

**ORDINANCE AUTHORIZING THE CITY OF COATESVILLE TO ENTER INTO A “BANK QUALIFIED” MASTER LEASE AGREEMENT WITH FIRST NIAGARA LEASING, INC. FOR PURPOSES OF ACQUIRING POLICE, FIRE AND PUBLIC WORKS VEHICLES FOR THE USE OF THE CITY PURSUANT TO A COSTAR CONTRACT EXEMPT FROM PUBLIC BIDDING AND WITH NO PLEDGE OF FULL FAITH AND CREDIT AND TAXING POWER OF THE CITY AS SECURITY FOR REPAYMENT, A NON-APPROPRIATE CLAUSE WHICH TERMINATES THE LEASE IF PAYMENTS ARE NOT APPROPRIATED BY THE CITY AND CONTAINING PAYMENT TERMS WHICH ARE LESS IN DURATION THAN THE USEFUL LIFE OF THE VEHICLES BEING LEASED, SAID AGREEMENT TO REQUIRE INTEREST PAYMENTS AT VARYING RATES AS SET FORTH IN THE ATTACHMENT AT 3 YEAR 4 YEAR AND 5 YEAR TERMS FOR A MAXIMUM LEASE AMOUNT OF \$271,840.33**

WHEREAS, the City of Coatesville (hereinafter “the City”) is a Third Class City operating by means of a Home Rule Charter; and

WHEREAS, the City has advertised a Request for Proposals to provide lease financing for the purchase through a COSTAR Contract of needed Police, Fire and Public Works Vehicles for the City of Coatesville; and

WHEREAS, in response to the aforementioned Request for Proposals, First Niagara Leasing, Inc. has submitted a fixed rate, fully amortized privately placed tax-exempt lease agreement with the City at interest for a three year term (three police vehicles total net price \$94,260.63) four year term (one fire vehicle net price \$29,328.64) and five year term (two public works trucks total net price \$96,736.06), to provide financing for the vehicles as referenced; and,

WHEREAS, the total net price will include the gross vehicle price plus accessory charges (upfit costs for fire and police vehicles and snow plow and spreaders for public works trucks), destination charges, less Costars discount and net value of vehicles traded in for purchases it being specifically understood that the purchase will include three police vehicles for a net price of \$93,660.63 subject to a three (3) year lease; one fire vehicle for a net price of \$29,328.64 subject to a four (4) year lease; and two public works trucks for a net price of \$96,736.06 subject to a five (5) year lease ; and,

WHEREAS, the aforementioned lease agreement is in the form of a “Master Lease-Purchase Agreement” wherein title in the vehicles is held by the City, subject to financing which: 1) does not rely upon the full faith and credit and taxing power of the City for repayment: and, 2) has provisions such that if in any given year there is a failure to appropriate funds for the payments that come due during such year under the Master Lease – Purchase Agreement, there are remedies including repossession of the vehicles. Further, it is noted that the useful life of the vehicles being leased all exceed five years, a period which is greater than the term of the Master Lease-Purchase; and,

WHEREAS, the aforementioned form of financing constitutes a true “lease” and not a debt obligation of the City subject to the requirements of the Local Government Unit Debt Act, 53 Pa. C.S. A. § 8001 et seq. and,

WHEREAS, the City will not rent out the vehicles for private hire and otherwise complies with

the requirements for a tax exempt "bank qualified" lease; and

WHEREAS, the City Charter under Section 2-301 D thereof requires that the City pass an Ordinance authorizing the borrowing of money; and,

WHEREAS, the Master Lease-Purchase by First Niagara Leasing, Inc. is extremely beneficial and will provide a basis for replacing outdated vehicle stock of the Police Department, Fire Department and Public Works Department at reasonable cost.

NOW THEREFORE, in accordance with the foregoing authority, which incorporates all rights and powers granted to the City of Coatesville under the Third Class City Code and those powers granted to the City under its Charter, THE CITY DOES HEREBY ENACT AND ORDAIN AS FOLLOWS:

1. The City Council of the City of Coatesville does hereby authorize the City Manager, the City Finance Director and any other necessary parties to enter into a Master -Lease Agreement in substantially the form attached hereto as Exhibit "A" to purchase Police, Fire and Public Works vehicles (as identified on the schedules so attached at the interest rates and terms of repayment set forth) from COSTAR and to take all other action necessary to secure this financing and the acquisition of the vehicles from COSTAR.

If any portion of this Ordinance shall be determined to be unconstitutional, illegal or unenforceable, then that portion and only that portion of this Ordinance which is deemed to be unconstitutional, illegal or unenforceable shall be severed from the remainder of this Ordinance and all other terms thereof shall remain in full force and effect.

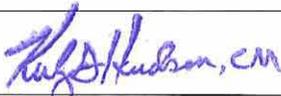
This Ordinance shall be effective following adoption in accordance with the City Charter and the Third Class City Code.

ENACTED AND ORDAINED this 8<sup>th</sup> day of April, 2013.



David Collins  
President, City Council

ATTEST:



Kirby A. Hudson, City Manager

CERTIFICATION

I HEREBY CERTIFY that the foregoing Ordinance was introduced on the 25<sup>th</sup> day of March, 2013 and was duly enacted by the Council of the City of Coatesville, Chester County, Pennsylvania, on 8<sup>th</sup> day of April, 2013, that the vote upon the said Ordinance has been recorded in the Minutes of the City Council and that the Ordinance has been fully recorded.



Kirby A. Hudson, City Manager

Master Lease No. <<ApplicationNum>>

**MASTER LEASE-PURCHASE AGREEMENT**

Dated as of <<today:dl>>

This Master Lease-Purchase Agreement together with all addenda, riders and attachments hereto, as the same may from time to time be amended, modified or supplemented ("Master Lease") is made and entered by and between <<FunderName>> ("Lessor") and the lessee identified below ("Lessee"), each with the intent to be legally bound.

Lessee: <<LesseeName1>>

1. LEASE OF EQUIPMENT. Subject to the terms and conditions of this Master Lease, Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, all Equipment described in each Schedule signed from time to time by Lessee and Lessor.

2. CERTAIN DEFINITIONS. All terms defined in the lease are equally applicable to both the singular and plural form of such terms. (a) "Schedule" means each Lease Schedule signed and delivered by Lessee and Lessor, together with all addenda, riders, attachments, payment schedules, certificates and exhibits thereto, as the same may from time to time be amended, modified or supplemented. Lessee and Lessor agree that each Schedule (except as expressly provided in said Schedule) incorporates by reference all of the terms and conditions of this Master Lease and may include additional terms and conditions. (b) "Lease" means any one Schedule with the terms and conditions of this Master Lease incorporated into said Schedule so that each Schedule shall create and constitute a stand-alone lease. (c) "Equipment" means the property described in each Schedule, together with all attachments, additions, accessions, parts, repairs, improvements, replacements, substitutions and exchanges therefor or thereto. (d) "Lien" means any security interest, lien, mortgage, pledge, encumbrance, judgment, execution, attachment, warrant, writ, levy, other judicial process or claim of any nature whatsoever by or of any person.

3. LEASE TERM. The term of the lease of the Equipment described in each Lease ("Lease Term") commences on the first day that any of such Equipment is accepted by Lessee pursuant to Section 5 hereof or on the date specified in the Schedule for such Lease and, unless earlier terminated as expressly provided in the Lease, continues until Lessee's irrevocable payment and performance in full of all of Lessee's obligations under the Lease.

**4. RENT PAYMENTS.**

4.1 For each Lease, Lessee agrees to pay to Lessor the rent payments in the amounts and at the times as set forth in the Payment Schedule attached to the Schedule ("Rent Payments"). A portion of each Rent Payment is paid as and represents the payment of interest as set forth in the Payment Schedule. Lessee acknowledges that its obligation to pay Rent Payments including interest therein accrues as of the accrual date stated in the Schedule or its Payment Schedule ("Accrual Date"); provided, that no Rent Payment is due until Lessee accepts any of the Equipment under the Lease or the parties execute an escrow agreement. Rent Payments will be payable for the Lease Term in U.S. dollars, without notice or demand at the office of Lessor (or such other place as Lessor may designate from time to time in writing).

4.2 If Lessor receives any payment from Lessee later than ten (10) days from the due date, Lessee shall pay Lessor on demand as a late charge five per cent (5%) of such overdue amount, limited, however, to the maximum amount allowed by law.

4.3 EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 6 HEREOF OR IN ANY WRITTEN MODIFICATION TO THE LEASE SIGNED BY LESSOR, EACH LEASE IS NON-CANCELABLE AND NON-TERMINABLE AND THE LEASE TERM AND THE OBLIGATION TO PAY RENT PAYMENTS UNDER EACH LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND SHALL NOT BE SUBJECT TO ANY REDUCTION, SETOFF, DEFENSE, COUNTERCLAIM, DEFERMENT, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

#### 5. DELIVERY; ACCEPTANCE; FUNDING CONDITIONS.

5.1 Lessee shall arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("Location") by Equipment suppliers ("Suppliers") selected by Lessee. Lessee shall pay all costs related thereto.

5.2 Lessee shall accept Equipment as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor the applicable Schedule and an acceptance certificate. If Lessee signs and delivers a Schedule and if all Funding Conditions (defined below) have been satisfied in full, then Lessor will pay or cause to be paid the costs of such Equipment as stated in the Schedule ("Purchase Price") to the applicable supplier.

5.3 Lessor shall have no obligation to pay any Purchase Price unless all reasonable conditions established by Lessor ("Funding Conditions") have been satisfied, including, without limitation, the following: (a) Lessee has signed and delivered the Schedule and its Payment Schedule ; (b) no Event of Default shall have occurred and be continuing; (c) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder (collectively, the "Code"); (d) no material adverse change shall have occurred in the financial condition of Lessee or any Supplier; (e) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (except Lessor's Liens); (f) all representations of Lessee in the Lease remain true, accurate and complete; and (g) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) the acceptance certificate (2) evidence of insurance coverage required by the Lease; (3) an opinion of Lessee's counsel; (4) reasonably detailed invoices for the equipment, and if such invoices have been paid by Lessee, evidence of payment thereof and evidence of official intent to reimburse such payment as required by the Code; (5) Uniform Commercial Code ("UCC") financing statements naming the Lessee as debtor; (6) copies of resolutions passed by Lessee's governing body authorizing the Lease and incumbency certificates for the person(s) who will sign the Lease; (7) such documents and certificates relating to the tax-exempt interest payable under the Lease (including, without limitation, IRS Form 8038G or 8038GC or evidence of filing thereof with the Secretary of State of the Treasury) as Lessor may request; and (8) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

#### 6. TERMINATION FOR GOVERNMENTAL NON-APPROPRIATIONS.

6.1 For each Lease, Lessee represents and warrants: that it has appropriated and budgeted the necessary funds to make all Rent Payments required pursuant to such Lease for the remainder of the fiscal year in which the Lease Term commences; and that it currently intends to make Rent Payments for the full Lease Term as scheduled in the applicable Payment Schedule if funds are appropriated for the Rent Payments in each succeeding fiscal year by its governing body. Without contractually committing itself

to do so, Lessee reasonably believes that moneys in an amount sufficient to make all Rent Payments can and will lawfully be appropriated therefore. Lessee directs the person in charge of its budget requests to include the Rent Payments payable during each fiscal year in the budget request presented to Lessee's governing body for such fiscal year; provided, that Lessee's governing body retains authority to approve or reject any such budget request. All Rent Payments shall be payable out of the general funds of Lessee or out of other funds legally appropriated therefore. Each Lease shall be deemed executory only to the extent of monies appropriated and available for the purpose of the Lease, and no liability on account thereof shall be incurred by the [political subdivision] beyond the amount of such monies. No Lease is a general obligation of <<LesseeName1>>. Neither the full faith and credit nor the taxing power of <<LesseeName1>> are pledged to the payment of any amount due or to become due under a Lease. It is understood that neither any Lease nor any representation by any public employee or officer creates any legal or moral obligation to appropriate or make monies available for the purpose of such Lease.

6.2 If Lessee's governing body fails to appropriate sufficient funds in any fiscal year for Rent Payments or other payments due under a Lease and if other funds are not legally appropriated for such payments, then a "Non-Appropriation Event" shall be deemed to have occurred. If a Non-Appropriation Event occurs, then: (a) Lessee shall give Lessor immediate notice of such Non-Appropriation Event and provide written evidence of such failure by Lessee's governing body; (b) on or before the Return Date, Lessee shall return to Lessor all, but not less than all, of the Equipment covered by the affected Lease, at Lessee's sole expense, in accordance with Section 21 hereof; and (c) the affected Lease shall terminate on the Return Date without penalty to Lessee, provided, that Lessee shall pay all Rent Payments and other amounts payable under the affected Lease for which funds shall have been appropriated, provided further, that Lessee shall pay month-to-month rent at the rate set forth in the affected Lease for each month or part thereof that Lessee fails to return the Equipment under this Section 6.2. "Return Date" means the last day of the fiscal year for which appropriations were made for the Rent Payments due under a Lease.

**7. LIMITATION ON WARRANTIES. LESSOR IS NOT THE MANUFACTURER, DEVELOPER, PUBLISHER, DISTRIBUTOR, LICENSOR OR SUPPLIER OF THE EQUIPMENT AND LESSOR MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, AS TO THE MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OF ANY OF THE EQUIPMENT OR AS TO THE VALUE, DESIGN, QUALITY, SUITABILITY, PERFORMANCE, CONDITION, USE, CAPACITY OR DURABILITY OF ANY OF THE EQUIPMENT, IT BEING UNDERSTOOD THAT THE EQUIPMENT IS BEING LEASED "AS IS" AND THAT ALL SUCH RISKS BE BORNE BY LESSEE.** For and during the Lease Term, Lessor hereby assigns to Lessee any manufacturer's or Supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) Lessee selected the Equipment and represents that the Equipment is suitable for Lessee's purposes and all Equipment will have been purchased by Lessor in accordance with Lessee's specifications from Suppliers selected by Lessee and such equipment shall be operated and used solely at Lessee's risk, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or supplier's product warranties or guaranties, (d) no manufacturer or supplier or any representative of said parties is an agent of Lessor, and (e) any warranty, representation, guaranty or agreement made by any manufacturer or supplier or any representative of said parties shall not be binding upon Lessor.

**8. TITLE; SECURITY INTEREST.**

8.1 Upon Lessee's acceptance of any Equipment under a Lease, title to the Equipment shall vest in Lessee, subject to Lessor's security interest therein and all of Lessor's other rights under such Lease including, without limitation, Sections 6, 20 and 21 hereof.

8.2 As collateral security for the Secured Obligations (as defined below), Lessee hereby grants to Lessor a first priority security interest in any and all of the Equipment (now existing or hereafter acquired) and any and all proceeds thereof. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, UCC-1 financing statements and any amendments thereto. Lessee authorizes Lessor to take any action deemed necessary by Lessor to perfect Lessor's security interest, including, without limitation, the filing of UCC-1 financing statements or marking or tagging the Equipment to indicate Lessor's lien thereon. If requested by Lessor, Lessee shall obtain a landlord and/or mortgagee's consent and waiver with respect to the Equipment. If requested by Lessor, Lessee shall conspicuously mark the Equipment, and maintain such markings during the Lease Term, to clearly disclose Lessor's security interest in the Equipment. Upon termination of a Lease through exercise of Lessee's option to prepay pursuant to Section 15 or through payment by Lessee of all Rental Payments and other amounts due with respect to such particular Equipment, Lessor's security interest in such Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the termination of Lessor's security interest in such Equipment.

8.3 "Secured Obligations" means Lessee's obligations to pay all Rent Payments and all other amounts due and payable under all present and future Leases and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due, or existing or hereafter arising) of Lessee under all present and future Leases.

9. PERSONAL PROPERTY. All Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon.

10. MAINTENANCE AND OPERATION. Lessee agrees it shall, at its sole expense: (a) repair and maintain all Equipment in good condition and working order and supply and install all replacement parts or other devices when required to so maintain the Equipment or when required by applicable law or regulation, which parts or devices shall automatically become part of the Equipment; and (b) use and operate all Equipment in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements, and comply with all laws and regulations relating to the Equipment. If any Equipment is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement by a party reasonably satisfactory to Lessor. No maintenance or other service for any Equipment will be provided by Lessor. Lessee will not make any alterations, additions or improvements ("Improvements") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value or utility of such Equipment, but any such Improvements not removed prior to the termination of the applicable Lease shall automatically become part of the Equipment.

11. LOCATION; INSPECTION. Equipment will not be removed from, or if Equipment is rolling stock its permanent base will not be changed from, the Location without Lessor's prior written consent. Lessor may, upon notice to Lessee, enter the Location or elsewhere during normal business hours to inspect the Equipment and confirm compliance with the Lease.

12. TAXES.

12.1 Lessee shall pay when due all Taxes which may now or hereafter be imposed upon any Equipment or its ownership, leasing, rental, sale, purchase, possession or use, upon any Lease or upon

any Rent Payments or any other payments due under any Lease. If Lessee fails to pay such Taxes when due, Lessor shall have the right, but not the obligation, to pay such Taxes. If Lessor pays any such Taxes, then Lessee shall, upon demand, immediately reimburse Lessor therefore. "Taxes" means any and all present and future taxes, levies, duties, assessments or other governmental charges that are not based on the net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation (a) sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes, and (b) interest, penalties or fines on any of the foregoing. Lessee shall file all personal property tax returns if and as required by local law with respect to the Equipment and if requested by Lessor, deliver any applicable sales tax exemption certificates.

### 13. RISK OF LOSS.

13.1 Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part from any reason whatsoever ("Casualty Loss") while the Equipment is in transit and for the duration of the Lease Term. No Casualty Loss to any Equipment shall relieve Lessee from the obligation to make Rent Payments or to perform any other obligation under any Lease. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 13.

13.2 If a Casualty Loss occurs to any Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

13.3 If Lessor determines that any item of Equipment has suffered a Casualty Loss beyond repair ("Lost Equipment"), then Lessee shall either: (a) immediately replace the Lost Equipment with similar equipment in good repair, condition and working order free and clear of any Liens (except Lessor's Liens), in which event such replacement equipment shall automatically be Equipment under the applicable Lease, and deliver to Lessor true and complete copies of the invoice or bill of sale covering the replacement equipment; or (b) on earlier of 60 days after the Casualty Loss or the next scheduled Rent Payment date, pay Lessor (i) all amounts owed by Lessee under the applicable Lease, including the Rent Payments due on or accrued through such date plus (ii) an amount equal to the Termination Value as of the Rent Payment date (or if the Casualty Loss payment is due) set forth in the Payment Schedule to the applicable Lease. If Lessee is making such payment with respect to less than all of the Equipment under a Lease, then Lessor will provide Lessee with the pro rata amount of the Rent Payment and Termination Value to be paid by Lessee with respect to the Lost Equipment and a revised Payment Schedule.

13.4 To the extent not prohibited by applicable law, Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. Whether or not covered by insurance, and without limiting the foregoing, Lessee hereby assumes responsibility for (a) the selection, manufacture, purchase, acceptance or rejection of the Equipment and the ownership of the Equipment, (b) the condition of the Equipment sold or otherwise disposed of after possession by Lessee, (c) the conduct of Lessee, its officers, employees and agents, (d) any claim, loss, cost or expense involving alleged damage to the environment relating to the Equipment, including, but not limited to investigation, removal, cleanup and remedial costs, and (e) any strict liability under the laws or judicial decisions of any state or the United States. These obligations of Lessee shall survive any expiration or termination of this Master Lease and any Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees and expenses), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance

with the terms of the applicable Lease or which arise directly from the gross negligence or willful misconduct of Lessor.

#### 14. INSURANCE.

14.1 (a) Lessee at its sole expense shall at all times keep all Equipment insured against all Casualty Losses for an amount not less than the Termination Value of the Equipment. Proceeds of any such insurance covering damage or loss of any Equipment shall be payable to Lessor as loss payee. (b) Lessee at its sole expense shall at all times carry public liability and third party property damage insurance in amounts reasonably satisfactory to Lessor protecting Lessee and Lessor from liabilities for injuries to persons and damage to property of others relating in any way to any Equipment. Proceeds of any such public liability or property insurance shall be payable first to Lessor as additional insured to the extent of its liability, and then to Lessee.

14.2 All insurers shall be reasonably satisfactory to Lessor. Lessee shall promptly deliver to Lessor satisfactory evidence of required insurance coverage and all renewals and replacements thereof. Each insurance policy will require that the insurer give Lessor prompt written notice of any amendment to or cancellation of such policy and will require that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of Lessee. The insurance maintained by Lessee shall be primary without any right of contribution from insurance which may be maintained by Lessor.

15. PREPAYMENT OPTION. Upon thirty (30) days' prior written notice by Lessee to Lessor, and so long as there is no Event of Default then existing, Lessee shall have the option to prepay Lessee's obligation under a Lease in whole, but not in part, on any Rent Payment due date by paying to Lessor all Rent Payments then due (including accrued interest, if any) for such Lease plus the Termination Value amount set forth on the Payment Schedule to such Lease for such date. Upon satisfaction by Lessee of such prepayment conditions, Lessor shall release its Lien on such Equipment and Lessee shall retain its title to such Equipment "AS-IS, WHERE-IS", WITHOUT WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR ANY PARTICULAR PURPOSE OR FITNESS FOR THE USE CONTEMPLATED BY LESSEE, except for a representation that such Equipment is free and clear of any Liens created by Lessor.

16. LESSEE'S REPRESENTATIONS AND WARRANTIES. With respect to each Lease and its Equipment, Lessee hereby represents and warrants to Lessor that: (a) Lessee has full power, authority and legal right to execute and deliver this Master Lease and each Lease and to perform its obligations under the Master Lease and each Lease, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body; (b) the Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms; (c) the Master and each Lease is authorized under, and the authorization, execution and delivery of the Lease complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and property acquisition laws) and all applicable judgments and court orders; (d) the execution, delivery and performance of each Lease and compliance with the provisions thereof by Lessee does not conflict with or result in a violation or breach or constitute a default under, any resolution, bond, agreement, indenture, mortgage, note, lease or other instrument to which Lessee is a party or by which Lessee is bound or any law or any rule, regulation, order or decree of any court, governmental agency or body having jurisdiction over Lessee or any of its activities or properties; (e) there is no pending, or to the best of Lessee's knowledge threatened, litigation of any nature which may have a material adverse effect on Lessee's ability to perform its obligations under the Lease, including, without limitation, (w) seeking to restrain or enjoin the delivery of this Lease or of other agreements

similar to Lease; (x) questioning the authority of Lessee to execute this Lease, or the validity of this Lease, or the payment of principal of or interest on, this Lease; (y) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of this Lease; or (z) affecting the provisions made for the payment of or security for this Lease; (f) Lessee is the Commonwealth of Pennsylvania (the "Commonwealth"), or a political subdivision thereof, as referred to in Section 103 of the Code duly organized and existing under the Constitution and the laws of the Commonwealth, and Lessee's obligation under the Lease constitutes an enforceable obligation issued on behalf of a state or a political subdivision thereof; (g) no lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time during the past ten (10) years has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year, (h) no event has occurred which would constitute a default or an event of default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years; (i) Lessee or Lessee's governing body has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments during the current fiscal year, and such moneys will be applied in payment of all Rental Payments due and payable during such current fiscal year; (j) Lessee has an immediate need for, and expects to make immediate use of, the Equipment, which need is not temporary or expected to diminish during the applicable Lease Term; and (k) Lessee presently intends to continue each Lease hereunder for its entire Lease Term and to pay all Rental Payments relating thereto.

17. **ADDITIONAL REPRESENTATIONS, WARRANTIES AND COVENANTS.** Lessee hereby represents, covenants and warrants to Lessor on the date hereof, and on each Accrual Date, as follows:

(a) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a political subdivision.

(b) During the Lease Term, the Equipment shall be used by Lessee only for the purpose of performing essential governmental use and public functions within the permissible scope of its authority.

(c) Lessee shall comply with all applicable provisions of the Internal Revenue Code of 1986, as amended (the "Code"), including Sections 103, 148 and 149 thereof, and the regulations of the Treasury Department thereunder, from time to time proposed or in effect, in order to maintain the excludability from gross income for federal income tax purposes of the interest component of Rent Payments and shall not use or permit the use of the Equipment in such a manner as to cause any Lease to be a "private activity bond" under Section 141(a) of the Code. Lessee covenants and agrees that it will use the proceeds of each Lease as soon as practicable and with all reasonable dispatch for the purpose for which each Lease has been entered into, and that no part of the proceeds of any Lease shall be invested in any securities, obligations or other investments except for the temporary period pending such use nor used, at any time, directly or indirectly, in manner which, if such use had been reasonably anticipated on the date of issuance of any Lease, would have caused any portion of any Lease to be or become "arbitrage bonds" within the meaning of Section 103(b)(2), Section 148 or Section 149 of the Code and the regulations of the Treasury Department thereunder proposed or in effect at the time of such use.

(d) Unless a separate certificate regarding arbitrage, in form and substance reasonably satisfactory to Lessor, is delivered by Lessee:

(1) the estimated total costs, including taxes, freight, installation, cost of issuance, of the Equipment shall not be less than the total principal amount of the Rent Payments;

(2) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rent

Payments, or (ii) that may be used solely to prevent a default in the payment of the Rent Payments;

(3) the Equipment has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the end of the Lease Term;

(4) there are no obligations of Lessee which (i) are being sold within 15 days of the Accrual Date; (ii) are being sold pursuant to the same plan of financing as any Lease; and (iii) are expected to be paid from substantially the same source of funds;

(5) the officer or official who has executed this Master Lease and each Lease on Lessee's behalf is familiar with Lessee's expectations regarding the use of the Equipment and expenditure of the proceeds of each Lease; and to the best of his/her knowledge, information and belief, the facts and estimates set forth herein are accurate and the expectations of Lessee set forth herein are reasonable;

(e) if Lessor either (i) receives notice, in any form, from the Internal Revenue Service or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor, that Lessor may not exclude any Interest paid under any Lease from its Federal gross income (each an "Event of Taxability"), the Lessee shall pay to Lessor upon demand (x) an amount which, with respect to Rental Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the Interest due through the date of such event), will restore to Lessor its after-tax yield (assuming tax at the highest marginal tax rate and taking into account the time of receipt of Rental Payments and reinvestment at the after-tax yield rate) on the transaction evidenced by such Lease through the date of such event and (y) as additional Rental Payments to Lessor on each succeeding Payment Date such amount as will maintain such after-tax yield to Lessor; and

(f) upon Lessor's request, Lessee shall provide Lessor with current financial statements, budgets, and proof of appropriation for the ensuing Fiscal year and such other financial information relating to the ability of Lessee to continue this Agreement and each Lease as may be reasonably requested by Lessor.

## 18. ASSIGNMENT/LIENS.

18.1 Lessee shall not assign, transfer, pledge, hypothecate, nor grant any Lien on, nor otherwise dispose of, any Lease or any Equipment or any interest in any Lease or Equipment.

18.2 Lessor may assign its rights, title and interest in and to any Lease or any Equipment, and/or may grant or assign a security interest in any Lease and its Equipment, in whole or in part, to any party at any time. Any such assignee or lienholder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease. **LESSEE AGREES NOT TO ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR.** Unless otherwise agreed by Lessee in writing, any such assignment transaction shall not release Lessor from any of Lessor's obligations under the applicable Lease. An assignment or reassignment of any of Lessor's right, title or interest in a Lease or its Equipment shall be enforceable against Lessee only after Lessee receives a written notice of assignment which discloses the name and address of each such Assignee; provided, that such notice from Lessor to Lessee of any assignment shall not be so required if Lessor assigns a Lease to any of its direct or indirect subsidiaries. Lessee shall keep a complete and accurate record of all such assignments in the form necessary to comply with the Code and for such purpose, Lessee hereby appoints Lessor (or Lessor's designee) as the book entry and registration agent to keep a complete and

accurate record of any and all assignments of any Lease. Lessee agrees to acknowledge in writing any such assignments if so requested.

18.3 Each Assignee of a Lease hereby agrees that: (a) the term Secured Obligations as used in Section 8.3 hereof is hereby amended to include and apply to all obligations of Lessee under the Assigned Leases and to exclude the obligations of Lessee under any Non-Assigned Lease or any Equipment covered by any Non-Assigned Lease; and (b) Assignee shall exercise its rights, benefits and remedies as the assignee of Lessor (including, without limitation, the remedies under Section 20 of the Master Lease) solely with respect to the Assigned Leases. "Assigned Leases" means only those Leases which have been assigned to a single Assignee pursuant to a written agreement; and "Non-Assigned Leases" means all Leases excluding the Assigned Leases.

18.4 Subject to the foregoing, each Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

19. EVENTS OF DEFAULT. For each Lease, "Event of Default" means the occurrence of any one or more of the following events as they may relate to such Lease: (a) Lessee fails to make any Rent Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (b) Lessee fails to perform or observe any of its obligations under Sections 12.1, 14 or 18.1 hereof; (c) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Lease and such failure is not cured within thirty (30) days after receipt of written notice thereof by Lessor; (d) any statement, representation or warranty made by Lessee in the Lease or in any writing delivered by Lessee pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; (e) Lessee applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under an federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within sixty (60) days thereafter; or (f) Lessee shall be in default under any other Lease or under any other financing agreement executed at any time with Lessor.

20. REMEDIES. If any Event of Default occurs, then Lessor may, at its option, exercise any one or more of the following remedies:

(a) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all amounts then currently due under all Leases and all remaining Rent Payments due under all Leases during the fiscal year in effect when the Event of Default occurs together with interest on such amounts at the rate of twelve percent (12%) per annum (but not to exceed the highest rate permitted by applicable law) from the date of Lessor's demand for such payment;

(b) Lessor may require Lessee to promptly return all Equipment under all or any of the Leases to Lessor in the manner set forth in Section 21 (and Lessee agrees that it shall so return the Equipment), or Lessor may, at its option, enter upon the premises where any Equipment is located and repossess any Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession;

(c) Lessor may sell, lease or otherwise dispose of any Equipment under all or any of the Leases, in whole or in part, in one or more public or private transactions, and if Lessor so disposes of any Equipment, then Lessor shall retain the entire proceeds of such disposition free and clear of any claims of Lessee, provided, that if the net proceeds of the disposition of all the Equipment exceeds the applicable Termination Value of all the schedules plus the amounts payable by Lessee under clause (a) above of this

Section and under clause (f) below of this Section, then such excess amount shall be remitted by Lessor to Lessee;

(d) Lessor may terminate, cancel or rescind any Lease as to any and all Equipment;

(e) Lessor may exercise any other right, remedy or privilege which may be available to Lessor under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under any Lease; and/or

(f) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all out-of-pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning, sale or other disposition of any Equipment.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Lessor. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy under any Lease shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

21. RETURN OF EQUIPMENT. If Lessor is entitled under the provisions of any Lease, including any termination thereof pursuant to Sections 6 or 20 of this Master Lease, to obtain possession of any Equipment or if Lessee is obligated at any time to return any Equipment, then (a) title to the Equipment shall vest in Lessor immediately upon Lessor's notice thereof to Lessee, and (b) Lessee shall, at its sole expense and risk, immediately de-install, disassemble, pack, crate, insure and return the Equipment to Lessor (all in accordance with the highest applicable industry standards) at any location in the continental United States selected by Lessor. Such Equipment shall be in the same condition as when received by Lessee (reasonable wear, tear and depreciation resulting from normal and proper use excepted), shall be in good operating order and maintenance as required by the applicable Lease, shall be free and clear of any Liens (except Lessor's Lien) and shall comply with all applicable laws and regulations. Until Equipment is returned as required above, all terms of the applicable Lease shall remain in full force and effect including, without limitation obligations to pay Rent Payments and to insure the Equipment. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of legal and beneficial title to such Equipment to Lessor and to evidence the termination of Lessee's interest in such Equipment.

22. LAW GOVERNING. Each Lease shall be governed by the laws of the Commonwealth.

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23. WAIVER OF TRIAL BY JURY. LESSOR AND LESSEE EACH WAIVE ITS RESPECTIVE RIGHTS TO TRIAL BY JURY OF ANY CLAIM OR CAUSE OF ACTION BASED UPON OR ARISING OUT OF OR RELATED TO THIS MASTER LEASE AND EACH LEASE, THE EQUIPMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY, IN ANY ACTION OR PROCEEDING TO WHICH LESSEE OR LESSOR MAY BE PARTIES, WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS, OR OTHERWISE. LESSOR AND LESSEE AGREE THAT OUR RESPECTIVE RIGHT TO JURY TRIAL IS WAIVED AS TO ANY ACTION, COUNTERCLAIM OR OTHER PROCEEDING WHICH SEEKS, IN WHOLE OR IN PART, TO CHALLENGE THE VALIDITY OR ENFORCEABILITY, OF THIS MASTER LEASE AND EACH LEASE OR ANY PROVISION OF THIS MASTER LEASE AND EACH LEASE. THIS WAIVER IS MADE KNOWINGLY, WILLINGLY AND VOLUNTARILY BY LESSOR AND US WHO EACH ACKNOWLEDGE THAT NO REPRESENTATIONS HAVE BEEN MADE BY ANY INDIVIDUAL

TO INDUCE THIS WAIVER OF TRIAL BY JURY OR IN ANY WAY TO MODIFY OR NULLIFY ITS EFFECT. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, TO THIS MASTER LEASE AND EACH LEASE.

24. NOTICES. All notices to be given under any Lease shall be made in writing and either personally delivered or mailed by regular or certified mail or sent by an overnight courier delivery company to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notices shall be deemed to have been received five (5) days subsequent to mailing or upon delivery by such courier.

25. FINANCIAL INFORMATION. As soon as they are available after their completion in each fiscal year of Lessee during any Lease Term, Lessee will deliver to Lessor upon Lessor's request the publicly available annual financial information of Lessee and such other information as Lessor may reasonably request.

26. SECTION HEADINGS. All Section headings contained herein or in any Schedule are for convenience of reference only and do not define or limit the scope of any provision of any Lease.

27. EXECUTION IN COUNTERPARTS. This Master Lease, each Lease and each Schedule to this Master Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall be deemed one instrument. If more than one counterpart of each Schedule is executed by Lessee and Lessor, then only one may be marked "Lessor's Original" by Lessor. A security interest in any Schedule may be created through transfer and possession only of: the sole original of said Schedule if there is only one original; or the counterpart marked "Lessor's Original" if there are multiple counterparts of said Schedule.

28. ENTIRE AGREEMENT; WRITTEN AMENDMENTS. Each Lease, together with the exhibits, schedules and addenda attached thereto and made a part hereof and other attachments thereto constitute the entire agreement between the parties with respect to the lease of the Equipment covered thereby, and such Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

29. U.S. PATRIOT ACT. Lessor notifies Lessee that pursuant to the requirements of the USA Patriot Act (Title III of Pub. L. 107-56), that Lessor is required to obtain, verify and record information that identifies Lessee, which information includes the name and address of Lessee and other information that will allow such Lessor to identify Lessee in accordance with the USA Patriot Act.

30. FURTHER ASSURANCES. Lessor and Lessee agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto and such further instruments as may reasonably be required for correcting any inadequate or incorrect description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Agreement. Lessee hereby authorizes Lessor to file any financing statement or supplements thereto as may be reasonably required for correcting any inadequate description of the Equipment hereby leased or intended so to be, or for otherwise carrying out the expressed intention of this Master Lease

LESSEE:

<<LesseeName1>>



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

Title: <<LesseeUdef031>> \_\_\_\_\_

<<LesseeAddress11>> <<LesseeAddress21>>  
(Street Address)

<<LesseeCity>>, <<LesseeStateCode>> <<LesseePostalCode>>  
(City, State, Zip)

LESSOR:

<<FunderName>>

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

Title: Authorized Representative

726 Exchange Street, Suite 900  
(Street Address)

Buffalo, New York, 14210  
(City, State, Zip)

**CERTIFICATE OF INCUMBENCY**

Lessee: <<LesseeName1>>

Lessor: <<FunderName>>

Master Lease Purchase Agreement Dated \_\_\_\_\_ Master Lease No. \_\_\_\_\_ and  
Lessee Schedule No. <<ApplicationNum>> Dated <<today:dl>> (the "Equipment Lease")

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the Commonwealth of Pennsylvania, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices, for the terms, set forth opposite their respective names.

[NOTE: Use the same titles as authorized representatives stated in Resolutions.]

Name	Title	Term	Signature
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Name	Title	Term	Signature
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The Lessee did, at a [regular/special] meeting of the governing body of Lessee held on [\_\_\_\_\_] by resolution or ordinance duly enacted, in accordance with all requirements of law, approved and authorized the execution and delivery of the Equipment Lease and the documents and certificates associated therewith by any of the above-named representatives of Lessee.

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

\_\_\_\_\_  
Signature of Secretary/Clerk of Lessee

[SEAL]

Print Name: \_\_\_\_\_

Official Title: \_\_\_\_\_

Date: \_\_\_\_\_

[NOTE: If the Secretary/Clerk is also the authorized representative that executes a Lease-Purchase Agreement/documents by the above incumbency, this certificate must also be signed by a second officer.]

## Lessee Certificate

Re: Master Lease Purchase Agreement dated as of \_\_\_\_\_ between <<FunderName>>  
 (“Lessor”) and <<LesseeName1>> Master Lease No. \_\_\_\_\_ and Lease Schedule No.  
<<ApplicationNum>> dated as of <<today:dl>> (collectively, the “Equipment Lease”).

The undersigned, being the duly elected, qualified and acting <<LesseeUdef031>> of the  
<<LesseeName1>> (“Lessee”), do hereby certify, as of <<today:dl>> as follows:

1. Lessee is a governmental unit with general taxing powers. Lessee shall assure that not in excess of five percent (5%) of the proceeds from the execution and delivery of the Equipment Lease is used (directly or indirectly) in a Private Business Use. For purposes hereof, “Private Business Use” shall mean any use directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and use as a member of the general public.

2. The payment of the principal of, or interest on, no portion of the proceeds from the execution and delivery of the Equipment Lease is (under the terms of such Equipment Lease or any underlying arrangement), directly or indirectly (A) secured by any interest in (i) property used or to be used for a Private Business Use or (ii) payments in respect of such property or (B) to be derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used for a Private Business Use.

3. No portion of the proceeds from the execution and delivery of the Equipment Lease is to be used (directly or indirectly) to make or finance loans to persons other than “governmental units,” as such term is used in Section 141(c) of the Internal Revenue Code of 1986, as amended and the regulations and rulings promulgated thereunder (collectively, the “Code”).

4. ~~Lessee will not take any action or permit or suffer any action to be taken if the result of the same would be to cause payments due pursuant to the Equipment Lease to be “federally guaranteed” within the meaning of Section 149(b) of the Code.~~

5. The proceeds from the execution and delivery of the Equipment Lease do not constitute a “refunding bond” as that term is defined in Section 149(d)(3) of the Code.

6. The Equipment Lease is not being executed to enable Lessee to exploit the difference between tax exempt and taxable interest rates to gain a material advantage and increase the burden on the market for tax exempt obligations in any manner, including, without limitation, by executing an installment purchase contract that would not otherwise be executed, or executing an installment purchase contract for a greater amount, or executing it sooner or

permitting it to remain outstanding longer than would otherwise be necessary.

7. There are no other funds or accounts established or held by Lessee which are reasonably expected to be used to pay debt service on the Equipment Lease or which are pledged as collateral for the Equipment Lease and for which there is reasonable assurance that amounts therein will be available to pay debt service on the Equipment Lease if Lessee encounters financial difficulties.

8. No other governmental obligations are being issued at substantially the same time and sold pursuant to a common plan of financing which will be paid out of (or have substantially the same claim to be paid out of) substantially the same source of funds as the payments due under the Equipment Lease.

9. The following amount will be received from the execution and delivery of the Equipment Lease: <<TotalAssetCost:c2>>. The amount received from the execution and delivery of the Equipment Lease will be paid directly to vendors to pay a portion of the equipment under the Equipment Lease (the “**Equipment**”) and for no other purpose. None of the amount will be deposited in a reserve or replacement fund, and all of such moneys are necessary to finance the Equipment. Lessee expects that 100% of the proceeds from the execution and delivery of the Equipment Lease will be disbursed at the closing of the transactions contemplated thereby.

10. Lessee has entered into substantial binding obligations in connection with the Equipment totaling 100% of the cost of the Project.

11. 100% of the “spendable proceeds” (as that term is defined in the Code) of the proceeds from the execution and delivery of the Equipment Lease is expected to be expended to pay Equipment costs.

12. The date of execution of the Equipment Lease has been determined solely on the basis of bona fide financial reasons, and to obtain a favorable rate of interest, and has not been determined with a view to prolonging abnormally the period between the execution of the Equipment Lease and the expenditure of the proceeds thereof.

13. The representations, warranties, covenants and agreements contained Section 17 of the Master Lease are hereby made by the Lessee as of the date hereof and such provisions are incorporated by reference herein.

14. The Lessee will cause an information reporting return on IRS Form 8038-G [8038-GC] to be accurately completed and duly filed under Section 149(e) of the Code not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Equipment Lease is entered into. A copy of Form 8038-G [8038-GC] is attached as Exhibit A to this Certificate.

15. The Lessee hereby designates the Equipment Lease as a "qualified tax exempt obligation" as defined in Section 265(b)(3)(B) of the Code. Lessee 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 Lessee) during the calendar year in which the commencement date of this Equipment Lease falls in amount not exceeding \$10,000,000, or if the calendar year in which the commencement date falls is prior to January 1, 2011, in an amount not exceeding \$30,000,000.

IN WITNESS WHEREOF, I hereunto set my hand the day and year first above written.

<<LesseeName1>>

By: X \_\_\_\_\_  
Title: <<LesseeUdef031>>

**LEASE SCHEDULE NO. <<ApplicationNum>>**  
Dated As Of <<today:dl>>

This Lease Schedule, together with its Payment Schedule and Acceptance Certificate attached hereto and made a part hereof, is attached and made a part of the Master Lease-Purchase Agreement described below ("Master Lease") between the Lessee and Lessor named below (the Master Lease, together with this Lease Schedule and its attachments, "Equipment Lease"). All terms and conditions of the Master Lease are incorporated herein by reference as if same had been set forth herein in full. Unless otherwise defined herein, capitalized terms defined in the Master Lease will have the same meaning when used herein.

Master Lease-Purchase Agreement dated \_\_\_\_\_ Master Lease No.: \_\_\_\_\_

Lessee: <<LesseeName1>>

Lessor: <<FunderName>>

A. EQUIPMENT DESCRIBED: The Equipment includes all of the property described on Schedule A-1 to the Acceptance Certificate attached hereto and made a part hereof.

B. EQUIPMENT LOCATION: <<AssetAddress11>> <<AssetAddress21>>  
<<AssetCity1>> <<AssetStateCode1>>  
<<AssetPostalCode1>>

C. ESSENTIAL USE; CURRENT INTENT OF LESSEE: Lessee represents and agrees that the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens and the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee currently intends for the full Lease Term: to use the Equipment; to continue this Lease; and to make Rental Payments if funds are appropriated in each fiscal year by its governing body.

D. RENTAL PAYMENTS; LEASE TERM: The Rental Payments to be paid by Lessee to Lessor, the commencement date thereof and the Lease Term of this Lease Schedule are set forth on the Payment Schedule attached to this Lease Schedule. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Equipment Lease during the current Fiscal Year of Lessee. Such moneys will be applied in payment of all such Rental Payments due and payable during such current Fiscal Year. Lessee anticipates that sufficient funds shall be made available to make all Rental Payments due in subsequent Fiscal Years.

E. RE-AFFIRMATION OF THE MASTER LEASE: Lessee hereby re-affirms all of its representations, warranties and obligations under the Master Lease (including, without limitation, its obligation to pay all Rental Payments, its disclaimers in Section 7 thereof and its representations in Sections 6.1, 16 and 17 thereof). No event or condition that constitutes, or with notice or lapse of time, or both would constitute an Event of Default or a Non-Appropriation Event, exists at the date hereof.

F. BANK QUALIFIED: LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDER YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDER YEAR WILL NOT EXCEED \$10,000,000.

↙ Equipment/Escrow Acceptance Date: \_\_\_\_\_

LESSEE:  
<<LesseeName1>>

↙ By: \_\_\_\_\_

Title: <<LesseeUdef031>>

LESSOR:  
<<FunderName>>

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

Title: Authorized Representative

Master Lease No. \_\_\_  
Lease Schedule No. <<ApplicationNum>>

**PAYMENT SCHEDULE**

This Payment Schedule is attached and made a part of the Lease Schedule identified below which is part of the Master Lease-Purchase Agreement identified therein, all of which are between the Lessee and Lessor named below.

Lessee: <<LesseeName1>>

Lessor: <<FunderName>>

Lease Schedule No.: <<ApplicationNum>> Dated: <<today:dl>>

Accrual Date: \_\_\_\_\_

Amount Financed: <<TotalAssetCost:c2>>

Interest Rate: \_\_\_\_\_ % per annum

Rent Number	Rent Date	Rent Payment	Interest Portion	Principal Portion	Termination Value
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<<LesseeName1>>  
(Lessee)



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

Title: <<LesseeUdef031>>

<<FunderName>>  
\_\_\_\_\_  
(Lessor)

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

Title: Authorized Representative

Master Lease No.: \_\_\_\_\_

Lease Schedule No.: <<ApplicationNum>>

### ACCEPTANCE CERTIFICATE

<<FunderName>>  
726 EXCHANGE STREET, SUITE 900  
BUFFALO, NY 14210

Re: Master Lease Purchase Agreement dated as of \_\_\_\_\_ between <<FunderName>> ("*Lessor*")  
and <<LesseeName1>> and Lease Schedule No. <<ApplicationNum>> (the "*Equipment Lease*")

Ladies and Gentlemen:

In accordance with the Equipment Lease, the undersigned, a duly qualified and acting representative of the Lessee ("*Lessee*") hereby certifies and represents to Lessor on behalf of the Lessee that:

(1) the Equipment, as such term is defined in the Equipment Lease, has been acquired, made, delivered and installed on the date indicated below;

(2) (a) LESSEE HAS RECEIVED AND INSPECTED ALL EQUIPMENT; (B) ALL EQUIPMENT IS IN GOOD WORKING ORDER AND COMPLIES WITH ALL PURCHASE ORDERS, CONTRACTS AND SPECIFICATIONS; (C) LESSEE ACCEPTS ALL EQUIPMENT FOR PURPOSES OF THE EQUIPMENT LEASE "AS-IS, WHERE IS"; AND (D) LESSEE WAIVES ANY RIGHT TO REVOKE SUCH ACCEPTANCE.

(3) attached is a completed Schedule A-1, containing all serial numbers and other applicable information with respect to the Equipment;

(4) attached are (a) evidence of insurance with respect to the Equipment in compliance with the Equipment Lease; (b) vendor invoice(s) and/or bill(s) of sale relating to the Equipment, and if such invoices have been paid by Lessee, evidence of payment thereof (evidence of official intent to reimburse such payment as required by the Code having been delivered separately by Lessee); and (c) the original certificate of title or manufacturer's certificate of origin and title application, if any, for any Equipment which is subject to certificate of title laws; and

(5) Lessee hereby authorizes and directs Lessor to fund the Purchase Price of the Equipment by paying the invoice prices to the vendor(s), in each case as set forth above, or by reimbursing Lessee in the event such invoice prices have been previously paid by Lessee.

↙ Acceptance Date of the Equipment: \_\_\_\_\_

Lessee: <<LesseeName1>>

↳ By: \_\_\_\_\_

Name: <<LesseeUdef021>>

Title: <<LesseeUdef031>>

↳ Date: \_\_\_\_\_

Master Lease No.: \_\_\_\_  
Lease Schedule No.: <<ApplicationNum>>

#### ATTACHMENTS

- (a) Schedule A-1
  - (b) Evidence of Insurance
  - (c) Invoices/bills of sale
  - (d) Certificate of title (if applicable)
-

Master Lease No.: \_\_\_\_\_  
Lease Schedule No.: <<ApplicationNum>>

SCHEDULE A-1  
Equipment Description

Lease Schedule No. <<ApplicationNum>> Dated: <<today:dl>>

The Equipment described below includes all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.

Equipment Location: <<AssetAddress1>> <<AssetAddress2>>  
<<AssetCity1>> <<AssetStateCode1>>  
<<AssetPostalCode1>>

Equipment Description: <<EquipDesc>>  
(including Serial Numbers)

[Expected] Equipment Purchase Price \$ \_\_\_\_\_

[Minus Lessee Down Payment/Trade-in \$ \_\_\_\_\_/USE IF TRADE IN]

[Net] Amount Financed <<TotalAssetCost:c2>>

This Schedule A-1 is attached to an Acceptance Certificate relating to the Lease Schedule.

<<LesseeName1>>  
(Lessee)

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

Title: <<LesseeUdef031>>

<<FunderName>>  
(Lessor)

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

Title: Authorized Representativ

**RESOLUTION AND  
DECLARATION OF OFFICIAL INTENT**

Lessee: <<LesseeName1>>

Principal Amount Expected To Be Financed: <<TotalAssetCost:c2>>

WHEREAS, the above Lessee is a [political subdivision]<sup>1</sup> of the Commonwealth of Pennsylvania (the "Commonwealth") and is duly organized and existing pursuant to the Constitution and laws of the Commonwealth.

WHEREAS, pursuant to applicable law, the governing body of the Lessee ("Governing Body") is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interests in property, leases and easements necessary to the functions or operations of the Lessee.

WHEREAS, the Governing Body hereby finds and determines the execution of one or more lease-purchase agreements ("Equipment Leases") in the principal amount not exceeding the amount stated above ("Principal Amount") for the purpose of acquiring the property generally described below ("Property") and to be described more specifically in the Equipment Leases is appropriate and necessary to the functions and operations of the Lessee.

Brief Description of Property:

<<EquipDesc>>

WHEREAS, <<FunderName>> ("Lessor") is expected to act as the Lessor under the Equipment Leases.

WHEREAS, the Lessee may pay certain capital expenditures in connection with the property prior to its receipt of proceeds of the Equipment Leases ("Lease Purchase Proceeds") for such expenditures and such expenditures are not expected to exceed the Principal Amount.

WHEREAS, the U.S. Treasury Department regulations do not allow the proceeds of a tax-exempt borrowing to be spent on working capital and the Lessee shall hereby declare its official intent to be reimbursed for any capital expenditures for Property from the Lease Purchase Proceeds.

NOW, THEREFORE, Be It Resolved by the Governing Body of the Lessee:

Section 1. The Lessee hereby determines that it has critically evaluated the financing alternatives and that entering into the Equipment Leases and financing the acquisition of the Property thereby is in the best interests of the Lessee. Such evaluation shall be available as a public record.

Section 2. The Lessee is hereby authorized to acquire and install the Property (the "Project") and is hereby authorized to finance the Project by entering into the Equipment Leases. Any action taken by the Lessee in connection therewith is hereby ratified and confirmed.

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Section 3. Either one of the \_\_\_\_\_ OR the \_\_\_\_\_ (each an "Authorized Representative") acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver one or more Equipment Leases in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Equipment Lease (including, but not limited to, escrow agreements) as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Equipment Leases are hereby authorized.

Section 4. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Equipment Leases on behalf of the Lessee.

Section 5. The aggregate original principal amount of the Equipment Leases shall not exceed the Principal Amount and shall bear interest as set forth in the Equipment Leases and the Equipment Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 6. The Lessee's obligations under the Equipment Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth in each Equipment Lease and the Lessee's obligations under the Equipment Leases shall not constitute general obligations of the lessee laws of the Commonwealth.

Section 7. It is hereby determined that the purpose of the Project is an object or purpose permitted under the laws governing the Lessee.

Section 8. The Governing Body of Lessee anticipates that the Lessee may pay certain capital expenditures in connection with the Property prior to the receipt of the Lease Purchase Proceeds for the Property. The Governing Body of Lessee hereby declares the Lessee's official intent to use the Lease Purchase Proceeds to reimburse itself for Property expenditures. This section of the Resolution is adopted by the Governing Body of Lessee for the purpose of establishing compliance with the requirements of Section 1.150-2 of Treasury Regulations. This section of the Resolution does not bind the Lessee to make any expenditure, incur any indebtedness, or proceed with the purchase of the Property.

Section 9. As to each Equipment Lease, the Lessee reasonably anticipates to issue not more than \$10,000,000 if issued after December 31, 2010 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the calendar year in which each such Equipment Lease is issued and hereby designates each Equipment Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code").

Section 10. The Authorized Representative is further authorized to take such actions and execute such documents as may be necessary to ensure the continued status of the interest on the Equipment Leases authorized by this resolution as excludable from gross income for federal income tax purposes pursuant to Section 103 of the Code.

Section 11. This Resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED on this \_\_\_\_\_, \_\_\_\_\_.

The undersigned **Secretary/Clerk** of the above-named Lessee hereby certifies and attests that (i) the undersigned has access to the official records of the Governing Body of the Lessee, (ii) the foregoing resolutions were duly adopted by the favorable vote of not less than [two-thirds/three-fifths] of all the members of said Governing Body of the Lessee at a [regular/special] meeting of said Governing Body duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, (iii) such resolutions have not been amended or altered and are in full force and effect on the date stated below and (iv) such meeting of the Governing Body relating to the authorization and delivery of the Equipment Lease has been (a) held within the geographic boundaries of the Lessee; (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 Lessee, if any, and laws of the Commonwealth.

\_\_\_\_\_  
Signature of Secretary/Clerk of Lessee

Print Name: \_\_\_\_\_

Official Title: \_\_\_\_\_

Date: \_\_\_\_\_

**FORM OF OPINION OF COUNSEL**  
(To Be Provided on Lessee's Attorney's Letterhead Stationery)

Date: <<today:dl>>

<<FunderName>>  
726 Exchange St., Suite 900  
Buffalo, NY., 14210

Re: Lessee: <<LesseeName1>>  
Lessor: <<FunderName>>  
Lease Schedule No. <<Application>> dated <<today:dl>> together with its Master Lease-Purchase Agreement dated as of \_\_\_\_\_ by and between the above-named Lessee and the above-named Lessor, Master Lease No. \_\_\_\_\_

Sir/Madam:

We have acted as counsel to Lessee with respect to the Lease Schedule and its Addenda, the Master Lease-Purchase Agreement and its Addenda (collectively, the "Equipment Lease"), and all other agreements described above or related thereto (collectively, the "Agreements") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Agreements, the certified proceedings of the Lessee with respect to the matter and such other documents as we have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents, it is our opinion that:

1. Lessee is a political subdivision of the Commonwealth of Pennsylvania (the "Commonwealth") duly organized, existing and operating under the Constitution and laws of the Commonwealth.
2. Lessee is authorized and has power under Commonwealth law to enter into all of the Agreements, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Agreements have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and each of the Agreements is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by Commonwealth and Federal laws affecting creditor's remedies generally and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
4. The authorization, approval and execution of the Agreements and all other proceedings of Lessee and its governing body relating to the transactions contemplated thereby (including the acquisition of the equipment subject to the Agreements) have been performed in accordance with all applicable local, state and federal laws (including open meeting laws and public bidding and property acquisition laws).
5. Lessee has obtained all consents and approvals of other governmental authorities or agencies which may be required for the execution, delivery and performance by Lessee of the Agreements.
6. To the best of our knowledge, based on such inquiry and investigation as we have deemed sufficient, there is no litigation or proceeding pending before any court, administrative agency or governmental body, that challenges: the organization or existence of Lessee; the authority of its officers;

the proper authorization, approval and execution of any of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements for the current fiscal year; the ability of Lessee otherwise to perform its obligations under the Agreements and the transactions contemplated thereby; or the provisions in the Agreements made for the payment of or security for the Agreements.

7. Lessee is a political subdivision of the Commonwealth as referred to in Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and ruling thereunder

8. The Equipment Lease complies with all applicable Commonwealth laws. Lessor, its Assignee as set forth in the Agreements and any of their respective successors and assigns may rely upon this opinion.

Very truly yours,

Attorney

**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

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>
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)	_____

**Part VI Miscellaneous**

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

<b>Signature and Consent</b>	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.			
	▶ _____	Date	▶ _____	
	Signature of issuer's authorized representative		Type or print name and title	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed
	Firm's name ▶ _____	Firm's EIN ▶ _____		PTIN
	Firm's address ▶ _____	Phone no. _____		

**Information Return for Small Tax-Exempt  
 Governmental Bond Issues, Leases, and Installment Sales**

OMB No. 1545-0720

▶ Under Internal Revenue Code section 149(e)

Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.

<b>Part I Reporting Authority</b>		Check box if Amended Return <input type="checkbox"/>	
1 Issuer's name		2 Issuer's employer identification number (EIN)	
3 Number and street (or P.O. box if mail is not delivered to street address)		Room/suite	
4 City, town, or post office, state, and ZIP code		5 Report number (For IRS Use Only) <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>	
6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information		7 Telephone number of officer or legal representative	

<b>Part II Description of Obligations</b> Check one: a single issue <input type="checkbox"/> or a consolidated return <input type="checkbox"/>	
8a Issue price of obligation(s) (see instructions)	8a
b Issue date (single issue) or calendar date (consolidated). Enter date in mm/dd/yyyy format (for example, 01/01/2009) (see instructions) ▶	
9 Amount of the reported obligation(s) on line 8a that is:	
a For leases for vehicles	9a
b For leases for office equipment	9b
c For leases for real property	9c
d For leases for other (see instructions)	9d
e For bank loans for vehicles	9e
f For bank loans for office equipment	9f
g For bank loans for real property	9g
h For bank loans for other (see instructions)	9h
i Used to refund prior issue(s)	9i
j Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9j
k Other	9k
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box <input type="checkbox"/>	
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions) <input type="checkbox"/>	
12 Vendor's or bank's name:	
13 Vendor's or bank's employer identification number:	

**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(s) that I have authorized above.

Signature of issuer's authorized representative	Date	Type or print name and title
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<b>Paid Preparer Use Only</b>	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.			

**General Instructions**

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

**What's New**

The IRS has created a page on IRS.gov for information about the Form 8038 series and its instructions, at [www.irs.gov/form8038](http://www.irs.gov/form8038). Information about any future developments affecting the Form 8038 series (such as legislation enacted after we release it) will be posted on that page.

**Purpose of Form**

Form 8038-GC is used by the 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**

Issuers of tax-exempt governmental obligations with issue prices of less than \$100,000 must file Form 8038-GC.

Issuers of a tax-exempt governmental obligation with an issue price of \$100,000 or more must file Form 8038-G, Information Return for Tax-Exempt Governmental Obligations.

**Filing a separate return for a single issue.** Issuers have the option to file a separate Form 8038-GC for any tax-exempt governmental obligation with an issue price of less than \$100,000.

An issuer of a tax-exempt bond used to finance construction expenditures must file a separate Form 8038-GC for each issue to give notice to the IRS that an election was made to

pay a penalty in lieu of arbitrage rebate (see the line 11 instructions).

**Filing a consolidated return for multiple issues.** For all tax-exempt governmental obligations with issue prices of less than \$100,000 that are not reported on a separate Form 8038-GC, an issuer must file a consolidated information return including all such issues issued within the calendar year.

Thus, an issuer may file a separate Form 8038-GC for each of a number of small issues and report the remainder of small issues issued during the calendar year on one consolidated Form 8038-GC. However, if the issue is a construction issue, a separate Form 8038-GC must be filed to give the IRS notice of the election to pay a penalty in lieu of arbitrage rebate.