

RESOLUTION 2004 - 65

**A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, RELATING TO THE LEASE/PURCHASE OF CERTAIN CAPITAL EQUIPMENT BY THE SHERIFF OF ST. JOHNS COUNTY.**

**WHEREAS**, the Sheriff of St. Johns County annually replaces certain capital equipment that is utilized by the Sheriff's Department in the accomplishment of its public services; and

**WHEREAS**, it is in the public interest for the Sheriff to acquire such capital equipment through a lease/purchase agreement; and

**WHEREAS**, the Sheriff of St. Johns County intends to enter into an Equipment Lease/Purchase Agreement, dated April 1, 2004 (the Agreement), and a Commitment Letter, dated April 1, 2004 (the Letter), with Wachovia Bank, National Association for the acquisition of this capital equipment.

**NOW THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of St. Johns County, Florida;

1. That the above recitals are hereby incorporated as legislative findings of fact.
2. That the Board of County Commissioners has no objection to the Sheriff signing the Agreement and Letter.

**PASSED AND ADOPTED** by the Board of County Commissioners of St. Johns County, State of Florida, this 6<sup>th</sup> day of April 2004.

**BOARD OF COUNTY COMMISSIONERS  
OF ST. JOHNS COUNTY, FLORIDA**

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

*Karen R. Stern*  
Karen R. Stern, Chair

ATTEST: Cheryl Strickland, Clerk

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

*Patricia A. Grande*  
Deputy Clerk

RENDITION DATE 4-7-04

Wachovia Bank, N.A.  
Government Services Group  
FL6005  
1950 West Hillsboro Boulevard  
Deerfield Beach, FL 33442

#6

“ \_\_\_\_\_ ”

April 5, 2004

**WACHOVIA**

Ms. Becky Hesson  
Lieutenant, Administration Division  
St. Johns County Sheriff's Office  
4015 Lewis Speedway  
St. Augustine, Florida 32084

Dear Ms. Hesson:

It is a pleasure to inform you that we offer to enter into a lease/purchase transaction with you under the terms of Schedule A of Leased/Purchased Equipment, Schedule I dated as of April 5, 2004 between Wachovia Bank, National Association f/k/a First Union National Bank as Lessor, and St. Johns County Sheriff, as Lessee, to the Equipment Lease/Purchase Agreement dated as of April 5, 2004 between Wachovia Bank, National Association f/k/a First Union National Bank as Lessor, and St. Johns County Sheriff, as Lessee, and upon the following additional terms and conditions:

**EQUIPMENT:** Financing the acquisition of Sheriff's vehicles.

**LOCATION:** St. Johns County Sheriff Office, 4015 Lewis Speedway, St. Augustine, Florida 32084

**COST OF EQUIPMENT:** \$1,190,925

**TERM OF LEASE:** Three years

**RENT: Schedule I:**

Beginning April 5, 2004, the Sheriff will commence repayment with Twelve (12) quarterly payments of principal and interest (as specified in the amortization schedule), fixed at an interest rate of 1.92%. The contract will amortize over the term, with payments at the interest rate as illustrated below.

**RENTAL ADJUSTMENT:** The rate and payment factor quoted in this commitment are subject to the Lessee designating all fundings under this commitment as being within the \$10 million small issuer limitation as described within Section 265(b)(3) of the Internal Revenue Code of 1986.

**INFORMATION REPORTING REQUIREMENT:** For single fundings over \$100,000, IRS Form 8038-G must be filed by the 15<sup>th</sup> day of the second month after the calendar quarter during which the funding occurred.

**INSURANCE REQUIREMENT:** As set forth in the attached Exhibit A with Loss Payee as Wachovia Bank, National Association.

st\_johns\_comm\_04.doc

**EXHIBIT "A"**  
BCC 04106104  
Agenda Item # 6

50 Gordon  
3-21-04

**EXPIRATION DATE OF THIS COMMITMENT:** April 6, 2004

We may terminate our obligations under this letter agreement upon the expiration date if the necessary Schedule A has not been executed.

It is understood that we are not bound by the oral or written statement of any employee or agent of ours, and that our obligations are contained only in this letter or any amendment to it in writing, signed by our authorized officer.

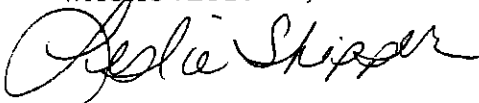
If you agree to enter into a leasing transaction on the terms set forth in this letter, in the Equipment Lease/Purchase Agreement and in the Schedule A of Leased/Purchased Equipment, Schedule I, please indicate your acceptance by delivering or causing to be delivered the following to us within fifteen (15) days from the date of this letter:

1. ***TWO** counterparts of the Equipment Lease/Purchase Agreement (Lessor, Lessee) executed by the Sheriff's Office;*
2. *Two counterparts of the enclosed Schedule A of Leased Purchased Equipment (Lessor, Lessee) executed by the Sheriff's Office;*
3. *Opinion of Lessee's Counsel;*
4. *A certified copy of the Resolutions and Incumbency Certificate/Incumbency Certificate (if Sheriff);*
5. *A completed copy of the Exhibit A, Insurance Requirement, to this Letter; and*
6. *Form 8038-G (or, if less than \$100,000, Form 8038-GC), executed by the Sheriff's Office.*
7. *Essential Use Letter*

**Prior to disbursement, the Lessee must submit the enclosed Acceptance Certificate along with copies of invoices, warranties and if required, maintenance agreements.**

By your acceptance hereof, you agree that this letter becomes a part of the Equipment Lease/Purchase Agreement referenced above.

Sincerely,  
WACHOVIA BANK, NATIONAL ASSOCIATION



Leslie Skipper  
Vice President

We hereby agree to enter the equipment leasing transaction described above on the terms and conditions set forth above and agree that the foregoing letter shall be a part of the Equipment Lease/Purchase Agreement referred to in such letter.

St. Johns County Sheriff, Florida

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

TITLE: Sheriff

DATED: 4/01/04

LESSEE

## EQUIPMENT LEASE/PURCHASE AGREEMENT

THIS EQUIPMENT LEASE/PURCHASE AGREEMENT (as amended or supplemented from time to time, this "Agreement") dated as of April 5, 2004 between WACHOVIA BANK, NATIONAL ASSOCIATION, F/K/A FIRST UNION NATIONAL BANK, a national banking association organized under the laws of the United States of America (the "Lessor"), St. Johns County Sheriff, a political subdivision of the State of Florida, as the Lessee (the "Lessee")

### WITNESSETH:

WHEREAS, the Lessor has agreed to lease the Equipment, as hereinafter defined, to the Lessee, and the Lessee has agreed to lease the Equipment from the Lessor, pursuant to the terms and conditions hereinafter set forth;

WHEREAS, the Equipment has been ordered from the manufacturers or suppliers, or has been approved for ordering by the Lessee, but there is expected to be a delay in payment of the purchase price by the Lessor and delivery of the equipment to the Lessee, and in order to secure the obligations of the Lessor hereunder, the Lessee has requested the Lessor to set aside in escrow with the Escrow Agent, pursuant to the terms hereof, the purchase price of the Equipment;

NOW, THEREFORE, for and in consideration of the premises and the covenants hereinafter contained, and other good and valuable consideration, the parties hereto agree as follows:

### SECTION 1. DEFINITIONS

For purposes of this Agreement and any related documents, the following definitions will apply:

1.1 Schedule A of Leased/Purchased Equipment. The document(s) now or hereafter from time to time attached hereto and incorporated herein by reference and signed by the parties which, among other things, describes (i) the Equipment to be leased by the Lessor to the Lessee, (ii) the lease term for the Equipment listed thereon and (iii) the Lessee's obligations with respect to payment under this Agreement.

1.2 Equipment. The goods enumerated on each Schedule A of Leased/ Purchased Equipment that is now or may hereafter from time to time become attached hereto and incorporated herein by reference, together and with any and all additions, modifications, attachments, replacements and parts thereof.

1.3 Acceptance Date. Unless otherwise agreed to by the prior written consent of the Lessor, the Equipment installation date.

1.4 Acceptance Certificate. The form by which the Lessee accepts delivery of all or a portion of the Equipment and authorizes the Lessor to disburse funds for such Equipment.

1.5 Event of Nonappropriation. The determination by Lessee not to appropriate, or that is not authorized by law to appropriate, monies sufficient to make rental payments under this Agreement.

### SECTION 2. LEASE

The Lessor hereby rents and leases to the Lessee, and the Lessee hereby rents and leases from the Lessor, the Equipment listed on any Schedule A of Leased/ Purchased Equipment now or hereafter from time to time attached hereto and incorporated herein by reference. The Lessee shall be entitled to possession of each piece of the Equipment constituting a part of the Equipment and may retain possession of the Equipment so long as the Agreement has not been terminated for reasons of non-appropriation or default by the Lessee under the terms set forth herein. THIS LEASE IS NOT A PLEDGE OF THE FULL FAITH AND CREDIT OF THE LESSEE, AND DOES NOT CREATE ANY OBLIGATION ON THE PART OF THE LESSEE EXCEPT AS SPECIFICALLY STATED HEREIN.

### SECTION 3. TERM

The lease term for each Schedule A of Leased/ Purchased Equipment shall commence on the Commencement Date set forth therein and shall terminate, except as otherwise expressly provided herein, at the expiration of the period set forth in such Schedule A of Leased/ Purchase Equipment. Lessee is hereby granted the option to purchase the Equipment as stated therein.

### SECTION 4. RENTAL PAYMENTS

4.1 Amount and Times of Payment. As rental for the Equipment, the Lessee hereby agrees to pay the Lessor the amounts specified in each Schedule A of Leased/ Purchased Equipment at the times and in the manner set forth therein.

4.2 Place of Payments. All rental payments required to be made to the Lessor hereunder shall be made at the Lessor's principal office or as may be otherwise directed by the Lessor or its assignee.

4.3 Late Charges. Should the Lessee fail to pay any part of the rental payments or any other sum required to be paid herein to the Lessor within fifteen (15) days after the due date thereof, the Lessee shall pay a late payment charge equal to two percent (2%) of the delinquent payment.

4.4 Abatement of Rental Payments. There will be no abatement or reduction of rental payments by the Lessee for any reason, including but not limited to, any defense, recoupment, set off, counterclaim, or any claim (real or imaginary) arising out of or related to any defects, damages, malfunctions, breakdowns or infirmities of the Equipment. The Lessee assumes and shall bear the entire risk of loss and damage to the Equipment from any cause whatsoever, it being the intention of the parties that the rental payments shall be made in all events unless the obligation to make rental payments is terminated as otherwise provided herein.

4.5 Allocation of Interest. A portion of each rental payment shall be allocated to interest in accordance with the amortization schedule attached to each Schedule A of Leased/ Purchased Equipment.

## SECTION 5. ESCROW FUND

**5.1 Small Issuer Exception From Rebate Requirements.** In accordance with Section 148 (4)(D) of the Code, Lessee represents and covenants that it is a governmental unit with general taxing powers; that the lease/ purchase obligation evidenced by the Agreement is not a private activity bond as defined in Section 141 of the Code, that 95% or more of the net proceeds of the lease/ purchase obligation evidenced by this Agreement are to be used for the local governmental activities of the Lessee (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the Lessee), and that *the aggregate face amount of all obligations of the Lessee (including all subordinate entities of the Lessee), the interest on which is not includable in federal gross income (other than private activity bonds as defined in Section 141 of the Code), issued during the current calendar year will not exceed the lesser of (i) \$10,000,000 or (ii) the amount of such obligations attributable to financing construction (within the meaning of Section 148(f)(4)(C)(iv) of the Code) of public school facilities plus \$5,000,000, excluding, however, such obligations which are not outstanding on the date of delivery of the applicable Schedule A or which are to be redeemed (other than in an advance refunding) from the proceeds of the lease/ purchase obligation evidenced by this Agreement.*

**5.2 Escrow Fund.** On the date of commencement of the lease term set forth in Schedule A of Leased/ Purchased Equipment, an amount equal to the aggregate principal amount of the rental payments specified such Schedule A of Leased/ Purchased Equipment will be deposited by the Lessor with the Escrow Agent and such amount shall constitute the principal of an escrow fund ("Escrow Fund"), and shall be held by the Escrow Agent in accordance with the provisions of this Section 5.

**5.3 Investment.** The Escrow Agent shall invest and reinvest the moneys on deposit in the Escrow Fund in the investments described in Schedule A of the Lease/ Purchase Equipment or, otherwise, in accordance with written instructions received from the Lessee. The Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments comply with all federal, state and local laws, regulations and ordinances governing investment of the escrowed funds and for providing appropriate notice to the Escrow Agent for the reinvestment of any maturing investment. Accordingly, the Escrow Agent shall not be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to investment or reinvestment of all or a portion of the Escrow Fund, and Lessee agrees to release and indemnify and hold harmless to the extent permitted by law Escrow Agent and the Lessor from any such liability, cost, expense, loss or claim.

### **5.4 Disbursements.**

- (a) Payment by the Escrow Agent. Unless the Escrow Fund provided for hereunder is earlier terminated in accordance with the provisions hereof, the principal of the Escrow Fund shall be disbursed by Escrow Agent in payment of invoices from the manufacturers or suppliers of the Equipment for the purchase price therefor upon receipt of written authorization(s) from the Lessee, which authorization will be supplied only upon the acceptance of the Equipment by the Lessee.
- (b) Distribution of Interest. Interest earned on the Escrow Fund shall be disbursed by the Escrow Agent upon the termination of the Escrow Fund and the final distribution of the Escrow Fund in the following order: First, to the payment of the Escrow Agent's fees as hereinafter set forth in Section 5.10; second, either

to the payment of the Lessee's next scheduled rental payment(s) as set forth in Schedule A of Leased/ Purchase Equipment applicable to the Escrow Fund; or third, to pay in full the remaining principal obligations of the Lessee of any existing Schedule A of Leased/ Purchased Equipment.

5.5 Termination. This Escrow shall be terminated at the earlier of: (a) the final distribution of principal of the Escrow Fund; (b) written notice given by the Lessee of its election to terminate the Escrow Fund is received by the Escrow Agent and the Lessor; (c) written notice given by Lessor of claimed default by the Lessee under this Agreement is received by the Escrow Agent and the Lessee; (d) date of expiration of the Lessor's obligations under this Agreement; or (e) termination of the Agreement due to an Event of Non-appropriation under Section 14.1 hereof.

5.6 Reliance of Escrow Agent on Documents. The Escrow Agent may act as reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine; may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any official designated on the attached incumbency certificate purporting to give any writing, notice, advice, or instructions in connection with the provisions hereof has been duly authorized to do so. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any instrument deposited in the Escrow Fund, nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such monies received by it as the Escrow Agent, and for the disposition of the same in accordance herewith.

5.7 Indemnification of the Escrow Agent. Unless the Escrow Agent is guilty of willful misconduct with regard to his duties hereunder, the Lessee hereby agrees to indemnify the Escrow Agent to the extent permitted by law and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other reasonable expense, fees, or charges of any character or nature, which it may incur or with which it may be threatened by reason acting as the Escrow Agent for the Escrow Fund; and in connection therewith, to indemnify the Escrow Agent to the extent permitted by law against any and all reasonable expenses, including reasonable attorney's fees and the cost of defending any action, suit or proceeding or resisting any claim.

5.8 Discretion of the Escrow Agent to File Civil Action in the Event of Dispute. If the Lessor or the Lessee shall be in disagreement about the interpretation of the escrow provisions of this Agreement, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action to resolve the disagreement. The Escrow Agent shall be indemnified by Lessee for all reasonable costs to the extent permitted by law, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected with respect to this Escrow Fund until a final judgement in such action is received.

5.9 Consultation with Counsel. The Escrow Agent may consult of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of facts or errors of judgement, or for any acts or omissions of any kind unless caused by its willful misconduct.

5.10 Compensation of the Escrow Agent. The Lessee shall pay to the Escrow Agent a reasonable compensation, as described in the fee letter issued by Escrow Agent for all services performed by the Escrow Agent hereunder and also for all reasonable expenses, charges and other disbursements and those of the Escrow Agent's attorney, agents and employees incurred in and about the administration and

execution of the Escrow Fund hereby created and the performance of the Escrow Agent's powers and duties hereunder. The Lessee authorizes the Escrow Agent to deduct this compensation directly from the investment earnings on no less than an annual basis in accordance with Section 5.4(b). In the event that the investment earnings are insufficient to pay the amount due, Escrow Agent will invoice Lessee for the difference.

5.11 Escrow Fund May Be Omitted. The provisions of this Section 5 shall not apply to any Schedule A Leased/ Purchased Equipment if so stated therein, in which event the Lessor shall make disbursements for the purchase price of Equipment in payment of invoices from the manufacturers or suppliers of the Equipment upon receipt of written authorization from the Lessee, which authorization shall be given by the Lessee only upon acceptance of the Equipment by the Lessee.

## SECTION 6. RESPONSIBILITIES OF LESSEE

6.1 Care and Use. The Lessee shall use the Equipment in a careful and proper manner, in compliance with all applicable laws and regulations, and at its sole cost and expense, service, repair and maintain the Equipment so as to keep the Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Equipment as may from time to time become worn out, lost, stolen, destroyed or damaged or is unfit for use. Any and all additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement. If requested by the Lessor, the Lessee shall enter into or cause to be entered into, and maintained in full force and effect during the term of this Agreement, standard maintenance contracts satisfactory to the Lessor covering the Equipment and shall comply with all its obligations thereunder. The Lessee shall furnish evidence to the Lessor of such signed maintenance agreement at or prior to the date of the applicable Schedule A of Leased/ Purchased Equipment and the payment of all charges and premiums therefor. Substitute maintenance may be used if necessary and if first approved by the Lessor in writing. Upon the early termination of this Agreement pursuant to Sections 13 or 14, the Lessee shall return the Equipment at its sole expense to the Lessor at a place designated by the Lessor in the same condition as originally received, ordinary wear and tear expected, and in a condition which will permit the Lessor to be eligible for such standard maintenance contract without incurring any expense to repair or rehabilitate the Equipment.

6.2 Inspection. The Lessor shall have the right upon reasonable prior notice to the Lessee to enter into and upon the premises where the Equipment is located to inspect the Equipment and observe its use during normal business hours.

6.3 Utilities. The Lessee shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility service furnished to or used on or in connection with the Equipment during the terms of this Agreement. There shall be no abatement of rental payments on account of interruption of any such services.

6.4 Taxes. The Lessee agrees to pay when due any and all taxes relating to the Equipment and the Lessee's obligations hereunder, including but not limited to, all license or registration fees, gross receipts tax, sales and use tax, if applicable, license fees, documentary stamp taxes, rental taxes, assessments, charges, ad valorem taxes, excise taxes, and all other taxes, licenses and charges imposed on the ownership, possession or use of the Equipment by any governmental body or agency, together with any interest and penalties, other than taxes on or measured by the net income of the Lessor.



6.5 Alterations. Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, the Lessee shall not make any alternation, modifications or attachments to the Equipment which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment. Upon return of the Equipment and at the Lessor's request, the Lessee at its sole cost and expense, will remove all alterations, additions and attachments and repair the Equipment as necessary to return the Equipment to the condition in which it was furnished, ordinary wear and tear excepted.

6.6 Transportation and Installation Charges. The Lessee shall be responsible for all charges relating to the transportation of the Equipment to the Lessee's location and the installation at such location. The Lessor may at its option either prepay such charges and invoice Lessee or forward invoices to the Lessee as they are received and the Lessee shall remit payment within ten (10) days.

6.7 Insurance. The Lessee shall continuously maintain at its sole cost and expense insurance on the Equipment covering such risks as are customarily insured against by reasonable and prudent government bodies of like size for such equipment, and in such amounts at a minimum equal to the outstanding principal amount disbursed and outstanding under this Agreement with such deductibles as required, and with such insurance companies as shall be satisfactory to the Lessor. All insurance for loss or damages shall provide that losses if any, shall be payable to the Lessor. Evidence of all required liability insurance shall be provided to the Lessor. The Lessee shall pay the premiums therefor and deliver to the Lessor the policies of insurance or duplicates thereof or other evidence satisfactory to the Lessor of such insurance coverage. Each insurer shall also agree by endorsement upon the policy or policies issued by it that: (a) it will give sixty (60) days prior written notice to the Lessor of cancellation, non-renewal, or material modification of such policy and ten (10) days prior written notice for non-payment of premium; and (b) the coverage of the Lessor shall not be terminated, reduced or affected in any manner regardless of any breach or violation by the Lessee of any warranties, declarations or conditions of such insurance policy or policies. The proceeds of such insurance, at the option of the Lessor, shall be applied: (a) toward the replacement, restoration or repair of the Equipment, or (b) toward payment of the obligations of the Lessee hereunder. The Lessee hereby appoints the Lessor as the Lessee's attorney-in-fact to make claim for, receive payment of, and execute all documents, checks or drafts received in payment of loss or damage under any such insurance policy. If all or any part of the Equipment constitutes motor vehicles, such required insurance shall include without limitation comprehensive automobile liability coverage to include comprehensive and collision and any other insurance as may be required from time to time by any government authority as a condition or in connection with Lessee's use of the Equipment.

6.8 Risk of Loss. The Lessee shall bear all risk of loss to the Equipment, and in the event or loss or damage thereto, the Lessee shall at its option either (i) continue to make the rental payments due hereunder and repair or replace the Equipment as mutually agreed between the Lessee and the Lessor or (ii) purchase the Equipment for an amount equal to the remaining purchase option balance as set forth in the amortization schedule attached to the Schedule A of Leased/ Purchased Equipment.

6.9 Performance by the Lessor of the Lessee's Responsibilities. Any performance required of the Lessee or any payments required to be made by the Lessee may, if not timely performed or paid, be performed or paid by the Lessor, and in that event, the Lessor shall be immediately reimbursed by the Lessee for these payments and for any costs and expense, legal or otherwise, associated with the payments or other performance by the Lessor, with interest at a rate equal to the Lessor's prime rate thereon.

6.10 Financial Statements The Lessee agrees that it will furnish the Lessor at such reasonable times as the Lessor shall request current audited financial statements (including without limitation the Lessee's annual budget as submitted or approved), and permit the Lessor or its agents and representatives to inspect the Lessee's books and records and make extracts therefrom. The Lessee represents and warrants to the Lessor that all financial statements which have been delivered to the Lessor fairly and accurately reflect the Lessee's financial condition and there has been no material adverse change in Lessee's financial condition as reflected in the statements since the date thereof.

## SECTION 7. EQUIPMENT

7.1 Title. For purposes of all responsibilities of Lessee contained in Section 6 of the Agreement, title to the Equipment and any and all additions, repairs, replacements or modification thereto, shall be deemed to be vested in the Lessee from and after the date of the acceptance of the Equipment so long as the Lessee shall not be in default hereunder and/or this Agreement shall not have been terminated pursuant to the provisions of Section 13 or 14 hereof, and shall vest permanently in the Lessee for purposes of ownership upon the completion of all rental payments or the exercise of the option to purchase specified in the Schedule A of Leased/ Purchased Equipment, free and clear of any lien or security interest of the Lessor therein. Immediately upon the occurrence of an event of default by the Lessee hereunder or the termination of this Agreement under Section 14, title to the Equipment (and all additions, repairs, replacements or modifications thereto) shall revert to the Lessor, free and clear of any right, title or interest of the Lessee unless the Lessor elects otherwise, without the necessity of any further action or the execution of any documents by the parties.

7.2 Personal Property. The Equipment is, and shall at all times be and remain, personal property notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or imbedded in, or permanently resting upon, real property or any building thereon or any fixtures, or attached in any manner to what is permanent by any means of cement, plaster, nails, bolts, screws or otherwise. Upon request of the Lessor, Lessee shall obtain, as to any place where the Equipment is located, a waiver from the landlord and mortgagee thereof with respect to any rights they may have in and to the Equipment or the rights of levy or seizure thereon.

7.3 Liens. The Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Equipment or any interest therein. The Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time.

7.4 Inspection, Acceptance and Written Notice of Defects. Immediately upon receipt and installation of the Equipment, the Lessee shall inspect the Equipment. Unless the Lessee gives the Lessor written notice of each defect or other proper objection to the Equipment before the execution of the Acceptance Certificate, it shall be conclusively presumed, as between the Lessor and the Lessee, that Lessee has fully inspected and acknowledged that the Equipment is in good condition and repair, has been properly installed and is performing satisfactorily, and that the Lessee is satisfied with and has accepted the Equipment in such good condition and repair.

## SECTION 8. WARRANTIES AND REPRESENTATIONS OF THE LESSEE

The Lessee warrants and represents to the Lessor (all such representations and warranties being continuing), and is delivering an opinion of its counsel dated the date hereof, in form and substance satisfactory to the Lessor, to the effect that:

- (a) The Lessee is a duly organized and validly existing political subdivision of the State of Florida within the meaning of Section 103 of the Code, and the related regulations and revenue rulings thereunder, and is duly authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder.
- (b) The Lessee has full power and authority to enter into this Agreement and all other documents relating thereto and to perform the Lessee's obligations hereunder and thereunder. The execution and delivery of this Agreement and all related documents, and the performance of Lessee's obligations hereunder and thereunder have been duly and validly authorized by the Lessee and approved under all laws, regulations and procedures applicable to the Lessee, including but not limited to, compliance with public bidding requirements. This Agreement and all related documents constitute valid, legal and binding obligations of the Lessee, enforceable in accordance with their terms except to the extent such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or limiting creditors' rights heretofore or hereafter enacted and that their enforcement may also be subject to the exercise of judicial discretion in appropriate cases and to the application of general principals of equity.
- (c) No approval or consent is required from any governmental authority with respect to the entering into or performance by the Lessee of this Agreement and the transactions contemplated hereby or if any such approval is required it has been duly obtained.

#### **SECTION 9. WARRANTIES AND REPRESENTATIONS OF THE LESSOR**

The Lessor warrants and represents to the Lessee (all such representation and warranties being continuing) to the effect that:

- (a) The Lessor is a national bank duly organized and in good standing with the United States of America and is duly authorized to enter into the transactions contemplated by this Agreement and to carry out its obligations hereunder;
- (b) This Agreement and all other documents relating thereto are valid, legal and binding obligations of the Lessor, enforceable in accordance with their terms except to the extent such enforceability may be limited by bankruptcy, insolvency, reorganization, moratorium or other similar laws relating to or limiting creditors' rights heretofore or hereafter enacted and that their enforcement may also be subject to the exercise

of judicial discretion in appropriate cases and to the application of general principals of equity.

## **SECTION 10. TAX COVENANTS**

The Lessee covenants that it will not permit Equipment with an acquisition price of more than five percent of the principal amount set forth on any Schedule A of Leased/ Purchased Equipment on which such Equipment is listed to be used in a private business use (within the meaning of Section 141(b) of the Code) at any time during the period that begins on the later of the date the Schedule A of Leased/ Purchased Equipment is executed or the date the Equipment is placed in service, and ending on the earlier of the last date of the reasonably expected economic life of such Equipment or the last date any payments are due under such Schedule A of Leased/ Purchased Equipment. The Lessee covenants that it will not create any sinking funds or pledged funds (within the meaning of Income Tax Regulations section 1.148-1(b)) except for a fund or funds that constitute a bona fide debt service fund (within the meaning of Income Tax Regulations section 1.148-1(b)).

## **SECTION 11. INDEMNIFICATION**

Lessee hereby agrees to the extent permitted by law, to indemnify, protect, and save the Lessor harmless from all liability, obligations, losses, claims, damages, actions, suits, proceedings, reasonable costs and expenses, including reasonable attorneys' fees, arising out of, connected with, or resulting directly or indirectly from the Equipment, including without limitation, the manufacture, selection, delivery, possession, condition, lease, use, operation or return of the Equipment. The indemnification arising under this section shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or any Schedule A of Leased/ Purchased Equipment.

## **SECTION 12. DISCLAIMER OF WARRANTIES**

12.1 No Representations by the Lessor. The Lessee acknowledges and agrees that it has selected each item, type, quality, quantity and supplier of Equipment based upon its own judgement and disclaims any reliance upon any statements or representations made by the Lessor, and agrees that the Equipment is of a design, size, quality and capacity required by the Lessee and is suitable for its purposes.

12.2 Disclaimer. THE LESSOR MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT OR ANY OTHER REPRESENTATION OR WARRANTY WITH RESPECT TO THE EQUIPMENT, AND, AS TO THE LESSOR, THE LESSEE LEASES THE EQUIPMENT FROM THE LESSOR AS IS.

12.3 Assignment of Manufacturer's Warranties. Notwithstanding the foregoing, the Lessor hereby agrees to assign to the Lessee, solely for the purpose of making and prosecuting any such claim, all of the Lessor's rights against the manufacturer or supplier of the Equipment for breach of warranty or other representation respecting the Equipment to the extent the same are assignable.

## **SECTION 13. DEFAULT AND REMEDIES**

13.1 Definition of Default. The Lessee shall be deemed to be in default hereunder upon the happening of any of the following events of default:

- (a) The Lessee shall fail to make any rental payments or pay any other sum under this Agreement when due shall fail to perform or observe any term or condition or covenant of this Agreement or any Schedule A of Leased/ Purchased Equipment hereto except as a result of an Event of Non-appropriation as set forth in Section 14 hereof; or
- (b) Proceedings under any bankruptcy, insolvency, reorganization or similar litigation shall be instituted by or against the Lessee, or a receiver, custodian or similar officer shall be appointed for the Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or
- (c) Any warranty, representation or statement made by the Lessee is found to be incorrect or misleading in any material respect on the date made; or
- (d) An attachment, levy or execution is levied upon or against the Equipment; or
- (e) Any insurance carrier cancels any insurance on the Equipment without the Lessee first providing replacement coverage; or
- (f) The Equipment or any part thereof is abused, illegally used, misused, lost, destroyed or damaged beyond repair.
- (g) The Lessee shall fail to provide Wachovia Bank with the signed Resolution from St. Johns County by April 13, 2004.

13.2 Remedies on Default. Upon the occurrence of any event of default, the Lessor may exercise any one or more of the following remedies as the Lessor in its sole discretion shall elect:

- (a) To declare the entire amount of rental payments hereunder immediately due and payable as to any and all items of Equipment without notice or demand to the Lessee;
- (b) Proceed by appropriate court action to enforce performance by the Lessee of the applicable covenants of this Agreement or to recover for the breach thereof including the payment of rental payment due or to become due hereunder or any deficiency therefor following disposition of the Equipment;
- (c) With or without terminating this Agreement, enter and take possession of the Equipment wherever situated without any court order or other process of law and without liability for entering the premises and sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of the Lessee, and apply the proceeds of any such sale, lease, sublease, or other disposition, after deducting all costs and expenses, including court costs and attorneys'

fees, incurred with the recovery, repair, storage and other sale, lease, sublease or other disposition costs, toward the balance due under this Agreement; provided, that the Lessee shall continue to be responsible for all rental payments not satisfied with any such application of proceeds of sale, lease, sublease, or other disposition of the Equipment;

- (d) Terminate this Agreement as to all or any part of the Equipment and use, operate, lease or hold the Equipment as the Lessor in its sole discretion may decide; and/or
- (e) Terminate the Escrow Fund in accordance with Section 5.5 hereof.
- (f) Upon any event of default any outstanding amounts due and payable on the lease shall be subject to a default rate of Prime plus 2%.

13.3 Further Remedies. A termination hereunder shall occur only upon notice by the Lessor to the Lessee and only with respect to such part of parts of the Equipment as the Lessor specifically elects to terminate in such notice. Except as to those parts of the Equipment with respect to which there is a termination, this Agreement shall remain in full force and effect and the Lessee shall be and remain liable for the full performance of all its obligations hereunder. All remedies of the Lessor are cumulative and may be exercised concurrently or separately. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy.

#### **SECTION 14. TERMINATION OF ACCOUNT OF NON-APPROPRIATION OF FUNDS**

14.1 Intent to Continue Lease Term: Appropriations Lessee presently intends to continue this Agreement for its entire term and to pay all Rental Payments specified in each Schedule A of Leased/Purchased Equipment. The chief financial officer of the Lessee shall include in the Lessee's proposed budget for each Fiscal Year the Rental Payments to become due in such Fiscal Year. Lessee reasonably believes that moneys in an amount sufficient to make all such Rental Payments can and will be lawfully be appropriated by the governing body of the Lessee and made available for this purpose. Notwithstanding the foregoing, this Agreement does not require the Lessee to make appropriations in any future fiscal year or to any rental payments other than from moneys lawfully appropriated therefor.

14.2 Current Expense The obligations of Lessee under this Agreement, including its obligation to pay the Rental Payments due with respect to any Equipment, in any Fiscal Year for which this Agreement is in effect, shall constitute a current expense of Lessee for such Fiscal Year and shall not constitute an indebtedness of Lessee within the meaning of the Constitution and laws of the State of Florida. In the event of a shortfall in the Lessee's equipment appropriation within any Fiscal Year, Lessee shall apply to the Lessee's governing body for the appropriation of additional amounts on an emergency basis to cure such. Nothing herein shall constitute a pledge by Lessee of any ad valorem taxes or other moneys, other than moneys lawfully appropriated for the benefit of Lessee in its annual budget to the payment of any Rental Payment or other amount coming due hereunder.

14.3 Non-appropriation. The term of the Agreement shall terminate on the last day of any fiscal year of the Lessee if the Lessee has not appropriated for the succeeding fiscal year funds sufficient to make the rental payments due in such succeeding fiscal year. Upon such termination the Lessee shall return the Equipment to the Lessor as provided in Section 6.1.

## SECTION 15. ASSIGNMENT

15.1 Assignment By Lessee. The Lessee agrees not to sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance upon or against any interest in this Agreement for the Equipment (except for the interest of the Lessor therein) or to remove the Equipment from its place of installation without the Lessor's prior written consent which shall not be unreasonably withheld. The Lessee's interest herein may not be assigned or transferred by operation of law.

15.2 Assignment By The Lessor. The Lessor may, at any time and from time to time, assign all or any part of its interest in the Equipment or this Agreement, including without limitation, the Lessor's rights to receive the rental payments and any additional payments due and to become due hereunder. The Lessee agrees that this Agreement may become part of a pool of agreement obligations at the Lessor's or its assignee's option. The Lessor or its assignees may assign or reassign either the entire pool or any partial interest herein. Notwithstanding the foregoing, no assignment or reassignment in the Equipment or this Agreement shall be effective unless and until the Lessee shall receive a duplicate original counterpart of the document by which such assignment or reassignment is made disclosing the name and address of each such assignee. The Lessee covenants and agrees with the Lessor and each subsequent assignee of the Lessor to maintain for the full term of this Agreement a written record of each such assignment or reassignment. The Lessee further agrees that the Lessor's interest in this Agreement may be assigned in whole or in part upon terms which provide in effect that the assignor or assignee will act as a collection and paying agent for any holder of certificates of participation in this Agreement, provided the Lessee receives a copy of such agency agreement and such collection and paying agent covenants and agrees to maintain for the full remaining term of this Agreement a written record of each assignment and reassignment of such certificates of participation. The Lessee agrees to execute any document reasonably required by the Lessor in connection with any assignment.

15.3 After the giving of notice described above to the Lessee, the Lessee shall therefore make all payments in accordance with the notice to the assignee named therein and shall, if so requested, acknowledge such assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective.

15.4 Escrow Assignment by the Lessor. The Lessor may freely assign all or any part of its interest in the Escrow and the Escrow Fund established pursuant to Section 5 hereof in connection with an assignment by the Lessor of the Agreement,

## SECTION 16. NATURE OF AGREEMENT

The Lessor and the Lessee agree that it is their intention that, for federal income tax purposes, the interest of the Lessor in the Equipment is as a lender and the interest of the Lessee is as a debtor, and that the Lessor neither has nor will have any equity in the Equipment. It is the agreement of the Lessor and the Lessee that the aggregate rental payments provided for hereunder constitute the purchase price of the Equipment together with the interest on the unamortized amount over the term of this Agreement, that each of installment of rent constitutes principal and interest, in accordance with the amortization schedule attached to Schedule A of Leased/ Purchased Equipment, which fully amortizes the purchase price of the Equipment, together with interest, over the term of this Agreement, and that upon the due and punctual payment and performance of the installments of rent and other amounts and obligations under this Agreement, title to the Equipment shall vest permanently in Lessee as provided in this Agreement, free and clear of any interest of the Lessor therein.

## SECTION 17. MISCELLANEOUS

17.1 Waiver. No covenant or condition of this Agreement can be waived except by the written consent of the Lessor. Any failure of the Lessor to require strict performance by the Lessee or any waiver by the Lessor of any terms, covenants or agreements herein shall not be construed as a waiver of any other breach of the same or of any other term, covenant or agreement herein.

17.2 Severability. In the event any portion of this Agreement shall be determined to be invalid under any applicable law, such provision shall be deemed void and the remainder of this Agreement shall continue in full force and effect.

17.3 Governing Law. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State of Florida.

17.4 Notice. All notices made or required to be given pursuant to this Agreement shall be in writing and shall be deemed duly served if and when mailed, certified or registered mail, postage prepaid, return receipt requested, to the other party at its address set forth above or at such other address as such party shall hereafter designate in writing.

17.5 WAIVER OF JURY TRIAL. To the extent permitted by applicable law, each of Lessee and Lessor, knowingly, voluntarily and intentionally waives any right each may have to a trial by jury in respect of any litigation based on, or arising out of under or in connection with this Agreement or any agreement contemplated to be executed in connection with this Agreement, or any course of conduct, course of dealing, statements (whether verbal or written) or actions of any party with respect hereto. This provision is a material inducement to the Lessor to enter into this Agreement.

If to the Lessor, address to:

Wachovia Bank, National Association f/k/a Wachovia Bank, National Association  
Attn: Government Banking  
1950 Hillsboro Blvd.  
Deerfield Beach, FL 33442

If to the Lessee, address to:

**St. Johns County Sheriff's Office**  
**Attn: Ms. Becky Hesson**  
**4015 Lewis Speedway**  
**St. Augustine, Florida 32084**

17.5 Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limited the scope of any provision of this Agreement.

17.6 Entire Agreement. This Agreement, together with the schedules hereto, constitutes the entire agreement between the parties and this Agreement shall not be modified, amended, altered or changed except by written agreement signed by the parties.



17.7 Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

17.8 Time. Time is of the essence of this Agreement and each and all of its schedules and provisions.

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

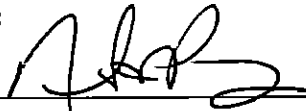
**LESSOR:**

WACHOVIA BANK, NATIONAL ASSOCIATION

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

Title: Vice President

**LESSEE:**

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

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

(SEAL)

LESSEE

**SCHEDULE A OF LEASED/PURCHASED EQUIPMENT**

This Schedule A of Leased/Purchased Equipment is attached to and made a part of the Equipment Lease/Purchase Agreement between the undersigned Lessor, and the undersigned Lessee, dated as of April 5, 2004.

LESSOR:

WACHOVIA BANK, NATIONAL ASSOCIATION F/K/A FIRST UNION NATIONAL BANK  
Attn: Government Banking  
1950 Hillsboro Blvd.  
Deerfield Beach, FL 33442

LESSEE:

**St. Johns County Sheriff's Office**  
4015 Lewis Speedway  
St. Augustine, Florida 32084

1. **EQUIPMENT LEASED.** The Equipment leased upon the terms and conditions contained in the Agreement is as follows:

As per Acceptance Certificate(s), attached hereto and made a part hereof by this reference.

2. **LOCATION OF LEASED EQUIPMENT.** The Equipment shall be located at the following address and shall not be removed therefrom without the prior written consent of the Lessor:

St. Johns County Sheriff, 4015 Lewis Speedway, St. Augustine, Florida 32084

3. **COMMENCEMENT DATE.** Unless otherwise agreed to by the prior written consent of the Lessor, the Commencement Date is the date the Lessor shall deposit an amount equal to the purchase price of the Equipment to the Escrow Agent or make payment of the purchase price for the Equipment to the manufacturer or supplier.

4. **LEASE TERM.** Unless earlier terminated in accordance with the terms of the Agreement, the term of this Agreement respecting each item of Equipment expires Three (3) years following the Commencement Date.

5. **RENTAL PAYMENTS.** As rent, for each item of Equipment, Lessee shall pay Lessor Twelve (12) payments of principal and interest as specified in the amortization schedule, each payable in arrears, at a lease rate of 1.92%.

6. **INTEREST.** A portion of each of the rental payments shall be allocated to interest in accordance with the amortization schedule which is attached to this schedule.

7. **OPTION TO PURCHASE.** The Lessee is granted a non-assignable option to purchase on an as is and where is basis all (but not less than all) of the Equipment listed hereon prior to expiration of the lease term, thereby vesting title to the Equipment permanently in Lessee, for a purchase price equal to one hundred and two percent (102%) of the principal balance shown on the amortization schedules which will be provided with each monthly lease invoice.

This option to purchase may be exercised by the Lessee at the end of any fiscal year of the Lessee or any time during the term of this Agreement and is conditioned upon:

- (a) The Lessee's having performed all of the terms and conditions of the Agreement between the parties and all schedules of Equipment thereto and all other agreements between the parties;
- (b) The Lessee's giving written notice to the Lessor of its election to exercise the option not more than sixty (60) days nor less than thirty (30) days prior to the purchase date of the Lessee; and
- (c) The Lessee's payment of the purchase price in cash at the time of the exercise of the option, together with any applicable taxes on or measured by such purchased price.

8. RENTAL ADJUSTMENT. The rate and payment factor set forth in Section 5 are subject to the Lessee designating all fundings under this Schedule A of Leased/Purchased Equipment as being within the \$10 million small issuer limitation as described within Section 265(b)(3) of the Internal Revenue Code of 1986, as amended. The Lessee represents that it is hereby designating any obligations hereunder entered into and funded in the current calendar year as being within the \$10 million limitation described within Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"), and that it will not breach the covenants included in Section 10 hereof or take any action which adversely affects the excludability from gross income or the deductibility of any interest payments made by the Lessor, such actions including, but not limited to, the issuance of more than \$10 million of tax exempt obligations during the current calendar year in which this Equipment Lease/ Purchase Agreement or any additional Schedule A of Leased/Purchased Equipment thereto is executed. In the event the Lessee shall breach this representation, the rental payments with respect to any Schedule A of Leased/Purchased Equipment effected by such breach shall be adjusted to preserve the Lessor's after-tax economic yield with respect to the payments thereunder.

9. ESCROW INVESTMENT. Moneys on deposit in the Escrow Fund shall be invested in the Evergreen Institutional Treasury Fund unless the Lessee shall otherwise direct the Escrow Agent.

10. ESCROW FUND PROVISIONS. The provisions of Section 5 of the Equipment Lease/Purchase Agreement shall not apply to this Schedule A of Leased/Purchased Equipment.

IN WITNESS WHEREOF, the parties hereto have executed this Schedule A of Leased/Purchased Equipment as of the 5<sup>th</sup> day of April, 2004.

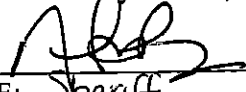
**LESSOR:**

WACHOVIA BANK, NATIONAL ASSOCIATION

BY: \_\_\_\_\_  
TITLE: Vice President

**LESSEE:**

St. Johns County Sheriff, Florida

BY:   
TITLE: Sheriff

**OPINION OF COUNSEL**

Wachovia Bank, National Association f/k/a Wachovia Bank, National Association  
Attn: Government Banking  
1950 Hillsboro Blvd.  
Deerfield Beach, FL 33442

Gentlemen:

I general counsel to the St. Johns County Sheriff, Florida (the "Lessee"), and have acted as counsel for the Lessee in connection with that certain Schedule A of Leased/Purchased Equipment, Schedule I (the "Schedule"), dated March 30, 2004, to the Equipment Lease/Purchase Agreement (the Agreement"), dated March 30, 2004, between yourself and the Lessee.


In connection with the preparation and rendering of this opinion, I have reviewed the executed original of the Schedule and, to the extent I have deemed proper, such other documents, records and certificates of the Lessee, and all of the proceedings taken by the Lessee to authorize and execute the Schedule, as we have deemed necessary and relevant as a basis for the opinion. Based upon the foregoing, it is my opinion that:

1. The Lessee is a state or a duly organized and validly existing political subdivision or agency thereof within the meaning of Section 103 of the Internal Revenue Code and the related regulations and rulings, and is duly authorized to enter into the transactions contemplated by the Schedule and to carry out its obligations thereunder.
2. The Schedule and all other documents relating thereto and the performance of the Lessee's obligations thereunder have been duly and validly authorized, executed and delivered by the Lessee and approved under all laws, regulations and procedures applicable to the Lessee, including but not limited to compliance with public bidding requirements, and constitute valid, legal and binding obligations of the Lessee, enforceable in accordance with its terms.
3. No approval or consent is required from any governmental body with respect to the entering into or performance by the Lessee of the Schedule and the transactions contemplated thereby or if any such approval is required, it has been duly obtained.

4. There is no action, suit, proceeding or investigation at law or in equity before or by any court, public agency or body pending or, to the best of our knowledge, threatened, against or affecting the Lessee challenging the validity or enforceability of the Schedule and all other documents relating thereto, and the performance of the Lessee's obligations thereunder and compliance with the provisions thereof, under the circumstances contemplated thereby, does not and will not in any material respect conflict with, constitute on the part of the Lessee a breach of or a default under, or result in the creation of any lien on any property of the Lessee pursuant to, any agreement or other instrument to which the Lessee is a party or any existing law, regulation, court order or consent decree to which the Lessee is subject.

It should be noted, that the proposed agreement extends beyond the term of the present Sheriff. A successor Sheriff, may, as a matter of law, have the right to cancel any agreement from a predecessor Sheriff that extends into his term. In my view, however, such an eventuality is, in practical terms, unlikely.

Yours very truly,



---

MARK E. PARSONS  
Attorney for the Lessee

# Sheriff

NEIL J PERRY

OFFICE  
904/824-8304



ST JOHNS COUNTY SHERIFF'S OFFICE

4015 LEWIS SPEEDWAY, SAINT AUGUSTINE, FLORIDA 32095  
904/810-6779 (FAX) • 904/829-6495 (TDD)


## CERTIFICATE OF INCUMBENCY

I, Neil J Perry, do hereby certify that I am the duly elected and acting Sheriff of the St Johns County Sheriff's Office, St Johns County, Florida, a duly organized agency existing under the laws of the State of Florida (the "Lessee").

Any present or future obligations hereunder entered into and funded in the current calendar year are designated as Qualified Tax Exempt Obligations within the \$10 million limitation described within Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code");

  
\_\_\_\_\_  
Neil J Perry, Sheriff

In Witness Whereof, I have duly executed this certificate this 01 day of April 2004.

  
\_\_\_\_\_  
Susan J Donlon, Colonel  
Director of Administration

