

2004-08

THIS MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT (the "Agreement"), dated as of this August 1, 2004 by and between Public-Finance.com, Inc., a Delaware corporation, as the lessor ("Lessor"), and LaPorte County, Indiana, as the lessee ("Lessee")

WITNESSETH:

WHEREAS, Lessee is authorized by law to acquire such items of personal property as are needed to carry out its governmental and/or proprietary functions,

WHEREAS, Lessor desires to lease the Equipment, as hereinafter defined, to Lessee and Lessee desires to lease the Equipment from Lessor, subject to the terms and conditions of and for the purposes set forth in this Agreement;

WHEREAS, Lessee is authorized under the Constitution and laws of the State to enter into this Agreement for the purposes and subject to the conditions set forth herein; and,

WHEREAS, This Agreement shall be implemented through one or more series of equipment schedules ("Equipment Schedules") with each Equipment Schedule comprising one or more Equipment Lists, Acceptance Certificates, Schedules of Payments and related documents, all of the foregoing constituting a single transaction, and the terms and conditions contained herein shall apply to each series of the foregoing as if a separate lease was executed for each Equipment Schedule.

NOW THEREFORE, in the joint and mutual exercise of their powers, and in consideration of the mutual covenants herein contained, the parties hereto recite and agree as follows

ARTICLE 1  
DEFINITIONS, IMPLEMENTATION AND ATTACHMENTS

**Section 1.1 Definitions:** Unless the context otherwise requires, the terms defined in this Section shall, for all purposes of this Agreement and Exhibits attached hereto, have the meanings herein specified.

**Acceptance Certificate:** The document which shall be executed and delivered to Lessor as evidence of the acceptance of the Equipment by Lessee on the date thereof

**Agreement Date:** The date of this Agreement

**Code:** The Internal Revenue Code of 1986, as now or hereafter amended, and the regulations and revenue rulings and procedures issued pursuant thereto from time to time

**Equipment:** Individually or collectively, the personal property consisting of equipment described in one or more Equipment Schedules, including Equipment List(s), Essential Use Letter(s) and Acceptance Certificates executed by Lessee and delivered to Lessor, or to be executed and delivered, pursuant hereto, together with any and all additions, modifications, attachments, accessions, substitutions, replacements and parts thereof

**Fiscal Year:** The twelve-month fiscal period of Lessee, as defined in the Schedule of Payments.

**Escrow Agreement:** An escrow agreement delivered pursuant to Section 1 2(a) hereof, if applicable.

**Interest:** The portion of any Rental Payment designated as and comprising interest as shown in the Schedule of Payments as now or hereafter constituted.

**Lessor:** "Lessor" shall include all persons to whom Lessor's rights under this Agreement have been assigned in compliance with Section 11.1 hereof, including assignees of participation.

**Net Proceeds:** Any insurance proceeds or condemnation award, paid with respect to the Equipment, remaining after payment therefrom of all expenses incurred in the collection thereof, including attorneys' fees.

**Non-appropriation:** The failure of governing body to appropriate money for any fiscal year of Lessee sufficient for the continued performance of this Agreement by Lessee, as evidenced by a written notice thereof to Lessor before the commencement of such Fiscal Year.

**Payment Date:** The date upon which any Rental Payment is due and payable as provided in the Schedule of Payments as now or hereafter constituted.

**Principal:** The portion of any Rental Payment designated as principal in the Schedule of Payments as now or hereafter constituted.

**Purchase Price:** The amount which Lessee can pay to Lessor to acquire the Equipment outright on a Rental Payment due date, as set forth on the Schedule of Payments executed by Lessee and applicable to such Equipment.

**Rental Payments** The basic payments payable by Lessee pursuant to the provisions of this Agreement during the Term which are payable in consideration of Lessor permitting the Lessee to use the Equipment. Rental payments shall be payable by Lessee to Lessor in the amounts and at the times during the Term set forth in the Schedule of Payments.

**Schedule of Payments:** The document(s) which sets forth the terms and provisions of Lessee's payment obligation under each Equipment Schedule with respect to the Equipment and which shall include an amortization table showing the principal and interest component of each payment.

**Specifications:** The bid specifications and/or purchase order pursuant to which Lessee has ordered the Equipment from a Vendor.

**State:** The State of Indiana.

**State and Federal Law or Laws:** The Constitution and any law of the State and any charter, ordinance, rule or regulation of any agency or political subdivision of the State; and any law of the United States, and any rule or regulation of any Federal agency.

**Term of this Agreement or Agreement Term:** The period during which this Agreement is in effect as specified in Section 4.1.

**Vendor:** Each of the manufacturers or vendors, as well as the agents or dealers of manufacturers and vendors, from whom Lessee (or Lessor at Lessee's request) has ordered or will order, or with whom Lessee (or Lessor at Lessee's request) has contracted or will contract, for the manufacture, delivery and/or installation of the Equipment.

#### **Section 1.2 Implementation:**

(a) **Equipment Schedules** The Agreement is being executed in conjunction with one or more written Equipment Schedules which by reference to this Agreement, and upon proper execution by Lessee and Lessor, become subject to all the terms and conditions contained herein. The terms and conditions contained herein shall apply to each

such Equipment Schedule as if a separate Agreement were executed for each Equipment Schedule. Subsequent wording of this Agreement notwithstanding, this Agreement is effective with respect to any Equipment Schedule executed in conjunction herewith for the lease term (as subsequently defined herein) provided in such Equipment Schedule. Additional Equipment Schedules may be executed from time to time by the Lessee and the Lessor, and if such Equipment Schedules refer by date and contracting parties to this Agreement, such Equipment Schedule shall be deemed to be executed in conjunction herewith and to be subject hereto regardless of the date upon which such Equipment Schedules are executed

(b) Implementation of Escrow Funded Transaction. Escrow funded transactions entered into hereunder shall be implemented by Lessee executing and delivering to Lessor (a) a Schedule of Payments; (b) an Escrow Agreement, and (c) upon acceptance of the Equipment, an Acceptance Certificate with respect thereto.

(c) Implementation of Non-Escrow Funded Transactions. Non-Escrow funded transactions entered into hereunder shall be implemented by Lessee executing and delivering to Lessor, upon acceptance of the Equipment, an Acceptance Certificate with respect thereto to which shall be attached the related Schedule of Payments.

**Section 1.3 Attachments:** The following Attachments are attached to and by reference made a part of this Agreement and each Equipment Schedule

Attachment 1: Equipment List which describes the Equipment being leased by Lessee pursuant to this Agreement, including the serial number thereof, which shall be inserted when available.

Attachment 2: Schedule of Payments which is defined in Section 1.1.

Attachment 3: An Acceptance Certificate which is defined in Section 1.1.

Attachment 4: A form of opinion of counsel to Lessee as to the organization, nature and powers of Lessee, the validity, execution and delivery of this Agreement and various related documents, the absence of litigation, and related matter

Attachment 5: A form of resolution of the governing body of Lessee relating to the Agreement and, if applicable, certain federal tax matters

Attachment 6: An Incumbency Certificate which certifies the signatures and offices of certain officers of Lessee

Attachment 7: An essential use letter which confirms that the Equipment is essential to the governmental functions of Lessee

Attachment 8: Insurance Coverage Agreement

Attachment 9: \$10,000,000 Small Issuer Certificate (if applicable).

Attachment 10: Payment Request Form (non-escrow transaction)

Attachment 11: Escrow Agreement (escrow funded transactions).

Attachment 12: Tax Compliance Agreement and No Arbitrage Certificate (escrow funded transactions).

Attachment 13: Notice of Assignment

Attachment 14: IRS Form 8038, Form 8038-G or Form 8038-GC (as applicable)

Attachment 15: Billing Information.

## ARTICLE II REPRESENTATIONS, COVENANTS AND WARRANTIES

**Section 2.1 Representations, Covenants and Warranties of Lessee:** Lessee represents, covenants and warrants as follows.

(a) Lessee is a state or political subdivision or body within the meaning of Section 103(c) of the Code and will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as such.

(b) Lessee is authorized under the Constitution and laws of the State to enter into this Agreement and the transactions contemplated hereby and to perform all of its obligations hereunder.

(c) The execution and delivery of this Agreement by or on behalf of Lessee has been duly authorized by all necessary action of the governing body of Lessee, and Lessee has obtained such other approvals and consents as are necessary to consummate this Agreement. Lessee further represents, covenants and warrants that all requirements have been met and procedures have been followed in order to ensure the enforceability of this Agreement.

(d) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition of the Equipment hereunder

(e) Lessee shall cause to be executed and delivered to Lessor, an opinion of its counsel and an incumbency certificate in form and substance satisfactory to Lessor

(f) Lessee has an immediate need for, and expects to make immediate use of all of the Equipment, which need is not temporary or expected to diminish during the term of this Agreement.

(g) The execution, delivery and performance of this Agreement, and transactions contemplated herein, will not violate any judgment, order, law or regulation applicable to Lessee or result in any breach of, or constitute a default under, any indenture, mortgage, deed of trust, bond, loan or credit agreement or other instrument to which Lessee is a party or by which it is bound

(h) There are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against or affecting Lessee in any court or before any governmental commission, board or authority which, if adversely determined, would have a material adverse effect on the ability of Lessee to perform its obligations hereunder

(i) The Equipment is essential to and will be used only for the purpose of performing one or more governmental functions of Lessee consistent with the scope of Lessee's authority and will not be used in a trade or business of any person or entity Lessee shall deliver to Lessor, an Essential Use Letter in substantially the form attached hereto.

(j) The Equipment is, and shall remain during the Term of this Agreement, personal property.

(k) Upon execution of this Agreement, Lessee will submit to Lessor (or its counsel) a Form 8038-G information reporting statement as prescribed by the Secretary of the Treasury at the time and in the form then required by the Code and the Regulations

(l) Lessee has never non-appropriated or defaulted under any of its payment or performance covenants with respect to any agreement of the same general nature as this Agreement, or any of its bonds, notes or other obligations for which its general credit or revenues are or were pledged

(m) Lessee will promptly and duly execute and deliver to Lessor such further documents, instruments and assurances and take such further action as Lessor may from time to time reasonably request in order to carry out the intent

and purpose of this Agreement and to establish and protect the rights and remedies created or intended to be created in favor of Lessor hereunder.

### ARTICLE III LEASE OF EQUIPMENT

**Section 3.1 Agreement to Lease Equipment:** Lessee hereby agrees to acquire, purchase and lease all the Equipment from Lessor, and Lessor hereby agrees to sell, transfer and lease all the Equipment to Lessee, all on the terms and conditions set forth in this Agreement.

**Section 3.2 Equipment Delivery; Documentation:** Lessor shall furnish to Lessee completed copies of Equipment List(s) and Schedule(s) of Payments relating to the Equipment for each Equipment Schedule. Upon delivery of the Equipment, Lessee shall inspect such Equipment, and if such Equipment meets Lessee's Specifications contained in the order and bid relating thereto, Lessee shall within three (3) business days from the date of delivery of the Equipment provide to Lessor a completed and executed copy of an Acceptance Certificate relating thereto (and other items as required by this Agreement). If Lessee has furnished to Lessor such Acceptance Certificate (and other required items) within such three-day period, Lessee shall be deemed to have accepted the Equipment. Simultaneously with the delivery, Lessor and Lessee shall take all actions necessary to vest legal Title to the Equipment in the party specified in Section 6.1 hereof, and to perfect a security interest therein in favor of Lessor or a person, firm or corporation designated by it. In addition, Lessee covenants that at least 15% of the principal amount of the Agreement will be spent within 180 days of the date of the Agreement, and further that 100% of the principal amount will be spent within 18 months of the date of this Agreement.

**Section 3.3 Possession and Enjoyment:** So long as Lessee is not in default hereunder, as to claims of Lessor or persons claiming under Lessor, Lessor hereby covenants that Lessee shall peaceably and quietly have, hold, possess, use and enjoy the Equipment without suit, trouble or hindrance from Lessor, subject to the terms and provisions hereof.

**Section 3.4 Lessor Access to Equipment:** The Lessee agrees that Lessor shall have the right at all reasonable times to examine and inspect the Equipment. Lessee further agrees that Lessor shall have such rights of access to the Equipment as may be reasonably necessary to cause the proper maintenance of the Equipment in the event of failure by Lessee to perform its obligations hereunder.

**Section 3.5 Location of Equipment.** Lessee shall notify Lessor of the location at or within which the Equipment is being or is to be regularly located or stored promptly upon acceptance and shall thereafter inform Lessor of any change of that location.

**Section 3.6 Modifications.** Without the prior written consent of the Lessor, which consent shall not be unreasonably withheld, Lessee shall not make any alterations, modifications, or attachments to the Equipment which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment. Upon return of the Equipment, at Lessor's request, Lessee, at its sole cost and expense, will remove all alterations, additions and attachments and repair the Equipment as necessary to return the Equipment to the condition in which it was furnished, ordinary wear and tear excepted.

### ARTICLE IV TERM OF AGREEMENT

**Section 4.1 Agreement Term:** This Agreement shall be effective as of the date of execution hereof and shall remain in effect until Lessee has paid all Rental Payments and other amounts due hereunder, subject to Section 4.2 below.

**Section 4.2 Termination of Agreement Term:** The Term of this Agreement as to each Equipment Schedule will terminate upon the occurrence of the first of the following events:

- (a) the termination thereof by Lessee in accordance with Section 4.4,
- (b) the exercise by Lessee of its right to purchase Lessor's interest in the Equipment pursuant to Article X,
- (c) a default by Lessee and Lessor's election to terminate this Agreement with respect to the Equipment pursuant to Article XII, or
- (d) the payment by Lessee of all Rental Payments and all other amounts authorized or required to be paid by Lessee hereunder with respect to the Equipment

**Section 4.3 Intent to Continue Agreement Term; Appropriations:** Lessee intends, subject to the provisions of Section 4.4, to pay all Rental Payments hereunder and reasonably believes that legally available funds in an amount sufficient to pay all Rental Payments during the Term will be available. Lessee further intends, and hereby covenants, to do all things lawfully within its power to obtain and maintain funds from which all Rental Payments and payments for all necessary insurance and maintenance on the Equipment may be made, including making provision in each budget submitted and adopted in accordance with law, to use its bona fide best effort to have such portion of the budget approved, and to exhaust all available reviews and appeals in the event such portion of the budget is not approved.

**Section 4.4 Non-appropriation by Lessee:** In the event that during any Fiscal Year of Lessee sufficient funds are not appropriated for the payment of all Rental Payments required to be paid during Lessee's next succeeding Fiscal Year, Lessee shall have the right to terminate this Agreement as of the end of its then current fiscal year, in the manner and subject to the terms specified in this Section and Section 4.5. Lessee may effect such termination by giving Lessor a written notice of termination with respect to the Equipment and by paying to Lessor any Rental Payments and other amounts which are due and have not been paid at or before the end of its then current Fiscal year. Lessee shall give notice of termination not less than sixty (60) days prior to the end of such Fiscal Year, and shall notify Lessor of any anticipated termination. In the event of termination of this Agreement with respect to the Equipment as provided in this Section, Lessee shall deliver possession of the Equipment to Lessor in accordance with Section 12.3, and shall convey to Lessor, or release its interest in, the Equipment within ten (10) days after the termination of this Agreement.

**Section 4.5 Effect of Termination:** Upon termination of this Agreement, as provided in Section 4.4, Lessee shall not be responsible for the payment of any additional Rental Payments relating thereto coming due with respect to succeeding Fiscal Years, but if Lessee has not delivered possession of the Equipment to Lessor in accordance with Section 12.3 and conveyed to Lessor or released its interest in the Equipment within ten (10) days after the termination of this Agreement, the termination shall nevertheless be effective, but Lessee shall be responsible for the payment of damages, but only insofar as and to the extent permitted by laws of the State with respect to a governmental entity of the same type, in an amount equal to the amount of the Rental Payments thereafter coming due under the Schedule of Payments which are attributed to the number of days after such ten (10) day period during which Lessee fails to take such actions and for any other loss suffered by Lessor as a result of Lessee's failure to take such actions as required.

## ARTICLE V RENTAL PAYMENTS

**Section 5.1 Rental Payments Not to Constitute a Full Faith and Credit Obligation of Lessee.** Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments hereunder constitutes a current expense of Lessee and not a debt in contravention of constitutional or statutory limitation nor a pledge of the full faith and credit or the general tax revenues, funds or monies of Lessee.

**Section 5.2 Rental Payments:** Lessee agrees to pay Rental Payments during the Term of the Agreement, in the amounts and on the dates specified in the Schedule of Payments. All Rental Payments shall be paid to Lessor at its offices at the address specified on the signature page hereof, or to such other person(s) or entity(ies) to which Lessor has assigned such Rental Payments at such place as assignee may from time to time designate by written notice to Lessee.

Lessee shall pay the Rental Payments exclusively from monies legally available therefor, in lawful money of the United States of America, to Lessor or, in the event of assignment of the right to receive Rental Payments by Lessor, to its assignee(s).

**Section 5.3 Interest and Principal Components:** As set forth on the Schedule of Payments, a portion of each Rental Payment is paid as, and represents payment of, interest, and the balance is paid as, and represents payment of, principal.

**Section 5.4 Rental Payments to be Unconditional:** Except as provided in Section 4.4, the obligation of Lessee to make Rental Payments or any other payments required hereunder shall be absolute and unconditional in all events. Notwithstanding any dispute between Lessee and Lessor or any other person, Lessee shall make all Rental Payments and other payments required hereunder when due and shall not withhold any Rental Payment or other payment pending final resolution of such dispute nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such Rental Payments or other payments required under this Agreement. Lessee's obligation to make Rental Payments or other payments during the Agreement Term shall not be abated through accident or unforeseen circumstances.

## **ARTICLE VI TITLE**

**Section 6.1 Title:** During the Term of this Agreement, and so long as Lessee is not in default as provided in Article XII, legal title to the Equipment and any and all repairs, replacements, substitutions, and modifications to it shall be in Lessee. Upon termination of this Agreement pursuant to Section 4.4 or Article XII hereof, title to the Equipment shall revert to Lessor, free and clear of any right, title or interest of Lessee, without the necessity of any further action by the parties. In the event that title reverts to Lessor as described above, Lessee will reasonably surrender possession of the Equipment to Lessor in the manner and condition set forth in Section 12.3.

**Section 6.2 Security Interest:** To secure all obligations of Lessee hereunder, Lessee hereby grants to Lessor a security interest in and to all of Lessee's right, title and interest in and to the Equipment including substitutions and replacements thereof or thereto, and all proceeds (cash and non-cash), including the proceeds of insurance. Lessee agrees to provide such identification markings on the Equipment, in form satisfactory to Lessor, or Lessor deems necessary or appropriate to give notice of Lessor's security interest in the Equipment and, upon assignment, the interest of any assignee of Lessor in the Equipment. In the case of escrow funded transactions, as further security Lessee hereby grants to Lessor, a first priority security interest in the cash and negotiable instruments from time to time comprising the Escrow Fund (as such term is defined in that certain Escrow Agreement by and among Lessor, Lessee and the financial institution acting as escrow agent dated as of the date hereof) and all proceeds (cash and non-cash) thereof. Lessee further agrees that with respect to the Equipment and if applicable, the Escrow Fund, Lessor shall have all of the rights and remedies of a secured party under the Uniform Commercial Code as in effect in the State. Lessee will join with Lessor in executing such financing statements or other documents and will perform such acts as Lessor may request to establish and maintain a valid security interest in the Equipment.

**Section 6.3 Liens:** Lessee shall not directly or indirectly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Equipment or any interest therein.

**Section 6.4 Personal Property:** The equipment is and shall at all times be and remain personal property notwithstanding that the equipment, or any part thereof, may be or hereafter become in any manner affixed or attached to or embedded in or permanently rested upon real property or any building thereon or attached in any manner to what is permanent by means or cement, plaster, nails, bolts, screws or otherwise.

## ARTICLE VII INSURANCE AND INDEMNIFICATION

**Section 7.1 Insurance:** Lessee, at its own expense, shall cause casualty, public liability and property damage insurance to be carried and maintained with respect to the Equipment sufficient to protect the full replacement value of the Equipment and to protect Lessor from liability in all events. All insurance proceeds from casualty losses shall be payable as hereinafter provided. Lessee shall, at Lessor's request, furnish to Lessor certificates evidencing such coverage throughout the Term. With Lessor's prior consent, Lessee may self-insure the Equipment by means of an adequate insurance fund set aside and maintained for that purpose which must be fully described in a letter delivered to Lessor.

**Section 7.2 Requirements For All Insurance:** All insurance policies required pursuant hereto shall be so written or endorsed as to make losses, if any, payable to Lessee and Lessor, or its assignees, as their respective interests may appear, shall name Lessor and its assignees as additional insured, and shall be in form and amount and with insurance companies reasonably satisfactory to Lessor. Each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that (a) it will give Lessor thirty (30) days prior written notice of the effective date of any material alteration or cancellation of such policy, and (b) insurance as to the interest of any named additional insured or loss payee other than Lessee shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Lessee with respect to such policy or policies. The Net Proceeds (as defined in Section 1.1) of the insurance required in this Article shall be applied as provided in Section 8.4 and 8.5 hereof.

**Section 7.3 Failure to Maintain Insurance.** In the event Lessee shall fail to maintain the full insurance coverage required by this Agreement or shall fail to keep the Equipment in good repair and operating condition, Lessor may (but shall be under no obligation to) purchase the required policies of insurance and pay the premiums therefore or may make such repairs or replacements as are necessary and provide for payment thereof; and all amounts so advanced by Lessor shall be payable on the next succeeding Rental Payment due date together with interest thereon from the date of advance by Lessor at the rate of 15% per annum.

**Section 7.4 Lessee's Negligence:** Lessee assumes all risks and liabilities, whether or not covered by insurance, for loss or damage to the Equipment and for injury to or death of any person or damage to any property, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such property damage be to Lessee's property or the property of others, which is proximately caused by the negligent conduct of Lessee, its officers, employees and agents.

**Section 7.5 Indemnification:** Lessee shall, to the extent permitted by applicable law, indemnify, protect, hold harmless, save and keep harmless Lessor from and against any and all liabilities, obligations, losses, claims and damages whatsoever, regardless of cause thereof, and expenses in connection therewith, including, without limitation, counsel fees and expenses, penalties and interest arising out of, or as the result, of the Equipment, including the ownership of any item of the Equipment, the ordering, acquisition, manufacture, use, operation, condition, purchase, delivery, rejection, storage or return of any item of the Equipment, or any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment resulting in damage to property or injury or death of any person, unless the source shall have been caused by the acts or omissions of Lessor, its officers, employees or agents. The indemnification obligation arising hereunder shall continue in full force and effect notwithstanding the full payment of any obligations under this agreement or termination of the Term for any reason.

## ARTICLE VIII LICENSES, MAINTENANCE, TAXES, UTILITIES, DAMAGES AND CONDEMNATION

**Section 8.1 Use; Permits:** Lessee shall exercise due care in the installation, use, operation and maintenance of the Equipment and shall not install, use or operate the Equipment improperly, carelessly, in violation of any State and Federal Law, or for a purpose, or in a manner contrary to that, contemplated by this Agreement. Lessee shall obtain all permits and licenses necessary for the installation, operation, possession and use of the Equipment. Lessee shall comply



with all State and Federal Laws applicable to the installation, use, possession and operation of the Equipment, and if compliance with any such State and Federal Law requires changes or additions to be made to the Equipment, such changes or additions shall be made by Lessee at its expense.

**Section 8.2 Maintenance of Equipment by Lessee:** Lessee shall, at all times and at its own expense, maintain, preserve and keep the Equipment in good repair, working order and condition, and shall from time to time make all repairs and replacements necessary to keep the Equipment in such condition. Lessor shall have no responsibility for any of these repairs or replacements

**Section 8.3 Taxes, Other Governmental Charges and Utility Charges:** The parties to this Agreement contemplate that the Equipment will be used for a governmental purpose of Lessee and, therefore, that the Equipment will be exempt from all taxes presently assessed and levied with respect to personal property. In the event that the use, possession or acquisition of the Equipment is found to be subject to taxation in any form (except for net income taxes of Lessor), Lessee will pay during the Term, as the same respectively become due, all taxes and governmental charges of any kind whatsoever that may at any time be lawfully assessed or levied against or thereon, as well as all utility and other charges incurred in the operation, maintenance, use, occupancy and upkeep of the Equipment. With respect to any governmental charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as are accrued during such time as this Agreement is in effect

**Section 8.4 Damage, Destruction and Condemnation.** If prior to the termination of the Term (a) the Equipment or any portion thereof is destroyed (in whole or part) or damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise of the power of eminent domain by any governmental body or by any person, firm or corporation acting under governmental authority, then, provided the Equipment is not deemed a total loss, Lessee and Lessor shall cause the Net Proceeds of any insurance claim or condemnation award to be applied to the prompt replacement, repair or restoration of the Equipment. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee. In the event of total destruction of or damage to the Equipment, Lessor and Lessee shall cause the Net Proceeds to be paid to Lessor for application against the Purchase Price applicable for the next succeeding Rental Payment due plus a pro rata allocation of interest, at the rate utilized to establish the Rental Payments, from the due date of the immediately preceding Rental Payment until the date of the payment

**Section 8.5 Insufficiency of Net Proceeds** If the Net Proceeds are insufficient to pay in full the cost of any replacement, repair, restoration or the Purchase Price referred to in Section 8.4 hereof, Lessee shall, as applicable, either (a) complete the work and pay any cost in excess of the amount of the Net Proceeds (Lessee agrees that, if by reason of such insufficiency of the Net Proceeds, Lessee shall incur expenses pursuant hereto, it shall not be entitled to any reimbursement thereof from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article V hereof), or (b) pay to Lessor the excess of the sum of the then applicable Purchase Price and pro rata allocation of interest over the Net Proceeds (which shall be retained by Lessor) and, upon such payment, the Term shall terminate and title to the Equipment shall be conveyed by Lessor to Lessee as provided in Article X of this Agreement

**Section 8.6 Advances:** If Lessee shall fail to perform any of its obligations under this Article, Lessor may, but shall not be obligated to, take such action as may be necessary to cure such failure, including the advancement of money, and Lessee shall be obligated to repay all such advances on demand, with interest at the rate of 2% per month or the maximum rate permitted by law, whichever is less, from the date of the advance to the date of repayment.

## **ARTICLE IX EQUIPMENT WARRANTIES**

**Section 9.1 Selection of Equipment:** The Equipment and the Vendor have been selected by Lessee, and Lessor shall have no responsibility in connection with the selection of the Equipment, its suitability for the use intended by Lessee, the acceptance by the Vendor or its sales representative of the order submitted, or any delay or failure by the Vendor or its sales representative to manufacture, deliver or install the Equipment for use by Lessee. Lessee authorizes

Lessor to add the serial number of the Equipment to Exhibit A when available.

**Section 9.2 Installation and Maintenance of Equipment:** Lessor shall have no obligation to install, erect, test, inspect, service or maintain the Equipment under any circumstances, but such actions shall be the obligation of Lessee or the Vendor

**Section 9.3 Disclaimer of Warranties** (a) LESSOR, NOT BEING A SELLER OF THE EQUIPMENT (AS SUCH TERM IS USED IN THE UNIFORM COMMERCIAL CODE AS ENACTED IN THE STATE) NOR A SELLER'S AGENT, HEREBY EXPRESSLY DISCLAIMS, AND MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR ANY OTHER WARRANTY WITH RESPECT THERETO AND, AS TO LESSOR, LESSEE PURCHASES THE EQUIPMENT AS IS. In no event shall Lessor be liable for any loss or damage, including incidental, in direct, special or consequential damage, in connection with or arising out of this Agreement or the existence, furnishing, functioning or Lessee's use of the Equipment

(b) Execution of an Acceptance Certificate shall constitute acknowledgment by Lessee that: (i) the equipment is of a size, and design, capacity and manufacture selected by Lessee; (ii) Lessee is satisfied that the Equipment is suitable for its purpose, (iii) Lessor has represented that it is not a vendor or a manufacturer or dealer in property of such kind; and (iv) Lessor has disclaimed any representation or warranty or covenant as set forth in Section 9.3(a) above.

**Section 9.4 Vendor's Warranties:** Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Term, so long as Lessee shall not be in default hereunder, for the purpose of asserting from time to time whatever claims and rights which Lessor may have against the Vendor, including warranty claims with respect to the Equipment, but for no other purpose whatever. Lessee's sole remedy for the breach of a warranty shall be against the Vendor of the Equipment, and not against Lessor, nor shall such matters have any effect whatsoever on this Agreement, including Lessee's obligation to make timely Rental Payments hereunder. Lessee expressly acknowledges that Lessor makes and has made, no representations or warranties whatsoever as to the existence or availability of such warranties from the Vendor of the Equipment

**Section 9.5 Patent Infringement:** Lessor hereby assigns to Lessee for and during the Term of this Agreement all of its interest in patent indemnity protection provided by a Vendor with respect to the Equipment. Such assignment of patent indemnity protection by Lessor to Lessee shall constitute the entire liability of Lessor for any patent infringement by Equipment furnished pursuant to this Agreement.

## ARTICLE X CONSUMMATION OF PURCHASE

**Section 10.1 Consummation of Purchase.** As to each Equipment Schedule, and at the request of Lessee, Lessor's interest in the Equipment will be transferred, conveyed and assigned permanently to Lessee and this Agreement shall terminate.

- (a) at the end of the term, upon payment in full of all Rental Payments due hereunder and all other sums required to be paid hereunder, or
- (b) on any Rental Payment due date, upon payment by Purchaser of the then applicable Purchase Price as set forth in the Schedule of Payments and all other sums required to be paid hereunder

Upon the occurrence of either of the above, Lessor shall, upon request of Lessee, deliver to Lessee a confirmatory Bill of Sale transferring permanently its full remaining right, title and interest in the Equipment to Lessee free and clear of all liens and encumbrances created by or arising through Lessor, with special warranty and warranty of further assurances, but without other warranties

**ARTICLE XI**  
**ASSIGNMENT, SUBLEASING, MORTGAGING AND SELLING**

**Section 11.1 Assignment by Lessor:** This Agreement, Lessor's interest in the Equipment and right of Lessor to receive payments hereunder, may be assigned and reassigned in whole or in part to one or more assignees or sub-assignees by Lessor at any time without the necessity of obtaining the consent of Lessee. However, no assignment or reassignment of any of the Lessor's right, title or interest in this Agreement or the Equipment shall be effective unless and until Lessee shall have received a notice of assignment. Upon receipt of the notice described above, Lessee agrees to make all payment to the assignee designated in the assignment, and shall, if so requested, acknowledge the assignment in writing, but such acknowledgment shall in no way be deemed necessary to make the assignment effective. Lessee agrees to establish and maintain a book-entry record of ownership of this Agreement. Lessee agrees to execute all documents, including notices of assignment and chattel mortgages or financing statements which may be reasonably requested by Lessor or its assignee to protect their interest in the Equipment and in this Agreement.

**Section 11.2 Assignment, Sale or Other Disposition by Lessee:** Lessee agrees not to (a) sell, assign, transfer, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance upon or against any interest in this Agreement or the Equipment, (b) remove the Equipment from its Equipment Location identified on the Equipment List or (c) enter into any contract or agreement with respect to the use and operation of any of the Equipment by any person other than Lessee, without Lessor's prior written consent in each instance. Lessee shall at all times remain liable for the performance of the covenants and conditions on its part to be performed, notwithstanding any assigning, transferring or other conveyance that may be made with such consent. Lessee shall take no action that may adversely affect the excludibility from gross income for federal income tax purposes of any portion of the interest component of the Rental Payments.

**ARTICLE XII**  
**EVENTS OF DEFAULT AND REMEDIES**

**Section 12.1 Events of Default Defined:** The following shall be "events of default" under this Agreement, and the terms "events of default" and "default" shall mean, whenever they are used in this Agreement, any one or more of the following events:

- (a) Failure by Lessee to pay any Rental Payment or other payment required to be paid hereunder at the time and manner specified herein, or
- (b) Failure by Lessee to observe and perform any other covenant, condition or agreement on its part to be observed or performed hereunder for a period of thirty (30) days after written notice to Lessee by Lessor specifying such failure and requesting that it be remedied, unless Lessor shall agree in writing to an extension of such time prior to its expiration; or
- (c) Any certificate, statement, representation, warranty or audit contained herein or heretofore furnished with respect hereto by or on behalf of Lessee proving to have been false in any material respect at the time as of which facts therein set forth were stated or certified, or having omitted any substantial contingent or unliquidated liability or claim against Lessee, or
- (d) Commencement by Lessee of a case or proceeding under the Federal bankruptcy laws or filing by Lessee of any petition or answer seeking reorganization, arrangement, composition, readjustment, liquidation, moratorium or similar relief under any existing or future bankruptcy, insolvency or other similar laws, the filing by Lessee of an answer admitting or not contesting the material allegations of a petition filed against Lessee in any such proceeding, or the failure to file an answer to such petition within forty-five (45) days from the filing thereof.

**Section 12.2 Remedies on Default:** Whenever any event of default referred to in Section 12.1 hereof shall have happened and be continuing, Lessor shall have the right, at its sole option and without any further demand or notice, to take one or any combination of the following remedial steps:

- (a) By written notice to Lessee, declare an amount equal to the then applicable Purchase Price as set forth in the Schedule of Payments immediately due and payable;
- (b) Lessor, with or without terminating this Agreement, may repossess the Equipment by giving Lessee written notice to deliver such Equipment to Lessor, whereupon Lessee shall do so in the manner provided in Section 12.3, or in the event Lessee fails to do so within five (5) days after receipt of such notice, Lessor may enter upon Lessee's premises where the Equipment is kept and retake possession of the Equipment. Upon gaining possession of the Equipment, Lessor shall have the right to sell, lease or sublease it, or any item thereof, for the account of Lessee, holding Lessee liable for (i) all payments due up to the effective date of such selling, leasing or subleasing, and (ii) the difference, if any, between the purchase price, rental and other amounts paid by the purchaser, lessee or sublessee pursuant to such sale, lease or sublease and all amounts due payable by Lessee hereunder, including, but not limited to, Rental Payments and the applicable Purchase Price; and,
- (c) Take whatever other action at law or in equity may appear necessary or desirable to collect the payments then due and thereafter to become due, or to enforce performance and observance of any obligation, agreement or covenant of Lessee under this Agreement.

In addition, Lessee will remain liable for all legal fees and other costs and expenses, including court costs and costs incurred in repossessing the Equipment, incurred by Lessor with respect to the enforcement of any of the remedies listed above or any other remedy available to Lessor.

**Section 12.3 Return of Equipment:** Upon the expiration or termination of this Agreement prior to the payment of all Rental Payments in accordance with the Schedule of Payments, Lessee shall pack and return the Equipment to Lessor in the condition, repair, appearance and working order required in Section 8.2, with a written audit as to what is being returned, in the following manner as may be specified by Lessor: (i) by delivering the Equipment, at Lessee's cost and expense, to such location as Lessor shall specify, or (ii) by loading such portions of the Equipment as are considered movable, at Lessee's cost and expense, on board such carrier as Lessor shall specify and shipping the same, freight prepaid, to the place specified by Lessor. The Equipment shall be properly packed by Lessee's maintenance office or organization. If Lessee refuses to return the Equipment in the manner designated, Lessor may repossess the Equipment and charge to Lessee the costs of such repossession or pursue any remedy described in Section 12.2. If the Equipment, or any portion of it, has been destroyed or damaged beyond repair, Lessee shall pay the applicable Purchase Price of the Equipment, as set forth in the Schedule of Payments (less credit for Net Proceeds) to Lessor.

**Section 12.4 No Remedy Exclusive** No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Agreement now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient.

**Section 12.5 Late Charge:** Whenever any event of default referred to in Section 12.1(a) hereof shall have happened and be continuing with respect to the Equipment, Lessor shall have the right, at its option and without any further demand or notice, to require a late payment charge for each thirty (30) day period, or part thereof, during which such event of default occurs, equal to one and one-half percent 1 1/2% of the outstanding amount of Principal and Interest accrued hereunder, and Lessee shall be obligated to pay the same immediately upon receipt of Lessor's written invoice therefore, provided, however, that this Section 12.5 shall not be applicable if or to the extent that the application thereof would affect the validity of this Agreement.

## ARTICLE XIII TAX MATTERS

**Section 13.1 Covenants:** The parties assume that Lessor can exclude the interest component of the Rental Payments from Federal gross income. Lessee covenants and agrees that it will (i) if the transaction is escrow funded, rebate an amount equal to excess earnings on the Escrow Fund to the Federal Government if required by, and in accordance with, Section 148(f) of the Code, and make the annual determinations and maintain the records required by regulations applicable thereto, (ii) use a book entry system to register the owner of this Agreement so as to meet the applicable requirements of Section 149(a)(3) of the Code; (iii) timely file a Form 8038-G (or, if the invoice price of the Equipment is less than \$100,000, a form 8038(GC) with the Internal Revenue Service in accordance with Section 149(e) of the Code, (iv) not permit the Equipment to be directly or indirectly used for a private business use within the meaning of Section 141 of the Code, and (v) comply with all provisions and regulations applicable to excluding interest from Federal gross income pursuant to Section 103 of the Code.

**Section 13.2 Taxability Determination:** 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 and approved by Lessee, which approval Lessee shall not unreasonably withhold, that Lessor may not exclude any interest paid hereunder from Federal gross income because Lessee breached a covenant contained herein, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, 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 component of all Rental Payments 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 payments and reinvestment at the after-tax yield rate) on the transaction evidenced by this Agreement through the date of such payment. Additionally, Lessee agrees that upon the occurrence of such an event, it shall pay as additional rent to Lessor on each succeeding Rental Payment due date such amount as will maintain such after-tax yield to Lessor.

## ARTICLE XIV ADMINISTRATIVE PROVISIONS

**Section 14.1 Notices:** All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered or mailed by registered or certified mail, postage prepaid, to the parties at the addresses set forth on the signature page hereof.

**Section 14.2 Financial Information:** During the Term of the Agreement, Lessee annually will provide Lessor with current financial statements, budgets, proof of appropriation for the ensuing Fiscal Year and such other financial information relating to the ability of Lessee to continue this Agreement as may be requested by Lessor or its assignee.

**Section 14.3 Binding Effect:** This Agreement shall inure to the benefit of, and shall be binding upon, Lessor and Lessee, and their respective successors and assigns.

**Section 14.4 Severability/Survival:** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof. The obligation of Lessee under Sections 7.5, 8.3 and 13.2 which accrue during the term shall survive termination of this Agreement.

**Section 14.5 Amendments, Changes and Modifications:** This Agreement may be amended or any of its terms modified only by written document duly authorized, executed and delivered by Lessor and Lessee.

**Section 14.6 Further Assurances and Corrective Instruments:** 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.

**Section 14.7 Execution in Counterparts:** This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**Section 14.8 Applicable Law:** This Agreement shall be governed by and construed in accordance with the laws of the State.

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**IN WITNESS WHEREOF,** Lessor has caused this Agreement to be executed in its corporate name by its duly authorized officer, and Lessee has caused this Agreement to be executed in its name by its duly authorized officer, as of the date first above written

**LESSOR:**  
**Public-Finance.com, Inc.**  
**11603 Shelbyville Road**  
**Suite 10**  
**Middletown KY 40243**

By \_\_\_\_\_  
Name:  
Title:

**ATTEST:**

**LESSEE:**  
**LaPorte County, Indiana**  
**813 Lincolnway**  
**LaPorte IN 46350**

By \_\_\_\_\_  
Name: Kenneth E. Layton  
Title: County Auditor

By: \_\_\_\_\_  
Name: William Hager  
Title: President, Board of County Commissioners

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ATTACHMENTS TO THE  
MASTER LEASE / PURCHASE AGREEMENT  
BETWEEN  
PUBLIC-FINANCE.COM, INC.  
AND  
LA PORTE COUNTY, INDIANA

DATED AUGUST 1, 2004  
EQUIPMENT SCHEDULE NUMBER 1

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<i>Equipment List</i>	Attachment 1
<i>Schedule of Payments</i>	Attachment 2
<i>Acceptance Certificate</i>	Attachment 3
<i>Form of Lessee's Counsel Opinion</i>	Attachment 4
<i>Resolutions of Governing Body</i>	Attachment 5
<i>Incumbency Certificate</i>	Attachment 6
<i>Essential Use Letter</i>	Attachment 7
<i>Insurance Coverage Agreement</i>	Attachment 8
<i>Small Issuer Certificate</i>	Attachment 9
<i>Payment Request Form</i>	Attachment 10
<i>Notice of Assignment</i>	Attachment 13
<i>IRS Form 8038, 8038-G or Form 8038-GC (As Applicable)</i>	Attachment 14
<i>Billing Information</i>	Attachment 15

**EQUIPMENT LIST**  
(Acceptance Certificate No 1)

The Equipment which is the subject of that certain Master Equipment Lease/Purchase Agreement dated August 1, 2004, (the "Agreement") between **Public-Finance.Com, Inc.** and Lessee is as follows:

One (1) New ETNYRE Tank

The above described  
Equipment shall be  
located at:

1805 West 5th Street  
LaPorte IN 46350

**LESSEE:**  
**LaPorte County, Indiana**  
**813 Lincolnway**  
**LaPorte IN 46350**

By: \_\_\_\_\_  
Name: William Hager  
Title: President, Board of County Commissioners



**SCHEDULE OF PAYMENTS**  
(Acceptance Certificate No. 1)

Pertaining to that certain Acceptance Certificate No. 1 entered pursuant to that certain Master Equipment Lease/Purchase Agreement dated August 1, 2004, (the "Agreement") between **Public-Finance.Com, Inc.** ("Lessor") and LaPorte County, Indiana ("Lessee").

All terms not defined herein have their meanings described in the Agreement.

**A. RENTAL PAYMENTS, TERM, TRANSPORTATION AND DELIVERY COSTS.**

The Rental Payments required under the Agreement for the Equipment described in the attached Description of Equipment will be

\$61,295 10 annually made in arrears for a term of 1 payments, with the first payment due on August 1, 2005, and each subsequent payment due annually thereafter.

A portion of each Rental Payment is paid as and represents payment of interest as set forth on the Amortization Schedule attached hereto. Lessee agrees to and shall pay all transportation and/or delivery costs if any.

**B. LATE PAYMENTS.**

THERE WILL BE A CHARGE OF 2% PER MONTH OR THE HIGHEST LEGAL RATE ALLOWED BASED ON THE AMOUNT OF ANY RENTAL PAYMENT WHICH REMAINS UNPAID FOR TEN (10) DAYS AFTER THE DUE DATE.

**C. BUDGETARY PERIOD.**

Lessee's budgetary period is from \_\_\_\_\_ to \_\_\_\_\_.

THE TERMS GOVERNING THIS SCHEDULE OF PAYMENTS ARE CONTAINED IN THE AGREEMENT REFERENCED ABOVE AND APPLY WITH THE SAME FORCE AND EFFECT AS IF SET FORTH FULLY HEREIN.

**LESSOR:**  
**Public-Finance.com, Inc.**

**LESSEE:**  
**LaPorte County, Indiana**  
**813 Lincolnway**  
**LaPorte IN 46350**

By \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: **William Hager**  
Title: **President, Board of County Commissioners**

SCHEDULE OF PAYMENTS

LESSEE LaPorte County, Indiana  
AMOUNT OF LEASE \$59,000.00  
NUMBER OF PAYMENTS 1  
PAYMENT FREQUENCY Annual  
PAYMENT MADE IN Arrears

PAYMENT NUMBER	PAYMENT DATE	PRINCIPAL COMPONENT	INTEREST COMPONENT	PAYMENT AMOUNT	OPTION PURCHASE PRICE
1	08/01/2005	59,000.00	2,295.10	61,295.10	*

BY \_\_\_\_\_

TITLE \_\_\_\_\_

DATE \_\_\_\_\_  
\* NO PREPAYMENT DURING THESE PERIODS

*President  
sign*

ACCEPTANCE CERTIFICATE No. 1

(Non-Escrow Funded)

THIS ACCEPTANCE CERTIFICATE is issued pursuant to that certain Master Equipment Lease/Purchase Agreement dated August 1, 2004, (the "Agreement") between **Public-Finance.Com, Inc.** ("Lessor") and LaPorte County, Indiana ("Lessee"). All terms not defined herein shall have their meanings described in the Agreement.

1 The undersigned, as Lessee under the Agreement, acknowledges delivery, installation and receipt in good condition, and hereby accepts, all of the Equipment described on the attached Equipment List this \_\_\_\_\_ day of \_\_\_\_\_, 2004

2. A present need exists for the Equipment which need is not temporary or expected to diminish in the near future. The Equipment is essential to and will be used by Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority.

3. Lessee confirms that it will make all Rental Payments set forth on the Schedule of Payments attached hereto as required by and in accordance with Article V of the Agreement.

4. Lessee confirms that sufficient funds have been appropriated to make all Rental Payments due during its current fiscal year and expects and anticipates that sufficient funds will be available to make all Rental Payments due in subsequent years

5. The Equipment is covered by insurance in the types and amounts required by the Agreement and is located at the location set forth in the attached Equipment List.

6. Lessee is exempt from all personal property taxes, and is exempt from sales and/or use taxes with respect to the Equipment and the Rental Payments.

7 There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body, that challenges the organization or existence of Lessee; the authority of Lessee or its officers to enter into the Agreement; the proper authorization, approval and execution of the Agreement and other documents contemplated thereby, the appropriation of moneys, or any other action taken by Lessee to provide moneys, sufficient to make Rental Payments coming due under the Agreement in Lessee's current fiscal year; or the ability of Lessee otherwise to perform its obligation under the Agreement and the transactions contemplated thereby.

8 No event of default, as such term is defined in the Agreement, and no event which with the giving of notice of lapse of time, or both, would become an event of default, has occurred and is continuing on the date hereof.

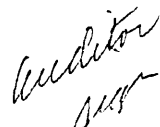
9 Lessee hereby authorizes and directs Lessor to fund the acquisition cost of the Equipment by paying the Vendor(s) the invoice price(s) as set forth on the attached Description of Equipment, and certifies that upon such payment, Lessor will have fully and satisfactorily performed all of its covenants and obligations under the Agreement with respect to the Equipment.

ATTEST:

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

Name: Kenneth E. Layton

Title: County Auditor

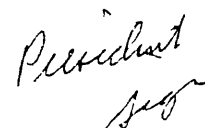


LESSEE:

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

Name: William Hager

Title: President, Board of County Commissioners



## RESOLUTIONS OF GOVERNING BODY

**LESSEE: LaPorte County, Indiana**

Master Equipment Lease/Purchase Agreement dated August 1, 2004

At a duly called meeting of the governing body of Lessee held in accordance with all applicable legal requirements, including open meeting laws, on the \_\_\_\_ day of \_\_\_\_\_, 2004 the following resolution was introduced and adopted.

**RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.**

**WHEREAS**, the governing body of LaPorte County, Indiana ("Lessee") has determined that a true and very real need exists for the equipment (the "Equipment") described in the Master Equipment Lease/Purchase Agreement (the "Agreement") presented to this meeting, and

**WHEREAS**, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment, and

**WHEREAS**, Lessee proposes to enter into the Agreement substantially in the form presented in this meeting:

**NOW, THEREFORE**, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE AS FOLLOWS.

Section 1. BEST INTERESTS OF LESSEE. It is hereby found and determined that the terms of the Agreement in the form presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment

Section 2. AUTHORIZATION. The Agreement is hereby approved. The of Lessee and other officers of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Agreement with any changes, insertions and omissions therein as may be approved by the officer(s) who execute the Agreement, such approval to be conclusively evidenced by such execution and delivery of the Agreement. The of the Lessee and any other officers of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Agreement and attest the same

Section 3. EXECUTION OF DOCUMENTS. The proper officer(s) of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Agreement.

Section 4. DESIGNATION AS QUALIFIED TAX-EXEMPT OBLIGATION. Lessee hereby designates the Agreement as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986 as amended

Section 5. EFFECTIVE DATE This Resolution shall take effect immediately. The undersigned certifies that the above resolution has not been repealed or amended and remains in full force and effect, and further certifies that the above and foregoing Agreement is the same as presented at said meeting of the governing body of Lessee.

Seal:

\_\_\_\_\_  
**County Auditor**

I hereby certify that I am the President, Board of County Commissioners of said governing body and that the foregoing is a correct copy of the resolution passed as therein set forth, and that the same is now in full force.

**LESSEE:**

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

**Name:** William Hager

**Title:** President, Board of County Commissioners

INCUMBENCY CERTIFICATE

I do hereby certify that I am the duly elected or appointed and acting County Auditor of LaPorte County, Indiana, a political subdivision duly organized and existing under the laws of the State of , that I have custody of the records of such entity, and that, as of the date hereof, the individuals named below are duly elected or appointed officers of such entity holding the offices set forth opposite their respective names. I further certify that (i) the signatures set opposite their respective name and titles are their true and authentic signatures and (ii) such officer(s) have the authority on behalf of such entity to enter into that certain Master Equipment Lease/Purchase Agreement dated August 1, 2004 between such entity and **Public-Finance.com, Inc..**

NAME	TITLE	SIGNATURE
William Hager	President, Board of County Commissioners	_____
Kenneth E. Layton	County Auditor	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such entity hereto this \_\_\_\_ day of \_\_\_\_\_, 2004

By: \_\_\_\_\_  
Name: Kenneth E. Layton  
Title: County Auditor

Seal

ESSENTIAL USE LETTER

Reference is made to that certain Master Equipment Lease/Purchase Agreement, dated as of August 1, 2004 (the "Agreement"), between **Public-Finance.Com, Inc.**, as Lessor and the undersigned, as Lessee. The Equipment, as such term is defined in the Agreement can generally be described as follows:

One (1) New ETNYRE Tank

This confirms and affirms that the Equipment is essential to the governmental functions of Lessee. Further, Lessee has an immediate need for, and expects to make immediate use of, substantially all the Equipment, which need is not temporary or expected to diminish in the foreseeable future. The Equipment will be used by Lessee for the purpose of performing one or more of Lessee's governmental functions consistent with the permissible scope of Lessee's authority and not in any trade or business carried on by any person other than Lessee.

**LESSEE:**

**LaPorte County, Indiana**  
**813 Lincolnway**  
**LaPorte IN 46350**

By: \_\_\_\_\_  
Name: William Hager  
Title: President, Board of County Commissioners  
Date: \_\_\_\_\_, 2004

## INSURANCE COVERAGE AGREEMENT

**LESSEE:**

LaPorte County, Indiana  
 813 Lincolnway  
 LaPorte IN 46350

Phone 219-362-2051

**LESSOR:**

**Public-Finance.Com, Inc.**  
 11603 Shelbyville Road, Suite 10  
 Louisville, KY 40243

Phone 502-244-4708

## Description of Equipment

One (1) New ETNYRE Tank

I understand that to provide protection from serious financial loss, should an accident or loss occur, my lease contract requires the equipment to be continuously covered with insurance against the risks of fire and theft, and that failure to provide such insurance gives the Lessor the right to declare the entire unpaid balance immediately due and payable

I further understand that all insurance policies required pursuant hereto shall be so written or endorsed as to make losses, if any, payable to Lessee and Lessor, or its assignees, as their respective interests may appear, shall name Lessor and its assignees as additional insured, and shall be in form and amount and with insurance companies reasonably satisfactory to Lessor, that each insurer shall agree, by endorsement upon the policy or policies issued by it or by independent instrument furnished to Lessor, that (a) it will give Lessor thirty (30) days prior written notice of the effective date of any material alteration or cancellation of such policy; and (b) insurance as to the interest of any named additional insured or loss payee other than Lessee shall not be invalidated by any actions, inactions, breach of warranty or conditions or negligence of Lessee with respect to such policy or policies; and that the Net Proceeds (as defined in Section 8 01) of the insurance required in Article VII of the Agreement shall be applied as provided in Section 8.4 and 8 5 hereof

Accordingly, I have arranged for the required insurance through the insurance company shown below and have requested my agent to note Lessor's interest in the equipment and name Lessor as additional insured.

## INSURANCE AGENT

## INSURANCE COMPANY

Name \_\_\_\_\_

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

Address \_\_\_\_\_

Policy #. \_\_\_\_\_

Phone \_\_\_\_\_

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

Name: William Hager

Title: President, Board of County Commissioners

Date: \_\_\_\_\_, 2004



**\$10,000,000 SMALL ISSUER CERTIFICATE**

Reference is made to, and this certificate is attached to and made a part of, that certain Master Equipment Lease/Purchase Agreement (the "Agreement") dated as of August 1, 2004 by and between **Public-Finance.Com, Inc.**, as Lessor, and LaPorte County, Indiana, as Lessee

1 Lessee has not issued, and reasonably anticipates that it and its subordinate entities will not issue, tax-exempt obligations (including the Agreement) in the amount of more than \$10,000,000 as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended ("Code"); and agrees that it and its subordinate entities will not designate more than \$10,000,000 of their obligations as "qualified tax-exempt obligations" during the current calendar year.

2. The parties assume and intend that the Agreement will qualify as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3)(B) of the Code. In the event that Lessor either (i) receives notice from the Internal Revenue Service, or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which approval Lessee shall not reasonably withhold, that the otherwise applicable exception set forth in Section 265(b)(3) of the Code is not available, then Lessee shall pay to Lessor within thirty (30) days after receiving notice from lessor of such event, the amount which with respect to rental payments previously paid, will restore the after-tax yield on the transaction evidenced by the Agreement to that which it would have been had such exception been available, and pay as an additional rent on succeeding rent payment due dates such amount as will maintain such after-tax yield

3. The obligations of Lessee hereunder which accrue during the term of the Agreement shall survive termination of the Agreement.

4 The parties agree that this attachment is an integral part of the Agreement.

DATE

**LESSOR:**  
**Public-Finance.Com, Inc.**

**LESSEE:**  
**LaPorte County, Indiana**  
**813 Lincolnway**  
**LaPorte IN 46350**

By \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: William Hager  
Title: President, Board of County Commissioners

**PAYMENT REQUEST FORM**

**Public-Finance.com, Inc.** is hereby requested to pay to the person or corporation designated below as Payee, the sum set forth below such designation, in payment (of all/a portion) of the acquisition costs described below. The amount shown below is due and payable under a purchase order or contract with respect to the equipment item cost described below and has not formed the basis of any prior request for payment.

PAYEE: \_\_\_\_\_

AMOUNT: \_\_\_\_\_

DESCRIPTION OF EQUIPMENT ITEM COST:

**LESSOR:**  
**Public-Finance.com, Inc.**

**LESSEE:**  
**LaPorte County, Indiana**  
**813 Lincolnway**  
**LaPorte IN 46350**

By \_\_\_\_\_  
Name:  
Title:

By: \_\_\_\_\_  
Name: **William Hager**  
Title: **President, Board of County Commissioners**

NOTICE OF ASSIGNMENT  
AND  
LETTER OF DIRECTION

Public-Finance.Com, Inc. ("Lessor") hereby gives notice to LaPorte County, Indiana ("Lessee") that it has assigned all of its rights to receive payments under the Master Lease Agreement dated August 1, 2004, Schedule No. 1, as set out in Section 11.1, and in any of the Equipment now or hereafter leased thereunder, including without limitation all amounts of rent, insurance, and condemnation proceeds, indemnity or other payment proceeds due to become due as a result of the sale, lease or other disposition of the Equipment, all rights to receive notices and give consents and to exercise the rights of the Lessor under the Lease, and all rights, claims and causes of action which Assignor may have against the manufacturer or seller of the Equipment in respect of any defects therein.

This Master Lease Agreement requires 12 payments in the amount of \$61,295.10. As of the date of assignment, 12 payments remain on the contract and should be forwarded to the assignee at the following address:

Old National Bank  
PO Box 658  
Evansville, IN 47704-0658

Any assigned payments received by Lessor are received in trust for Assignee and will be immediately delivered to Assignee.

Public-Finance.com, Inc.  
(Lessor/Assignor)

LaPorte County, Indiana  
(Lessee)

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

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

TITLE: \_\_\_\_\_

TITLE: President, Board of County Commissioners

DATE: \_\_\_\_\_

DATE: \_\_\_\_\_

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

► Under Internal Revenue Code section 149(e)

OMB No. 1545-0720

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

**Part I Reporting Authority**Check box if Amended Return ☐

1 Issuer's name <b>LaPorte County, Indiana</b>	2 Issuer's employer identification number
3 Number and street (or P.O. box if mail is not delivered to street address) <b>813 Lincolnway</b>	Room/suite
4 City, town, or post office, state, and ZIP code <b>LaPorte IN 46350</b>	5 Report number <b>5</b>
6 Name and title of officer or legal representative whom the IRS may call for more information <b>Kenneth E. Layton, County Auditor</b>	7 Telephone number of officer or legal representative <b>(219) 362-2051</b>

**Part II Description of Obligations** Check if reporting a single issue ☒ or on a consolidated basis ☐

8a Issue price of obligation(s) (see instructions) . . . . .	8a	<b>59,000.00</b>
b Issue date (single issue) or calendar year (consolidated) (see instructions) ► <b>08-15-04</b>		
9 Amount of the reported obligation(s) on line 8a		
a Used to refund prior issue(s) . . . . .	9a	<b>N/A</b>
b Representing a loan from the proceeds of another tax-exempt obligation (e.g., bond bank) . . . . .	9b	<b>N/A</b>
10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box . . . . .		<input checked="" type="checkbox"/>
11 If any obligation is in the form of a lease or installment sale, check this box . . . . .		<input checked="" type="checkbox"/>
12 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box . . . . .		<input type="checkbox"/>

**Sign  
Here**

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.

**William Hager, President  
Board of County Commissioners**

Issuer's authorized representative

Date

Type or print name and title

**General Instructions**

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

**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.** 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 12 instructions).

**Filing a consolidated return.** 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, 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.

**When To File**To file a **separate return**, file Form 8038-GC on or before the 15th day of the second calendar month after the close of the calendar quarter in which the issue is issued.To file a **consolidated return**, file Form 8038-GC on or before February 15th of the calendar year following the year in which the issue is issued.**Late filing.** An issuer may be granted an extension of time to file Form 8038-GC under Section 3 of Rev. Proc. 88-10, 1988-1 CB 635, if it is determined that the failure to file on time is not due to willful neglect. Type or print at the top of the form, "This Statement is Submitted in Accordance with Rev. Proc. 88-10." Attach to the Form 8038-GC a letter briefly stating why the form was not submitted to the IRS on time. Also indicate whether the obligation in question is under examination by the IRS. Do not submit copies of any bond documents, leases, or installment sale documents. See **Where To File** below.**Where To File**

File Form 8038-GC, and any attachments, with the Internal Revenue Service Center, Ogden, UT 84201.

**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 and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

**Rounding to Whole Dollars**

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

**Definitions****Obligations.** This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.**Tax-exempt obligation.** This is 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 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.** Generally, obligations are treated as part of the same issue only if they are issued by the same issuer, on the same date, and as part of 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 (e.g., under the same official statement periodically updated to reflect changing factual circumstances). Also, for obligations issued under a draw-down loan that meets 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 of the issue are to be used for construction expenditures with respect to property to be owned by a governmental unit or a 501(c)(3) organization, and

2. All of 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 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

In general, a Form 8038-GC must be completed on the basis of available information and reasonable expectations as of the date the issue is issued. However, forms that are filed on a consolidated basis may be completed on the basis of information readily available to the issuer at the close of the calendar year to which the form relates supplemented by estimates made in good faith.

### Part I—Reporting Authority

**Amended return.** If this is an amended Form 8038-GC, check the amended return box. Complete Part I and only those lines of Form 8038-GC that are being amended. Do not amend estimated amounts previously reported once the actual amounts are determined. (See the Part II instructions below.)

**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. In the case of a lease or installment sale, the issuer is the lessee or 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**. This form may be obtained at Social Security Administration offices or by calling 1-800-TAX-FORM. If the EIN has not been received by the due date for Form 8038-GC, write "Applied for" in the space for the EIN.

**Line 5.** After the preprinted 5, enter two self-designated numbers. Number reports consecutively during any calendar year (e.g., 534, 535, etc.).

### Part II—Description of Obligations

**Line 8a.** 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 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.

**Line 8b.** For a single issue, enter the date of issue, 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. For issues reported on a consolidated basis, enter the calendar year during which the obligations were issued.

**Lines 9a and 9b.** For line 9a, enter the amount of the proceeds that will be used to pay principal, interest, or call premium on any other issue of bonds, including proceeds that will be used to fund an escrow account for this purpose. Both line 9a and 9b may apply to a particular obligation. For example, report on line 9a and 9b obligations used to refund prior issues which represent loans from the proceeds of another tax-exempt obligation.

**Line 11.** Check this box if property other than cash is exchanged for the obligation, e.g., 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.

**Line 12.** 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 rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 CB 736, for rules regarding the election document.

### 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** . . . . 1 hr., 58 min.

**Preparing the form** . . . . 3 hr., 3 min.

**Copying, assembling, and sending the form to the IRS** . . . 16 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 Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. Do not send the form to this address. Instead, see **Where To File** on page 1.

**BILLING INFORMATION**

Invoices for payments due under the Agreement will be sent to the following person. If this information is incorrect please provide the correct information below.

Contact Name	<b>Kenneth E. Layton</b>
Contact Title	<b>County Auditor</b>
Lessee Name	<b>LaPorte County, Indiana</b>
Address	<b>813 Lincolnway</b>
	<b>LaPorte IN 46350</b>
TEL	<b>219-362-2051</b>
FAX	<b>219-362-4221</b>
County	<b>LaPorte</b>