

ORIGINAL

ORDINANCE 2011 - 21

AN ORDINANCE OF THE CITY OF SUNNYSIDE, WASHINGTON, RELATING TO CONTRACTING INDEBTEDNESS AND APPROVING AND AUTHORIZING THE EXECUTION AND DELIVERY OF A TAX-EXEMPT INSTALLMENT PURCHASE AGREEMENT TO ACQUIRE EQUIPMENT FOR CITY PURPOSES.

WHEREAS, from time-to-time the City of Sunnyside, Washington (the "City"), is in need of capital equipment to be used for various City purposes; and

WHEREAS, the City Council deems it to be in the best interests of the City to enter into capital leases in accordance with the provisions of chapter 39.30 RCW for the purpose of providing a part of the funds with which to pay the costs of acquiring the real and personal property herein described; and

WHEREAS, U.S. Bancorp Business Equipment Finance Group has agreed to finance the Equipment pursuant to an executory conditional sales contract in the form of a Tax-Exempt Installment Purchase Agreement to be entered into between the City and U.S. Bancorp Business Equipment Finance Group ("U.S. Bancorp");

NOW THEREFORE, THE CITY COUNCIL OF THE CITY OF SUNNYSIDE, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Authorization of Installment Purchase Agreement. The City shall enter into the Tax-Exempt Installment Purchase Agreement (the "Installment Purchase Agreement") in order to finance the capital equipment described in Property Schedule No. 1 in a principal amount of not to exceed \$260,000, which Property Schedule No. 1 is attached hereto as Exhibit A. The City Council finds that entering into the Installment Purchase Agreement under the terms and conditions therein is in the best interest of the City.

Section 2. Execution of the Installment Purchase Agreement. The City Council hereby authorizes the City Manager or Deputy City Manager/Chief Financial Officer of the City (each, an "Authorized Officer" and, together, the "Authorized Officers") to negotiate, approve, enter into, execute and deliver in the name and on behalf of the City the Installment Purchase Agreement, including all attachments, financing statements and schedules thereto, such Installment Purchase Agreement to be in substantially the form on file with the City Manager or Deputy City Manager/Chief

Financial Officer of the City, with such changes as the Authorized Officers, and each acting alone, shall determine to be appropriate. The Authorized Officers are further authorized to negotiate, execute and deliver in the name and on behalf of the City any other agreement, instrument, certificate, representation or document, and to take any other action as may be advisable, convenient or necessary to carry out the purposes of this ordinance.

Section 3. Execution of Future Property Schedules. The City Council authorizes the Authorized Officers to enter into additional schedules, in substantially the same form as Property Schedule No. 1 (each a "Property Schedule") under the Installment Purchase Agreement, provided, however, that each such Property Schedule shall be approved by resolution of the City Council or part of the approved budget and shall be an amount not to exceed \$1,000,000. This authorization shall expire five years from the passage of this ordinance.

Section 4. Installment Payments. Installment payments under the Installment Purchase Agreement shall be payable in lawful money of the United States of America by check, draft, warrant or electronic transfer of the City in conformance with the requirements of the Installment Purchase Agreement.

Section 5. Registration and Transfer of Installment Purchase Agreement; Agreement Registrar. The Installment Purchase Agreement shall be issued only in registered form on books or records (the "Register") maintained by the Deputy City Manager/Chief Financial Officer of the City who is appointed as the Registrar. The Register shall contain the name and mailing address of the owner of the Installment Purchase Agreement.

The Installment Purchase Agreement may be assigned or transferred by U.S. Bancorp in accordance with the terms provided therein. Installment payments shall be made to the owner as reflected on the Register. Upon assignment or transfer, U.S. Bancorp shall provide such notice to the Registrar at the following address:

Deputy City Manager/Chief Financial Officer
City of Sunnyside
818 E. Edison Avenue
Sunnyside, WA 98944

The Registrar shall keep or cause to be kept at its office, sufficient books for the registration of the Installment Payment Agreement which shall at all times be open to inspection by the City. The Registrar shall serve as the City's authenticating trustee, registrar and paying agent for the Installment Payment Agreement and shall comply fully with all applicable federal and state laws and regulations respecting the carrying out of those duties. The Registrar is authorized, on behalf of the City, to authenticate and deliver the Installment Purchase Agreement in accordance with the provisions of the Installment Purchase Agreement and this ordinance, to serve as the City's paying agent for the Installment Purchase Agreement, and to carry out all of the Registrar's powers and duties under this ordinance.

The Registrar shall be responsible for its representations contained in the Registrar's Certificate of Authentication on the Installment Purchase Agreement.

Section 6. Form and Execution of the Installment Purchase Agreement. The Installment Purchase Agreement and each Property Schedule shall be in substantially the form on file with the Deputy City Manager/Chief Financial Officer of the City, with such modifications, including the substitution of alternate equipment, as are approved by the City Manager and/or Deputy City Manager/Chief Financial Officer of the City, and each acting alone, as are consistent with the purposes of this ordinance.

If any officer whose signature appears on the Installment Purchase Agreement or Property Schedule ceases to be an officer of the City authorized to sign the Installment Purchase Agreement or Property Schedule before the Installment Purchase Agreement or Property Schedule bearing his or her manual or facsimile signature is authenticated or delivered by the Registrar or issued by the City, the Installment Purchase Agreement or Property Schedule nevertheless may be authenticated, delivered and issued and, when authenticated, issued and delivered, shall be as binding on the City as though that person had continued to be an officer of the City authorized to sign the Installment Purchase Agreement or Property Schedule. The Installment Purchase Agreement or Property Schedule also may be signed on behalf of the City by any person who, on the actual date of signing of the Installment Purchase Agreement or Property Schedule, is an officer of the City authorized to sign such obligations, although he or she did not hold the required office on the date of issuance of the Installment Purchase Agreement or Property Schedule.

Section 7. Tax Covenants; Designation of Property Schedule as a "Qualified Tax-Exempt Obligation".

A. Preservation of Tax Exemption for Interest on Installment Purchase Agreement. The City covenants that it will take all actions necessary and within its control to prevent the interest components of loan payments under the Installment Purchase Agreement from being included in gross income for federal income tax purposes, and it will neither take any action nor make or permit any use of proceeds of the loan payments under the Installment Purchase Agreement which will cause interest on the Bonds to be included in gross income for federal income tax purposes. The City also covenants that it will, to the extent the arbitrage rebate requirements of Section 148 of the United States Internal Revenue Code of 1986, as amended, and applicable rules and regulations promulgated thereunder (the "Code") are applicable to the Installment Purchase Agreement, take all actions necessary to comply (or to be treated as having complied) with those requirements in connection with the Installment Purchase Agreement, including the calculation and payment of any penalties that the City has elected to pay as an alternative to calculating rebatable arbitrage, and the payment of any other penalties if required under Section 148 of the Code to prevent interest on the Installment Purchase Agreement from being included in gross income for federal income tax purposes.

B. Small Governmental Issuer Arbitrage Rebate Exception and Determination of Property Schedule as a "Qualified Tax-Exempt Obligation." Each Property Schedule under the Installment Purchase Agreement shall be eligible for the arbitrage rebate exception under Section 148(f)(4)(D) of the Code and designated as a "qualified tax-exempt obligation" for the purposes of Section 265(b)(3) of the Code, if the Finance and Administrative Services Director of the City finds and declares that: (a) the City is a duly organized and existing governmental unit of the State of Washington and has general taxing power; (b) no part of the Installment Purchase Agreement, including the applicable Property Schedule, is a "private activity bond" within the meaning of Section 141 of the United States Internal Revenue Code of 1986, as amended (the "Code"); (c) at least 95% of the net proceeds of the Property Schedule will be used for local governmental activities of the City (or of a governmental unit the jurisdiction of which is entirely within the jurisdiction of the City); (d) the aggregate face amount of all tax exempt obligations (other than private activity bonds and other obligations not required to be included in such calculation) issued by the City and all entities subordinate to the City (including any entity that the City controls, which derives its authority to issue tax exempt obligations from the City or that issues tax exempt obligations on behalf of the City) during the calendar year in which the Property Schedule is issued is not reasonably expected to exceed \$5,000,000; and (e) the amount of tax-exempt obligations, including the Property Schedule, designated by the City as "qualified tax exempt obligations" for the purposes of Section 265(b)(3) of the Code during the calendar year in which the Property Schedule is issued does not exceed \$10,000,000.

Section 8. Publication and Effective Date. This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force five days after publication.

Section 9. Ratification of Prior Actions. Any action taken consistent with the authority of this ordinance, after its passage but prior to the effective date, is ratified, approved, and confirmed.

Section 10. That this Ordinance shall be in full force and effect five days after passage, approval and publication as required by law

PASSED this 12th day of December, 2011.



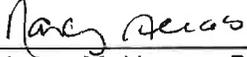
JAMES A. RESTUCCI, MAYOR

ATTEST:



DELILAH SAENZ, CITY CLERK

APPROVED AS TO FORM:



Nancy M. Neraas, Bond Counsel

EXHIBIT A
PROPERTY SCHEDULE NO. 1
SEE LEASE AGREEMENT

CERTIFICATION

I, the undersigned, City Clerk of the City of Sunnyside, Washington (the "City"), hereby certify as follows:

1. The attached copy of Ordinance No. 2011-21 (the "Ordinance") is a full, true and correct copy of an ordinance duly passed at a regular meeting of the City Council of the City held at the regular meeting place thereof on December 12th, 2011, as that ordinance appears on the minute book of the City; and the Ordinance will be in full force and effect five days after the publication of its summary in the City's official newspaper; and

2. A quorum of the members of the City Council was present throughout the meeting and a majority of those members present voted in the proper manner for the passage of the Ordinance.

IN WITNESS WHEREOF, I have hereunto set my hand this 12th day of December, 2011.

CITY OF SUNNYSIDE, WASHINGTON


City Clerk

EXHIBIT "A"

DOCUMENT CHECKLIST

- **Tax-Exempt Installment Purchase Agreement** – Execute signature block at the top of the first page.
- **Addendum/Amendment to Tax-Exempt Installment Purchase Agreement** – If applicable; This document must be executed in the presence of a witness/attestor. The attesting witness does not have to be a notary, just present at the time of execution. The witness/attestor will execute the signature block below the Purchaser's signature block at the bottom right of the page.
- **Property Schedule** - Execute signature block at the bottom of the page.
- **Property Description – Exhibit A** - Execute signature block at the bottom of the page.
- **Acceptance Certificate and Bank Qualification– Exhibit B.** 1) If the transaction can be designated as a "bank qualified" transaction – one where the Purchaser reasonably anticipates not issuing more than \$10 million in tax-exempt obligations in a calendar year – then you should initial the line under item #2; 2) The date that all equipment is delivered, installed and accepted is the date that should be placed on the "DATE" line; and 3) Execute signature block at the bottom of the page. NOTE: If moneys are being deposited into escrow this exhibit should be held and returned with the final disbursement from the escrow account.
- **Purchaser's Counsel's Opinion – Exhibit C.** This exhibit will need to be executed by your attorney, dated and placed on their letter head. Your attorney will likely want to review the agreement prior to executing this opinion.
- **Purchaser's Certificate – Exhibit D.** 1) Please fill in the person's title who will be executing the certificate in the first paragraph (note: the person who signs this exhibit can not be the same person as the executing official(s) for all other documents); 2) Please fill in the date that the governing body met in Line 1; 3) In the middle set of boxes, please print the name of the executing official(s) in the far left box, print their title(s) in the middle box and have the executing official(s) sign the line in the far right hand box; 4) Include in your return package a copy of the board minutes or resolution for our files; and 5) The exhibit should be executed by someone other than the executing official(s) named in the center box.
- **Insurance Authorization and Verification** – To be filled out by the Purchaser and sent to your insurance carrier. A valid insurance certificate, or self-insurance letter if the Purchaser self insures, is required prior to funding.
- **Amortization Schedule** - Execute signature block at the bottom of the page.
- **Form 8038-G** – Blank form provided to Purchaser. Please consult your local legal/bond counsel to fill out.
- **Vehicle Titling Addendum** - Execute signature block at the bottom of the page


Tax-Exempt Installment Purchase Agreement, Dated 12/20/2011

Accepted by Seller:
US Bancorp Equipment Finance, Inc. (the "Seller") 1310 Madrid St Marshall, MN 56258
By:
Name:
Title:
Telephone:

Agreed to by Purchaser:
City of Sunnyside(the "Purchaser") 818 E Edison Ave Sunnyside, WA 98944
By:
Name:
Title:
Telephone: 509-837-3782

AGREEMENT: Seller hereby sells, transfers, assigns and conveys to Purchaser and Purchaser hereby purchases and accepts from Seller all the Property described in Property Schedule incorporated herein by reference, upon the terms and conditions set forth herein and as supplemented by the terms and conditions set forth in the Property Schedule. This Tax-Exempt Installment Purchase Agreement together with the Property Schedule is referred to herein as this "Agreement."

TERM: The term of this Agreement (the "Term") listed in the Property Schedule shall commence upon the date of acceptance of the Property by Purchaser and continue for the time period set forth in the Property Schedule. This Agreement cannot be canceled or terminated by Purchaser except as expressly provided herein. Purchaser represents and warrants that the average life of the Property does not exceed the average life of the Term.

INSTALLMENT PAYMENTS: Purchaser shall pay the purchase price to Seller for the Property in installments (the "Installment Payments") in the amounts, and on the dates specified, in the Property Schedule.

NO OFFSET: THE OBLIGATIONS OF PURCHASER TO PAY THE INSTALLMENT PAYMENTS DUE UNDER THE PROPERTY SCHEDULE AND TO PERFORM AND OBSERVE THE OTHER COVENANTS AND AGREEMENTS CONTAINED IN THIS AGREEMENT SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS WITHOUT ABATEMENT, DIMINUTION, DEDUCTION, SET-OFF OR DEFENSE, FOR ANY REASON, INCLUDING WITHOUT LIMITATION, ANY DEFECTS, MALFUNCTIONS, BREAKDOWNS OR INFIRMITIES IN THE PROPERTY OR ANY ACCIDENT, CONDEMNATION OR UNFORESEEN CIRCUMSTANCES. THIS PROVISION SHALL NOT LIMIT PURCHASER'S RIGHTS OR ACTIONS AGAINST ANY VENDOR. Purchaser anticipates that the Property shall be exempt from property taxes. Notwithstanding, Purchaser shall pay when due all taxes, fees and governmental charges assessed or levied against or with respect to the Property. The Installment Payments payable by Purchaser under this Agreement have been established to reflect the savings resulting from this exemption from taxation.

LATE CHARGES: Should Purchaser fail to duly pay any part of any Installment Payment or other sum to be paid to Seller under this Agreement on the date on which such amount is due hereunder, then Purchaser shall pay late charges on such delinquent payment from the due date thereof until paid at the rate of 12% per annum or the highest rate permitted by law, whichever is less.

MAINTENANCE OF PROPERTY: At all times during the Term, Purchaser shall, at Purchaser's own cost and expense, maintain, preserve, and keep the Property in good working order, and condition, and from time to time make or cause to be made all necessary and proper repairs, replacements, and renewals to the Property, which shall become part of the Property. The Property is and will remain personal property.

INSURANCE OF PROPERTY: All risk of loss to the Property shall be borne by the Purchaser. At all times during the Term, Purchaser shall, at Purchaser's own cost and expense, cause casualty, public liability, and property damage insurance to be carried and maintained (or shall provide Seller with a certificate stating that adequate self-insurance has been provided) with respect to the Property, sufficient to protect the full replacement value of the Property and to protect from liability in all events for which insurance is customarily available. Purchaser shall furnish to Seller certificates evidencing such coverage throughout the Term. Any insurance policy to be carried and maintained pursuant to this Agreement shall be so written or endorsed as to make losses, if any, payable to Purchaser and Seller as their respective interests may appear. All such liability insurance shall name Seller as an additional insured. Each insurance policy carried and maintained pursuant to this Agreement shall contain a provision to the effect that the insurance company shall not cancel the policy or modify it materially or adversely to the interest of the Seller without first giving written notice thereof to Seller at least 30 days in advance of such change of status.

TERMINATION OF Seller's INTEREST: To secure Purchaser's obligations hereunder, Purchaser grants a security interest in the Property to Seller, including substitutions, repairs, replacements and renewals, and the proceeds thereof. Purchaser represents and warrants that the Property is free of any liens or encumbrances other than those created under this Agreement. If Purchaser shall have performed all of its obligations and no default shall have occurred and be continuing under this Agreement, and this Agreement shall not have been earlier terminated with respect to the Property, then, at the end of the Term with respect to any item of Property, Seller's interest in such Property shall terminate. Unless otherwise required by law, title to the Property shall be in the name of Purchaser, subject to Seller's interest hereunder.

TAX EXEMPTION: The parties contemplate that interest payable under this Agreement will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The tax-exempt status of this Agreement provides the inducement for the Seller to offer financing at the interest rate set forth herein. Therefore, should this Agreement be deemed by any taxing authority not to be exempt from taxation, Purchaser agrees that the interest rate shall be adjusted, as of the date of loss of tax exemption, to an interest rate calculated to provide Seller or its assignee an after tax yield equivalent to the tax exempt rate and Seller shall notify Purchaser of the taxable rate. Provided, however, that the provision of the preceding sentence shall apply only upon a final determination that the interest payments are not excludable from gross income under Section 103(a) of the Code, and shall not apply if the determination is based upon the individual tax circumstances of the Seller, or a finding that the party seeking to exclude such payments from gross income is not the owner and holder of the obligation under the Code.

REPRESENTATIONS AND WARRANTIES OF PURCHASER: Purchaser hereby represents and warrants to Seller that: (a) Purchaser is a State, possession of the United States, the District of Columbia, or political subdivision thereof as defined in Section 103 of the Code and Treasury Regulations and Rulings related thereto, and if Purchaser is incorporated, it is duly organized and existing under the Constitution and laws of its jurisdiction of incorporation and will do or cause to be done all things necessary to preserve and keep such organization and existence in full force and effect; (b) Purchaser has been duly authorized by the Constitution and laws of the applicable jurisdiction and by a resolution of its governing body (which resolution, if requested by Seller, is attached hereto), to execute and deliver this Agreement and to carry out its obligations hereunder; (c) all legal

EXHIBIT "A"

requirements have been met, and procedures have been followed, including public bidding, in order to ensure the enforceability of this Agreement; (d) the Property will be used by Purchaser only for essential governmental or proprietary functions of Purchaser consistent with the scope of Purchaser's authority and will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use. Purchaser's need for the Property is not expected to diminish during the term of the Agreement; (e) Purchaser has funds available to pay Installment Payments until the end of its current appropriation period, and it intends to request funds to make Installment Payments in each appropriation period, from now until the end of the term of this Agreement; (f) Purchaser shall comply at all times with all applicable requirements of the Code, including but not limited to the registration and reporting requirements of Section 149, to maintain the federal tax-exempt status of the Agreement, and Purchaser shall maintain a system with respect to this Agreement, which tracks the name, and ownership interest of each assignee who has both the responsibility for administration of, and ownership interest in this Agreement; (g) Purchaser's exact legal name is as set forth on the first page of this Agreement. Purchaser will not change its legal name in any respect without giving thirty (30) days prior written notice to Seller.

RISK OF LOSS COVENANTS: Purchaser shall not be required to indemnify or hold Seller harmless against liabilities arising from the Agreement. However, as between Seller and Purchaser, and to the extent permitted by law, Purchaser shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses, damages or losses arising under or related to the Property, including, but not limited to, the possession, ownership, use or operation thereof, and the loss of federal tax exemption of the interest on any of the Installment Payments, except that Purchaser shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses, damages or losses that arise directly from events occurring after Purchaser has surrendered possession of the Property in accordance with the terms of the Agreement to Seller or that arise directly from the gross negligence or willful misconduct of the Seller.

BINDING OBLIGATION: Seller and Purchaser understand and intend the obligation of Purchaser to pay Installment Payments under this Agreement and the Property Schedule shall constitute a binding contractual obligation of Purchaser for the full Term. Purchaser covenants to include all such Installment Payments in its annual budget and to make the necessary annual appropriation for all such Installment Payments. Neither this Agreement nor the Property Schedule shall be subject to termination by Purchaser in the event that Purchaser fails to appropriate any Installment Payments.

ASSIGNMENT BY PURCHASER: Without Seller's prior written consent, Purchaser may not, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of the Property, this Agreement or any interest therein.

ASSIGNMENT BY SELLER: Seller may assign, sell or encumber all or any part of this Agreement, the Installment Payments and any other rights or interests of Seller hereunder. Such assignees may include trust agents for the benefit of holders of certificates of participation.

EVENTS OF DEFAULT: Purchaser shall be in default under this Agreement upon the occurrence of any of the following events or conditions ("Events of Default"), unless such Event of Default shall have been specifically waived by Seller in writing: (a) default by Purchaser in payment of any Installment Payment or any other indebtedness or obligation now or hereafter owed by Purchaser to Seller under this Agreement or in the performance of any obligation, covenant or liability contained in this Agreement and the continuance of such default for ten (10) consecutive days after written notice thereof by Seller to Purchaser, or (b) any warranty, representation or statement made or furnished to Seller by or on behalf of Purchaser proves to have been false in any material respect when made or furnished, or (c) actual or attempted sale, lease or encumbrance of any of the Property, or the making of any levy, seizure or attachment thereof or thereon, or (d) dissolution, termination of existence, discontinuance of the Purchaser, insolvency, business failure, failure to pay debts as they mature, or appointment of a receiver of any part of the property of, or assignment for the benefit of creditors by the Purchaser, or the commencement of any proceedings under any bankruptcy, reorganization or arrangement laws by or against the Purchaser.

REMEDIES OF SELLER: Upon the occurrence of any Event of Default and at any time thereafter, Seller may, without any further notice, exercise one or more of the following remedies as Seller in its sole discretion shall elect: (a) terminate the Agreement and all of Purchaser's rights hereunder as to any or all items of Property; (b) proceed by appropriate court action to personally, or by its agents, take possession from Purchaser of any or all items of Property wherever found and for this purpose enter upon Purchaser's premises where any item of Property is located and remove such item of Property free from all claims of any nature whatsoever by Purchaser and Seller may thereafter dispose of the Property in accordance with Article 9 of the Uniform Commercial Code, continuing to hold Purchaser liable for any deficiency and all costs and expenses incurred by Seller in exercising its remedies hereunder, including, without limitation, all costs and expenses of taking possession, removing, storing and reconditioning the Property, and including, without limitation, all brokerage and attorneys fees; (c) proceed by appropriate court action or actions to enforce performance by Purchaser of its obligations hereunder or to recover damages for the breach hereof or pursue any other remedy available to Seller at law or in equity or otherwise; (d) declare all unpaid Installment Payments and other sums payable hereunder during the current fiscal year of the Term to be immediately due and payable without any presentment, demand or protest and / or take any and all actions to which Seller shall be entitled under applicable law. No right or remedy herein conferred upon or reserved to Seller is exclusive of any right or remedy herein or at law or in equity or otherwise provided or permitted, but each shall be cumulative of every other right or remedy given hereunder or now or hereafter existing at law or in equity or by statute or otherwise, and may be enforced concurrently therewith or from time to time. Purchaser agrees to pay to Seller or reimburse Seller for, in addition to all other amounts due hereunder, all of Seller's costs of collection, including reasonable attorney fees, whether or not suit or action is filed thereon. Purchaser and Seller hereby irrevocably waive all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or relating to this Agreement.

NOTICES: All notices, and other communications provided for herein shall be deemed given when delivered or mailed by certified mail, postage prepaid, addressed to Seller or Purchaser at their respective addresses set forth herein or such other addresses as either of the parties hereto may designate in writing to the other from time to time for such purpose.

AMENDMENTS AND WAIVERS: This Agreement and the Property Schedule executed by Seller and Purchaser constitute the entire agreement between Seller and Purchaser with respect to the Property and this Agreement may not be amended except in writing signed by both parties.

CONSTRUCTION: This Agreement shall be governed by and construed in accordance with the laws of the Purchaser's State. Titles of sections of this Agreement are for convenience only and shall not define or limit the terms or provisions hereof. Time is of the essence under this Agreement. This Agreement shall inure to the benefit of and shall be binding upon Seller and Purchaser and their respective successors and assigns. This Agreement may be simultaneously executed in counterparts, each shall be an original with all being the same instrument.

EXHIBIT "A"



Property Schedule to Tax-Exempt Installment Purchase Agreement

This Property Schedule is entered into pursuant to Tax-Exempt Installment Purchase Agreement dated as of 12/20/2011 between Seller and Purchaser.

- 1. Interpretation. The terms and conditions of the Tax-Exempt Installment Purchase Agreement (the "Agreement") are incorporated herein.
2. Property Description. The Property subject to this Property Schedule is described in Exhibit A, attached hereto. It includes all replacements, parts, repairs, additions, accessions and accessories incorporated therein or affixed or attached thereto and any and all proceeds of the foregoing, including, without limitation, insurance recoveries.
3. Term and Payments. The Term and the Installment Payments are per the Amortization & Payment Schedule. If the Payment Due Dates are not defined, they shall be defined as the 15th day of each annual period in the Amortization & Payment Schedule commencing with the Acceptance Date as stated in the Certificate of Acceptance, attached as Exhibit B, hereto.
4. Expiration. Seller, at its sole determination, may choose not to accept this Property Schedule if the fully executed, original Agreement (including this Property Schedule and all ancillary documents) are not received by Seller at its place of business by 12/31/2011.
5. Property Cost. The total principal amount under this Property Schedule for the acquisition cost of the Property is \$243,987.77.
6. Opinion of Counsel. Purchaser has provided the opinion of its legal counsel substantially in the form as attached as Exhibit C, hereto.
7. Purchaser's Certificate. Purchaser has provided the Purchaser's Certificate in the form attached as Exhibit D, hereto.

IN WITNESS WHEREOF, Seller and Purchaser have caused this Property Schedule to be executed in their names by their duly authorized representatives.

Seller: US Bancorp Equipment Finance, Inc.
By:
Name:
Title:

Purchaser: City of Sunnyside
By:
Name:
Title:

Attest:
By:
Name:
Title:

EXHIBIT "A"

**ADDENDUM (WASHINGTON)
Tax-Exempt Installment Purchase Agreement**

THIS ADDENDUM, which is entered into as of 12/20/2011 between U.S. Bancorp Equipment Finance, Inc. ("Seller") and City of Sunnyside ("Purchaser"), is intended to modify and supplement the Property Schedule (the "Property Schedule") to the Tax-Exempt Installment Purchase Agreement between Seller and Purchaser dated as of 12/20/2011 (the "Agreement"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

In addition to the representations, warranties and covenants of Lessee set forth in the Agreement, Purchaser, as of the Commencement Date for the Property Schedule, represents, warrants and covenants for the benefit of Seller that Purchaser is not in violation of, and the execution and delivery of the Property Schedule will not cause Purchaser to violate, any debt limitations applicable to Purchaser or the Property Schedule, and without limiting the foregoing, (i) if Purchaser is a county, city or town, Purchaser is not in violation of, and the execution and delivery of the Property Schedule will not cause Purchaser to violate, the provisions of Section 39.30.010 of the Revised Code of Washington *[attach computation of test]*; and (ii) if Purchaser is a school district, Purchaser is not in violation of, and the execution and delivery of the Property Schedule will not cause Purchaser to violate, the provisions of Section 28A.335.200 or Section 39.36.020 of the Revised Code of Washington *[attach computation of test]*.

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

Seller: U.S. Bancorp Equipment Finance, Inc.
By:
Name:
Title:

Purchaser: City of Sunnyside
By:
Name:
Title:

Attest:
By
Name:
Title:



PAYMENT & AMORTIZATION SCHEDULE

APPLICATION NO 1535035

Commencement Date: 12/20/2011

Payment No.	Payment Due Date	Lease Payment	Interest Portion	Principal Portion	Outstanding Balance	Termination Amount(After Making Payment for Said Due Date)
1	12/20/2011	21,163.24	0.00	21,163.24	222,824.53	229,509.27
2	3/20/2012	21,163.24	1,641.78	19,521.46	203,303.07	209,402.16
3	6/20/2012	21,163.24	1,497.94	19,665.30	183,637.77	189,146.90
4	9/20/2012	21,163.24	1,353.05	19,810.19	163,827.58	168,742.41
5	12/20/2012	21,163.24	1,207.09	19,956.15	143,871.43	148,187.57
6	3/20/2013	21,163.24	1,060.05	20,103.19	123,768.24	127,481.29
7	6/20/2013	21,163.24	911.93	20,251.31	103,516.93	106,622.44
8	9/20/2013	21,163.24	762.72	20,400.52	83,116.41	85,609.90
9	12/20/2013	21,163.24	612.40	20,550.84	62,565.57	64,442.54
10	3/20/2014	21,163.24	460.98	20,702.26	41,863.31	43,119.21
11	6/20/2014	21,163.24	308.45	20,854.79	21,008.52	21,638.78
12	9/20/2014	21,163.24	154.72	21,008.52	0.00	0.00

This Amortization Schedule is hereby verified as correct by the undersigned, who acknowledges receipt of a copy.

City of Sunnyside

X

 Signature:

 Title:

 Date:



EXHIBIT "A"

TAX-EXEMPT INSTALLMENT
EXHIBIT A - PROPERTY DESCRIPTION

AGREEMENT #

1535035

SUPPLIER - EQUIPMENT DESCRIPTION	MODEL NO.	SERIAL NO.
SUPPLIER: CDW GOVERNMENT INC 75 REMITTANCE DR SUITE 1515 CHICAGO, IL 60675		
BTO PAN TB 31 I-5520M 160G		1EKYA68003
BTO PAN TB 31 I-5520M 160G		1EKYB66226
5 - PANASONIC DVD-MULTI DRIVE		1EKYB66214
5 - PANASONIC 2GB DDR3 MEM		1EKYB66219
BTO PAN TB 31 I-5520M 160G		1DKYB62818
BTO PAN TB 31 I-5520M 160G		
5 - LIND DC ADAPT F/TB CF18/19		
BTO PAN TB 31 I-5520M 160G		
5 - NETMTION ADD NM MOBILTY XE PILOT		
5 - NETMTION ADD NM POLICY PILOT LIC		
5 - NETMTION PREM MNT 2Y		

SUPPLIER: KARMART CHYSLER DODGE 650 AUTO BLVD BURLINGTON, WA 98233		
2011 DODGE CHARGER	CP	2B3CL1CT0BH609847
2011 DODGE CHARGER	CP	2B3CL1CT0BH609850
2011 DODGE CHARGER	CP	2B3CL1CT4BH609849
2011 DODGE CHARGER	CP	2B3CL1CT2BH609848
2011 DODGE CHARGER	CP	2B3CL1CT9BH609846

Purchaser:
By: <input checked="" type="checkbox"/>
Name:
Title:



EXHIBIT B
Certificate of Acceptance to Tax-Exempt Installment Purchase Agreement

This **Certificate of Acceptance** is pursuant to Tax-Exempt Installment Purchase Agreement dated as of 12/20/2011 and the related Property Schedule, between Seller and Purchaser. (the "Agreement").

1. **Property Acceptance.** Purchaser hereby certifies and represents to Seller that the Property referenced in the Agreement has been acquired, made, delivered, installed and accepted as of the date indicated below. Purchaser has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes. Purchaser will immediately begin making Installment Payments in accordance with the times and amounts specified herein. SELLER MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND SELLER HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS SOLD TO PURCHASER "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY PURCHASER.
2. **Bank Qualification.** Purchaser designates this Agreement and Property Schedule as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended. Purchaser reasonably anticipates issuing tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds and including all tax-exempt obligations of subordinate entities of the Purchaser) during the calendar year this Agreement and Property Schedule was funded, in an amount not exceeding \$10,000,000.

_____ Purchaser initial here, only if Bank Qualification is applicable.

IN WITNESS WHEREOF, Purchaser has caused this Certificate of Acceptance to be executed by their duly authorized representative.

Acceptance Date:
Purchaser: City of Sunnyside
By:
Name:
Title:



EXHIBIT D

Purchaser's Certificate

Re: Tax-Exempt Installment Purchase Agreement and Property Schedule dated as of 12/20/2011, between City of Sunnyside as Purchaser, and US Bancorp Equipment Finance, Inc., as Seller

The undersigned, being the duly elected, qualified and acting _____ of the City of Sunnyside ("Purchaser") do hereby certify, as of 12/20/2011, as follows:

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

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

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

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

4. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default (as such term is defined in the Agreement) exists at the date hereof with respect to the Master Agreement.

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

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

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

Town of Hot Springs
By:
Title:
SIGNER MUST NOT BE THE SAME AS THE EXECUTING OFFICIAL(S) SHOWN ABOVE.

EXHIBIT "A"



INSURANCE AUTHORIZATION AND VERIFICATION

Date: _____

Re: Tax-Exempt Installment Purchase Agreement, Dated 12/20/2011

To: City of Sunnyside (the "Purchaser") From: US Bancorp Equipment Finance, Inc. (the "Seller")
1310 Madrid St
Marshall, MN 56258

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

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

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

Purchaser must carry PROPERTY Insurance (or, for vehicles, Physical Damage Insurance) in an amount no less than the 'Insurable Value' \$243,987.77 [amount of financing], with deductibles no more than \$10,000.00.

*Purchaser: Please execute this form and return with your document package. Seller will fax this form to your insurance agency for endorsement. In lieu of agent endorsement, Purchaser's agency may submit insurance certificates demonstrating compliance with all requirements. If fully executed form (or Purchaser-executed form plus certificates) is not provided within 15 days, we have the right to purchase such insurance at your expense.

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

Agency/Agent: _____
Address: _____
Phone/Fax: _____
E-Mail _____

City of Sunnyside
By: _____
Name: _____
Title: _____

TO THE AGENT: In lieu of providing a certificate, please execute this form in the space below and promptly fax it to Seller at 800-_____-_____. This fully endorsed form shall serve as proof that Purchaser's insurance meets the above requirements.

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

Print Name Of Agency: X _____

By: X _____
(Agent's Signature)

Print Name: X _____

Date: X _____

Insurable Value: \$ _____ [amount of financing]

EXHIBIT "A"

Form **8038-G**
 (Rev. September 2011)
 Department of the Treasury
 Internal Revenue Service

Information Return for Tax-Exempt Governmental Obligations

▶ Under Internal Revenue Code section 149(e)
 ▶ See separate instructions.
 Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority

If Amended Return, check here

1 Issuer's name		2 Issuer's employer identification number (EIN)	
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a	
4 Number and street (or P.O. box if mail is not delivered to street address)	Room/suite	5 Report number (For IRS Use Only)	
6 City, town, or post office, state, and ZIP code		7 Date of Issue	
8 Name of issue		9 CUSIP number	
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions)		10b Telephone number of officer or other employee shown on 10a	

Part II Type of Issue (enter the issue price). See the instructions and attach schedule.

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ▶	18		
19 If obligations are TANs or RANs, check only box 19a		<input type="checkbox"/>	
If obligations are BANs, check only box 19b		<input type="checkbox"/>	
20 If obligations are in the form of a lease or installment sale, check box		<input type="checkbox"/>	

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21		\$	\$	years	%

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22		
23 Issue price of entire issue (enter amount from line 21, column (b))	/23		
24 Proceeds used for bond issuance costs (including underwriters' discount)	24		
25 Proceeds used for credit enhancement	25		
26 Proceeds allocated to reasonably required reserve or replacement fund	26		
27 Proceeds used to currently refund prior issues	27		
28 Proceeds used to advance refund prior issues	28		
29 Total (add lines 24 through 28)	29		
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30		

Part V Description of Refunded Bonds. Complete this part only for refunding bonds.

31 Enter the remaining weighted average maturity of the bonds to be currently refunded	▶	_____ years
32 Enter the remaining weighted average maturity of the bonds to be advance refunded	▶	_____ years
33 Enter the last date on which the refunded bonds will be called (MM/DD/YYYY)	▶	_____
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	▶	_____

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 9-2011)

EXHIBIT "A"

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a	
b	Enter the final maturity date of the GIC ▶ _____		
c	Enter the name of the GIC provider ▶ _____		
37	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units	37	
38a	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:		
b	Enter the date of the master pool obligation ▶ _____		
c	Enter the EIN of the issuer of the master pool obligation ▶ _____		
d	Enter the name of the issuer of the master pool obligation ▶ _____		
39	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box		<input type="checkbox"/>
40	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box		<input type="checkbox"/>
41a	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:		
b	Name of hedge provider ▶ _____		
c	Type of hedge ▶ _____		
d	Term of hedge ▶ _____		
42	If the issuer has superintegrated the hedge, check box		<input type="checkbox"/>
43	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box		<input type="checkbox"/>
44	If the issuer has established written procedures to monitor the requirements of section 148, check box		<input type="checkbox"/>
45a	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement ▶ _____		
b	Enter the date the official intent was adopted ▶ _____		

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	Signature of issuer's authorized representative _____		Date _____	
			Type or print name and title _____	
Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed PTIN
	Firm's name ▶	Firm's EIN ▶		
	Firm's address ▶	Phone no. _____		



Instructions for Form 8038-G

(Rev. September 2011)

Information Return for Tax-Exempt Governmental Obligations

Section references are to the Internal Revenue Code unless otherwise noted.

General Instructions

Purpose of Form

Form 8038-G is used by issuers of tax-exempt governmental obligations to provide the IRS with the information required by section 149(e) and to monitor the requirements of sections 141 through 150.

Who Must File

IF the issue price (line 21, column (b)) is...	THEN, for tax-exempt governmental obligations issued after December 31, 1986, issuers must file...
\$100,000 or more	A separate Form 8038-G for each issue
Less than \$100,000	Form 8038-GC, Information Return for Small Tax-Exempt Governmental Bond Issues, Leases, and Installment Sales



For all build America bonds and recovery zone economic development bonds use Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds. For tax credit bonds and specified tax credit bonds use Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

When To File

File Form 8038-G on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the bond is issued. Form 8038-G may not be filed before the issue date and must be completed based on the facts as of the issue date.

Late filing. An issuer may be granted an extension of time to file Form 8038-G under Section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file timely is not due to willful neglect. Type or print at the top of the form "Request for Relief under section 3 of Rev. Proc. 2002-48" and attach a letter explaining why Form 8038-G was not submitted to the IRS on time. Also indicate whether the bond issue in question is under examination by the IRS. Do not submit copies of the trust

indenture or other bond documents. See *Where To File* next.

Where To File

File Form 8038-G, and any attachments, with the Department of the Treasury, Internal Revenue Service Center, Ogden, UT 84201.

Private delivery services. You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- DHL Express (DHL): DHL Same Day Service.
- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, and FedEx International First.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, and UPS Worldwide Express.

The private delivery service can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the Federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate.

For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For build America bonds (Direct Pay), build America bonds (Tax Credit), and recovery zone economic development bonds, complete Form 8038-B, Information Return for Build America Bonds and Recovery Zone Economic Development Bonds.

For qualified forestry conservation bonds, new clean renewable energy bonds, qualified energy conservation bonds, qualified zone academy bonds, qualified school construction bonds, clean renewable energy bonds, Midwestern tax credit bonds, and all other qualified tax credit bonds (except build America bonds), file Form 8038-TC, Information Return for Tax Credit Bonds and Specified Tax Credit Bonds.

Rounding to Whole Dollars

You may show amounts on this return as whole dollars. To do so, drop amounts less than 50 cents and increase amounts from 50 cents through 99 cents to the next higher dollar.

Questions on Filing Form 8038-G

For specific questions on how to file Form 8038-G send an email to the IRS at TaxExemptBondQuestions@irs.gov and put "Form 8038-G Question" in the subject line. In the email include a description of your question, a return email address, the name of a contact person, and a telephone number.

Definitions

Tax-exempt obligation. This is any obligation, including a bond, installment purchase agreement, or financial lease, on which the interest is excluded from income under section 103.

Tax-exempt governmental obligation. A tax-exempt obligation that is not a private activity bond (see below) is a tax-exempt governmental obligation. This includes a bond issued by a qualified volunteer fire department under section 150(e).

Private activity bond. This includes an obligation issued as part of an issue in which:

- More than 10% of the proceeds are to be used for any private activity business use, and
- More than 10% of the payment of principal or interest of the issue is either (a) secured by an interest in property to be used for a private business use (or payments for such property) or (b) to be derived from payments for property (or borrowed money) used for a private business use.

It also includes a bond, the proceeds of which (a) are to be used directly or indirectly to make or finance loans (other than loans described in section 141(c)(2)) to persons other than governmental units and (b) exceeds the lesser of 5% of the proceeds or \$5 million.

Issue price. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the first price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

EXHIBIT "A"

Issue. Generally, obligations are treated as part of the same issue if they are issued by the same issuer, on the same date, and in a single transaction, or a series of related transactions. However, obligations issued during the same calendar year (a) under a loan agreement under which amounts are to be advanced periodically (a "draw-down loan") or (b) with a term not exceeding 270 days, may be treated as part of the same issue if the obligations are equally and ratably secured under a single indenture or loan agreement and are issued under a common financing arrangement (for example, under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meet the requirements of the preceding sentence, obligations issued during different calendar years may be treated as part of the same issue if all of the amounts to be advanced under the draw-down loan are reasonably expected to be advanced within 3 years of the date of issue of the first obligation. Likewise, obligations (other than private activity bonds) issued under a single agreement that is in the form of a lease or installment sale may be treated as part of the same issue if all of the property covered by that agreement is reasonably expected to be delivered within 3 years of the date of issue of the first obligation.

Arbitrage rebate. Generally, interest on a state or local bond is not tax-exempt unless the issuer of the bond rebates to the United States arbitrage profits earned from investing proceeds of the bond in higher yielding nonpurpose investments. See section 148(f).

Construction issue. This is an issue of tax-exempt bonds that meets both of the following conditions:

1. At least 75% of the available construction proceeds are to be used for construction expenditures with respect to property to be owned by a governmental unit or a section 501(c)(3) organization, and
2. All the bonds that are part of the issue are qualified 501(c)(3) bonds, bonds that are not private activity bonds, or private activity bonds issued to finance property to be owned by a governmental unit or a section 501(c)(3) organization.

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1½% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed

return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new or corrected information. Attach an explanation of the reason for the amended return and write across the top, "Amended Return Explanation." Failure to attach an explanation may result in a delay in processing the form.

Line 1. The issuer's name is the name of the entity issuing the obligations, not the name of the entity receiving the benefit of the financing. For a lease or installment sale, the issuer is the lessee or the purchaser.

Line 2. An issuer that does not have an employer identification number (EIN) should apply for one on Form SS-4, Application for Employer Identification Number. You can get this form on the IRS website at IRS.gov or by calling 1-800-TAX-FORM (1-800-829-3676). You may receive an EIN by telephone by following the instructions for Form SS-4.

Line 3a. If the issuer wishes to authorize a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) to communicate with the IRS and whom the IRS may contact about this return (including in writing or by telephone), enter the name of such person here. The person listed in line 3a must be an individual. Do not enter the name and title of an officer or other employee of the issuer here (use line 10a for that purpose).

Note. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual entered on line 3a and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Lines 4 and 6. If you listed an individual on line 3a to communicate with the IRS and whom the IRS may contact about this return, enter the number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code of that person. Otherwise, enter the issuer's number and street (or P.O. box if mail is not delivered to street address), city, town, or post office, state, and ZIP code.

Note. The address entered on lines 4 and 6 is the address the IRS will use for all written communications regarding the processing of this return, including any notices.

Line 5. This line is for IRS use only. Do not make any entries in this box.

Line 7. The date of issue is generally the date on which the issuer physically

exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds. For a lease or installment sale, enter the date interest starts to accrue in a MM/DD/YYYY format.

Line 8. If there is no name of the issue, please provide other identification of the issue.

Line 9. Enter the CUSIP (Committee on Uniform Securities Identification Procedures) number of the bond with the latest maturity. If the issue does not have a CUSIP number, write "None."

Line 10a. Enter the name and title of the officer or other employee of the issuer whom the IRS may call for more information. If the issuer wishes to designate a person other than an officer or other employee of the issuer (including a legal representative or paid preparer) whom the IRS may call for more information about the return, enter the name, title, and telephone number of such person on lines 3a and 3b.



Complete lines 10a and 10b even if you complete lines 3a and 3b.

Part II—Type of Issue



Elections referred to in Part II are made on the original bond documents, not on this form.

Identify the type of obligations issued by entering the corresponding issue price (see *Issue price* under *Definitions* earlier). Attach a schedule listing names and EINs of organizations that are to use proceeds of these obligations, if different from those of the issuer, include a brief summary of the use and indicate whether or not such user is a governmental or nongovernmental entity.

Line 18. Enter a description of the issue in the space provided.

Line 19. If the obligations are short-term tax anticipation notes or warrants (TANs) or short-term revenue anticipation notes or warrants (RANs), check box 19a. If the obligations are short-term bond anticipation notes (BANs), issued with the expectation that they will be refunded with the proceeds of long-term bonds at some future date, check box 19b. Do not check both boxes.

Line 20. Check this box if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also check this box if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal. Do not check this box if the proceeds of the obligation are received in the form of cash, even if the term "lease" is used in the title of the issue.

EXHIBIT "A"

Part III—Description of Obligations

Line 21. For column (a), the final maturity date is the last date the issuer must redeem the entire issue.

For column (b), see *Issue price* under *Definitions* earlier.

For column (c), the stated redemption price at maturity of the entire issue is the sum of the stated redemption prices at maturity of each bond issued as part of the issue. For a lease or installment sale, write "N/A" in column (c).

For column (d), the weighted average maturity is the sum of the products of the issue price of each maturity and the number of years to maturity (determined separately for each maturity and by taking into account mandatory redemptions), divided by the issue price of the entire issue (from line 21, column (b)). For a lease or installment sale, enter instead the total number of years the lease or installment sale will be outstanding.

For column (e), the yield, as defined in section 148(h), is the discount rate that, when used to compute the present value of all payments of principal and interest to be paid on the obligation, produces an amount equal to the purchase price, including accrued interest. See Regulations section 1.148-4 for specific rules to compute the yield on an issue. If the issue is a variable rate issue, write "VR" as the yield of the issue. For other than variable rate issues, carry the yield out to four decimal places (for example, 5.3125%). If the issue is a lease or installment sale, enter the effective rate of interest being paid.

Part IV—Uses of Proceeds of Bond Issue

For a lease or installment sale, write "N/A" in the space to the right of the title for Part IV.

Line 22. Enter the amount of proceeds that will be used to pay interest from the date the bonds are dated to the date of issue.

Line 24. Enter the amount of the proceeds that will be used to pay bond issuance costs, including fees for trustees and bond counsel. If no bond proceeds will be used to pay bond issuance costs, enter zero. Do not leave this line blank.

Line 25. Enter the amount of the proceeds that will be used to pay fees for credit enhancement that are taken into account in determining the yield on the issue for purposes of section 148(h) (for example, bond insurance premiums and certain fees for letters of credit).

Line 26. Enter the amount of proceeds that will be allocated to such a fund.

Line 27. Enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds within 90 days of the date of issue.

Line 28. Enter the amount of the proceeds that will be used to pay

principal, interest, or call premium on any other issue of bonds after 90 days of the date of issue, including proceeds that will be used to fund an escrow account for this purpose.

Part V—Description of Refunded Bonds

Complete this part only if the bonds are to be used to refund a prior issue of tax-exempt bonds. For a lease or installment sale, write "N/A" in the space to the right of the title for Part V.

Lines 31 and 32. The remaining weighted average maturity is determined without regard to the refunding. The weighted average maturity is determined in the same manner as on line 21, column (d).

Line 34. If more than a single issue of bonds will be refunded, enter the date of issue of each issue. Enter the date in an MM/DD/YYYY format.

Part VI—Miscellaneous

Line 35. An allocation of volume cap is required if the nonqualified amount for the issue is more than \$15 million but is not more than the amount that would cause the issue to be private activity bonds.

Line 36. If any portion of the gross proceeds of the issue is or will be invested in a guaranteed investment contract (GIC), as defined in Regulations section 1.148-1(b), enter the amount of the gross proceeds so invested, as well as the final maturity date of the GIC and the name of the provider of such contract.

Line 37. Enter the amount of the proceeds of this issue used to make a loan to another governmental unit, the interest of which is tax-exempt.

Line 38. If the issue is a loan of proceeds from another tax-exempt issue, check the box and enter the date of issue, EIN, and name of issuer of the master pool obligation.

Line 40. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Do not make any payment of penalty in lieu of arbitrage rebate with this form. See Rev. Proc. 92-22, 1992-1 C.B. 736 for rules regarding the "election document."

Line 41a. Check this box if the issuer has identified a hedge on its books and records according to Regulations sections 1.148-4(h)(2)(viii) and 1.148-4(h)(5) that permit an issuer of tax-exempt bonds to identify a hedge for it to be included in yield calculations for computing arbitrage.

Line 42. In determining if the issuer has super-integrated a hedge, apply the rules of Regulations section 1.148-4(h)(4). If the hedge is super-integrated, check the box.

Line 43. If the issuer takes a "deliberate action" after the issue date that causes

the conditions of the private business tests or the private loan financing test to be met, then such issue is also an issue of private activity bonds. Regulations section 1.141-2(d)(3) defines a deliberate action as any action taken by the issuer that is within its control regardless of whether there is intent to violate such tests. Regulations section 1.141-12 explains the conditions to taking remedial action that prevent an action that causes an issue to meet the private business tests or private loan financing test from being treated as a deliberate action. Check the box if the issuer has established written procedures to ensure timely remedial action for all nonqualified bonds according to Regulations section 1.141-12 or other remedial actions authorized by the Commissioner under Regulations section 1.141-12(h).

Line 44. Check the box if the issuer has established written procedures to monitor compliance with the arbitrage, yield restriction, and rebate requirements of section 148.

Line 45a. Check the box if some part of the proceeds was used to reimburse expenditures. Figure and then enter the amount of proceeds that are used to reimburse the issuer for amounts paid for a qualified purpose prior to the issuance of the bonds. See Regulations section 1.150-2.

Line 45b. An issuer must adopt an official intent to reimburse itself for preissuance expenditures within 60 days after payment of the original expenditure unless excepted by Regulations section 1.150-2(f). Enter the date the official intent was adopted. See Regulations section 1.150-2(e) for more information about official intent.

Signature and Consent

An authorized representative of the issuer must sign Form 8038-G and any applicable certification. Also print the name and title of the person signing Form 8038-G. The authorized representative of the issuer signing this form must have the authority to consent to the disclosure of the issuer's return information, as necessary to process this return, to the person(s) that have been designated in Form 8038-G.

Note. If the issuer in Part 1, lines 3a and 3b authorizes the IRS to communicate (including in writing and by telephone) with a person other than an officer or other employee of the issuer, by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized officer of the issuer filled in this return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization should not sign the return. Certain others who prepare the

EXHIBIT "A"

return should not sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., should not sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature (a facsimile signature is acceptable),
- Enter the preparer information, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us

the information. We need it to ensure that you are complying with these laws.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

The time needed to complete and file this form varies depending on individual circumstances. The estimated average time is:

Learning about the law or the form	2 hr., 41 min.
Preparing, copying, assembling, and sending the form to the IRS	3 hr., 3 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Internal Revenue Service, Tax Products Coordinating Committee, SE:W:CAR:MP:T:M:S, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. **Do not** send the form to this office. Instead, see *Where To File*.