Project Fund shall be an inactive fund unless Net Proceeds are required to be deposited in such Project Fund as provided in the Lease; provided, however, if the Lessee of the Project is also the Custodian, and if the Lessee or an Affiliate of the Lessee is also the Holder of the Bonds, then it shall not be necessary to deposit any Net Proceeds in the Project Fund. Such Net Proceeds so deposited in the Project Fund, and any investment income earned thereon, shall be held in such Project Fund until the same are either (i) used to repair, restore or replace the Project, or the portion thereof that was damaged, destroyed or taken, or (ii) transferred to the Sinking Fund to be used to retire the Bonds or reduce the Principal Balance of the Bonds, as provided in the Lease and the Security Document. All payments from the Project Fund to pay Costs of the Project shall be made by the Custodian upon requisition of the Lessee, as agent of the Issuer. Notwithstanding the foregoing, if the Lessee of the Project is also the Custodian of the Project Fund and if the Lessee or an Affiliate of the Lessee is also the Holder of the Bonds, and if the Lessee has paid Costs of the Project which are to be reimbursed, then it shall not be necessary for cash to be disbursed by the Purchaser of the Bond under the Bond Purchase Loan Agreement to the Custodian for deposit in the Project Fund and then disbursed by the Custodian to the Lessee, and such amount shall be deemed to be constructively drawn and disbursed and in which case the principal of the Bonds shall be increased by the amount of costs reflected in such requisition.

Section 5.4. Security of Funds. All cash, if any, which is held on deposit in the Project Fund or Sinking Fund under the provisions hereof, shall be deposited and held in one or more accounts in one or more banks insured by the Federal Deposit Insurance Corporation and, to the extent not insured by the Federal Deposit Insurance Corporation, shall be secured to the fullest extent as required by the laws of the State for the security of public funds. The name of such account shall identify the Custodian and the Fund to which such bank account relates. Such moneys shall be applied in accordance with the terms and for the purposes set forth in this Bond Resolution and the Lease and shall not be subject to lien or attachment or any type of security interest by any creditor of the Issuer. Moneys in a Sinking Fund may, until needed to pay Debt Service on the Bonds, be invested in Permitted Investments selected by the Holder, which shall be registered in the name of the Custodian, as Custodian of the Sinking Fund therefor. Moneys in the Project Fund

may, until needed to be disbursed to pay Costs of the Project or to repair, restore or replace the Project, be invested in Permitted Investments selected by the Holder, which shall be registered in the name of the Custodian, as Custodian of the Project Fund. Moneys and Permitted Investments in each such Fund shall be accounted for as a separate and special fund apart from all other funds of the Issuer and of the Custodian and shall not be co-mingled with each other or with other moneys or investments of the Issuer or the Custodian.

Section 5.5. <u>Custodian</u>. The Custodian of the Sinking Fund shall hold and administer the Sinking Fund, as agent of the Issuer, for the benefit of the Holder of the Bonds. The Custodian of the Project Fund shall hold and administer the Project Fund, as agent of the Issuer, for the benefit of the Holder of the Bonds, subject, however, to the prior right of the Issuer and the Lessee to have amounts therein applied to pay Costs of the Project or costs of repairing, restoring or replacing the Project.

The Company (which is also the Lessee and the Holder and Purchaser) shall initially serve as Custodian of each Fund. The Issuer shall at the written direction of the Holder and Lessee remove the Custodian and appoint a successor Custodian designated by the Holder and Lessee. Prior to the retirement of a Bond, the records of the Sinking Fund and the Project Fund therefor shall be subject at all times to inspection by any official of the Issuer, by the Company and by the Holder of the Bond or by any Person designated in writing by any of them.

ARTICLE VI PARTICULAR COVENANTS

Section 6.1. Payment; Limited Obligations. Each and every covenant herein made relating to the payment of Debt Service on Bonds shall be payable solely from the Pledged Security for the Bonds and nothing in the Bonds or in this Bond Resolution shall be considered as pledging any other funds or assets of the Issuer to the payment of Debt Service on the Bonds. Subject to the foregoing, the Issuer will promptly pay, solely from the Pledged Security, the Debt Service on the Bonds issued hereunder and secured hereby at the place, on the dates, and in the manner herein and in the Bonds specified, and the redemption price required for the redemption of such Bonds, according to the true intent and meaning thereof. Each and every covenant herein requiring the Issuer to make any other payment or to incur any expense, including all payments and expenses provided for in the covenants made in the various sections of this Article VI, shall never constitute an indebtedness or general obligation of the Issuer within the meaning of any constitutional or statutory provision whatsoever, but shall be payable solely from amounts to be paid by the Lessee under the Lease.

NO BOND SHALL BE DEEMED TO CONSTITUTE A DEBT OF THE STATE OF GEORGIA, JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY, WALTON COUNTY, THE ISSUER, OR ANY MUNICIPALITY, POLITICAL SUBDIVISION OR OTHER PUBLIC BODY OF THE STATE OF GEORGIA, OR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF ANY SUCH PUBLIC BODY, NOR SHALL ANY SUCH PUBLIC BODY BE SUBJECT TO ANY PECUNIARY LIABILITY THEREON EXCEPT, AS TO THE ISSUER, AS EXPRESSLY PROVIDED THEREIN. THE PLEDGED SECURITY IS THE SOLE SOURCE FOR AND THE ISSUER SHALL APPLY THE PLEDGED

SECURITY TO THE PAYMENT OF THE BONDS AND DEBT SERVICE THEREON. NO BOND SHALL BE PAYABLE FROM OR CONSTITUTE A CHARGE, LIEN, OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY FUNDS OR PROPERTY OF THE STATE OF GEORGIA, JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY, WALTON COUNTY, THE ISSUER, OR ANY MUNICIPALITY, POLITICAL SUBDIVISION OR OTHER PUBLIC BODY OF THE STATE OF GEORGIA, OTHER THAN THE PLEDGED SECURITY THAT IS PLEDGED FOR THE BONDS, AS PROVIDED IN THIS BOND RESOLUTION, AND THE SECURITY DOCUMENT FOR THE BONDS. NO HOLDER OF A BOND SHALL EVER HAVE THE RIGHT TO COMPEL AN EXERCISE OF THE TAXING POWER OF THE STATE OF GEORGIA, JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY, WALTON COUNTY, OR ANY OTHER PUBLIC BODY OF THE STATE OF GEORGIA TO PAY SUCH BOND OR THE DEBT SERVICE THEREON. THE ISSUER HAS NO TAXING POWER.

- **Section 6.2.** Rules and Regulations. The Issuer will comply with all valid acts, rules, regulations, orders, and directions of any legislative, executive, administrative, or judicial body applicable to the Project and such undertakings as are prescribed in the Lease.
- Security Document, the Issuer by a Security Document shall pledge the Pledged Security for the Bonds to the Purchaser, and subsequent registered Holders of the Bonds, as security for the Bonds and Debt Service thereon. Except as above provided, the Issuer will not create any lien, security interest, or charge upon the Pledged Security. If any other lien or encumbrance is asserted against the Project, or any part thereof, at the request of the Holder, the Issuer agrees to contest the same or join with the Holder of the affected Bonds, to contest the same at the expense of the Holder (or the Lessee).
- Section 6.4. Securities Law Provisions. The Bonds are "private activity bonds" as defined in Section 141 of the Code and are not "qualified bonds" within the meaning of the Section 141 of the Code. Therefore, interest on the Bonds will not be excluded from the gross income of the Holders thereof for federal income tax purposes under Section 103 of the Code and the Bonds are, therefore, not "exempt securities" under the federal securities laws. However, the Bonds are being sold in a private placement, which is an "exempt transaction" under the federal securities laws.

ARTICLE VII EVENTS OF DEFAULT; REMEDIES

- **Section 7.1.** Events of Default. Each of the following events is hereby declared an "Event of Default" under this Bond Resolution:
 - (a) any payment of Debt Service on the Bonds shall not be made when the same shall become due and payable, either at maturity or by proceedings for redemption, provided that if the Lessee is then the Holder of such Bond, such payment shall be deemed to have been made by the Lessee to the Holder as and when due and shall not be an Event of Default: or

- (b) the Issuer shall, for any reason, be rendered incapable of fulfilling its obligations hereunder as to the Bonds; or
- (c) the Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements, or provisions contained in the Bonds or in this Bond Resolution, on the part of the Issuer to be performed, and such default shall continue for thirty (30) days after written notice, specifying such default and requiring same to be remedied, shall have been given to both the Lessee and the Issuer by the Holder of such Bond; or
- (d) an Event of Default (as defined therein) by the Issuer shall have occurred and be continuing under the Lease; or
- (e) an Event of Default (as defined therein) by the Issuer shall have occurred and be continuing under the Security Document.
- Section 7.2. <u>Remedies</u>. Upon the happening and continuance of any Event of Default, as provided in Section 7.1 hereof, then and in every such case, subject to the rights and remedies granted pursuant to any Superior Security Document:
 - (a) the Holder of the Bonds, at its election, may accelerate the Bonds and declare the Principal Balance of the Bonds, accrued interest thereon and any interest on delinquent Debt Service on the Bonds to be immediately due and payable, whereupon the same shall become immediately due and payable. In order to accelerate the Bonds, written notice of acceleration, signed by the Holder thereof, shall be filed with the Issuer, the Lessee and the Custodian; and
 - (b) the Holder of the Bonds may proceed, subject to the provisions of Section 7.4, to protect and enforce the rights of such Holder hereunder and under the Security Document by a suit, action, or special proceeding in equity, or at law, for the specific performance of any covenant or agreement contained herein or in aid or execution of any power herein granted for the enforcement of any proper legal or equitable remedy as such Holder shall deem most effectual to protect and enforce the rights aforesaid, insofar as such may be authorized by law; and
 - (c) the Holder of the Bonds may exercise remedies provided for in the Security Document.

Anything in this Section 7.2 or any other Bond Document to the contrary notwithstanding and regardless of whether an Event of Default shall have occurred and be continuing under this Bond Resolution, the Lessee, upon satisfying the requirements of the Lease and Option Agreement, may purchase the Project, as specified in the Option Agreement.

Section 7.3. Restoration. In case any proceeding taken by the Holder of the Bonds on account of any Event of Default shall have been discontinued or abandoned for any reason, or shall have been determined adversely to such Holder, then and in every such case the Issuer shall be restored to its former position and rights hereunder, and all rights, remedies, powers, and duties of such Issuer shall continue as though no such proceedings had been taken. If the Bonds have been

accelerated, the Holder thereof may rescind such acceleration at any time so long as the Project has not been sold pursuant to the power of sale contained in the Security Document.

Section 7.4. <u>Non-Exclusivity of Remedies</u>. No remedy herein conferred upon the Holder of the Bonds is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity, or by statute.

Section 7.5. <u>No Waiver</u>. No delay or omission of the Holder of the Bonds to exercise any right or power accruing upon any Event of Default shall impair any such Event of Default or be construed as an acquiescence therein, and every power and remedy given by this Article to the Holder of the Bonds, respectively, may be exercised from time to time and as often as may be deemed expedient.

ARTICLE VIII PROOF OF EXECUTION BY BONDHOLDER

Any request, direction, consent, or other instrument required by this Bond Resolution to be signed or executed by the Holder of the Bonds may be in any number of concurrent writings of similar tenor and may be signed or executed by such Holder in person or by an agent appointed in writing. Proof of the execution of any such request, direction, or other instrument, or of the writing appointing such agent and of the ownership of the Bonds, if made in the following manner, shall be sufficient for any purpose hereof. Evidence of the fact and date of the execution by any Person of any such writing may be provided by delivery of a certificate of any officer in any jurisdiction, who, by the laws thereof, has the power to make such acknowledgments within such jurisdiction. The fact of the ownership of a Bond by the Holder thereof, the amount and issue number of the Bond, and the date of ownership shall be proved by the Register.

ARTICLE IX AMENDMENTS

Section 9.1. <u>Amendments</u>. No amendments to this Bond Resolution, the Issuer Documents or the Company Documents shall be made after the Bonds are issued without the written consent (evidenced as provided in Article VIII and this Article) of the Holder of the Bonds, any Lender named as grantee or as secured party under any Superior Security Document which is then in effect, the Issuer and the Lessee (whether the Company named herein or a successor Lessee of the Project). Any Person shall each be deemed to have consented to any instrument which it executes. Once such written consent is given, it may not be withdrawn and shall be binding upon such Person.

Section 9.2. <u>Incorporation of Amendments</u>. Any amendatory resolution or document amendment that becomes effective in accordance with the provisions of this Article shall thereafter be effective for all purposes and the respective rights, duties, and obligations under this Bond Resolution, the Issuer Documents or Company Documents, as applicable, shall thereafter be determined, exercised, and enforced, subject, in all respects, to such amendment. No notation or legend providing notice of any such amendment shall be required to be made on any affected Bond:

provided, however, if any amendment made pursuant to Section 9.1 changes any term appearing in such affected Bond, the written consent of the Holder thereof shall be accompanied by an agreement of such Holder to tender such Bond in exchange for a replacement Bond reflecting the amended terms, and as soon as reasonably possible after such amendment becomes effective, a replacement Bond reflecting the amended terms shall be issued in replacement thereof.

ARTICLE X APPROVAL OF ISSUER DOCUMENTS AND COMPANY DOCUMENTS

Section 10.1. Approval and Execution of the Issuer Documents. The form of each of the Issuer Documents is hereby approved and authorized. Each such Issuer Document shall be executed in substantially the form attached hereto as an Exhibit with such changes, corrections, completions, deletions, insertions, variations, additions, or omissions as may be approved by the Chairman of the Issuer, whose approval thereof shall be conclusively evidenced by the Chairman's execution of each such instrument. Each of the Issuer Documents shall be executed in the name of the Issuer and shall bear the manual or facsimile signature of the Chairman of the Issuer, and the actual or facsimile seal of the Issuer shall be affixed to or imprinted on such Issuer Document and attested by the manual or facsimile signature of the Secretary of the Issuer. In case any official whose signature shall appear on any Issuer Document shall cease to be such official before delivery of such Issuer Document, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such official had remained in office until such delivery. The Issuer Documents shall be executed and delivered upon the initial issuance of the Bonds. Any Superior Security Document may be executed and delivered by the above officers, at the written request of the Company.

Section 10.2. <u>Approval of the Company Documents</u>. The form of each of the Company Documents is hereby approved by the Issuer in substantially the form submitted to the Issuer at the meeting at which this Bond Resolution is adopted with such changes, corrections, completions, deletions, insertions, variations, additions, or omissions as may be approved by the parties thereto, whose approval thereof shall be conclusively evidenced by the execution and delivery of each such instrument.

ARTICLE XI DEFEASANCE

If there shall have been deposited in a defeasance escrow account to be held by a bank or trust company having corporate trust powers (the "escrow agent") a sum of cash (including cash transferred from the Project Fund or Sinking Fund for a particular Bond), the maturing principal of and interest on which, together with the cash, if any, deposited in such defeasance escrow account will be sufficient to pay when due (whether upon or prior to the maturity or such earlier date on which such Bond is to be redeemed in whole) all principal payments on that Bond and all interest accrued thereon to the date that Bond is to be fully paid and retired, then that Bond shall be defeased, deemed to be paid and no longer deemed to be Outstanding under this Bond Resolution; provided, however, that if such Bond is to be redeemed prior to the Maturity Date thereof by optional redemption, notice of such optional redemption shall have been duly given to

the Holder of such Bond or waived or deemed to have been waived, as provided in Article III hereof or irrevocable arrangements shall have been made for the giving thereof by the Registrar. Any escrow agent for such defeased Bond shall serve as Registrar and Paying Agent for that Bond during the period such defeasance escrow account is in effect, and the fees and expenses of such escrow agent shall be prepaid by the Lessee at the time the escrow account is established.

ARTICLE XII MISCELLANEOUS PROVISIONS

- Section 12.1. <u>Bond Resolution Constitutes a Contract</u>. The provisions of this Bond Resolution shall inure to the benefit of the registered Holder of the Bonds and, after the issuance of the first Bond, neither this Bond Resolution nor any of the Issuer Documents shall be repealed, terminated, or amended except as provided herein. The Issuer shall not pass any resolution in any way adversely affecting the rights of a Holder of any Bond, so long as such Bond shall not have been retired or fully defeased; provided, however, that this covenant shall not be construed as prohibiting modifications hereof or amendments hereto by supplemental resolutions to the extent and in the manner as provided in this Bond Resolution.
- Section 12.2. <u>Payments Due on Other than Business Days</u>. Whenever a date upon which a payment is to be made under this Bond Resolution falls on a date which is not a Business Day, such payment may be made on the next succeeding Business Day without interest for the intervening period.
- Section 12.3. <u>Governing Law</u>. This Bond Resolution shall be governed by and shall be construed under and enforced in accordance with the laws of the State of Georgia, without regard to the provisions of Georgia law relating to conflict of laws.
- Section 12.4. <u>No Individual Responsibility of Officials of Issuer</u>. No stipulations, obligations, or agreements of the Issuer herein or in the Issuer Documents shall be deemed to be stipulations, obligations, or agreements of any member, director, employee, or official of the Issuer in his or her individual capacity.
- Section 12.5. <u>Actions by Officials of the Issuer</u>. The Vice Chairman of the Issuer may take any action, or execute and deliver any document, agreement, or other writing, which the Chairman of the Issuer is authorized to execute and deliver pursuant to this Bond Resolution, including, but not limited to the Bond and the Issuer Documents. The Treasurer of the Issuer may attest any execution of any document, agreement, or writing by the Chairman or the Vice Chairman of the Issuer in the same manner as the Secretary would be authorized to attest any such execution.
- Section 12.6. <u>General Authorization</u>. From and after the date of adoption of this Bond Resolution, the members, officials, employees, and agents of the Issuer are hereby authorized to do all such acts and things and to execute and deliver any and all other documents, certificates, and other instruments as may be required in connection with the validation of the Bonds, and the sale, execution and issuance of the Bonds including, but not limited to the execution of an intercreditor agreement or non-disturbance, subordination and attornment agreement with any Lender that is providing funding for the Project or the Bonds, including any Superior Security

Document, and documents necessary or convenient to the permanent financing to be provided by such Lender.

- Section 12.7. Waiver. The Issuer hereby waives the requirements of O.C.G.A. § 36-82-100, requiring a performance audit or performance review to be conducted with respect to the Bonds, and in connection therewith, shall include language, in bold face type, in the Notice to the Public regarding the validation hearing for the Bonds stating that no performance audit or review will be conducted.
- **Section 12.8.** Conflicts. Any and all resolutions or parts of resolutions heretofore adopted which are in conflict with this Bond Resolution shall be and the same are hereby repealed, and this Bond Resolution shall be in full force and effect from and after its adoption.
- Section 12.9. <u>Severability</u>. In case any one or more of the provisions of this Bond Resolution, or any provision of the Bonds, shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this Bond Resolution or of the Bonds, but this Bond Resolution and the Bonds shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.
- Section 12.10. <u>Effective Date</u>. This Bond Resolution shall become effective upon its adoption.
- **Section 12.11.** <u>Integration</u>. The Issuer intends that all of the Bond Documents shall be taken together and are, and are intended to constitute, a single transaction and a single contract for all purposes, including under Section 365 of Title 11 of the United States Code.

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ADOPTED this 23rd day of February, 2021.

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY

By:

Name: How verse Title: croke men

ATTEST:

Name: David Trompor

Title: Secretary

[ISSUER'S SEAL]



EXHIBIT A

FORM OF BOND

UNITED STATES OF AMERICA STATE OF GEORGIA

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY TAXABLE REVENUE BOND (BAYMARE LLC PROJECT), SERIES 2021

No. R:		\$		
Dated Date:	Stated Interest Rate:	Maturity Date:		
, 202	6.00%	December 31, 2046		
Registered Owner:				
Principal Amount:	AND NO/100 DOLLARS			

FOR VALUE RECEIVED, the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY (hereinafter sometimes referred to as the "Issuer"), a public body corporate and politic of the State of Georgia created by the Development Authorities Law, O.C.G.A. § 36-62-1, et seq. (the "Act"), hereby promises to pay, but solely from the Pledged Security provided therefor, to the Registered Owner (identified above), or registered assigns (the "Holder"), the principal amount stated above. The Issuer also promises to pay (but only from the Pledged Security) for this Bond all accrued and unpaid interest to the Holder at the Stated Interest Rate (stated above), which shall commence to accrue on the dated date hereof. Capitalized terms used but not defined in this Bond shall have the meaning set forth in the Bond Resolution (defined below).

On the Dated Date (specified above), the Registered Owner, being the initial Holder of this revenue bond (this "Bond"), purchased this Bond from the Issuer pursuant to the Bond Purchase Loan Agreement between the Issuer and the Registered Owner (in such capacity, the "Purchaser").

Interest on this Bond at the Stated Interest Rate shall be payable annually, commencing on the first March 1 following the Dated Date (stated above) and on each March 1 thereafter, with the final interest payment being due on the Maturity Date (stated above), each such date being an "Interest Payment Date." If any payment of interest or principal is not paid when due, the Issuer promises to pay (but only from the Pledged Security for this Bond) interest on overdue principal and, to the extent permitted by law, on overdue interest. at the Default Interest Rate. For such

purpose "Default Interest Rate" means the Stated Interest Rate. Interest at the Stated Interest Rate or Default Interest Rate, as applicable, shall be calculated on the basis of the actual days elapsed in a 365/366-day year on the Principal Balance that is Outstanding from time to time during the applicable interest accrual period prior to such interest payment date. The term "Debt Service Payment Date" means a scheduled Interest Payment Date, any date on which this Bond is to be redeemed, in whole or in part including the Maturity Date, and any special Debt Service Date established as provided in the Bond Resolution.

All payments of Debt Service on this Bond shall be paid by check or draft on the pertinent Debt Service Payment Date by Baymare LLC, a Delaware limited liability company, or its permitted successors and assigns under the Lease (the "Company"), for the account of the Issuer to the Person who, on the 15th day of the calendar month (the "Regular Record Date") next preceding such Debt Service Payment Date, was the registered Holder of this Bond, at the address of such Holder as shown on the registration books (the "Register") of the Issuer or at such other address as is furnished in writing to the Lessee (defined below) by the Holder prior to such Regular Record Date, or if the Lessee and the Holder agree, by wire transfer, direct deposit or other means provided that the Holder or the Lessee, pursuant to such agreement, pays any costs associated with such alternative method of payment. If the Lessee of the Project is also the Custodian, and if the Lessee or an Affiliate of the Lessee is also the Holder of this Bond, then the payment of Basic Rent under the Lease of the Project that is financed by this Bond and the Payment of Debt Service on this Bond may be made constructively as provided in the Bond Resolution and in the Lease and shall be noted by the Holder on the Schedule of Payments attached hereto. If the amount of any Debt Service payment is equal to the Principal Balance of this Bond plus accrued interest (including any accrued interest at the Default Interest Rate), this Bond shall be marked "canceled and paid" and shall be promptly surrendered by the Holder to the Registrar.

This Bond constitutes one installment of a series of the Issuer's revenue bonds authorized to be issued in a maximum aggregate principal amount of \$42,000,000,000, designated "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021," and is issued by the Issuer pursuant to and in full compliance with the provisions of the Constitution and laws of the State of Georgia, including specifically, but without limitation, the provisions of the Act, the Revenue Bond Law (O.C.G.A. § 36-82-61, et seq.) and other applicable provisions of the laws of the State of Georgia (collectively called the "Acts"), and pursuant to a resolution (the "Bond Resolution") duly adopted by the Issuer on February 23, 2021, authorized to be issued for the purpose of financing the costs of the acquisition, construction, equipping and installation of a capital project consisting of land within the Issuer's defined area of operation, together with improvements thereto and equipment thereon (the "Project"); the Project is to be leased by the Issuer to the Company pursuant to the terms of a Lease Agreement dated as of March 1, 2021 (the "Lease"), between the Issuer and the Company (in such capacity, the "Lessee"), for use as a data center. Under the Lease, the Lessee is obligated to pay to the Issuer Basic Rent payments at the times and in the amounts as will always be sufficient to pay the principal of and interest on this Bond, as the same become due and payable. Under the terms of the Lease and the Bond Resolution, the Issuer and the Lessee have agreed that Basic Rent payments to be made by the Lessee under the Lease will be credited to a special fund created by the Bond Resolution and designated "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds

(Baymare LLC Project), Series 2021—Sinking Fund" (the "Sinking Fund") from which the Debt Service hereon is to be paid and which is pledged as part of the Pledged Security for this Bond.

Notwithstanding the foregoing, this Bond may not be assigned except as expressly provided in the Bond Resolution and the Bond Purchase Loan Agreement.

Upon the issuance of a new Bond certificate upon the transfer or replacement of this Bond, the Custodian, as Registrar, shall enter on the Schedule of Payments appearing at the end of such new Bond certificate, the date and amount of each payment of principal and interest under this Bond.

Pursuant to the Bond Resolution and the Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement, dated as of March 1, 2021 (the "Security Document") between the Issuer, as grantor and debtor, and the Purchaser, as grantee and secured party, the Issuer has pledged unto the initial Holder and subsequent Holders of this Bond, as security for the payment of the principal of and interest on this Bond, the Pledged Security. If and when a Superior Security Document is (at the written request of the Lessee) executed by the Issuer and delivered to secure permanent financing, the lien of the Security Document on the Pledged Security shall be subordinate and junior to the lien of such Superior Security Document. "Pledged Security" means and includes, among other things, (a) the interest of the Issuer in the Project, (b) the rights of the Issuer in and under the Lease (except for the Unassigned Rights), (c) the Pledged Revenues, (d) all Net Proceeds as defined in the Lease, (e) amounts, if any, in the Sinking Fund and Project Fund for this Bond, and (f) the proceeds of the foregoing, all as more specifically described in such Security Document.

The Bond Resolution, the Bond Documents (as defined in the Bond Resolution) and the Pledged Security relating to this Bond are collectively the "Pledged Security" for this Bond.

THIS BOND SHALL NOT BE DEEMED TO CONSTITUTE A DEBT OF THE STATE OF GEORGIA, JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY, WALTON COUNTY, THE ISSUER, OR ANY MUNICIPALITY, POLITICAL SUBDIVISION OR OTHER PUBLIC BODY OF THE STATE OF GEORGIA, NOR A PLEDGE OF THE FAITH AND CREDIT OR TAXING POWER OF ANY SUCH PUBLIC BODY, NOR SHALL ANY SUCH PUBLIC BODY BE SUBJECT TO ANY PECUNIARY LIABILITY HEREON, EXCEPT, AS TO THE ISSUER, AS EXPRESSLY PROVIDED HEREIN, THE PLEDGED SECURITY IS THE SOLE SOURCE FOR THE PAYMENT OF THIS BOND AND DEBT SERVICE HEREON. THIS BOND SHALL NOT BE PAYABLE FROM OR CONSTITUTE A CHARGE, LIEN, OR ENCUMBRANCE, LEGAL OR EQUITABLE, UPON ANY FUNDS OR PROPERTY OF THE STATE OF GEORGIA, JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY. WALTON COUNTY, OR ANY MUNICIPALITY, POLITICAL SUBDIVISION OR OTHER PUBLIC BODY OF THE STATE OF GEORGIA, OTHER THAN THE PLEDGED SECURITY, AS PROVIDED IN THE BOND RESOLUTION. NO HOLDER OF THIS BOND SHALL EVER HAVE THE RIGHT TO COMPEL ANY EXERCISE OF THE TAXING POWER OF THE STATE OF GEORGIA, JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY, WALTON COUNTY, OR ANY MUNICIPALITY, POLITICAL SUBDIVISION OR OTHER PUBLIC BODY OF THE STATE OF GEORGIA TO PAY THIS BOND OR THE DEBT SERVICE HEREON. THE ISSUER HAS NO TAXING POWER.

This Bond is also subject to mandatory redemption, in whole or in part, to the extent any Net Proceeds (as defined in the Lease) are required by the Lease and the Security Document to be used to pay principal of this Bond, in which case the accrued interest payable on the principal amount to be redeemed shall be paid with moneys provided by the Lessee.

This Bond is also subject to optional redemption by the Issuer prior to maturity, in whole or in part on any date, at a redemption price equal to the principal amount being redeemed plus accrued interest on the Bond or portion thereof being redeemed to the redemption date, but only upon the written direction of the Lessee.

If this Bond is to be redeemed only in part, the redemption price shall be paid without the requirement that this Bond be surrendered and such prepayments shall be noted by the Holder on the Schedule of Payments attached to this Bond. If the entire principal balance of this Bond is to be paid, then this Bond must be marked "canceled and paid" by the Holder and promptly surrendered to the Issuer, with a photocopy of the canceled and surrendered Bond being delivered to the Lessee.

This Bond or any portion hereof which is called for redemption shall, on the redemption date designated in such notice, become and be due and payable at the redemption price provided for redemption of this Bond on such date and interest on this Bond or portions of this Bond so called for redemption shall cease to accrue upon payment of the redemption price.

Notice of redemption, unless waived by the Holder, shall be given by the Lessee, on behalf of the Issuer, to the Holder by first class mail, postage prepaid, at or prior to the time prepayment hereof is made by the Lessee on behalf of the Issuer at the address of the Holder set forth in the Register for this Bond. All official notices of redemption shall be dated, shall contain the complete official name of this Bond and shall state: (i) the redemption date; (ii) if less than the entire Principal Balance of this Bond is to be redeemed, the portion of the principal amount of this Bond (stated in dollars) that is to be redeemed and included in the redemption price, the amount of accrued interest to be paid as a part of the redemption price and the total amount of the redemption price; (iii) that, on the redemption date, the redemption price will become due and payable upon this Bond or portion thereof called for redemption and that interest on this Bond or such portion shall cease to accrue from and after such date; and (iv) if the entire Principal Balance of this Bond is to be redeemed, the address of the Issuer where this Bond is to be surrendered following its cancellation and the name, address, and telephone number of a person or persons at the offices of the Lessee who may be contacted with respect to the redemption. Notwithstanding the foregoing, if the Lessee or an Affiliate of the Lessee is also the Holder of this Bond, notice of redemption shall be deemed to have been given.

The failure of the Holder to receive any redemption notice given as herein provided shall not affect the validity of any proceeding for the redemption of this Bond. The Issuer shall have no responsibility whatsoever if any such notice is given as aforesaid but is not received by or receipt thereof is refused by the Holder. No defect in any such notice shall in any manner defeat the effectiveness of a call for redemption.

THIS BOND HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933, AS AMENDED, OR UNDER THE SECURITIES LAWS OF ANY STATE OR OTHER

JURISDICTION. THIS BOND MAY NOT BE TRANSFERRED UNTIL THE FULL INSTALLMENT HAS BEEN FUNDED BY THE PURCHASER OR THIS BOND IS BEING TRANSFERRED TO A SINGLE TRANSFEREE AND THE TRANSFEREE HAS ASSUMED THE INITIAL PURCHASER'S OBLIGATIONS TO FUND THE BALANCE OF THIS BOND UNDER THE BOND PURCHASE LOAN AGREEMENT. FURTHER, THIS BOND MAY NOT BE TRANSFERRED UNLESS IT IS TRANSFERRED IN A SINGLE TRANSACTION TO A SINGLE TRANSFEREE THAT IS THE LESSEE OF THE PROJECT, AN AFFILIATE OF THE LESSEE OF THE PROJECT, OR A "QUALIFIED INSTITUTIONAL BUYER," AS DEFINED IN RULE 144A PROMULGATED UNDER THE SECURITIES ACT OF 1933, AS AMENDED. HOWEVER, A QUALIFIED INSTITUTIONAL BUYER THAT IS THE REGISTERED HOLDER OF THIS BOND MAY ACT AS REPRESENTATIVE OF A NUMBER OF PARTICIPATING QUALIFIED INSTITUTIONAL BUYERS, HAVING JOINT OWNERSHIP OF THIS BOND.

Subject to the foregoing restrictions, this Bond is subject to transfer, exchange or replacement in whole, but not in part, by the Holder at the office of the Registrar but only in the manner, subject to the limitations, and upon payment of the fees of the Issuer's counsel as provided in the Bond Resolution and upon surrender of this Bond. Upon such transfer, exchange, or replacement a new registered Bond of the same maturity, interest rate, aggregate principal amount, and tenor, and bearing a bond number one integer higher than the Bond it replaces, or the last Bond installment number issued, will be issued to the transferee. Upon the issuance of a new Bond certificate upon the transfer or replacement of this Bond, the Registrar shall enter on the Schedule of Payments appearing at the end of such new Bond certificate, the date and amount of each payment of Debt Service on this Bond.

ANY ASSIGNEE OR TRANSFEREE OF THIS BOND TAKES IT SUBJECT TO (a) ALL PAYMENTS OF PRINCIPAL AND INTEREST IN FACT MADE WITH RESPECT HERETO, WHETHER SUCH PAYMENTS ARE REFLECTED IN THE SCHEDULE OF PAYMENTS ON THIS BOND OR ANY PAYMENT RECORD PERTAINING HERETO AND (b) ALL RESTRICTIONS ON TRANSFER SET FORTH HEREIN AND IN THE BOND RESOLUTION.

To the extent and in the manner permitted by the Bond Resolution, modifications, alterations, amendments, additions, and rescissions of the provisions of the Bond Resolution, or of any resolution amendatory thereto or of this Bond, may be made by the Issuer but only with the prior written consent of the Holder of the Bond, and without the necessity for notation hereon or reference thereto, except as otherwise provided in the Bond Resolution.

For a more particular statement of the covenants and provisions securing this Bond, the conditions under which the owner of this Bond may enforce the various covenants (other than the covenant to pay principal of and interest on this Bond when due from the sources provided, for which the right to enforce is unconditional), and the conditions upon which the Bond Resolution may be amended either with or without the consent of the Holder of this Bond, reference is made to the Bond Resolution. In case of default, the Holder of this Bond shall be entitled to the remedies provided by the Bond Resolution and the Act.

It is hereby certified, recited, and declared that all acts, conditions, and things required to exist, happen, and be performed precedent to and in the issuance of this Bond do exist, have happened, and have been performed in due time, form, and manner as required by law.

IN WITNESS WHEREOF, the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County has caused this Bond to be signed by the manual or facsimile signature of its Chairman or Vice Chairman, its seal to be affixed hereto or a facsimile of its seal to be printed hereon or affixed hereto and attested by its Secretary or Assistant Secretary, and this Bond to be dated the date set forth above.

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY

	By:	
	Chairman	
ATTEST:		
Secretary		
Secretary		
[ISSUER'S SEAL]		

STATE OF GEORGIA)				
MORGAN COUNTY))				
VALIDATION CERTIFICATE					
HEREBY CERTIFY that Court of Morgan County, of GEORGIA vs. JOINT DE COUNTY, NEWTON CO No, that no interest of the county is the county of the county	erk of the Superior Court of Morgan County, State of Georgia, DOES this Bond was validated and confirmed by judgment of the Superior on the day of, 2021, in the case of STATE OF VELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN DUNTY AND WALTON COUNTY and BAYMARE LLC, Case ervention or objection was filed opposing the validation of this Bond udgment of validation has been taken.				
	EREOF , I have hereunto set my hand and have caused to be affixed ne Superior Court of Morgan County, Georgia.				
	Clerk, Superior Court, Morgan County, Georgia				
[SEAL]					

SCHEDULE OF PAYMENTS

DATE OF PAYMENT	AMOUNT OF PAYMENT	DATE OF PAYMENT	AMOUNT OF PAYMENT

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned hereby sells, assigns, and transfers unto

(print or typewrite name)	
Address:	7
(please print or typewrite address i	ncluding postal zip code of assignee)
Tax Identification or Social Security Nu	umber:
the within Bond and all rights thereunder, and de	oes hereby irrevocably constitute and appoint:
	attorney to transfer this Bond on
the bond registration books kept for such purpos the premises.	ee by the Issuer, with full power of substitution in
Dated:	
	Name of Registered Holder:
	(Type or print)
	Signature of Registered Holder

NOTICE: the name, as signed, to this assignment must correspond with the name as it appears upon the face of the within Bond in every particular, without any alteration or enlargement or change whatever.

EXHIBIT B

FORM OF LEASE AGREEMENT

[Attached]

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY

(a public body corporate and politic, as landlord and lessor),

and

BAYMARE LLC

(a Delaware limited liability company, as tenant and lessee)

LEASE AGREEMENT

Dated as of March 1, 2021

THE RIGHTS AND INTEREST OF THE JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY IN THE PROJECT LEASED HEREUNDER, THIS LEASE AGREEMENT AND CERTAIN REVENUES AND RECEIPTS DERIVED HEREUNDER. EXCEPT FOR CERTAIN UNASSIGNED RIGHTS, AS DEFINED HEREIN, HAVE BEEN ASSIGNED AND PLEDGED AS SECURITY FOR THE JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY. MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY TAXABLE REVENUE BONDS (BAYMARE LLC PROJECT). SERIES 2021, AS PROVIDED IN A DEED TO SECURE DEBT, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT, OF EVEN DATE HEREWITH, FROM THE JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY TO BAYMARE LLC AND SUCCESSOR HOLDERS OF SUCH BONDS.

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LEASE AGREEMENT

This LEASE AGREEMENT (this "Lease"), dated for purposes of reference as of March 1, 2021, is by and between the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY (the "Issuer"), a joint development authority and a public body corporate and politic created and existing under the laws of the State of Georgia (the "State") and BAYMARE LLC (the "Company"), a Delaware limited liability company.

WITNESSETH:

WHEREAS, the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County (the "Issuer") is a joint development authority and public body corporate and politic, duly created pursuant to the Development Authorities Law of the State of Georgia, codified at O.C.G.A. § 36-62-1, et seq. (the "Act"), in particular O.C.G.A. § 36-62-5.1 thereof, by joint and concurrent resolutions adopted by the respective Boards of Commissioners of Jasper County, Morgan County, Newton County, and Walton County (each a "County" and together, the "Counties"), and is located in, and its area of operation includes, the territorial area of the Counties; and

WHEREAS, the Issuer was created for the public purpose of promoting trade, commerce, industry, and employment opportunities in the territorial areas of the Counties, and for such other purposes as set forth in the Act, and

WHEREAS, the Act authorizes the Issuer to issue its revenue bonds to acquire "projects" (as defined in the Act) to be located within the Issuer's defined area of operation, and the Issuer's revenue bonds are to be issued and validated under and in accordance with the applicable provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, et seq.); and

WHEREAS, the Act further authorizes and empowers the Issuer (i) to lease any such projects; (ii) to pledge, mortgage, convey, assign, hypothecate or otherwise encumber such projects and the revenues therefrom as security for the Issuer's revenue bonds; and (iii) to do any and all acts and things necessary or convenient to accomplish the purpose and powers of the Issuer; and

WHEREAS, the Company desires to lease a capital project consisting of land in the Issuer's defined area of operation, together with improvements thereto and equipment thereon (the "Project"), as further described herein and for purposes of identification, also known as "Project Baymare," which will be acquired by the Issuer and leased to the Company under this Lease; and

WHEREAS, the Project will be constructed in one or more phases (each, a "Phase" and, collectively, the "Phases") as provided in the Inducement and PILOT Agreement; and

WHEREAS, the Project is to be financed by the issuance of the Issuer's Taxable Revenue Bonds (Baymare LLC Project), Series 2021 (the "Bonds"), in a maximum aggregate principal amount of \$42,000,000,000 (the "Maximum Principal Amount"); and

WHEREAS, pursuant to the Bond Resolution adopted by the Issuer on February 23, 2021 (the "Bond Resolution"), authorizing the issuance and sale of the Bonds to the Company, as both the "Purchaser" and the initial "Holder," the execution of this Lease and the other Issuer Documents (identified in the Bond Resolution) relating to the Bonds, the Issuer is pledging to the payment of the Bonds the Pledged Security (as defined in the Bond Resolution).

NOW, THEREFORE, in consideration of the respective representations and agreements hereinafter contained, the parties hereto agree as follows, provided that, in the performance of the agreements of the Issuer herein contained, any obligation it may thereby incur for the payment of money shall not constitute a general obligation of the Issuer but shall be payable solely out of the Pledged Security for the Bonds, and the Bonds shall not constitute a general obligation of the Issuer nor constitute an indebtedness or general obligation of the State or any other agency or political subdivision of the State, within the meaning of any constitutional or statutory provision whatsoever:

ARTICLE I

DEFINITIONS AND OTHER PROVISIONS OF GENERAL APPLICATION

Section 1.1. <u>Definitions</u>. Certain capitalized words and terms used in this Lease are defined in the text hereof or in the Bond Resolution (defined below). In addition to the words and terms defined elsewhere herein and in the Bond Resolution, the following words and terms are defined terms under this Lease:

"Additional Rent" means the amounts payable by the Company, described in Section 5.3(b) of this Lease.

"Additions or Alterations" means modifications, upgrades, alterations, additions, enlargements, or expansions to real or tangible personal property comprising the Project.

"Affiliate" shall have the meaning provided for such term in the Bond Resolution.

"Authorized Company Representative" means the individual who executes this Lease on behalf of the Company, who has been duly authorized by the Company to serve in such capacity and is hereby appointed to serve in such capacity on behalf of the Company. From time to time, the Company may designate one or more individuals to act in such capacity on behalf of the Company by written certificate furnished to the Issuer, the Holder and the Custodian, containing the specimen signature of such person and executed on behalf of the Company by an authorized representative of the Company. Such certificate may appoint an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Company Representative, and more than one person may be designated as an Authorized Company Representative. Each such appointment shall be effective until revoked in writing.

"Authorized Issuer Representative" means any officer or official of the Issuer who executes this Lease and any other person at the time designated to act on behalf of the Issuer by written certificate furnished to the Company, the Holder and the Custodian, containing the specimen signature of such person and signed on behalf of the Issuer by the Chairman or other

officer of the Issuer; more than one person may be designated as an Authorized Issuer Representative.

"Bankruptcy Code" means Title 11 of the United States Code, as may be amended.

"Basic Rent" means the rent payable by the Company to the Issuer, described under the subheading "Basic Rent" in Section 5.3(a) of this Lease.

"Bond Documents" means the documents, the forms of which are attached to the Bond Resolution as $\underline{\text{Exhibits B}}$ through \underline{F} thereto.

"Bond Purchase Loan Agreement" means the Bond Purchase Loan Agreement, dated as of the Document Date, between the Issuer and the Company (in its capacity as the Lessee under this Lease and separately as the Purchaser under the Bond Purchase Loan Agreement), as it may hereafter be amended.

"Bond Resolution" is defined above, as it may hereafter be amended in accordance with the terms thereof; the term "Bond Resolution" shall include any resolution supplemental or amendatory thereto.

"Bonds" means the Issuer's Taxable Revenue Bonds (Baymare LLC Project), Series 2021.

"Business Day" means a day that is not a Saturday, Sunday, a legal holiday, or any other day on which banking institutions are authorized to be closed in the State.

"Company" means Baymare LLC, a Delaware limited liability company, and any successor tenant under this Lease.

"Company Documents" means those of the Bond Documents to which the Company is a party signatory.

"Corporate Successor" and "corporate successor" mean any corporation or limited liability company into which the Company may merge, any corporation or limited liability company resulting from a consolidation to which the Company is a party or any corporation, partnership, trust, or limited liability company to which the Company transfers its interest under this Lease, and also includes any Corporate Successor (as above defined, but substituting "corporate successor" for "Company") of a Corporate Successor.

"Costs of the Project" means those aggregate costs and expenses paid or incurred in connection with the acquisition, construction, equipping, or installation of the Project and permitted by the Act, the Bond Resolution and Section 4.3 hereof to be paid or reimbursed from proceeds of the Bonds, whether such costs be directly or indirectly incurred by the Company.

"Custodian" means the Company, or any other Person that is serving from time to time as Custodian of the Funds.

"Debt Service" and "debt service" mean the principal of, interest on and redemption amount, if any, payable on the Bonds.

"Debt Service Payment Date" means the Principal Payment Date or Interest Payment Date and any date on which the Bonds are to be redeemed, in whole or in part, and includes any special Debt Service Payment Date as defined in, and as may be established as provided in, the Bond Resolution.

"Default Interest Rate" means, as to delinquent payments of Basic Rent under this Lease and the Debt Service on the Bonds, the Stated Interest Rate, and as to delinquent payments of Additional Rent under this Lease, means the lesser of the Prime Rate plus 300 basis points or the maximum rate allowed by law.

"Default Notice" means a notice of an Event of Default under this Lease which shall, if given, be given in accordance with Section 11.3 of this Lease and which must state in all capital letters and bold font on both the notice, and if mailed or delivered by courier, stated on the envelope containing such notice "THIS IS A NOTICE OF DEFAULT AND CONTAINS A STATED CURE PERIOD."

"Document Date" means the date of this Lease.

"Documents Escrow Agreement" means the Documents Escrow Agreement dated as of the Document Date between the Issuer and the Company and pursuant to which a deed, bill of sale, and such other documents as deemed necessary in relation thereto are to be delivered to the Company pursuant to the Option Agreement.

"Environmental Laws" means all federal, state, and local laws, rules, regulations, ordinances, programs, permits, guidance, orders, and consent decrees relating to health, safety, and environmental matters, including, but limited to, all current Environmental Laws as of the date hereof, or as those Environmental Laws may be amended, revised or superseded, of any governmental authority having jurisdiction over the Project addressing pollution or the protection of human health or the environment, including without limitation, the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. § 9601, et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. § 6901, et seq.; the Federal Water Pollution Control Act, 33 U.S.C. § 1251, et seq.; the Clean Air Act, 42 U.S.C. § 7401, et seq.; the Toxic Substances Control Act, 15 U.S.C. §§ 2601 through 2629; the Oil Pollution Act, 33 U.S.C. § 2701, et seq.; the Emergency Planning and Community Right-to-Know Act, 42 U.S.C. § 11001, et seq.; the Safe Drinking Water Act, 42 U.S.C. §§ 300f through 300j; and all similar laws (including implementing regulations) of any governmental authority having jurisdiction over the proposed Project, regardless of whether or not any such liability or violation relates to any period prior to the acquisition of the Project by the Issuer or its acquisition theretofore by the Company.

"Event of Default" means, when used with respect to this Lease, the events specified in Sections 10.1 and 10.6 of this Lease, and when used with reference to any other instrument any "Event of Default," event of default," "Default," or "default" (as such term is defined in such other instrument).

"Governing Body" means, as to the Issuer, the members of the Issuer acting as its board of directors.

- "Holder" and "Bondholder" mean the Person in whose name the Bonds are registered on the registration books of the Issuer and is initially the Company.
- "Inducement and PILOT Agreement" means the Inducement and PILOT Agreement, dated as of the Document Date, by and between the Issuer, the Company, the Board of Tax Assessors of Morgan County, the Board of Tax Assessors of Newton County, and the Board of Tax Assessors of Walton County, as it may be amended from time to time.
 - "Interest Payment Date" is defined in the Bond Resolution.
- "Issuer Documents" means those of the Bond Documents to which the Issuer is a party signatory.
 - "Lease" means this Lease, as it may be amended from time to time.
- "Leased Equipment" means, as of a specific moment in time, all items constituting fixtures, machinery, equipment, furniture, or other personal property of any nature whatsoever (including substitutions and replacements) used on, in or in connection with the Leased Land and Leased Improvements and so designated as such by the Company and owned by the Issuer at such time. Any such property that is conveyed by the Company to the Issuer pursuant to this Lease shall be a part of the Leased Equipment.
- "Leased Improvements" means all of the buildings, structures, facilities, fixtures and other improvements of any nature whatsoever used on, or in connection with the Leased Land and all Additions, Alterations, replacements and substitutions for any portion thereof.
 - "Leased Land" means the land described in Exhibit A attached to this Lease.
- "Leasehold Mortgage" means any leasehold mortgage or leasehold deed to secure debt pursuant to which the Company pledges its leasehold interest created by this Lease herein to a Lender.
 - "Leasehold Mortgagee" means a holder of a Leasehold Mortgage.
 - "Lease Term" means the term of this Lease as specified in Section 5.1 hereof.
- "Lender" means any financial institution which has advanced credit to the Company with respect to the Project, including a Leasehold Mortgagee.
- "Loan Documents" means the loan documents with respect to the Company's Leasehold Mortgage or a Superior Security Document.
- "Net Proceeds" means, with respect to any gross proceeds of casualty insurance received relating to the Project and any proceeds of any eminent domain award (or proceeds received in lieu of a taking by eminent domain) or any other recovery on a contractual claim or claim for damage to or for taking of the Project, or any part thereof, the proceeds remaining from such insurance, eminent domain award, transfer or recovery after payment of all costs and expenses

(including attorneys' fees and reimbursable expenses) incurred in the collection of such gross proceeds.

"Option Agreement" means the Option Agreement, dated as of the Document Date, between the Issuer to the Company, as it may hereafter be amended.

"Permitted Encumbrances" means, as of any particular time, (i) liens for ad valorem taxes and special assessments not then delinquent or permitted to exist as provided in Section 6.3 hereof, (ii) this Lease, (iii) the Security Document, (iv) utility, access or other easements and rights of way, restrictions, reservations, reversions and exceptions in the nature of easements requested by the Company as provided in Section 8.6, (v) unfiled and inchoate mechanics' and materialmen's liens for construction work in progress, (vi) architects', contractors', subcontractors', mechanics', materialmen's, suppliers', laborers' and vendors' liens or other similar liens not then payable or permitted to exist hereunder, (vii) such minor defects, irregularities, encumbrances, easements, rights-of-way, and clouds on title as the Company, by an Authorized Company Representative, states (on written request by the Issuer) do not, in the aggregate, materially impair the portions of the Project affected thereby for the purpose for which it was acquired or is held by the Issuer, (viii) existing encumbrances of record, (ix) exceptions described in any policy of title insurance that may be procured by the Company, (x) any Leasehold Mortgage, (xi) any Superior Encumbrances, and (xii) any other encumbrance agreed to in writing by Issuer.

"Person" means a natural person, business organization, public body, or other legal entity.

"Phase" and "Phases" shall have the meanings given in the Inducement and PILOT Agreement.

"Phase 1" has the meaning given in the Inducement and PILOT Agreement.

"Project" means the Leased Land, the Leased Improvements and the Leased Equipment as the same shall exist from time to time, all of which constitute a "project" within the meaning of OCGA 36-62-(6)(N), and shall otherwise be known for purposes of identification as the "Baymare LLC Project."

"Project Baymare" is the name used for identification and differentiation of the Project.

"Purchaser" means the purchaser of the Bonds pursuant to the Bond Purchase Loan Agreement (which is, initially, the Company).

"Request for Bond Installment" is defined in Section 4.4.

"Security Document" means the Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement, dated as of the Document Date, entered into between the Issuer and the Purchaser, its successors and assigns, securing the Bonds.

"State" means the State of Georgia.

"Superior Encumbrances" means all encumbrances and title exceptions on the Project in existence at the time of recording of the Security Document relating to the Project and any encumbrances created by any Superior Security Document.

"Superior Security Document" means any deed to secure debt or similar instrument or instruments in which the Company or the Issuer (only to the extent requested by the Company), or both, now or in the future, pledges the Project or its interest in this Lease to a Lender; the Issuer may be a grantor or debtor thereunder, but the Issuer's obligations thereunder shall be non-recourse, except that recourse may be had against the Issuer's interest in the collateral pledged under such instrument.

"Unassigned Rights" means all of the rights of the Issuer (i) to receive reimbursements and payments pursuant to Sections 5.3(b)(i) and 10.4 hereof, (ii) to receive notices under or pursuant to any provision of this Lease, (iii) certain consensual and enforcement rights pursuant to Sections 5.6, 6.3, 6.4, 8.6 and 10.2 hereof, and (iv) to be indemnified as provided in Section 8.3 of this Lease.

- **Section 1.2.** Construction of Certain Terms. For all purposes of this Lease, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction shall apply:
 - (a) the use of the masculine, feminine, or neuter gender is for convenience only and shall be deemed and construed to include correlative words of the masculine, feminine, or neuter gender, as appropriate;
 - (b) "this Lease" means this instrument as originally executed or as it may from time to time be supplemented or amended by one or more leases supplemental to this Lease and entered into pursuant to the applicable provisions hereof;
 - (c) all references in this instrument to designated "Articles," "Sections," and other subdivisions are to the designated articles, sections, and other subdivisions of this instrument:
 - (d) the words "herein, "hereof," and "hereunder" and other words of similar import refer to this Lease as a whole and not to any particular article, section, or other subdivision;
 - (e) the terms defined in this Article shall have the meanings assigned to them in this Article and include the plural as well as the singular; and
 - (f) all accounting terms not otherwise defined herein have the meanings assigned to them in accordance with generally accepted accounting principles as promulgated by the American Institute of Certified Public Accountants, on and as of the date of this Lease.
- Section 1.3. <u>Table of Contents</u>; <u>Titles and Headings</u>. The table of contents, the titles of the articles, and the headings of the sections of this Lease are solely for convenience of reference,

are not a part of this Lease, and shall not be deemed to affect the meaning, construction, or effect of any of its provisions.

Section 1.4. Contents of Certificates or Opinions. Every certificate or written opinion delivered by any director or official of the Issuer or the Company with respect to the compliance by the Issuer or the Company with any condition or covenant provided for in this Lease shall be delivered only after the person or persons signing the same has made such examination or investigation as is reasonably necessary to enable him, her or them to express an informed opinion as to whether or not such covenant or condition has been complied with. Any such certificate or opinion made or given by any director or official of the Issuer or the Company, insofar as it relates to legal or accounting matters, may be made or given in reliance upon an opinion of counsel or a letter of the Company's accountant. Any such opinion of counsel or accountant's letter may be based (insofar as it relates to factual matters with respect to information which is in the possession of a director or an official of the Issuer, the Company or any third party) upon the certificate or opinion of, or representations by, such director or official of the Issuer, the Company or such third party. The same director or official of the Issuer, the Company or third party, or the same counsel or accountant, as the case may be, need not certify or opine to all of the matters required to be certified or opined under any provision of this Lease, but different directors, officials, counsel, or accountants may certify or opine to different matters, respectively.

ARTICLE II

REPRESENTATIONS AND UNDERTAKINGS

Section 2.1. Representations by the Issuer. The Issuer makes the following representations and warranties as the basis for the undertakings on its part herein contained:

- (a) <u>Creation and Authority</u>. The Issuer is a public body corporate and politic duly created and validly existing under the laws of the State. The Issuer has all requisite power and authority under the Act and the laws of the State (i) to issue the Bonds, (ii) to acquire, construct, equip and install the Project and to lease the same to the Company for the purposes set forth in, and in accordance with, the Bond Resolution and this Lease, and (iii) to enter into, perform its obligations under, and exercise its rights under the Issuer Documents. The Issuer has found that the Project will promote and expand for the public good and welfare industry and trade within the area served by the Issuer and reduce unemployment, and has found that the Project is for the lawful and valid public purposes set forth in the Act, and will promote the objectives of the Act.
- (b) Pending Litigation. There are no actions, suits, proceedings, inquiries, or investigations pending or, to the knowledge of the Issuer, after making due inquiry with respect thereto, threatened against or affecting the Issuer in any court or by or before any governmental authority or arbitration board or tribunal, which involve the possibility of materially and adversely affecting the transactions contemplated by the Issuer Documents or which, in any way, would adversely affect the validity or enforceability of the Bonds, the Bond Resolution, this Lease, the other Issuer Documents, or any agreement or instrument to which the Issuer is a party and which is used or contemplated for use in the consummation of the transactions contemplated hereby or thereby, nor is the Issuer aware of any facts or circumstances presently existing which would form the basis for any such actions, suits, proceedings, inquiries, or investigations.

- (c) <u>Issue, Sale, and Other Transactions Are Legal and Authorized</u>. The issue and sale of the Bonds, the execution and delivery by the Issuer of the Issuer Documents, and the adoption by the Issuer of the Bond Resolution and the compliance by the Issuer with all of the provisions of each thereof (i) are within the purposes, powers, and authority of the Issuer, (ii) have been done in full compliance with the provisions of the Act and have been approved by the Governing Body of the Issuer, and (iii) the Bonds and the Issuer Documents have been duly authorized by all necessary action on the part of the Issuer, have been duly executed, are legal and valid and do not conflict with or constitute on the part of the Issuer a violation of or a breach of or a default under, or result in the creation or imposition of any lien, charge, restriction, or encumbrance upon any property of the Issuer under the provisions of, any charter instrument, bylaw, indenture, mortgage, deed to secure debt, pledge, note, lease, loan, or installment sale agreement, contract, or other agreement or instrument to which the Issuer is a party or by which the Issuer or its properties are otherwise subject or bound, or any license, judgment, decree, law, statute, order, writ, injunction, demand, rule, or regulation of any court or governmental agency or body having jurisdiction over the Issuer or any of its activities or properties.
- (d) Governmental Consents. Neither the nature of the Issuer nor any of its activities or properties, nor any relationship between the Issuer and any other Person, nor any circumstance in connection with the offer, issue, sale, or delivery of the Bonds is such as to require the consent, approval, permission, order, license, or authorization of, or the filing, registration, or qualification with, any governmental authority on the part of the Issuer in connection with the execution, delivery, and performance of the Issuer Documents, the adoption of the Bond Resolution, the consummation of any transaction therein contemplated, or the offer, issue, sale, or delivery of the Bonds, except as shall have been obtained or made and as are in full force and effect, provided, however, no representation is made herein as to compliance with the securities or "blue sky" laws of any jurisdiction.
- (e) No Defaults. To the knowledge of the Issuer, after making due inquiry with respect thereto, no event has occurred and no condition exists which would constitute an Event of Default (as such term is used in the various Issuer Documents) or which, with the lapse of time or with the giving of notice or both, would become an Event of Default under any of the Issuer Documents. To the knowledge of the Issuer, after making due inquiry with respect thereto, the Issuer is not in default or violation in any material respect under the Act or under any charter instrument, bylaw, or other agreement or instrument to which it is a party or by which it may be bound.
- (f) No Prior Pledge. Neither the Project, this Lease, nor any of the payments or amounts to be received by the Issuer hereunder have been or will be mortgaged, pledged, or hypothecated by the Issuer in any manner or for any purpose or have been or will be the subject of a grant of a security interest by the Issuer other than (i) as security for the payment of the Bonds, as provided in the Bond Resolution and the Security Document, or (ii) with the consent of the Company and the Holder, as may be provided in a Superior Security Document or Leasehold Mortgage.
- (g) <u>Compliance with Conditions Precedent to the Issuance of the Bonds</u>. All acts, conditions, and things required to exist, happen, and be performed precedent to and in the execution and delivery by the Issuer of the Bonds do exist, have happened, and have been performed in due time, form, and manner as required by law; the issuance of the Bonds, together

with all other obligations of the Issuer, do not exceed or violate any constitutional or statutory limitation.

- Section 2.2. <u>Representations by the Company</u>. The Company makes the following representations and warranties as the basis for the undertakings on its part herein contained:
- (a) <u>Organization and Power</u>. The Company is a limited liability company duly organized, validly existing, and in good standing under and by virtue of the laws of the State of Delaware, is qualified to do business in the State of Georgia, and has all requisite power and authority to lease the Project from the Issuer and to enter into, and perform its obligations and exercise its rights under, the Company Documents.
- (b) Agreements Are Legal and Authorized. The Company Documents, the consummation of the transactions therein contemplated, and the fulfillment of or the compliance with all of the provisions thereof (i) are within the power, legal right, and authority of the Company, (ii) have been duly authorized by all necessary and appropriate action on the part of the members or managers of the Company, (iii) have been duly executed and delivered on the part of the Company, (iv) are legal, valid, and binding as to the Company, subject to bankruptcy, moratorium and other equitable principles, and (v) will not conflict with or constitute on the part of the Company a violation of, or a breach of or a default under, any charter instrument, bylaw, indenture, mortgage, deed to secure debt, pledge, note, lease, loan, installment sale agreement, contract, or other agreement or instrument to which the Company is a party or by which the Company or its properties are otherwise subject or bound and which would have a material adverse impact on the Company's ability to perform its obligations hereunder, or any judgment, order, writ, injunction, decree, or demand of any court or governmental agency or body having jurisdiction over the Company or any of its activities or properties.
- (c) <u>No Defaults</u>. To the knowledge of the Company, after making due inquiry with respect thereto, no event has occurred and no condition exists which would constitute an Event of Default hereunder or which, with the lapse of time or with the giving of notice or both, would become an Event of Default hereunder.
- Occuments and any certificate, document, written statement, or other instrument furnished by or on behalf of the Company to the Issuer or Purchaser in connection with the transactions contemplated hereby, do not to the Company's actual knowledge after making due inquiry contain any untrue statement of a material fact and do not omit to state a material fact necessary to make the statements contained herein or therein not misleading. To the actual knowledge of the signatory hereto, there is no fact that the Company has not disclosed to the Issuer and to the Purchaser in writing that materially and adversely affects or in the future may (so far as the Company can now reasonably foresee) materially and adversely affect the ability of the Company to perform its obligations under the Company Documents or any of the documents or transactions contemplated thereby which has not been set forth in writing to the Issuer and to the Purchaser or in the certificates, documents, and instruments furnished to the Issuer and to the Purchaser by or on behalf of the Company prior to the date of execution of this Lease in connection with the transactions contemplated hereby.

(e) <u>Inducement</u>. The issuance of the Bonds by the Issuer for the benefit of the Company has induced the Company to lease the Project.

ARTICLE III

LEASING CLAUSE; SECURITY; TITLE

- Section 3.1. Lease of the Project. The Issuer, as lessor, hereby rents the Project to the Company, as lessee, and the Company hereby rents the Project from the Issuer at the rental set forth in Section 5.3 hereof and for the Lease Term (as defined in Section 5.1 hereof), in accordance with the provisions of this Lease. This Lease shall be effective on its delivery. It is the intention of the parties that the interest of the Company hereunder shall be a usufruct under O.C.G.A. § 44-7-1(a), as to the improved real property of the Project leased to the Company, and as a bailment for hire under O.C.G.A. § 44-6-101, as to the tangible personal property of the Project leased to the Company, and not an estate for years. The parties hereto further agree such usufruct and bailment status is evidenced by the fact that various provisions of this Lease restrict and limit the lessee's rights in the Project to such an extent that the Company does not have the right to use the Project in as absolute a manner as it would have if it were the owner of the Project or a lessee with an estate for years (subject only to rules prohibiting waste), to-wit:
 - (a) <u>Limitation on Nature of Company's Use</u>. This Lease provides that the Project may be used only for the limited purposes permitted by the Act and imposes other restrictions on the Company's use of the Project; thus, the Company does not have the right to use the Project in as absolute a manner as it would have if this Lease granted an estate for years.
 - (b) <u>Interest Not Freely Assignable</u>. This Lease contains certain restrictions on the right of the Company to assign its rights hereunder.
 - (c) <u>Issuer's Right to Enforce Compliance With Applicable Laws</u>. In order that the Issuer, as landlord, may control the use of the Project in order to assure that such use is at all times lawful, the parties have provided in this Lease that the Company's use and occupancy of the Project and its activities thereat shall be conducted at all times in accordance with all applicable laws, ordinances, rules and regulations and that the Issuer, as landlord, has the right to enforce such covenants. Notwithstanding anything contained herein to the contrary, the Issuer covenants it shall not attempt to exercise any such rights of enforcement related to the Covered Data or Stored Data, as defined in Section 11.27, and the Company shall also be entitled, at its sole cost and expense and with prior notice to the Issuer, to contest the application or validity of any such laws, ordinances, rules or regulations.
 - (d) Repair and Maintenance Covenants. Under current law, if this Lease were to create an "estate for years," the Company, as tenant, would have, under law, the duty to maintain the Project, normal wear and tear excepted, and it would not be necessary to so provide in this Lease; in this Lease, the parties hereto, by operation of express covenant and not by operation of law, have provided for the Company, as tenant, to repair and maintain the Project.

- (e) <u>Insurance Covenants</u>. Under current law, the granting of a usufruct and bailment for hire does not impose upon the tenant any obligation to insure the property that is the subject of such grant; however, in this Lease, the parties, by operation of express covenant and not by operation of law, have provided that the tenant shall be responsible for insuring the Project.
- (f) <u>Taxes and Governmental Charges</u>. Under current law, the granting of a usufruct or a bailment for hire does not impose upon the lessee any obligation to pay taxes, or other governmental charges against the Project that is the subject of such lease; however, in this Lease, the parties, by operation of express covenant and not by operation of law, have provided that the Company shall be responsible for any actual *ad valorem* taxes and any governmental charges lawfully levied on the Project and payments in lieu of taxes in accordance with the Inducement and PILOT Agreement.
- (g) <u>No Purchase Option in this Lease</u>. This Lease does not grant to the Company an option to purchase the Project.

Section 3.2. Security for Payments Under the Bonds. As security for the payment of the Bonds, pursuant to the Bond Resolution the Issuer shall execute and deliver to the Holder the Security Document, in which the Issuer shall grant unto the Holder, its successors and assigns, security title to the Project and shall assign unto the Holder, its successors and assigns, all of the right, title, interest, and remedies of the Issuer in, to, and under this Lease (except the Unassigned Rights), together with all rents, revenues, and amounts to be received by the Issuer hereunder (except for amounts the Issuer shall be entitled to receive and retain on account of being included in such Unassigned Rights), as security for, among other things, the payment of the Bonds. Subject to Section 5.4 hereof and applicable provisions of the Bond Resolution and the Bond Documents, the Company hereby agrees that its obligations to pay Basic Rent under this Lease shall be absolute and shall not be subject to any defense, except payment, or to any right of set off, counterclaim, or recoupment arising out of any breach by the Issuer of any obligation to the Company, whether hereunder or otherwise, or arising out of any indebtedness or liability at any time owing to the Company by the Issuer; provided, however, the Company shall not be obligated to pay Basic Rent if for any reason the Company is prevented or prohibited from receiving Debt Service during a period when the Company is also the Holder. Notwithstanding anything to the contrary herein, the Issuer and the Company agree that all payments of Basic Rent required to be made by the Company under this Lease shall be paid directly or credited against the Debt Service due to the Holder as provided in the Bond Resolution and the applicable Bond Documents. The Holder shall have all rights and remedies herein accorded to the Issuer (except for Unassigned Rights), and any reference herein to the Issuer shall be deemed, with the necessary changes in detail, to include the Holder and the Holder shall be deemed to be and is a third-party beneficiary of the representations, covenants, and agreements of the Company in favor of the Issuer contained in this Lease (except for covenants and agreements pertaining to the Unassigned Rights).

Section 3.3. Warranties and Covenants of Issuer as to Title. The Issuer disclaims any interest in any items of equipment and related personal property that are neither acquired with proceeds of the Bonds nor Additions or Alterations, replacements or substitutions therefor. The Issuer warrants and covenants that, except for this Lease and the Security Document, the Issuer shall not otherwise encumber the Project or any part thereof without the prior written consent of

the Company, the Holder and any Lender (if any is known to the Issuer), which consent may be in the sole discretion of the foregoing. The Issuer covenants to take all acts necessary to defend its title to the Project and will do no act (except as permitted by Section 9.2 hereof) to impair such title, provided that the cost of such action is paid for in advance by the Company, or the Issuer is indemnified for such costs by the Company to the Issuer's satisfaction. The Issuer makes no warranty as to the design, suitability, condition or fitness for purpose of the Project.

Section 3.4. Warranties and Covenants of Company as to Title. The Company shall take such actions as are necessary to cause title to the Project to vest in the Issuer subject to this Lease and the Permitted Encumbrances. Issuer will not be required to incur costs to defend the title of the Issuer to the Project, and the Company will do no act that will impair such title, except as may be expressly permitted by this Lease and the other Bond Documents.

Section 3.5. <u>Acknowledgement of Subordination</u>. Notwithstanding anything contained herein, unless otherwise provided in any Superior Security Document, this Lease is subject and subordinate in all respects to any Superior Security Document, to all other liens granted by the Company to the holder of such Superior Security Document with respect to or in connection with the indebtedness secured by such Superior Security Document, and to all modifications, extensions, refinancings (where such liens continue), or renewals of such lien.

Section 3.6. Agreement of the Issuer to Execute Amendments to Lease Agreement. The Issuer and the Company understand and agree that portions of the Leased Land, Leased Improvements, and/or Leased Equipment may cease to be a part of the Project and as such will be removed from this Lease in accordance with the provisions hereof. Further, certain improvements or items of tangible personal property may become part of the Project and thus be conveyed by the Company to the Issuer from time to time and will become part of the Project leased to the Company under this Lease. The Issuer agrees, at the request of the Company, to execute from time to time an Amendment to Lease Agreement in the form contained as Exhibit B hereto without further action of its part unless further action is otherwise required under the provisions hereof; however, no such Amendment to Lease Agreement is required and it is agreed that the Leased Improvements become a part of the Project upon construction and that the Leased Equipment becomes a part of the Project on conveyance by the Company to the Issuer. Further, on removal of any Leased Improvements and/or Leased Equipment from the Leased Land, the same will cease, automatically, to be a part of the Project.

ARTICLE IV

ACQUISITION, CONSTRUCTION, EQUIPPING, AND INSTALLATION OF THE PROJECT; ISSUANCE OF THE BONDS; FUNDS

Section 4.1. Agreement to Acquire, Construct, Equip, and Install the Project. Simultaneously with the issuance and sale of the Bonds, the Issuer will acquire title to the Project as it exists on such date of issuance. As provided in the Inducement and PILOT Agreement, the Company will complete the acquisition, construction, equipping and installation of Phase 1 of the Project. Notwithstanding any other provision of this Lease or any Bond Document to the contrary, the term "Project" as used in this Lease and all of the other Bond Documents means, initially, the Leased Land, plus the Leased Improvements and Leased Equipment comprising Phase 1 (as

required by the Inducement and PILOT Agreement) and the term "Project" will, as the context of this Lease and the other Bond Documents may permit or require, only include additional Phases if and when such additional Phases are constructed and equipped. The Company may, using its own funds, pay any of the Costs of the Project, and acquire any property which is to be a part of the Project in its own name, for the purpose of the later transfer of such property by the Company to the Issuer pursuant hereto. The Company is not authorized to and will not obligate the Issuer for any of the Costs of the Project. The Company may make changes in the Project, so long as such changes do not cause the Project to fail to constitute a "project" under the Act. Any contracts for the construction of any improvements that are a part of the Project shall be let by the Company as a principal, and not as agent of the Issuer. The timing and rate for development of the Project will depend upon numerous factors outside of the control of the Company, such as market orientation and demand, competition, availability of qualified laborers to construct, and/or weather conditions. The Company may develop the Project in such order and at such rate and times as the Company deems appropriate within the exercise of its sole and absolute discretion, subject to the requirements of this Section. The Issuer acknowledges that this right is consistent with the intent, purpose, and understanding of the Parties. Except as expressly set forth in this Section, nothing in this Lease shall be construed to require the Company to proceed with developing the Project or any portion thereof.

Section 4.2. <u>Agreement to Issue the Bonds</u>. In order to provide funds for payment of the Costs of the Project, the Issuer, contemporaneously with the delivery of this Lease, is issuing the initial installment of the Bonds to the Purchaser. The Purchaser is the Company and thus the Company is the "Holder" and the "Bondholder" as those terms are used in this Lease.

Section 4.3. <u>Application of Proceeds</u>. Any cash proceeds of the Bonds shall be used to pay or reimburse Costs of the Project and issuance costs of the Bonds.

Agreement. In Section 4.8, the Issuer has authorized the Company to act as its agent for the purpose of requesting the issuance of Bonds in installments under the Bond Purchase Loan Agreement to pay or reimburse the Costs of the Project in one or more disbursements, upon the submission by the Company to the Purchaser, with a copy to the Issuer, of a "Request for Bond Installment" in the form attached as Exhibit A to the Bond Purchase Loan Agreement. Such Requests for Bond Installments must be signed by an Authorized Company Representative. It is agreed that Bonds may be purchased (or deemed purchased) in installments under the Bond Purchase Loan Agreement by the Company transferring to the Issuer, at the Company's cost, items of property that are to be a part of the Project, and in such case the same shall be treated as a purchase by the Purchaser of a Bond in such amount, and the corresponding receipt by the Project Fund of an amount equal to such Costs of the Project and a disbursement of such amount to the Company as payment of such Costs of the Project. Proceeds of the Bonds shall be deemed disbursed at the direction of the Company, on behalf of the Issuer, to pay or to reimburse the Company for Costs of the Project.

The initial Request for Bond Installment shall be submitted by the Company on the date of the execution of this Lease and the amount thereof shall be equal to all Costs of the Project incurred prior to the date of such Request for Bond Installment. Thereafter, the Company, on behalf of the Issuer, may issue Requests for Bond Installments and thus request additional installments of Bonds

to be issued and sold under the Bond Purchase Loan Agreement, if any are needed, to evidence additional amounts expended by the Company for Costs of the Project, provided that the aggregate amounts drawn down from time to time shall not exceed the Maximum Principal Amount of the Bonds, and no Bonds shall be issued after the "Expiration Date" provided for in the Bond Purchase Loan Agreement. In the case of advances for equipment or personal property to become Leased Equipment, a bill of sale (in the form attached as Exhibit C hereto) transferring such equipment or personal property to become Leased Equipment shall be attached to the Request for Bond Installment.

Section 4.5. Excess Costs. The Issuer does not make any warranty, either express or implied, that the amounts which may be drawn down under the Bond Purchase Loan Agreement will be sufficient for the payment of all of the Costs of the Project. The Company agrees that it shall not be entitled to any reimbursement for any costs in excess of the Maximum Principal Amount of the Bonds from the Issuer or from the Holder, nor shall it be entitled to any diminution of the amounts payable under Section 5.3(a) hereof.

Section 4.6. <u>Authorized Company and Issuer Representatives and Successors</u>. See the definitions in Section 1.1 hereof, of the terms "Authorized Company Representative" and "Authorized Issuer Representative" relating to the designation thereof. In the event that any person so designated should become unavailable or unable to take any action or make any certificate provided for or required in this Lease, a successor or additional Authorized Company Representative or Authorized Issuer Representative shall be appointed.

Section 4.7. <u>Enforcement of Remedies Against Contractors and Subcontractors and Their Sureties and Against Manufacturers and Vendors.</u>

- (a) The Issuer hereby authorizes the Company, in its own behalf, to take such action and institute such proceedings as the Company may elect in its sole discretion to cause and require all manufacturers, fabricators, vendors, contractors and subcontractors and suppliers to complete their contracts relating to the Project diligently in accordance with the terms of such contracts, including, without limitation, the correction of any defects. The Issuer agrees that the Company may, from time to time, in its own name take such action as the Company may elect in its sole discretion against such manufacturers, fabricators, vendors, contractors and subcontractors and suppliers, and their sureties, to ensure the proper acquisition, construction, equipping, and installation of the Project.
- (b) The Company may engage or disengage architects, engineers and other professionals in the preparation of all such work product.
- (c) All warranties, bonds, letters of credit or other security or other undertakings furnished by or on behalf of any contractors, subcontractors, fabricators, vendors, manufacturers or suppliers which provide labor or materials (including building fixtures) for the Project shall be in the name of the Company and may be enforced by the Company, at its own risk and expense, without consultation with or direction by either the Issuer or the Holder.
- (d) The Issuer hereby authorizes the Company on its own behalf, and at the sole expense of the Company, to take such action and institute such proceedings as the Company may

elect in its sole discretion to cause and require any contractors, subcontractors, fabricators, vendors, manufacturers and suppliers that have provided labor or materials (including building fixtures) for the Project to fulfill their warranties and contractual responsibilities diligently in accordance with the terms of any purchase or installation contracts, including, without limitation, the correction of any defective parts or workmanship. The Issuer agrees that the Company may, from time to time, take such action as the Company may elect, in its sole discretion, to ensure the conformity of the Project to the specifications therefor.

Section 4.8. <u>Appointment of Agent</u>. The Issuer hereby authorizes the Company to act as its agent of and attorney-in-fact for the Issuer for purposes of:

- (a) submitting Requests for Bond Installments to pay Costs of the Project pursuant to this Lease and the Bond Purchase Loan Agreement;
 - (b) serving as, or appointing a, Registrar, Custodian and Paying Agent for the Bonds;
- (c) requesting funds from the Custodian of the Project Fund for the Project to pay the Costs of the Project, as provided in this Lease.

During the Term of this Lease, the Company hereby accepts the appointment described above and agrees to perform the duties contemplated thereby in accordance with the terms of this Lease and the Bond Purchase Loan Agreement. The Company agrees to perform such services, without charge, in consideration of the Issuer's issuance of the Bonds and the leasing of the Project to the Company. The Company shall be entitled to reimbursement for expenditures that constitute Costs of the Project, but only to the extent that proceeds of the Bonds are available for such purpose, and shall be entitled to reimbursement for expenditures relating to the restoration or replacement of the Project, or portions thereof, which are damaged or destroyed by casualty or taken by eminent domain, but only to the extent that the amounts in the Project Fund for the Project (including Net Proceeds and any investment income thereon) are available therefor.

ARTICLE V

EFFECTIVE DATE OF THIS LEASE; DURATION OF LEASE TERM; RENTAL PROVISIONS; NATURE OF OBLIGATIONS OF COMPANY

Section 5.1. <u>Effective Date of this Lease</u>; <u>Duration of Lease Term</u>. This Lease shall become effective upon its delivery in accordance with Section 3.1 above. The term of this Lease shall expire at 11:59 p.m., Atlanta, Georgia, time, on December 31, 2046, subject to the provisions of this Lease permitting earlier termination (including particularly Articles X and XI hereof). Notwithstanding any expiration or termination of this Lease, those covenants and obligations that by the provisions hereof are stated to survive the expiration or termination of this Lease shall survive the expiration or earlier termination of this Lease.

Section 5.2. <u>Delivery and Acceptance of Possession</u>. The Company shall, commencing with the date of delivery of this Lease, have possession, custody and control of the Project as it exists on such date, and the Company hereby accepts such possession, custody, and control, subject to the Permitted Encumbrances. The Issuer covenants and agrees that it shall not take any action

to prevent the Company from having possession and enjoyment of the Project during the Lease Term from any party claiming by, through or under the Issuer and shall, at the expense of the Company, cooperate with the Company in order that the Company may have peaceful possession and enjoyment of the Project from any other party.

Section 5.3. Rents and Other Amounts Payable.

(a) <u>Basic Rent</u>: Until the Principal Balance of, redemption premium, if any, and interest on the Bonds shall have been fully paid or provision for the payment thereof shall have been made in accordance with the Bond Resolution, the Company shall pay to the Holder, for the account of the Issuer, as Basic Rent for the Project on or before 11:00 a.m., Atlanta, Georgia time, on each date on which Debt Service on the Bonds is due, a sum equal to the amount payable on that date as Debt Service on the Bonds, as provided in the Bonds and in the Bond Resolution. Such Basic Rent payments shall be applied to and credited as Debt Service payments on the Bonds. Notwithstanding the foregoing, the parties hereto acknowledge and agree that, so long as the Company (including any successors or assigns of the Company) is both the Lessee under this Lease as well as the Purchaser and Holder of the Bond issued under the Bond Resolution, no money shall ever be required to be paid to or for the benefit of the Lessor hereunder as Basic Rent.

(b) Additional Rent:

(i) The Company agrees that, during the Lease Term, it shall pay directly to the Issuer, as Additional Rent, an amount sufficient to reimburse the Issuer for all reasonable expenses and advances incurred by the Issuer in connection with the Project subsequent to the execution of this Lease, including, but not limited to, the reasonable fees and expenses of counsel for the Issuer actually incurred as a result of the failure of the Company to comply in any material respect with the terms of this Lease or incurred as a result of matters which are subject to payment or indemnification by the Company under this Section 5.3(b)(i) or Sections 6.6, 8.4, or 10.4 hereof.

The Issuer agrees that, notwithstanding any other provision of this Lease to the contrary, the Company will not be obligated to pay any individual expense incurred by the Issuer (and which the Company is in fact obligated to pay under this Lease) greater than \$5,000.00 unless the Issuer provides reasonable advance written notice to the Company prior to incurring such expense.

All payments of Additional Rent described in this Section 5.3(b)(i) shall be billed to the Company by the Issuer from time to time, together with a statement certifying that the amount for which reimbursement is sought for one or more of the above-described expenditures has been incurred or paid by the Issuer. Amounts so billed shall be paid by the Company within thirty (30) days after receipt of the bill by the Company, which bill shall contain reasonable detail; the right of the Issuer to payments under this Section 5.3(b(i) is one of the Unassigned Rights. In the event the Company shall fail to make any of the payments required in this Section 5.3(b)(i), the unpaid amount shall continue as an obligation of the Company until fully paid, and shall accrue interest from such thirtieth (30th) day at the Default Interest Rate.

- The Company agrees that, during the Lease Term, if at any time the Company is not the Holder, it shall pay directly to the Holder, as Additional Rent, an amount sufficient to reimburse the Holder for all expenses and advances reasonably incurred by the Holder hereunder in connection with the Project subsequent to the execution of this Lease, including, but not limited to, the reasonable fees and expenses of counsel for the Holder actually incurred as a result of the failure of the Company to comply in any material respect with the terms of this Lease or incurred as a result of matters which are subject to indemnification by the Company under this Section 5.3(b)(ii) or Sections 6.6, 8.4, or 10.4 hereof. All payments of Additional Rent described in this paragraph shall be billed to the Company by the Holder from time to time, together with a statement. If the bill relates to a reimbursement, such statement shall certify that the amount for which reimbursement is sought for one or more of the above-described expenditures has been incurred or paid by the Holder. Amounts so billed shall be paid by the Company within thirty (30) days after receipt of the bill by the Company which bill shall contain reasonable detail. In the event the Company shall fail to make any of the payments required by this Section 5.3(b)(ii), the unpaid amount shall continue as an obligation of the Company until fully paid, and shall accrue interest from such thirtieth (30th) day at the Default Interest Rate. The Holder shall be a third-party beneficiary of this Section 5.3(b)(ii) and shall be entitled to enforce the same against the Company, subject to the provisions of this Lease.
- (iii) The PILOT Payments (defined below), shall be considered Additional Rent under this Agreement, in the amount pre-determined and set forth in the Inducement and PILOT Agreement.

Section 5.4. <u>Place of Rental Payments</u>; <u>Deemed Payment</u>. The Basic Rent provided for in Section 5.3(a) hereof, shall be paid directly to the Holder for the account of the Issuer in the manner provided in the Bonds for the payment of Debt Service on the Bonds. Such payments shall be made in lawful money of the United States of America; provided, however, that so long as the Company is both the lessee under this Lease and the Holder of the Bonds, such payments shall be deemed to have been made as and when due, without the necessity of any funds being transmitted or any records being maintained with respect to the Sinking Fund.

The Additional Rent provided for in Section 5.3(b)(i) and any interest on late payments thereof shall be payable directly to the Issuer. The Additional Rent provided for in Section 5.3(b)(ii) and any interest on late payments thereof shall be payable directly to the Holder.

Section 5.5. Nature of Obligations of Company Hereunder.

(a) Subject to Section 5.4 hereof and the other Bond Documents, the obligations of the Company to make the payments required in Section 5.3 hereof during the term of this Lease shall be absolute and unconditional irrespective of any defense or any rights of set-off, recoupment, or counterclaim the Company may otherwise have against the Issuer or the Holder; provided, however, the Company shall not be obligated to pay Basic Rent if, for any reason, the Holder is prevented or prohibited from receiving Debt Service during a period when the Company is also the Holder, irrespective of the reason therefor.

- (b) Nothing contained in this Section shall be construed to release the Issuer from the performance of any of the agreements on its part herein contained. In the event the Issuer should fail to perform any such agreement on its part, the Company may institute such action against the Issuer as the Company may deem necessary to compel performance so long as such action does not abrogate the Company's obligations hereunder. The Issuer hereby agrees, to the extent legally permissible, that it shall not take or omit to take any action that would cause this Lease to be terminated without the prior written consent of the Holder of the Bonds.
- (c) The Company may, however, at its own cost and expense and in its own name, prosecute or defend any action or proceeding or take any other action involving third persons which the Company deems reasonably necessary in order to secure or protect its right of possession, occupancy, and use hereunder, and in such event the Issuer hereby agrees to cooperate fully with the Company and to take all action necessary to effect the substitution of the Company for the Issuer in any such action or proceeding if the Company shall so request, including without limitation, to join in any legal or administrative proceeding, at the request of the Company and at the Company's expense.
- Section 5.6. <u>Restrictions on the Use of Project</u>. The Issuer and the Company hereby acknowledge and agree that the Project constitutes a "project" under the Act. The Project may be used only for the limited purposes permitted by the Act. The Company shall not permit the Project, or any part thereof, to be used in any fashion that would violate any applicable law. The Issuer's right to enforce this covenant shall be among the Unassigned Rights.

ARTICLE VI

MAINTENANCE, TAXES, INSURANCE AND EMINENT DOMAIN

Section 6.1. Maintenance of Project. The Issuer shall not be under any obligation to renew, repair, or maintain any portion of the Project or to remove and replace any inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary portion thereof. The Company, at its own expense, may from time to time make any Additions or Alterations and any modifications, upgrades, replacements and substitutions to the Project that it may deem desirable for its purposes, and expenses incurred in connection with such Additions or Alterations, modifications, upgrades, replacements and substitutions shall be deemed Costs of the Project, unless otherwise elected by the Company pursuant to Section 4.1 hereof. Notwithstanding any other provision of this Lease to the contrary, it is acknowledged that any Additions, Alterations, modifications, upgrades, replacements and substitutions made to any Leased Improvements or Leased Equipment utilizing Net Proceeds of casualty insurance or any eminent domain award (or proceeds in lieu) will not result in nor require a Request for Bond Installment (and thus do not require issuance of an installment of the Bonds). Subject to the provisions of Sections 3.3, 4.1, and 9.7 hereof, such Additions or Alterations and any modifications, upgrades, replacements and substitutions to the Project so made shall become a part of the Project. The Company shall not do, or permit any other Person under its control to do, any work in or about the Project or related to any repair, rebuilding, restoration, replacement, Alteration of, or Addition to the Project, or any part thereof, unless the Company or such other Person shall have first procured and paid for all requisite municipal and other governmental permits and authorizations. All such work shall be done in a good and

workmanlike manner and in compliance with all applicable laws, ordinances, governmental regulations, and requirements. Notwithstanding the foregoing, in the event any part of the Project, or any part thereof, is damaged or destroyed by casualty, the Company's obligations to repair or replace the Project, or such portion thereof so damaged or destroyed, shall be governed exclusively by Article VII hereof.

Section 6.2. Removal of Fixtures or Equipment. The Company shall not be under any obligation to renew, repair, or replace any inadequate, obsolete, worn out, unsuitable, undesirable, or unnecessary Leased Improvements or Leased Equipment that are a part of the Project. If any fixture, item of Leased Equipment or parts thereof have become obsolete or worn out, the Company, in its sole and absolute discretion, at its own expense may remove from the Project such fixtures, item of Leased Equipment or parts thereof and dispose of them (as a whole or in part) without any responsibility or accountability to the Issuer therefor, in which case the removed property shall without further action cease to be a part of the Project. At the written request of the Company, the Issuer shall execute such instruments as may be requested by the Company to evidence that the Issuer has no title to any such removed fixture or Leased Equipment, to the purchaser thereof or to the person accepting the same as a trade in, and the Bondholder shall release the lien and security interest of the Security Document therein. The removal from the Project of any fixture, item of Leased Equipment or parts thereof pursuant to the provisions of this Section shall not entitle the Company to any abatement or diminution of the rental payments payable under Section 5.3 hereof (except to the extent that a prepayment of principal or a credit in reduction of principal of the Bonds may result in a reduction of Debt Service on the Bonds and a corresponding reduction in the Basic Rent hereunder). The provisions of this Section 6.2 do not in any way alter the Company's ability to include Additions or Alterations in the Project as any such Additions or Alterations are made.

Section 6.3. Taxes, Other Governmental Charges, and Utility Charges.

The Company shall, throughout the Lease Term, duly pay and discharge, as the same become due and payable: (i) all taxes, special assessments for benefits and governmental charges of any kind whatsoever that may (on account of a change in law or otherwise) at any time be lawfully assessed or levied against or with respect to the interests of the Issuer, of the Company and of the Holder in the Project, (ii) any taxes levied upon or with respect to the rents payable under this Lease to the Issuer, (iii) all utility and other charges incurred in the operation, maintenance, use, occupancy, and upkeep of the Project, and (iv) other levies, permit fees, inspection and license fees and all other charges imposed upon or assessed against the Project or any part thereof or upon the revenues, rents, issues, income and profits of the Project or arising in respect of the occupancy, uses or possession thereof. Both the Issuer and the Holder shall be entitled to enforce the provisions of this Section, and the Issuer's right to enforce the same is one of the Unassigned Rights. It is the understanding of the parties that, under the Act, the Issuer does not pay property taxes on its interest in the Project. The Company's interest in the Project is a mere usufruct as to the real property comprising a part of the Project and a bailment for hire as to the tangible personal property comprising a part of the Project (which are not separately taxable estates) and not an estate for years (which would be an estate in which the leasehold interest would be taxable based on the value of the leasehold interest). Thus, while this Lease is in effect, the parties hereto contemplate that the Company shall be liable for no actual taxes on its usufruct or bailment for hire interest in the Project. The Company shall, in consideration of the lease structure and other benefits, make payments in lieu of taxes in accordance with the terms provided in the Inducement and PILOT Agreement (the "PILOT Payments"). Notwithstanding anything herein to the contrary, the Issuer cannot and does not warrant, guaranty or promise any particular ad valorem tax treatment resulting from this Lease. The Company shall exhibit to the Issuer and to the Holder, upon request, evidence of the payment of any payments of taxes, PILOT Payments and other charges which may be or become a lien or encumbrance on the Project, and the PILOT Payments shall be considered Additional Rent under this Agreement.

- Upon notifying the Holder and the Issuer of its intention to do so, the Company may, at its own expense and in its own name and behalf or in the name and behalf of the Issuer and in good faith, contest any such taxes, assessments, and other charges (other than PILOT Payments) and, in the event of any such contest, may permit the taxes, assessments, or other charges so contested to remain unpaid during the period of such contest and any appeal therefrom, but only so long as neither the Project nor any part thereof will be subject to imminent loss or forfeiture by reason of such nonpayment; provided, that no such contest may be made in the name of the Issuer unless (i) it is necessary to protect or assert the rights or interests of the Company; and (ii) the Company has received concurrence of such necessity from the Issuer in writing. The Issuer agrees to appoint the Company as its attorney-in-fact for the purpose of contesting the proposed imposition of any property taxes with respect to the Project (including, without limitation, any proceedings regarding the valuation of property for tax purposes) or to otherwise act for and on behalf of the Issuer in connection with any property tax proceedings, and will cooperate with the Company in connection with any such proceedings. The procedures for contesting the imposition of taxes are more fully set forth in the Inducement and PILOT Agreement.
- (c) To the extent that the Company has paid both PILOT Payments and property taxes during any year of the term of this Lease, the Issuer agrees to immediately return to the Company the PILOT Payments received with respect to such Lease year. To the extent a return of PILOT Payments is required to be made by the Issuer pursuant to the immediately preceding sentence, but for any reason is not received by the Company, the Company may pursue any and all remedies at law, in equity or otherwise.
- (d) At any time that this Lease is terminated with respect to the Project, the real property of the Project will be subject to *ad valorem* property tax based upon applicable law for the valuation and assessment of real property. The tangible personal property of the Project will be subject to *ad valorem* property tax based upon the application of the Appraisal Procedures Manual promulgated by the Georgia Department of Revenue for tangible personal property, as the same may be modified, amended, or replaced from time to time.
- (e) Both the Issuer and the Holder shall be entitled to enforce the provisions of this Section 6.3, and the Issuer's right to enforce the same is one of the Unassigned Rights.

Section 6.4. Insurance Required.

(a) The Company, at its expense, throughout the Term, shall carry the following insurance:

- (i) hazard and casualty insurance (including flood insurance if available at reasonable cost) on the Project, and, with respect to all causes of loss with the exception of flood, named wind, earth movement and water damage, the policy will not provide limits less than the lesser of (A) an amount not less than 100% of replacement cost of the Project or (B) full insurable value of the Project; all hazard, casualty, and flood insurance policies obtained by the Company as required by this Section 6.4(a)(i) shall be payable to the Company and the Holder, as assignee of the Issuer, without contribution, under a standard mortgagee clause;
- (ii) general liability insurance, in amounts of \$1,000,000 per occurrence and \$2,000,000 in the aggregate satisfactory to the Issuer and in compliance with Section 6.8, below (or such other amount as may be approved by the Issuer in writing); such policy or policies shall name the Issuer and the Holder as additional insureds; and
- (iii) worker's compensation insurance as required by law relating to the Company's employees working at the Project.
- (b) The Issuer, by the Security Agreement, shall assign its interest in the casualty insurance described in (a)(i) above to the Holder, together with all unearned premiums, as further security for the Bonds.
- The Issuer, the Holder and any Lender shall each, respectively, be entitled to enforce the provisions of this Article insofar as their rights are concerned and the Issuer's right to enforce this Article shall be one of the Unassigned Rights. Notwithstanding any other provision of this Lease to the contrary, so long as the Company or an Affiliate is the Holder of the Bonds, (i) the Company shall, however, have the exclusive right to make all elections, determinations, settlements, or decisions with respect to any hazard and casualty insurance policy or the proceeds thereof that may be affected by the provisions of this Section 6.4, (ii) the Company shall have the right to make all settlements as to any casualties that affect the Project without the consent of the Issuer, (iii) the Company shall have the right to pledge to a Lender all of the hazard and casualty insurance proceeds with respect to a casualty affecting the Project and to grant to the Lender the right to govern the distribution of such funds, which shall be superior to the rights of the Issuer and the Holder thereto, (iv) the Lender may require the application of the insurance proceeds to the indebtedness owed to the Lender by the Company and not to the restoration of the Project, and (v) the proceeds will be payable to the Holder and the Company (and, if required by the Lender, to Lender) as co-loss payees. The Company may elect to self-insure any of the insurance required of it under this Lease or any other Company Document.
- **Section 6.5.** Application of Net Proceeds of Insurance. The Net Proceeds of casualty insurance carried pursuant to Section 6.4 shall be paid jointly to the Holder and the Company and shall be transferred to the Custodian and deposited in the Project Fund to be applied as provided in Article VII hereof.
- Section 6.6. <u>Advances by the Issuer or the Holder</u>. If the Company shall fail to do or cause to be done any act or pay any taxes, assessments, charges or insurance premiums required by this Article, the Issuer or the Holder may (but shall be under no obligation to), after expiration of applicable notice and cure periods, give notice to the Company of its intent to, and may do, any

such act or pay any such taxes, assessments, charges or premiums required by this Article, and all amounts so advanced therefor by the Issuer or the Holder shall become an additional obligation of the Company to the one making the advancement, which amounts shall constitute Additional Rent which shall be payable, with interest as provided in Section 5.3(b). Any remedy herein vested in the Issuer for the collection of Additional Rent shall also be available to the Holder.

Section 6.7. Eminent Domain. If the Issuer or the Company obtains knowledge of the institution or threat of institution of any proceedings for the taking of the Project or any portion thereof by exercise of the power of eminent domain, such party shall promptly notify the other party hereto and shall also notify the Holder of such proceedings. The Holder may participate in any such proceedings and the Issuer and the Company from time to time shall deliver to the Holder all instruments requested by it to permit such participation. The Issuer shall not take any position adverse to the Company and shall not have the right to settle any eminent domain proceeding relating to the Project or any part thereof or sell the Project or any part thereof under threat of eminent domain without the prior written consent of Company and the Holder, which consent shall be in the sole discretion of the Company and the Holder. The Net Proceeds of any eminent domain award or any sale in lieu of a taking by eminent domain shall be paid jointly to the Holder and the Company, and shall be transferred to the Custodian and deposited in the Project Fund to be applied as provided in Article VII hereof. Notwithstanding the foregoing, with the consent of the Holder, the Net Proceeds of eminent domain may be pledged to a Lender, which shall be superior to the rights of the Holder thereto, and if so pledged, shall be applied in accordance with the terms of such pledge.

Section 6.8. <u>Additional Provisions Respecting Insurance</u>. All claims made under any insurance policies carried pursuant to the requirements of Section 6.4 hereof, regardless of amount, may be adjusted by the Company with the insurers or by the holder of any Superior Security Document in accordance with the terms thereof. The Company shall furnish to the Issuer at the time of the execution of this Lease and annually thereafter a standard ACORD certificate evidencing the insurance required by Section 6.4 hereof.

ARTICLE VII

DAMAGE, DESTRUCTION, AND CONDEMNATION

Section 7.1. Election to Repair, Restore or Replace. All Net Proceeds shall be deposited upon receipt in the Project Fund, which shall be held by the Custodian, unless the same are otherwise required to be used as may be provided in any pledge thereof to a Lender. Subject to the rights of any Lender, the Company may following the receipt of such Net Proceeds, elect to use such Net Proceeds, in whole or in part, to repair, restore or replace the Project. Any property repaired, restored or acquired to replace any property which was a part of the Project shall become a part of the Project. Any unspent Net Proceeds and investment income remaining in the Project Fund may be used, at the election of the Company, to acquire additional property for the Project or to prepay and redeem principal of the Bonds.

Section 7.2. <u>Election Not to Repair, Restore or Replace</u>. If the Company notifies the Issuer and the Custodian that it elects not to repair, restore or replace damaged, destroyed or taken portions or all of the Project, the Custodian of the Project Fund shall promptly apply such moneys

to prepay principal of the Bonds, unless otherwise provided in a pledge to a Lender. If the Bonds are not fully retired, the obligation to pay Basic Rent hereunder shall remain in full force and effect, without abatement or diminution (except to the extent the amount of Basic Rent is reduced on account of such prepayment).

ARTICLE VIII

ADDITIONAL COVENANTS; ADDITIONAL BONDS

Section 8.1. No Warranty of Condition or Suitability by the Issuer. THE ISSUER MAKES NO WARRANTY, EITHER EXPRESS OR IMPLIED, AS TO THE MERCHANTABILITY, CONDITION, OR WORKMANSHIP OF ANY PART OF THE PROJECT OR THAT THE SAME WILL BE SUITABLE FOR THE COMPANY'S OR ANY SUBTENANT'S PURPOSES OR NEEDS.

Section 8.2. <u>Good Standing in the State</u>. The Company agrees that, if required by law, it will be in good standing in the State while this Lease is in effect.

Section 8.3. Indemnity.

- The Company shall, and agrees to, indemnify and save the Issuer and the Holder and their respective officials, directors, officers, members, agents and employees (the "Indemnified Persons") harmless against and from all claims by or on behalf of any third party arising from the conduct or management of or from any work or thing done on or at the Project and against and from all claims arising from or relating to (i) any condition of the installation of or the operation of the Project, (ii) any act or negligence of the Company or of any of its agents, contractors, servants, employees, or licensees, (iii) any act or negligence of any assignee or subtenant of the Company or of any agents, contractors, servants, employees, or licensees of any assignee or subtenant of the Company, (iv) subject to Section 11.24, any claim or liability arising out of the Issuer's ownership of the Project or its participation in this Lease or related transactions, (v) subject to Section 11.24, any legal proceeding relating to the non-taxability or taxability of this Lease or the Project or the interest of the Issuer in the Project, or (vi) any claim or liability arising out of the failure of the Company to comply with any obligations imposed on the owner of the Project under a declaration of protective covenants on the property on which the Project is located. However, this indemnity is subject to (c) below. The Company shall indemnify and save the Issuer, the Holder (and the other Indemnified Persons) harmless from and against all actual costs and expenses incurred in or in connection with any such claim or in connection with any action or proceeding brought thereon, including reasonable attorneys' fees, and upon notice from the Issuer, the Company shall defend the Issuer, Holder and the Indemnified Persons, as applicable, in any such action or proceeding, subject to (c) below. The indemnities set forth above specifically extend to, but are in no way limited to, governmental or other claims relating to any actual or alleged violation of any Environmental Laws.
- (b) Notwithstanding the fact that it is the intention of the parties that the Indemnified Persons referred to in (a), above, shall not incur pecuniary liability for claims by third parties by reason of the terms of this Lease, or the undertakings required of the Issuer hereunder or by reason of (i) the issuance of the Bonds, (ii) the execution of this Lease, (iii) the performance of any act

required by this Lease, (iv) the performance of any act requested by the Company, or (v) any other costs, fees, or expenses incurred by the Issuer with respect to the Project or the acquisition thereof, including all claims, liabilities, or losses arising in connection with the violation of any statutes or regulations pertaining to the foregoing, nevertheless, if any such Indemnified Person should incur any such pecuniary liability to a third party, then in such event the Company shall, subject to Section 11.24 and to (c) below, indemnify and hold harmless such Indemnified Person against all claims by or on behalf of any third party arising out of the same and all reasonable costs and expenses incurred in connection with any such claim or in connection with any action or proceeding brought thereon, including reasonable attorneys' fees actually incurred, and upon notice from the Issuer, the Company shall defend the Issuer in any such action or proceeding.

(c) Nothing contained in this Section 8.3 shall require the Company to indemnify any Indemnified Person, (i) as to any acts of willful misconduct, intentional misconduct or gross negligence on the part of such Indemnified Person, or (ii) for any claim or liability for which the Company was not given any opportunity to contest or for any settlement of any such action effected without the Company's consent (assuming such rights are available and have not been waived in writing by the Company). The indemnity of the Indemnified Persons contained in this Section 8.3 shall survive the termination of this Lease.

The Issuer and the Holder shall each be entitled to enforce its right to indemnification under this Section, and the Issuer's right to indemnification hereunder shall be one of the Unassigned Rights.

Section 8.4. <u>Licenses and Permits</u>. The Company shall do all things necessary to obtain, maintain, modify, supplement and renew, from time to time, as necessary, all public filings, permits, licenses, franchises, and other governmental approvals necessary for its activities relating to the Project, the lack of which would have a material adverse effect upon the Company's ability to meet its obligations under this Lease.

Section 8.5. Compliance with Laws. The Company warrants that throughout the Lease Term it shall, at its own expense (subject to the Company's right to receive all funds in the Project Fund for reimbursement of all Costs of the Project in accordance with Requests for Bond Installments), maintain the Project in all material respects in compliance with all applicable life and safety codes and all applicable building and zoning, health, environmental, and safety ordinances and laws, including the Occupational Health and Safety Act and all applicable Environmental Laws, and all other applicable laws, ordinances, rules, and regulations of the United States of America, the State, and any political subdivision or agency thereof having jurisdiction over the Project and which relate to the operations of the Project, any violation of which would have a material adverse effect on the Company's ability to fully perform its obligations under this Lease. The Company's use of the Project shall, in all material respects, conform to all laws and regulations of any governmental authority possessing jurisdiction thereof, and the Company shall, in its use or operation of the Project, not discriminate or permit discrimination on the basis of race, sex, color or national origin in any manner prohibited by local state or federal laws, rules, orders or regulations.

The Company may, at its own expense and in its own name and behalf or in the name of and on behalf of the Issuer and in good faith, contest any allegation that it has not complied with

the laws described in this Section 8.5 and, in the event of any such contest, the provisions of this Section 8.5 shall not apply to any such alleged violations of law during the period of such contest and any appeal therefrom. The Issuer shall, at the expense of the Company, cooperate fully with the Company in any such contest.

The Issuer and the Holder shall each be entitled to enforce the provisions of this Section, and the Issuer's right to enforce this Section shall be one of the Unassigned Rights.

Section 8.6. Granting and Release of Easements. The Company may at any time or times cause to be granted, modified, amended, released or terminated conveyances to public authorities, public utilities, or other third parties, such easements, licenses, rights of way (temporary or perpetual and including the dedication of public right-of-ways), plats, covenants, restrictions and agreements with respect to any property included in the Project and other contracts or agreements as are helpful in effecting the development, construction, maintenance, operation, or restoration of the Project (all of which, to the extent they affect title, are additional Permitted Encumbrances) and such grant will be free from the lien or security interests created by the Security Document or this Lease and the Issuer agrees that it shall execute and deliver any instrument necessary or appropriate to confirm, grant, amend, modify, terminate or release any such matters and, if appropriate, to release its fee interest (for dedication of right-of-ways) within seven (7) business days after receipt of: (i) a copy of the operative instrument, the form of which is attached hereto as Exhibit D, and (ii) a written application of the Company, the form of which is attached hereto as Exhibit E, signed by an Authorized Company Representative requesting such instrument and stating the following: (1) that such matter is not detrimental to the proper conduct of the business of the Company, and (2) that such matter will not impair the effective use or materially interfere with the operation of the Project and will not weaken, diminish or impair the security intended to be given by or under the Security Document.

Section 8.7. <u>Financial Capability of End User of Project</u>. The Company will at all times during the Lease Term maintain a minimum net worth of \$10,000,000. The Company shall provide a statement from a duly authorized representative of the Company upon written request of the Issuer during the Lease Term that such minimum net worth requirement has been satisfied.

ARTICLE IX

ASSIGNMENT, SUBLEASING, ENCUMBERING, AND SELLING; REDEMPTION; RENT PREPAYMENTS; ABATEMENT; AND EQUIPMENT

Section 9.1. Assignment and Subleasing.

(a) The Company may sublease the Project as a whole or in part. No sublease shall relieve the Company from primary liability for any of its obligations hereunder, and in the event of any such sublease, the Company shall continue to remain primarily liable for payment of the rents specified in Section 5.3 hereof and for the payment, performance, and observance of the other obligations and agreements on its part herein provided to be performed and observed by it. If the sublease is of the entire project, the Company shall furnish or cause to be furnished to the Issuer, upon request, assurances reasonably satisfactory to the Issuer that the Project will continue to be operated in compliance with the provisions hereof and for the purposes permitted by the Act. The

Issuer, at the request of the Company, shall enter into a non-disturbance agreement with any subtenant of the Project recognizing its rights and benefits under its sublease so long as the terms and conditions thereof do not conflict with this Lease.

- (b) The Company may not assign this Lease except as permitted by this Section. This Lease may be assigned in whole but not in part to a company that is the survivor of a consolidation, merger or transfer of substantially all of the assets of the Company without obtaining the consent of the Issuer or of the Holder. This Lease may be assigned to the Holder of the Bonds without the consent of the Issuer. This Lease may be assigned to an Affiliate of the Company with the prior written consent of the Holder and without the consent of the Issuer. Except as provided herein, this Lease may otherwise be assigned only with the prior written consent of the Holder and of the Issuer. The Issuer's consent shall not unreasonably be withheld, conditioned or delayed.
- (c) Notwithstanding anything to the contrary set forth in this Lease, the Company may assign its interest in this Lease pursuant to an Exempt Assignment (hereinafter defined) without the approval of the Issuer or the Holder of the Bonds.
 - (1) An "Exempt Assignment" means any of the following assignments:
 - (i) Any bona fide Leasehold Mortgage;
 - (ii) The acquisition by any grantee or a Leasehold Mortgagee or its designee of the Company's interest in this Lease through the exercise of any right or remedy of such Leasehold Mortgagee under a bona fide Leasehold Mortgage, including any assignment of the Company's interest in this Lease to a Leasehold Mortgagee or its designee made in lieu of foreclosure;
 - (iii) Any foreclosure sale by any Leasehold Mortgagee pursuant to any power of sale contained in a bona fide Leasehold Mortgage;
 - (iv) Any sale or assignment of the Company's interest in this Lease by any Leasehold Mortgagee (or its designee) which has acquired the Company's interest in this Lease by means of any transaction described above;
 - (v) Any sale or assignment of the Company's interest in this Lease to the holder of a Superior Security Document;
 - (vi) Any sale or assignment of the Company's interest in this Lease to any Qualified Real Estate Investor (hereinafter defined);
 - (vii) Any sale or assignment of the Company's interest in this Lease to any person if the Company or the proposed assignee provides Adequate Financial Assurance (hereinafter defined) of the payment of rent and other financial obligations under this Lease;
 - (viii) Any sale or assignment in connection with any sale/leaseback or other arrangement entered into by the Company in connection with a financing transaction; and

- (ix) Any sale or assignment to any of the following:
- (A) Any savings bank, savings and loan association, commercial bank, or trust company having shareholder equity (as determined in accordance with GAAP accounting) of at least \$10,000,000;
- (B) Any college, university, credit union, trust or insurance company having assets of at least \$10,000,000;
- (C) Any employment benefit plan subject to ERISA having assets held in trust of \$10,000,000 or more;
- (D) Any pension plan established for the benefit of the employees of any state or local government, or any governmental authority, having assets of at least \$10,000,000;
- (E) Any limited partnership, limited liability company or other investment entity having committed capital of \$10,000,000 or more;
- (F) Any corporation, limited liability company or other Person having shareholder equity (or its equivalent for non-corporate entities) of at least \$10,000,000;
- (G) Any lender which performs real estate lending functions similar to any of the foregoing, and which has assets of at least \$10,000,000; and
- (H) Any partnership having as a general partner any Person or entity described in the preceding subparagraphs of this definition, or any corporation, limited liability company or other Person or entity controlling, controlled by or under common control with any Person or entity described in the preceding subparagraphs of this Section 9.1(c)(1)(ix).
- (2) "Adequate Financial Assurance" means a guaranty of payment of the rent and other financial obligations of the Company under this Lease made by a Qualified Real Estate Investor for the period of time that a proposed assignee of this Lease is the Company under this Lease.
- (3) "Qualified Real Estate Investor" means any Person domiciled within the United States of America that has, together with its Affiliates, a minimum net worth (treating any subordinated or mezzanine financing as equity) at least equal to the lesser of (i) \$10,000,000 or (ii) 20% of the appraised value of the Leased Land, as of the date of its (or their) last audited financial statements or as otherwise certified by an independent certified public accountant or firm thereof, provided the managers of such Person or its Affiliates have sufficient commercial real estate experience with respect to developments similar to the Project or have hired a manager or separate management company that has such experience and will manage, or oversee the management of, the Project. For purposes of the above the term "last audited financial statements" shall be deemed to include

unaudited financial statements compiled by an independent certified public accountant or firm thereof accompanied by an accountant's letter or unaudited financial statements certified by a member of the management of the proposed assignee of this Lease.

- (d) Any assignment authorized by this Section 9.1 shall be subject to each of the following conditions:
 - (i) Any such assignee shall agree to fully and unconditionally assume all obligations of the Company under this Lease, including, without limitation, all indemnity provisions contained in this Lease; and
 - (ii) The Company shall, within five (5) days prior to the execution of any assignment or within thirty (30) days after any merger, consolidation or sale of substantially all of its assets, furnish or cause to be furnished to the Issuer a true and complete copy of such proposed assignment (together with such information as is reasonably necessary for the Issuer to ascertain compliance with this Section 9.1) or non-confidential evidence of the merger, consolidation or sale of assets, as the case may be. The Company or such assignee shall, within thirty (30) days after the execution thereof, furnish or cause to be furnished to the Issuer a true and complete copy of such assignment as actually executed. The Issuer and the Holder shall have the right, at any time and from time to time, to notify any assignee of their rights under this paragraph.

Any purported assignment in violation of this Section shall be void, as the interest of the Company, being a usufruct and bailment for hire, is not assignable except as herein provided. In the case of an assignment that is permitted hereby or that is consented to as herein described, the assignee may not further assign this Lease except in accordance with this Section. As set forth in Section 2.7(b) of the Bond Resolution, the Bonds may be assigned by the Holder to any assignee of this Lease.

Section 9.2. Provisions Relating to Sale, Encumbrance, or Conveyance of the Project by the Issuer. Except pursuant to the Security Document or a Superior Security Document executed by the Issuer at the written request of the Company, and except for any sale under threat of a taking by eminent domain or a sale permitted by Article VI hereof, the Issuer agrees that, during the Lease Term, it shall not, except pursuant to the terms of this Lease or as permitted by the Security Document: (1) directly, indirectly, or beneficially sell, convey, or otherwise dispose of any part of its interest in the Project, (2) permit any part of the Project to become subject to any lien, claim of title, encumbrance, security interest, conditional sale contract, title retention arrangement, finance lease, or other charge of any kind, without the written consent of the Company, and (3) assign, transfer, or hypothecate (other than pursuant to the Bond Resolution and the Security Document) any payment of rent (or analogous payment) then due or to accrue in the future under this Lease, except that if the laws of the State at the time shall permit, nothing contained in this Section shall prevent the consolidation of the Issuer with, or merger of the Issuer into, or transfer of the Project as an entirety to, any public body of the State whose property and income are not subject to taxation, which has authority to carry on the business of owning and leasing the Project, and which transaction preserves the rights of the Company under this Lease and all other Company Documents and the rights of the Holder; provided, that upon any such consolidation, merger, or transfer, the due and punctual payment of the principal of, premium, if any, and interest on the Bonds according to its tenor, and the due and punctual performance and

observance of all the agreements and conditions of this Lease, the Bond Resolution, the Option Agreement, and the Security Document to be kept and performed by the Issuer, shall be expressly assumed in writing by the public body resulting from such consolidation or surviving such merger or to which the Project shall be transferred as an entirety.

The Issuer, at the written request of the Company with the written consent of the Holder of the Bonds, shall execute and deliver to a Lender, or shall join the Company in the execution and delivery to a Lender, of a Superior Security Document in favor of such Lender with respect to the Project which encumbers the Issuer's fee interest and the Issuer will execute any related documents in connection with the Company's financing or refinancing of the Project. At the Company's written request, and with the prior written consent of the Holder, the Issuer shall, by a subordination agreement, subordinate its fee simple interest and estate in the Project to a Leasehold Mortgage. Any such Superior Security Document or subordination agreement shall be prepared at the expense of the Company and reviewed at the expense of the Company and shall be subject to the approval by the Issuer, which approval shall not unreasonably be withheld, conditioned or delayed.

Section 9.3. <u>Pledge of this Lease by the Company</u>. The Company may finance and refinance any debt secured by its interest in this Lease freely and may pledge its interest hereunder without the consent of the Issuer. In accordance with the provisions of Section 9.2 above, the Issuer, at the written request of the Company with the written consent of the Holder, shall execute and deliver to a Lender any documents related to such pledge, financing or refinancing requested by the Company or Lender. The Issuer and Company acknowledge and agree that in the event of a foreclosure of any Leasehold Mortgage, the purchaser at such foreclosure shall become the "Company" hereunder.

Section 9.4. Prepayment of Rents. There is expressly reserved to the Company the right, and the Company is authorized and permitted, at any time it may choose, to prepay all or any part of the Basic Rent payable under Section 5.3(a) hereof, and the Issuer agrees that it shall accept such prepayments of rents when the same are tendered by the Company. All Basic Rent so prepaid shall at the written direction of the Company be credited toward the Basic Rent payments specified in Section 5.3(a) hereof, in the same manner as such payments are applied to the payment of Debt Service in accordance with terms of the Bonds.

Section 9.5. Company Entitled to Certain Rent Abatements if Bonds Paid Prior to Maturity. If at any time the Bonds actually issued shall cease to be outstanding, under circumstances not resulting in termination of the Lease Term, and if the Company is not at the time otherwise in default hereunder, the Company shall be entitled to use the Project from the date the Bonds are no longer outstanding to, and including the end of, the Lease Term, with no obligation to make payments of Basic Rent specified in Section 5.3(a) hereof during that interval (but otherwise on the terms and conditions hereof).

Section 9.6. <u>Installation of Other Machinery and Rented Equipment</u>. The Company may from time to time, in its sole discretion and at its own expense, install trade fixtures, machinery, equipment, and other personal property at the Project. All such trade fixtures, machinery, equipment, and other personal property which are not transferred to the Issuer as part of the Project shall remain the sole property of the Company (or of any leasing company from

whom the Company may be renting such items), and the Company (or such leasing company) may remove the same from the Project at any time, in its sole discretion and at its own expense; provided further, however, that the Company or such leasing company shall not be prohibited from transferring its interest in trade fixtures, machinery, equipment, and other personal property at the Project to the Issuer. The Company or such leasing company, as applicable, may create any mortgage, encumbrance, lien, or charge on any such trade fixtures, machinery, equipment, and other personal property whether or not a part of the Project. Unless so transferred to the Issuer, the Issuer shall not have any interest in and waives any lessor's lien that it may have on any such trade fixtures, machinery, equipment, or other personal property so installed pursuant to this Section, and all such trade fixtures, machinery, equipment, software and other personal property shall be and remain identified as the property of the Company or such leasing company on its books and/or by appropriate tags or other markings.

- Section 9.7. Reference to Bonds Ineffective After Bonds Paid. Upon payment in full of the Bonds (or provision for payment thereof having been made in accordance with the defeasance provisions of the Bond Resolution), all references in this Lease to the Bonds and the Holder shall be ineffective, and the Holder of the Bonds shall not thereafter have any rights hereunder, saving and excepting those that shall have theretofore vested. For purposes of this Lease, the Bonds shall be deemed fully paid if defeased as provided in the Bond Resolution.
- **Section 9.8.** Leasehold Security Deeds; Cooperation of Issuer. If the Company shall give a Leasehold Mortgage with respect to this Lease, the Leasehold Mortgagee shall provide the Issuer with notice of the Leasehold Mortgage and the name and address of the Leasehold Mortgagee. The Issuer agrees that following receipt of such notice, until written notice of discharge and reconveyance is given by the Leasehold Mortgagee to the Issuer, the following provisions shall apply:
 - (a) No termination, cancellation, surrender or modification of this Lease by the Company, nor the waiver by the Company of any of the provisions of this Lease, nor the giving by the Company of any consent, shall be effective unless consented to in writing by the Leasehold Mortgagee.
 - (b) The Issuer, upon providing the Company any notice of (i) an Event of Default under this Lease, or (ii) a matter on which the Issuer may predicate or claim an Event of Default, shall at the same time provide a copy of such notice to the Leasehold Mortgagee of which the Issuer has been provided notice as provided above. The Issuer shall have no liability for the failure to give any such notice except that no such notice by the Issuer to the Company shall be deemed to have been duly given to the Company unless and until a copy thereof has been so provided to the Leasehold Mortgagee.
 - (c) So long as the Leasehold Mortgage is in existence, unless the Leasehold Mortgagee shall otherwise expressly consent in writing, the fee title to the Project held by the Issuer and the leasehold interest of the Company created by this Lease shall not merge but shall remain separate and distinct, notwithstanding the acquisition of said fee title and said leasehold estate by the Issuer or by the Company or by a third party, by purchase or otherwise.

- (d) In the event of any proceeding by either the Issuer or the Company under the Bankruptcy Code as now or hereafter in effect:
 - If this Lease is rejected in connection with a bankruptcy proceeding by the Company or a trustee in bankruptcy for the Company, (1) such rejection shall be deemed an assignment by the Company to the Leasehold Mortgagee of all of the Company's interest under this Lease, (2) this Lease shall not terminate, and (3) the Leasehold Mortgagee shall have all rights of the Leasehold Mortgagee under this Section as if such bankruptcy proceeding had not occurred, unless the Leasehold Mortgagee shall reject such deemed assignment by notice in writing to the Issuer within thirty (30) days following rejection of this Lease by the Company or the Company's trustee in bankruptcy. If any court of competent jurisdiction shall determine that this Lease shall have been terminated notwithstanding the terms of the preceding sentence as a result of rejection by the Company or the trustee in connection with any such proceeding, the Leasehold Mortgagee may, within a reasonable time, provide the Issuer with written notice that this Lease has been terminated (for the purposes of this subsection (i) a "New Lease Notice"). The Issuer agrees to enter into a new lease (for the purposes of this subsection (i), a "New Lease") of the Project with the Leasehold Mortgagee or its designee for the remainder of the term of this Lease, effective as of the date of termination, upon the terms, covenants and conditions of this Lease provided.
 - (A) The Leasehold Mortgagee shall make written request upon the Issuer for such New Lease within thirty (30) days after the date the Leasehold Mortgagee receives the New Lease Notice given pursuant to this subsection.
 - (B) Any New Lease made pursuant to this subsection shall have the same priority as this Lease, and the tenant under such New Lease shall have the same right, title and interest in and to the Project as the Company had under this Lease.
 - (ii) If this Lease is rejected by the Issuer or by the Issuer's trustee in bankruptcy:
 - (A) The Company shall not have the right to treat this Lease as terminated except with the prior written consent of the Leasehold Mortgagee; and the right to treat this Lease as terminated in such event shall be deemed assigned to the Leasehold Mortgagee, whether or not specifically set forth in the Leasehold Mortgage, so that the concurrence in writing of the Company and the Leasehold Mortgagee shall be required as a condition to treating this Lease as terminated in connection with such proceeding.
 - (B) Unless this Lease is treated as terminated in accordance with subsection (ii)(A) above, then this Lease shall continue in effect upon all the terms and conditions set forth herein. Thereafter, the Company or its

successors shall be entitled to any offsets against rent payable hereunder for any damages arising from such rejection with the same priority rights of the Company following such rejection as it would have enjoyed had such rejection not taken place.

- (e) The Issuer shall have no rights in and to the rentals payable to the Company under any tenants' subleases of all or any part of the Project, which rentals Issuer acknowledges have been or will be assigned by the Company to the Leasehold Mortgagee.
- (f) In the event of any conflict between the provisions of this Lease and the provisions of the Leasehold Mortgage with respect to application of casualty and condemnation proceeds, the provisions of the Leasehold Mortgage shall control.
- (g) Notwithstanding any provisions of this Lease to the contrary, no default or event of default under the Leasehold Mortgage or any other document or instrument evidencing or securing the indebtedness secured by the Leasehold Mortgage will, in and of itself, constitute an Event of Default under this Lease.
- (h) Issuer shall not encumber Issuer's fee simple interest in the Project or assign Issuer's interest in this Lease, except as expressly provided in this Lease.
- (i) Issuer acknowledges that, if a Leasehold Mortgage or any other party succeeds to the interest of the Company under this Lease as a result of foreclosure proceedings, the granting of a deed in lieu of foreclosure, or through any other means, the Leasehold Mortgage or any such other party (the "Successor Tenant"), and any transferee of the Leasehold Mortgage or such other party, shall become a substituted lessee under this Lease without necessity of any consent of, approval by or notification to Issuer, but the Successor Tenant shall promptly give notice to the Issuer thereof.
- (j) The Successor Tenant shall be required to assume the Company's obligations under this Lease, and shall be deemed to have agreed to perform all of the Company's obligations hereunder. The Successor Tenant shall, upon any subsequent assignment of this Lease and the assumption by such assignee of the obligations under this Lease in writing to the Issuer, be relieved of all obligations under this Lease.
- (k) A Leasehold Mortgagee may, but will not be obligated to, cure any Event of Default by the Company under this Lease within sixty (60) days after Leasehold Mortgagee's receipt of Issuer's Default Notice in the case of a monetary Event of Default or within sixty (60) days after Leasehold Mortgagee's receipt of Issuer's Default Notice in the case of a non-monetary Event of Default; provided, however, that if any non-monetary Event of Default reasonably cannot be cured within such sixty (60) day-period, the same shall be deemed to have been timely cured if a Leasehold Mortgagee commences reasonably appropriate curative action within such sixty (60) day-period and diligently prosecutes same to completion thereafter. If any such non-monetary Event of Default cannot reasonably be cured by a Leasehold Mortgagee without obtaining possession of the Project, such sixty (60) day cure period shall not commence until a Leasehold Mortgagee obtains possession of the Project, as long as all rent payments are made and all other Events

of Default which can reasonably be cured by Leasehold Mortgagee without Leasehold Mortgagee obtaining possession of the Project as so cured, and provided that Leasehold Mortgagee commences to exercise any rights to obtain possession or to effect foreclosure, and diligently pursues the exercise of such rights thereafter.

(l) In addition to the rights of Leasehold Mortgagee set forth in this Lease, if this Lease is terminated due to an Event of Default, at Leasehold Mortgagee's request, Issuer will enter into a new lease with Leasehold Mortgagee for the remainder of the term which was theretofore terminated having the same other provisions as this Lease. Such right may be exercised (whether under the provisions of this paragraph or under other provisions of this Lease) by written notice from Leasehold Mortgagee to Issuer on or before the expiration of thirty (30) days after the receipt by Leasehold Mortgagee of a written notice from Issuer of such termination, which notice shall advise Leasehold Mortgagee of such termination and expressly refer to the New Lease rights of Leasehold Mortgagee under the provisions of this Lease.

ARTICLE X

EVENTS OF DEFAULT AND REMEDIES

Section 10.1. Events of Default Defined. The following shall be "Events of Default" under this Lease, and the terms "Event of Default" or "Default" shall mean, whenever they are used in this Lease, any one or more of the following events:

- (a) a failure of the Company to pay Basic Rent and the continued failure to pay such Basic Rent for a period of thirty (30) days after receipt of a Default Notice from the Issuer in the amounts and at the times required by Section 5.3(a) of this Lease; provided however, if the Company is then the Holder of the Bonds, such Basic Rent shall be deemed to have been paid and the corresponding Debt Service on the Bonds shall be deemed to have also been paid, as provided by Section 5.4 hereof; or
- (b) the Company's failure to observe, perform, or comply with any other covenant, condition, or agreement in this Lease or in any other Company Documents on the part of the Company to be observed or performed (other than as referred to in subsection (a) of this Section 10.1) if such covenant, condition or agreement is (i) for the benefit of the Issuer, and (ii) constitutes any of the Unassigned Rights; and such failure continues for a period of ninety (90) days after the Company's receipt of a Default Notice from the Issuer specifying such breach or failure and requesting that it be remedied, unless the Issuer shall agree in writing to an extension of such time prior to its expiration. It shall not constitute an Event of Default if corrective action is instituted by or on behalf of the Company within the ninety (90) day period and is diligently pursued until the breach or default is corrected; or
- (c) the Company's failure to observe, perform, or comply with any covenant, condition, or agreement in this Lease, or in the other Company Documents, on the part of the Company to be observed or performed, other than as referred to above in subsections (a) and (b) of this Section 10.1, and which covenant, condition or agreement is for the

benefit of the Holder, and such failure continues for a period of ninety (90) days after the Company's receipt of a Default Notice from the Holder specifying such breach or failure and requesting that it be remedied, unless the Holder shall agree in writing to an extension of such time prior to its expiration. It shall not constitute an Event of Default if corrective action is instituted by the Company or on behalf of the Company within the applicable ninety (90) day period and is diligently pursued until the breach or default is corrected.

The Issuer shall notify the Company, the Holder, and any Lender that has requested such notice and provided its address for such notice to the Issuer, in writing, of any Event of Default hereunder of which the Issuer has knowledge. All notices of an Event of Default given to the Company, the Holder, and any Lender will be in the form of a Default Notice.

Section 10.2. Remedies on Default. Whenever any Event of Default referred to in Section 10.1 hereof shall have happened and be continuing beyond any applicable notice and cure period, the Issuer, or the Holder as assignee of the Issuer, to the extent permitted by law, shall have the following remedies:

- (a) With respect to a monetary Event of Default, the Issuer may from time to time, take whatever action at law or in equity or under the terms of this Lease may appear necessary or desirable to collect the rents and other amounts payable by the Company hereunder then due or thereafter to become due; and
- (b) With respect to a non-monetary Event of Default that is not the failure of the Company to cause Phase 1 of the Project to be completed pursuant to the terms of the Inducement and PILOT Agreement, the Issuer may from time to time take whatever action at law or in equity under the terms of this Lease may appear necessary or desirable to cause the Company to perform the covenant or obligation, including specific performance; and
- With respect to (i) the Company's failure to cause Phase 1 of the Project to be completed pursuant to the terms of the Inducement and PILOT Agreement (in which case the remedy in this subsection (c) shall be the Issuer's sole remedy for this Event of Default), or (ii) the Company's failure to pay PILOT Payments as required by the Inducement and PILOT Agreement (in which case the remedy in this subsection (c) shall be in addition to the Issuer's remedy in subsection (a) above), the Issuer may elect to terminate this Lease, provided that the Issuer shall simultaneously with the termination of this Lease convey to the Company title to the Project under and pursuant to the Option Agreement, and the Company shall be obligated to accept title to the Project, and the Issuer may recover, as and for liquidated and agreed final damages for the Company's Default, all amounts that have theretofore become due as Additional Rent plus an amount equal to all unpaid installments of Basic Rent (subject to the deemed payment provisions of Section 10.1(a), above), and if any statute or rule of law shall validly limit the amount of such liquidated final damages to less than the amount agreed upon, the Issuer shall be entitled to the maximum amount allowable under such statute or rule of law; no termination of this Lease pursuant to this Section shall relieve the Company from its obligations pursuant to Section 8.3 hereof.

Any amounts of Basic Rent collected pursuant to action taken under this Section shall be applied in payment of the then-outstanding Bonds. Any amounts collected as Additional Rent shall be paid to the Person or Persons to whom such Additional Rent is due and owing hereunder.

Notwithstanding that this Lease (except for Unassigned Rights) is to be assigned to the Holder, the Issuer shall be entitled to enforce this Lease if any Event of Default relates to such Unassigned Rights or exposes the Issuer, its assets (other than the Pledged Security) or its members, officers, employees or agents to any liability. The Holder shall be entitled to enforce the provisions hereof that affect its interests hereunder.

Notwithstanding the foregoing and notwithstanding any statutory, decisional, or other law to the contrary, in no event shall the Issuer have any right to terminate this Lease or to enter upon or otherwise to obtain possession of the Project, by reason of the occurrence of any Event of Default by the Company hereunder without the prior written consent of the Holder.

Section 10.3. Rights of Holder and Lender. Without limiting the generality of the foregoing, and notwithstanding the foregoing provisions of this Article, and notwithstanding any other term or provision of this Lease, and notwithstanding any statutory, decisional, or other law to the contrary, in no event shall the Issuer have any right to terminate this Lease, to enter upon and take possession of the Project, to the dispossession of the Company or the repossession of the Project, or otherwise to obtain possession of the Project, by reason of the occurrence of any Event of Default by the Company hereunder without the prior written consent of the Holder of the Bonds, of any pledgee of the Bonds, and of any Lender that is the holder of a Superior Security Document. No delay or omission to exercise any right or power accruing upon any Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. The Issuer is not entitled to exercise any remedy reserved to it in this Article unless the Holder, any pledgee of the Bonds, and any Lender that is the holder of a Superior Security Document has consented to such exercise in writing. The Holder, any pledgee of the Bonds, and any Lender that is the holder of a Superior Security Document shall each be deemed a third-party beneficiary of all covenants and agreements herein contained, except for covenants relating solely to the Issuer's Unassigned Rights. Any provision hereof to the contrary notwithstanding, the Issuer's Unassigned Rights shall not be impaired by the exercise of any remedy, by any subordination, or by any act or event whatsoever.

Section 10.4. Company to Pay Fees and Expenses. In the event of an Event of Default by the Company under this Lease and the Issuer or the Holder employs attorneys, accountants, or other experts or incur other expenses for the collection of amounts due it hereunder arising out of such Event of Default, the Company agrees that it shall on demand therefor pay to such Person the reasonable fees and expenses of such attorneys, accountants, or other experts and such other expenses so incurred by the Issuer, subject to Section 5.3(b)(i) of this Lease. Any attorneys' fees required to be paid by the Company under this Lease shall be reasonable and actual and shall include attorneys' and paralegal's fees through all proceedings, including, but not limited to, negotiations, administrative hearings, trials, and appeals, court costs and reimbursable expenses of such attorneys. The Company and the Holder shall be entitled to enforce their respective rights

under this Article and the Issuer's rights under this Article shall be one of the Unassigned Rights. This Section 10.4 shall survive the termination of this Lease.

Section 10.5. Waiver of Events of Default. The Issuer may waive any Event of Default hereunder and its consequences or rescind any action provided that the Issuer shall not waive any Event of Default (other than Events of Default relating to the Unassigned Rights) without the prior written consent of the Holder. The Holder may waive on behalf of Issuer any Event of Default hereunder other than Events of Default relating to the Unassigned Rights, which may be waived only by the Issuer. In case of any such waiver or rescission, or in case any proceeding taken by the Issuer or the Holder on account of any such Event of Default shall be discontinued or abandoned or determined adversely to the Issuer or the Holder, then and in every such case the Issuer, the Holder and the Company shall be restored to their former positions and rights hereunder, but no such waiver or rescission shall extend to or affect any subsequent or other Event of Default or impair or exhaust any right, power, or remedy consequent thereon.

Section 10.6. <u>Default by Issuer</u>. The following events shall each be an "Issuer Default" under this Lease:

- (a) the Issuer's failure to observe, perform, or comply with any of the covenants, conditions, or agreements in Section 10.7 of this Lease; or
- (b) the Issuer (i) files a voluntary petition for relief, or is the subject of an involuntary petition, under the Bankruptcy Code, (ii) is adjudicated a bankrupt or insolvent by any court or authority of competent jurisdiction, (iii) files any petition or answer seeking (or is the subject of any petition, answer, order, judgment, or decree seeking or approving) any reorganization, arrangement, composition, liquidation, dissolution or similar relief for or against the Issuer under any present or future applicable federal, state, or other statute or law relative to bankruptcy, insolvency, or other relief for debtors, (iv) seeks, consents, acquiesces in, or fails to oppose the appointment of any trustee, receiver, conservator, or liquidator of the Project or any of the Issuer's rights or interests related to the Project or any substantial part of the Issuer's property or assets (or if any such trustee, receiver, conservator, or liquidator is appointed regardless of whether the Issuer seeks, consents, acquiesces in, or fails to oppose any such appointment), or (v) enters into any assignment for the benefit of creditors or any similar arrangement.

Section 10.7. <u>Issuer's Covenants</u>. The Issuer acknowledges and agrees that, pursuant to O.C.G.A. § 36-80-5, it is prohibited from filing, and therefore is not eligible to file pursuant to federal law, a petition for relief under chapter 9 of the Bankruptcy Code and that it is not otherwise eligible to file a petition for relief under or pursuant to any other chapter or provision of the Bankruptcy Code or seek relief under any federal insolvency law. The Issuer further acknowledges and agrees that such prohibition and the Issuer's ineligibility to file any such petition or seek any such relief are material facts and inducements to the Company's decision to enter into this Lease and the other Company Documents and to transfer legal title of the Project to the Issuer. In recognition of the foregoing, the Issuer hereby acknowledges, agrees, and covenants the following:

(a) In the event that any legislative body, person, or entity ever takes action or seeks to enact, repeal, amend, supersede, or otherwise modify any law, rule, or regulation

(including without limitation O.C.G.A. § 36-80-5) that would allow the Issuer to file a petition for, or otherwise seek relief under, any chapter or provision of the Bankruptcy Code or any other federal insolvency law, the Issuer shall:

- (i) cooperate in good faith with (and in any event shall not oppose, object to, or interfere with) any efforts of the Company to cause any resulting legislation, rule, regulation, or law to expressly provide that the Project shall not be included as assets or property of the Issuer (or any estate or other successor of the Issuer) in connection with any case or proceeding under the Bankruptcy Code or any other federal insolvency law; and
- (ii) cooperate in good faith with the Company to take any and all actions that may be necessary or desirable to protect the Company's interests in the Project, including without limitation entering into new agreements or amending this Lease, the Company Documents, the Bond Documents, the Loan Documents, or any other documents or agreements relating to the Project.
- (b) In the event the Issuer does ever file, or is the subject of, a petition for relief under the Bankruptcy Code or other federal or state insolvency law or takes or is the subject of any of the actions described in Section 10.6(b) of this Lease, in connection with any resulting case or proceeding:
 - (i) The Issuer shall use its best efforts to ensure that the Company's rights and interests in the Project are not adversely impacted in or by any such case or proceeding and that the Company obtains the full benefit of its bargain with respect to the Project, this Lease, the Company Documents, the Bond Documents, the Loan Documents, and any other documents or agreements related to the Project;
 - (ii) Issuer and Company agree that this Lease and the Option Agreement and other documents relating to the Project are intended to be a financing arrangement and not considered to be a "true lease," and, among other things, that section 365 of the Bankruptcy Code or any comparable state law provision would not apply to this Lease and the Option Agreement, and would not permit rejection of this Lease and the Option Agreement; and
 - (iii) Without limiting any rights available to the Company at law, in equity, pursuant to this Lease, the Bond Documents, the Company Documents, the Loan Documents, or any other documents or agreements related to the Project, or otherwise:
 - (A) The Company's rights in and to the Project pursuant to this Lease, to the extent subject to rejection by the Issuer pursuant to the Bankruptcy Code, shall be entitled to the full protections of section 365(h) of the Bankruptcy Code;
 - (B) The Company's rights in and to any intellectual property associated with the Project pursuant to any license from the Issuer, to the extent subject to rejection by the Issuer pursuant to the Bankruptcy Code.

shall be entitled to the full protections of section 365(n) of the Bankruptcy Code:

- (C) The Company's rights in and to the Project pursuant to the Option Agreement, to the extent subject to rejection by the Issuer pursuant to the Bankruptcy Code, shall be entitled to the full protections of 365(i) of the Bankruptcy Code;
- (D) The Company shall be entitled to offset or recoup Basic Rent and Additional Rent against any amounts that may be owed or become owing to it as the Holder or Bondholder or that may be owed or become owing to it under this Lease; and
- (E) The Company shall be entitled, to the extent applicable, to any and all rights and privileges provided to creditors, tenants, contract counterparties, or any other parties in interest under the Bankruptcy Code or other applicable federal or state insolvency law.

ARTICLE XI

MISCELLANEOUS

Section 11.1. Company's Option to Terminate Lease. The Company shall have, and is hereby granted, at any time and without advance notice, the option to terminate this Lease by (i) causing the Bonds to be paid or defeased in accordance with the provisions of the Bond Resolution, (ii) paying any amounts due the Issuer or the Holder for Additional Rent, and (iii) giving the Issuer notice in writing of such termination which shall forthwith become effective. In such event, a deed, bill of sale, and such other documents required to terminate this Agreement, the Bonds, and related documents made or of record, will be delivered to the Company as provided in the Documents Escrow Agreement.

Section 11.2. Quiet Enjoyment. The Issuer agrees that so long as the Company shall fully and punctually pay all of the rents and other amounts provided to be paid hereunder by the Company and shall fully and punctually perform all of its other covenants and agreements hereunder, the Company shall peaceably and quietly have, hold, and enjoy the Project during the Lease Term, and the Issuer warrants and covenants that it will defend the Company in such peaceable and quiet possession of the Project.

Section 11.3. Notices. Any request, demand, authorization, direction, notice, consent, or other document provided or permitted by this Lease to be made upon, given or furnished to, or filed with, the Issuer, the Company or the initial Holder as set forth below shall be sufficient for every purpose hereunder if in writing and, if the notice relates to an Event of Default, the notice must be in the form of a Default Notice, and further all notices and Default Notices will be either (i) delivered personally to the party or, if such party is not an individual, to an officer or other legal representative of the party to whom the same is directed, or (ii) mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent via nationally recognized overnight

courier for next business day delivery, as follows, irrespective of such other addresses or office locations which a party has:

To the Issuer: Joint Development Authority of Jasper County,

Morgan County, Newton County and Walton County

c/o Andrea P. Gray, Esq.

Attorney at Law 300 E. Church Street Monroe, Georgia 30655

If to the Company: Baymare LLC

c/o Tamaron Houston, Esq.

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

with a copy to: Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

Attention: Kevin T. Brown, Esq.

Any person designated in this Section 11.3 may, by notice given to each of the others, designate any additional or different addresses to which subsequent notices, certificates, or other communications shall be sent. The other Bond Documents may, for convenience and consistency, refer to this Section 11.3 for the method, and addresses, for giving of notices.

Section 11.4. Construction and Binding Effect. This Lease shall inure to the benefit of the Issuer, the Company, the Holder and their respective successors and assigns, and shall be binding upon the Issuer and the Company, subject, however, to the limitations contained in Sections 9.1 and 9.2 hereof.

Section 11.5. <u>Severability</u>. In the event any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 11.6. <u>Amounts Remaining in the Funds</u>. It is agreed by the parties hereto that any amounts remaining in the Funds upon expiration or sooner termination of the Lease Term, as provided in this Lease, after payment or defeasance of the Bonds in full and all sums due and owing to the Issuer and the Holder shall have been paid, shall belong to and shall be paid to the Company as an overpayment of rent.

Section 11.7. Fees Paid by the Company. Subject to Section 4.3 and Section 5.3(b)(i), the Company shall pay all fees and expenses relating to this Lease including but not limited to the reasonable and actual attorneys' fees of the Issuer. In case the Issuer, with the written consent of the Company, pays or advances any money for recording, preparation of documents, any expenses incurred in the completion of this transaction, the payment of any insurance premiums, encumbrances, tax, assessment, or other charge or lien upon the Project, or any other amounts

necessary for the payment of the Costs of the Project, the same shall be advances payable in accordance with Section 6.6 of this Lease.

Section 11.8. No Issuer Liability; Immunity of Members, Officers, and Employees of Issuer. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Issuer contained in this Lease or for any claim based hereon or otherwise in respect hereof or upon any obligation, covenant, promise, or agreement of the Issuer contained in the Bond Resolution against any director, member, officer, or employee, as such, in his/her individual capacity, past, present, or future, of the Issuer, or any successor Person, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Lease is solely a corporate obligation of the Issuer payable only from the funds and assets of Issuer herein specifically provided to be subject to such obligation and that no personal liability whatsoever shall attach to, or be incurred by, any director, member, officer, or employee, as such, past, present, or future, of the Issuer, or of any successor Person, either directly or through the Issuer, or any successor Person, under or by reason of any of the obligations, covenants, promises, or agreements entered into between the Issuer and the Company whether contained in this Lease or in the Bonds, in the Bond Resolution, in the Bond Documents or to be implied hereunder or thereunder as being supplemental hereto or thereto, and that all personal liability of that character against every such director, member, officer, and employee of the Issuer or any such successor Person is, by the execution of this Lease and as a condition of and as part of the consideration for the execution of this Lease, expressly waived and released by the Company. The immunity of directors, members, officers, and employees of the Issuer under the provisions contained in this Section shall survive the completion of the Project and the termination of this Lease.

- Section 11.9. <u>Amendments, Changes, and Modifications</u>. This Lease may not be amended, modified, altered, or terminated, except as provided herein and in the Bond Resolution.
- Section 11.10. <u>Execution of Counterparts</u>. This Lease may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
- Section 11.11. <u>Law Governing Construction of this Lease</u>. This Lease is prepared and entered into with the intention that the laws of the State of Georgia, exclusive of such State's rules governing choice of law, shall govern its construction.
- Section 11.12. <u>Covenants Run with Project</u>. The covenants, agreements, and conditions herein contained shall run with the Project hereby leased and shall be binding upon, inure to the benefit of, and be enforceable by the parties hereto and their respective successors and assigns.
- Section 11.13. <u>Subordination to Security Document</u>. This Lease and the rights and privileges hereunder of the Company are specifically made subject and subordinate to the rights and privileges of the Holder, as set forth in the Security Document.
- **Section 11.14.** <u>Integration</u>. The parties intend that all of the Bond Documents shall be taken together and are, and are intended to constitute, a single transaction and a single contract including under section 365 of the Bankruptcy Code.

Section 11.15. <u>Surrender of Project</u>. Except as otherwise provided in Section 11.22 or elsewhere in this Lease, at the expiration or sooner termination of the Lease Term, the Company agrees to surrender possession of the Project.

Section 11.16. Immunity of Directors and Employees of Company. No recourse shall be had for the enforcement of any obligation, covenant, promise, or agreement of the Company contained in this Lease or for any claim based hereon or otherwise in respect hereof, against any stockholder, director, limited partner (but not general partner), member, officer, manager, employee, trustee for, or agent of the Company, its members or any successor entity(ies), in his or her individual capacity, past, present, or future, whether by virtue of any constitutional provision, statute, or rule of law, or by the enforcement of any assessment or penalty or otherwise, it being expressly agreed and understood that this Lease is solely an obligation of the Company and that no personal liability whatsoever shall attach to, or be incurred by, any such stockholder, director, limited partner (but not general partner), member, officer, manager, employee, trustee for, or agent, either directly or through the Company, or any successor entity, under or by reason of any of the obligations, covenants, promises, or agreements contained in this Lease or to be implied therefrom, and that all personal liability of that character against every such stockholder, director, limited partner (but not general partner), member, officer, manager, employee, trustee for, or agent is, by the execution of this Lease and as a condition of and as part of the consideration for the execution of this Lease, expressly waived and released. The immunity of each such stockholder, director, limited partner (but not general partner), member, officer, manager, employee, trustee for, or agent of the Company under the provisions contained in this Section shall survive the termination of this Lease.

Section 11.17. <u>Payments Due on Other than Business Days</u>. Whenever a date upon which a payment is to be made under this Lease falls on a date which is not a Business Day, such payment may be made on the next succeeding Business Day without interest for the intervening period.

Section 11.18. <u>Holder of Pledged Interest</u>. The Issuer agrees that upon receipt of notice from the Holder of a pledged interest in the Bonds, all consents of the Holder to the termination of this Lease shall be effective only if consented to in writing by the holder of such pledged interest.

Section 11.19. <u>Required Consent of Leasehold Mortgagee</u>. Notwithstanding anything contained herein to the contrary, whenever the provisions of this Lease require the Company's consent, the consent of any Lender which holds a Leasehold Mortgage or Superior Security Document must also be obtained.

Section 11.20. <u>Estoppel Certificates</u>. Upon ten (10) business days' written request of the Company, the Issuer will provide a statement to the Company and any party identified by the Company concerning, to the best of its knowledge, (i) the outstanding amount of the Bonds; (ii) whether a default exists under this Lease or the other Company Documents, and if so specifying the nature of such default; (iii) whether this Lease or the Company Documents have been amended, and if so, specifying the amendments; and (iv) any other matter concerning this Lease or the Company Documents reasonably requested.

Section 11.21. <u>Holdover</u>. In the event the Company remains in possession of the Project after the expiration of the Term without the Issuer's written consent, the Company shall be a tenant at will. The Company shall be obligated to pay rent for each month that it holds over without written consent at a monthly rental of \$1.00. All of the Company's obligations under this Lease shall apply during such holdover period and Company shall also be liable for any Additional Rent as herein provided. There shall be no renewal of this Lease by operation of law or otherwise.

Section 11.22. Option Agreement. Notwithstanding anything in this Lease to the contrary, in the event of the expiration, scheduled termination, or other termination of this Lease for any reason whatsoever, the Company will be deemed to have exercised the purchase option set forth in the Option Agreement, subject to and in accordance with the terms and conditions set forth therein. To the extent the Closing Date (as such term is defined in the Option Agreement) occurs after the scheduled expiration or earlier termination of this Lease, notwithstanding such scheduled expiration or earlier termination, the Issuer and the Company acknowledge and agree that this Lease shall continue in full force and effect, except that, during the period after the scheduled expiration or earlier termination and prior to the Closing Date, the Company shall pay rent in accordance with Section 11.21 above, such that the Company may continue to operate the Project for the purposes set forth in this Lease, and the other Bond Documents without interruption.

Section 11.23. Release of Portions of the Project. Notwithstanding any other provision of this Lease, upon the written request of the Company, the Issuer agrees at any time and from time to time, to amend this Lease for the purpose of effecting the release of and removal from this Lease of any portion of the Project, and conveying any such portion of the Project to the Company or its designee, as requested by the Company. If at the time any such amendment is made any of the Bonds are outstanding and unpaid, the Company shall provide the Issuer with the following:

- (a) A copy of said amendment, as executed by the Issuer and the Company.
- (b) An adequate legal description of the portion of the Project to be released.
- (c) A statement from an Authorized Company Representative, dated not more than sixty days prior to the date of the release and stating that, in the opinion of the person signing, (i) the portion of the Project so proposed to be released is not otherwise needed for the operation of the Project for the purposes hereinabove stated, and (ii) the release so proposed to be made will not materially impair the utility of the Project and will not destroy the means of ingress thereto and egress therefrom, (iii) all necessary action required under the Company's governing documents has been taken to authorize and approve such amendment, and (iv) the Company is not, to the actual knowledge of the person executing the written statement, in Default under any of the provisions of this Lease.

Upon providing the above to the Issuer, the Issuer shall convey such portion of the Project to be released to the Company by a Limited Warranty Deed and, if applicable, bill of sale. No release effected under the provisions hereof shall entitle the Company to any abatement or diminution of the rents payable under Section 5.3 hereof. If at any time the Company exercises its right to cause portions of the Project to be released hereunder and such release would cause the entire remainder of the Project to be released, the exercise of such right shall be deemed to be an exercise by the Company of the option under the Option Agreement.

Section 11.24. <u>Exculpation of the Company</u>. The Issuer and all Indemnified Persons having claims against the Company agree to look solely to the interest of the Company in the Project for the enforcement of their rights under this Lease and any other Company Documents.

Section 11.25. <u>Anti-corruption</u>. In connection with the negotiation and performance of this Lease, (a) the Issuer represents and warrants that it has complied, and covenants that it shall comply, with all applicable laws, rules, and regulations, including anti-corruption legislation, and (b) the Issuer and the Company each represent and warrant to the other that it has used, and shall use, only legitimate and ethical business practices.

Section 11.26. <u>Title Insurance</u>. The Company may desire to obtain, at the expense of the Company and in the name of the Issuer, an ALTA Owner's Policy of Title Insurance (the "Owner's Title Policy") issued by a title insurance company of the Company's choice (the "Title Company") insuring the Issuer's fee simple title to the Project. So long as the Company or an Affiliate is the owner of the Bonds, the Company will, however, have the exclusive right to make all elections, determinations, or decisions with respect to the Owner's Title Policy or the proceeds from the same and to file and manage all claims and make all settlements under and with respect to the Owner's Title Policy without the consent of the Issuer. The Issuer acknowledges and agrees that, so long as the Company or an Affiliate is the owner of the Bonds, a Lender may require the application of the proceeds of the Owner's Title Policy to the indebtedness owed to the Lender by the Company.

Issuer will cooperate with Company in all reasonable respects, at Company's expense, in making any notice of claim, proof of loss, or other submission to Title Company, in Issuer's name if required under the Owner's Title Policy, and will, on request and if applicable, direct Title Company, under the Owner's Title Policy, to pay any proceeds of the Owner's Title Policy directly to the Company.

Section 11.27. Data Protection. For the purposes of this Section 11.27:

"Company Software" means any software code, computer system, network, database, or other information system owned, controlled, or operated by or on behalf of the Company.

"Covered Data" means all information transmitted through, cached and/or stored on, the Equipment, in any form, format, or media.

"Equipment" means all equipment, fixtures and furnishings and all personal property of any kind, including, but not limited to, computer servers and miscellaneous components, data center infrastructure support equipment, network equipment and miscellaneous components, fiber optic infrastructure, power and cooling equipment, backup generators, fire suppression equipment, security equipment, and electrical substations as well as any replacement equipment, which is to be acquired and used on or at the Project Site, from time to time, which is suitable for the Project, and which is subject to depreciation for federal income tax purposes, and that is purchased with proceeds of the Bonds, or the purchase of which is reimbursed with proceeds of the Bonds, together with fixtures, furnishings and other depreciable personal property that are in replacement thereof due to damage or obsolescence.

"Security Incident" means any incident that involves or reasonably may involve the unauthorized access, use, disclosure, or loss of any Covered Data or any other suspected breach or compromise of the security, confidentiality or integrity of any Covered Data.

"Stored Data" means any and all data, metadata, data elements, identifiers, data models, data structures, databases, information, files, documents, materials, content, libraries, software, firmware, code, scripts, algorithms, and any items similar to any of the foregoing, in each of the foregoing cases, collected, stored, cached, located or resident on or within, or transmitted to or from, in any way and for any period of time, the Equipment.

- Covered Data. Between the Issuer and the Company, all Covered Data and Equipment transmitting or containing Covered Data will be solely under Company's control, and Issuer shall not have any rights to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over or ownership or other rights to any Covered Data. In the event Issuer receives any claim, inquiry, request or legal demand from a third party, including any governmental entity, related to the Covered Data, Issuer will immediately and in no event later than five (5) business days notify Company and provide Company with any information it has or receives in relation to such claim, inquiry, request or legal demand and provide Company with any reasonable assistance requested by Company to address such claim, inquiry, request or legal demand as determined in the sole discretion of the Company and to ensure that the Covered Data is treated as confidential information of Company and to afford Company a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such claim, inquiry, request or legal demand. Under no circumstances may Issuer access and/or provide such Equipment or Covered Data to any third party, including any governmental entity, whether in response to any claim, inquiry, request or legal demand from such third party or otherwise.
- (b) <u>Software</u>. The Issuer acknowledges that the Company Software is proprietary to Company and is to be used solely by Company. Issuer receives no license or other rights to the Company Software. The Issuer shall not access, appropriate, or otherwise use the Company Software and agrees not to disclose or otherwise make available the Company Software and/or related technology to any third parties.
- (c) <u>Security Incidents</u>. Between the Issuer and the Company, the response to any and all Security Incidents (including, without limitation, all remediation and preventative efforts) will be solely under Company's control. Issuer shall notify Company promptly and in no event later than one (1) Business Day following its actual discovery of any Security Incident that Company has not previously alerted Issuer to and that has not previously been publicly disclosed (either by or on behalf of Company or by a third party). Issuer agrees that it will not communicate with any third party (including, but not limited to, any governmental entity, the media, vendors, or consumers) regarding any Security Incident without the express written consent and direction of Company, except as required by applicable law. Upon Company's request, pursuant to Company's instruction, and at Company's sole cost and expense, Issuer shall reasonably support Company in its response to the Security Incident, including, without limitation, assistance with or the performance of all reasonably necessary and corrective action.

- (d) Stored Data. The Issuer acknowledges and agrees that:
- (i) The Stored Data shall be owned and controlled exclusively by the Company (or its permitted successors or assigns) at all times.
- (ii) At all times, the Company may destroy, relocate or let remain the Stored Data, or take any other action with respect to the Stored Data, in its sole and absolute discretion, without consulting or delivering any notice to the Issuer.
- (iii) The Issuer has no right, title or interest whatsoever in or to the Stored Data, including, without limitation, any right to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over the Stored Data, or to allow any Person to access, inspect, obtain, relocate, modify, destroy, preserve, pledge, lease, sell, appropriate or exercise any dominion or control over the Stored Data. In the event Issuer receives any claim, inquiry, request or legal demand from a third party, including any governmental entity, related to the Stored Data, Issuer will notify Company immediately, and in no event later than five (5) business days, and provide Company with any information it has or receives in relation to such claim, inquiry, request or legal demand and provide Company with any reasonable assistance requested by Company to address such claim, inquiry, request or legal demand to ensure that the Stored Data is treated as confidential information of Company and to afford Company a reasonable opportunity to appear, object and obtain a protective order or other appropriate relief regarding such claim, inquiry, request or legal demand.

This Section 11.27 shall survive the expiration and any earlier termination of this Lease.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, each of the parties have caused this Lease to be duly executed and delivered, under seal, by its respective duly authorized representatives.

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY

By:
Name:
Title:

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

BAYMARE LLC, a Delaware limited liability company

By:	(SEAL)
Name:	•
Title:	

EXHIBIT A

DESCRIPTION OF THE LEASED LAND

TO BE CONFIRMED AND FINALIZED

PARCEL ONE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 282, LAND LOTS 33, 34, 63, & 64, 19TH DISTRICT, MORGAN COUNTY; MILITIA DISTRICT 420, LAND LOTS 104 & 105, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOTS 74, 75, 102, 103, 104, & 105, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 (RIGHT-OF-WAY VARIES) 5138.19 FEET SOUTHEAST FROM THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE SOUTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 20 (RIGHT-OF-WAY VARIES), SAID POINT BEING THE POINT OF BEGINNING;

THENCE TRAVELING ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 THE FOLLOWING THREE (3) COURSES AND DISTANCES, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 125.00 FEET TO A POINT. THENCE, NORTH 56° 08' 19" EAST FOR A DISTANCE OF 70.71 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 4609.25 FEET TO A 5/8 REBAR SET. THENCE LEAVING SAID RIGHT-OF-WAY, SOUTH 72° 11' 50" EAST FOR A DISTANCE OF 49.03 FEET TO A 5/8 REBAR SET. THENCE, NORTH 16° 39' 41" WEST FOR A DISTANCE OF 6.43 FEET TO A 5/8 REBAR SET ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20. THENCE TRAVELING ALONG SAID RIGHT-OF-WAY THE FOLLOWING THIRTEEN (13) COURSES AND DISTANCES, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 420.97 FEET TO A POINT. THENCE, SOUTH 32° 36' 25" EAST FOR A DISTANCE OF 96.33 FEET TO A POINT. THENCE, SOUTH 06° 38' 01" WEST FOR A DISTANCE OF 466.58 FEET TO A POINT. THENCE, SOUTH 83° 21' 59" EAST FOR A DISTANCE OF 100.00 FEET TO A 5/8 REBAR SET. THENCE, NORTH 06° 38' 01" EAST FOR A DISTANCE OF 466.58 FEET TO A 5/8 REBAR SET. THENCE, NORTH 39° 46' 13" EAST FOR A DISTANCE OF 70.33 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 799.31 FEET TO A POINT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 82° 07' 55" EAST FOR A DISTANCE OF 350.57 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 60° 55' 47" EAST FOR A DISTANCE OF 210.35 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 26° 45' 34" EAST FOR A DISTANCE OF 652.38 FEET TO A POINT. THENCE, SOUTH 78° 54' 18" EAST FOR A DISTANCE OF 457.32 FEET TO A 5/8" REBAR SET AT THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE COMMON LAND LOT LINE OF LAND LOTS 34 & 35. THENCE LEAVING SAID RIGHT OF WAY AND TRAVELING ALONG SAID COMMON LAND LOT LINE. SOUTH 43° 47' 03" WEST FOR A DISTANCE OF 2000.15 FEET TO A 1/2" REBAR INSIDE OF A 3" PIPE. SAID 1/2" REBAR ALSO BEING THE COMMON LAND LOT CORNER OF LAND LOTS 34, 35, 62 & 63. THENCE LEAVING SAID LAND LOT CORNER AND TRAVELING ALONG THE COMMON LAND LOT LINE OF LAND LOTS 62 & 63, SOUTH 44° 35' 24" WEST FOR A DISTANCE OF 3006.44 FEET TO THE COMMON LAND LOT CORNER OF LAND LOTS 62, 63, 65, & 66, THENCE LEAVING SAID LAND LOT CORNER, NORTH 41° 56' 19" WEST FOR A DISTANCE OF 450.35 FEET TO A 1" SQUARE POST. THENCE, NORTH 47° 53' 48" WEST FOR A DISTANCE OF 2554.71 FEET TO A CONCRETE MONUMENT. THENCE, SOUTH 89° 31' 08" WEST FOR A DISTANCE OF 602.34 FEET TO A 1/2" REBAR ON THE COMMON LAND LOT LINE OF LAND LOTS 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO 1/2" REBAR. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT CORNER OF LAND LOTS 102, 103, 104, & 105. THENCE LEAVING SAID LAND LOT CORNER, SOUTH 61° 29' 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A 30" POPLAR TREE.

THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET TO A 1/2" REBAR. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR. THENCE. NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 01' 00" EAST FOR A DISTANCE OF 109.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 02° 50' 00" EAST FOR A DISTANCE OF 41.80 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 120.57 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 109.12 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 35' 43" WEST FOR A DISTANCE OF 104.15 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 45' 12" WEST FOR A DISTANCE OF 129.75 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 24' 52" EAST FOR A DISTANCE OF 190.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 58' 59" EAST FOR A DISTANCE OF 177.00 FEET TO A 5/8" REBAR SET. THENCE, NORTH 06° 21' 33" EAST FOR A DISTANCE OF 65.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 20' 22" EAST FOR A DISTANCE OF 68.42 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 19' 08" EAST FOR A DISTANCE OF 63.25 FEET TO A 5/8" REBAR SET. THENCE, NORTH 08° 21' 40" EAST FOR A DISTANCE OF 120.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 22° 51' 48" EAST FOR A DISTANCE OF 72.05 FEET TO A 5/8" REBAR SET. THENCE, NORTH 40° 06' 12" EAST FOR A DISTANCE OF 99.95 FEET TO A 5/8" REBAR SET. THENCE, NORTH 39° 30' 42" EAST FOR A DISTANCE OF 98.61 FEET TO A 5/8" REBAR SET. THENCE, NORTH 32° 05' 05" EAST FOR A DISTANCE OF 97.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 14° 33' 13" EAST FOR A DISTANCE OF 44.83 FEET TO A 5/8" REBAR SET. THENCE, NORTH 03° 34' 04" EAST FOR A DISTANCE OF 48.91 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 51' 13" WEST FOR A DISTANCE OF 119.07 FEET TO A 5/8" REBAR SET. THENCE, NORTH 15° 49' 00" WEST FOR A DISTANCE OF 150.56 FEET TO A 5/8" REBAR SET. THENCE, NORTH 17° 53' 59" EAST A DISTANCE OF 115.16 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 555.02 ACRES OR 24,176,550 SQUARE FEET MORE OR LESS.

PARCEL TWO

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 103 & 104, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOT 104, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT FOUND AT THE INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY; THENCE NORTH 34° 24' 38" WEST FOR A DISTANCE OF 14.41 FEET TO A CONCRETE MONUMENT FOUND; THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE OF 207.58 FEET TO A 5/8" REBAR SET, SAID REBAR BEING THE POINT OF BEGINNING;

THENCE, SOUTH 42° 23' 51" WEST FOR A DISTANCE OF 296.73 FEET TO 5/8" REBAR SET. THENCE, NORTH 87° 35' 29" WEST FOR A DISTANCE OF 1798.57 FEET TO A 1" REBAR FOUND. THENCE, NORTH 87° 15' 57" WEST FOR A DISTANCE OF 277.54 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING SEVENTEEN (17) COURSES AND DISTANCES: NORTH 36° 16' 52" EAST FOR A DISTANCE OF 9.86 FEET TO A POINT. THENCE, NORTH 23° 23' 40" EAST FOR A DISTANCE OF 61.70 FEET TO A POINT. THENCE, NORTH 37° 23' 04" EAST FOR A DISTANCE OF 67.46 FEET TO A POINT. THENCE, NORTH 12° 36' 52" EAST FOR A DISTANCE OF 55.12 FEET TO A POINT. THENCE, NORTH 37° 12' 03" EAST FOR A DISTANCE OF 46.14 FEET TO A POINT. THENCE, NORTH 15° 52' 48" EAST FOR A DISTANCE OF 22.30 FEET TO A POINT. THENCE, NORTH 07° 40' 56" WEST FOR A DISTANCE OF 60.60 FEET TO A POINT. THENCE, NORTH 13° 01' 06" EAST FOR A DISTANCE OF 48.80 FEET TO A POINT. THENCE, NORTH 10° 33' 37" EAST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 06° 05' 47" EAST FOR A DISTANCE OF 65.27 FEET TO A POINT. THENCE, NORTH 31° 41' 48" EAST FOR A DISTANCE OF 47.54 FEET TO A POINT. THENCE, NORTH 01° 50' 55" WEST FOR A DISTANCE OF 82.74 FEET TO A POINT. THENCE, NORTH 39° 15' 37" EAST FOR A DISTANCE OF 59.65 FEET TO A POINT. THENCE, NORTH 15° 25' 48" WEST FOR A DISTANCE OF 53.79 FEET TO A POINT. THENCE, NORTH 10° 11' 40" EAST FOR A DISTANCE OF 173.35 FEET TO A POINT. THENCE, NORTH 39° 51' 00" EAST FOR A DISTANCE OF 57.96 FEET TO A POINT. THENCE, NORTH 31° 19' 10" EAST FOR A DISTANCE OF 6.32 FEET TO A POINT. THENCE LEAVING THE CENTERLINE OF SAID CREEK, NORTH 59° 21' 20" EAST FOR A DISTANCE OF 59.92 FEET TO AN AXLE FOUND. THENCE, NORTH 61° 29' 30" EAST FOR A DISTANCE OF 945.63 FEET TO AN AXLE FOUND ON THE APPROXIMATE LAND LOT LINE OF LAND LOT 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE, SOUTH 30° 36' 56" EAST FOR A DISTANCE OF 701.70 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 30° 38' 44" EAST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE LEAVING SAID LAND LOT LINE, SOUTH 88° 13' 42" EAST A DISTANCE OF 395.65 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 42.11 ACRES OR 1,834,200 SQUARE FEET MORE OR LESS.

PARCEL THREE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 105, 1ST DISTRICT, NEWTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A COUNTY MARKER LOCATED AT THE COMMON INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY. THENCE, NORTH 34° 24 '38" WEST FOR A DISTANCE OF 14.45 FEET TO A CONCRETE MONUMENT FOUND. THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE ON 207.58 FEET TO A 5/8" REBAR SET. THENCE, NORTH 88° 13' 42" WEST FOR A DISTANCE OF 395.65 FEET TO A 1/2" REBAR FOUND ON THE COMMON LAND LOT LINE OF LAND LOT 103 AND LAND LOT 104. THENCE, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT

CORNER OF LAND LOTS 102, 103, 104, AND 105. THENCE, SOUTH 61° 29' 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A POPLAR TREE. THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET A 1/2" REBAR FOUND. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY ALONG A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 02° 43' 46", HAVING A RADIUS OF 2058.25 FEET, AND WHOSE LONG CHORD BEARS NORTH 61° 21' 40" WEST FOR A DISTANCE OF 98.05 FEET TO A 5/8" REBAR SET; SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT OF WAY, SOUTH 19° 08' 21" WEST FOR A DISTANCE OF 334.46 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 26° 54' 13" WEST FOR A DISTANCE OF 198.17 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 561.62 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 19.72 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING FORTY TWO (42) COURSES AND DISTANCES, NORTH 85° 35' 42" WEST FOR A DISTANCE OF 50.57 FEET TO A POINT. THENCE, NORTH 52° 43' 46" WEST FOR A DISTANCE OF 71.69 FEET TO A POINT. THENCE, SOUTH 87° 26' 25" WEST FOR A DISTANCE OF 16.56 FEET TO A POINT. THENCE, NORTH 72° 51' 49" WEST FOR A DISTANCE OF 96.77 FEET TO A POINT. THENCE, NORTH 30° 22' 25" WEST FOR A DISTANCE OF 103.72 FEET TO A POINT. THENCE, NORTH 39° 56' 32" WEST FOR A DISTANCE OF 137.93 FEET TO A POINT. THENCE, NORTH 17° 34' 23" EAST FOR A DISTANCE OF 50.98 FEET TO A POINT. THENCE, NORTH 27° 42' 59" WEST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 73° 16' 20" WEST FOR A DISTANCE OF 52.92 FEET TO A POINT. THENCE, NORTH 22° 23' 26" WEST FOR A DISTANCE OF 82.88 FEET TO A POINT. THENCE, NORTH 72° 11' 17" WEST FOR A DISTANCE OF 36.19 FEET TO A POINT. THENCE, NORTH 28° 02' 33" WEST FOR A DISTANCE OF 59.27 FEET TO A POINT. THENCE, SOUTH 28° 42' 42" WEST FOR A DISTANCE OF 31.31 FEET TO A POINT. THENCE, SOUTH 72° 47' 59" WEST FOR A DISTANCE OF 30.67 FEET TO A POINT. THENCE, NORTH 01° 53' 15" EAST FOR A DISTANCE OF 22.87 FEET TO A POINT. THENCE, NORTH 34° 33' 06" WEST FOR A DISTANCE OF 27.38 FEET TO A POINT. THENCE, NORTH 85° 53' 44" WEST FOR A DISTANCE OF 63.38 FEET TO A POINT. THENCE, NORTH 16° 31' 13" WEST FOR A DISTANCE OF 73.56 FEET TO A POINT. THENCE, NORTH 57° 11' 16" WEST FOR A DISTANCE OF 25.33 FEET TO A POINT. THENCE, NORTH 34° 05' 41" WEST FOR A DISTANCE OF 54.30 FEET TO A POINT. THENCE, NORTH 47° 28' 00" WEST FOR A DISTANCE OF 182.00 FEET TO A POINT. THENCE, NORTH 88° 56' 09" WEST FOR A DISTANCE OF 35.31 FEET TO A POINT. THENCE, NORTH 25° 00' 19" WEST FOR A DISTANCE OF 80.05 FEET TO A POINT. THENCE, NORTH 76° 27' 01" WEST FOR A DISTANCE OF 98.21 FEET TO A POINT. THENCE, NORTH 21° 17' 54" WEST FOR A DISTANCE OF 95.57 FEET TO A POINT. THENCE, NORTH 63° 33' 03" WEST FOR A DISTANCE OF 19.58 FEET TO A POINT. THENCE, SOUTH 31° 09' 11" WEST FOR A DISTANCE OF 49.80 FEET TO A POINT. THENCE, SOUTH 86° 32' 27" WEST FOR A DISTANCE OF 28.65 FEET TO A POINT. THENCE, NORTH 02° 46' 11" WEST FOR A DISTANCE OF 105.94 FEET TO A POINT. THENCE, NORTH 29° 35' 39" WEST FOR A DISTANCE OF 128.82 FEET TO A POINT. THENCE, NORTH 29° 17' 00" EAST FOR A DISTANCE OF 78.57 FEET TO A POINT. THENCE, NORTH 10° 15' 42" WEST FOR A DISTANCE OF 91.07 FEET TO A POINT. THENCE, NORTH 82° 33' 37" WEST FOR A DISTANCE OF 92.73 FEET TO A POINT. THENCE, NORTH 64° 06' 43" WEST FOR A DISTANCE OF 44.20 FEET TO A POINT. THENCE, NORTH 07° 19' 19" WEST FOR A DISTANCE OF 32.82 FEET TO A POINT. THENCE, NORTH 13° 23' 03" EAST FOR A DISTANCE OF 114.86 FEET TO A POINT. THENCE, NORTH 79° 45' 14" EAST FOR A DISTANCE OF 21.62 FEET TO A POINT. THENCE, NORTH 00° 40' 02" EAST FOR A DISTANCE OF 52.55 FEET TO A POINT. THENCE, NORTH 41° 16' 55" WEST FOR A DISTANCE OF 44.49 FEET TO A POINT. THENCE, NORTH 09° 10' 30" WEST FOR A DISTANCE OF 66.25 FEET TO A POINT. THENCE, NORTH 43° 06' 03" WEST FOR A DISTANCE OF 40.50 FEET TO A POINT. THENCE LEAVING SAID CREEK SOUTH 88° 27' 52" EAST A DISTANCE OF 20.00 FEET TO A 5/8" REBAR SET. THENCE, SOUTH 88° 27' 52" EAST A DISTANCE OF 131.91 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 01° 37' 02" EAST FOR A DISTANCE OF 165.67 FEET TO POINT ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY FOR THE FOLLOWING FIVE (5) COURSES AND DISTANCES: SOUTH 88° 22' 18" EAST FOR A DISTANCE OF 17.36 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 31° 12' 43.6", HAVING A RADIUS OF 1249.88 FEET, AND WHOSE LONG CHORD BEARS SOUTH 72° 45' 56" EAST FOR A DISTANCE OF 672.49 FEET. THENCE, SOUTH 57° 09' 30" EAST FOR A DISTANCE OF 229.67 FEET TO A POINT. THENCE, SOUTH 56° 54' 55" EAST FOR A DISTANCE OF 60.57 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 57° 01' 18" EAST FOR A DISTANCE OF 60.19 FEET TO A POINT. THENCE LEAVING SAID RIGHT OF WAY, SOUTH 32° 52' 20" WEST FOR A DISTANCE OF 404.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 89° 59' 12", HAVING A RADIUS OF 40.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 12° 08' 42" EAST FOR A DISTANCE OF 56.56 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, SOUTH 57° 08' 30" EAST FOR A DISTANCE OF 555.17 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE LEFT THROUGH 49° 40' 09", HAVING A RADIUS OF 25.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 21.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 50° 20' 59", HAVING A RADIUS OF 60.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 51.05 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, NORTH 32° 52' 26" EAST FOR A DISTANCE OF 414.07 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY SOUTH 57° 11' 38" EAST A DISTANCE OF 121.34 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 02° 47' 59.4". HAVING A RADIUS OF 2050.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 58° 35' 38" EAST FOR A DISTANCE OF 100.17 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 33.49 ACRES OR 1,458,628 SQUARE FEET MORE OR LESS.

EXHIBIT B

FORM OF AMENDMENT TO LEASE AGREEMENT

This AMENDMENT TO LEASE AGREEMENT, dated as of	, is
between the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, M	ORGAN
COUNTY, NEWTON COUNTY AND WALTON COUNTY (the "Issuer"),	a joint
development authority and a public body corporate and politic created and existing under	the laws
of the State of Georgia (the "State") and BAYMARE LLC (the "Company"), a Delawar	e limited
liability company	

WITNESSETH:

WHEREAS, the Issuer and the Company have heretofore entered into a Lease Agreement, dated as of March 1, 2021 (said Lease Agreement, as from time to time modified or amended, is herein called the "Lease") relating to Project Baymare (as defined in the Lease); and

WHEREAS, the Issuer and the Company have now determined that it is necessary to amend the Lease in certain respects to reflect the [removal from] [addition to] the description of the [Leased Land – the real property (including the improvements thereon constituting part of the Project)] [Leased Equipment – the items] described in Exhibit "1" hereto; and

NOW, THEREFORE, in consideration of the premises and of the mutual covenants hereinafter contained, the Issuer and the Company agree to and do hereby amend the Lease to modify the description of the [Leased Land] [Leased Equipment] contained as Exhibit ["A"] ["B"] attached thereto in order to [remove therefrom] [add thereto], effective as of the date hereof, the [real property (including all structures, buildings and other improvements thereon)] [the personal property and items] described in Exhibit "1" to this Amendment to Lease Agreement.

Section 1. Amendment of Lease. The Lease shall be deemed to be modified and amended in accordance with the provisions of this Amendment to Lease Agreement and the respective rights, duties and obligations of the Issuer and the Lessee under the Lease shall hereafter be determined, exercised and enforced under the Lease subject in all respects to this Amendment to Lease Agreement, and all the terms and conditions of this Amendment to the Lease Agreement shall be part of the terms and conditions of the Lease for any and all purposes. All references in the Lease to the [Leased Land] [Leased Improvements] [Leased Equipment] described in Exhibit ["A"] ["B"] thereof shall refer to said Exhibit as hereby amended and modified.

- Section 2. <u>Execution Counterparts</u>. This Amendment to Lease Agreement 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.
- Section 3. <u>Recordation</u>. This Amendment to Lease Agreement may be recorded in the office of the Clerk of the Superior Court of Morgan County, Georgia, or in such other office as may be at the time provided by law as the proper place for such recordation.

Amendment Number _____

Section 4. Lease to Continue in Full Force and Effect. All other terms of the Lease shall continue in full force and effect subject to this Amendment to Lease Agreement as set forth herein.

Section 5. Defined Terms. Defined terms used in this Amendment (as indicated by the use of initial capitalization) have the meaning given in the Lease if not otherwise defined in this Amendment.

IN WITNESS WHEREOF, the Issuer and the Lessee have caused this Amendment to the Lease Agreement to be executed in their respective corporate names and their respective corporate seals to be hereunto affixed and attested by their duly authorized officers as of 20 .

JOINT DEVELOPMENT AUTHORITY OF

	NEWTON COUNTY AND WALTON C	•
	By: Name: Title:	
ATTEST:		
Name: Fitle:		
[ISSUER'S SEAL]		
	BAYMARE LLC, a Delaware limited liability company	
	By: Name: Title:	(SEAL)

EXHIBIT 1

TO AMENDMENT TO LEASE AGREEMENT (Number __) between JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY and BAYMARE LLC dated as of _______, ____

DESCRIPTION OF [ADDITIONAL] [REMOVED] [LEASED LAND] [LEASED IMPROVEMENTS] [LEASED EQUIPMENT]

EXHIBIT E

FORM OF BILL OF SALE

LIMITED WARRANTY BILL OF SALE

THIS LIMITED WARRANTY BILL OF SALE (this "Bill of Sale"), is made and entered into effective as of the ___ day of _____, 20__, by BAYMARE LLC ("Lessee") in favor of the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY ("JDA").

BACKGROUND STATEMENT

- A. JDA is the owner of the real property more particularly described on Exhibit "A" hereto (the "Land").
 - B. JDA and Lessee entered into a Lease Agreement, dated as of March 1, 2021.
- C. Pursuant to the terms of the Lease Agreement, Lessee is constructing buildings and other improvements on the Land (defined in the Lease Agreement as "**Project Baymare**").
- D. Pursuant to the Lease Agreement, Lessee is to convey its interest in personal property and equipment that is to become Leased Equipment (as defined in the Lease Agreement) comprising part of the Project at the time Lessee requests, from time to time, reimbursements for Costs of the Project (as defined in the Lease Agreement).

For and in consideration of the sum of Ten and No/100 Dollars (\$10.00), and in furtherance and pursuant to the terms of the Lease Agreement, Lessee hereby transfers, grants, conveys, and assigns to JDA, the following, to wit:

All personal property and equipment comprising a part of the Project to the extent
the same are located on the Land and have been constructed or installed by or at the
direction and at the expense of Lessee (collectively, the "Conveyed Property")
excluding the following:

TO HAVE AND TO HOLD the Conveyed Property unto JDA and JDA's successors and assigns forever, and Lessee does hereby agree to **WARRANT** and **FOREVER DEFEND**, all and singular the Conveyed Property unto the JDA and the JDA's successors and assigns, against every person whomsoever lawfully claiming by, through and under Lessee but not otherwise.

This Bill of Sale will be governed by, and construed under, the laws of the State of Georgia.

[SIGNATURE APPEARS FOLLOWING PAGE]

Lessee has caused this Bill of Sale to be properly executed effective as of the day, month and year first above written.

BAYMARE LLC, a Delaware limited liability company	
By:	(SEAL
Name:	· · · · · · · · · · · · · · · · · · ·
Title	

EXHIBIT A

LEGAL DESCRIPTION

[TO BE PROVIDED]

EXHIBIT D

FORM OF CONSENT AND SUBORDINATION

CONSENT AGREEMENT

THIS CONSENT AGREEMENT is executed by the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY, a public body corporate and politic created and existing under the laws of the State of Georgia (the "Issuer") to be effective the ____ day of _____, 20__ (the "Consent Agreement").

WITNESSETH:

		WITNESSE	<u>TH:</u>		
		•			
	The Issuer is the less		_	•	
between Bay	mare LLC, a Delaware	limited liability co	ompany (tl	he "Company")), and the Issuer
(the "Lease")), with the related Short	Form Lease Agree	ment being	g recorded on	, 2021,
in Deed Boo	k, Pages in th	ne Office of the Cl	erk of Sup	perior Court of N	Morgan County,
Georgia reco	rds, in Deed Book,	, Pages in the	e Office of	the Clerk of Su	aperior Court of
Newton Cour	nty, Georgia records, an	d in Deed Book	_, Pages _	in the Office	e of the Clerk of
Superior Cou	irt of Walton County, (Georgia records (c	ollectively	, the "Records'	'), encumbering
certain real p	roperty more particular	rly described in the	e Lease an	d on Exhibit	_ of the below-
defined Docu	ment to which this Con	isent Agreement is	attached (1	the "Property")	··
B.	The Company and _	('	"")	have requested	that the Issuer
	e easements and rights				
of the Com	pany, as set forth in	that certain			(the
"Document") to be dated on or abo	out the date of thi	is Consent	Agreement (an	d to which this
Consent Agre	eement is to be attached	d), and which will	be recorde	d in the Records	s; and the Issuer
	ne consideration set fort				
				_	

IN CONSIDERATION of the sum of Ten (\$10.00) Dollars in hand paid by the Company to the Issuer and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties hereto agree as follows:

The Issuer consents, upon the terms and conditions contained in this Consent Agreement, to the execution and recording of the Document.

Nothing contained in this Consent Agreement will impair, alter or diminish, (1) except as expressly provided in this Consent Agreement, the effect of the Lease on the applicable Property, or (2) any of the rights and remedies of the Issuer granted in the Lease. Further, in no event shall the Issuer's agreement to execute and deliver this Consent Agreement constitute, or be deemed to constitute, any agreement by the Issuer to perform any obligations or to assume any obligations of the Company set forth in the Document, all of which are the obligation of the Company under and pursuant to the Lease.

This Consent Agreement is and will be binding upon the Issuer and its successors and assigns and will inure to the benefit of the parties to and bound by both the Bond Lease and the Document, and their respective successors and assigns.

This Consent Agreement will be governed by the laws of the State of Georgia.

IN WITNESS WHEREOF, the duly authorized representatives of the Issuer have executed this Consent Agreement under seal to be effective as of the day and year first above written.

Signed and sealed in the presence of:	<u>ISSUER</u> :
Unofficial Witness	JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY
Notary Public	By:Name:
My Commission Expires:	Title: ATTEST:
	ATTEST.
(NOTARY SEAL)	Name: Title:
	[ISSUER'S SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

ACKNOWLEDGED

The undersigned acknowledges this Consent Agreement and agrees to the provisions hereof that are applicable to it.

Signed and sealed in the presence of:	<u>COMPANY</u> :	
	BAYMARE LLC, a Delaware limited liability company	
Unofficial Witness		
	By:	(SEAL)
	Name:	
Notary Public	Title:	
My Commission Expires:		
(NOTARY SEAL)		

EXHIBIT E

FORM OF LETTER REQUESTING CONSENT/SUBORDINATION

		, 20
VIA I	EMAIL	AND FEDEX
Morga c/o Ai Attorr 300 E Monro	an Coun ndrea P. ney at La . Church	n Street rgia 30655
	RE:	Lease Agreement by and between Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County, as landlord and lessor (the "Issuer"), and Baymare LLC, a Delaware limited liability company (the "Company"), as tenant and lessee, dated as of March 1, 2021 (the "Lease") for Project Baymare.
To W	hom It N	May Concern:
and _		ned to this letter is a copy of the, by and between, the "Document").
its cor		ompany requests the Issuer's execution of the Document for the purpose of providing such Document.
Comp	llowing any, and tion of t the sec	ordance with Section 8.6 of the Lease, the Company hereby represents and warrants: (i) the Document is not detrimental to the proper conduct of the business of the d (ii) the Document will not impair the effective use or materially interfere with the he Project (as that term is defined in the Lease) and will not weaken, diminish or urity intended to be given or under the Security Document, as that term is defined in
(7) bu	tached I siness d	ordance with Section 8.6 of the Lease, the Issuer has agreed to execute and deliver Document, for the purpose of providing its consent to such Document, within seven lays upon receipt of the Document and this letter. Accordingly, the signature of the ectfully requested by
		Best regards,
cc:		a P. Gray, Esq. (via e-mail) T. Brown, Esq. (via e-mail)

EXHIBIT C

FORM OF BOND PURCHASE LOAN AGREEMENT

[Attached]

BOND PURCHASE LOAN AGREEMENT

This BOND PURCHASE LOAN AGREEMENT (this "Agreement"), dated for purposes of reference as of March 1, 2021, is by and between the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY (the "Issuer"), a multijurisdictional joint development authority and a public body corporate and politic, created and existing under the laws of the State of Georgia (the "State"), and BAYMARE LLC, a Delaware limited liability company (the "Company"), in its capacity as the lessee of the Project referred to herein (in such capacity, the "Lessee") and to the extent the terms of this Agreement expressly so relate to the Lessee, and separately in its capacity as the purchaser (in such capacity, the "Purchaser") of the hereinafter-described revenue bonds of the Issuer.

WITNESSETH:

WHEREAS, the Issuer is a joint development authority and public body corporate and politic, duly created pursuant to the Development Authorities Law of the State of Georgia, codified at O.C.G.A. § 36-62-1, et seq. (the "Act"), in particular O.C.G.A. § 36-62-5.1 thereof, by joint and concurrent resolutions adopted by the respective Boards of Commissioners of Jasper County, Morgan County, Newton County, and Walton County (each a "County" and together, the "Counties"), and is located in, and its area of operation includes, the territorial area of the Counties; and

WHEREAS, the Issuer was created for the public purpose of promoting trade, commerce, industry, and employment opportunities in the territorial areas of the Counties, and for such other purposes as set forth in the Act, and

WHEREAS, the Act authorizes the Issuer to issue its revenue bonds to acquire "projects" (as defined in the Act) to be located within the Issuer's defined area of operation, and the Issuer's revenue bonds are to be issued and validated under and in accordance with the applicable provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, et seq.); and

WHEREAS, the Act further authorizes and empowers the Issuer (i) to lease any such projects; (ii) to pledge, mortgage, convey, assign, hypothecate or otherwise encumber such projects and the revenues therefrom as security for the Issuer's revenue bonds; and (iii) to do any and all acts and things necessary or convenient to accomplish the purpose and powers of the Issuer; and

WHEREAS, the Issuer proposes to issue its revenue bonds (the "Bonds") in a maximum aggregate principal amount of \$42,000,000,000 (the "Maximum Principal Amount"); the Bonds are to be issued in installments and designated "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021," which shall mature on December 31, 2046 (the "Maturity Date"), and shall bear interest at a rate per annum of six percent (6%), which interest shall be payable, as to any Bond, on March 1 of each year during which such Bond is outstanding and the date on which the Bond matures or is retired in full by redemption. The Bonds are secured by that certain Deed

to Secure Debt, Assignment of Rents and Leases and Security Agreement, of even date herewith, granted by the Issuer in favor of the Purchaser (the "Security Document"), and each installment of the Bonds shall be in substantially in the form set forth in Exhibit A to the Bond Resolution (described below), with such variations, omissions, substitutions, legends, and insertions as may be approved by the official of the Issuer who executes such Bond and by the Purchaser; and

WHEREAS, the Bonds are to be issued to finance the cost of acquisition, construction, equipping, and installation of a capital project (the "Project"), consisting of land in the Issuer's defined area of operation, together with improvements thereto and equipment thereon; the Project constitutes a "project" under O.C.G.A. § 36-62-2(6)(N); and

WHEREAS, the Project shall be leased by the Issuer to the Lessee for use as data center pursuant to a Lease Agreement of even date herewith (the "Lease"), under the terms of which the Lessee will pay Basic Rent payments and other payments at such times and in such amounts as will be required to pay debt service on the Bonds as and when the same becomes due; and

WHEREAS, pursuant to the resolution adopted by the Issuer on February 23, 2021 (the "Bond Resolution") authorizing the issuance of the Bonds and the execution of this Agreement and the other Issuer Documents (as defined in the Bond Resolution) relating to the Bonds, including without limitation, the Security Document, the Issuer is pledging, as security for the payment of the Bonds, the Pledged Security (as defined in the Security Document); and

WHEREAS, all capitalized terms used herein and which are not defined herein shall be defined as set forth in, as applicable, the Bond Resolution, the Lease and in the Exhibits to each of such documents; and

WHEREAS, the Purchaser desires to purchase the Bonds in installments from time to time until the Expiration Date (defined below);

NOW, THEREFORE, in consideration of the premises, the parties hereto agree as follows:

- 1. THE COMMITMENT AND MAXIMUM PRINCIPAL AMOUNT: The Purchaser agrees to purchase all of the Bonds that are to be issued at any time and from time to time under the Bond Resolution, and the Issuer hereby agrees to sell to the Purchaser all of the Bonds that are to be issued at any time and from time to time under the Bond Resolution at a price of 100% of the principal amount of each Bond on the following terms and conditions; provided, however, that the aggregate principal amount of the Bonds shall not exceed the Maximum Principal Amount. The sale and purchase of the Bonds will be accomplished in installments as described hereinafter and in Section 2.1 of the Bond Resolution.
- 2. BONDS ISSUED IN INSTALLMENTS: Bonds may only be issued to provide funds to pay Costs of the Project and costs of issuance of the Bonds. The Bond representing the initial installment shall be in a denomination designated by the Lessee, as agent for the Issuer as provided in the Lease, and shall be delivered simultaneously with the execution and delivery of this Agreement. Thereafter, from time to time to and including the Expiration Date, the Issuer (or the Lessee, as agent for the Issuer) may make one or more requests for installments which, when aggregated with the Bonds previously issued for the Project, shall not exceed the Maximum

Principal Amount of the Bonds. As set forth in the Bond Resolution, the initial installment of the Bonds will be numbered R-1, and each subsequent installment of the Bonds will be numbered consecutively upwards in order of registration according to the records of the Registrar.

It shall be the sole prerogative of the Lessee, as agent for the Issuer as provided in the Lease, to designate (upon at least ten (10) business days' advance notice to the Issuer), the principal amount of each fully registered Bond to be delivered at any subsequent installment and the date, time and place of the delivery of and payment for such Bond (hereinafter referred to as a "Closing"). The aforesaid designation to be made by the Lessee in the case of a fully registered Bond (after the first such installment shall have been executed and delivered simultaneously with the execution and delivery of this Agreement) shall be substantially in the form of the "Request for Bond Installment" which is attached hereto as Exhibit A and shall be executed on behalf of the Lessee by an Authorized Company Representative. At any such Closing, subject to the terms and conditions of the Bond Resolution, the Issuer shall deliver to the Purchaser the designated fully registered Bond in definitive form, duly executed in the authorized denomination requested by the Lessee; and the Purchaser shall accept delivery and pay the purchase price of such Bond by book-entry on the Purchaser's books or, if the intended new Holder is not also the Lessee, at direction of the Company, make immediate arrangements to assign and transfer the Bond, the Bond Documents, and the rights in the Project to such new Holder contemporaneously in connection with such Closing.

Upon delivery of a Request for Bond Installment by the Lessee to the Issuer, the Issuer shall promptly issue such installment of Bonds, provided that (i) the conditions precedent set forth in Section 7 below shall have been satisfied at the time of issuance of each Bond, (ii) the principal amount of the installment of Bonds requested to be issued, plus the aggregate principal amounts of all prior Bonds issued, shall not exceed the Maximum Principal Amount of the Bonds, and (iii) such request is received on or before the Expiration Date.

- 3. NON-CASH TRANSACTION: Notwithstanding anything else herein to the contrary, the parties hereto acknowledge and agree that, so long as the Lessee of the Project and the Purchaser of the Bonds are the same party, no money will ever be expected to be transferred in connection with the payment of the purchase price for the Bonds, all as more fully provided for in the Bond Resolution and the Lease.
- 4. **EXPIRATION DATE:** The "Expiration Date" is the earliest of (i) the date the Maximum Principal Amount of the Bonds has been issued, (ii) the date the Bonds are retired, or (iii) the date the Lessee delivers a written notice to the Issuer and the Purchaser that it will make no further request for Bonds issued in accordance with this Agreement.
- 5. **REGISTRATION OF BONDS:** The Bonds shall be registered in the name of the Purchaser in accordance with the Bond Resolution.
- 6. CONDITIONS PRECEDENT: The Purchaser's obligation to fund the initial installment hereunder shall be subject to its receipt from the Issuer of the duly executed Bond R-1, together with an approving opinion of Bond Counsel, delivered by Seyfarth Shaw LLP, and an approving opinion of Issuer's Counsel, delivered by Andrea P. Gray, Esq., each of which shall be in form and substance reasonably acceptable to the Purchaser.

- 7. INVESTMENT: By acceptance hereof, the Purchaser understands, represents and agrees that: (i) the obligations of the Issuer under the Bonds and under the related Issuer Documents, are special and limited obligations payable solely from the Pledged Security for the Bonds; (ii) the obligations of the Issuer under the Bonds and under the Issuer Documents, and the obligations of the Company under the Company Documents and any other obligations that would constitute "separate securities" relating to the Bonds (collectively, herein called the "securities") have not been registered under the Federal Securities Act of 1933, the Securities and Exchange Act of 1934, the Georgia Uniform Securities Act of 2008, or the securities laws, if applicable, of any other state, and applicable rules and regulations thereunder (collectively, the "Securities Acts") and are unrated; (iii) no official statement or other offering document has been prepared in connection with the issuance of the Bonds; (iv) the Purchaser shall have performed its own "due diligence" investigation as to the Issuer, the Project, the Lessee, and as to any of the sources of payment of debt service on the Bonds and has not relied on any representations of the Issuer, its members, directors, officials, employees, agents or legal counsel as to any matters relating to the adequacy of the Pledged Security to provide for the payment of debt service on the Bonds; (v) the Bonds are being purchased by the Purchaser in a private sale for its own account and not with a view to resale or other distribution or transfer, except in a transaction in which the Company, as Lessee, also assigns its interest in the Project as permitted in the Lease; (vi) the Bonds may not be sold, transferred, pledged or hypothecated by the Purchaser or any subsequent Holders except in accordance with the provisions of the Bond Documents governing transfers of the Bonds; and (vii) if any transfer of the Bonds would subject the Issuer or the Company to any disclosure requirements under any of the Securities Acts, the Company shall, at its own expense and without cost to the Issuer, make such disclosure as to the Company, the Project, the Pledged Security and the Bonds, as is required by the Securities Acts. The representations and agreements contained in this Section shall prevail over any inconsistent term or condition that may be contained in the Lease relating to the Project, or in the other Bond Documents.
- 8. GOVERNING LAW: This Agreement shall be governed by and construed under and in accordance with the internal laws of the State of Georgia (without giving effect to its conflicts of law principles).
- 9. ASSIGNMENT: The Purchaser shall be entitled to assign the Bonds and its rights under this Agreement in accordance with the terms and conditions of Section 7 above and Section 2.7 of the Bond Resolution.
- 10. AMENDMENT: No amendment or modification of this Agreement shall be effective unless it is in writing and executed by the Issuer, the Lessee, the Purchaser and, if applicable, any Leasehold Mortgagee (as defined in the Lease) of the Lessee.
- 11. **HEADINGS:** All paragraphs or other headings used in this Agreement are for convenience of reference only and do not constitute a substantive part of this Agreement.
- 12. REQUESTS FOR BOND INSTALLMENTS AND NOTICES: All Requests for Bond Installments shall be delivered to the Purchaser at its address set forth below. All other requests, notices, demands, and other communications under this Agreement shall be in writing and shall be deemed to have been given when delivered by hand or mailed by first class registered or certified mail, return receipt requested, postage prepaid, or delivered by reputable courier (with

charges prepaid), and addressed as follows, irrespective of such other addresses or office locations which a party has:

To the Issuer: Joint Development Authority of Jasper County,

Morgan County, Newton County and Walton County

c/o Andrea P. Gray, Esq.

Attorney at Law 300 E. Church Street Monroe, Georgia 30655

To the Company: Baymare LLC

c/o Tamaron Houston, Esq.

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

with a copy to: Seyfa

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

Attention: Kevin T. Brown, Esq.

The parties referred to above may, by notice given in the manner provided hereunder, designate any further or different addresses to which subsequent notices, approvals, consents, requests or other communications shall be sent or persons to whose attention the same shall be directed.

- 13. COUNTERPARTS: This Agreement may be executed in any number of counterparts, each of which shall be an original, but all of which shall constitute one instrument.
- 14. INTEGRATION: The parties hereto intend that all of the Bond Documents (as defined in the Lease) shall be taken together and are, and are intended to constitute, a single transaction and a single contract for all purposes, including under Section 365 of the Bankruptcy Code.
- 15. ANTI-CORRUPTION: In connection with the negotiation and performance of this Agreement, (a) the Issuer represents and warrants that it has complied, and covenants that it shall comply, with all applicable laws, rules, and regulations, including anti-corruption legislation, and (b) the Issuer and the Company each represent and warrant to the other that it has used, and shall use, only legitimate and ethical business practices.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, each of the parties have caused this Agreement to be duly executed and delivered, under seal, by its respective duly authorized representatives.

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY

	By:
	Name:
	Title:
ATTEST:	
Name:	
Title:	
[ISSUER'S SEAL]	

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

BAYMARE LLC, a Delaware limited liability company

Зу:	(SEAL)
Name:	, ,
Title:	

EXHIBIT A

FORM OF REQUEST FOR BOND INSTALLMENT RELATING TO THE

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY TAXABLE REVENUE BONDS (BAYMARE LLC PROJECT), SERIES 2021

Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County ("Issuer")
The undersigned is an Authorized Company Representative of Baymare LLC, in its capacity as the lessee (the "Lessee") under the Lease Agreement dated as of March 1, 2021 (the "Lease") between Lessee and the Issuer; and Lessee is issuing this Request for Bond Installment in its capacity as agent for the Issuer as so provided in Section 4.8 of the Lease. As such, Lessee hereby requests issuance of an installment Bond in the amount indicated below to pay or to reimburse the Costs of the Project reflected herein.
Pursuant to that certain Bond Purchase Loan Agreement, dated as of March 1, 2021 (the "Bond Purchase Loan Agreement"), entered into between the Issuer and Baymare LLC (in its capacity as both Lessee and Purchaser), Lessee hereby notifies the Issuer and the Purchaser that the Lessee desires that the Issuer issue to the Purchaser a fully registered Bond No. R, in the principal amount of \$, upon payment by the Purchaser of such amount. The Lessee designates the following particulars with respect to the Closing of such purchase and sale:
Closing Date
The Lessee hereby certifies that to its actual knowledge there exists no Event of Default under the Lesse as of the date hereof by the Issuer or the Lessee, and that the Lessee will give

The Lessee hereby further certifies that the principal amount of the Bond designated for delivery hereinabove when added to the principal amount of the Bond or Bonds heretofore delivered to Purchaser will not exceed the Maximum Principal Amount of the Bonds.

prompt notice to the Purchaser and the Issuer if to its actual knowledge any such Event of Default by the Issuer or Lessee should occur prior to the delivery of the Bond designated hereinabove.

The Lessee hereby further certifies to the Issuer that, as of the date hereof, (1) the representations and warranties of the Lessee in the Lease are hereby ratified and confirmed in all material respects, and (2) the proceeds of the Bonds are to be applied to pay or reimburse "Costs of the Project" as defined in and contemplated by the Lease and the Bond Resolution.

[SIGNATURE ON FOLLOWING PAGE]

TO:

("Purchaser")

IN WITNESS WHEREOF, behalf by its Authorized Company R	the Lessee has caused this instrument to be executed on its epresentative, this day of, 20
	BAYMARE LLC, a Delaware limited liability company
	By: Name: Authorized Company Representative

EXHIBIT D

FORM OF SECURITY DOCUMENT

[Attached]

After recording, please return to:	
Kevin T. Brown, Esq. Seyfarth Shaw LLP	Morgan County Tax Parcel IDs:
1075 Peachtree Street NE – Suite 2500 Atlanta, Georgia 30309 (404) 885-6768	Newton County Tax Parcel IDs:
	Walton County Tax Parcel IDs:
THIS INSTRUMENT IS TO BE FILED AND INDE	EXED IN THE REAL ESTATE RECORDS OF MORGAN
COUNTY, NEWTON COUNTY, AND WALTON CO	OUNTY, GEORGIA.
	RTGAGE" AS THAT TERM IS DEFINED IN ARTICLE 9 CODE OF GEORGIA ANNOTATED, AND SECURES AN ION OF IMPROVEMENTS UPON LAND.
	S INSTRUMENT; CONSEQUENTLY, PURSUANT TO ULES OF THE GEORGIA DEPARTMENT OF REVENUE,
	IS DUE IN CONNECTION WITH THE RECORDING OF
STATE OF GEORGIA)	
COUNTY OF MORGAN)	

DEED TO SECURE DEBT, ASSIGNMENT OF RENTS AND LEASES AND SECURITY AGREEMENT

SECURITY AGREEMENT (this "Security Document"), dated for purposes of reference as of March 1, 2021, is from the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY (the "Grantor" and "Debtor"), a joint development authority and a public body corporate and politic of the State of

THIS DEED TO SECURE DEBT, ASSIGNMENT OF RENTS AND LEASES AND

Georgia, the address of which is hereinafter set forth, to BAYMARE LLC, a Delaware limited liability company, the address of which is also hereinafter set forth, together with any and all successors and assigns that from time to time shall be or become the registered owner ("the Holder") of the Bonds described below (the "Grantee" and "Secured Party," it being understood and agreed that so long as the same party is the lessee under the Lease and optionee under the Option Agreement (each as defined below) as well as the Holder, the terms "Grantee" and "Secured Party" shall include such party in its capacities as lessee under the Lease and as optionee under the Option Agreement as well as the Holder); capitalized words and terms used herein, but not defined herein, shall have the meaning set forth in the Lease or the Bond Resolution (hereinafter described) for "Project Baymare," as described in the Lease:

WITNESSETH:

WHEREAS, the Grantor is a joint development authority and public body corporate and politic, duly created pursuant to the Development Authorities Law of the State of Georgia, codified at O.C.G.A. § 36-62-1, et seq. (the "Act"), in particular O.C.G.A. § 36-62-5.1 thereof, by joint and concurrent resolutions adopted by the respective Boards of Commissioners of Jasper County, Morgan County, Newton County, and Walton County (each a "County" and together, the "Counties"), and is located in, and its area of operation includes, the territorial area of the Counties; and

WHEREAS, the Grantor was created for the public purpose of promoting trade, commerce, industry and employment opportunities in the territorial areas of the Counties, and for such other purposes as set forth in the Act, and

WHEREAS, the Act authorizes the Grantor to issue its revenue bonds to acquire "projects" (as defined in the Act) to be located within the Grantor's defined area of operation, and the Grantor's revenue bonds are to be issued and validated under and in accordance with the applicable provisions of the Revenue Bond Law (O.C.G.A. § 36-82-60, et seq.); and

WHEREAS, the Grantor has acquired a parcel of land described in <u>Exhibit A</u> hereto (the "Leased Land"), improvements located and to be located thereon and related building fixtures and building equipment to be located thereat and is to lease the same to the Grantee, its successors and assigns, pursuant to the Lease; and

WHEREAS, in order to pay Costs of the Project, the Grantor is issuing its Taxable Revenue Bonds (Baymare LLC Project), Series 2021 (the "Bonds"), to be issued in installments in a maximum aggregate principal amount of \$42,000,000,000 (the "Maximum Principal Amount"); and

WHEREAS, contemporaneously with the execution hereof, the Grantor and the Grantee are executing the Lease between the Grantor, as lessor, and the Grantee, as lessee, pursuant to the terms of which the Grantee will cause improvements to be constructed on the Leased Land with title to the same vesting in the Grantor as the same are constructed, and the Grantee will lease the Project from the Grantor and will pay to the Grantor Basic Rent payments at such times and in such amounts as will be required to pay the principal of, and interest on the Bonds, as and when the same become due; and

WHEREAS, the Bonds were authorized under a resolution (the "Bond Resolution") adopted by the Grantor on February 23, 2021 and will be sold to the Grantee pursuant to a Bond Purchase Loan Agreement dated as of March 1, 2021 (the "Bond Purchase Loan Agreement"), between the Grantor and the Grantee, in its capacity both as the purchaser of the Bonds and as lessee under the Lease; and

WHEREAS, pursuant to the terms of the Bond Resolution, the Grantor is, as security for the payment of the Bonds and the performance of its obligations as lessor under the Lease and optionor under the Option Agreement (defined below), granting to the Grantee the Pledged Security (defined below) as provided herein.

NOW THEREFORE, for and in consideration of the sum of TEN AND NO/100THS DOLLARS (\$10.00) and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, and in order to secure the indebtedness and other obligations of the Grantor hereinafter set forth, the Grantor does hereby grant, bargain, sell, convey, assign, transfer and set over unto the Grantee, its successors and assigns, all of the following described land and interests in land, estates, easements, rights, improvements, fixtures and appurtenances, moneys, and other property and rights (hereinafter collectively referred to as the "Pledged Security"):

ALL right, title and interest of the Grantor in and to the Leased Land;

ALL right, title and interest of the Grantor in and to the improvements constructed and to be constructed on the Leased Land (the "Leased Improvements"), and the fixtures, machinery, equipment, furniture, or other personal property of any nature whatsoever (including substitutions and replacements therefor) used on, in or in connection with the Leased Land and Leased Improvements and so designated as such by the Grantee (the "Leased Equipment") (the Leased Land and the Leased Improvements are herein called the "Premises" and the Premises and the Leased Equipment are collectively called the "Project");

ALL right, title and interest of the Grantor in and to the "Basic Rent," described in Section 5.3(a) of the Lease Agreement, dated as of March 1, 2021, relating to the Project, between the Grantor, as landlord and lessor, and the Grantee, in its capacity as the initial tenant and initial lessee (the "Lease"); together with any termination payment the Lessee may be required to make thereunder, relating to the Project; the term "Lessee" as used herein means the lessee of the Project under the Lease;

ALL right, title and interest of the Grantor in and to that certain Option Agreement, dated as of March 1, 2021, relating to the Project, between the Grantor, as optionor, and the Grantee, in its capacity as the optionee under such Option Agreement, including without limitation, all Purchase Price proceeds thereunder (the "Option Agreement"):

ALL right, title and interest of the Grantor in and to the Lease, except for the Unassigned Rights (as defined in the Lease);

ALL right, title and interest of the Grantor in, under and to all other leases (other than the Lease), lettings and licenses of the Project or any part thereof now or hereafter entered into by the

Grantor upon expiration or termination of the Lease, and all right, title and interest of the Grantor thereunder, and the rents, issues, profits, accounts receivable and revenues realized by the Grantor from such leasing or licensing of the Project, or any part thereof, from time to time accruing (including without limitation all payments under leases or tenancies, tenant security deposits and escrow funds) under such leases, lettings and licenses, and all the estate, right, title, interest, property, possession, claim and demand whatsoever at law, as well as in equity, of the Grantor, in and to the same and including, without limitation, the right to receive and collect the rents, issues and profits payable thereunder, subject, however, to rights of the Grantor that are similar in nature to the Unassigned Rights;

ALL right, title and interest of the Grantor in and to cash, if any, from time to time on deposit in the Sinking Fund and Project Fund created by the Bond Resolution, and investments, if any, from time to time held for the credit of the Sinking Fund and the Project Fund, and investment income earned on such investments, subject to the rights of the Grantor and the Lessee under the Lease and the Bond Resolution to have amounts in the Project Fund applied as provided in the Lease and in the Bond Resolution;

ALL right, title and interest of the Grantor (if any is so created under the Lease) in and to all surveys, environmental reports, warranties, bonds, letters of credit or other security for construction of the Project, guarantees, business and building licenses and permits, architects' and engineers' plans, blueprints and drawings, construction, professional and other contracts and books and records relating to the Project; and all other, further or additional title, estates, options, privileges, interest or rights which the Grantor may now or hereafter acquire in and to the Project as provided in the Lease (except for the Grantor's Unassigned Rights);

ALL right, title and interest of the Grantor in and to Net Proceeds (as defined in the Lease) of casualty insurance received on account of damage to or destruction of the Project or any part thereof, Net Proceeds received on account of a taking of the Project, or any portion thereof, under power of eminent domain or in lieu of eminent domain, and Net Proceeds of any sale of the Project, or any portion thereof;

ALL right, title and interest of the Grantor in and to all extensions, improvements, betterments, renewals, substitutes and replacements of, and all additions and appurtenances to, the Project, hereafter acquired by, or released to the Grantor, or constructed, assembled or placed by the Grantor or by others for the Grantor's benefit on the Project, and all conversions of the security constituted thereby, immediately upon such acquisition, release, construction, assembling, placement or conversion, as the case may be, and in each such case, without any further conveyance, assignment or other act by the Grantor, shall become subject to the encumbrance of this Security Document as fully and completely, and with the same effect, as though now owned by the Grantor and specifically described herein; and

ALL of the products and proceeds of the foregoing and accounts receivable relating thereto, including without limitation, investments thereof, and investment income earned thereon (except amounts payable to or on behalf of the Grantor on account of its Unassigned Rights).

TO HAVE AND TO HOLD the Pledged Security unto the Grantee, its successors and assigns forever,

PROVIDED, HOWEVER, should the Grantor well and truly pay unto the Grantee the Indebtedness (hereinafter defined) according to the tenor and effect thereof when the same shall become due and payable, and should the Grantor perform, comply with and abide by each and every one of the stipulations, agreements, conditions and covenants contained herein, and in the Bonds and in the Bond Resolution, then (a) this Security Document shall be canceled and surrendered, it being intended by the parties that this Security Document shall operate as a deed passing title to the Premises (and any other of the Pledged Security that is determined to constitute real property under the laws of the State of Georgia) to the Grantee and is made under those provisions of the existing laws of the State of Georgia relating to deeds to secure debt, and not as a mortgage, and is given to secure payment of the Indebtedness; and (b) the liens and security interests hereby created on the Pledged Security (to the extent the same is not real property) shall be released, otherwise this Security Document and the title, security interests and liens hereby created shall remain in full force and effect.

THIS SECURITY DOCUMENT is intended to operate and is to be construed: (i) as a deed to secure debt passing security title to the Premises as described above to the Grantee, subject to Permitted Encumbrances, and is not intended to operate or to be construed as a mortgage; (ii) as an assignment of leases and rents relating to the Lease and other leases; and (iii) as a security agreement that grants to the Grantee a security interest in the other Pledged Security, and is made under those provisions of the existing laws of the State of Georgia relating to deeds to secure debt, assignments of leases and rents and security agreements. This Security Document is subject and junior to Superior Encumbrances, being all encumbrances and title exceptions on the Project in existence at the time of recording of this Security Document.

THIS SECURITY DOCUMENT is given to secure the following described indebtedness, liabilities and obligations of the Grantor (the "Indebtedness"):

- (a) The Indebtedness evidenced by the Bonds, issued in installments in an aggregate principal amount not to exceed the Maximum Principal Amount set forth above, the final payment of debt service on which is due on December 31, 2046, together with any and all renewal or renewals, modification or modifications and extension or extensions of the indebtedness evidenced by the Bonds, and together with any and all accrued and unpaid interest on the Bonds in accordance with the terms of the Bonds and the Bond Resolution;
- (b) Any and all advances made by the Grantee to protect or preserve the Pledged Security or the Grantee's interest therein, including, but not limited to advances made by the Grantee related to the Project;
- (c) Any and all expenses incident to the collection of the Indebtedness secured hereby, the foreclosure hereof by action in any court, or by exercise of the power of sale herein contained; and
- (d) The full and prompt payment and performance of any and all obligations or covenants of the Grantor to the Grantee under (i) the terms of any of the Issuer Documents (as defined in the Lease) and (ii) so long as the same party is the Lessee under the Lease and optionee under the Option Agreement as well as the Holder, under the terms of the Lease and the Option Agreement.

AND the Grantor covenants and agrees with the Grantee as follows:

ARTICLE I Covenants of Grantor

Section 1.01. <u>Payment of the Indebtedness</u>. The Grantor shall punctually pay, but solely from the Pledged Security, the Indebtedness as provided herein, in the Bonds and in the Bond Resolution in the coin and currency of the United States of America which is legal tender for the payment of public and private debts.

Section 1.02. <u>Title to the Pledged Security</u>. The Grantor warrants that (i) it has full power and lawful authority to convey and encumber the Pledged Security in the manner and form set forth herein and this Security Document constitutes a valid and enforceable deed to secure debt as to such of the Premises as to which it has right, title, and interest, and an assignment of and security interest in the Pledged Security; (ii) it has not conveyed, assigned or pledged any of the Pledged Security, except to the Grantee pursuant hereto and pursuant to the Bond Resolution and has the right to convey, assign and pledge its interest therein to the Grantee hereunder, but makes no other representations or warranties as to any prior encumbrances on the Leased Land or on the other property comprising the Project; (iii) it will preserve such security title and security interest, and the lien created by such assignment, and will forever warrant and defend the validity and priority hereof against the claims of all persons and parties claiming by, through or under the Grantor; and (iv) that the Lease is the only lease or occupancy agreement entered into by Grantor with respect to the Project.

Section 1.03. Enforcement of Lease. So long as the Lease is in effect, the Grantee, as well as the Grantor, shall be entitled to enforce the Lessee's obligations under the Lease; provided, however, that only the Grantor shall be entitled to enforce the Grantor's Unassigned Rights, but in the enforcement of such Unassigned Rights, the Grantor shall not exercise the remedy of terminating the Lease without the prior written consent of the Grantee. The Grantor shall permit the Grantee to enter upon the Project and inspect the Project at all reasonable hours and without prior notice. The Grantor shall not, without the prior written consent of the Grantee, threaten, commit, permit or suffer to occur any waste, material alteration or demolition or removal of any material portion of the Project.

Section 1.04. <u>Insurance</u>. The Lease requires the Lessee to carry, or cause to be carried, certain insurance relating to the Project. The Grantor and the Grantee shall each have the right to enforce the provisions of the Lease relating to insurance.

Section 1.05. Eminent Domain. If the Grantor obtains knowledge of the institution or threat of institution of any proceedings for the taking of the Project or any portion thereof by exercise of the power of eminent domain, the Grantor shall promptly notify the Grantee of the pendency of such proceedings. The Grantee may participate in any such proceedings and the Grantor from time to time will deliver to the Grantee all instruments requested by it to permit such participation. The Grantor shall not settle any eminent domain proceeding relating to the Project or any part thereof or sell the Project or any part thereof under threat of eminent domain without the prior written consent of the Grantee and, subject to the Lessee's rights under the Lease, shall

allow the Grantee, at its expense, to undertake the primary negotiations of and defense of the proceedings.

Section 1.06. <u>Use of Net Proceeds</u>. Subject to the prior rights of the Lessee under the Lease and the holder of any Superior Encumbrance, the Net Proceeds shall not be paid to the Grantor and shall, upon receipt, be deposited in the Project Fund and shall be the property of the Lessee under the Lease and may be used as permitted by the Lease.

Section 1.07. <u>Taxes and Other Charges</u>. So long as the Lease is in effect, the Grantee, as well as the Grantor, shall be entitled to enforce the Lessee's covenants therein relating to the payment of all taxes of every kind and nature, and assessments, levies, permits, inspection and license fees and all other charges imposed upon or assessed against the Project or any part thereof or upon the revenues, rents, issues, income and profits of the Project or arising in respect of the occupancy, uses or possession thereof. The Grantee may undertake primary enforcement, at its expense.

Section 1.08. <u>Mechanics' and Other Liens</u>. So long as the Lease is in effect, the Grantee, as well as the Grantor, shall be entitled to enforce Lessee's covenants thereunder relating to mechanics' and other liens. The Grantee may undertake primary enforcement, at its expense.

Section 1.09. This Security Document Authorized. The Grantor hereby warrants and represents that the execution and delivery of this Security Document, the Bond Purchase Loan Agreement, the Lease, the Option Agreement, the Bonds and the other Issuer Documents have been duly authorized and that there is no provision in the Act or other provisions of applicable law, as the same may have been amended, requiring further consent for such action by any other entity or person that has not been obtained; it is duly created, activated, validly existing and in good standing under the laws of the State of Georgia and has (a) all necessary licenses, authorizations, registrations, and approvals required to enter into this Security Document, and (b) full power and authority to own its properties and carry on its activities as presently conducted in connection with its involvement with the Project; and the execution and delivery by and performance of Grantor's obligations under this Security Document, the Bond Resolution, the Bond Purchase Loan Agreement, the Lease, the Option Agreement, the Bonds, and the other Issuer Documents will not result in the Grantor being in default under any provision of the Act or other provisions of Georgia law, as the same may have been amended, or of any deed to secure debt, mortgage, indenture, contract or other agreement to which the Grantor is a party.

Section 1.10. <u>Additional Covenants</u>. Without the prior written consent of the Grantee, the Grantor shall not, except as expressly permitted pursuant to the terms of the Bond Resolution or the Lease, sell, lease, exchange, assign, convey, transfer or otherwise dispose of (or enter into any agreement to do so), the Pledged Security or any part thereof or any interest therein, including, without limitation, the leases, rents or income thereof.

Section 1.11. Security Agreement.

(a) Insofar as the Pledged Security consists of rights and property (the "UCC Property") in which the Grantor can grant a security interest under the Uniform Commercial Code as enacted in the State of Georgia (the "UCC"), this Security Document is hereby made and

declared to be a security agreement, encumbering each and every item of the UCC Property, in compliance with the provisions of the UCC. Financing statements, describing the UCC Property and amendments thereto and naming the Grantee as "secured party" and the Grantor as "debtor," may be prepared by the Grantee and appropriately filed. The remedies for any violation of the covenants, terms and conditions of the security agreement contained herein shall be (i) as prescribed herein, or (ii) as prescribed by general law, or (iii) as prescribed by the specific statutory consequences now or hereafter enacted and specified in the UCC, all at the Grantee's sole election. The Grantor and the Grantee agree that the filing of such financing statement(s) in the records normally having to do with personal property shall never be construed as in anywise derogating from or impairing this declaration and hereby stated intention of the Grantor and the Grantee that. subject to the terms of the Lease, any item that is physically attached to the Premises, at all times and for all purposes and in all proceedings both legal or equitable shall be, regarded as part of the Leased Improvements irrespective of whether (1) serial numbers are used for the better identification of certain items capable of being thus identified in a recital contained herein, or (2) any such item is referred to or reflected in any such financing statement(s) so filed at any time. Similarly, the mention in any such financing statement(s) of the rights in and to (A) the proceeds of any fire, casualty and/or hazard insurance policy, or (B) any award in condemnation proceedings for a taking or for loss of value, or (C) any of the Grantor's interest as lessor in any present or future lease or rights to income growing out of the use and/or occupancy of the Project, whether pursuant to a lease or otherwise, shall never be construed as in anywise altering any of the rights of the Grantee as determined by this Security Document or impugning the priority of the interest granted hereby or by any other recorded document, but such mention in such financing statement(s) is declared to be for the protection of the Grantee in the event any court shall at any time hold with respect to the foregoing (A), (B) or (C), that notice of the Grantee's priority of interest to be effective against a particular class of persons must be filed in the UCC records.

(b) The Grantor shall execute and deliver to the Grantee, in form and substance satisfactory to the Grantee, such further assurances as the Grantee may from time to time reasonably consider necessary to create, perfect and preserve the Grantee's security interest herein granted, and the Grantee may cause such statements and assurances to be recorded and filed at such times and places as may be required or permitted by law to so create, perfect and preserve such security interest.

The assignment and security interest herein granted shall not be deemed or construed to constitute the Grantee as a "mortgagee in possession" of the Project, and the Grantee shall not be obligated to lease the Project or attempt to do same, or to take any action, incur any expense or perform or discharge any obligation, duty or liability whatsoever under any of the leases or otherwise.

Section 1.12. <u>Assignment of Leases and Rents</u>. By this Security Document, the Grantor has granted, bargained, sold and conveyed, and by these presents does grant, bargain, sell and convey absolutely unto the Grantee the Lease and all other leases and the rents subject only to the Superior Encumbrances applicable thereto to have and to hold the leases and the rents forever, and the Grantor does hereby, bind itself, its successors and assigns to warrant and forever defend (but at the cost of the Lessee as provided in the Lease) the title to the leases and the rents unto the Grantee against every person whomsoever lawfully claiming or to claim the same or any part

thereof; provided, however, if the Grantor shall pay or cause to be paid the Indebtedness as and when the same shall become due and payable and shall perform and discharge or cause to be performed and discharged all of the obligations on its part to be performed hereunder on or before the date same are to be performed and discharged, then this assignment shall thereupon become terminated and of no further force and effect, and all rights, titles and interests conveyed pursuant to this assignment shall become revested in the Grantor without the necessity of any further act or requirement by the Grantor or the Grantee.

ARTICLE II Default and Remedies

Section 2.01. Events of Default. Any one or more of the following events or conditions shall constitute Events of Default under this Security Document:

- (a) the Grantor or the Grantee commits an Event of Default, as such term is defined in the Lease or the Bond Resolution; or
- (b) failure by the Grantor to observe or perform any of the other terms, covenants or conditions contained in this Security Document, for ten (10) days after receipt from the Grantee of written notice of such failure, provided, such ten (10) day grace period set forth in this subsection (b) shall not apply to any other Event of Default expressly set forth in this Section 2.01 or to any other covenant or condition with respect to which a limitation as to time or grace period or right to cure is expressly provided in this Security Document; or
- (c) if any disposition prohibited by Section 1.10 hereof of the Pledged Security or any part thereof is made by the Grantor; or
- (d) if there is an attachment or sequestration of or relating to a material part of the Pledged Security and the same is not promptly discharged.

Section 2.02. Remedies.

(a) Upon the occurrence of any Event of Default, the Grantee may take such action, without notice or demand, as it deems advisable to protect and enforce its rights against the Grantor and in and to the Pledged Security, including, but not limited to, the following actions, each of which may be pursued concurrently or otherwise, at such time and in such order as the Grantee may determine, in its sole discretion, without impairing or otherwise affecting the other rights and remedies of the Grantee: (1) declare the entire unpaid Indebtedness to be immediately due and payable; or (2) notify all tenants of the Project and all others obligated on leases of any part of the Project that all rents and other sums owing on such leases have been assigned to the Grantee and are to be paid directly to the Grantee, and to enforce payment of all obligations owing on leases, by suit, ejectment, cancellation, releasing, reletting or otherwise, whether or not the Grantee has taken possession of the Project, and to exercise whatever rights and remedies the Grantee may have under any assignment of rents and leases; or (3) enter into or upon the Project, either personally or by its agents, nominees or attorneys and dispossess the Grantor and its agents and servants therefrom, and thereupon the Grantee may (i) use, operate, manage, control, insure, maintain, repair, restore and otherwise deal with all and every part of the Project and conduct the

activities thereat; (ii) complete any construction on the Project in such manner and form as the Grantee deems advisable; (iii) make alterations, additions, renewals, replacements and improvements to or on the Project; (iv) exercise all rights and powers of the Grantor with respect to the Project, whether in the name of the Grantor, or otherwise, including, without limitation, the right to make, cancel, enforce or modify leases, obtain and evict tenants, and demand, sue for, collect and receive all earnings, revenues, rents, issues, profits and other income of the Project and every part thereof, which rights shall not be in limitation of the Grantee's rights under any assignment of rents and leases securing the loan; and (v) apply the receipts from the Project to the payment of the Indebtedness, after deducting therefrom all reasonable expenses (including reasonable attorneys' fees) incurred in connection with the aforesaid operations and all amounts necessary to pay the taxes, assessments, insurance and other charges in connection with the Project, as well as just and reasonable compensation for the services of the Grantee, its counsel, agents and employees; or (4) institute proceedings for the complete foreclosure of this Security Document either at law, in equity or pursuant to Section 2.02(b) herein, in which case the Project may be sold for cash or upon credit in one or more parcels; or (5) with or without entry, to the extent permitted and pursuant to the procedures provided by applicable law, institute proceedings for the partial foreclosure of this Security Document for the portion of the Indebtedness then due and payable (if the Grantee shall have elected not to declare the entire Indebtedness to be immediately due and owing), subject to the continuing encumbrance of this Security Document for the balance of the Indebtedness not then due; or (6) sell for cash or upon credit the Pledged Security or any part thereof and all estate, claim, demand, right, title and interest of the Grantor therein and rights of redemption thereof, pursuant to power of sale or otherwise, at one or more sales, as an entity or in parcels, at such time and place, upon such terms and after such notice thereof as may be required or permitted by law, and in the event of a sale, by foreclosure or otherwise, of less than all of the Pledged Security, this Security Document shall continue as an encumbrance on the remaining portion of the Pledged Security; or (7) institute an action, suit or proceeding in equity for the specific performance of any covenant, condition or agreement contained herein or in the Lease or the Bonds; or (8) recover judgment on the Lease or the Bonds either before, during or after any proceedings for the enforcement of this Security Document; or (9) apply for the appointment of a trustee, receiver, liquidator or conservator of the Pledged Security, without regard for the adequacy of the security for the Indebtedness and without regard for the solvency of the Grantor, any guarantor, or any other person, firm or other entity liable for the payment of the Indebtedness; or (10) pay or perform any default in the payment, performance or observance of any term, covenant or condition of this Security Document, and all payments made or costs or expenses incurred by the Grantee in connection therewith, shall be secured hereby and shall be, without demand, immediately repaid by the Grantor to the Grantee with interest thereon at the Default Interest Rate provided in the Bonds, the necessity for any such actions and of the amounts to be paid to be in the sole judgment of the Grantee, and the Grantee may, subject to the terms of and the rights of the Lessee under the Lease, enter and authorize others to enter upon the Project or any part thereof for the purpose of performing or observing any such defaulted term, covenant or condition without thereby becoming liable to the Grantor or any person in possession holding under the Grantor; or (11) pursue such other remedies as the Grantee may have under applicable law, in equity or under the Bond, the Lease, the Bond Resolution or this Security Document.

(b) If an Event of Default shall have occurred, the Grantee, at its option, may sell the Project or any part of the Project at public sale or sales at the usual place for conducting sales in

the county in which the Project is situated, to the highest bidder for cash, in order to pay the Indebtedness secured hereby and accrued interest thereon and insurance premiums, liens, assessments, taxes and charges, including utility charges, if any, with accrued interest thereon, and all expenses of the sale and of all proceedings in connection therewith, including reasonable attorneys' fees, actually incurred, after advertising the time, place and terms of sale once a week for four (4) weeks immediately preceding such sale (but without regard to the number of days) in a newspaper in which Sheriff's sales are advertised in said county, all other notice being hereby waived by the Grantor. At any such public sale, the Grantee may execute and deliver to the purchaser a conveyance of the Project or any part of the Project, with full warranties of title (or without warranties if the Grantee shall so elect) which sale shall be expressly subject to the Lease, and to this end, the Grantor hereby constitutes and appoints the Grantee the agent and attorney-infact of the Grantor to make such sale and conveyance, and thereby to divest the Grantor of all right, title, interest, equity and equity of redemption that the Grantor may have in and to the Project and to vest the same in the purchaser or purchasers at such sale or sales, and all the acts and doings of said agent and attorney-in-fact are hereby ratified and confirmed and any recitals in said conveyance or conveyances as to facts essential to a valid sale shall be binding upon the Grantor. The aforesaid power of sale and agency hereby granted are coupled with an interest and are irrevocable, are granted as cumulative of the other remedies provided hereby or by law for collection of the Indebtedness secured hereby and shall not be exhausted by one exercise thereof but may be exercised until full payment of all Indebtedness is secured hereby. In the event of any such foreclosure sale by the Grantee, the Grantor shall be deemed a tenant holding over and shall forthwith deliver possession to the purchaser or purchasers at such sale or be summarily dispossessed according to provisions of law applicable to tenants holding over.

(c) The purchase money proceeds or avails of any sale made under or by virtue of this Article II, together with any other sums which then may be held by the Grantee under this Security Document, whether under the provisions of this Article II or otherwise, shall be applied as follows:

<u>First</u>: To the payment of the costs and expenses of any such sale, including reasonable compensation to the Grantee, its agents and counsel, and of any judicial proceedings wherein the same may be made, and of all expenses, liabilities and advances made or incurred by the Grantee under this Security Document, together with interest as provided herein on all advances made by the Grantee and all taxes or assessments, except any taxes, assessments or other charges subject to which the Pledged Security shall have been sold.

Second: To the payment of the whole amount then due, owing or unpaid upon the Bonds for principal, together with any and all applicable interest.

<u>Third</u>: To the payment of any other sums required to be paid by the Grantor pursuant to any provision of this Security Document, the Bonds, or the Lease.

<u>Fourth</u>: To the payment of the surplus, if any after the payment of all the Indebtedness, to whomsoever may be lawfully entitled to receive the same. The Grantee and any receiver of the Pledged Security, or any part thereof, shall be liable to account for only those rents, issues and profits actually received by it.

- (d) The Grantee may adjourn from time to time any sale by it to be made under or by virtue of this Security Document by announcement at the time and place appointed for such sale or for such adjourned sale or sales; and, except as otherwise provided by any applicable provision of law, the Grantee, without further notice or publication, may make such sale at the time and place to which the same shall be so adjourned.
- Upon the completion of any sale or sales made by the Grantee under or by virtue of this Article II, the Grantee, or an officer of any court empowered to do so, shall execute and deliver to the accepted purchaser or purchasers a good and sufficient instrument, or good and sufficient instruments, conveying, assigning and transferring all estate, right, title and interest in and to the property and rights sold. The Grantee is hereby irrevocably appointed the true and lawful attorney of the Grantor, in its name and stead, to make all necessary conveyances, assignments, transfers and deliveries of the Pledged Security and rights so sold and for that purpose the Grantee may execute all necessary instruments of conveyance, assignment and transfer, and may substitute one or more persons with like power, the Grantor hereby ratifying and confirming all that its said attorney or such substitute or substitutes shall lawfully do by virtue hereof. Any such sale or sales made under or by virtue of this Article II, whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale, shall operate to divest all the estate, right, title, interest, claim and demand whatsoever, whether at law or in equity, of the Grantor in and to the properties and rights so sold, and shall be a perpetual bar both at law and in equity against the Grantor and against any and all persons claiming or who may claim the same, or any part thereof from, through or under the Grantor (but expressly subject to the Lease and all parties claiming by, through or under the Lessee under the Lease).
- (f) In the event of any sale made under or by virtue of this Article II (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale) the entire Indebtedness, if not previously due and payable, immediately thereupon shall, anything in the Bonds, in the Lease or in this Security Document to the contrary notwithstanding, become due and payable.
- (g) Upon any sale made under or by virtue of this Article II (whether made under the power of sale herein granted or under or by virtue of judicial proceedings or of a judgment or decree of foreclosure and sale), the Grantee may bid for and acquire the Pledged Security or any part thereof and in lieu of paying cash therefor may make settlement for the purchase price by crediting upon the Indebtedness the net sales price after deducting therefrom the expenses of the sale and the costs of the action and any other sums which the Grantee is authorized to deduct under this Security Document.
- (h) No recovery of any judgment by the Grantee and no levy of an execution under any judgment upon the Pledged Security or upon any other property of the Grantor shall affect in any manner or to any extent, the lien and title of this Security Document upon the Pledged Security or any part thereof, or any liens, titles, rights, powers or remedies of the Grantee hereunder, but such liens, titles, rights, powers and remedies of the Grantee shall continue unimpaired as before.
- (i) The Grantor agrees, to the fullest extent permitted by law, that upon the occurrence of an Event of Default, neither the Grantor nor anyone claiming through or under the Grantor or any of them shall or will set up, claim or seek to take advantage of any appraisement, valuation,

stay, extension, homestead, exemption or redemption laws now or hereafter in force, in order to prevent or hinder the enforcement or foreclosure of this Security Document, or the absolute sale of the Pledged Security, or the final and absolute putting into possession thereof, immediately after such sale, of the purchasers thereat, and the Grantor, for itself and all who may at any time claim through or under it, hereby waives to the full extent that it may lawfully so do, the benefit of all such laws, and any and all right to have the assets comprised in the security intended to be created hereby marshaled upon any foreclosure hereof or sale pursuant hereto.

- (j) Any foreclosure of this Security Document by the Holder is made subject expressly to the rights of the Lessee under the Lease and under the Option Agreement. For purposes of clarification, and in addition to any and all other rights and remedies provided for herein, so long as the same party is both the lessee under the Lease as well as the Holder, then upon the occurrence of an Event of Default hereunder, such party shall have the right, in its capacity as Holder, to cause the Bonds to be called for redemption and to exercise in its capacity as Lessee, all of its rights under the Lease and the Option Agreement including, without limitation, the option of the Lessee to purchase the Project under the terms and conditions set forth in the Option Agreement.
- (k) The Grantee, at its option, is authorized to foreclose this Security Document subject to the rights of any tenants of the Project, and the failure to make any such tenants parties to any such foreclosure proceedings and to foreclose their rights will not be, nor be asserted to be by the Grantor, a defense to any proceedings instituted by the Grantee to collect the sums secured hereby.
- Section 2.03. <u>Payment of Indebtedness After Default</u>. Upon the occurrence of any Event of Default and the acceleration of the maturity of the Bonds, if, at any time prior to foreclosure sale, the Grantor or any other person tenders payment of the amount necessary to satisfy the Indebtedness, the same shall constitute an evasion of the payment terms of the Bonds and shall be deemed to be a voluntary prepayment thereunder, in which case such payment must include any premium required under the prepayment provisions, if any, contained in the Bonds.
- Section 2.04. Grantor's Actions After Default. After the happening of any Event of Default and immediately upon the commencement of any action, suit or other legal proceedings by the Grantee to obtain judgment for the Indebtedness, or of any other nature in aid of the enforcement of the Lease, of the Bonds, of the Bond Resolution, or of this Security Document, the Grantor will, if required by the Grantee, consent to the appointment of a receiver or receivers of the Pledged Security and of all the earnings, revenues, rents, issues, profits and income thereof. Nothing herein shall be deemed to require the commencement of a suit or the consent of the Grantor as a condition precedent for the Grantee's right to the appointment of a receiver or the exercise of any other rights or remedies available to the Grantee.

Section 2.05. <u>Control by Grantee After Default</u>. Notwithstanding the appointment of any receiver, liquidator or trustee of the Grantor, or of any of its property, or of the Pledged Security or any part thereof, the Grantee shall be entitled to retain possession and control of all property now and hereafter covered by this Security Document, subject to the Lease.

ARTICLE III Miscellaneous

Section 3.01. Nature of Obligations of Grantor.

- (a) The obligations of the Grantor hereunder are not general obligations of the Grantor, but are special and limited obligations of the Grantor that are payable solely from the Pledged Security, and the Grantee shall not be entitled to any deficiency judgment against the Grantor. The Grantee expressly acknowledges that the Grantor has executed and delivered this Security Document for the sole purpose of granting to the Grantee, as security for the Indebtedness, the Pledged Security in which it has an interest. The Grantee acknowledges and agrees that notwithstanding anything herein to the contrary, neither the Grantor nor any of its officers or directors shall have any personal liability for payment of the Indebtedness or performance of the duties and obligations of the Grantor hereunder, and the Grantee shall look solely to, and rely solely upon, the Pledged Security for payment of the Indebtedness.
- (b) The Grantee expressly acknowledges that no personal liability whatsoever shall attach to, or be incurred by, any member, director, officer, official, counsel, agent or employee, as such, past, present or future, of the Grantor or of any successor body, either directly or through such Grantor or any successor body, under or by reason of any of the obligations, covenants, promises, or agreements entered into between such Grantor and the Grantee contained in this Security Document or to be implied herefrom, and that all personal liability of that character against every such member, director, officer and employee is, by the execution of this Security Document and as a condition to, and as part of the consideration for, the execution of this Security Document, expressly waived and released. The immunity of the members, directors, officers, officials, counsel, agents and employees of the Grantor under the provisions contained in this paragraph shall survive termination of this Security Document.

Section 3.02. Notices. Any request, demand, authorization, direction, notice, consent, or other document provided or permitted by this Security Document to be made upon, given or furnished to, or filed with, the Grantor or the Grantee as set forth below shall be sufficient for every purpose hereunder if in writing and, if the notice relates to an Event of Default, and further all notices will be either (i) delivered personally to the party or, if such party is not an individual, to an officer or other legal representative of the party to whom the same is directed, or (ii) mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent via nationally recognized overnight courier for next business day delivery, as follows, irrespective of such other addresses or office locations which a party has:

To the Grantor: Joint Development Authority of Jasper County,

Morgan County, Newton County and Walton County

c/o Andrea P. Gray, Esq.

Attorney at Law 300 E. Church Street Monroe, Georgia 30655 To the Grantee: Baymare LLC

c/o Tamaron Houston, Esq.

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

with a copy to: Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

Attention: Kevin T. Brown, Esq.

Any person designated in this Section 3.02 may, by notice given to the others, designate any additional or different addresses to which subsequent notices, certificates, or other communications shall be sent to it. If the Grantee named herein shall have assigned this Security Document to a successor Holder of the Bond, notices to the Grantee shall be sent to the successor Holder at such address as such successor Holder shall have provided to the Grantor in writing.

Section 3.03. <u>Binding Obligations</u>. The provisions and covenants of this Security Document shall be binding upon the Grantor and shall inure to the benefit of the Grantee and subsequent Holders of the Bonds. For the purpose of this Security Document, the term "Grantor" shall mean the Grantor named herein, and its successors and assigns.

Section 3.04. <u>Captions</u>. The captions of the sections of this Security Document are for the purpose of convenience only and are not intended to be a part of this Security Document and shall not be deemed to modify, explain, enlarge or restrict any of the provisions hereof.

Section 3.05. <u>Severability</u>. Any provision of this interest which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective to the extent of such prohibition or unenforceability without invalidating the remaining provisions hereof or affecting the validity or enforceability of such provisions in any other jurisdiction.

Section 3.06. General Conditions.

- (a) All covenants hereof shall be construed as affording to the Grantee rights additional to and not exclusive of the rights conferred under the provisions of applicable laws of the State of Georgia.
- (b) This Security Document cannot be altered, amended, modified or discharged orally and no agreement shall be effective to modify or discharge it in whole or in part, unless it is in writing and signed by the party against whom enforcement of the modification, alteration, amendment or discharge is sought.
- (c) No remedy herein conferred upon or reserved to the Grantee is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute. No delay or omission of the Grantee in exercising any right or power accruing upon any Event of Default shall impair any such right or power, or shall be construed to

be a waiver of any such Event of Default, or any acquiescence therein. Acceptance of any payment after the occurrence of an Event of Default shall not be deemed to waive or cure such Event of Default; and every power and remedy given by this Security Document to the Grantee may be exercised from time to time as often as may be deemed expedient by the Grantee. Nothing herein or in the Bonds shall affect the obligation of the Grantor to pay the Indebtedness in the manner and at the time and place therein respectively expressed.

- (d) No waiver by the Grantee will be effective unless it is in writing and then only to the extent specifically stated. Without limiting the generality of the foregoing, any payment made by the Grantee for insurance premiums, taxes, assessments, water rates, sewer rentals or any other charges affecting the Project, shall not constitute a waiver of the Grantor's default in making such payments and shall not obligate the Grantee to make any further payments.
- (e) The Grantor acknowledges that it has received a true copy of this Security Document.
- (f) For the purposes of this Security Document, all defined terms and personal pronouns contained herein shall be construed, whenever the context of this Security Document so requires, so that the singular shall be construed as the plural and vice versa and so that the masculine, feminine or neuter gender shall be construed to include all other genders.
- (g) No provision of this Security Document shall be construed against or interpreted to the disadvantage of the Grantor or the Grantee by any court or other governmental or judicial authority by reason of such party having or being deemed to have drafted, prepared, structured or dictated such provision.
- (h) Whenever any payment to be made hereunder or under the Bonds, the Bond Resolution, or the Lease shall be stated to be due on a day that is not a Business Day, such payment may be made on the next succeeding Business Day, and such payment may be made on the next succeeding Business Day without interest for the intervening period ("Business Day" means a day which is not a Saturday, Sunday, a legal holiday, or any other day on which banking institutions are authorized to be closed in the State of Georgia).
- (i) Time is of the essence with respect to each and every covenant, agreement and obligation of the Grantor under this Security Document.
- Section 3.07. <u>Legal Construction</u>. The enforcement of this Security Document shall be governed, construed and interpreted by the laws of the State of Georgia. Nothing in this Security Document, the Lease, the Bonds or in any other agreement between the Grantor and the Grantee shall require the Grantor to pay, or the Grantee to accept, interest in an amount which would subject the Grantee to any penalty under applicable law. In the event that the payment of any interest due hereunder or under the Bonds or any such other agreement would subject the Grantee to any penalty under applicable law, then automatically the obligations of the Grantor to make such payment shall be reduced to the highest rate authorized under applicable law.
- Section 3.08. <u>No Partnership or Joint Venture</u>. Nothing contained herein or in the Bonds or in the Lease, nor the acts of the parties hereto, shall be construed to create a partnership

or joint venture between the Grantor and the Grantee. The relationship between the Grantor and the Grantee is the relationship of "debtor" and "creditor."

Section 3.09. Counterparts. This Security Document may be executed in any number of counterparts, each of which shall be deemed to be an original and all of which, taken together, shall constitute one and the same instrument.

Section 3.10. Commercial Transaction. The interest of the Grantee hereunder and the liability and obligation of the Grantor for the payment of the Indebtedness arise from a "commercial transaction" within the meaning of O.C.G.A. § 44-14-260(1). Accordingly, pursuant to O.C.G.A. § 44-14-263, the Grantor waives any and all rights which the Grantor may have to notice prior to seizure by the Grantee or any interest in personal property of the Grantor pledged hereunder, whether such seizure is by writ of possession or otherwise.

Section 3.11. Release. On the termination of this Security Document (which will in all events be deemed to occur at the Closing under the Option Agreement), the Grantor and the Grantee will enter into a termination of this Security Document (and any related UCC Financing Statements) in recordable form and the Grantee will cause the same to be recorded.

Section 3.12. <u>Integration</u>. The Grantor and the Grantee intend that all of the Bond Documents (as defined in the Lease) shall be taken together and are, and are intended to constitute, a single transaction and a single contract for all purposes, including under Section 365 of the Title 11 of the United States Code.

Section 3.13. <u>Anti-corruption</u>. In connection with the negotiation and performance of this Security Document, (a) the Grantor represents and warrants that it has complied, and covenants that it shall comply, with all applicable laws, rules, and regulations, including anti-corruption legislation, and (b) the Grantor and the Grantee each represent and warrant to the other that it has used, and shall use, only legitimate and ethical business practices.

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Section 3.14. WAIVER OF GRANTOR'S RIGHTS. BY EXECUTION OF THIS SECURITY DOCUMENT. THE GRANTOR EXPRESSLY: (A) ACKNOWLEDGES THE RIGHT TO ACCELERATE THE INDEBTEDNESS EVIDENCED BY THE BONDS AND THE POWER OF ATTORNEY GIVEN HEREIN TO GRANTEE TO SELL THE PLEDGED SECURITY BY NONJUDICIAL FORECLOSURE AND EXERCISE ALL RIGHTS UNDER THE SECURED TRANSACTION PROVISIONS OF THE UNIFORM COMMERCIAL CODE. AS IN EFFECT IN GEORGIA, UPON THE OCCURRENCE OF AN EVENT OF DEFAULT WITHOUT ANY JUDICIAL HEARING AND WITHOUT ANY NOTICE, OTHER THAN SUCH NOTICE (IF ANY) AS IS SPECIFICALLY REQUIRED TO BE GIVEN UNDER THE PROVISIONS OF THIS SECURITY DOCUMENT: (B) WAIVES ANY AND ALL RIGHTS THE GRANTOR MAY HAVE UNDER THE CONSTITUTION OF THE UNITED STATES (INCLUDING, THE FIFTH AND FOURTEENTH AMENDMENTS THEREOF), THE VARIOUS PROVISIONS OF THE CONSTITUTIONS FOR THE SEVERAL STATES. OR BY REASON OF ANY OTHER APPLICABLE LAW, TO NOTICE AND TO JUDICIAL HEARING PRIOR TO THE EXERCISE BY GRANTEE OF ANY RIGHT OR REMEDY HEREIN PROVIDED TO GRANTEE: (C) ACKNOWLEDGES THAT AN OFFICER OF OR LEGAL COUNSEL TO THE GRANTOR HAS READ THIS SECURITY DOCUMENT AND ITS PROVISIONS HAVE BEEN EXPLAINED FULLY TO GRANTOR AND GRANTOR HAS CONSULTED WITH COUNSEL OF GRANTOR'S CHOICE PRIOR TO EXECUTING THIS SECURITY DOCUMENT: AND (D) ACKNOWLEDGES THAT ALL WAIVERS OF THE AFORESAID RIGHTS OF SUCH GRANTOR HAVE BEEN MADE KNOWINGLY. INTENTIONALLY AND WILLINGLY BY SUCH GRANTOR AS PART OF A BARGAINED FOR LOAN TRANSACTION.

INITIALS OF OFFICER OF THE GRANTOR \	WHO
EXECUTED THIS SECURITY DOCUMENT:	

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, this instrument has been duly executed and delivered under seal as of the day and year first above written. The undersigned officer of the Grantor certifies that he/she has read and understands the waiver of the Grantor's rights contained in Section 3.13 hereof.

Signed and sealed in the presence of:	JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY		
Unofficial Witness			
	By:		
	Name:		
	Title:		
Notary Public			
	Attest:		
My Commission Expires:			
	Name:		
(NOTARY SEAL)	Title:		
	[SEAL]		

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

to the security agreement set forth herein.

Signed and sealed in the presence of:

BAYMARE LLC,
a Delaware limited liability company

By:
Name:
Title:

Notary Public

My Commission Expires:

The Grantee has executed this Security Document for the purpose of becoming a signatory

(NOTARY SEAL)

EXHIBIT A

DESCRIPTION OF THE LEASED LAND

[TO BE CONFIRMED AND FINALIZED]

PARCEL ONE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 282, LAND LOTS 33, 34, 63, & 64, 19TH DISTRICT, MORGAN COUNTY; MILITIA DISTRICT 420, LAND LOTS 104 & 105, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOTS 74, 75, 102, 103, 104, & 105, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 (RIGHT-OF-WAY VARIES) 5138.19 FEET SOUTHEAST FROM THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE SOUTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 20 (RIGHT-OF-WAY VARIES), SAID POINT BEING THE POINT OF BEGINNING;

THENCE TRAVELING ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 THE FOLLOWING THREE (3) COURSES AND DISTANCES, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 125.00 FEET TO A POINT. THENCE, NORTH 56° 08' 19" EAST FOR A DISTANCE OF 70.71 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 4609.25 FEET TO A 5/8 REBAR SET. THENCE LEAVING SAID RIGHT-OF-WAY, SOUTH 72° 11' 50" EAST FOR A DISTANCE OF 49.03 FEET TO A 5/8 REBAR SET. THENCE, NORTH 16° 39' 41" WEST FOR A DISTANCE OF 6.43 FEET TO A 5/8 REBAR SET ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20. THENCE TRAVELING ALONG SAID RIGHT-OF-WAY THE FOLLOWING THIRTEEN (13) COURSES AND DISTANCES, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 420.97 FEET TO A POINT. THENCE, SOUTH 32° 36' 25" EAST FOR A DISTANCE OF 96.33 FEET TO A POINT. THENCE, SOUTH 06° 38' 01" WEST FOR A DISTANCE OF 466.58 FEET TO A POINT. THENCE, SOUTH 83° 21' 59" EAST FOR A DISTANCE OF 100.00 FEET TO A 5/8 REBAR SET. THENCE, NORTH 06° 38' 01" EAST FOR A DISTANCE OF 466.58 FEET TO A 5/8 REBAR SET. THENCE, NORTH 39° 46' 13" EAST FOR A DISTANCE OF 70.33 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 799.31 FEET TO A POINT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 82° 07' 55" EAST FOR A DISTANCE OF 350.57 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 60° 55' 47" EAST FOR A DISTANCE OF 210.35 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE. SOUTH 26° 45' 34" EAST FOR A DISTANCE OF 652.38 FEET TO A POINT. THENCE, SOUTH 78° 54' 18" EAST FOR A DISTANCE OF 457.32 FEET TO A 5/8" REBAR SET AT THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE COMMON LAND LOT LINE OF LAND LOTS 34 & 35. THENCE LEAVING SAID RIGHT OF WAY AND TRAVELING ALONG SAID COMMON LAND LOT LINE, SOUTH 43° 47' 03" WEST FOR A DISTANCE OF 2000.15 FEET TO A 1/2" REBAR INSIDE OF A 3" PIPE, SAID 1/2" REBAR ALSO BEING THE COMMON LAND LOT CORNER OF LAND LOTS 34, 35, 62 & 63. THENCE LEAVING SAID LAND LOT CORNER AND TRAVELING ALONG THE COMMON LAND LOT LINE OF LAND LOTS 62 & 63, SOUTH 44° 35' 24" WEST FOR A DISTANCE OF 3006.44 FEET TO THE COMMON LAND LOT CORNER OF LAND LOTS 62, 63, 65, & 66. THENCE LEAVING SAID LAND LOT CORNER, NORTH 41° 56' 19" WEST FOR A DISTANCE OF 450.35 FEET TO A 1" SQUARE POST. THENCE, NORTH 47° 53' 48" WEST FOR A DISTANCE OF 2554.71 FEET TO A CONCRETE MONUMENT. THENCE, SOUTH 89° 31' 08" WEST FOR A DISTANCE OF 602.34 FEET TO A 1/2" REBAR ON THE COMMON LAND LOT LINE OF LAND LOTS 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES, NORTH 30° 38′ 44" WEST FOR A DISTANCE OF 750.64 FEET TO 1/2" REBAR. THENCE, NORTH 30° 36′ 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT CORNER OF LAND LOTS 102, 103, 104, & 105. THENCE LEAVING SAID LAND LOT CORNER, SOUTH 61° 29′ 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21′ 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A 30" POPLAR TREE.

THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET TO A 1/2" REBAR. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 01' 00" EAST FOR A DISTANCE OF 109.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 02° 50' 00" EAST FOR A DISTANCE OF 41.80 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 120.57 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 109.12 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 35' 43" WEST FOR A DISTANCE OF 104.15 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 45' 12" WEST FOR A DISTANCE OF 129.75 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 24' 52" EAST FOR A DISTANCE OF 190.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 58' 59" EAST FOR A DISTANCE OF 177.00 FEET TO A 5/8" REBAR SET. THENCE, NORTH 06° 21' 33" EAST FOR A DISTANCE OF 65.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 20' 22" EAST FOR A DISTANCE OF 68.42 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 19' 08" EAST FOR A DISTANCE OF 63.25 FEET TO A 5/8" REBAR SET. THENCE, NORTH 08° 21' 40" EAST FOR A DISTANCE OF 120.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 22° 51' 48" EAST FOR A DISTANCE OF 72.05 FEET TO A 5/8" REBAR SET. THENCE, NORTH 40° 06' 12" EAST FOR A DISTANCE OF 99.95 FEET TO A 5/8" REBAR SET. THENCE, NORTH 39° 30' 42" EAST FOR A DISTANCE OF 98.61 FEET TO A 5/8" REBAR SET. THENCE, NORTH 32° 05' 05" EAST FOR A DISTANCE OF 97.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 14° 33' 13" EAST FOR A DISTANCE OF 44.83 FEET TO A 5/8" REBAR SET. THENCE, NORTH 03° 34' 04" EAST FOR A DISTANCE OF 48.91 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 51' 13" WEST FOR A DISTANCE OF 119.07 FEET TO A 5/8" REBAR SET. THENCE, NORTH 15° 49' 00" WEST FOR A DISTANCE OF 150.56 FEET TO A 5/8" REBAR SET. THENCE, NORTH 17° 53' 59" EAST A DISTANCE OF 115.16 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 555.02 ACRES OR 24,176,550 SQUARE FEET MORE OR LESS.

PARCEL TWO

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 103 & 104, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOT 104, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT FOUND AT THE INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY; THENCE NORTH 34° 24' 38" WEST FOR A DISTANCE OF 14.41 FEET TO A CONCRETE MONUMENT FOUND; THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE OF 207.58 FEET TO A 5/8" REBAR SET, SAID REBAR BEING THE POINT OF BEGINNING;

THENCE, SOUTH 42° 23' 51" WEST FOR A DISTANCE OF 296.73 FEET TO 5/8" REBAR SET. THENCE, NORTH 87° 35' 29" WEST FOR A DISTANCE OF 1798.57 FEET TO A 1" REBAR FOUND. THENCE, NORTH 87° 15' 57" WEST FOR A DISTANCE OF 277.54 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING SEVENTEEN (17) COURSES AND DISTANCES: NORTH 36° 16' 52" EAST FOR A DISTANCE OF 9.86 FEET TO A POINT. THENCE, NORTH 23° 23' 40" EAST FOR A DISTANCE OF 61.70 FEET TO A POINT. THENCE, NORTH 37° 23' 04" EAST FOR A DISTANCE OF 67.46 FEET TO A POINT. THENCE, NORTH 12° 36' 52" EAST FOR A DISTANCE OF 55.12 FEET TO A POINT. THENCE, NORTH 37° 12' 03" EAST FOR A DISTANCE OF 46.14 FEET TO A POINT. THENCE, NORTH 15° 52' 48" EAST FOR A DISTANCE OF 22.30 FEET TO A POINT. THENCE, NORTH 07° 40′ 56" WEST FOR A DISTANCE OF 60.60 FEET TO A POINT. THENCE, NORTH 13° 01' 06" EAST FOR A DISTANCE OF 48.80 FEET TO A POINT. THENCE, NORTH 10° 33' 37" EAST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 06° 05' 47" EAST FOR A DISTANCE OF 65.27 FEET TO A POINT. THENCE, NORTH 31° 41' 48" EAST FOR A DISTANCE OF 47.54 FEET TO A POINT. THENCE, NORTH 01° 50' 55" WEST FOR A DISTANCE OF 82.74 FEET TO A POINT. THENCE, NORTH 39° 15' 37" EAST FOR A DISTANCE OF 59.65 FEET TO A POINT. THENCE, NORTH 15° 25' 48" WEST FOR A DISTANCE OF 53.79 FEET TO A POINT. THENCE, NORTH 10° 11' 40" EAST FOR A DISTANCE OF 173.35 FEET TO A POINT. THENCE, NORTH 39° 51' 00" EAST FOR A DISTANCE OF 57.96 FEET TO A POINT. THENCE, NORTH 31° 19' 10" EAST FOR A DISTANCE OF 6.32 FEET TO A POINT. THENCE LEAVING THE CENTERLINE OF SAID CREEK, NORTH 59° 21' 20" EAST FOR A DISTANCE OF 59.92 FEET TO AN AXLE FOUND. THENCE, NORTH 61° 29' 30" EAST FOR A DISTANCE OF 945.63 FEET TO AN AXLE FOUND ON THE APPROXIMATE LAND LOT LINE OF LAND LOT 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE, SOUTH 30° 36' 56" EAST FOR A DISTANCE OF 701.70 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 30° 38' 44" EAST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE LEAVING SAID LAND LOT LINE, SOUTH 88° 13' 42" EAST A DISTANCE OF 395.65 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 42.11 ACRES OR 1,834,200 SQUARE FEET MORE OR LESS.

PARCEL THREE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 105, 1ST DISTRICT, NEWTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A COUNTY MARKER LOCATED AT THE COMMON INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY. THENCE, NORTH 34° 24 '38" WEST FOR A DISTANCE OF 14.45 FEET TO A CONCRETE MONUMENT FOUND. THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE ON 207.58 FEET TO A 5/8" REBAR SET. THENCE, NORTH 88° 13' 42" WEST FOR A DISTANCE OF 395.65 FEET TO A 1/2" REBAR FOUND ON THE COMMON LAND LOT LINE OF LAND LOT 103 AND LAND LOT 104. THENCE, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT

CORNER OF LAND LOTS 102, 103, 104, AND 105. THENCE, SOUTH 61° 29' 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A POPLAR TREE. THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET A 1/2" REBAR FOUND. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY ALONG A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 02° 43' 46", HAVING A RADIUS OF 2058.25 FEET, AND WHOSE LONG CHORD BEARS NORTH 61° 21' 40" WEST FOR A DISTANCE OF 98.05 FEET TO A 5/8" REBAR SET; SAID POINT BEING THE POINT OF BEGINNING:

THENCE LEAVING SAID RIGHT OF WAY, SOUTH 19° 08' 21" WEST FOR A DISTANCE OF 334.46 FEET TO A 1/2" REBAR FOUND, THENCE, SOUTH 26° 54' 13" WEST FOR A DISTANCE OF 198.17 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 561.62 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 19.72 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING FORTY TWO (42) COURSES AND DISTANCES, NORTH 85° 35' 42" WEST FOR A DISTANCE OF 50.57 FEET TO A POINT. THENCE, NORTH 52° 43' 46" WEST FOR A DISTANCE OF 71.69 FEET TO A POINT. THENCE, SOUTH 87° 26' 25" WEST FOR A DISTANCE OF 16.56 FEET TO A POINT. THENCE, NORTH 72° 51' 49" WEST FOR A DISTANCE OF 96.77 FEET TO A POINT. THENCE, NORTH 30° 22' 25" WEST FOR A DISTANCE OF 103.72 FEET TO A POINT. THENCE, NORTH 39° 56' 32" WEST FOR A DISTANCE OF 137.93 FEET TO A POINT. THENCE, NORTH 17° 34' 23" EAST FOR A DISTANCE OF 50.98 FEET TO A POINT. THENCE, NORTH 27° 42' 59" WEST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 73° 16' 20" WEST FOR A DISTANCE OF 52.92 FEET TO A POINT. THENCE, NORTH 22° 23' 26" WEST FOR A DISTANCE OF 82.88 FEET TO A POINT. THENCE, NORTH 72° 11' 17" WEST FOR A DISTANCE OF 36.19 FEET TO A POINT. THENCE, NORTH 28° 02' 33" WEST FOR A DISTANCE OF 59.27 FEET TO A POINT. THENCE, SOUTH 28° 42' 42" WEST FOR A DISTANCE OF 31.31 FEET TO A POINT. THENCE, SOUTH 72° 47' 59" WEST FOR A DISTANCE OF 30.67 FEET TO A POINT. THENCE, NORTH 01° 53' 15" EAST FOR A DISTANCE OF 22.87 FEET TO A POINT. THENCE, NORTH 34° 33' 06" WEST FOR A DISTANCE OF 27.38 FEET TO A POINT. THENCE, NORTH 85° 53' 44" WEST FOR A DISTANCE OF 63.38 FEET TO A POINT. THENCE, NORTH 16° 31' 13" WEST FOR A DISTANCE OF 73.56 FEET TO A POINT. THENCE, NORTH 57° 11' 16" WEST FOR A DISTANCE OF 25.33 FEET TO A POINT. THENCE, NORTH 34° 05' 41" WEST FOR A DISTANCE OF 54.30 FEET TO A POINT. THENCE, NORTH 47° 28' 00" WEST FOR A DISTANCE OF 182.00 FEET TO A POINT. THENCE, NORTH 88° 56' 09" WEST FOR A DISTANCE OF 35.31 FEET TO A POINT. THENCE, NORTH 25° 00' 19" WEST FOR A DISTANCE OF 80.05 FEET TO A POINT. THENCE, NORTH 76° 27' 01" WEST FOR A DISTANCE OF 98.21 FEET TO A POINT. THENCE, NORTH 21° 17' 54" WEST FOR A DISTANCE OF 95.57 FEET TO A POINT. THENCE, NORTH 63° 33' 03" WEST FOR A DISTANCE OF 19.58 FEET TO A POINT. THENCE, SOUTH 31° 09' 11" WEST FOR A DISTANCE OF 49.80 FEET TO A POINT. THENCE, SOUTH 86° 32' 27" WEST FOR A DISTANCE OF 28.65 FEET TO A POINT. THENCE. NORTH 02° 46' 11" WEST FOR A DISTANCE OF 105.94 FEET TO A POINT. THENCE, NORTH 29° 35' 39" WEST FOR A

DISTANCE OF 128.82 FEET TO A POINT. THENCE, NORTH 29° 17' 00" EAST FOR A DISTANCE OF 78.57 FEET TO A POINT. THENCE, NORTH 10° 15' 42" WEST FOR A DISTANCE OF 91.07 FEET TO A POINT. THENCE, NORTH 82° 33' 37" WEST FOR A DISTANCE OF 92.73 FEET TO A POINT. THENCE, NORTH 64° 06' 43" WEST FOR A DISTANCE OF 44.20 FEET TO A POINT. THENCE, NORTH 07° 19' 19" WEST FOR A DISTANCE OF 32.82 FEET TO A POINT. THENCE, NORTH 13° 23' 03" EAST FOR A DISTANCE OF 114.86 FEET TO A POINT. THENCE, NORTH 79° 45' 14" EAST FOR A DISTANCE OF 21.62 FEET TO A POINT. THENCE, NORTH 00° 40' 02" EAST FOR A DISTANCE OF 52.55 FEET TO A POINT. THENCE, NORTH 41° 16' 55" WEST FOR A DISTANCE OF 44.49 FEET TO A POINT. THENCE, NORTH 09° 10' 30" WEST FOR A DISTANCE OF 66.25 FEET TO A POINT. THENCE, NORTH 43° 06' 03" WEST FOR A DISTANCE OF 40.50 FEET TO A POINT. THENCE LEAVING SAID CREEK SOUTH 88° 27' 52" EAST A DISTANCE OF 20.00 FEET TO A 5/8" REBAR SET. THENCE, SOUTH 88° 27' 52" EAST A DISTANCE OF 131.91 FEET TO A 1/2" REBAR FOUND, THENCE, NORTH 01° 37' 02" EAST FOR A DISTANCE OF 165.67 FEET TO POINT ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY FOR THE FOLLOWING FIVE (5) COURSES AND DISTANCES: SOUTH 88° 22' 18" EAST FOR A DISTANCE OF 17.36 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 31° 12' 43.6", HAVING A RADIUS OF 1249.88 FEET, AND WHOSE LONG CHORD BEARS SOUTH 72° 45' 56" EAST FOR A DISTANCE OF 672.49 FEET. THENCE, SOUTH 57° 09' 30" EAST FOR A DISTANCE OF 229.67 FEET TO A POINT. THENCE, SOUTH 56° 54' 55" EAST FOR A DISTANCE OF 60.57 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 57° 01' 18" EAST FOR A DISTANCE OF 60.19 FEET TO A POINT. THENCE LEAVING SAID RIGHT OF WAY, SOUTH 32° 52' 20" WEST FOR A DISTANCE OF 404.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 89° 59' 12", HAVING A RADIUS OF 40.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 12° 08' 42" EAST FOR A DISTANCE OF 56.56 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, SOUTH 57° 08' 30" EAST FOR A DISTANCE OF 555.17 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 49° 40' 09", HAVING A RADIUS OF 25.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 21.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 50° 20' 59", HAVING A RADIUS OF 60.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 51.05 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE. NORTH 32° 52' 26" EAST FOR A DISTANCE OF 414.07 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY SOUTH 57° 11' 38" EAST A DISTANCE OF 121.34 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 02° 47' 59.4". HAVING A RADIUS OF 2050.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 58° 35' 38" EAST FOR A DISTANCE OF 100.17 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 33.49 ACRES OR 1,458,628 SQUARE FEET MORE OR LESS.

EXHIBIT E

FORM OF OPTION AGREEMENT

[Attached]

SPACE ABOVE	THIS LINE IS FOR RECORDING DATA	
After recording, please return to:		
Kevin T. Brown, Esq. Seyfarth Shaw LLP	Morgan County Tax Parcel IDs:	
1075 Peachtree Street NE – Suite 2500 Atlanta, Georgia 30309	Newton County Tax Parcel IDs:	
(404) 885-6768	Walton County Tax Parcel IDs:	
STATE OF GEORGIA)		
COUNTY OF MORGAN)		

OPTION AGREEMENT

THIS OPTION AGREEMENT (this "Agreement"), dated for purposes of reference as of March 1, 2021, is by and between the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY (hereinafter referred to as the "Issuer"), and BAYMARE LLC (hereinafter referred to as "Company"), the addresses for each of which are set forth in Section 5 of this Agreement.

WITNESSETH:

WHEREAS, the Issuer is issuing the Bonds (defined below) to acquire the Project (defined below) for lease to the Company; and

WHEREAS, the Issuer and the Company are contemporaneously entering into a Lease Agreement, of even date herewith (the "Lease"), relating to the Project; and

WHEREAS, the Company is only willing to execute the Lease and consummate the transactions contemplated by the Lease if it is granted the option to purchase the Project upon the terms and provisions as hereinafter set forth; and

[TO BE RECORDED IN MORGAN COUNTY, NEWTON COUNTY, AND WALTON COUNTY]

WHEREAS, in exchange for granting the option to purchase the Project, the Issuer will receive good and valuable consideration, including the Option Fee, defined below.

- **NOW, THEREFORE**, in consideration of the Lease and the transaction described therein, and in consideration of the Option Fee in hand paid by the Company to the Issuer, and other good and valuable consideration, the receipt and sufficiency of all of which is respectively hereby acknowledged by the parties hereto, and for the mutual covenants contained herein, the Issuer and Company hereby agree as follows:
- 1. **DEFINITIONS**. Capitalized terms that are used herein, but not defined herein, shall have the definitions set forth in the Lease. Also, for purposes of this Agreement, the following terms shall have the following meanings:
 - (a) "Bonds" means the Issuer's Taxable Revenue Bonds (Baymare LLC Project), Series 2021.
 - (b) "Closing" means the consummation of the purchase and sale transaction contemplated hereby as a result of the exercise (or deemed exercise) of the Option.
 - (c) "Closing Date" means the date prescribed herein for the consummation of the Closing under the Option.
 - (d) "Effective Date" means the date on which this Agreement is fully executed.
 - (e) "Issuer's Notice" shall have the meaning set forth in Section 3(a) herein.
 - (f) "Leased Land" means the land in Newton County, Georgia, described in Exhibit A hereto.
 - (g) "Option Fee" means the sum of \$10.
 - (h) "Option Term" means that period of time commencing on the date of delivery hereof and ending on the earlier of (1) thirty (30) days after the expiration or earlier termination of the Lease, or if the Issuer's Notice (as defined below) has not been provided by that date, then thirty (30) days following the date on which the Company receives the Issuer's Notice; or (2) December 31, 2046. The Option Term is subject to the terms of Section 3(a) below which extend such date.
 - (i) "Project" has the meaning ascribed to such term in the Lease.
 - (j) "Purchase Price" shall have the meaning set forth in Section 4(a) herein.
 - (k) "Permitted Encumbrances" is defined in the Lease.
- 2. GRANT OF OPTION. For the consideration recited above, the Issuer does hereby grant to the Company the exclusive right and option ("Option") to purchase the Project (as the same shall exist at the time of such purchase, subject to the Permitted Encumbrances) upon the terms and conditions as set forth herein.

3. EXERCISE OF OPTION.

- No later than June 30, 2046, but no earlier than December 31, 2045, but in all events prior to the expiration or termination of the Lease, the Issuer shall give written notice to the Company of the pending expiration of the Option (the "Issuer's Notice"). The Company may exercise the Option, at any time during the Option Term, by giving written notice thereof to the Issuer. If the Bonds have not theretofore been fully redeemed and if the Company is not then also the Bondholder, a copy of such notice shall also be given by the Company to the Bondholder at the address of the Bondholder as reflected on the Bond Register. Such notice shall specify a date and time of the Closing (the "Closing Date"), which shall be no earlier than thirty (30) days and no more than sixty (60) days following the date such notice is sent to the Issuer. The time, date and place of the Closing shall be on the Closing Date at such time, date and place in the metropolitan Atlanta area as the Company and the Issuer may agree. If no place is set, the Closing will be held at the offices of Seyfarth Shaw LLP in Atlanta, Georgia. In the event that the Company fails to exercise the Option under this Agreement during the Option Term, the Issuer promptly shall notify the Company of such failure and the Company shall be deemed to have exercised the Option within ten (10) days following such notice and the Option Term shall be deemed to have been extended through such date and the Option validly exercised. Notwithstanding any other provision of this Agreement to the contrary, in no event will the Option terminate without the consent of any Leasehold Mortgagee.
- (b) Any provision hereof to the contrary notwithstanding, if the Company gives notice of termination of the Lease pursuant to its right to do so thereunder (a "termination notice"), or if the Issuer, the Company or the Purchaser provides a notice of redemption with respect to the entire outstanding Principal Balance of the Bonds pursuant to the Bond Resolution (a "redemption notice"), such termination notice or redemption notice shall be deemed equivalent to, and shall have the same effect as, the Company's election to exercise the Option under this Agreement; provided, that the Closing Date in such case shall be the last day of the Term of the Lease as established by the termination notice given or the Closing Date will be date of redemption of the Bonds, as applicable. If any such termination notice is given, and if the Bonds have not theretofore been fully redeemed, and if the Company is not then also the Bondholder, a copy of such termination notice shall also be given by the Company to the Bondholder at the address of the Bondholder as reflected on the Bond Register.
- 4. CONTRACT FOR PURCHASE AND SALE OF PROPERTY. In the event that the Company exercises its Option (or it is deemed to have been exercised) as provided for in Section 3 or in the Lease, the Issuer agrees to sell and the Company agrees to buy the Project (as it then exists, by limited warranty deed and limited warranty bill of sale) in accordance with the following terms and conditions:
 - (a) <u>Purchase Price</u>. At the Closing, the Company shall pay the Purchase Price to the Issuer upon the exercise of the Option, which shall consist of (i) the Option Fee; (ii) the sum, if any, required to cause the Bonds to be retired in full if the Bonds have not been fully paid (if the Company is then the owner of the Bonds, the Company may mark the Bonds "cancelled" and surrender the Bonds to the Issuer and the Bonds will be deemed

paid in full); and (iii) all other sums, if any, then due to the Issuer or to the Bondholder from the Company as Additional Rent or Administrative Rent or otherwise payable under the Lease.

- (b) <u>Closing Procedure</u>. The consummation of the sale by the Issuer and the purchase by the Company of the Property is referred to as the "Closing" herein. At the Closing, the Issuer shall, upon payment of the Purchase Price, convey the Leased Land and the Leased Improvements to the Company by limited warranty deed and the Leased Equipment to the Company "as is, where is" by limited warranty bill of sale.
- (c) <u>Closing Costs</u>. All costs relating to the Closing, including, but not limited to, the reasonable fees and expenses of counsel to the Issuer, shall be paid by the Company.
- (d) <u>Default by the Issuer; Remedies of the Company</u>. In the event the Issuer fails to close the sale of the Project pursuant to the terms and provisions of this Agreement, the Company shall be entitled to sue for specific performance and to seek other available remedies at law and in equity, it being expressly understood that the Company shall not have an adequate remedy at law. In the event the Company is required to so pursue its remedies under this Agreement, the Company will be entitled to receive from the Issuer reimbursement of all attorneys' fees and expenses (including costs related to any lawsuit) incurred by the Company in pursuit of its remedies under this Agreement.
- (e) <u>Documents</u>. The Issuer and the Company agree that such documents as may be legally necessary or reasonably appropriate to carry out the terms of this Agreement (including delivery of any documents which are customary for commercial real estate transactions in Georgia) shall be executed and delivered by each party to the other at the Closing.

5. MISCELLANEOUS.

(a) <u>Notice</u>. All notices, demands and/or consents provided for in this Agreement shall be in writing and shall be either (i) delivered personally to the party or, if such party is not an individual, to an officer or other legal representative of the party to whom the same is directed, or (ii) mailed by registered or certified mail, return receipt requested, postage prepaid, or (iii) sent via nationally recognized overnight courier for next business day delivery, as follows, irrespective of such other addresses or office locations which a party has:

To the Issuer:

Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County

c/o Andrea P. Gray, Esq.

Attorney at Law 300 E. Church Street Monroe. Georgia 30655 If to the Company: Baymare LLC

c/o Tamaron Houston, Esq.

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

with a copy to: Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

Attention: Kevin T. Brown, Esq.

- (b) <u>Governing Law</u>. This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia.
- (c) <u>Successors and Assigns</u>. This Agreement shall apply to, inure to the benefit of and be binding upon and enforceable against the parties hereto and their permitted respective heirs, successors, and or assigns. The Issuer may not assign this Agreement except in connection with Issuer's assignment of all Issuer Documents as permitted by the Lease. The Company may assign this Agreement only in connection with an assignment of the Lease permitted by the terms and conditions thereof or with the consent of the Issuer.
- (d) <u>Headings</u>. The headings inserted at the beginning of each paragraph and/or subparagraph of this Agreement are for convenience of reference only and shall not limit or otherwise affect or be used in the construction of any terms or provisions hereof.
- (e) <u>Modification</u>. This Agreement may not be modified or amended unless such amendment is set forth in writing and executed by both the Issuer and the Company.
- (f) <u>Public Purpose of Option to Purchase</u>. The Issuer and the Company acknowledge that the Option constitutes a material inducement to the Company as provided in the Inducement and PILOT Agreement (as defined in the Lease), and that in granting such Option, the Issuer is considering the entire transaction as a whole, including the promotion and expansion for the public good and welfare industry, trade and commerce within the area served by the Issuer.
- (g) <u>Divisibility</u>. The rights and obligations of the Issuer and the Company contained in this Agreement shall be divisible of and severable from their respective rights and obligations contained in the Lease. The Option under this Agreement shall be fully enforceable against and binding upon the Issuer notwithstanding the termination, rejection, or disaffirmance of the Lease or a bankruptcy, insolvency or other legal proceeding or otherwise.
- (h) <u>Encumbrances</u>. Except as expressly permitted in the Lease, the Issuer shall not grant easements, rights-of-way licenses or other encumbrances, convey title to all or a portion of the Project, pledge, grant a security interest in, hypothecate or otherwise encumber its interest in the Project, impose restrictions, covenants or other agreements binding on the Project or approve or request variances or changing in zoning or other land use laws affecting the zoning.

- (i) <u>Time of the Essence</u>. Time is of the essence in the performance of the parties' obligations and observance of the terms and conditions contained in this Agreement.
- (j) <u>Rejection in Bankruptcy.</u> In the event the Issuer ever files a petition for relief or becomes the subject of a proceeding under any chapter or provision of Title 11 of the United States Code (the "Bankruptcy Code"), this Agreement, to the extent subject to rejection pursuant to the Bankruptcy Code, shall be subject to, and the Company shall be entitled to the full protections of, Section 365(i) of the Bankruptcy Code.
- (k) <u>Integration.</u> The parties hereto intend that all of the Bond Documents (as defined in the Lease) shall be taken together and are, and are intended to constitute, a single transaction and a single contract for all purposes, including under Section 365 of the Bankruptcy Code.
- (l) <u>Anti-corruption</u>. In connection with the negotiation and performance of this Agreement, (a) the Issuer represents and warrants that it has complied, and covenants that it shall comply, with all applicable laws, rules, and regulations, including anti-corruption legislation, and (b) the Issuer and the Company each represent and warrant to the other that it has used, and shall use, only legitimate and ethical business practices.

[SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed under seal.

Signed and sealed in the presence of:	JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY
Unofficial Witness	
	By:
	Name:
Notone Deblic	Title:
Notary Public	ATTEST:
My Commission Expires:	
	Name:
(NOTARY SEAL)	Title:
	[ISSUER'S SEAL]

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

[SIGNATURE PAGE TO OPTION AGREEMENT]

Signed and sealed in the presence of:	BAYMARE LLC, a Delaware limited liability company			
Unofficial Witness	By: Name: Title:	(SEAL		
Notary Public				
My Commission Expires:				
(NOTARY SEAL)				

EXHIBIT A

DESCRIPTION OF THE LEASED LAND

[TO BE CONFIRMED AND FINALIZED]

PARCEL ONE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 282, LAND LOTS 33, 34, 63, & 64, 19TH DISTRICT, MORGAN COUNTY; MILITIA DISTRICT 420, LAND LOTS 104 & 105, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOTS 74, 75, 102, 103, 104, & 105, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 (RIGHT-OF-WAY VARIES) 5138.19 FEET SOUTHEAST FROM THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE SOUTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 20 (RIGHT-OF-WAY VARIES), SAID POINT BEING THE POINT OF BEGINNING;

THENCE TRAVELING ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 THE FOLLOWING THREE (3) COURSES AND DISTANCES, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 125.00 FEET TO A POINT. THENCE, NORTH 56° 08' 19" EAST FOR A DISTANCE OF 70.71 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 4609.25 FEET TO A 5/8 REBAR SET. THENCE LEAVING SAID RIGHT-OF-WAY, SOUTH 72° 11' 50" EAST FOR A DISTANCE OF 49.03 FEET TO A 5/8 REBAR SET. THENCE, NORTH 16° 39' 41" WEST FOR A DISTANCE OF 6.43 FEET TO A 5/8 REBAR SET ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20. THENCE TRAVELING ALONG SAID RIGHT-OF-WAY THE FOLLOWING THIRTEEN (13) COURSES AND DISTANCES. SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 420.97 FEET TO A POINT. THENCE, SOUTH 32° 36' 25" EAST FOR A DISTANCE OF 96.33 FEET TO A POINT. THENCE, SOUTH 06° 38' 01" WEST FOR A DISTANCE OF 466.58 FEET TO A POINT. THENCE, SOUTH 83° 21' 59" EAST FOR A DISTANCE OF 100.00 FEET TO A 5/8 REBAR SET. THENCE, NORTH 06° 38' 01" EAST FOR A DISTANCE OF 466.58 FEET TO A 5/8 REBAR SET. THENCE, NORTH 39° 46' 13" EAST FOR A DISTANCE OF 70.33 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 799.31 FEET TO A POINT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 82° 07' 55" EAST FOR A DISTANCE OF 350.57 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 60° 55' 47" EAST FOR A DISTANCE OF 210.35 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 26° 45' 34" EAST FOR A DISTANCE OF 652.38 FEET TO A POINT. THENCE, SOUTH 78° 54' 18" EAST FOR A DISTANCE OF 457.32 FEET TO A 5/8" REBAR SET AT THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE COMMON LAND LOT LINE OF LAND LOTS 34 & 35. THENCE LEAVING SAID RIGHT OF WAY AND TRAVELING ALONG SAID COMMON LAND LOT LINE. SOUTH 43° 47' 03" WEST FOR A DISTANCE OF 2000.15 FEET TO A 1/2" REBAR INSIDE OF A 3" PIPE, SAID 1/2" REBAR ALSO BEING THE COMMON LAND LOT CORNER OF LAND LOTS 34, 35, 62 & 63. THENCE LEAVING SAID LAND LOT CORNER AND TRAVELING ALONG THE COMMON LAND LOT LINE OF LAND LOTS 62 & 63, SOUTH 44° 35' 24" WEST FOR A DISTANCE OF 3006.44 FEET TO THE COMMON LAND LOT CORNER OF LAND LOTS 62, 63, 65, & 66. THENCE LEAVING SAID LAND LOT CORNER, NORTH 41° 56' 19" WEST FOR A DISTANCE OF 450.35 FEET TO A 1" SQUARE POST. THENCE, NORTH 47° 53' 48" WEST FOR A DISTANCE OF 2554.71 FEET TO A CONCRETE MONUMENT. THENCE. SOUTH 89° 31' 08" WEST FOR A DISTANCE OF 602.34 FEET TO A 1/2" REBAR ON THE COMMON LAND LOT LINE OF LAND LOTS 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO 1/2" REBAR. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT CORNER OF LAND LOTS 102, 103, 104, & 105. THENCE LEAVING SAID LAND LOT CORNER, SOUTH 61° 29' 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A 30" POPLAR TREE.

THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET TO A 1/2" REBAR. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 01' 00" EAST FOR A DISTANCE OF 109.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 02° 50' 00" EAST FOR A DISTANCE OF 41.80 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 120.57 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 109.12 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 35' 43" WEST FOR A DISTANCE OF 104.15 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 45' 12" WEST FOR A DISTANCE OF 129.75 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 24' 52" EAST FOR A DISTANCE OF 190.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 58' 59" EAST FOR A DISTANCE OF 177.00 FEET TO A 5/8" REBAR SET. THENCE, NORTH 06° 21' 33" EAST FOR A DISTANCE OF 65.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 20' 22" EAST FOR A DISTANCE OF 68.42 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 19' 08" EAST FOR A DISTANCE OF 63.25 FEET TO A 5/8" REBAR SET. THENCE, NORTH 08° 21' 40" EAST FOR A DISTANCE OF 120.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 22° 51' 48" EAST FOR A DISTANCE OF 72.05 FEET TO A 5/8" REBAR SET. THENCE, NORTH 40° 06' 12" EAST FOR A DISTANCE OF 99.95 FEET TO A 5/8" REBAR SET. THENCE, NORTH 39° 30' 42" EAST FOR A DISTANCE OF 98.61 FEET TO A 5/8" REBAR SET. THENCE, NORTH 32° 05' 05" EAST FOR A DISTANCE OF 97.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 14° 33' 13" EAST FOR A DISTANCE OF 44.83 FEET TO A 5/8" REBAR SET. THENCE, NORTH 03° 34' 04" EAST FOR A DISTANCE OF 48.91 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 51' 13" WEST FOR A DISTANCE OF 119.07 FEET TO A 5/8" REBAR SET. THENCE, NORTH 15° 49' 00" WEST FOR A DISTANCE OF 150.56 FEET TO A 5/8" REBAR SET. THENCE, NORTH 17° 53' 59" EAST A DISTANCE OF 115.16 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 555.02 ACRES OR 24,176,550 SQUARE FEET MORE OR LESS.

PARCEL TWO

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 103 & 104, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOT 104, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT FOUND AT THE INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY; THENCE NORTH 34° 24' 38" WEST FOR A DISTANCE OF 14.41 FEET TO A CONCRETE MONUMENT FOUND; THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE OF 207.58 FEET TO A 5/8" REBAR SET, SAID REBAR BEING THE POINT OF BEGINNING;

THENCE, SOUTH 42° 23' 51" WEST FOR A DISTANCE OF 296.73 FEET TO 5/8" REBAR SET. THENCE, NORTH 87° 35' 29" WEST FOR A DISTANCE OF 1798.57 FEET TO A 1" REBAR FOUND. THENCE, NORTH 87° 15' 57" WEST FOR A DISTANCE OF 277.54 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING SEVENTEEN (17) COURSES AND DISTANCES: NORTH 36° 16' 52" EAST FOR A DISTANCE OF 9.86 FEET TO A POINT. THENCE, NORTH 23° 23' 40" EAST FOR A DISTANCE OF 61.70 FEET TO A POINT. THENCE, NORTH 37° 23' 04" EAST FOR A DISTANCE OF 67.46 FEET TO A POINT. THENCE, NORTH 12° 36' 52" EAST FOR A DISTANCE OF 55.12 FEET TO A POINT. THENCE, NORTH 37° 12' 03" EAST FOR A DISTANCE OF 46.14 FEET TO A POINT. THENCE, NORTH 15° 52' 48" EAST FOR A DISTANCE OF 22.30 FEET TO A POINT. THENCE, NORTH 07° 40' 56" WEST FOR A DISTANCE OF 60.60 FEET TO A POINT. THENCE, NORTH 13° 01' 06" EAST FOR A DISTANCE OF 48.80 FEET TO A POINT. THENCE, NORTH 10° 33' 37" EAST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 06° 05' 47" EAST FOR A DISTANCE OF 65.27 FEET TO A POINT. THENCE, NORTH 31° 41' 48" EAST FOR A DISTANCE OF 47.54 FEET TO A POINT. THENCE, NORTH 01° 50' 55" WEST FOR A DISTANCE OF 82.74 FEET TO A POINT. THENCE, NORTH 39° 15' 37" EAST FOR A DISTANCE OF 59.65 FEET TO A POINT. THENCE, NORTH 15° 25' 48" WEST FOR A DISTANCE OF 53.79 FEET TO A POINT. THENCE, NORTH 10° 11' 40" EAST FOR A DISTANCE OF 173.35 FEET TO A POINT. THENCE, NORTH 39° 51' 00" EAST FOR A DISTANCE OF 57.96 FEET TO A POINT. THENCE, NORTH 31° 19' 10" EAST FOR A DISTANCE OF 6.32 FEET TO A POINT. THENCE LEAVING THE CENTERLINE OF SAID CREEK, NORTH 59° 21' 20" EAST FOR A DISTANCE OF 59.92 FEET TO AN AXLE FOUND. THENCE. NORTH 61° 29' 30" EAST FOR A DISTANCE OF 945.63 FEET TO AN AXLE FOUND ON THE APPROXIMATE LAND LOT LINE OF LAND LOT 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE, SOUTH 30° 36' 56" EAST FOR A DISTANCE OF 701.70 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 30° 38' 44" EAST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE LEAVING SAID LAND LOT LINE, SOUTH 88° 13' 42" EAST A DISTANCE OF 395.65 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 42.11 ACRES OR 1,834,200 SQUARE FEET MORE OR LESS.

PARCEL THREE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 105, IST DISTRICT, NEWTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A COUNTY MARKER LOCATED AT THE COMMON INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY. THENCE, NORTH 34° 24 '38" WEST FOR A DISTANCE OF 14.45 FEET TO A CONCRETE MONUMENT FOUND. THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE ON 207.58 FEET TO A 5/8" REBAR SET. THENCE, NORTH 88° 13' 42" WEST FOR A DISTANCE OF 395.65 FEET TO A 1/2" REBAR FOUND ON THE COMMON LAND LOT LINE OF LAND LOT 103 AND LAND LOT 104. THENCE, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT

CORNER OF LAND LOTS 102, 103, 104, AND 105. THENCE, SOUTH 61° 29' 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A POPLAR TREE. THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET A 1/2" REBAR FOUND. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR FOUND, THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR FOUND, THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY ALONG A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 02° 43' 46", HAVING A RADIUS OF 2058.25 FEET, AND WHOSE LONG CHORD BEARS NORTH 61° 21' 40" WEST FOR A DISTANCE OF 98.05 FEET TO A 5/8" REBAR SET; SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT OF WAY, SOUTH 19° 08' 21" WEST FOR A DISTANCE OF 334.46 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 26° 54' 13" WEST FOR A DISTANCE OF 198.17 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 561.62 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 19.72 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING FORTY TWO (42) COURSES AND DISTANCES, NORTH 85° 35' 42" WEST FOR A DISTANCE OF 50.57 FEET TO A POINT. THENCE, NORTH 52° 43' 46" WEST FOR A DISTANCE OF 71.69 FEET TO A POINT. THENCE, SOUTH 87° 26' 25" WEST FOR A DISTANCE OF 16.56 FEET TO A POINT. THENCE, NORTH 72° 51' 49" WEST FOR A DISTANCE OF 96.77 FEET TO A POINT. THENCE, NORTH 30° 22' 25" WEST FOR A DISTANCE OF 103.72 FEET TO A POINT. THENCE, NORTH 39° 56' 32" WEST FOR A DISTANCE OF 137.93 FEET TO A POINT. THENCE, NORTH 17° 34' 23" EAST FOR A DISTANCE OF 50.98 FEET TO A POINT. THENCE, NORTH 27° 42' 59" WEST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 73° 16' 20" WEST FOR A DISTANCE OF 52.92 FEET TO A POINT. THENCE, NORTH 22° 23' 26" WEST FOR A DISTANCE OF 82.88 FEET TO A POINT. THENCE, NORTH 72° 11' 17" WEST FOR A DISTANCE OF 36.19 FEET TO A POINT. THENCE, NORTH 28° 02' 33" WEST FOR A DISTANCE OF 59.27 FEET TO A POINT. THENCE, SOUTH 28° 42' 42" WEST FOR A DISTANCE OF 31.31 FEET TO A POINT. THENCE, SOUTH 72° 47' 59" WEST FOR A DISTANCE OF 30.67 FEET TO A POINT. THENCE, NORTH 01° 53' 15" EAST FOR A DISTANCE OF 22.87 FEET TO A POINT. THENCE, NORTH 34° 33' 06" WEST FOR A DISTANCE OF 27.38 FEET TO A POINT. THENCE, NORTH 85° 53' 44" WEST FOR A DISTANCE OF 63.38 FEET TO A POINT. THENCE, NORTH 16° 31' 13" WEST FOR A DISTANCE OF 73.56 FEET TO A POINT. THENCE, NORTH 57° 11' 16" WEST FOR A DISTANCE OF 25.33 FEET TO A POINT. THENCE, NORTH 34° 05' 41" WEST FOR A DISTANCE OF 54.30 FEET TO A POINT. THENCE, NORTH 47° 28' 00" WEST FOR A DISTANCE OF 182.00 FEET TO A POINT. THENCE, NORTH 88° 56' 09" WEST FOR A DISTANCE OF 35.31 FEET TO A POINT. THENCE, NORTH 25° 00' 19" WEST FOR A DISTANCE OF 80.05 FEET TO A POINT. THENCE, NORTH 76° 27' 01" WEST FOR A DISTANCE OF 98.21 FEET TO A POINT. THENCE, NORTH 21° 17' 54" WEST FOR A DISTANCE OF 95.57 FEET TO A POINT. THENCE, NORTH 63° 33' 03" WEST FOR A DISTANCE OF 19.58 FEET TO A POINT. THENCE, SOUTH 31° 09' 11" WEST FOR A DISTANCE OF 49.80 FEET TO A POINT. THENCE, SOUTH 86° 32' 27" WEST FOR A DISTANCE OF 28.65 FEET TO A POINT. THENCE, NORTH 02° 46' 11" WEST FOR A DISTANCE OF 105.94 FEET TO A POINT. THENCE. NORTH 29° 35' 39" WEST FOR A

DISTANCE OF 128.82 FEET TO A POINT. THENCE, NORTH 29° 17' 00" EAST FOR A DISTANCE OF 78.57 FEET TO A POINT. THENCE, NORTH 10° 15' 42" WEST FOR A DISTANCE OF 91.07 FEET TO A POINT. THENCE, NORTH 82° 33' 37" WEST FOR A DISTANCE OF 92.73 FEET TO A POINT. THENCE, NORTH 64° 06' 43" WEST FOR A DISTANCE OF 44.20 FEET TO A POINT. THENCE, NORTH 07° 19' 19" WEST FOR A DISTANCE OF 32.82 FEET TO A POINT. THENCE, NORTH 13° 23' 03" EAST FOR A DISTANCE OF 114.86 FEET TO A POINT, THENCE, NORTH 79° 45' 14" EAST FOR A DISTANCE OF 21.62 FEET TO A POINT. THENCE, NORTH 00° 40' 02" EAST FOR A DISTANCE OF 52.55 FEET TO A POINT. THENCE, NORTH 41° 16' 55" WEST FOR A DISTANCE OF 44.49 FEET TO A POINT. THENCE, NORTH 09° 10' 30" WEST FOR A DISTANCE OF 66.25 FEET TO A POINT. THENCE, NORTH 43° 06' 03" WEST FOR A DISTANCE OF 40.50 FEET TO A POINT. THENCE LEAVING SAID CREEK SOUTH 88° 27' 52" EAST A DISTANCE OF 20.00 FEET TO A 5/8" REBAR SET. THENCE, SOUTH 88° 27' 52" EAST A DISTANCE OF 131.91 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 01° 37' 02" EAST FOR A DISTANCE OF 165.67 FEET TO POINT ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY FOR THE FOLLOWING FIVE (5) COURSES AND DISTANCES: SOUTH 88° 22' 18" EAST FOR A DISTANCE OF 17.36 FEET TO THE BEGINNING OF A CURVE, SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 31° 12' 43.6", HAVING A RADIUS OF 1249.88 FEET, AND WHOSE LONG CHORD BEARS SOUTH 72° 45' 56" EAST FOR A DISTANCE OF 672.49 FEET. THENCE, SOUTH 57° 09' 30" EAST FOR A DISTANCE OF 229.67 FEET TO A POINT. THENCE. SOUTH 56° 54' 55" EAST FOR A DISTANCE OF 60.57 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 57° 01' 18" EAST FOR A DISTANCE OF 60.19 FEET TO A POINT. THENCE LEAVING SAID RIGHT OF WAY, SOUTH 32° 52' 20" WEST FOR A DISTANCE OF 404.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 89° 59' 12", HAVING A RADIUS OF 40.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 12° 08' 42" EAST FOR A DISTANCE OF 56.56 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, SOUTH 57° 08' 30" EAST FOR A DISTANCE OF 555.17 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 49° 40' 09", HAVING A RADIUS OF 25.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 21.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 50° 20' 59", HAVING A RADIUS OF 60.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 51.05 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, NORTH 32° 52' 26" EAST FOR A DISTANCE OF 414.07 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY SOUTH 57° 11' 38" EAST A DISTANCE OF 121.34 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 02° 47' 59.4", HAVING A RADIUS OF 2050.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 58° 35' 38" EAST FOR A DISTANCE OF 100.17 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 33.49 ACRES OR 1,458,628 SQUARE FEET MORE OR LESS.

EXHIBIT F

FORM OF INDUCEMENT AND PILOT AGREEMENT

[Attached]

INDUCEMENT AND PILOT AGREEMENT

THIS INDUCEMENT AND PILOT AGREEMENT, dated for purposes of reference as of March 1, 2021 (as modified, supplemented, or amended from time to time, this "Agreement"), is hereby entered into by and among BAYMARE LLC, a Delaware limited liability company authorized to conduct business in Georgia (together with any successors or assigns thereof, the "Company"), and the JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY, a public body corporate and politic of the State of Georgia (the "Authority"), the BOARD OF TAX ASSESSORS OF MORGAN COUNTY (the "Morgan Assessors"), the BOARD OF TAX ASSESSORS OF NEWTON COUNTY (the "Newton Assessors"), and the BOARD OF TAX ASSESSORS OF WALTON COUNTY (the "Walton Assessors"; collectively the Morgan Assessors, the Newton Assessors and the Walton Assessors are referred to herein as the "Boards of Assessors"), and each of the same being a "Party" and collectively the "Parties" to this Agreement. All capitalized terms defined herein shall have the meanings so provided throughout this Agreement.

WITNESSETH:

WHEREAS, the Company is considering the acquisition of an approximately 628.54-acre tract of land (further defined below as the "Site") located within the geographical limits of a larger development known as Stanton Springs located in Morgan County, Georgia ("Morgan County"), Newton County, Georgia ("Newton County"), and Walton County, Georgia ("Walton County"), and the construction, installation, and equipping on the Site, in up to four phases (each, a "Phase" and collectively, the "Phases"), of a data center, including buildings, ancillary structures and infrastructure facilities (the "Improvements") and associated tangible personal property (the "Equipment" and, together with the Site and the Improvements, hereinafter, the "Project"). It is expressly acknowledged and agreed that the term "Project" means, initially, Phase 1, as defined below, and that the term Project will, as the context of this Agreement may permit or require, only include the additional Phases as, if, and when such Phases are constructed and equipped; and

WHEREAS, the Authority has agreed to lease the Project to the Company pursuant to that certain Lease Agreement (the "Lease Agreement"), to be executed by and between the Authority, as lessor, and the Company, as lessee, and in connection therewith the Authority agrees to issue revenue bonds (the "Bonds") in such amounts and at such times as shall be required to finance the Project, so that the Bonds, the Lease Agreement, this Agreement, and other related documents are implemented to achieve certain ad valorem tax benefits, including provision for the Company to make certain payments in lieu of taxes ("PILOT Payments") to the Authority in connection with the Project related to such ad valorem tax treatment, and for related purposes; and

WHEREAS, the Authority's willingness to maintain or obtain legal title to the Site and to assist the Company with the construction, installation, and equipping thereon of the Improvements and Equipment ultimately included in the Project and the issuance of the Bonds in furtherance of the benefits derived therefrom are material factors under consideration by the Company in connection with its determination to locate the Project within the jurisdiction of the Authority; and

WHEREAS, the Authority has been specifically authorized to negotiate the provisions of and to enter into this Agreement related to tax savings and PILOT Payments related to the Project, as well to perform other economic development services, by virtue of that certain Intergovernmental Contract RE: Revenue Sharing Agreement for Stanton Springs dated September 20, 2016 by and between Jasper County, Georgia ("Jasper County"), Morgan County, Newton County, Walton County, the Authority, the Jasper County School District, the Morgan County School District, the Newton County School District, and the Walton County School District (the "2016 Revenue Sharing IGA"), a true and correct copy of which is attached hereto as Exhibit A, and incorporated herein by reference to evidence said authorizations; and

WHEREAS, by virtue of those certain resolutions to be adopted by the respective boards of commissioners of Morgan County, Newton County, and Walton County, each dated March 2, 2021 (the "County Resolutions"), true and correct copies of the proposed forms of which are attached hereto as Exhibit B, the boards of commissioners will each approve the entry by its Board of Assessors into this Agreement relating to the determination of exemption and non-taxability of the Authority's interests and Company's interests in the Project, as well as the Authority's administration of the PILOT Payments; and

WHEREAS, the acquisition and construction of that portion of Phase 1 of the Project consisting of Improvements and Equipment will require a capital investment by the Company currently estimated at \$750,000,000, and the Company anticipates routinely investing and reinvesting in the acquisition and installation of Equipment in conjunction with Phase 1 of the Project, and any such additional Phases it ultimately builds, and the Project will increase employment by at least 50 persons after two years of completion of Phase 1 of the Project; and

WHEREAS, the Authority has determined that by agreeing to enter into the Lease Agreement described above, and by providing certain utility services, infrastructure improvements and other economic development incentives as more fully described in this Agreement, it will be acting in furtherance of public purposes for which it was created;

NOW, THEREFORE, in order to induce the Company to undertake Phase 1 of the Project, the mutual covenants contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by all of the Parties hereto, the Parties do hereby agree as follows:

ARTICLE I. REPRESENTATIONS AND WARRANTIES; CONDITIONS PRECEDENT

Section 1.1. <u>Representations and Warranties of the Authority</u>. The Authority represents and warrants to the Company as follows:

- (a) The Authority is duly established and created as a multijurisdictional, joint development authority under the Development Authorities Law of the State of Georgia, O.C.G.A. § 36-62-1. *et seq.*, as amended (the "Act"), in particular § 36-62-5.1 thereof.
- (b) The Authority has the requisite power to execute, deliver and perform the terms and provisions of this Agreement and has taken all necessary action to authorize the execution, delivery and performance by it of this Agreement. This Agreement has been

duly executed and delivered by the Authority and constitutes its legal, valid and binding obligation enforceable in accordance with its terms.

- (c) Neither the execution, delivery or performance by the Authority of this Agreement, nor compliance by it with the terms and provisions hereof, (i) will contravene any provision of any law, statute, rule or regulation or any order, writ, injunction or decree of any court or governmental instrumentality, (ii) will conflict or be inconsistent with or result in any breach of any of the terms, covenants, conditions or provisions of, or constitute a default under, or result in the creation or imposition of (or the obligation to create or impose) any lien, mortgage or other encumbrance upon any of the property or assets of the Authority pursuant to the terms of any indenture, mortgage, deed of trust, credit agreement, loan agreement or any other agreement, contract or instrument to which the Authority is a party or by which it or any of its property or assets is bound or to which it may be subject or (iii) will violate any provision of the bylaws of the Authority.
- Section 1.2. <u>Representations and Warranties of the Boards of Assessors</u>. The Morgan Assessors, Newton Assessors, and Walton Assessors each warrant as follows:
 - (a) The Boards of Assessors are each legally constituted and its members are serving in accordance with the laws of the State of Georgia.
 - (b) Each of the Boards of Assessors has the requisite power to execute, deliver, and perform the terms and provisions of this Agreement applicable to it, and each has taken all necessary action to authorize the execution, delivery and performance of this Agreement. This Agreement has been duly executed and delivered by each of the Boards of Assessors, as approved by the respective County Resolutions, and constitute legal, valid and binding obligations of each the Boards of Assessors enforceable in accordance with its terms.
- Section 1.3. Right of Termination; Conditions Precedent to the Closing. Prior to consummation of the transactions required to implement the structure as set forth herein (the "Closing"), it is acknowledged that the Company may elect at any time, in its sole discretion, but subject to its obligations in Section 8.4 of this Agreement, not to proceed with the Project and to terminate this Agreement. In addition to the foregoing right of termination and all other rights of the Company under this Agreement and as provided by law, if any one or more of the following conditions is not satisfied in a manner acceptable to the Company on or prior to the date on which the Lease Agreement is executed and delivered (the "Closing Date"), the Company may, in its sole discretion, (i) cancel and terminate this Agreement by written notice to the Authority or (ii) decline to cancel and terminate this Agreement and proceed to consummate the transaction contemplated hereby:
 - (a) Title to the Site shall be unencumbered, marketable and insurable title in fee simple absolute, subject only to such matters, exceptions, easements and other rights of third parties acceptable to the Company as set forth in the PSA (as defined in Section 2.1).
 - (b) In addition to the incentives set forth in this Agreement, if required by the Company, the Company shall have received (or the Authority shall have received for the

benefit of the Company or the Project) such incentives as the Company may require from the State of Georgia (the "State"), acting by and through its Department of Economic Development, all in a form acceptable to the Company.

- (c) The Bonds described in Section 6.1 hereof shall have been authorized and validated in accordance with Georgia law, which validation proceedings shall include the agreements described in Section 8.1 hereof.
- (d) Existing zoning, entitlement and development ordinances, rules, requirements and regulations affecting the Site shall permit the development, construction, and use of the Project without any amendment, variance, or special use permit or, if any such amendment, variance, or special use permit has been granted by all governmental authorities having jurisdiction and that at the expiration of any applicable appeal periods or, if an appeal or suit is filed, at the conclusion of any appeal or suit, such amendment, variance, or special use permit has not been further changed or withdrawn by the applicable governmental authority.
- (e) All conditions for the benefit of the Company set forth in the PSA have been satisfied (or waived, in writing, by the Company).
- (f) The Infrastructure Agreement (as defined in Section 7.2) shall be satisfactory to the Company as to final form and executed by the parties thereto.
- Section 1.4. <u>Independent Consideration</u>. Upon execution of this Agreement, the Company has delivered to the Authority, and the Authority acknowledges receipt of, fifty dollars (\$50.00) (the "**Independent Consideration**") as consideration for Authority's execution, delivery and performance of this Agreement. The Independent Consideration is in addition to and independent of any other consideration provided for in this Agreement, is non-refundable and shall be retained by Authority notwithstanding any other provisions of this Agreement.
- Section 1.5. Execution; Effective Date. The approval and proper execution of this Agreement by the Authority and each of the Boards of Assessors in the manner required by Georgia law prior to the Closing Date is a condition precedent to the Company's election to proceed to Closing. The Authority and the Boards of Assessors each represent and warrant to the Company by their respective executions of this Agreement, each has approved this Agreement at a duly notice and properly called public meeting of the same, and each has recorded the actions so taken in the respective official minutes of each such Party. So long as all Parties execute this Agreement on or before the Closing Date, this Agreement shall be effective as of March 1, 2021, irrespective of the actual subsequent date of approval and execution by the Parties (the "Effective Date").
- Section 1.6. <u>Effect of Termination</u>. If this Agreement is cancelled and terminated by the Company, as provided in this Article I, then upon any such cancellation and termination, neither party shall have any further duties, obligations or liabilities hereunder, except for any such obligations that expressly survive any cancellation or termination hereof.

ARTICLE II. THE SITE

Section 2.1. Acquisition of Site. The Site contains approximately 628.54 acres, owned or under contract to be owned by the Authority on or before Closing (the "Site"). The Company entered into a separate Purchase and Sale Agreement with the Authority to acquire the Site (the "PSA"), dated January 26, 2021. The Authority will act to dutifully close the contracts the Authority holds for the purchase of all parts of the Site under contract with third-parties so as to consummate the same and obtain clear and marketable title thereto prior to the consummation of the PSA and Closing Date. If the Company proceeds with the Project, the closing under the PSA shall occur simultaneously in accordance with the closing of the Bonds. On the Closing Date, the actual purchase price for the Site as set forth under the PSA shall be paid by the Company to the Authority, and, at the Company's election: (a) the Authority shall convey the Site to the Company, which shall then convey the Site back to the Authority, or (b) the Company shall be deemed to have conveyed the Site to the Authority at a price equal to the combined purchase price for the Site, paid from the proceeds of the initial installment of Bonds, and in either case, the Site shall then be leased by the Authority to the Company under the Lease Agreement.

Section 2.2. Environmental Representation. Certain environmental site assessments have been conducted with respect to the Site, copies of which have been previously provided to Company. Except with respect to any matter disclosed in the environmental assessment reports so delivered to Company, which are by this reference incorporated herein, the Authority shall represent and warrant in the Lease Agreement that it has not released nor does it have actual knowledge of the existence of any hazardous substances, hazardous wastes or regulated substances on any portion of the Site and that, to the best of its knowledge, no hazardous substances, hazardous wastes or regulated substances have been released or are present on any portion of the Site, and the Site is in compliance with all applicable Environmental Laws. As used in this subparagraph, "hazardous substances," "hazardous wastes," and "regulated substances" shall have the meanings set forth in the Comprehensive Environmental Response, Compensation, and Liability Act, 42 USC § 9601, et seq., the Georgia Hazardous Site Response Act, O.C.G.A. § 12-8-91, et seq., the Georgia Hazardous Waste Management Act, O.C.G.A. § 12-8-60, et seq., the Georgia Underground Storage Tank Act, O.C.G.A. § 12-13-1, et seq., and regulations adopted pursuant to such Acts, and shall include, without limitation, any petroleum or petroleum products, radioactive materials, asbestos that is or could become friable, and polychlorinated biphenyls; "Environmental Law" means any federal, state or local statute, law, rule, regulation, ordinance, code, policy or rule of common law in effect on the Closing Date and any then current judicial or administrative interpretation thereof, including any judicial or administrative order, regulation, consent decree or judgment, relating to the environment (including injuries to health arising by reason of environmental matters) or "hazardous substances," "hazardous wastes," and "regulated substances." including without limitation the Comprehensive Environmental Response. Compensation and Liability Act of 1980, the Resource Conservation and Recovery Act, the Federal Water Pollution Control Act, the Hazardous Materials Transportation Act, the Oil Pollution Act of 1990, Pub. Law 101-380, the Toxic Substances Control Act, the Clean Air Act, the Safe Drinking Water Act, the National Environmental Policy Act, the Federal Insecticide, Fungicide and Rodenticide Act, and their state or local counterparts or equivalents; in each of the foregoing cases, as amended as of the Closing Date.

Section 2.3. Environmental Indemnification By the Company. Under the Lease Agreement, from and after the Closing Date, the Company shall indemnify and hold the Authority and its directors, members, officers, employees and agents (the "Indemnified Parties") harmless from and against any and all damages, penalties, fines, claims, liens, suits, liabilities, costs (including clean-up costs), judgments and expenses (including attorneys', consultants' or experts' fees and expenses) of every kind and nature suffered by or asserted against any Indemnified Party as a direct or indirect result of any release by the Company or its contractors, invitees or agents of any hazardous substances, hazardous wastes or regulated substances (as those terms are defined in Section 2.2 above) in, on or from the Site, but only to the extent such hazardous substances, hazardous wastes or regulated substances were not present at the Site as of the Closing Date.

ARTICLE III. LEASE AGREEMENT

Section 3.1. <u>General</u>. On the Closing Date, the Authority, as lessor, and the Company, as lessee, shall enter into the Lease Agreement with respect to the Site. The Lease Agreement shall be in form and substance satisfactory to the Authority and the Company, conform with the understanding of the Parties as set forth herein relating to the nature of the interests created thereunder respectively in the Authority and the Company as to the Project, and shall include the following terms and provisions:

- (a) <u>Term.</u> The stated term of the Lease Agreement (the "Lease Term") shall commence on the Closing Date and shall end on the earlier of (i) December 31 of the calendar year that is twenty years following the calendar year in which a certificate of occupancy was issued with respect to Phase 1 of the Project (as defined and described in Section 5.2 hereof), and (ii) December 31, 2046 (the "Lease Termination Date").
- (b) <u>Impositions</u>. Subject to Section 4.1 regarding the non-taxable interest of the Company created under the Lease Agreement, the Company shall pay any and all insurance, taxes, utility charges and other Federal, State, or County charges of any kind whatsoever imposed upon or with respect to the construction, occupancy, operation, maintenance, and use of the Project.
- (c) <u>Insurance</u>. During the construction of the Project and throughout the term of the Lease Agreement, the Company shall keep the Project continuously insured against such risks and in such amounts as are customary with respect to similar facilities of like size and type. All liability insurance policies shall name the Authority as an additional insured party.
- (d) Rental Payments. The Lease Agreement shall contain terms and provisions substantially of the type normally included in bond leases between governmental "conduit" bond issuers and users of bond-financed property. The Lease Agreement shall provide for the Company, as tenant and lessee, to pay "Basic Rent" (i.e., rent equal to debt service on the Bonds, which shall be applied to such payment). The Lease Agreement shall also provide for the payment by the Company, as tenant and lessee, to the Authority of rent ("Administrative Rent") in an amount sufficient to reimburse the Authority for all out-of-pocket expenses and advances reasonably incurred by the Authority thereunder in connection with the Project subsequent to the execution of the Lease Agreement. The Lease

Agreement shall also require that the Company make the PILOT Payments as additional rent under the Lease Agreement (the "Additional Rent"). PILOT Payments will be made to the Authority on April 30 of each calendar year that PILOT Payments are due (and such due date will be subject to notice and cure periods as provided in the Lease Agreement). The Lease Agreement shall grant to the Company the option, at any time, to prepay Basic Rent in the amount needed to retire the Bonds.

- (e) <u>Indemnification</u>. The Lease Agreement shall provide customary and reasonable requirements for indemnification of the Authority, its members, officers, employees and representatives.
- (f) Assignment. The Lease Agreement shall not be assigned, in whole or in part, by the Company without the prior written consent of the Authority, which consent shall not be unreasonably withheld; provided, however, that no consent shall be required in the event (i) the assignee is an affiliate or subsidiary or the Company or (ii) the Company consolidates with or merges into another entity or permits one or more legal entities to consolidate with or merge into or transfer or convey all or substantially all of its assets to another legal entity, but only on the condition that the assignee legal entity or the legal entity resulting from or surviving such merger (if other than the Company) or consolidation or legal entity to which such transfer is made is then solvent, or (iii) the assignee is a "Qualified Real Estate Investor" (as that term will be defined in the Lease Agreement) and, in either (i), (ii), or (iii), shall expressly assume in writing and agree to pay and to perform all of the Company's obligations under the Lease Agreement. If the Company is the surviving entity in such a merger, the express assumption shall not be required.
- Purchase Option; Deed. Subject to the following provisions, the Company shall have the right, pursuant to a separate option agreement (the "Option Agreement"), to purchase marketable and insurable fee simple title to the Site and all Improvements and Equipment thereon, free and clear of all liens, mortgages, encumbrances, or other adverse rights except for (i) those in existence on the Closing Date, (ii) those created by the tenant under the Lease Agreement, and (iii) easements and similar rights entered into by the Authority at the request of the tenant during the term of the Lease Agreement. The option may be exercised at any time on or after the Closing Date as provided in the Option Agreement at a purchase price (the "Option Purchase Price") equal to (i) the payoff (principal and interest) of the balance due on any Bonds issued by the Authority at the request of the Company in connection with the Project as provided in the Lease Agreement, plus (ii) the additional purchase price amount set forth in the Option Agreement. A limited warranty deed, bill of sale, and such other documents as necessary to terminate, cancel and release documents made or of record in connection with the Bonds and the Lease, each executed by the Authority, will be delivered in escrow at the closing and held in escrow by an escrow agent mutually acceptable to the Authority and the Company pursuant to the terms of the Option Agreement and a document escrow agreement to be entered into by the Authority and the Company.
- (h) Appointment of Company as Agent. Under the Lease Agreement, the Authority shall appoint the Company in its capacity as tenant as the Authority's true and exclusive agent for the purpose of planning, designing, acquiring, constructing, equipping,

and carrying out the Project. In such capacity, the Company, in its capacity as tenant, shall be authorized to enter into such agreements and other contracts as it deems necessary in connection with the planning, designing, acquiring, constructing, equipping and carrying out of the Project.

(i) Other Terms. The Lease Agreement will include such other terms and conditions as are customary for transactions of this type.

ARTICLE IV. NO TAXATION; PAYMENTS IN LIEU OF TAXES

Section 4.1. No Taxation of Authority or Company Interests in Project. The Authority represents and warrants to the Company that under the Act, and the Authority and Boards of Assessors each agree that, under applicable laws of the State as of the date hereof, the Authority's interest in and to those portions of the Project which it owns or will own in Morgan County, Newton County, and/or Walton County is exempt from ad valorem property taxation pursuant to the Act. The Authority and the Boards of Assessors each further represent, warrant, and agree that the Company's interest in the real property comprising part of the Project as contemplated under the Lease Agreement will constitute a mere usufruct, and the Company's interest in the tangible personal property comprising part of the Project under the Lease Agreement will constitute a bailment for hire, neither of which are taxable estates or interests, and such interests will not constitute a taxable estate for years. Thus, the Authority and the Boards of Assessors each represent, warrant, and agree there will be no taxable interest in the Project during the pendency of the Lease Agreement and term of the Bonds. The Parties have agreed that, in consideration of the Lease Agreement, structuring of the Bonds, and other benefits, the Company as tenant and lessee under the Lease Agreement shall pay Additional Rent, as provided in Section 3.1(d) hereof, in the form of PILOT Payments on the dates and in the amounts set forth in Section 4.2 hereof and Schedule A.

Section 4.2. <u>PILOT Payments</u>. As provided in Sections 3.01(d) and 4.01 hereof, the Lease Agreement will provide that the Company in its capacity as tenant shall make PILOT Payments calculated as set forth in **Schedule A**. Failure to make such payments in accordance with the Lease Agreement (after written notice and the right to cure, as will be provided in the Lease Agreement) will, as the sole remedy of the Authority, allow the Authority to terminate the Lease Agreement and will obligate the Company to exercise (and will be deemed an exercise of) the option to repurchase the Project from the Authority on the terms contained in the Option Agreement.

Section 4.3. <u>Taxation Upon Termination of Lease Agreement</u>. At any time that the Lease Agreement is terminated with respect to the Project, the real property of the Project will be subject to *ad valorem* property tax based upon applicable law for the valuation and assessment of real property. The tangible personal property of the Project will be subject to *ad valorem* property tax based upon the application of the Appraisal Procedures Manual promulgated by the Georgia Department of Revenue for tangible personal property using the Group IV composite conversion factors under the basic cost approach to value as the same may be modified, amended or replaced from time to time. Early termination of the Lease Agreement will not affect any PILOT Payments on the Project for prior years.

Section 4.4. Intergovernmental Agreement. The Authority and the Board of Assessors are authorized to undertake the actions and provision of services described herein under provisions of Georgia general statutes and law, to wit: (i) the Board of Assessors are authorized both directly and to contract with others for the ascertainment, valuation, and determination of taxability of all manner of property in their respective Counties, including but not limited to those authorizations set forth under O.C.G.A. §§ 48-5-298, 48-5-299, and 48-5-305, (ii) and the Authority is authorized to undertake the financing and implementation of the Project, as well as the administration of the PILOT provisions and PILOT Payment, pursuant to the Act, including but not limited to those authorizations set forth under O.C.G.A. §§ 36-62-5.1(g), 36-62-6, and 36-62-9. As such, the provisions of this Agreement related to the determination of exemption and non-taxability of the Authority's and the Company's respective interests in the Project and administration of the PILOT Payments by the Authority and the provision of services by each as authorized by law shall collectively constitute an intergovernmental agreement under the Georgia Constitution Art. IX, Sec. III, Para. I by and between the Authority and each of the Boards of Assessors, and also as between each of the Boards of Assessors. Such intergovernmental agreement is subject to the 50-year term limit contained in such provision of the Georgia Constitution, but shall expire earlier upon its complete performance at the end of the term of the Lease.

ARTICLE V. INVESTMENT CONDITIONS

Section 5.1. Inducement. The Company acknowledges that the Project must be located within Morgan County, Newton County, and/or Walton County as contemplated herein in order to be eligible for the incentives extended by the Authority in this Agreement. The Company's responsibilities regarding capital investment and job creation in order to obtain the incentives shall be governed by this Article V. The Company's decision and agreement to locate the Project within the jurisdiction of the Authority will be based, in part, on the incentives being provided by the Authority and by the other public bodies, as described in this Agreement. Such incentives are being provided to induce the Company to locate the Project within the jurisdiction of the Authority, with attendant job creation and capital investment on the part of the Company, all of which constitutes valuable, non-cash consideration to the Authority and the citizens within its jurisdiction and throughout the State. The Authority acknowledges that the incentives provided for in this Agreement serve a public purpose through job creation and capital investment generation. In consideration of the incentives provided for in this Agreement, the Company has agreed that PILOT Payments will be required to be paid by the Company in its capacity as the tenant under the Lease Agreement for future Phases regardless of whether additional Phases of the Project are constructed following the construction of Phase 1. The following provisions of this Agreement, together with the Schedules attached hereto, are intended to further prescribe the foregoing intentions of the Parties.

Section 5.2. <u>Project Phases</u>. Subject to Section 1.3 of this Agreement and the terms of the Lease Agreement, in its capacity as the tenant under the Lease Agreement, the Company will construct Phase 1 as defined and described below; additional Phases may be constructed as described and defined below:

(a) Phase 1: Improvements and Equipment at an estimated cost of \$750,000,000 and with an estimated completion date on or before December 31, 2026;

- (b) <u>Phase 2</u>: Improvements and Equipment at an estimated cost of \$550,000,000 and with an estimated completion date on or before December 31, 2028;
- (c) <u>Phase 3</u>: Improvements and Equipment at an estimated cost of \$550,000,000 and with an estimated completion date on or before December 31, 2030; and
- (d) <u>Phase 4</u>: Improvements and Equipment at an estimated cost of \$550,000,000 and with an estimated completion date on or before December 31, 2032.

In connection with the foregoing, for each Phase actually constructed, the Company anticipates routinely investing and reinvesting in the acquisition and installation of the Equipment in conjunction with each such Phase of the Project it so constructs. In the event that the Company acquires the Site, conveys it to the Authority, and ultimately constructs and installs all four (4) Phases under and pursuant to the Lease Agreement, the overall level of capital investment is not expected to exceed the sum of all Bonds authorized to be issued by the Authority under its Bond Resolution and as described in Article VI, below.

ARTICLE VI. BONDS

Section 6.1. <u>Bonds</u>. At the request of the Company, the Authority agrees to issue the Bonds, which shall have the following terms:

- (a) <u>Basic Terms</u>. The principal amount, interest rate, maturity date, redemption provisions and other terms of the Bonds shall be as specified by the Company and approved by the Authority under the terms of its Bond Resolution. The Bonds shall mature on the Lease Termination Date.
- (b) <u>Security</u>. The Bonds will be secured by the Project and the Lease Agreement and other Pledged Security defined in the Bond Resolution.
- (c) <u>Authority Not Liable</u>. In accordance with applicable law, no recourse shall be had for the payment of the principal of, premium, if any, or interest on the Bonds against any officer, director, employee or agent of the Authority. The Bonds shall not be deemed to constitute a debt of Jasper County, Morgan County, Newton County, Walton County, the State of Georgia or any other political subdivision of the State of Georgia, or a pledge of the faith and credit of Jasper County, Morgan County, Newton County, Walton County, the State of Georgia or any political subdivision of the State of Georgia, but shall be payable solely from basic rent payments made under the Lease Agreement. The issuance of the Bonds shall not directly or indirectly or contingently obligate Jasper County, Morgan County, Newton County, Walton County, the State of Georgia or any political subdivision of the State of Georgia, to levy or pledge any form of taxation whatsoever therefore or to make any appropriation for the payment thereof.
- (d) <u>Sale of Bonds</u>. The Company, in its capacity as purchaser of the Bonds, shall assume total responsibility for the sale or placement of the Bonds. The Authority shall have no responsibility for finding a purchaser for the Bonds. The Company shall be responsible for all costs and expenses, including, without limitation, the Authority's

attorneys' fees and expenses (including the Authority's Bond Counsel), relating to the issuance and validation of the Bonds including the fees and expenses of the Company's bond counsel, and any financial advisors or other professionals engaged by the Company in connection with the Bonds. The Authority and the Company agree that the Company's bond counsel shall take the primary responsibility for drafting the Lease Agreement and all legal documents deemed necessary by the Company's bond counsel for the issuance of the Bonds (the "Bond Documents").

(e) <u>Company's Liability Limited to Interest in Project</u>. No official, member, manager, director, officer, agent, or employee of the Company will have any personal liability under or relating to this Agreement or any document entered into at Closing including the Lease Agreement. Rather, the agreements, undertakings, representations, and warranties contained in this Agreement are and will be construed only as corporate agreements. This provision will be set forth in the Lease Agreement and in such additional Closing documents as so requested by the Company.

ARTICLE VII. ADDITIONAL INCENTIVES

Section 7.1. Expedited One-Stop Permitting: Development Agreement. The Authority hereby covenants to provide, or cause to be provided, "expedited one-stop permitting" for the Project. Specifically, the Authority hereby appoints the Newton County Director of Planning and Development as the single point of contact for all local permitting necessary for the construction, occupancy, and operation of the Project (including all Phases of the Project and any expansion, alteration or replacement of the Project). The Authority agrees to give all applications for licenses, permits, and other related approvals relating to the construction, occupancy, and operation of the Project the highest priority and will use its best efforts to expedite the processing and approval thereof. The approval and execution of a "Development Agreement" by and between the Company and Newton County, which has been acknowledged and acceptable by Morgan County and Walton County either directly or by separate agreement, and in accordance with this Section 7.1 and substantially in the same form as attached hereto as Exhibit C, prior to the Closing Date, is a material inducement to the Company's decision to proceed with Closing and the Project.

Section 7.2. Infrastructure Agreement related to Frontage Road. As an additional inducement to the Company's decision to proceed with the Project, the Authority will have entered into an Infrastructure Construction Agreement (the "Infrastructure Agreement") with the Company relating to the construction of a (i) two-lane frontage road north of Interstate 20, between Highway 278 and Sewell Road, and (ii) a new spur south of Interstate 20 between the bridge and the Company's property boundary (collectively, the "Frontage Road") by the Authority and/or Walton County and/or Morgan County (as the Authority deems appropriate to accomplish the same). Under the Infrastructure Agreement, the Authority will agree to undertake responsibility for design, permitting, and construction of the Frontage Road, including coordination with Walton County and Morgan County as necessary to complete the Frontage Road under terms and within the timelines set forth in the Infrastructure Agreement. In return for the Authority's construction of the Frontage Road, upon the Authority meeting certain progress intervals as specified under the Infrastructure Agreement, the Company will provide funds, in the aggregate, of up to \$3,000,000, to be used by the Authority in connection with payment for or reimbursement of costs of construction of the Frontage Road. All such funds provided by the Company in furtherance of

construction of the Frontage Road shall be considered as additional fees to the Authority as set forth in Section 8.4(k) below, and as Additional Rent as defined under the Lease, though contingent upon the Authority's timely progress and completion of the Frontage Road as set forth in the Infrastructure Agreement. It shall be a condition precedent in favor of the Company that the Infrastructure Agreement be satisfactory to the Company in substantially the form as set forth in Exhibit D hereto, and executed by the parties to thereto prior to Closing.

ARTICLE VIII. MISCELLANEOUS

Section 8.1. <u>Definitive Documentation</u>. The Bond Resolution, Deed to Secure Debt, Assignment of Rents and Leases and Security Agreement (which will be entered into by the Authority in favor of the Company in its capacity as the purchaser of the Bonds), Lease Agreement, Bond Purchase Loan Agreement, and other related documents relating to the Bonds shall contain terms and provisions of the type generally utilized in connection with "conduit" bond issues. Such documents shall be subject to the written approval of the Company in its sole discretion. Prior to the Authority's adoption of the Bond Resolution, the Company shall provide to the Authority assurances in form and substance reasonably satisfactory to the Authority and its counsel regarding the Company's financial capacity to complete and operate Phase 1 of the Project and to perform its obligations hereunder and under the documentation described above.

Section 8.2. <u>No Diminution of Benefits</u>. The Parties acknowledge that the mutual benefits accruing to the Parties under this Agreement are the essence of the transactions contemplated herein.

Section 8.3. <u>Costs and Expenses</u>. On the Closing Date, the Company shall pay for the fees of the Authority's counsel and the Authority's Bond Counsel for review and negotiation of the Bond Documents as drafted by the Company's Bond Counsel, which shall be as reasonably set forth in amount by separate correspondence from the Authority's Counsel not fewer than fifteen (15) days prior to the Closing Date. The Authority shall defend, indemnify, and hold the Company harmless from any claims of brokers or finders hired by or on behalf of the Authority, and for any fees related to the acquisition of the Site by the Authority from any third-party, and the leasing thereof and ultimate conveyance thereof to the Company.

Section 8.4. Other Miscellaneous Provisions.

- (a) <u>Governing Law</u>. This Agreement shall be governed and construed under the laws of the State of Georgia.
- (b) Adverse Change. The Parties acknowledge that the Project is mutually beneficial and supports the substantial investments in the Project by each party as outlined herein. The Project is based on current laws, policies, regulations and commitments. If during the term of the Lease Agreement, the benefits to the Parties as contemplated herein are successfully challenged or are adversely affected by changes resulting from legislative changes or administrative or judicial interpretation of laws, policies or regulations, the Parties shall work in good faith and to the extent permitted by law to amend the economic development incentives provided herein so the Parties receive reasonably equivalent benefits contemplated herein as each party hereunder is obligated to provide as if such

laws, policies, regulations and commitments, or the interpretations thereof, had not changed.

- (c) Merger. Except for Section 8.4(b) above, all provisions of this Agreement which have not been performed and which are contemplated to survive will be incorporated in or, as the case may be, superseded by the documents entered into at the Closing.
- (d) Waiver of Sovereign Immunity. To the fullest extent permitted by law, the Authority waives any right it may have to assert or raise the defense of sovereign or governmental immunity in any civil action, whether at law or in equity whether brought in the courts of the Georgia or elsewhere, or in resistance to any arbitration proceeding or in the arbitration proceeding itself or in enforcement thereof, which action or proceeding arises under or is based upon this Agreement or any of the documents contemplated herein. This waiver of immunity shall also encompass, without limiting the foregoing, actions to impose and enforce equitable liens and related devices such as attachment or garnishment, irrespective of the source of funds to be attached or garnished. This waiver of immunity shall not be in derogation of any other waiver of immunity that may also be applicable to such action, proceeding or agreement.
- (e) <u>Notices</u>. All notices, approvals, consents, requests and other communications hereunder shall be in writing and shall be deemed to have been given when delivered by hand or mailed by first class registered or certified mail, return receipt requested, postage prepaid, or delivered by reputable courier (with charges prepaid), and addressed as follows, irrespective of such other addresses or office locations which a party has:

If to the Authority: Joint Development Authority of Jasper County,

Morgan County, Newton County and Walton County

c/o Andrea P. Gray, Esq.

Attorney at Law 300 E. Church Street Monroe, Georgia 30655

Email: Andrea@andreagray.com

If to the Company:

Baymare LLC

c/o Tamaron Houston, Esq.

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. - Suite 2500

Atlanta, Georgia 30309

Email: thouston@seyfarth.com

With a copy to:

Seyfarth Shaw LLP

1075 Peachtree Street, N.E. – Suite 2500

Atlanta, Georgia 30309

Attention: Kevin T. Brown, Esq. Email: kbrown@seyfarth.com

The parties referred to above may, by notice given in the manner provided hereunder, designate any further or different addresses to which subsequent notices, approvals, consents, requests or other communications shall be sent or persons to whose attention the same shall be directed.

- (f) <u>Binding Effect</u>. This Agreement shall inure to the benefit of and shall be binding upon the Authority, the Company, and the Boards of Assessors, and their respective successors and assigns; provided, however, the Company shall not be permitted to assign any of its rights and obligations hereunder to any person without the prior, written approval of the Authority except to the parent entity of the Company, and to any direct or indirect wholly owned subsidiary of the Company or of the parent entity of the Company, which assignments may be effected with notice to, but without the prior written approval of, the Authority. After Closing, the Lease Agreement will govern the Company's rights to assign any surviving rights and obligations under this Agreement.
- (g) <u>Severability</u>. If any provision hereof shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
- Immunity of Directors, Officers and Employees of the Authority. No (h) recourse shall be had for the enforcement of any obligation, promise, or agreements of the Authority contained in this Agreement for any claim based hereon or otherwise in respect hereof, against any past, present or future director, officer, employee, or agent of the Authority, as such, in his individual capacity, or any successors, either directly or through the Authority, whether by virtue of any constitutional provision, statute or rule of law, or by the enforcement of any assignment or penalty or otherwise; it being expressly agreed and understood that no personal liability whatsoever shall attach to, or be incurred by, any such past, present or future director, officer, employee or agent of the Authority, as such, either directly or through the Authority, or any successors, under or by reason of any of the obligations, promises or agreements entered into among the Authority and the Company whether contained in this Agreement or to be implied therefrom as being supplemental hereto, and that all personal liability of that character against every such director, officer, employee, or agent is, by the execution of this Agreement, and as part of the consideration therefore, expressly waived and released.
- (i) <u>Amendments</u>. This Agreement may not be amended or modified without the prior written consent of the Authority and the Company (or the Company's successor or assign).
- (j) <u>Counterparts</u>. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original, but all of which shall together constitute one and the same instrument.
- (k) <u>Authority's Fee</u>. The Company shall pay to the Authority a bond issuance fee in the amount of \$1,500,000, which shall be payable on the Closing Date.

(l) <u>Captions</u>. The captions and headings herein are for convenience only and in no way define, limit or describe the scope or intent of any provisions hereof

(m) <u>Confidentiality</u>; Press Releases.

- The Authority understands the importance to the Company and the Authority to keep matters relating to the Project and this Agreement strictly confidential until such matter is publicized with the consent of the Company. Accordingly, each Party agrees to treat, and cause their respective officers. directors, employees and agents to treat, as strictly confidential to the fullest extent permitted by law, the contents of this Agreement and all information provided with respect to the Project, including, without limitation, the location, size, type and ownership or operation of the Project. The Parties acknowledge and agree that the Authority and Board of Assessors are each subject to the State of Georgia's open meetings requirements set forth in O.C.G.A. § 50-14-1, et seq. (the "Open Meetings Act"), as well as the State of Georgia's open records requirements set forth in O.C.G.A. § 50-18-70, et seq. (the "Open Records Act"), as each of the foregoing may be amended, subject to certain exceptions and as supplemented or replaced from time to time. Subject to the obligation of the Authority to comply with the Open Meetings Act and the Open Records Act, the Authority will provide to the Company via email to the listed counsel addressees above within one (1) business day after receipt of any public records request for documents relating to this Agreement, the Project, the Lease Agreement, the Bond Documents, or any Bonds issued by the Authority in connection with the Project, written notice of such public records request, a copy of the request, and the Authority's intended response to such request.
- The Company may designate any trade secrets or confidential business information included in any report or other writing delivered to the Authority pursuant to or in connection with this Agreement by any method intended to clearly set apart the specific material that the Company claims to be either its trade secrets or confidential business information that, if released, would give an advantage to competitors of the Company and serve no public purpose (such information, collectively, "Confidential Business Information"). Subject to the obligation of the Authority to comply with the Open Records Act, and to the extent permitted by § 50-18-72 thereof, the Authority (a) shall redact or delete from any records it makes available for inspection or of which it provides copies any material designated by the Company as Confidential Business Information and (b) within one (1) business day following the Authority's receipt of any request to provide copies of public records relating to this Agreement or the Project or for inspection of the same by any third party, shall give written notice and a copy of such request to the Company via email to the listed counsel addressees above, a copy of the Authority's written response and shall provide the Company the opportunity to contest (within the timeframe permitted by applicable law) the right of any party to inspect or receive copies of the records or to inspect such records without redaction of the Confidential Business Information. The costs, damages, if any, and attorneys fees in any proceeding commenced by the Company to prevent or enjoin the release

of Confidential Business Information in any public records relating to this Agreement or the Project shall be borne by the Company.

- (iii) In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Authority and the Company hereby agree to affirmatively cooperate in defending said action. The Company and the Authority agree to cooperate to defend against any legal action seeking specific performance, declaratory relief or injunctive relief, to set court dates at the earliest practicable date(s) and not cause delay in the prosecution/defense of the action, provided such cooperation shall not require any party to waive any rights.
- (iv) Except as required by law, neither the Authority nor the Boards of Assessors shall make any public announcement, whether oral or written, regarding the Parties entering into this Agreement or the terms and conditions hereof, or otherwise use the Company's name or any of the Company's trademarks, in each case without the prior written consent from the Company as to both the substance and form of such announcement or use.
- (n) <u>Compliance with Laws</u>. Nothing contained herein shall be construed to require the Authority to violate any Federal, State or Local laws, as interpreted in the Authority's sole and absolute discretion including but not limited to requirements under the Open Records Act and the Open Meetings Act.
- (o) <u>Integration</u>. The Parties intend that all of the Bond Documents (as defined in the Lease) shall be taken together and are, and are intended to constitute, a single transaction and a single contract for all purposes, including under section 365 of the Bankruptcy Code.
- (p) Anti-corruption. In connection with the negotiation and performance of this Agreement, (a) the Authority and the Boards of Assessors each respectively represent and warrant on their own behalf, that they have complied, and covenant that they shall comply, with all applicable laws, rules, and regulations, including anti-corruption legislation, and (b) the Authority, the Boards of Assessors, and the Company each respectively represent and warrant to the other Parties that it has used, and shall use, only legitimate and ethical business practices.

[REMAINDER OF PAGE INTENTIONALLY BLANK; SIGNATURES BEGIN ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the Authority and the Company have each caused this Agreement to be executed and delivered by their respective duly authorized representatives, all as of the Effective Date.

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY

Аттеsт:	By: Name: Chairman	
Name: Secretary		
[SEAL]		

BAYMARE LLC,

a Delaware limited liability company

Ву:				
	Name:			
	Title:			

BOARD OF TAX ASSESSORS OF MORGAN COUNTY

By:			_	
	Name:			
	Title:			

BOARD OF TAX ASSESSORS OF NEWTON COUNTY

Ву:			
J	Name: Title:		

BOARD OF TAX ASSESSORS OF WALTON COUNTY

Ву:				-
	Name:			
	Title:			

SCHEDULE A

SCHEDULE OF PILOT PAYMENTS

In consideration of the premises and provisions set forth under the Lease Agreement, the Company will make payments in lieu of taxes directly to the Authority, in care of Andrea P. Gray at 300 E. Church Street, Monroe, Georgia 30655 in the form of Additional Rent paid to the Authority, as lessor under the Lease Agreement, in the amounts set forth below, as more particularly described in Section 3.01(d) and Article IV of this Agreement.

	Phase	Commencement Date of PILOT Payments (Earlier of) ¹	Amount of Annual PILOT Payments to Issuer per Phase ²
1	Building(s) and associated personal property	April 30 of the year following issuance of a final certificate (or certificates) of occupancy for Building(s) containing 900,000 square feet of interior space or April 30, 2027	\$2,000,000
2	Building(s) and associated personal property	April 30 of the year following issuance of a final certificate (or certificates) of occupancy for Building(s) containing 400,000 square feet of interior space (not including the square footage of any portion of Phase 1) or April 30, 2029	\$1,000,000
3	Building(s) and associated personal property	April 30 of the year following issuance of a final certificate (or certificates) of occupancy for Building(s) containing 400,000 square feet of interior space (not including the square footage of any portion of Phase 1 or Phase 2) or April 30, 2031	\$1,000,000
4	Building(s) and associated personal property	April 30 of the year following issuance of a final certificate (or certificates) of occupancy for Building(s) containing 400,000 square feet of interior space (not including the square footage of any portion of Phase 1, Phase 2 or Phase 3) or April 30, 2033	\$1,000,000

¹ PILOT payments commence even if the applicable Phase 1 is not completed, and such PILOT payments will continue until the earlier to occur of (i) twenty (20) years from the commencement date of such PILOT Payments or (ii) the expiration or earlier termination of the Lease Term.

² Upon commencement of each phase of PILOT payments, the aggregate annual PILOT payments will include those PILOT payments that have already commenced. For example, on the earlier of (i) April 30 of the year following the issuance of a final certificate of occupancy for any building in Phase 4 or (ii) April 30, 2033, the aggregate annual PILOT payments will equal \$5,000,000.

EXHIBIT A

2016 REVENUE SHARING IGA

[ATTACHED]

INTERGOVERNMENTAL CONTRACT RE: REVENUE SHARING AGREEMENT FOR STANTON SPRINGS

THIS INTERGOVERNMENTAL CONTRACT ("Contract"), made and entered into as of the day of d

WITNESSETH:

WHEREAS, on October 18, 2000, the Authority acquired an approximately 1,528-acre site which has been expanded to now total approximately 1,635 acres (the "Property"), which site is located in Morgan, Newton, and Walton Counties, in order to proceed with the development of a research park known as Stanton Springs; and

WHEREAS, to acquire the Property, the Authority issued, and the Counties agreed to make debt service payments on, taxable adjustable revenue bonds in the amount of \$9,000,000.00 (the "Bonds");

WHEREAS, by separate intergovernmental contracts dated October 1, 2000, the Counties agreed to make debt service payments on the Bonds based on the following percentages:

Jasper County	10.0%
Morgan County	15.0%
Newton County	37.5%
Walton County	37.5%;

WHEREAS, Article IX, Section III, Paragraph I(a) of the Georgia Constitution authorizes, among other things, any county, municipality, or other political subdivision of the State to contract for a period not exceeding fifty years, with any other public agency, public corporation, or public authority for joint services, for the provision of services, or for the provision or separate use of facilities or equipment, provided that such contract deals with activities, services or facilities which the contracting parties are authorized by law to undertake or provide; and

WHEREAS, Article IX, Section IV, Paragraph IV of the Georgia Constitution authorizes counties and municipalities to enter into contracts with other counties and municipalities for the

purpose of allocating the proceeds of ad valorem taxes assessed and collected on property located in such county or municipality with such other counties or municipalities with which the assessing county or municipality has entered into agreements for the development of one or more regional facilities and the allocation of other revenues generated from such regional facilities, and that such a contract shall provide for the manner of development, operation and management of the regional facility and the sharing of expenses among the contracting local governments and shall specify the method of allocation and the percentage of ad valorem taxes and other revenues to be allocated to each contracting local government; and

WHEREAS, On December 2, 2004, the Authority and the Counties entered into an Intergovernmental Contract ("2004 Contract") which, among other things, specified the distribution of revenues, tax payments and payments in lieu of taxes collected on or in connection with the Property;

WHEREAS, the 2004 Contract apportioned distribution of revenues, tax payments and payments in lieu of taxes to the Counties based on the percentage of debt service the Counties agreed to pay on the Bonds as stated above;

WHEREAS, the parties desire to clarify and amend the procedures for collection and distribution of tax revenues from 2004 to 2015 and from 2016 forward; and

WHEREAS, for clarity, this Agreement shall supersede the 2004 Contract.

NOW THEREFORE, for and in consideration of the premises and undertakings as hereinafter set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority, Counties and School Districts HEREBY AGREE as follows:

1.

The preamble and recitals above make up a part of the terms, conditions and provisions of this Contract.

2.

This Contract shall become effective upon execution by all parties and shall continue in effect for fifty (50) years.

3.

Definitions

- a. **Debt Service Obligations**: Debt Service Obligations are the Authority's obligations which are currently outstanding and any future debt service obligations incurred by the Authority with the approval of the Counties. The Authority's Debt Service Obligations as of the date of this Contract are summarized and attached hereto as Exhibit "A".
- b. Collecting Counties: Counties in which the Property lies shall levy, collect and distribute ad valorem taxes in accordance with the terms herein.

2

- c. *Expenses:* Expenses shall be defined as any costs incurred by the Authority as allowed under Georgia law for the development of the Property plus the sum of reasonable reserves for maintenance, operations, and expenses.
- d. *Net Other Revenues*: Net Other Revenues are Other Revenues minus the Authority's Expenses and Debt Service Obligations.
- e. Net Tax Revenues: Net Tax Revenues are Tax Revenues minus the Authority's budgeted Expenses and Debt Service Obligations not otherwise paid from Other Revenues.
- f. Other Revenues: Other Revenues are revenues generated from the Authority's activities including but not limited to, sales of land, leases of land, sales or leases of personalty, sales of timber or other resources and fees. Other Revenues shall not include any fees specifically allocated to the Authority in connection with a bond issuance.
- g. *Property*: The Property is all 1,635 acres currently located in the development park known as Stanton Springs and any land added to Stanton Springs in the future.
- h. *Stanton Springs*: Stanton Springs is the name of the research development park in which the Property is located.
- i. Tux Revenues: Tax Revenues are all ad valorem taxes levied by the Counties and the School Districts on real and personal property in Stanton Springs. This includes all payments in lieu of taxes, tax abatement payments, taxes assessed on leasehold interests, board of education taxes, taxes collected for special assessments for specific services, general obligation bonds, and any and all other ad valorem property taxes collected. Tax Revenues shall not include taxes collected by a county department other than the chief tax collector including, but not limited to, sales taxes, insurance premium taxes, intangible taxes, real estate transfer taxes, railroad taxes, franchise fees, occupational taxes, alcohol taxes, and financial institution taxes. Tax Revenues shall also not include ad valorem title taxes on motor vehicles. Tax Revenue shall not include ad valorem taxes collected on behalf of and due the State of Georgia. Finally, Tax Revenues shall not include any penalties or interest collected for late payments; any such penalties and interest shall be retained by the Collecting County.

4.

Distribution of Tax Revenues 2004 - 2015

From 2004 to 2015, Tax Revenues were generated from portions of the Property located in Newton and Walton Counties. Said Tax Revenues were collected by Newton and Walton Counties and distributed in accordance with their millage rates without taking into account the 2004 Contract. Newton County has partially repaid the other Counties for overpayments it received. Newton County and the Newton County School District agree to individually repay any additional amounts they received that exceeded the amounts they should have received pursuant to the 2004 Contract. Walton County agrees to repay the full amount of any overpayment it collected without seeking contributions from the Walton County School District. The amounts of all repayments to be paid by Newton County, the Newton County School District and Walton County to the other Parties are set forth in Exhibit "B". All repayments shall be payable solely from amounts received pursuant to this Contract.

Commencing in 2020, all revenues otherwise payable to Newton County, Newton School District, and Walton County under this Contract shall be first used to repay the amounts set forth in Exhibit "B" until such time as the payback amounts are paid in full. Starting in 2020, the Collecting Counties shall deduct from the Net Tax Revenues due Newton County, Newton County School District and Walton County the amounts due from these Parties and distribute said monies as shown on Exhibit "B". It is anticipated that the payback amounts will be satisfied in 2020.

5.

Authority's Obligations

The Authority hereby agrees as follows:

- a. The Authority shall collect and deposit in a separate account any and all Other Revenues.
- b. The Authority shall collect and deposit in a second separate account any and all Tax Revenues distributed to it by the Collecting Counties.
- c. The Authority shall pay its Expenses and Debt Service Obligations first from Other Revenues and then from Tax Revenues.
- d. The Authority shall prepare an operating budget report annually to include its projected Expenses, Debt Obligations, Other Revenues and Tax Revenues for the 12-month period from July 1-June 30. The operating budget shall specify the amount of Tax Revenues necessary for the Authority to meet its budget requirements for the Authority's Expenses and Debt Service Obligations not otherwise paid by Other Revenues. A copy of said operating budget shall be delivered to the Counties on or before the last day of January of each year with a copy to each School District. If the Authority's fiscal year is not June 1 July 30, the Authority shall prepare a budget for its fiscal year and upon adoption shall deliver copies to the Counties and the School Districts.
- e. The Authority's current Debt Service Obligations are listed on attached Exhibit "A". The Counties shall approve all new Debt Service Obligations.
- f. The Authority shall distribute Net Other Revenues for the prior year to the Counties on or before March 15 of each year in accordance with their payout percentages as follows:
 - 1. Jasper County shall receive 10.0%;
 - 2. Morgan County shall receive 15.0%;
 - 3. Newton County shall receive 37.5%; and
 - 4. Walton County shall receive 37.5%.
- g. The Authority shall cause to be performed an annual independent audit of its finances. Said audit shall be included in the Authority's budgeted expenses which shall be paid using Other Revenues or Tax Revenues when necessary. A copy of the audit shall be distributed to all parties to this Contract.

Counties' Obligations and Consent

The Counties hereby agree as follows:

- a. The Property that comprises Stanton Springs lies in Morgan, Newton and Walton Counties.
- b. The Counties in which the Property lies (the "Collecting Counties") shall collect and declare any and all Tax Revenues generated from real property and personal property lying on or in the Property, and the chief tax collection officers of the Collecting Counties shall supervise a separate accounting for said Tax Revenues so as to segregate said collections from other County tax revenues. As compensation for the Collecting Counties' duties hereunder, the Collecting County shall be entitled to a commission of 2.5% of any amounts otherwise payable by the Collecting County to any other County or School District.
- c. The Collecting Counties shall, before January 1 of each year, prepare a report of all Tax Revenues collected by said County and deliver a copy of said annual report to the Counties, School Districts, and the Authority simultaneously with its annual remittance.
- d. Between January 31 and the last day of February each year, the Counties may submit to the Authority and the Counties a written objection to the Expenses stated in the Authority's operating budget. Said objection shall specify the grounds for the objection. Pending resolution of the objection, the Collecting Counties shall remit Tax Revenues to the Authority in the amount of its operating budget approved for the prior year. No Tax Revenues may be distributed to the Counties or School Districts until the objection is resolved.
- e. If no objections are submitted, on or before March 15 of each year, the Collecting Counties shall remit Tax Revenues to the Authority in an amount sufficient to meet the Authority's annual budget requirements for the Authority's Expenses and Debt Service Obligations not otherwise budgeted to be paid by Other Revenues as established by the Authority's annual budget report. If more than one County collects Tax Revenues in a given year, each Collecting County shall pay a pro rata share of the Authority's budget based on that County's share of the total taxes collected.
- f. The Collecting Counties shall determine Net Tax Revenues to be remitted to the Counties and School Districts by subtracting from Tax Revenues the funds paid to the Authority in accordance with subparagraph (d).
- g. The Collecting Counties shall remit Net Tax Revenues contemporaneously to each of the Counties and the Walton, Newton and Morgan School Districts in accordance with the following:
 - i. Jasper County shall receive 10.0% of the said Net Tax Revenues with payments to be divided between Jasper County and the Jasper County School District based on a separate intergovernmental agreement (2.5% of said amount shall be withheld as commissions for the Collecting County). The Collecting County is not responsible for making payments, if any due, to the Jasper County School District;
 - ii. Morgan County and the Morgan County School District shall collectively receive 15.0% of the said Net Tax Revenues with payments divided between Morgan

- County and the Morgan County School District based upon their proportionate millage rates (2.5% of said amounts shall be withheld as commissions for the Collecting County);
- iii. Newton County and the Newton County School District shall collectively receive 37.5% of the said Net Tax Revenues with payments divided between Newton County and the Newton County School District based on their proportionate millage rates (2.5% of said amounts shall be withheld as commissions for the Collecting County) after both have paid in full the payback amounts for taxes collected from 2004 to 2015 as detailed in Section 4 and shown on Exhibit B;
- iv. Walton County and the Walton County School District shall collectively receive 37.5% of the said Net Tax Revenues with payments divided between Walton County and the Walton County School District based on their proportionate millage rates (2.5% of said amounts shall be withheld as commissions for the Collecting County) after Walton County has paid in full the payback amounts for taxes collected from 2004 to 2015 as detailed in Section 4 and shown on Exhibit B.
- h. Other Revenues distributed to the Counties by the Authority may be used at the Counties' discretion.
- i. No later than January 1 of each year, Morgan, Newton and Walton County shall provide to the chief tax collection officer of the Collecting Counties the percentage split of Net Tax Revenues between that County and that County's School District based on the proportion of the prior year's millage rate of that County to the millage rate of that County's School District. The chief tax collection officer of the Collecting Counties shall use such percentage to calculate the amount of Net Tax Revenues that Newton, Morgan and Walton Counties and their respective School Districts are to be paid.
- j. Any tax refunds due property owners in Stanton Springs shall be paid by the Collecting County in the time period prescribed by law (O.C.G.A. § 48-5-380, 241). The Collecting County shall be reimbursed by the Counties and School Districts based on their pro rata share of the refund amount. The Collecting County shall invoice the Counties and School Districts.
- k. Should the Collecting County deem it in the best interest of the parties to conduct an external tax audit of real and./or personal property attributed to a tenant(s) in Stanton Springs, said audit shall be paid for by the Counties and School Districts based on their pro rata shares.

7.

2016 and 2017 Budgets and Tax Collections and Distributions

The parties understand and acknowledge this Contract will take effect past the time allotted for the Authority to prepare and submit an operating budget report for the 12-month period from July 1, 2016 through June 30, 2017. Therefore, notwithstanding the budget report process outlined in Section 5 above, the Authority will submit to the Counties and School Districts interim financial reports for the period from January 1, 2016 through June 30, 2016 and an operating budget for the period from July 1, 2016 through June 30, 2017 within 60-days of the

execution of this Contract. The Collecting Counties shall pay on behalf of the parties hereto the Authority's 2016 actual year to date Expenses and Debt Service Obligations as of June 30, 2016 and its projected July 1, 2016 through June 30, 2017 projected Expenses and Debt Service Obligations not otherwise paid by Other Revenues with Tax Revenues levied in 2016 in accordance with Paragraph 6 above. On or before the last day of January, 2017, the Authority shall submit its operating budget for the 12-month period from July 1, 2017 through June 30, 2018 in accordance with the provisions of Paragraph 5 above. If the amounts levied in 2016 do not fully cover the Authority's 2016 actual expenditures and 2017 budget, the Authority shall add the amounts not covered to the following year's budgets until such time as the Authority is made whole.

8.

Authority Budget and Expenses

- a. The parties understand and acknowledge the annual operating budgets prepared by the Authority are based on its estimate of reasonable and foreseeable expenses.
- b. In the event the Authority's actual expenditures are less than budgeted expenditures, any excess Tax Revenues received from the Collecting Counties shall be distributed to the Counties in accordance with Paragraph 5(f).
- c. In the event the Authority's actual expenditures exceed budgeted expenditures due to unforeseen circumstances, including but not limited to the location or expansion of a new business within Stanton Springs or litigation, reimbursement of those expenses shall be included in the budget for the following fiscal year. Within thirty (30) days of the Authority becoming aware it will incur unbudgeted expenses, the Authority shall provide the Counties and School Districts with an estimate of the unbudgeted expenditure and an explanation of the circumstances giving rise to the expenditure.
- d. In the event the Authority's annual operating budget exceeds the Other Revenues and Tax Revenues levied and collected in any given year, the Authority shall fund the balance of its budgeted operating expenses as follows:
 - i. Provided the Authority has access to an existing, County-approved, line of credit with a financial institution, the Authority shall make draws from said line of credit to meet its budget requirements for that year. Repayment of funds drawn from the line of credit shall then be added to the Authority's budgets for the following fiscal years until said funds, including any interest thereon, have been repaid in full; or
 - ii. If the Authority does not have access to an existing, County-approved line of credit, the Authority shall send invoices for the balance of its budgeted operating expenses to the Counties within thirty (30) days of the Authority's receipt of its share of the Tax Revenues from the Collecting County or Counties. Said invoices shall reference each County's share of the balance of the Authority's budgeted operating expenses based on the agreed upon percentages as follows:

1. Jasper County shall pay 10.0%:

- 2.Morgan County shall pay 15.0%;
- 3. Newton County shall pay 37.5%; and
- 4. Walton County shall pay 37.5%.

9.

Example of Accounting

For purposes of clarity in accounting, below are examples:

Example 1:

Assumptions:

2016: Newton County Tax Commissioner collects \$100,000 in Tax Revenues

Walton County Tax Commissioner collects \$300,000 in Tax Revenues

Total Tax Revenues: \$400,000

Authority's Budget reflects: \$0 in Other Revenues

\$25,000 in Expenses

\$25,000 in Debt Service Obligations

Percentage split between Morgan County and Morgan County School District based upon proportionate millage rates – 35% and 65%

Percentage split between Newton County and Newton County School District based upon proportionate millage rates -40% and 60%

Percentage split between Walton County and Walton County School District based upon proportionate millage rates – 30% and 70%

Amounts Due by March 15, 2017:

From Newton County Tax Commissioner to Authority:

$$$50,000 \times .25 = $12,500$$

From Newton County Tax Commissioner to Jasper County:

$$\$87,500 \times .10 = \$8,750 \text{ minus } (8,750 \times .025) = \$8,531.25$$

From Newton County Tax Commissioner to Morgan County:

$$\$87,500 \times .15 \times .35 = \$4,593.75 \text{ minus } (4,593.75 \times .025) = \$4,478.91$$

From Newton County Tax Commissioner to Morgan County School District:

$$\$87,500 \times .15 \times .65 = \$8,531.25 \text{ minus} (8,531.25 \times .025) = \$8.317.97$$

From Newton County Tax Commissioner to Walton County:

$$\$87,500 \times .375 \times .30 = \$9,843.75 \text{ minus } (9,843.75 \times .025) = \$9,597.66$$

From Newton County Tax Commissioner to Walton County School District:

$$\$87,500 \times .375 \times .70 = \$22,968.75 \text{ minus } (22,968.75 \times .025) = \$22,394.53$$

From Newton County Tax Commissioner to Newton County School District:

$$\$87,500 \times .375 \times .60 = \$19,687.50 \text{ minus } (19,687.50 \times .025) = \$19,195.31$$

From Newton County Tax Commissioner to Newton County:

From Walton County Tax Commissioner to Authority:

$$$50,000 \times .75 = $37,500$$

From Walton County Tax Commissioner to Jasper County:

$$262,500 \times .10 = 26,250 \text{ minus} (26,250 \times .025) = 25,593.75$$

From Walton County Tax Commissioner to Morgan County:

$$262,500 \times .15 \times .35 = 13,781.25 \text{ minus} (13,781.25 \times .025) = 13,436.72$$

From Walton County Tax Commissioner to Morgan County School District:

$$262,500 \times .15 \times .65 = 25,593.75 \text{ minus} (25,593.75 \times .025) = 24,953.91$$

From Walton County Tax Commissioner to Newton County:

$$262,500 \times .375 \times .40 = 39,375 \text{ minus} (39,375 \times .025) = 38,390.62$$

From Walton County Tax Commissioner to Newton County School District:

$$262,500 \times .375 \times .60 = 59,062.50 \text{ minus} (59,062.50 \times .025) = 57,585.94$$

From Walton County Tax Commissioner to Walton County School District:

$$262,500 \times .375 \times .70 = 868,906.25 \text{ minus} (68,906.25 \times .025) = 867,183.59$$

From Walton County Tax Commissioner to Walton County:

$$$262,500 \times .375 \times .30 = $29,531.25 \text{ plus commissions of }$656.25 + $344.53 + $639.84 + $984.38 + $1,476.56 + $1,722.66 = $35,355.47$$

Example 2:

Assumptions:

2016: Walton County Tax Commissioner collects \$100,000 in Tax Revenues

Authority's Budget reflects: \$150,000 in Other Revenues from timber sales

\$25,000 in Expenses

\$25,000 in Debt Service Obligations

Percentage split between Morgan County and Morgan County School District based upon proportionate millage rates – 35% and 65%

Percentage split between Newton County and Newton County School District based upon proportionate millage rates – 40% and 60%

Percentage split between Walton County and Walton County School District based upon proportionate millage rates – 30% and 70%

Amounts Due by March 15, 2017:

From Authority to Jasper County:

 $100,000 \times 10 = 10,000$

From Authority to Morgan County:

 $100,000 \times .15 = 15,000$

From Authority to Newton County:

 $100,000 \times .375 = 37,500$

From Authority to Walton County:

 $100,000 \times .375 = 37,500$

From Walton County Tax Commissioner to Jasper County:

 $100,000 \text{ x} \cdot 10 = 10,000 \text{ minus} (10,000 \text{ x} \cdot .025) = 9,750$

From Walton County Tax Commissioner to Morgan County:

 $100,000 \times .15 \times .35 = 5,250 \text{ minus} (5,250 \times .025) = 5,118.75$

From Walton County Tax Commissioner to Morgan County School District:

 $100,000 \text{ x} \cdot 15 \text{ x} \cdot 65 = 9,750 \text{ minus} (9,750 \text{ x} \cdot .025) = 9.506.25$

From Walton County Tax Commissioner to Newton County:

 $100,000 \times .375 \times .40 = 15,000 \text{ minus} (15,000 \times .025) = 14,625$

From Walton County Tax Commissioner to Newton County School District:

$$100,000 \times .375 \times .60 = 22,500 \text{ minus} (22,500 \times .025) = 21,937.50$$

From Walton County Tax Commissioner to Walton County School District:

$$100,000 \times .375 \times .70 = 26,250 \text{ minus} (26,250 \times .025) = 25,593.75$$

From Walton County Tax Commissioner to Walton County:

 $100,000 \times .375 \times .30 = 11,250$ plus commissions of 250 + 131.25 + 243.75 + 375 + 562.50 + 656.25 = 13,468.75.

10.

School District Consent

To the extent permitted by law, the Jasper County, Morgan County, Newton County and Walton County School Districts ("School Districts") hereby expressly consent to the terms, provisions, agreements and requirements herein and waive any rights or claims to Tax Revenues other than those specifically referenced herein.

11.

Economic Development Negotiations

In order to be competitive in the economic development marketplace, the Authority is hereby authorized to negotiate with prospective business and industrial purchasers or tenants for payments in lieu of ad valorem taxation or tax abatements consistent and in accordance with applicable law(s).

12.

Centralized Inspection and Building-Permitting

- a. It is to the benefit of the parties that the development of the Property occurs in a consistent manner. Therefore, the parties hereby agree the inspection and building-permit function for development within the Property shall be handled by a single planning and zoning department; and
- b. Provided a mutually satisfactory agreement is reached for reimbursement of Walton County's costs and expenses, the Walton County Planning and Development Department shall be initially responsible for the inspection and permitting functions required for development within the Property. The designation of the responsible department may be changed by resolution of the Authority.

General

- a. Should any clause, sentence or paragraph herein contained be held invalid or unconstitutional, it shall in nowise affect the remaining provisions of this Contract, which shall otherwise remain in full force and effect.
- b. This Contract may be executed in several counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.
- c. This Contract shall be construed and enforced in accordance with the laws of the State of Georgia.
- d. This Contract supersedes and replaces the 2004 Contract rendering the 2004 Contract null and void.

14.

Notices

All notices, correspondence, payments and other communications required under this Contract shall be delivered to:

For the Authority:

Chairman
5100 Davis Academy Road
Rutledge, Georgia 30663
With a copy to:
Andrea P. Gray, Attorney at Law
P.O. Box 826
Monroe, Georgia 30655

For Jasper County:

Jasper County Board of Commissioners Attn: Chair, Board of Commissioners 126 W. Green Street Suite 18 Monticello, GA 31064

For Jasper County School District:

Chairman
1411 College Street
Monticello, Georgia 31064
With a copy to:
Cory Kirby

Harben, Hartley & Hawkins, LLP Wells Fargo Center, Suite 750 340 Jesse Jewell Parkway Gainesville, Georgia 30501

For Morgan County:

Morgan County
Attn: County Manager
150 East Washington Street
Suite 100
Madison, GA 30650
With a copy to:
Christian G. Henry
204 Thomason Street
Suite B
Madison, GA 30650

For Morgan County School District:

Morgan County School System
1065 East Ave
Madison, GA 30650
With a copy to:
Cory Kirby
Harben, Hartley & Hawkins, LLP
340 Jesse Jewell Parkway
Wells Fargo Center, Suite 750
Gainesville, GA 30501

For Newton County:

Chairman of the Newton County Board of Commissioners
1124 Clark Street
Covington, GA 30014
With a copy to:
Megan Martin
County Attorney
Jarrard & Davis, LLP
105 Pilgrim Village Drive, Suite 200
Cumming, GA 30040

For Newton County School District:

Superintendent NCBOE 2109 Newton Drive Covington, GA 30014 With a copy to: General Counsel NCBOE P.O. Box 1469 Covington, GA 30015

For Walton County:

Walton County Finance Department 303 S. Hammond Drive, Suite 333 Monroe, Georgia 30655 With a copy to: Walton County Tax Commissioner 303 S. Hammond Drive, Suite 100 Monroe, Georgia 30655

For Walton County School District:

Walton County School District
200 Double Springs Church Rd.
Monroe, GA 30656
Attention: Superintendent
With a copy to:
Michael C. Pruett
Hall Booth Smith, P.C.
440 College Ave., Suite 120
Athens, Georgia 30601

IN WITNESS WHEREOF, the parties, action by and through their duly authorized officers, have caused this Contract to be executed in multiple counterparts under seals as of the day and year first above written.

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the 12 day of 500 day., 2016, by and between Jasper County, Morgan County, Newton County, Walton County, Jasper County School District, Morgan County School District, Newton County School District, Walton County School District and the Joint Development Authority of Jasper, Morgan, Newton, and Walton Counties]

JASPER COUNTY, GEORGIA

By:

Chairman, Board of Commissioners

of Jasper County

(SEAL)

Attest:

Clerk, Board of Commissioners

of Jasper County

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the day of 2016, by and between Jasper County, Morgan County, Newton County, Walton County, Jasper County School District, Morgan County School District, Walton County School District and the Joint Development Authority of Jasper, Morgan, Newton, and Walton Counties]

JASPER COUNTY SCHOOL DISTRICT

By:

Chairman, Jasper County School District

(SEAL)

Attest:

Secretary

MORGAN COUNTY, GEORGIA

By: Danald

Chairman, Board of Commissioners

of Morgan County

(SEAL)

Attest:

Clerk Board of Commissioners

of Morgan County

NEWTON COUNTY, GEORGIA

Ву: /

Chairman, Board of Commissioners

of Newton County

GRONG STATES

Attest:

Clerk, Board of Commissioners

of Newton County

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the 13 day of 500 cm., 2016, by and between Jasper County, Morgan County, Newton County, Walton County, Jasper County School District, Morgan County School District, Newton County School District, Walton County School District and the Joint Development Authority of Jasper, Morgan, Newton, and Walton Counties]

WALTON COUNTY, GEORGIA

y. I jews ou

Chairman, Board of Commissioners

of Walton County

CEORGIA ATTENTION COUNTY

Clerk, Board of Commissioners

of Walton County

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the 13 day of 10 day

WALTON COUNTY SCHOOL DISTRICT

By:

Chairman/

(SEAL)

Attest:

Secretary

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the 12 day of September, 2016, by and between Jasper County, Morgan County, Newton County, Walton County, Jasper County School District, Morgan County School District, Newton County School District, Walton County School District and the Joint Development Authority of Jasper, Morgan, Newton, and Walton Counties]

MORGAN COUNTY SCHOOL DISTRICT

The soul

By:

Chairman

(SEAL)

Attest:

Secretary

R. Woodad

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the 1/10 day of 1/2008 , 2016, by and between Jasper County, Morgan County, Newton County, Walton County, Jasper County School District, Morgan County School District, Newton County School District, Walton County School District and the Joint Development Authority of Jasper, Morgan, Newton, and Walton Counties]

NEWTON COUNTY SCHOOL DISTRICT

Chairman

By:

(SEAL)

Attest:

Secretary

[Execution Page for INTERGOVERNMENTAL CONTRACT Re: REVENUE SHARING, made and entered into as of the 3 day of _______, 2016, by and between Jasper County, Morgan County, Newton County, Walton County, Jasper County School District, Morgan County School District, Walton County School District and the Joint Development Authority of Jasper, Morgan, Newton, and Walton Counties]

JOINT DEVELOPMENT AUTHORITY OF JASPER, MORGAN, NEWTON AND WALTON COUNTIES

ala A. Vinn

By:

Chairman

(SEAL)

Exhibit A

Joint Development Authority of Jasper, Morgan, Newton and Walton Counties

Summary of Debt Obligations included in the Revenue Sharing Agreement

<u>Debt</u>	<u>Use</u>	<u>Year</u> incurred	Original Amount	Paid to Date	Balance	Maturity	Interest Rate	<u>Security</u>	<u>Counties'</u> <u>Authorization</u>	<u>Notes</u>
Bank of Madison Loan	Fund a portion of the Parkway	2007	\$ 2,600,000	\$ 1,255,518	\$ 1,344,482	2025	prime + 1.5%	Land & pledge of tax revenues from Baxalta	Resolutions passed by all four Counties in January 2016	
Bank of Madison Line of Credit	Line of Credit to fund expenses and debt service payments	2016		\$600,000 cre	dit limit	2023	prime + 1.5% with 15% cap and 5% min	Land & pledge of tax revenues from Baxalta	Resolutions passed by all four Counties in January 2016	
GEFA Note	Fund a portion of Shire pretreatment facility	2013	\$ 5,900,000	\$ ·	\$5,900,000 +\$430,086 Cap Interest=\$6,330,086	2048	1.82%	Full faith and credit of four counties	IGA signed by all four Counties on January 7, 2013	Payments commence in 2018 when Shire tax revenues are projected to start

Notes: The Authority has two existing debt obligations which are paid pursuant to separate intergovernmental agreements and are therefore not included under the Revenue Sharing Agreement. These debts are as follows:

^{1.} In 2000, the Authority issued bonds to purchase 1,531 acres in the amount of \$9,000,000.00. The bonds are secured by the full faith and credit of the four counties which make quarterly payments. The bonds will be paid in full in 2020.

^{2.} In 2002, the Authority obtained a loan from the Georgia Environmental Finance Authority to construct preliminary water & sewer lines in the amount of \$487,760.00. Pursuant to a July 23, 2002 Intergovernmental Agreement, the Newton County Water & Sewer Authority took over repayment of the Counties' portion of the loan in 2015 and will continue to make payments on the Counties' behalf until paid in full.

Exhibit B

Tax Payback Calculations for Taxes Collected in Newton and Walton Counties from 2004 to 2015

Newton County County taxes collected School taxes collected Yotal Yaxes	5	168,340.88 259,600.22 427,941.10															
	Jasp	ėr (10%)		100000	More	an County (1	5 %) (86)			Newton County (37.5	%)			Walton County (37.5	%)	T	
Amount Due per payout percentages Money Paid by Newton County Balance Due Portion Due from School Portion Due from County		Total 42,794.11 13,907.99 28,886.12 25,870.82 3,015.30	\$ \$ \$	64,191.17 20,861.98	Coun	1Y (42.29X)) (57.71%)	\$ Total 160,477.91	<u>County (41.55%)</u>	School (58.34%)	\$ \$ \$ \$	Total 160,477.91 52,154.95 108,322.96 97,015.59 11,307.37	County (38.11%)	School (61.89%)	\$ \$ \$ \$	Totals 427,941.10 86,924.92 180,538.27 161,692.65 18,845.62
Offset from 5 owed from Walton County												5	32,343.30				
Total Amounts due in 2020*																	
Net Due from Newton School Net Due from Newton County		25,870.82 3,015.30		38,806.24 4,522.95	\$ \$	16,411.16 1,912.76		22,395.08 2,610.19	•			\$	77,282.94 (1,303.28)				141,960.00 6,234.97

Walton County																			***************************************
County taxes collected		29,758.42																	
School taxes collected	•	56,490.38																	
Total Taxes	s	86,248.80																	
	Jasp	er (10%)			Morgan Cour	ity (15	X)		1	Newton Coun	y (37.55	X)				Walton County (37	.5%)	т	***************************************
	١.	Total		Total	County (42.7	226)	School (57,71%)	П	Tota!	County (41	66%)	School (S8	1.34%)		Total	County (38,11%)	School (61.89%)	7	Totals
Amount Due	18	8,624.88	S	12,937.32				S	32,343.30					S	32,343.30			\$	86,248.80
Money Paid by Walton County	1							1											
Babnce Due	5	8,624.88	\$	12,937.32				S	32,343,30				1					5	53,905.50
Newton County's Portion	1					1.4		1.					i						
	i i		100			100,00		5	12,610.65									1	
Offset from \$ owed from Newton								\$	11,307.37									1	
Total amounts due in 2020*	1							1											
	١.																	1	
Net Due from Walton County	1 5	8,524.88	5	12,937.32	5 5,471	.19	7,466.13	1.5	1,303.28	\$ 5	42.95	\$	760.33					15	22,865.48

Newton/Walton Offset School:		
Newton School owes Walton	s	97,015.59
Walton County owes Newton Schools	s	19,732.65
Net Due Walton	\$	77,282.94
County:		
Walton County owes Newton	5	17,610.65
Newton County owes Walton	5	11,307.37
Ret Due Newton	\$	1,303.28
Total net due Walton	5	75,979.66

The percentage breakdowns between monies owed to each County and School District were calculated using the 2015 millage rates for each County/School District as published by the Georgia Department of Revenue

"Amounts due under this agreement are payable solely from Tax Revenues received to payment of the amounts due as shown on this spreadsheet.

EXHIBIT B

RESOLUTIONS OF: MORGAN COUNTY BOARD OF COMMISSIONERS NEWTON COUNTY BOARD OF COMMISSIONERS

WALTON COUNTY BOARD OF COMMISSIONERS

[EACH ATTACHED]

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF MORGAN COUNTY. GEORGIA, **AUTHORIZING** THE **BOARD** OF **TAX** ASSESSORS **OF MORGAN** COUNTY TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY, THE BOARD OF TAX ASSESSORS OF NEWTON COUNTY, AND THE BOARD OF TAX ASSESSORS OF WALTON COUNTY, REGARDING **PROJECT** BAYMARE, AND RELATED PURPOSES.

WHEREAS, the Board of Commissioners of Morgan County, Georgia (the "Board of Commissioners"), as the governing body of Morgan County, Georgia (the "County"), desires to authorizes the Board of Tax Assessors of Morgan County (the "Morgan Assessors") to enter into an agreement related to the administration of the Morgan Assessors' duties to identify, classify, and value, as appropriate, properties in the County; and

WHEREAS, the Joint Development Authority of Jasper County, Morgan County, Newton County, and Walton County (the "JDA"), has negotiated for the location of and construction of a facility in the development park known as "Stanton Springs," on parcels of land consisting approximately 628.54 acres, spanning across the boundary lines of the County, Newton County, and Walton County (the "Project") for the benefit of Baymare LLC (the "Company"); and

WHEREAS, the Morgan Assessors have determined it to be in the best interests of the administration of the Morgan Assessors' duties to enter into an intergovernmental agreement with the JDA, the Board of Tax Assessors of Newton County (the "Newton Assessors"), and the Board of Tax Assessors of Walton County (the "Walton Assessors") relating to (i) the mutual determination by the Morgan Assessors, the Newton Assessors, and the Walton Assessors (collectively, the "Boards of Assessors") of the non-taxability of the interests of the Company under the relevant financing structure in the property comprising the Project, and (ii) the agreement of the Boards of Assessors to contract with the JDA related to administration of valuation, tax savings, and related calculations for the Project; and

WHEREAS, the Company has requested that the Board of Commissioners of the County, the Board of Commissioners of Newton County, and the Board of Commissioners of Walton County each adopt a resolution authorizing, respectively, the Morgan Assessors, the Newton Assessors, and the Walton Assessors to enter into such intergovernmental agreement(s).

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Morgan County, Georgia, as follows:

Section 1. <u>Authorization to Enter Into Intergovernmental Agreement</u>. The execution and delivery by the Morgan Assessors of one or more agreements with the JDA, the Newton Assessors, and the Walton Assessors as contemplated herein are hereby authorized by the Board of Commissioners, as the governing body for the County. Any such agreements of the Morgan Assessors as approved by this Resolution may be made separately or in conjunction with and as part of one or more agreements between the JDA and the Company. The Chairman and/or Vice

Chairman and Clerk are hereby authorized to enter this Resolution, as discussed, reviewed and adopted at a duly noticed and public meeting of the Board of Commissioners, to take any and all further action and to execute and deliver any and all other documents as may be necessary or appropriate in connection with the foregoing.

- Section 2. <u>Governing Law</u>. This Resolution shall be governed by and shall be construed under and enforced in accordance with the laws of the State of Georgia, without regard to the provisions of Georgia law relating to conflict of laws.
- Section 3. <u>No Individual Responsibility of Officials</u>. No stipulations, obligations or agreements of the Board of Commissioners or the County shall be deemed to be stipulations, obligations or agreements of any member, official, or employee of the County in his or her individual capacity.
- **Section 4.** Conflicts. Any and all resolutions or parts of resolutions heretofore adopted which are in conflict with this resolution shall, to the extent of such conflict, be and the same are hereby repealed.
- Section 5. Severability. In case any one or more of the provisions of this resolution, shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this resolution, but this resolution shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.
- Section 6. <u>Effective Date</u>. This Resolution shall become effective upon its adoption and the approval in effect until such time as the agreement(s) contemplated by the Morgan Assessors have been executed and fulfilled.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

ADOPTED this 2nd day of March, 2021.

MORGAN COUNTY, GEORGIA, by and through the Board of Commissioners of Morgan County, Georgia, its governing body

	By:Chairman	
ATTEST:		
Clerk, Board of Commissioners of Morgan County	·	
[SEAL]		

CLERK'S CERTIFICATE

The undersigned Clerk of the Board of Commissioners of Morgan County, Georgia (the "County"), DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the Resolution of the Board of Commissioners of Morgan County Authorizing the Board of Tax Assessors of Morgan County to Enter Inter an Intergovernmental Agreement with the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County, the Board of Tax Assessors of Newton County, and the Board of Tax Assessors of Walton County, Regarding Project Baymare, and Related Purposes, adopted by the County at an open public meeting at which a quorum was present, duly called and lawfully assembled at 10:00 a.m. on the 2nd day of March, 2021, the original of such Resolution being duly recorded in the Minute Book of the County, which Minute Book is in my custody and control.

I do hereby further certify that all members of the Board of Commissioners were present

and that the Resolution was duly adopted by the following vote:

The following voted "Aye":

The following voted "Nay":

The following Did Not Vote:

WITNESS my hand and the official seal of the Board of Commissioners of Morgan County, Georgia this 2nd day of March, 2021.

Clerk, Board of Commissioners of Morgan County

[SEAL]

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF NEWTON COUNTY, GEORGIA, AUTHORIZING THE BOARD OF TAX ASSESSORS OF **NEWTON** COUNTY TO ENTER INTO INTERGOVERNMENTAL **AGREEMENT** WITH THE JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY, THE BOARD OF TAX ASSESSORS OF MORGAN COUNTY, AND THE BOARD OF TAX ASSESSORS OF WALTON COUNTY, REGARDING PROJECT BAYMARE, AND RELATED PURPOSES.

WHEREAS, the Board of Commissioners of Newton County, Georgia (the "Board of Commissioners"), as the governing body of Newton County, Georgia (the "County"), desires to authorizes the Board of Tax Assessors of Newton County (the "Newton Assessors") to enter into an agreement related to the administration of the Newton Assessors' duties to identify, classify, and value, as appropriate, properties in the County; and

WHEREAS, the Joint Development Authority of Jasper County, Morgan County, Newton County, and Walton County (the "JDA"), has negotiated for the location of and construction of a facility in the development park known as "Stanton Springs," on parcels of land consisting approximately 628.54 acres, spanning across the boundary lines of the County, Morgan County, and Walton County (the "Project") for the benefit of Baymare LLC (the "Company"); and

WHEREAS, the Newton Assessors have determined it to be in the best interests of the administration of the Newton Assessors' duties to enter into an intergovernmental agreement with the JDA, the Board of Tax Assessors of Morgan County (the "Morgan Assessors"), and the Board of Tax Assessors of Walton County (the "Walton Assessors") relating to (i) the mutual determination by the Morgan Assessors, the Newton Assessors, and the Walton Assessors (collectively, the "Boards of Assessors") of the non-taxability of the interests of the Company under the relevant financing structure in the property comprising the Project, and (ii) the agreement of the Boards of Assessors to contract with the JDA related to administration of valuation, tax savings, and related calculations for the Project; and

WHEREAS, the Company has requested that the Board of Commissioners of the County, the Board of Commissioners of Morgan County, and the Board of Commissioners of Walton County each adopt a resolution authorizing, respectively, the Newton Assessors, the Morgan Assessors, and the Walton Assessors to enter into such intergovernmental agreement(s).

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Newton County, Georgia, as follows:

Section 1. <u>Authorization to Enter Into Intergovernmental Agreement</u>. The execution and delivery by the Newton Assessors of one or more agreements with the JDA, the Morgan Assessors, and the Walton Assessors as contemplated herein are hereby authorized by the Board of Commissioners, as the governing body for the County. Any such agreements of the Newton Assessors as approved by this Resolution may be made separately or in conjunction with and as part of one or more agreements between the JDA and the Company. The Chairman and/or Vice

Chairman and Clerk are hereby authorized to enter this Resolution, as discussed, reviewed and adopted at a duly noticed and public meeting of the Board of Commissioners, to take any and all further action and to execute and deliver any and all other documents as may be necessary or appropriate in connection with the foregoing.

- Section 2. Governing Law. This Resolution shall be governed by and shall be construed under and enforced in accordance with the laws of the State of Georgia, without regard to the provisions of Georgia law relating to conflict of laws.
- Section 3. No Individual Responsibility of Officials. No stipulations, obligations or agreements of the Board of Commissioners or the County shall be deemed to be stipulations, obligations or agreements of any member, official, or employee of the County in his or her individual capacity.
- **Section 4.** Conflicts. Any and all resolutions or parts of resolutions heretofore adopted which are in conflict with this resolution shall, to the extent of such conflict, be and the same are hereby repealed.
- Section 5. Severability. In case any one or more of the provisions of this resolution, shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this resolution, but this resolution shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.
- **Section 6.** Effective Date. This Resolution shall become effective upon its adoption and the approval in effect until such time as the agreement(s) contemplated by the Newton Assessors have been executed and fulfilled.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

ADOPTED this 2nd day of March, 2021.

NEWTON COUNTY, GEORGIA, by and through the Board of Commissioners of Newton County, Georgia, its governing body

	By: Chairman	
	Chamhan	
ATTEST:		
Clerk, Board of Commissioners of		
Newton County		
[SEAL]		

CLERK'S CERTIFICATE

The undersigned Clerk of the Board of Commissioners of Newton County, Georgia (the "County"), DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the Resolution of the Board of Commissioners of Newton County Authorizing the Board of Tax Assessors of Newton County to Enter Into an Intergovernmental Agreement with the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County, the Board of Tax Assessors of Morgan County, and the Board of Tax Assessors of Walton County, Regarding Project Baymare, and Related Purposes, adopted by the County at an open public meeting at which a quorum was present, duly called and lawfully assembled at 6:00 p.m. on the 2nd day of March, 2021, the original of such Resolution being duly recorded in the Minute Book of the County, which Minute Book is in my custody and control.

d by the following vote:
•
•
•
fficial seal of the Board of Commissioners of Newton 2021.
-

[SEAL]

A RESOLUTION OF THE BOARD OF COMMISSIONERS OF WALTON COUNTY, GEORGIA, AUTHORIZING THE BOARD OF ASSESSORS OF WALTON COUNTY TO ENTER INTO WITH THE INTERGOVERNMENTAL AGREEMENT **JOINT** DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY, THE BOARD OF TAX ASSESSORS OF MORGAN COUNTY, AND THE BOARD OF TAX ASSESSORS OF NEWTON COUNTY, REGARDING PROJECT BAYMARE, AND RELATED PURPOSES.

WHEREAS, the Board of Commissioners of Walton County, Georgia (the "Board of Commissioners"), as the governing body of Walton County, Georgia (the "County"), desires to authorizes the Board of Tax Assessors of Walton County (the "Walton Assessors") to enter into an agreement related to the administration of the Walton Assessors' duties to identify, classify, and value, as appropriate, properties in the County; and

WHEREAS, the Joint Development Authority of Jasper County, Morgan County, Newton County, and Walton County (the "JDA"), has negotiated for the location of and construction of a facility in the development park known as "Stanton Springs," on parcels of land consisting approximately 628.54 acres, spanning across the boundary lines of the County, Morgan County, and Newton County (the "Project") for the benefit of Baymare LLC (the "Company"); and

WHEREAS, the Walton Assessors have determined it to be in the best interests of the administration of the Walton Assessors' duties to enter into an intergovernmental agreement with the JDA, the Board of Tax Assessors of Morgan County (the "Morgan Assessors"), and the Board of Tax Assessors of Newton County (the "Newton Assessors") relating to (i) the mutual determination by the Walton Assessors, the Morgan Assessors, and the Newton Assessors (collectively, the "Boards of Assessors") of the non-taxability of the interests of the Company under the relevant financing structure in the property comprising the Project, and (ii) the agreement of the Boards of Assessors to contract with the JDA related to administration of valuation, tax savings, and related calculations for the Project; and

WHEREAS, the Company has requested that the Board of Commissioners of the County, the Board of Commissioners of Newton County, and the Board of Commissioners of Morgan County each adopt a resolution authorizing, respectively, the Walton Assessors, the Newton Assessors, and the Morgan Assessors to enter into such intergovernmental agreement(s).

NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners of Walton County, Georgia, as follows:

Section 1. <u>Authorization to Enter Into Intergovernmental Agreement</u>. The execution and delivery by the Walton Assessors of one or more agreements with the JDA, the Morgan Assessors, and the Newton Assessors as contemplated herein are hereby authorized by the Board of Commissioners, as the governing body for the County. Any such agreements of the Walton Assessors as approved by this Resolution may be made separately or in conjunction with and as part of one or more agreements between the JDA and the Company. The Chairman and/or Vice

Chairman and Clerk are hereby authorized to enter this Resolution, as discussed, reviewed and adopted at a duly noticed and public meeting of the Board of Commissioners, to take any and all further action and to execute and deliver any and all other documents as may be necessary or appropriate in connection with the foregoing.

- Section 2. <u>Governing Law</u>. This Resolution shall be governed by and shall be construed under and enforced in accordance with the laws of the State of Georgia, without regard to the provisions of Georgia law relating to conflict of laws.
- Section 3. No Individual Responsibility of Officials. No stipulations, obligations or agreements of the Board of Commissioners or the County shall be deemed to be stipulations, obligations or agreements of any member, official, or employee of the County in his or her individual capacity.
- **Section 4.** Conflicts. Any and all resolutions or parts of resolutions heretofore adopted which are in conflict with this resolution shall, to the extent of such conflict, be and the same are hereby repealed.
- **Section 5.** Severability. In case any one or more of the provisions of this resolution, shall for any reason be held illegal or invalid, such illegality or invalidity shall not affect any of the other provisions of this resolution, but this resolution shall be construed and enforced as if such illegal or invalid provisions had not been contained herein or therein.
- **Section 6.** Effective Date. This Resolution shall become effective upon its adoption and the approval in effect until such time as the agreement(s) contemplated by the Walton Assessors have been executed and fulfilled.

[REMAINDER OF PAGE INTENTIONALLY BLANK]

ADOPTED this 2nd day of March, 2021.

WALTON COUNTY, GEORGIA, by and through the Board of Commissioners of Walton County, Georgia, its governing body

	By:
	Chairman
ATTEST:	
Clerk, Board of Commissioners of Walton County	
[SEAL]	

CLERK'S CERTIFICATE

The undersigned Clerk of the Board of Commissioners of Walton County, Georgia (the "County"), DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the Resolution of the Board of Commissioners of Walton County Authorizing the Board of Tax Assessors of Walton County to Enter Into an Intergovernmental Agreement with the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County, the Board of Tax Assessors of Morgan County, and the Board of Tax Assessors of Newton County, Regarding Project Baymare, and Related Purposes, adopted by the County at an open public meeting at which a quorum was present, duly called and lawfully assembled at 7:00 p.m. on the 2nd day of March, 2021, the original of such Resolution being duly recorded in the Minute Book of the County, which Minute Book is in my custody and control.

I do hereby further certify that at said meeting except the following m	all members of the Board of Commissioners were present embers who were absent:
and that the Resolution was duly adopt	red by the following vote:
The following voted "Aye":	
	·
	·
WITNESS my hand and the County, Georgia this 2nd day of March	official seal of the Board of Commissioners of Walton 1, 2021.
	Clerk, Board of Commissioners of Walton County
[SEAL]	

EXHIBIT C

FORM OF DEVELOPMENT AGREEMENT WITH NEWTON COUNTY

[ATTACHED]

DEVELOPMENT AGREEMENT

Thi	s DEVELOPMENT A	AGREEMENT (this '	'Agreement") is ente	red into between
NEWTON	COUNTY, GEORGIA	A, a political subdivision	on of the State (herein	defined) acting by
and throug	h its governing author	ity, the Newton Coun	ty Board of Commiss	sioners ("Newton
County" o	r the "County") and E	SAYMARE LLC, a D	elaware limited liabil	ity company (the
"Company	"; each of Newton Cour	nty and the Company, a	"Party" and together	, the " Parties ") as
of the	day of,	2021 (the "Effective I	Date").	

RECITALS

- A. WHEREAS, the Company has the right to acquire and maintain an interest in certain undeveloped parcels of land located within the mixed-use master planned community known as Stanton Springs, such parcels comprising approximately 628.54 acres of land in the aggregate, located in the State and more specifically in Morgan, Newton and Walton Counties and described on Exhibit A attached hereto (the "Property"); and
- B. WHEREAS, the Company proposes to complete the Project (defined in <u>Section 1.11</u> below), and the success of the Project depends upon the long-term commitment of substantial resources of the Company and the careful integration of public capital facilities, planning, financing, and construction schedules; and
- C. WHEREAS, the Company wishes to enter into this Agreement to obtain assurances and agreements from Newton County before making a determination to risk substantial Company resources; and
- D. WHEREAS, the Parties anticipate that the development of the Project will create jobs and otherwise stimulate economic growth in the Project Counties (herein defined) and the region, and after careful review and deliberation, the Project Counties have determined that it is in the their best interest to enter into this Agreement to provide certain benefits to the Company and the Project to induce the Company to develop the Project on the Property; and
- E. WHEREAS, concurrently with the entering into of this Agreement, the Project Counties, Jasper County and the JDA (defined below) entered into that certain Intergovernmental Contract re: Development Services for Stanton Springs (the "Development IGA")] wherein Walton County, Morgan County and Jasper County designated Newton County as being responsible for all permitting, inspections and "Development Services" (as therein defined) for the Project; and
- F. WHEREAS, Newton County wishes to offer to the Company and the Project certain benefits that include, (i) those inducements more particularly described in <u>Article 4</u> below; (ii) confirmation of the validity of certain prior permits, approvals and entitlements for the Project previously granted by Newton County, as more particularly specified in <u>Schedule 1.19</u> attached hereto; (iii) confirmation that the development standards applicable to the Project in existence on the Effective Date will remain unchanged during the Term (defined below); and (iv) confirmation of the County's commitment to facilitate and assist the Company in developing the Project, as more particularly indicated in <u>Article 5</u> below; and

- G. WHEREAS, Newton County has published notice of a public meeting at which this Agreement was considered as required by State law and has otherwise completed all steps, conditions and requirements necessary for the Board of Commissioners to consider and adopt this Agreement as permitted by law; and
- H. WHEREAS, Newton County finds that the Project is consistent with the Comprehensive Plan, Zoning Ordinance and Development Regulations, and the Property is currently zoned for the Project; and
- I. WHEREAS, Newton County finds that this Agreement complies with applicable building, housing, electrical, plumbing, and gas codes now in effect in such County.

AGREEMENT.

NOW, THEREFORE, in consideration of the premises and mutual promises and covenants herein contained, including the recitals which are incorporated herein by reference, which are relied upon by the parties, and which constitute part and parcel of this Agreement, and other good and valuable consideration the receipt and adequacy of which is hereby acknowledged, the Parties agree as follows:

ARTICLE 1. CERTAIN DEFINITIONS

As used in this Agreement, the following terms shall have the following meanings, except as otherwise expressly provided or as the context may otherwise require:

- 1.1 "Additional Property" has the meaning set forth in Section 5.13.
- 1.2 "Agreement" means this Development Agreement, including all exhibits and schedules attached hereto and made a part hereof, as from time to time amended.
- 1.3 "Applicable Rules" means all of the rules, regulations, ordinances and official policies of Newton County as are in force and effect on the Effective Date, including but not limited to the Code and the restrictions in the Project Approvals.
- 1.4 "Board of Commissioners" means the Board of Commissioners of Newton County, which is the legislative body of the County.
 - 1.5 "Bonds" has the meaning set forth in Section 5.10.
- 1.6 "Business Day" means a day that is not a Saturday, Sunday or legal holiday in the State. In the event that the date for the performance of any covenant or obligation under this Agreement shall fall on a Saturday, Sunday or legal holiday under the laws of the State, the date for performance thereof shall be extended to the next Business Day
- 1.7 "County" has the meaning given to it in the preamble to this Agreement. For purposes of clarification, references to the "County" shall include any subdivision or agency thereof, including without limitation all departments, boards, and commissions, authority,

employees, and/or officials subject to the control of the Board of Commissioners, as the context may require.

- 1.8 "Code" means the Newton County, Georgia Code of Ordinances, as amended.
- 1.9 "Comprehensive Plan" means the Newton County plan designed to guide the growth and development of the community, which presents a vision for the future, with long-range goals and objectives for all activities that affect Newton County.
 - 1.10 "Confidential Business Information" has the meaning set forth in Section 8.2.
- 1.11 "Data Center" means real and personal property consisting of and including, but not limited to, equipment, buildings and structures specifically designed or modified to house networked computers and data and transaction processing equipment and related infrastructure support equipment, including, without limitation, power and cooling equipment, used primarily to provide, as a service to persons other than the company operating the data center, data and transaction processing services, outsource information technology services and computer, equipment colocation services, or, used primarily to provide, to a single user, including the user's affiliates, customers, lessees, vendors and other persons authorized by the user, data and transaction processing services.
- 1.12 "**Development Regulations**" means the 2003 Development Regulations, Newton County, Georgia, adopted March 4, 2003, amended through March 21, 2017 and which are effective as of the Effective Date.
- 1.13 "Discretionary Action" means an action which requires the exercise of judgment, deliberation, or a decision on the part of Newton County, including any board, commission, or department or any officer or employee thereof, in the process of approving or disapproving a particular activity, as distinguished from an activity which merely requires a determination regarding compliance with statutes, ordinances, or regulations.
 - 1.14 "Liaison" shall have the meaning set forth in Section 5.4.
 - 1.15 "LDP" means land disturbance permit.
- 1.16 "Ministerial Action" means an action which requires a determination regarding compliance with statutes, ordinances or regulations, such as the permits, approvals, plans, inspections, certificates, documents, licenses, and all other actions taken or considered by Newton County at the request of the Company to facilitate or as required to implement, develop and construct the Project, including without limitation, building permits, foundation permits, public works permits, grading permits, stockpile permits, encroachment permits, and other similar permits and approvals which are required by the Applicable Rules to implement the Project. A Ministerial Action shall not include any Discretionary Action as defined herein.
- 1.17 "Planning Commission" means the Planning Commission of Newton County, which is the planning agency of Newton County.
- 1.18 "**Project**" means the development and operation of a Data Center on the Property, in the location shown on the Site Plan (as defined in <u>Section 1.22</u>). The Project, if constructed,

will consist of one or more buildings, and may include additional ancillary buildings and infrastructure improvements (for example but without limitation, paved parking and driveways, landscaping, security installations, utilities, alternative water and energy sources and other Project-related structures and improvements), any and all of which may be developed in phases over time, each with such components at such time and in such manner as the Company shall determine in its sole discretion.

- 1.19 "**Project Approvals**" means those Discretionary Actions that authorize the Project and that have been granted and approved. <u>Schedule 1.19</u> sets forth the Project Approvals as of the Effective Date.
 - 1.20 "Project Counties" means Newton, Walton and Morgan Counties.
- 1.21 "Revenue Sharing Agreement" means that certain Revenue Sharing Agreement for Stanton Springs entered into on September 20, 2016 by and among Newton, Walton, Morgan, and Jasper Counties.
- 1.22 "Site Plan" means the area depicted and related narrative explanation attached hereto as **Exhibit D**.
 - 1.23 "State" means the State of Georgia.
- 1.24 "Term" means the period commencing on the Effective Date and ending on the earlier of (A) December 31, 2046 (the "Expiration Date") and (B) such date as this Agreement may be terminated in accordance with its terms, or by written notice from the Company. Unless terminated under Subsection (B) in this Section 1.24, the Term shall automatically renew for successive periods of two (2) years each unless terminated by written notice of the Company or Newton County. The Expiration Date shall be automatically extended for a period of time equal to the duration of any delay in the Company's efforts to develop or construct the Data Center (or any phase thereof) or to operate the Data Center (or any phase thereof) in its ordinary course of business, where such delay results from enactments, moratoria, legal actions, or appeals that enjoin performance under this Agreement, from actions to stay performance under this Agreement, or from any litigation related to the Project Approvals, this Agreement, or the Property; provided that the Company shall notify County within sixty (60) days after becoming aware of the condition which caused such delay.

1.25 ["Traffic Control Plan" means the drawing attached hereto as Exhibit E.]

1.	26 ["	Zoning Ord	inance" n	neans co	llectively	, that certain	n Zoning	Ordinance	e, which
for (i) Ne	wton Co	unty, Georgi	ia, is dated	l Februar	y 17, 200	9, with ame	ndments t	through No	ovember
15, 2016	, which	is effective	as of the	Effectiv	e Date;	(ii) Morgan	County,	Georgia,	is dated
	, 8	is amended,	and (iii)	Walton	County,	Georgia, is	dated _		, as
amended.	.]								

ARTICLE 2. COUNTY PROCEDURES AND ACTIONS

2.1 **Board of Commissioner Approval.** The Board of Commissioners represents that it has, after conducting a duly-noticed public meeting, approved this Agreement, the approval of which is consistent with the Applicable Rules, and authorized the execution of this Agreement.

ARTICLE 3. PURPOSE OF THIS AGREEMENT

- Newton County Ten Dollars (\$10.00) as consideration and inducement to Newton County to enter into this Agreement, which amount shall be non-refundable to the Company. Newton County believes that the Project will provide economic benefits to the Counties by creating jobs and stimulating economic growth in the region. Newton County is entering into this Agreement to induce the Company to develop the Project by providing certain benefits to the Company and the Project. The Parties agree that the Company would not develop the Project without such confirmation from Newton County and that the Company is reasonably and in good faith relying on Newton County's promises herein to independently evaluate the economic feasibility and commercial reasonability of developing, completing and operating the Project.
- 3.2 **Development of the Project.** The Project may be developed in phases. The Parties acknowledge that as of the Effective Date, the Company cannot predict if, when or at what rate development of the Project will occur. The timing and rate for development of the Property will depend upon numerous factors outside of the control of the Company, such as market orientation and demand, competition, availability of qualified laborers to construct, and/or weather conditions. The Company may develop the Project in such order and at such rate and times as the Company deems appropriate within the exercise of its sole and absolute discretion, subject to the Project Approvals and the Applicable Rules. Newton County acknowledges that this right is consistent with the intent, purpose, and understanding of the Parties. Nothing in this Agreement shall be construed to require the Company to proceed with developing the Project or any portion thereof.
- 3.3 **No Required Improvements**. The Company is not required to make any on-site or off-site improvements or perform any work under this Agreement or as a condition of any rights of the Company hereunder.
- 3.4 **Scope of Development Agreement**. Any work or improvements on the Property outside the scope of the Project shall not be subject to this Agreement.

ARTICLE 4. FEES AND TAXES

4.1 **County Waiver of Fees.** Newton County agrees that all connection, permitting, plan inspection and other fees otherwise charged by Newton County in connection with land use approvals, subdivisions, the issuance of land disturbance and building permits or certificates of occupancy, and any other fee charged or otherwise assessed by Newton County in connection with development activity, shall be waived in their entirety and that the Company shall not be charged any permitting fee, including, without limitation those identified in Section 4.1.1 below, or inspection fees, assessment, or other charge by Newton County in connection with the initial

development or occupancy of the Project by the Company including any future improvements within the scope of the Project as a part of new construction; provided, however, the foregoing covenant shall exclude future remodeling and reconfiguration of the Project which is inconsistent with the Site Plan; impact fees (described in <u>Section 4.2</u> below), and only the review fees which are identified on <u>Schedule 4.1</u> attached hereto.

- 4.1.1 The waived permitting fees referenced above include the following fees: (i) the consolidation plat and any other platting-related fees; (ii) LDP; (iii) building permit; (iv) electrical permit; (v) plumbing permit; (vi) gas permit; (vii) HVAC permit; (viii) construction trailer; and (ix) certificate of occupancy.
- 4.2 Impact Fees. Under the Newton County Development Impact Fee Ordinance, the County may grant case-by-case exemptions from impact fee assessments for projects providing extraordinary economic benefits as assessed under the Newton County Impact Fee Exemption Standards. In conformance with O.C.G.A. §.36-71-4(1) and Section 8 of the Development Impact Fee Ordinance, Newton County hereby finds that construction and operation of the proposed Project is worthy of a full exemption from impact fees, and represents that Newton County is willing to fund through revenue sources other than impact fees the improvements otherwise foregone through exemption of any impact fee on the Project. Accordingly, in recognition of the findings above, Newton County will approve any properly-submitted application(s) for impact fee exemption for the Project.
- 4.3 **Special Taxes and Assessments**. If the Company requests the formation of any such districts in connection with the Project, Newton County agrees to cooperate fully in their formation to the extent allowable under the Code and applicable statutes. Nothing in this <u>Section 4.3</u> shall amend the Revenue Sharing Agreement, and nothing in the Revenue Sharing Agreement will be deemed to amend this Agreement.
- 4.4 Additional Taxes. Newton County agrees that it shall not impose, unless required by state or federal law, any new taxes, assessments, levies, charges and/or similar fees with respect to the Project during the Term hereof, unless such additional taxes, assessments, levies, charges or fees would apply to all uses in the Stanton Springs project (within Newton County) and which are not intended to have a disparate impact on the Property or on Data Center uses, and do not disproportionately burden the Property or the Data Center.

ARTICLE 5. ENTITLEMENTS

5.1 County Commitment. Newton County is committed to facilitate and assist the Company in developing the Project and in furtherance thereof, to the maximum extent permitted by applicable state or federal law, sets forth certain specified entitlements in this Article 5. Newton County's intent in entering this Agreement is to vest all rights and entitlements stated in this Agreement in the Company. Recognizing the Company's reliance on this Agreement, Newton County expressly agrees that it shall not interpose any objection or defense to enforcement of this Agreement on grounds, if any exist, that any applicable state law limits or prohibits any of the entitlements set forth below or the covenants of Newton County herein.

- 5.2 **Entitlement to Develop.** Newton County certifies that, as of the Effective Date, subject to the Company's compliance with the requirements of the Project Approvals, no Applicable Rule prohibits, prevents or encumbers the completion and occupancy of any or all phases of the Project in accordance with the proposed uses, densities, designs, heights, set back requirements, signage, and other development requirements and entitlements incorporated and agreed to herein and in the Project Approvals. While nothing in the Applicable Rules prohibits development of the Project as proposed, the Company acknowledges that certain Applicable Rules by their nature must be applied during the development completion and occupancy phases.
- 5.3 Vested Rights. Newton County intends that every commitment made under this Agreement shall be a vested right in favor of the Company. The Company has the vested right to develop the Project, subject only to the terms and conditions of this Agreement and the Applicable Rules. Newton County acknowledges that the Company is relying in good faith on the vested rights created by this Agreement and has made and will make substantial changes in reliance on those rights. The Company's vested rights shall include, without limitation, the right to operate, maintain, remodel, renovate, rehabilitate, rebuild, or replace the Project or any portion thereof (including without limitation the right to replenish equipment used in operating the Project) throughout the Term for any reason, including, without limitation, in the event of damage, destruction, or obsolescence of the Project or any portion thereof, subject to the Applicable Rules and the Project Approvals. To the extent that all or any portion of the Project is remodeled, renovated, rehabilitated, rebuilt, or replaced, the Company may locate that portion of the Project at any other location on the Property consistent with the parameters of the Site Plan and subject to the Applicable Rules and the Project Approvals, and review and approval by, Newton County's Director of Development Services (to the extent such review and approval is provided in the Applicable Rules). Amendments may be made to the Site Plan if approved by the Director of the Newton County Planning Department.
- Changes in Applicable Rules. To the maximum extent permitted by law no addition to, or modification of, the Applicable Rules including, without limitation, changes in the Comprehensive Plan or any zoning or building regulation, adopted or effective after the Effective Date, shall be applied to the Project. Newton County specifically agrees that in no event shall any height restriction applicable to the Property or any buildings thereon, including any building that may be constructed in the future, be decreased to fewer than seventy-five (75) feet with respect to any structure constructed at the Project or modified from time to time. Newton County shall designate a specific individual within Newton County's Development Services Department (the "Liaison"), who shall, at no additional cost to the Company, communicate regularly with the Company upon request and provide the Company with as much prior written notice as is possible under the circumstances of any proposed addition to or modification of the Applicable Rules that may affect the Property. Notwithstanding the foregoing, the Company may, in its sole discretion, give Newton County written notice of its election to have any subsequent change in the Applicable Rules, not otherwise applicable to the Property, applied to all or any portion of the Property, in which case, such subsequent change shall be deemed to be incorporated within the Applicable Rules with respect to such portion of the Property. In the event of any conflict or inconsistency between this Agreement and the Applicable Rules, the provisions of this Agreement shall control to the extent legally permissible. The Project shall be subject to all applicable state and federal laws.

5.5 Additional Permits.

- 5.5.1 The permits and/or approvals listed on **Exhibit B** are the only permits and/or approvals that (based on the submission provided by or on behalf of the Company) will be required from Newton County to complete the development of and to operate the Project, all other permits and/or approvals otherwise required by Newton County have already been granted or waived. To the extent unanticipated permits or approvals are required, Newton County shall confer with the Company and work in good faith with the Company to issue any such permits and approvals as are reasonably required. This paragraph does not apply to permits or approvals provided by state or federal governments.
- 5.5.2 Newton County shall not unreasonably withhold, condition or delay any Ministerial or Discretionary Action requested by the Company with respect to the Project.
- 5.5.3 Newton County acknowledges that the Company is exploring options to use alternative energy sources to operate all or any portion of the Project. Such potential alternative energy sources include, without limitation, solar panels, geothermal cooling and wind energy. Newton County confirms that the foregoing alternative energy sources are permitted land uses on the Property, and Newton County consents to such uses as part of the Project, subject to compliance with the Applicable Rules and the Project Approvals.
- 5.5.4 The Company may access groundwater, by drilling well(s) or otherwise, to establish an alternative and/or redundant water supply system for the Project and may collect and use rainwater to supplement the water supply system for the Project. Newton County consents to all of the above, subject to the Applicable Rules, the Project Approvals, and requirements of state and federal law.
- 5.6 Moratoria or Interim Control Ordinances. To the maximum extent permitted by law, no ordinance, resolution, policy, or other measure enacted after the Effective Date that relates directly or indirectly to the development of the Project or to the rate, amount, timing, sequencing, or phasing of the development or construction of the Project shall apply to the Property or this Agreement. This section shall specifically not apply to ordinances, resolutions, or policies required by state or federal law or those setting Newton County's annual budget or fixing the uniform rate of taxation within Newton County.
- 5.7 Timeframes and Staffing for Processing and Review. Newton County shall expedite processing of all Ministerial Approvals and Discretionary Actions, if any, and any other approvals or actions requested by the Company or otherwise required to develop and operate the Project as contemplated herein. Newton County shall process all Ministerial Approvals within ten (10) Business Days after it receives the application or formal request therefor, and Newton County shall process all approvals requiring a Discretionary Action within thirty (30) Business Days after it receives the application or formal request therefor, unless a different timeframe is required by state or federal law. Except as expressly set forth in Schedule 4.1.1, Newton County hereby waives all filing, building permit and inspection fees that would otherwise be payable in respect of the design and construction of the Project.
- 5.8 **Other Governmental Approvals**. Newton County shall facilitate the Company obtaining any (i) approvals and permits from other governmental or quasi-governmental agencies

having jurisdiction over the Property as may be necessary or desirable in connection with developing and/or operating the Project in the manner contemplated under this Agreement; and (ii) similar documents and instruments that may be required from third parties. If County action is required in connection with obtaining any such approvals and permits, Newton County shall, if possible, take final action within thirty (30) Business Days following its receipt of each complete application.

- 5.9 **Prohibition on County Support.** During the Term of this Agreement, Newton County shall not support the following zoning designation(s) of the land: (i) located within one hundred (100) feet of the Property, for R-1, R-2, R-3, MSR, DR, RMF, MHP and MHS uses, or (ii) currently owned by the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County (the "JDA") and legally described on **Exhibit F** attached hereto and made a part hereof, for M-2 uses.
- 5.10 Rights and Permits Remain in Effect Notwithstanding Bond Challenge. The rights vested in the Company pursuant to this Agreement, including the rights described in this Article 5, shall continue and shall not be affected by any challenge to the issuance or validation of any bonds which may be issued (or are proposed to be issued) in connection with the development of the Project ("Bonds") or any delays in the construction of the Project as a consequence of such challenge, and Newton County agrees, to the extent requested by the Company, to renew or extend any permit or approval which may, on the face thereof, appear to expire or terminate prior to the date that the Project development and construction are complete. Without limiting the generality of the foregoing, any permit or approval relating to the Project shall continue in full force and effect, until the completion thereof in the event that any challenge to the issuance of the Bond delays the development and/or construction of the Project. Newton County agrees not to challenge the validity of any Bond issuance.
- 5.11 General Cooperation. Newton County shall assist and cooperate in good faith with the Company in connection with the Company's development, construction, operation, maintenance, repair, replacement, expansion and/or modification of the Project from time to time.
- 5.12 **Notification of Changes in Laws**. Prior to approving the effectiveness thereof, Newton County agrees to provide public notice required by law for any changes in governmental regulations relating to the development of properties similar to the Property, including any parcels or property or properties in the vicinity of the Project.
- 5.13 Additional Property. At Company's election, this Agreement may be made applicable to additional property ("Additional Property") that Company acquires after the Effective Date that is located in any of Newton County, Walton County or Morgan County. Such inclusion as part of this Agreement shall be accomplished by Company providing written notice to County of the acquisition of such property and the definition of "Property" herein shall automatically include such Additional Property regardless of whether a legal description of the Additional Property is attached hereto by way of an amendment to this Agreement.

ARTICLE 6. TERMINATION, DEFAULT AND REMEDY

6.1 **Termination**.

- 6.1.1 If the Company has not acquired an interest in the Property prior to the date which is three (3) years after the Effective Date, either party may terminate this Agreement by written notice to the other party prior to the acquisition by the Company of an interest in the Property.
- 6.1.2 If the owner of the Property changes the use of the Property from a Data Center, Newton County and the Company shall meet and discuss to reasonably determine if modifications to this Agreement are required.
- 6.1.3 The Company may terminate this Agreement at any time for convenience upon thirty (30) days' written notice to Newton County.
- 6.2 Company Events of Default. An event of default by the Company shall be deemed to occur hereunder if there is a breach by the Company of any of its covenants or agreements contained herein, which breach is not cured within thirty (30) days after receipt of written notice of such breach from Newton County; provided, however, such cure period shall be extended for a reasonable time if: a breach cannot reasonably be cured within such thirty (30)-day cure period, and the Company diligently pursues the cure to completion.
- 6.3 County Events of Default. An event of default by Newton County shall be deemed to occur hereunder if there is any breach by Newton County of any of its covenants or agreements contained herein, including without limitation the failure to accept an application, process, or render a decision on the Ministerial Actions and/or Discretionary Actions, which breach is not cured within ten (10) Business Days after receipt of written notice of such breach from the Company; provided, however, such cure period shall be extended for a reasonable time if a breach cannot reasonably be cured within such ten (10) Business Day cure period, and Newton County diligently pursues the cure to completion.
- 6.4 **Remedies.** If an event of default occurs the non-defaulting party may enforce this Agreement and seek damages or specific performance or both. An event of default shall not entitle the non-defaulting party to terminate this Agreement.
- 6.5 **Force Majeure**. The Parties shall not be liable for any failure to perform hereunder as a result of an external event or events beyond their respective control, including, without limitation, fire, flood, hurricanes, tornadoes, explosions, terrorism, acts of God or a public enemy, vandalism or civil riots. However, if any such event interferes with the performance by a Party hereunder, such Party shall diligently and in good faith act to the extent within its power to remedy the circumstances affecting its performance or to complete performance in as timely a manner as is reasonably possible. Notwithstanding anything to the contrary contained herein, water shortages, embargos, strikes, and labor disputes shall not constitute force majeure.

ARTICLE 7. MORTGAGEE RIGHTS

- Find the Property of the Property. The Parties hereto agree that this Agreement shall not prevent or limit the Company from encumbering its interest in the Property, or any estate or interest therein, portion thereof, or any improvement thereon, in any manner whatsoever by one or more security deeds, deeds to secure debt, mortgages, sale and leaseback, or other form of secured financing ("Mortgage") with respect to the construction, development, use or operation of the Project and parts thereof. Newton County acknowledges that the lender(s) providing such Mortgages may require certain Agreement interpretations and modifications and agrees, upon request, from time to time, to meet with the Company and representatives of such lender(s) to negotiate in good faith any such request for interpretation or modification. Newton County will not unreasonably withhold its consent to any such requested interpretation or modification, provided such interpretation or modification is consistent with the intent and purposes of this Agreement.
- 7.2 Mortgagee Not Obligated. Notwithstanding the provisions of Section 7.1, the holder of a Mortgage (a "Mortgagee") shall not have any obligation or duty pursuant to the terms set forth in this Agreement to perform the obligations of the Company or other affirmative covenants of the Company hereunder, or to guarantee such performance.
- of trust encumbering the Property, or any part or interest thereof, that has submitted a request in writing to Newton County in the manner specified herein for giving notices shall be entitled to receive written notification from Newton County of any notice of non-compliance by the Company in the performance of the Company's obligations under this Agreement. If Newton County receives a request from a Mortgagee requesting a copy of any notice of non-compliance given to the Company under the terms of this Agreement, Newton County shall provide a copy of that notice to the Mortgagee within ten (10) days of sending the notice of non-compliance to the Company. The Mortgagee shall have the right, but not the obligation, to cure the non-compliance for a period of one hundred twenty (120) days after the Mortgagee receives such written notice, notwithstanding the earlier lapse of any cure period in favor of the Owner.
- 7.4 **Disaffirmation**. If this Agreement is terminated as to any portion of the Property as a result of a bankruptcy proceeding of the Company, or if this Agreement is disaffirmed by a receiver, liquidator, or trustee for the Company or its property, Newton County, if requested by any Mortgagee, shall negotiate in good faith with such Mortgagee for a new development agreement for the Project as to such portion of the Property with the most senior Mortgagee requesting such new agreement. This Agreement does not require any Mortgagee to enter into a new development agreement pursuant to this <u>Section 7.4</u>.

ARTICLE 8. CONFIDENTIALITY

8.1 Generally. The Parties acknowledge and agree that this Agreement shall become a public record under the Open Records Act of the State of Georgia (O.C.G.A. § 50-18-70 et seq.), and that discussion regarding this Agreement shall take place before the Board of Commissioners in open session. Newton County covenants that it will hold all Confidential Business Information,

defined below, obtained by it, or any person employed by or representing Newton County, related to the Company's business in strictest confidence and Newton County covenants not to disclose, divulge or otherwise communicate Confidential Business Information in any manner to any person or entity, other than to those parties necessary to perform under this Agreement or verify the Company's compliance with this Agreement, and except as necessary to comply with the Open Records Act (as discussed below).

- Confidential Business Information. The Company may designate any trade 8.2 secrets or confidential business information included in any report or other writing delivered to Newton County pursuant to or in connection with this Agreement by any method intended to clearly set apart the specific material that the Company claims to be either its trade secrets or confidential business information that, if released, would give an advantage to competitors and serve no significant public purpose (such information, collectively, "Confidential Business **Information**"). If the Company elects to assert that certain information is a "trade secret", Company shall submit and attach to such records an affidavit affirmatively declaring that specific information in the records constitutes trade secrets pursuant to Article 27 of Chapter 1 of Title 10 of the Georgia Code. Newton County shall give prompt written notice to the Company of receipt of any request to inspect or for which it has received a request to provide copies of, public records relating to this Agreement or the Project that include records covered by the aforementioned affidavit of trade secret status. The notice shall include a copy of the request. Newton County shall give the Company two (2) Business Days from receipt of notice to respond to the request. If no response is received from the Company during such period, Newton County will allow inspection or provide copies of the requested records, having first redacted or deleted from any records it makes available for inspection or of which it provides copies any material designated by the Company as a trade secret as described above, and the parties shall follow the requirements of O.C.G.A. § 50-18-72(a)(34) related thereto. Newton County shall also provide the Company with a copy of the document and/or the redacted document furnished in response to the request. Any action to enjoin the release of Confidential Business Information may be brought in the name of the Company or Newton County.
- 8.3 Cooperation. In the event of any legal action instituted by a third party or other governmental entity or official challenging the validity of any provision of this Agreement, the Parties hereby agree to affirmatively cooperate in defending said action. The Company and Newton County agree to cooperate to defend against any legal action seeking specific performance, declaratory relief or injunctive relief, to set court dates at the earliest practicable date(s) and not cause delay in the prosecution/defense of the action, provided such cooperation shall not require any party to waive any rights.
- 8.4 **Publicity**. Except as required by law, Newton County shall not make any public announcement, whether oral or written, regarding the Parties entering into this Agreement or the terms and conditions hereof, without the prior written consent from the Company as to both the substance and form of such announcement. This prohibition shall not apply to statements made at meetings subject to the Georgia Open Meetings Act, statements made by individuals not authorized to speak on behalf of Newton County government, or records obtained under the Georgia Open Records Act. Upon request of the Company, Newton County shall take reasonable steps to correct or disavow any public announcement regarding this Agreement that is made by an individual incorrectly purporting to speak on behalf of Newton County government.

ARTICLE 9. THIRD PARTY TRANSACTIONS

9.1 Assignment; Successors.

- 9.1.1 The rights and duties of the Company under this Agreement may be assigned by contract or merger. Any assignment will relieve the Company from liability for the performance of its obligations under this Agreement arising prior to the date of such assignment to the extent such obligations are assumed by the assignee. In addition, the Company, as transferor, shall be relieved from all further liability under this Agreement from and after the effective date of such assignment and the transferee shall thereafter be the "Company" for all purposes hereunder. The foregoing transfer provisions shall not apply to any transfer or assignment for financing purposes, including any bond transaction.
- 9.1.2 The Company will, not less than thirty (30) days after the effective date of any such assignment, notify Newton County of any such assignment and, upon Newton County's request, furnish or cause to be furnished to Newton County a copy of the applicable assignment instrument.
- 9.1.3 The terms of this Agreement shall be binding upon all future successors, developers, owners or users of the property during the Term of this Agreement.
- 9.2 Estoppel Certificate. At any time, and from time to time, the Company may deliver written notice to Newton County, requesting that Newton County certify in writing that (i) this Agreement is in full force and effect and a binding obligation of the Parties, (ii) this Agreement has not been amended, or if amended, the identity of each amendment, (iii) to the knowledge of Newton County, the Company is not then in breach of this Agreement, or if in breach, a description of each such breach, and (iv) any other factual matters reasonably requested by Company (an "Estoppel Certificate"). The Chairman of the Newton County Board of Commissioners and Newton County Attorney shall be authorized to execute, on behalf of Newton County, any Estoppel Certificate requested by the Company that complies with this Section 9.2. Newton County acknowledges that an Estoppel Certificate may be relied upon by transferees or successors in interest to the Company and by Mortgagees holding an interest in the Property.
- 9.3 **No Third-Party Beneficiaries**. The only Parties to this Agreement are Newton County and the Company. There are no third-party beneficiaries under this Agreement, and except for assignees and successors-in-interests to either party, Morgan County and Walton County, this Agreement shall not be construed to benefit or be enforceable by any other person whatsoever.

ARTICLE 10. NOTICES

Whenever any notice is required or permitted under this agreement, it shall be in writing and shall be delivered personally, with acknowledgment of receipt being obtained by the delivering party, or by U.S. Certified mail, return receipt requested, or by overnight delivery service by a reliable company, such as Federal Express or United Parcel Service. Until further notification by written notice in the manner required by this Article 10, notices to the parties shall be delivered as follows:

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Newton County, Georgia

c/o Chairman

Newton County Board of Commissioners

1124 Clark Street

Covington, Georgia 30014

With a copy to:

Newton County, Georgia c/o County Manager

1113 Usher Street — Suite 203 Covington, Georgia 30014

And with a copy to:

To Company:

Baymare LLC a

c/o Tamaron Houston Seyfarth Shaw LLP

1075 Peachtree Street, NE

Suite 2500

Atlanta, Georgia 30309-3962

If notice is given by U.S. Certified Mail, then the notice shall be deemed to have been given on the 2nd Business Day after the date the envelope containing the notice is deposited in the U.S. Mail, properly addressed to the party to whom it is directed, postage prepaid. Notice made by personal delivery or overnight delivery shall be deemed given when received.

ARTICLE 11. MISCELLANEOUS

- 11.1 Amendments. This Agreement may be amended from time to time upon written consent of the Parties. To the extent required by state or federal law, amendments to this Agreement may require a public hearing.
- 11.2 Waiver of Jury Trial. To the extent permitted by law, Newton County and the Company each hereby waives any right to trial by jury of any claim, demand, action, or cause of action (i) arising under this Agreement, or (ii) in any way connected with or related or incidental to this Agreement or any of the transactions related hereto. To the extent permitted by law, Newton County and the Company each agree and consent that any such claim, demand, action, or cause of action shall be decided by court trial without a jury and that either of them may file a copy of this Agreement with any court as evidence of such waiver.
- 11.3 **Waiver**. No waiver of any provision of this Agreement shall be effective unless in writing and signed by a duly authorized representative of the Party against whom enforcement of a waiver is sought and refers expressly to this <u>Section 11.3</u>. No waiver of any right or remedy with respect to any occurrence or event shall be deemed a waiver of any right or remedy with respect to any other occurrence or event.

- 11.4 **Further Assurances**. Each Party shall take all actions and do all things, and execute, with acknowledgment or affidavit if required, any and all documents and writings that may be necessary or proper to achieve the purposes and objectives of this Agreement.
- 11.5 **Relationship of the Parties**. It is understood and agreed by the Parties hereto that the Company is an independent contractor and not an agent of Newton County. Further, Newton County and Company hereby renounce the existence of any form of joint venture or partnership between them and agree that nothing herein or in any document executed in connection herewith shall be construed as making Newton County and the Company joint venturers or partners.
- 11.6 **Severability**. If any provisions, conditions, or covenants of this Agreement, or the application thereof to any circumstances of either Party, shall be held invalid or unenforceable, the remainder of this Agreement or the application of such provision, condition, or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable shall not be affected thereby and shall be valid and enforceable to the fullest extent permitted by law.
- 11.7 Entire Agreement. This Agreement, together with all exhibits and schedules attached hereto, constitutes the Parties' entire agreement and understanding regarding the matters set forth herein. All prior or contemporaneous oral or written drafts of this Agreement or other understandings with respect to the subject matter herein between the parties are merged into this Agreement. It is the parties' intention to encourage, promote and aid the Project so that the opportunities and positive community impacts of the Project are fully realized by Newton County, its citizens and the Company.
- 11.8 Counterparts. This Agreement may be executed in any number of counterparts, each of which when so executed and delivered (by electronic means or otherwise) shall be deemed an original, and it shall not be necessary in making proof of this Agreement to produce or account for more than one such fully executed counterpart.
- 11.9 **Choice of Law.** This Agreement shall be construed and enforced in accordance with the laws of the State.
- 11.10 **Neutral Interpretation; Headings**. Each Party acknowledges that it has received independent legal advice from its attorneys with respect to the advisability of executing this Agreement and the meaning of the provisions hereof. The provisions of this Agreement shall be construed as to their fair meaning, and not for or against any Party based upon any attribution to such Party as the source of the language in question. The headings and table of contents used in this Agreement are for the convenience of reference only and shall not be used in construing this Agreement.
- 11.11 **Memorandum of Agreement**. The Parties agree to execute a Memorandum of Agreement in the form substantially similar to that attached as **Exhibit C**, to serve as notice to the public of the existence and provisions of this Agreement. The Company shall have the right to record such Memorandum of Agreement in the real estate records of Newton, Morgan and Walton Counties, Georgia.
- 11.12 Clarification of Public Benefit. County and the Company acknowledge that the commitments provided by County in this Agreement are not "public benefits" for purposes of compliance with the Georgia Security and Immigration Compliance Act (O.C.G.A. § 50-36-1).

- 11.13 **Sovereign Immunity**. Nothing contained in this Agreement shall be construed to be a waiver of any individual's qualified, good faith or official immunities as an employee or representative of Newton County.
- 11.14 No Personal Liability. Nothing herein shall be construed as creating any individual or personal liability on the part of any of County's elected or appointed officials, officers, boards, commissions, employees, representatives, consultants, servants, agents, attorneys or volunteers, or the Company's individual employees, officers, members, managers, directors. No such individual shall be personally liable to a Party or any successor in interest in the event of any default or breach by either Party.
- 11.15 Acknowledgement and Agreement. In addition to Newton County, the Property also lies within Walton and Morgan Counties, and as such, Walton County, Georgia and Morgan County, Georgia, pursuant to their respective signatures on the Acknowledgement and Agreement attached hereto, are bound by the terms of this Agreement. In the event of any conflict or inconsistency between this Agreement and the Development IGA, the provisions of this Agreement shall control to the extent legally permissible.
- 11.16 Anti-Corruption; Compliance. In connection with the negotiation and performance of this Agreement, Newton County represents and warrants that it has complied and covenants that it shall comply with all applicable laws, rules, and regulations including anti-corruption legislation and that it has used and shall use only legitimate and ethical business practices. The transaction contemplated by this Agreement do not require the Company to submit a bid or otherwise participate in Newton County's standard procurement process (if applicable), or undertake any other obligations of the procurement rules and regulations governing Newton County.
- 11.17 **E-mail or PDF Signatures; DocuSign**. Signatures to this Agreement transmitted by e-mail or PDF shall be valid and effective to bind the party so signing. A copy of the electronic mail or PDF shall also be sent to the intended addressee by one of the means described in <u>Section 10</u> above, in any case with all charges prepaid, addressed to the appropriate party at its address provided herein. Documents signed using DocuSign (other than the Memorandum of Development Agreement) shall constitute originals for all purposes hereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

Newton County and the Company have caused this Agreement to be signed, in their names and on their behalf by their duly authorized officers, all as of the Effective Date.

COUNTY:

a political subdivision of the State of Georgia

NEWTON COUNTY, GEORGIA,

By:	
Name: Marcello Banes	
Title: Chairman, Board of Commissioners	
ATTEST:	[County Seal]
- 1987년 - 1987 - 1987년 - 1987	
By:	
Name:	
Title:	
Approved as to form:	
County Attorney	
- 1 (1997年) - 1	
COMPANY:	
BAYMARE LLC,	
a Delaware limited liability company	
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Ву:	
Name:	
Title:	
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ATTEST:	
By:	
Name:	

ACKNOWLEDGEMENT AND AGREEMENT

Walton County, Georgia, a political subdivision of the State of Georgia ("Walton County") and Morgan County, Georgia, a political subdivision of the State of Georgia ("Morgan County"), acting through their respective Boards of Commissioners, are each executing an Acknowledgment hereof attached to the Agreement in order to acknowledge the agreement of each to the provisions hereof which are respectively applicable to each of them, but are not considered to be "Parties" to such Agreement.

Newton County will be responsible for and the sole administrative agency for purposes of the Agreement to which this is attached.

Intergovernmental Agreements. This Agreement shall constitute an intergovernmental agreement under Georgia Constitution Art. IX, Sec. Ill, Para. I and O.C.G.A. Section 36-7-11 between and among Newton County, Walton County, and Morgan County. Such intergovernmental agreement is subject to the 50-year term limit contained in such provision of the Georgia Constitution, but shall expire earlier upon its complete performance. By the execution of their respective Acknowledgments hereof, Walton County and Morgan County hereby agree, each with each other and with Newton County, to all of the provisions hereof respectively applicable to them.

ACKNOWLEDGED

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it as set forth in the above Development Agreement, as the same was approved at a properly noticed and duly called public meeting of the of the body.

WALTON COUNTY, GEORGIA

Ву:		
Chairman, Boa	ard of Commissioners of Walton County	
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Clerk of the Board	d : ::::::::::::::::::::::::::::::::::	
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[County's Seal]		

ACKNOWLEDGED

The undersigned acknowledges this Agreement and agrees to the provisions hereof that are applicable to it as set forth in the above Development Agreement, as the same was approved at a properly noticed and duly called public meeting of the of the body.

MORGAN COUNTY, GEORGIA

Ву:	ii.ling.
Chairman, Board of Comm	issioners of Morgan County
	- 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1
Attest:	
Clerk of the Board	
[County's Seal]	
[County's Sear]	
1000 1000 1000 1000 1000 1000 1000 100	
Approximate of the control of the co	

EXHIBIT A

Property Description

EXHIBIT B

List of Permits

- 1. Newton County Minor Plat-Platting Document to confirm final parcel boundary
- 2. Newton County Site Development Plan-Civil Improvements Package
- 3. Newton County Water and Sewerage Permit Plans (*Illustrating the connection to the public water and sewer lines*)
- 4. Commercial Building Permits (May be separate permits for different buildings or components of the Project)
- 5. Newton County Business License

EXHIBIT C

MEMORANDUM OF DEVELOPMENT AGREEMENT

THIS MEMORANDUM OF DEVELOPMENT	AGREEMENT ("Memorandum of
Agreement") is made and entered into as of	, 2021, by and between NEWTON
COUNTY, GEORGIA, a political subdivision of the State	e of Georgia acting by and through its
governing authority, the Newton County Board of Con	nmissioners ("Newton County") and
BAYMARE LLC, a Delaware limited liability compan	y (the "Company"), collectively the
"Parties."	

RECITALS

- A. Newton County and the Company have a mutual interest in the development and operation of a data center project (the "**Project**"), on certain property located within Newton County, Morgan County and Walton County, Georgia (the "**Property**"), more particularly described in **Exhibit A** attached hereto.
- B. In reliance on certain representations made and inducements offered by Newton County, the Company has acquired an interest in the Property for the purpose of possibly developing the Project.
- C. Newton County has made its representations and extended its offer of inducements in reliance on the Company's proposal for the Project, which, if undertaken, will be developed in phases over time.

WITH THESE UNDERSTANDINGS IN MIND, NOTICE IS HEREBY GIVEN THAT:

- 1. Newton County and the Company have entered into a Development Agreement to, among other things, document the understandings of the Parties, specify the nature and extent of the inducements offered, the entitlement granted and existing, the remaining approvals to be obtained and to otherwise set forth the rights and responsibilities of each of the Parties.
- 2. During the Term of this Agreement, Newton County shall not support the following zoning designation(s) of the land: (i) located within one hundred (100) feet of the Property, for R-1, R-2, R-3, MSR, DR, RMF, MHP and MHS uses, or (ii) currently owned by the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County and legally described on **Exhibit B** attached hereto and made a part hereof, for M-2 uses.
- 3. This Memorandum of Agreement has been prepared and executed solely for the purpose of recordation in the Office of the Clerk of the Superior Court of Newton County, Morgan County and Walton County in order to give public notice of the existence of the Development Agreement. County and Company, and their successors and assigns, remain bound by all the terms and provisions of the Development Agreement during the term thereof, and this Memorandum of Agreement shall not be deemed to, and does not, constitute a revision or replacement of the Development Agreement, or in any manner enlarge, restrict or change the rights or responsibilities of the Parties thereunder.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE PAGES FOLLOW]

COMPANY:

Baymare LLC, a Delaware limited liability

	company
	By: Name: Title:
Sworn to and subscribed before me this day of, 2021.	
Unofficial Witness	
Unofficial Witness	

NEWTON COUNTY:

Newton County, Georgia, a political subdivision of the State of Georgia

	Name: Title:
Sworn to and subscribed before me this day of, 2021.	
Unofficial Witness	
Unofficial Witness	

EXHIBIT A

The Property

EXHIBIT B

The JDA Land

EXHIBIT D

Site Plan

EXHIBIT E

Traffic Control Plan
[IF APPLICABLE]

SCHEDULE 1.19

[List of Project Approvals that have been obtained by the Effective Date]

EXHIBIT F

Legal Description of Remaining JDA Parcel
[SEE ATTACHED]

SCHEDULE 4.1

County Review Fees

Permit	Per Phase	Total Site
Land Disturbance	\$	\$
Fire Marshal Plan Review of Land Disturbance	\$	\$
Building Plan Reviews	\$	\$
Building Permit Inspection	\$	\$
Electrical Permit	\$	\$
Plumbing Permit	\$	\$
Gas Permit	\$	\$
HVAC Permit	\$	\$
Development Impact Fee	\$	\$
Newton County Water and Sewerage Connection Fees	\$	\$

EXHIBIT D

FORM OF INFRASTRUCTURE AGREEMENT (Frontage Road)

[ATTACHED]

INFRASTRUCTURE AGREEMENT

THIS INFRASTRUCTURE AGREEMENT (as the same may be amended, restated, assigned in accordance with the terms herein, this "Agreement") is made and dated effective as of ________, 2021 ("Effective Date") by and between the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County, a public body corporate and politic of the State of Georgia (the "Authority") and Baymare LLC, a Delaware limited liability company (together with its affiliates and their respective successors and assigns, "Company"). The Authority and Company are sometimes referred to herein collectively as the "Parties" and each individually as a "Party".

RECITALS

- A. WHEREAS, the Company has the right to acquire and maintain an interest in certain undeveloped parcels of land located within the mixed-use master planned community known as Stanton Springs, such parcels comprising approximately 628.54 acres of land in the aggregate, located in the State of Georgia (the "State") and more specifically in Morgan, Newton and Walton Counties and described on Exhibit A attached hereto (the "Property").
- B. WHEREAS, in connection with the development and construction of a proposed Project (as defined in the Development Agreement [defined below]), the Company and Newton County, Georgia, a political subdivision of the State acting by and through its governing authority, the Newton County Board of Commissioners ("Newton County"), have entered into that certain Development Agreement, dated as of the Effective Date, the same Development Agreement having been acknowledged and agreed to by Walton County, Georgia, a political subdivision of the State ("Walton County") and Morgan County, Georgia, a political subdivision of the State of Georgia ("Morgan County") (as the same may be amended, restated, assigned or otherwise modified from time to time in accordance with the terms thereof, the "Development Agreement").
- C. WHEREAS, the Authority finds developments such as the Project to be in the public interest of the citizens of the Project Counties (as defined in the Development Agreement), and thus desires to encourage and aid the Project in order to recruit the Project to such counties.
- D. WHEREAS, the Parties also desire to provide for the construction of certain public improvements in Walton County and Morgan County that will benefit the Project and/or the Project Counties, which will be constructed by, or as directed by, the Authority.

AGREEMENT

- NOW, THEREFORE, in consideration of the foregoing recitals and mutual covenants and agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Authority and the Company hereby agree as follows:
- 1. **INDEPENDENT CONSIDERATION**. The Company has paid to the Authority the amount of One Hundred and No/100 Dollars (\$100.00) as consideration and inducement to the Authority to enter into this Agreement, which amount shall be non-refundable to the Company.

2. INFRASTRUCTURE IMPROVEMENTS.

(a) Promptly following the Effective Date, the Authority shall, commence and thereafter use diligent efforts to complete the design, permitting, and construction of the following: (i) a two (2) lane frontage road, running parallel to the Project, north of Interstate 20, between Highway 278 and Sewell Road (the "Frontage Road"), and (ii) a spur road and related road alignments and connections (for

purposes of location only, see <u>Exhibit B</u> attached hereto and incorporated herein) (the "Spur"; together with Frontage Road being herein collectively, the "Infrastructure Improvements"). While the Authority agrees to construct a spur road in coordination with Morgan County and the Company, for the avoidance of doubt, the Authority is under no obligation to fund or build the turnaround depicted on <u>Exhibit B</u> unless mutually agreed to by the Parties in writing. All of the Infrastructure Improvements shall be fully constructed to Completion (defined below), free of liens, and in accordance with this Agreement. All costs to complete the Infrastructure Improvements shall be paid by the Authority except as set forth in <u>Section 6</u> below. Upon the Parties' coming to a mutual agreement on the final plans and specifications ("Plans and Specs") for the Spur, such Plans and Specs shall automatically replace the depiction on <u>Exhibit B</u>; provided, however, that the Parties may execute any amendment or other instrument reasonably requested by one Party to the other to evidence the approved Plans and Specs.

- (b) The Authority acknowledges that infrastructure capable of meeting the needs of the Project must exist and remain operational to allow for the successful development and operation of the Project, so the Authority agrees to complete (or cause the Completion of) the Infrastructure Improvements.
- (c) The Authority shall, at its sole cost and expense, obtain, and as applicable record, all necessary right-of-way, easement and crossing rights needed from any third parties to complete the Infrastructure Improvements.

3. CONSTRUCTION.

- Improvements: (i) on or before the deadlines set forth on <u>Exhibit C</u>; (ii) in such a manner as to maintain harmonious labor relations and as not to interfere with or delay any work on the Project to be performed by the Company or the Company's contractors; (iii) in such a manner that the Company and the Company's contractors shall have reasonable vehicular and pedestrian access to the Property via public rights of way or any easements of record at all times; and (iv) in accordance with this Agreement. The Authority shall, and shall cause the Authority's contractors to, act in a commercially reasonable manner and endeavor in good faith to ensure the timely progression of construction of the Infrastructure Improvements. The Authority shall deliver to the Company regular updates (not less than monthly, or more often upon request of the Company, which updates are to be delivered monthly between the 1st and 10th days of such month) regarding the progress of and schedule for completion of the Infrastructure Improvements. All construction work occasioned by this Agreement shall be performed by contractors furnishing the lowest and best bid as determined pursuant to formal bidding requirements in accordance with the laws of the State, and as thereafter approved by the Authority.
- (b) The Company shall have the right to retain, at Company's expense, a civil engineer (the "Construction Monitor") to (i) review and advise the Company with respect to all matters related to the design, construction, operation and use of the Infrastructure Improvements, (ii) monitor the progress of the development and construction of the Infrastructure Improvements, and (iii) review on behalf of Company all Payment Requests (hereinafter defined) submitted by the Authority. The Authority acknowledges that (A) the Construction Monitor has been retained by Company to act as a consultant, and only as a consultant, to Company in connection with the construction of the Infrastructure Improvements, (B) the Construction Monitor shall in no event have any power or authority to make any decision or to give any approval or consent or to do any other thing which is binding upon Company, and any such purported decision, approval, consent or act by the Construction Monitor on behalf of Company shall be void and of no force or effect, (C) Company reserves the right to make any and all decisions required to be made by Company under this Agreement, and without in any instance being bound or limited in any manner whatsoever by any opinion expressed or not expressed by the Construction Monitor to Company or any other person with respect thereto, (D) Company is entitled to the right but not the obligation to rely conclusively on the reports of the Construction Monitor with respect to any matter relating to the

construction of the Infrastructure Improvements, and (E) Company reserves the right in its sole and absolute discretion to replace the Construction Monitor with another inspector or monitor at any time and without prior notice to or approval by the Authority. The Construction Monitor shall be granted access at all reasonable times to any construction site of the Infrastructure Improvements (but in any event not earlier than 7 AM nor later than 7 PM [unless otherwise agreed to by the Parties]). The Company agrees to inform the Construction Monitor not to give instruction to or make demands upon any of the Authority's contractors or consultants associated with the Infrastructure Improvements. Moreover, the Construction Monitor shall not be the engineer of record for the Project.

- 4. PUBLIC RIGHT-OF-WAY AND MAINTENANCE. The Authority agrees to build the Spur in accordance with Morgan County's road specifications and requirements in order to qualify the Spur for dedication of a county road in Morgan County, and upon Completion of the Spur, the Authority shall cause the Spur to be publicly dedicated in Morgan County. Morgan County agrees, by signing the Acknowledgement and Agreement attached to this Agreement, to: accept and approve the dedication of the Spur if said Spur meets Morgan County's road specifications and requirements for county roads, and if so, thereafter assume responsibility for the care and maintenance of the Spur.
- 5. **EASEMENTS**. Notwithstanding any current or future Authority requirements, the Company, at its sole cost and expense, shall grant to the Authority a temporary construction easement determined to be reasonably necessary for the Authority to perform the Infrastructure Improvements related to the Spur. To the extent required, the form of such easement shall be subject to the joint and reasonable approval of the Authority and the Company. Notwithstanding anything herein to the contrary, the Authority's access rights to the Property shall be subject to the terms and conditions of that certain Lease Agreement (as amended) by and between the Authority and the Company dated on or around the Effective Date.
- 6. **REIMBURSEMENT**. The Company agrees to provide funds, not to exceed \$3,000,000 (the "Improvement Funds"), to be used by the Authority in connection with payment for or reimbursement of construction costs of the Frontage Road. The Improvement Funds shall be a portion of the bond issuance fee payable to the Authority in connection with its issuance of revenue bonds, and the Company's disbursement of the Improvement Funds shall be contingent upon the Authority's timely progress and Completion of the Frontage Road as set forth below (each of [a] and [b], being a "Milestone"):
 - (a) On the Effective Date; and
 - (b) Upon Completion (defined below) of the Frontage Road.

Upon the satisfaction of each Milestone, the Company shall deliver one (1) installment in the amount of \$1,500,000.00 to the Authority. Unless this Agreement is otherwise terminated pursuant to the terms hereof, the Company shall deliver two (2) total installments over the Term of this Agreement, and such aggregate amount paid by the Company for the reimbursement or payment of the Infrastructure Improvements shall not exceed the amount of the Improvement Funds. For purposes of satisfying the Milestone in Section 6(b) above, the Authority shall submit, by written notice to the Company, a payment request (a "Payment Request") and evidence of Completion of the Frontage Road. The Company shall have thirty (30) days following its receipt of a Payment Request to either (i) pay to the Authority the final installment of the Improvement Funds, or (ii) notify the Authority in writing that the Company objects to the Payment Request, which objection shall be based on the Authority's failure to comply with any of the terms of this Agreement. The Company shall not be required to make any payment or reimbursement of the Improvement Funds in connection with Completion unless and until such Milestone has been satisfied in full to the commercially reasonable satisfaction of the Company. For purposes of this Agreement, "Completion" shall mean (a) the Authority's receipt of final approval of Infrastructure Improvements by the permitting government authority and delivery of the same to the Company and (b) with respect to (x)

Frontage Road, the Authority shall deliver an easement agreement, in form and substance acceptable to the Company, which grants perpetual access rights to the Company and the Project to Frontage Road or evidence, satisfactory to the Company, that Frontage Road is a public road or (y) the Spur is publically dedicated to Morgan County as a public county road.

7. **TERM**. The term of this Agreement (the "Term") shall commence on the later of (i) the Effective Date, and (ii) the date the Company takes either a fee or leasehold interest in the Property, and terminate upon Completion of the Infrastructure Improvements (or such earlier time pursuant to Section 8 of this Agreement).

8. **DEFAULT AND REMEDIES.**

- (a) Generally. In the event of a default of this Agreement, the non-defaulting Party shall provide written notice of the default to the defaulting Party and shall specify a period of not less than fifteen (15) days during which the defaulting Party shall have the right to cure such default; provided, however, that such cure period may be extended if (i) the default cannot reasonably be cured within the cure period provided in such notice, (ii) the curing Party notifies the non-defaulting Party of such fact by no later than the end of the cure period provided in the notice, (iii) the curing Party has theretofore been diligent in pursuing the cure and (iv) the curing Party in such extension notice covenants to (and thereafter actually does) diligently pursue the cure to completion. If the defaulting Party fails to cure the default, the non-defaulting Party may either (a) terminate this Agreement and seek damages from the defaulting Party or (b) enforce this Agreement by the remedy of damages or specific performance or both.
- (b) <u>Mutual Waiver of Consequential Damages</u>. Except in the case of gross negligence, bad faith or willful misconduct, for which claims for consequential damages are expressly reserved by the Parties, each Party hereby waives all claims against the other Party for any consequential or indirect damages that may arise out of or relate to this Agreement.

9. MISCELLANEOUS.

- (a) <u>Recitals</u>. The recitals of this Agreement are material terms hereof and shall be binding upon the Parties.
- (b) <u>Notice</u>. Whenever any notice is required or permitted under this Agreement, it shall be in writing and shall be delivered personally, with acknowledgment of receipt being obtained by the delivering Party, or by U.S. Certified Mail, return receipt requested, or by overnight delivery service by a reliable company, such as Federal Express or United States Parcel Service. Until further notification by written notice in the manner required by this <u>Section 9(b)</u>, notices to the Parties shall be delivered as follows:

Authority: Joint Development Authority

Chairman

300 E Church Street Monroe, GA 30655

With a copy to: Andrea P. Gray, LLC

300 E Church Street Monroe, Georgia 30655 Company: Baymare LLC

c/o Tamaron Houston Seyfarth Shaw LLP 1075 Peachtree Street, NE

Suite 2500

Atlanta, Georgia 30309-3962

With respect to any notice given in the manner described above, the Party giving such notice shall also send the notice by email to the email address(es) of the recipient Party set forth above; however, simply sending an email(s) shall not be deemed sufficient service of a notice in accordance with this Agreement. If notice is given by U.S. Certified Mail, then the notice shall be deemed to have been given on the second (2nd) Business Day (herein defined) after the date the envelope containing the notice is deposited in the U.S. Mail, properly addressed to the Party to whom it is directed, postage prepaid. Notice made by personal delivery or overnight delivery shall be deemed given when received. The Parties, by written notice given to the other, may designate any further or different names or addresses to which all notices or other communications shall be sent without said further or different names or addresses being considered amendments to this Agreement.

- (c) <u>Assignment</u>. The Company may assign its rights and obligations under this Agreement without the consent of the Authority to any (i) person, firm or entity of its choice which is controlled by or under common control with Company, or (ii) subsequent owner of all or any portion of the Property. If Company assigns its rights and obligations hereunder as provided in the previous sentence, then Company shall be relieved of all of its covenants, commitments and obligations hereunder. The Authority shall have the right to assign all or a portion of its rights and obligations under this Agreement to the State or other government entity upon written approval of the Company which approval shall not be unreasonably withheld; provided, however, that in the event that the Improvement Funds have not been fully disbursed by the Company, the Company shall have the right to approve any assignee in its reasonable discretion.
- Entire Agreement. This Agreement, including all Exhibits attached hereto, (d) contains the entire agreement between the Parties regarding the subject matter hereof, and all prior or contemporaneous communications or agreements between the Parties or their respective representatives with respect to the subject matter herein, whether oral or written, are merged into this Agreement and extinguished. No agreement, representation or inducement shall be effective to change, modify or terminate this Agreement, in whole or in part, unless in writing and signed by the Party or Parties to be bound by such change, modification or termination. If any term or provision of this Agreement or any application thereof shall be unenforceable, the remainder of this Agreement and any other application of any such term or provision shall not be affected thereby, and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law. The Parties acknowledge and agree that this Agreement represents a negotiated agreement, having been drafted, negotiated and agreed upon by the Parties and their respective legal counsel. Therefore, the Parties agree that the fact that one Party or the other Party may have been primarily responsible for drafting or editing this Agreement shall not, in any dispute over the terms of this Agreement, cause this Agreement to be interpreted against such Party. It is the Parties' collective intention to encourage, promote and aid the Project so that the opportunities and positive community impacts of the Project are fully realized by the Authority, the citizens of Morgan County, Newton County and Walton County and Company.
- (e) <u>Waivers</u>. Neither Party may waive any condition or breach of any representation, term, covenant or condition of this Agreement, except in a writing signed by the waiving Party and specifically describing the condition or breach waived. The waiver by either Party of any condition or breach of any representation, term, condition or covenant contained in this Agreement shall not be deemed

to be a waiver of any other representation, term, condition or covenant or of any subsequent breach of the same or of any other representation, term, condition or covenant of this Agreement.

- (f) <u>Governing Law</u>. This Agreement is governed by and shall be construed in accordance with the laws of the State.
- (g) Interpretation. The section headings of this Agreement are for convenience of reference only and shall not be deemed to modify, explain, restrict, alter or affect the meaning or interpretation of any provision hereof. Whenever the singular number is used, and when required by the context, the same includes the plural, and the masculine gender includes the feminine and neuter genders. All references herein to "Section" or "Exhibit" reference the applicable Section of this Agreement or Exhibit attached hereto; and all Exhibits attached hereto are incorporated herein and made a part hereof to the same extent as if they were included in the body of this Agreement. The use in this Agreement of the words "including", "such as" or words of similar import when used with reference to any general term, statement or matter shall not be construed to limit such term, statement or matter to the specific terms, statements or matters, unless language of limitation, such as "and limited to" or words of similar import are used with reference thereto. Rather, such terms shall be deemed to refer to all other items or matters that could reasonably fall within the broadest possible scope of such term, statement or matter.
- (h) <u>Counterparts</u>. This Agreement may be executed in as many counterparts as may be deemed necessary and convenient, and by the Parties in separate counterparts, each of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same instrument. A scanned or photocopy signature on this Agreement, any amendment hereto or any notice delivered hereunder shall have the same legal effect as an original signature.
- (i) <u>Business Days</u>. As used herein, the term "Business Day" shall mean a day that is not a Saturday, Sunday or legal holiday in the State. All other references to "days" hereunder shall mean calendar days. If the date for the performance of any covenant or obligation under this Agreement shall fall on a Saturday, Sunday or legal holiday in the State of Georgia, then the date for performance thereof shall be extended to the next Business Day.
- (j) <u>Effect on Other Vested Rights</u>. This Agreement does not abrogate any rights established or preserved by any applicable law, or by the Development Agreement or by any other agreement or contract executed by the Authority and Company in connection with the Project, or that have vested or may vest pursuant to common law or otherwise.
- Confidential Information. Company may designate any trade secrets or (k) confidential business information included in any report or other writing delivered to the Authority pursuant to or in connection with this Agreement by any method intended to clearly set apart the specific material that Company claims to be either its trade secrets or confidential business information that, if released, would give an advantage to competitors or result in unfair competitive injury to Company (such information, collectively, "Confidential Business Information"). The Authority shall redact or delete any Confidential Business Information from any records it makes available for inspection or of which it provides copies. Nothing herein shall prohibit Authority from disclosing this Agreement to the extent required by law, including, but not limited to, any open records or similar laws; however (i) Authority will give notice (by email to thouston@seyfarth.com) of Authority's receipt of an open records request within one (1) Business Day after receipt together with a copy of the open records request, (ii) Authority will give a copy of what the Authority plans to submit in response within two (2) Business Days after receipt of such open records request, and (iii) to the extent permissible by the open records law, documents will have Confidential Business Information redacted before delivered to the party invoking the open records request.

- (l) Attorneys' Fees. If any action is brought by any Party against the other Party, relating to or arising out of this Agreement or the enforcement hereof, the prevailing Party shall be entitled to recover from the other Party the reasonable attorneys' fees, costs and expenses incurred in connection with the prosecution or defense of such action, including the costs and fees incurred in connection with the enforcement or collection of any judgment obtained in any such proceeding. The provisions of this Section 9(1) shall survive the termination of this Agreement and the entry of any judgment and shall not merge, or be deemed to have merged, into any judgment.
- (m) <u>Further Assurances</u>. Upon the request of a Party, each Party agrees to (i) furnish to the requesting Party such requested information, (ii) execute and deliver to the requesting Party such requested documents and (iii) do such other acts and things reasonably required for the purpose of carrying out the intent of this Agreement.
- (n) Waiver of Jury Trial. EACH PARTY HEREBY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY RIGHT TO TRIAL BY JURY OF ANY CLAIM, DEMAND, ACTION OR CAUSE OF ACTION (I) ARISING UNDER THIS AGREEMENT OR (II) IN ANY WAY CONNECTED WITH OR RELATED OR INCIDENTAL TO THIS AGREEMENT OR ANY OF THE TRANSACTIONS RELATED HERETO. EACH PARTY HEREBY AGREES AND CONSENTS THAT ANY SUCH CLAIM, DEMAND, ACTION OR CAUSE OF ACTION SHALL BE DECIDED BY A COURT TRIAL WITHOUT A JURY AND THAT EITHER PARTY MAY FILE A COPY OF THIS AGREEMENT WITH ANY COURT AS EVIDENCE OF SUCH WAIVER.
- (o) <u>Anti-Corruption; Compliance</u>. In connection with the negotiation and performance of this Agreement, (a) the Authority represents and warrants that it has complied, and covenants that it shall comply, with all applicable laws, rules, and regulations, including anti-corruption legislation, and (b) the Authority and the Company each represent and warrant to the other that it has used, and shall use, only legitimate and ethical business practices.
- Time is of the Essence. Time is of the essence of this Agreement Company and Authority acknowledge the existence of uncertainty resulting from the Covid-19 pandemic and other force majeure events including but not limited to "Acts of God" or delays due to weather (collectively, a "Force Majeure Condition") that certain governmental functions may operate on schedules or cause delays that may prevent the Parties hereto, through no fault of such Party or Parties, from meeting deadlines and other dates set forth in this Agreement. As a result, the Parties agree that either Party may deliver an extension notice if a Force Majeure Condition exists in order to extend the date required for performance of any deadline or other date set forth herein, and such deadline or date shall be extended as set forth in such Party's extension notice but in no event shall any extension or extensions allowed in this Section 9(p) exceed sixty (60) days in the aggregate. The Parties also agree and acknowledge that construction of the Infrastructure Improvements will require receipt of a Section 404 Permit from the U.S. Army Corps of Engineers and that delays in processing said permit could delay the construction schedule at no fault of the Authority or the Company. The Parties agree to work together to establish reasonable schedule modifications to accommodate delays caused by the Section 404 Permit, if any, and under no circumstances will the Authority be held liable for a breach of this Agreement for circumstances, acts or failure to act related to the Section 404 Permit, which are wholly outside of its control, including those delays conclusively proven by the Authority to be directly caused by the acts of the Company.

The Authority and the Company have caused this Agreement to be signed under seal, in their names and on their behalf by their duly authorized officers, all as of the day and date first written above.

AUTHORITY:

JOINT DEVELOPMENT AUTHORITY OF JASPER COUNTY, MORGAN COUNTY, NEWTON COUNTY AND WALTON COUNTY, a public body corporate and politic of the State of Georgia

By:	[SEAL]
Name:	
Title:	
Attest	
Ву:	[SEAL]
Name:	
Title	

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; SIGNATURE AND ACKNOWLEDGEMENT PAGES FOLLOW]

BAYMARE LLC, a Delaware limited liability company	
By:	[SEAL]
Name:Title:	

COMPANY:

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK; ACKNOWLEDGEMENT PAGE FOLLOW]

ACKNOWLEDGEMENT AND AGREEMENT

Morgan County, acting through its Boards of Commissioners, hereby executes this Acknowledgment and Agreement in order to acknowledge and the agree to each of the provisions of this Agreement which are applicable to it, but Morgan County is not considered a "Party" to this Agreement.

MORGAN COUNTY:

MORGAN COUNTY GEORGIA,

a political subdivision of the State of Georgia

By:	[SEAL]
Name:	
Title:	

EXHIBIT A

PROPERTY

[SEE ATTACHED]

PARCEL ONE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 282, LAND LOTS 33, 34, 63, & 64, 19TH DISTRICT, MORGAN COUNTY; MILITIA DISTRICT 420, LAND LOTS 104 & 105, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOTS 74, 75, 102, 103, 104, & 105, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A POINT ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 (RIGHT-OF-WAY VARIES) 5138.19 FEET SOUTHEAST FROM THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE SOUTHEASTERLY RIGHT-OF-WAY OF U.S. HIGHWAY 20 (RIGHT-OF-WAY VARIES), SAID POINT BEING THE POINT OF BEGINNING:

THENCE TRAVELING ALONG THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20 THE FOLLOWING THREE (3) COURSES AND DISTANCES, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 125.00 FEET TO A POINT. THENCE, NORTH 56° 08' 19" EAST FOR A DISTANCE OF 70.71 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 4609.25 FEET TO A 5/8 REBAR SET. THENCE LEAVING SAID RIGHT-OF-WAY, SOUTH 72° 11' 50" EAST FOR A DISTANCE OF 49.03 FEET TO A 5/8 REBAR SET. THENCE, NORTH 16° 39' 41" WEST FOR A DISTANCE OF 6.43 FEET TO A 5/8 REBAR SET ON THE SOUTHWESTERLY RIGHT-OF-WAY OF INTERSTATE HIGHWAY 20. THENCE TRAVELING ALONG SAID RIGHT-OF-WAY THE FOLLOWING THIRTEEN (13) COURSES AND DISTANCES. SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 420.97 FEET TO A POINT. THENCE, SOUTH 32° 36' 25" EAST FOR A DISTANCE OF 96.33 FEET TO A POINT. THENCE, SOUTH 06° 38' 01" WEST FOR A DISTANCE OF 466.58 FEET TO A POINT. THENCE, SOUTH 83° 21' 59" EAST FOR A DISTANCE OF 100.00 FEET TO A 5/8 REBAR SET. THENCE, NORTH 06° 38' 01" EAST FOR A DISTANCE OF 466.58 FEET TO A 5/8 REBAR SET. THENCE, NORTH 39° 46' 13" EAST FOR A DISTANCE OF 70.33 FEET TO A POINT. THENCE, SOUTH 78° 51' 41" EAST FOR A DISTANCE OF 799.31 FEET TO A POINT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 82° 07' 55" EAST FOR A DISTANCE OF 350.57 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 67° 33' 05" EAST FOR A DISTANCE OF 101.98 FEET TO A POINT. THENCE, SOUTH 60° 55' 47" EAST FOR A DISTANCE OF 210.35 FEET TO A RIGHT-OF-WAY MONUMENT. THENCE, SOUTH 26° 45' 34" EAST FOR A DISTANCE OF 652.38 FEET TO A POINT. THENCE, SOUTH 78° 54' 18" EAST FOR A DISTANCE OF 457.32 FEET TO A 5/8" REBAR SET AT THE INTERSECTION OF SAID RIGHT-OF-WAY AND THE COMMON LAND LOT LINE OF LAND LOTS 34 & 35. THENCE LEAVING SAID RIGHT OF WAY AND TRAVELING ALONG SAID COMMON LAND LOT LINE, SOUTH 43° 47' 03" WEST FOR A DISTANCE OF 2000.15 FEET TO A 1/2" REBAR INSIDE OF A 3" PIPE, SAID 1/2" REBAR ALSO BEING THE COMMON LAND LOT CORNER OF LAND LOTS 34, 35, 62 & 63. THENCE LEAVING SAID LAND LOT CORNER AND TRAVELING ALONG THE COMMON LAND LOT LINE OF LAND LOTS 62 & 63, SOUTH 44° 35' 24" WEST FOR A DISTANCE OF 3006.44 FEET TO THE COMMON LAND LOT CORNER OF LAND LOTS 62, 63, 65, & 66, THENCE LEAVING SAID LAND LOT CORNER, NORTH 41° 56' 19" WEST FOR A DISTANCE OF 450.35 FEET TO A 1" SQUARE POST. THENCE, NORTH 47° 53' 48" WEST FOR A DISTANCE OF 2554.71 FEET TO A CONCRETE MONUMENT. THENCE, SOUTH 89° 31' 08" WEST FOR A DISTANCE OF 602.34 FEET TO A 1/2" REBAR ON THE COMMON LAND LOT LINE OF LAND LOTS 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE THE FOLLOWING TWO (2) COURSES AND DISTANCES, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO 1/2" REBAR. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT CORNER OF LAND LOTS 102, 103, 104, & 105. THENCE LEAVING SAID LAND LOT CORNER, SOUTH 61° 29' 30" WEST FOR A DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A 30" POPLAR TREE.

THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET TO A 1/2" REBAR. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR. THENCE, NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 01' 00" EAST FOR A DISTANCE OF 109.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 02° 50' 00" EAST FOR A DISTANCE OF 41.80 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 120.57 FEET TO A 5/8" REBAR SET. THENCE, NORTH 00° 02' 49" WEST FOR A DISTANCE OF 109.12 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 35' 43" WEST FOR A DISTANCE OF 104.15 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 45' 12" WEST FOR A DISTANCE OF 129.75 FEET TO A 5/8" REBAR SET. THENCE, NORTH 01° 24' 52" EAST FOR A DISTANCE OF 190.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 58' 59" EAST FOR A DISTANCE OF 177.00 FEET TO A 5/8" REBAR SET. THENCE, NORTH 06° 21' 33" EAST FOR A DISTANCE OF 65.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 20' 22" EAST FOR A DISTANCE OF 68.42 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 19' 08" EAST FOR A DISTANCE OF 63.25 FEET TO A 5/8" REBAR SET. THENCE, NORTH 08° 21' 40" EAST FOR A DISTANCE OF 120.23 FEET TO A 5/8" REBAR SET. THENCE, NORTH 22° 51' 48" EAST FOR A DISTANCE OF 72.05 FEET TO A 5/8" REBAR SET. THENCE, NORTH 40° 06' 12" EAST FOR A DISTANCE OF 99.95 FEET TO A 5/8" REBAR SET. THENCE, NORTH 39° 30' 42" EAST FOR A DISTANCE OF 98.61 FEET TO A 5/8" REBAR SET. THENCE, NORTH 32° 05' 05" EAST FOR A DISTANCE OF 97.79 FEET TO A 5/8" REBAR SET. THENCE, NORTH 14° 33' 13" EAST FOR A DISTANCE OF 44.83 FEET TO A 5/8" REBAR SET. THENCE, NORTH 03° 34' 04" EAST FOR A DISTANCE OF 48.91 FEET TO A 5/8" REBAR SET. THENCE, NORTH 04° 51' 13" WEST FOR A DISTANCE OF 119.07 FEET TO A 5/8" REBAR SET. THENCE, NORTH 15° 49' 00" WEST FOR A DISTANCE OF 150.56 FEET TO A 5/8" REBAR SET. THENCE, NORTH 17° 53' 59" EAST A DISTANCE OF 115.16 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 555.02 ACRES OR 24,176,550 SQUARE FEET MORE OR LESS.

PARCEL TWO

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 103 & 104, 1ST DISTRICT, NEWTON COUNTY; & MILITIA DISTRICT 418, LAND LOT 104, 1ST DISTRICT, WALTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A CONCRETE MONUMENT FOUND AT THE INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY; THENCE NORTH 34° 24' 38" WEST FOR A DISTANCE OF 14.41 FEET TO A CONCRETE MONUMENT FOUND; THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE OF 207.58 FEET TO A 5/8" REBAR SET, SAID REBAR BEING THE POINT OF BEGINNING:

THENCE, SOUTH 42° 23' 51" WEST FOR A DISTANCE OF 296.73 FEET TO 5/8" REBAR SET. THENCE, NORTH 87° 35' 29" WEST FOR A DISTANCE OF 1798.57 FEET TO A 1" REBAR FOUND. THENCE, NORTH 87° 15' 57" WEST FOR A DISTANCE OF 277.54 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING SEVENTEEN (17) COURSES AND DISTANCES: NORTH 36° 16' 52" EAST FOR A DISTANCE OF 9.86 FEET TO A POINT. THENCE, NORTH 23° 23' 40" EAST FOR A DISTANCE OF 61.70 FEET TO A POINT. THENCE, NORTH 37° 23' 04" EAST FOR A DISTANCE OF 67.46 FEET TO A POINT. THENCE, NORTH 12° 36' 52" EAST FOR A DISTANCE OF 55.12 FEET TO A POINT. THENCE, NORTH 37° 12' 03" EAST FOR A DISTANCE OF 46.14 FEET TO A POINT. THENCE, NORTH 15° 52' 48" EAST FOR A DISTANCE OF 22.30 FEET TO A POINT. THENCE, NORTH 13° 01' 06" EAST FOR A DISTANCE OF 60.60 FEET TO A POINT. THENCE, NORTH 10° 33' 37" EAST FOR A DISTANCE OF 65.27 FEET TO A POINT. THENCE, NORTH 06° 05' 47" EAST FOR A DISTANCE OF 65.27 FEET TO A POINT. THENCE, NORTH 31° 41' 48" EAST FOR A DISTANCE OF 67.54 FEET TO A POINT. THENCE, NORTH 31° 41' 48" EAST FOR A DISTANCE OF 47.54 FEET TO A POINT. THENCE, NORTH 01° 50'

55" WEST FOR A DISTANCE OF 82.74 FEET TO A POINT. THENCE, NORTH 39° 15' 37" EAST FOR A DISTANCE OF 59.65 FEET TO A POINT. THENCE, NORTH 10° 11' 40" EAST FOR A DISTANCE OF 53.79 FEET TO A POINT. THENCE, NORTH 10° 11' 40" EAST FOR A DISTANCE OF 173.35 FEET TO A POINT. THENCE, NORTH 39° 51' 00" EAST FOR A DISTANCE OF 57.96 FEET TO A POINT. THENCE, NORTH 31° 19' 10" EAST FOR A DISTANCE OF 6.32 FEET TO A POINT. THENCE LEAVING THE CENTERLINE OF SAID CREEK, NORTH 59° 21' 20" EAST FOR A DISTANCE OF 59.92 FEET TO AN AXLE FOUND. THENCE, NORTH 61° 29' 30" EAST FOR A DISTANCE OF 945.63 FEET TO AN AXLE FOUND ON THE APPROXIMATE LAND LOT LINE OF LAND LOT 103 & 104. THENCE TRAVELING ALONG SAID LAND LOT LINE, SOUTH 30° 36' 56" EAST FOR A DISTANCE OF 701.70 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 30° 38' 44" EAST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE LEAVING SAID LAND LOT LINE, SOUTH 88° 13' 42" EAST A DISTANCE OF 395.65 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 42.11 ACRES OR 1,834,200 SQUARE FEET MORE OR LESS.

PARCEL THREE

ALL THAT TRACT OR PARCEL OF LAND LYING IN AND BEING IN GEORGIA MILITIA DISTRICT 420, LAND LOT 105, 1ST DISTRICT, NEWTON COUNTY, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT A COUNTY MARKER LOCATED AT THE COMMON INTERSECTION OF NEWTON COUNTY, WALTON COUNTY, AND MORGAN COUNTY. THENCE, NORTH 34° 24 '38" WEST FOR A DISTANCE OF 14.45 FEET TO A CONCRETE MONUMENT FOUND. THENCE, SOUTH 85° 13' 21" WEST FOR A DISTANCE ON 207.58 FEET TO A 5/8" REBAR SET. THENCE, NORTH 88° 13' 42" WEST FOR A DISTANCE OF 395.65 FEET TO A 1/2" REBAR FOUND ON THE COMMON LAND LOT LINE OF LAND LOT 103 AND LAND LOT 104. THENCE, NORTH 30° 38' 44" WEST FOR A DISTANCE OF 750.64 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 30° 36' 56" WEST FOR A DISTANCE OF 701.70 FEET TO AN AXLE AT THE COMMON LAND LOT CORNER OF LAND LOTS 102, 103, 104, AND 105. THENCE, SOUTH 61° 29' 30" WEST FOR A

DISTANCE OF 945.63 FEET TO AN AXLE. THENCE, SOUTH 59° 21' 20" WEST FOR A DISTANCE OF 275.27 FEET TO THE STUMP OF A POPLAR TREE. THENCE, NORTH 27° 31' 34" EAST FOR A DISTANCE OF 39.82 FEET A 1/2" REBAR FOUND. THENCE, NORTH 37° 24' 17" EAST FOR A DISTANCE OF 48.57 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 32° 20' 49" EAST FOR A DISTANCE OF 80.59 FEET TO A 1/2" REBAR FOUND. THENCE. NORTH 33° 27' 13" EAST FOR A DISTANCE OF 91.59 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 21° 29' 22" EAST FOR A DISTANCE OF 147.14 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 14° 20' 56" EAST FOR A DISTANCE OF 100.73 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 12° 31' 42" EAST FOR A DISTANCE OF 83.69 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 03° 07' 18" EAST FOR A DISTANCE OF 125.01 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 05° 47' 36" WEST FOR A DISTANCE OF 157.40 FEET TO A 5/8" REBAR SET. THENCE, NORTH 05° 00' 32" EAST FOR A DISTANCE OF 62.52 FEET TO A 5/8" REBAR SET ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY ALONG A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 02° 43' 46". HAVING A RADIUS OF 2058.25 FEET. AND WHOSE LONG CHORD BEARS NORTH 61° 21' 40" WEST FOR A DISTANCE OF 98.05 FEET TO A 5/8" REBAR SET; SAID POINT BEING THE POINT OF BEGINNING;

THENCE LEAVING SAID RIGHT OF WAY, SOUTH 19° 08' 21" WEST FOR A DISTANCE OF 334.46 FEET TO A 1/2" REBAR FOUND, THENCE, SOUTH 26° 54' 13" WEST FOR A DISTANCE OF 198.17 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 561.62 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 34° 39' 30" WEST FOR A DISTANCE OF 19.72 FEET TO A POINT AT THE CENTERLINE OF A CREEK. THENCE TRAVELING ALONG THE CENTERLINE OF SAID CREEK FOR THE FOLLOWING FORTY TWO (42) COURSES AND DISTANCES, NORTH 85° 35' 42" WEST FOR A DISTANCE OF 50.57 FEET TO A POINT. THENCE. NORTH 52° 43' 46" WEST FOR A DISTANCE OF 71.69 FEET TO A POINT. THENCE, SOUTH 87° 26' 25" WEST FOR A DISTANCE OF 16.56 FEET TO A POINT. THENCE, NORTH 72° 51' 49" WEST FOR A DISTANCE OF 96.77 FEET TO A POINT. THENCE, NORTH 30° 22' 25" WEST FOR A DISTANCE OF 103.72 FEET TO A POINT. THENCE, NORTH 39° 56' 32" WEST FOR A DISTANCE OF 137.93 FEET TO A POINT. THENCE, NORTH 17° 34' 23" EAST FOR A DISTANCE OF 50.98 FEET TO A POINT. THENCE, NORTH 27° 42' 59" WEST FOR A DISTANCE OF 67.11 FEET TO A POINT. THENCE, NORTH 73° 16' 20" WEST FOR A DISTANCE OF 52.92 FEET TO A POINT. THENCE, NORTH 22° 23' 26" WEST FOR A DISTANCE OF 82.88 FEET TO A POINT. THENCE, NORTH 72° 11' 17" WEST FOR A DISTANCE OF 36.19 FEET TO A POINT. THENCE, NORTH 28° 02' 33" WEST FOR A DISTANCE OF 59.27 FEET TO A POINT. THENCE, SOUTH 28° 42' 42" WEST FOR A DISTANCE OF 31.31 FEET TO A POINT. THENCE, SOUTH 72° 47' 59" WEST FOR A DISTANCE OF 30.67 FEET TO A POINT. THENCE, NORTH 01° 53' 15" EAST FOR A DISTANCE OF 22.87 FEET TO A POINT. THENCE, NORTH 34° 33' 06" WEST FOR A DISTANCE OF 27.38 FEET TO A POINT. THENCE, NORTH 85° 53' 44" WEST FOR A DISTANCE OF 63.38 FEET TO A POINT. THENCE, NORTH 16° 31' 13" WEST FOR A DISTANCE OF 73.56 FEET TO A POINT. THENCE, NORTH 57° 11' 16" WEST FOR A DISTANCE OF 25.33 FEET TO A POINT. THENCE, NORTH 34° 05' 41" WEST FOR A DISTANCE OF 54.30 FEET TO A POINT. THENCE, NORTH 47° 28' 00" WEST FOR A DISTANCE OF 182.00 FEET TO A POINT. THENCE, NORTH 88° 56' 09" WEST FOR A DISTANCE OF 35.31 FEET TO A POINT. THENCE, NORTH 25° 00' 19" WEST FOR A DISTANCE OF 80.05 FEET TO A POINT. THENCE, NORTH 76° 27' 01" WEST FOR A DISTANCE OF 98.21 FEET TO A POINT. THENCE, NORTH 21° 17' 54" WEST FOR A DISTANCE OF 95.57 FEET TO A POINT. THENCE, NORTH 63° 33' 03" WEST FOR A DISTANCE OF 19.58 FEET TO A POINT. THENCE, SOUTH 31° 09' 11" WEST FOR A DISTANCE OF 49.80 FEET TO A POINT. THENCE, SOUTH 86° 32' 27" WEST FOR A DISTANCE OF 28.65 FEET TO A POINT. THENCE, NORTH 02° 46' 11" WEST FOR A DISTANCE OF 105.94 FEET TO A POINT. THENCE, NORTH 29° 35' 39" WEST FOR A DISTANCE OF 128.82 FEET TO A POINT. THENCE, NORTH 29° 17' 00" EAST

FOR A DISTANCE OF 78.57 FEET TO A POINT. THENCE, NORTH 10° 15' 42" WEST FOR A DISTANCE OF 91.07 FEET TO A POINT. THENCE, NORTH 82° 33' 37" WEST FOR A DISTANCE OF 92.73 FEET TO A POINT. THENCE, NORTH 64° 06' 43" WEST FOR A DISTANCE OF 44.20 FEET TO A POINT. THENCE, NORTH 07° 19' 19" WEST FOR A DISTANCE OF 32.82 FEET TO A POINT. THENCE, NORTH 13° 23' 03" EAST FOR A DISTANCE OF 114.86 FEET TO A POINT. THENCE, NORTH 79° 45' 14" EAST FOR A DISTANCE OF 21.62 FEET TO A POINT. THENCE, NORTH 00° 40' 02" EAST FOR A DISTANCE OF 52.55 FEET TO A POINT. THENCE, NORTH 41° 16' 55" WEST FOR A DISTANCE OF 44.49 FEET TO A POINT. THENCE, NORTH 09° 10' 30" WEST FOR A DISTANCE OF 66.25 FEET TO A POINT. THENCE, NORTH 43° 06' 03" WEST FOR A DISTANCE OF 40.50 FEET TO A POINT. THENCE LEAVING SAID CREEK SOUTH 88° 27' 52" EAST A DISTANCE OF 20.00 FEET TO A 5/8" REBAR SET. THENCE, SOUTH 88° 27' 52" EAST A DISTANCE OF 131.91 FEET TO A 1/2" REBAR FOUND. THENCE, NORTH 01° 37' 02" EAST FOR A DISTANCE OF 165.67 FEET TO POINT ON THE SOUTHERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY FOR THE FOLLOWING FIVE (5) COURSES AND DISTANCES: SOUTH 88° 22' 18" EAST FOR A DISTANCE OF 17.36 FEET TO THE BEGINNING OF A CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 31° 12' 43.6", HAVING A RADIUS OF 1249.88 FEET, AND WHOSE LONG CHORD BEARS SOUTH 72° 45' 56" EAST FOR A DISTANCE OF 672.49 FEET. THENCE, SOUTH 57° 09' 30" EAST FOR A DISTANCE OF 229.67 FEET TO A POINT. THENCE, SOUTH 56° 54' 55" EAST FOR A DISTANCE OF 60.57 FEET TO A 1/2" REBAR FOUND. THENCE, SOUTH 57° 01' 18" EAST FOR A DISTANCE OF 60.19 FEET TO A POINT. THENCE LEAVING SAID RIGHT OF WAY, SOUTH 32° 52' 20" WEST FOR A DISTANCE OF 404.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 89° 59' 12", HAVING A RADIUS OF 40.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 12° 08' 42" EAST FOR A DISTANCE OF 56.56 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, SOUTH 57° 08' 30" EAST FOR A DISTANCE OF 555.17 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE, SAID CURVE TURNING TO THE LEFT THROUGH 49° 40' 09", HAVING A RADIUS OF 25.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 21.00 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE RIGHT THROUGH AN ANGLE OF 50° 20' 59". HAVING A RADIUS OF 60.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 81° 48' 17" EAST FOR A DISTANCE OF 51.05 FEET TO A POINT OF INTERSECTION WITH A NON-TANGENTIAL LINE. THENCE, NORTH 32° 52' 26" EAST FOR A DISTANCE OF 414.07 FEET TO A POINT ON THE SOUTHWESTERLY RIGHT OF WAY OF SHIRE PARKWAY. THENCE TRAVELING ALONG SAID RIGHT OF WAY SOUTH 57° 11' 38" EAST A DISTANCE OF 121.34 FEET TO THE BEGINNING OF A NON-TANGENTIAL CURVE. SAID CURVE TURNING TO THE LEFT THROUGH AN ANGLE OF 02° 47' 59.4", HAVING A RADIUS OF 2050.00 FEET, AND WHOSE LONG CHORD BEARS SOUTH 58° 35' 38" EAST FOR A DISTANCE OF 100.17 FEET TO THE POINT OF BEGINNING.

SAID TRACT OR PARCEL OF LAND CONTAINS 33.49 ACRES OR 1,458,628 SQUARE FEET MORE OR LESS.

EXHIBIT B

DEPICTION OF SPUR

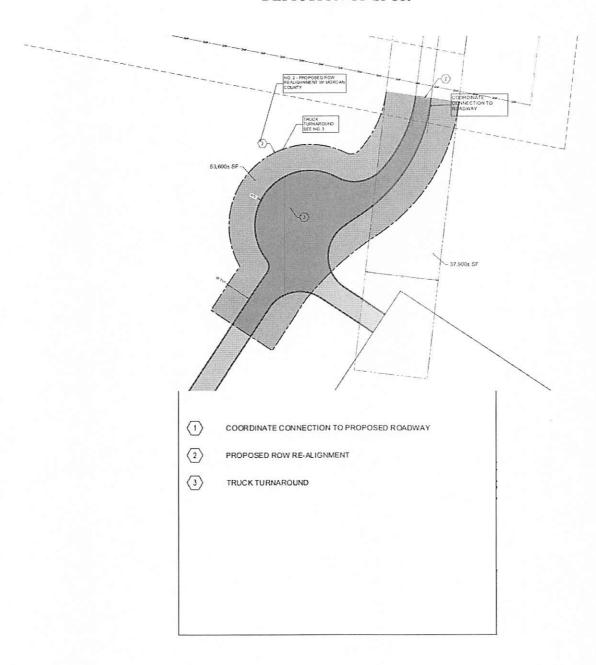


EXHIBIT C

CONSTRUCTION DEADLINES

Final construction deadlines and phasing shall be determined upon consultation between the Authority's engineering representatives and the Company's Construction Monitor or other engineer selected by the Company. The schedule below is a placeholder until such time as a more detailed scheduled can be derived (the "Updated Schedule"). The Updated Schedule shall be approved by the Parties as an amendment to this Agreement within thirty (30) days of the Effective Date. Following adoption of the Updated Schedule, the schedule may be adjusted by mutual agreement of the Authority and Company at any time.

- 1. Frontage Road: 18 to 24 months after the Effective Date
- 2. **Spur**: The Spur may be constructed in multiple phases and timed to accommodate construction traffic and to have final paving and connections to Frontage Road completed by the deadline for Frontage Road. A graded and graveled roadbed suitable for access to the Property shall be installed by the Authority in accordance with the timeline mutually agreed upon by the Parties in writing on or prior to the Effective Date, and thereafter incorporated into the Updated Schedule. The Spur will receive final paving simultaneously with that of the Frontage Road.

CERTIFICATE OF SECRETARY

The undersigned Secretary of the Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County (the "Issuer"), DOES HEREBY CERTIFY that the foregoing pages constitute a true and correct copy of the Bond Resolution adopted by the Issuer at an open public meeting at which a quorum was present, duly called and lawfully assembled at 3:00 p..m., on the 23rd day of February, 2021, authorizing the issuance of revenue bonds to be designated "Joint Development Authority of Jasper County, Morgan County, Newton County and Walton County Taxable Revenue Bonds (Baymare LLC Project), Series 2021," the original of such Bond Resolution being duly recorded in the Minute Book of the Issuer, which Minute Book is in my custody and control.

I do hereby further certify that all members of the Issuer were present at said meeting except the following members who were absent:

none	
and that the Resolution was duly adopted by the following vote:	
The following voted "Aye": Alan Verrer, And Airshe, Marcello Barres	
Jerry Silvio, David Thampson, To Mily Our	<u>s,</u>
Gerald Sturbel, Steve Jadan	_;
The following voted "Nay":	
The following Did Not Vote:	_;
WITNESS my hand and the official seal of the Joint Development Authority of County, Morgan County, Newton County and Walton County, this day of February, 20	
Secretary how	
[SEAL] CORPORATION S.F. A.L. S	

