

**ORANGE COUNTY
BOARD OF COMMISSIONERS**

ACTION AGENDA ITEM ABSTRACT

Meeting Date: June 2, 2009

**Action Agenda
Item No.** 4-v

SUBJECT: Lease Renewal – Bradshaw Quarry Solid Waste Convenience Center

DEPARTMENT: Solid Waste Management-
Sanitation Division

PUBLIC HEARING: (Y/N)

No

ATTACHMENT(S):

Lease Renewal Agreement

INFORMATION CONTACT:

Gayle Wilson, 968-2885

PURPOSE: To consider the renewal of the lease for the Solid Waste Convenience Center located on Bradshaw Quarry Road.

BACKGROUND: The Bradshaw Quarry Road Solid Waste Convenience Center site is located on a one-acre parcel owned by Thoms Creek, LLC. The initial lease agreement was executed in 1989, with renewals every five years. Since 2004, the County has leased this property for \$3,600 per year (\$300 per month).

The County’s approach to collecting solid waste in unincorporated Orange County at staffed Solid Waste Convenience Centers will continue for the near future. Therefore, staff recommends the continuation of a five-year lease renewal period for this convenience center site. In the event an alternative manner of solid waste collection is identified before the end of the lease period, the lease agreement includes a clause that permits either party to terminate the lease with 90 days notice. The property owner has agreed upon a lease renewal cost of \$4,800 per year (\$400 per month).

The closure of the Bradshaw Quarry Center is under consideration as a budget reduction measure. If this reduction is approved, the lease will be terminated per the termination clause. The Center would be slated for closure on September 20, and the site returned to its original state by October 1.

FINANCIAL IMPACT: The lease renewal includes a rent increase of \$100 per month (from \$300 to \$400) for the five-year renewal term. This represents an additional \$6,000 in rental costs over the full five-year term. The funds necessary to cover the annual lease payments would be included in the each fiscal year’s departmental budget request.

RECOMMENDATION(S): The Manager recommends the Board approve the lease renewal for the period of July 1, 2009 through June 30, 2014 at a cost of \$400 per month and authorize the Chair to sign on behalf of the Board subject to final review by staff and the County Attorney and approval of the FY 2009-10 budget.

Prepared By: Brian M. Ferrell, Esquire
Return To: Orange County Solid Waste Management Department, Attn. Terry Case Thomas
PO Box 17177, Chapel Hill, North Carolina 27516

NORTH CAROLINA
COUNTY OF ORANGE

THIRD LEASE AGREEMENT RENEWAL

WHEREAS, a lease agreement (hereafter referred to as "the Agreement") was made and entered into on or about the 14th day of June 1989 by and between Orange County (hereinafter referred to as "Lessee") and Dr. James C. Thompson and Betty A. Thompson (hereinafter referred to as "Original Lessor") for that one (1) acre parcel of property described in that certain plat recorded in Book 53, Page 48 of the Orange County Registry (the "Property"). The Agreement was recorded at Book 802, Page 438 of the Orange County Registry; and

WHEREAS, the Agreement was renewed as amended by a renewal agreement recorded at Book 2006, Page 488 of the Orange County Registry (hereafter referred to as "First Renewal Agreement"); and

WHEREAS, the Agreement was further renewed as amended by a renewal agreement recorded at Book 3427, Page 154 of the Orange County Registry (hereafter referred to as "Second Renewal Agreement"); and

WHEREAS, the Property was conveyed by Original Lessor to Thoms Creek Farm, LLC, a North Carolina Limited Liability Company (hereinafter referred to as "Lessor") by Special Warranty Deed Recorded in Book 2917, Page 45 and;

WHEREAS, it was the intention of Original Lessor, Lessor and Lessee that Lessor be bound as successor in interest to the Agreement, the First Renewal Agreement and the Second Renewal Agreement; and

WHEREAS, Lessor desires to renew the Agreement as amended by the First Renewal Agreement, the Second Renewal Agreement and this Third Lease Agreement Renewal; and

WHEREAS, Lessee and Lessor desire to, and hereby do, renew the Agreement as hereby amended in this Third Lease Agreement Renewal.

NOW THEREFORE, in exchange for Ten Dollars and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged, the Lessee and the Lessor mutually agree to the following:

1. Section 2 of the Agreement shall be amended and modified as follows:

“Notwithstanding the provisions of the preceding paragraph of this lease which shall apply only the previous renewal term of this lease, the lease will automatically renew for a period commencing July 1, 2009 and terminating June 30, 2014 (hereafter “3rd Renewal Period). Lessor or Lessee, however, may terminate the Agreement during the 3rd Renewal Period upon giving ninety (90) days advance written notice to the other of its intention to terminate the Agreement. Lessee shall not be responsible for payment of rent following the termination of this lease pursuant to the preceding sentence. Lessee shall pay Lessor rent during the 3rd Renewal Period in the amount of Four Hundred (\$400) Dollars per month for each and every month of the term of the 3rd Renewal Period of this lease, payable on or before the first day of each month of the term of the 3rd Renewal Period.”

2. All other terms and conditions of the Agreement, the First Renewal Agreement and the Second Renewal Agreement shall remain the same.

This agreed to the __ day of _____, 2009.

[SIGNATURE PAGE TO FOLLOW]

Owner/Lessor:

Thoms Creek Farm, LLC

By: _____

Title: _____

Lessee:

Orange County

By: _____

Valerie P. Foushee, Chair
Board of County Commissioners

Attest:

Donna Baker, Clerk to the Board

ORANGE COUNTY FINANCE DIRECTOR:

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

Gary Humphreys
Orange County Finance Officer

DATE: _____

NORTH CAROLINA
COUNTY OF _____

I certify that the following persons personally appeared before me this day and acknowledged that they voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated:

Date: This the ____ day of _____, 2009.

Official Signature of Notary Public

Insert name of Notary, printed or typed

(Official Seal)

My Commission Expires: _____

Approved as to technical content: _____
Department Director

Approved as to form and legal sufficiency: _____
County Attorney

NORTH CAROLINA
ORANGE COUNTY

I, _____, a Notary Public of said State and County, certify that Donna Baker personally came before me this day and acknowledged that she is Clerk to the Board of Commissioners for Orange County, North Carolina and that by authority duly given and as the act of said County the foregoing instrument was signed in its name by the Chair of said Board of Commissioners and attested by her as Clerk to said Board of Commissioners.

Witness by hand and official seal, this the ___ day of _____, 2009.

Notary Public

My Commission Expires: _____

NORTH CAROLINA
COUNTY OF _____

I certify that the following person personally appeared before me this day and acknowledged that he voluntarily signed the foregoing document for the purpose stated therein and in the capacity indicated: Gary Humphreys, Orange County Finance Officer.

Date: This the ___ day of _____, 2009.

Official Signature of Notary Public

Insert name of Notary, printed or typed

(Official Seal)

My Commission Expires: _____