

TAX EXEMPTION AGREEMENT AND CERTIFICATE

Between

MINNESOTA PUBLIC FACILITIES AUTHORITY

and

THE METROPOLITAN COUNCIL

\$2,945,000

MINNESOTA PUBLIC FACILITIES AUTHORITY

Transportation Revenue Refunding Bonds

(The Metropolitan Council)

Series 2010-T1

Dated November 18, 2010

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\$2,945,000
Minnesota Public Facilities Authority
Transportation Revenue Refunding Bonds
(The Metropolitan Council Project)
Series 2010-T1

This Tax Exemption Agreement and Certificate is made and dated November 18, 2010 ("Tax Exemption Agreement"), by and between the Minnesota Public Facilities Authority ("Issuer"), a public body corporate and politic of the State of Minnesota, duly organized and existing under the laws of the State of Minnesota, and the Metropolitan Council, a public corporation and a political subdivision of the State of Minnesota ("Borrower").

ARTICLE I

CAPACITY AND DEFINITIONS

Section 1.01. Capacity. The undersigned are the authorized officer of the Issuer and the authorized officers of the Borrower and as such, are duly authorized to execute and deliver this Tax Exemption Agreement. The undersigned are responsible, alone or with others, for issuing the Bonds and the Series 1999 Note, and the certifications herein are made in good faith. This Tax Exemption Agreement may be relied upon as the certification of the "issuer" pursuant to Regulations Section 1.148-2(b)(2) (as in effect on the date hereof), promulgated under Section 148 of the Code, and is delivered as part of the record of proceedings with respect to the Bonds. This Tax Exemption Agreement is based upon facts and estimates in existence on the date hereof, which is the date of original delivery of the Bonds.

Section 1.02. Definitions. Capitalized terms used herein shall have the meanings set forth below or, where not so defined, in the Bond Resolution, the Loan Agreement and the Regulations.

(a) **Accounting Method** shall mean both the overall method used to account for the Gross Proceeds of the Bonds (e.g., the cash method or a modified accrual method) and the method used to account for or allocate any particular item within that overall accounting method (e.g., accounting for investments, expenditures, allocations to and from different sources and particular items of the foregoing).

(b) **Bond Counsel** shall mean a firm of attorneys experienced in the field of municipal bonds whose opinions are generally accepted by purchasers of bonds, the interest of which is excluded from the gross income of the owners for federal income tax purposes, and which has a national reputation in such area.

(c) **Bonds** shall mean the Minnesota Public Facilities Authority Transportation Revenue Refunding Bonds, Series 2010-T1 (The Metropolitan Council Project).

(d) **Bond Resolution** shall mean the Transportation Revenue Bond Resolution adopted by the Issuer on August 9, 2010.

(e) **Bond Year** shall mean, when used in the context of the rebate requirement imposed under Section 148(f) of the Code with respect to the Bonds, each one-year period (or shorter period from the date of issue) that ends at the close of business on the day in the calendar year that is selected by the Issuer. The "Bond Year" applicable to the Bonds is the period from March 2 to March 1 of the following year.

(f) **Bond Yield** shall mean the applicable definition of yield set forth in Regulations Section 1.148-4. The Bond Yield on the Bonds, computed on the Issue Date in accordance with such definition by Piper Jaffray & Co. ("Underwriter") and is not less than 1.826315% as shown on Exhibit A hereto and made a part hereof.

(g) **Code** shall mean the Internal Revenue Code of 1986, as amended, or any successor legislation, and the regulations and published rulings promulgated thereunder or applicable thereto.

(h) **Commingled Fund** shall mean any commingled fund or account containing both Gross Proceeds of the Bonds and amounts in excess of \$25,000 that are not Gross Proceeds of the Bonds if the amounts in the commingled fund or account are invested and accounted for collectively, without regard to the source of funds deposited in the commingled fund or account. An open-end regulated investment company under Section 851, however, is not a commingled fund.

(i) **Computation Date** shall mean an Installment Computation Date or the Final Computation Date.

(j) **Consistently Applied** shall mean applied uniformly within a fiscal period and between fiscal periods to account for Gross Proceeds of an issue and any amounts that are in a commingled fund.

(k) **Cost of Issuance Fund** shall mean the Cost of Issuance Fund established by the Bond Resolution and maintained by the Issuer, disbursements from which will be used to pay Issuance Costs of the Bonds upon receipt of invoices.

(l) **Current Outlay of Cash** shall mean an outlay reasonably expected to occur not later than five banking days after the date as of which the allocation of Gross Proceeds to the expenditure is made.

(m) **Final Computation Date** shall mean the date that the Bonds are discharged.

(n) **Financial Consultant** shall mean a firm of investment bankers, a firm of attorneys, a financial consulting firm, or a firm of certified public accountants, satisfactory to the Issuer which is experienced in the calculation or amounts to be rebated to the United States Treasury under Section 148(f) of the Code.

(o) **Gross Proceeds** shall mean any Proceeds and Replacement Proceeds of the Bonds.

(p) **Installment Computation Date** shall mean the last day of the fifth Bond Year and each succeeding fifth Bond Year.

(q) **Investment Proceeds** shall mean any amount actually or constructively received from investing Proceeds of an issue.

(r) **Investment Property** shall mean any security, obligation, annuity contract or investment-type property. Investment Property shall not include tax-exempt obligations which are not specified "private activity bonds" within the meaning of Section 57(a)(5)(C) of the Code. The term tax-exempt obligation includes an ownership interest in a regulated investment company to the extent that at least 95% of the income to the holder of the ownership interest is interest that is excludible from gross income under Section 103 of the Code.

(s) **Issue Date** shall mean November 18, 2010, the date on which the Issuer receives the purchase price in exchange for the Bonds.

(t) **Loan Agreement** shall mean the Loan Agreement, dated as of December 1, 1999, as amended by the Amendment to the Loan Agreement dated November 18, 2010, between the Issuer and the Borrower relating to the Bonds, as it may from time to time be amended or supplemented.

(u) **Nonpurpose Investments** shall have the meaning ascribed to such term in Section 148(f)(6)(A) of the Code and shall mean any Investment Property which is allocated to Gross Proceeds of an issue and is not acquired in order to carry out the governmental purpose of the Bonds.

(v) **Person** shall mean an individual, a corporation, a partnership, an association, a joint stock company, a joint venture, a trust, an unincorporated organization or a government or any agency or political subdivision thereof.

(w) **Prior Bonds** shall mean the Authority's Transportation Revenue Bonds, Series 1999A (The Metropolitan Council Project).

(x) **Prior Resolution** shall mean the Transportation Revenue Bond Resolution adopted by the Issuer on February 23, 1999, as from time to time amended, supplemented, or restated.

(y) **Proceeds** shall mean any Sale Proceeds, Investment Proceeds and any Transferred Proceeds of the Bonds.

(z) **Project** shall mean the financing pursuant to the Loan Agreement of transit related expenditures consisting of 28 fleet improvement capital projects and 26 public facility capital projects. The fleet improvements consist primarily of the acquisition of buses and bus subsystems such as replacement parts. The facility projects include, without limitation, transit hubs, roadway improvements, security lighting and passenger shelters, as more completely described in Exhibit D to the Loan Agreement.

(aa) **Qualified Administrative Costs** of a Program Investment means costs or expenses paid, directly or indirectly, to purchase carry, sell or retire the investment and costs of issuing, carrying, or repaying the issue, and any underwriter's discount. Qualified Administrative Costs on a Nonpurpose Investment means reasonable, direct administrative costs, other than carrying costs, such as separately stated brokerage or selling commissions, but not legal and accounting fees, recordkeeping, custody and similar costs. General overhead costs and similar indirect costs of the issuer such as employee salaries and office expenses and costs associated with computing the Rebate Amount are not Qualified Administrative Costs. In general, administrative costs are not reasonable unless they are comparable to administrative costs that would be charged for the same Investment or a reasonably comparable Investment if acquired with a source of funds other than Gross Proceeds of tax-exempt bonds.

(bb) **Rebate Amount** or **Amounts** shall mean 100% of the amount owed to the United States Treasury pursuant to Section 148(f)(2) of the Code.

(cc) **Rebate Requirement** shall mean the requirements related to payment of the Rebate Amount as provided in Section 6.02 of this Tax Exemption Certificate and Section 148(f) of the Code.

(dd) **Regulations** shall mean the final Treasury Regulations under Section 148 of the Code (Sections 1.148-0 through 1.148-11, 1.149(d)-1, 1.149(g)-1 and 1.150-1 through 1.150-2, inclusive), which were published in the Federal Register on June 18, 1993, as amended.

(ee) **Related Person(s)** shall mean any member of the same controlled group (as defined in Section 1.150-1(e)), and any related person (as defined in Section 144(a)(3)).

(ff) **Replacement Proceeds** shall mean amounts that have a sufficiently direct nexus to the Bonds or to the governmental purpose of the Bonds to conclude that the amounts would have been used for that governmental purpose if the Proceeds of the Bonds were not used or to be used for that governmental purpose. For this purpose, governmental purposes include the expected use of amounts for the payment of debt service on a particular date. The mere availability or preliminary earmarking of amounts for a governmental purpose, however, does not in itself establish a sufficient nexus to cause those amounts to be Replacement Proceeds. Replacement Proceeds include, but are not limited to, sinking funds, pledged funds and certain other replacement proceeds described below, to the extent that those funds or amounts are held by or derived from a substantial beneficiary of the Bonds. For this purpose, a substantial beneficiary of the Bonds includes the Issuer and any related party to the Issuer and the state in which the Issuer is located. A person is not a substantial beneficiary of the Bonds solely because it is a guarantor under a qualified guarantee (as defined in Regulations Section 1.148-4(f)).

A sinking fund includes a debt service fund, redemption fund, reserve fund, replacement fund, or other similar fund, to the extent reasonably expected to be used, directly or indirectly, to pay principal or interest on the Bonds.

A pledged fund is any amount that is, directly or indirectly, pledged to pay principal of or interest on the Bonds, provided that there is reasonable assurance that the amount will be available to pay principal of or interest on the Bonds even if the Issuer encounters financial difficulty. A pledge to a guarantor of the Bonds is an indirect pledge to secure payment of principal of or interest on the Bonds. Certain amounts held under negative pledge agreements may be treated as a pledged fund under Regulations Section 1.148-1(c)(3)(ii).

Other Replacement Proceeds are described in Regulations Section 1.148-1(c)(4) and generally include amounts which are available during the period that the Bonds remain outstanding longer than is reasonably necessary for their governmental purposes, subject to certain safe harbors.

(gg) **Revenue Fund** shall mean a separate fund established and maintained by the Issuer and into which all Revenues will be deposited so long as any of the Bonds are outstanding.

(hh) **Revenues** shall mean (i) the Loan Agreement and all amounts payable thereunder, (ii) the Series 1999 Note and all amounts payable thereunder, (iii) all amounts on deposit in any fund or account (other than the Rebate Account) established pursuant to the Bond Resolution, and all investment earnings thereon; provided, however, in all cases Revenues shall not include service charges, if any, retained by the Authority out of payment of principal of and interest on the Loan retained by the Authority, prior to depositing Revenues into the Revenue Account, which service charges shall not exceed 2% of any single Loan repayment and, in the aggregate, the aggregate interest paid on the Loan.

(ii) **Sale Proceeds** shall mean any amount actually or constructively received from the sale of the Bonds, including amounts used to pay underwriter's discount or compensation and accrued interest other than pre-issuance accrued interest.

(jj) **Series 1999 Note** shall mean the full faith and credit, general obligation note designated "Metropolitan Council Series 1999 Note" dated as of March 1, 1999 as amended by the Amendment to the Loan Agreement dated November 18, 2010 as evidenced by the Allonge to The Metropolitan Council Series Note dated November 18, 2010, executed and delivered by the Borrower to the Issuer to evidence and secure its payment obligations under the Loan Agreement.

(kk) **Tax Exemption Agreement** shall mean this Tax Exemption Agreement and Certificate.

(ll) **Transferred Proceeds** shall mean any Proceeds of the Prior Bonds that become Proceeds of the Bonds and cease to be proceeds of the Prior Bonds pursuant to allocation rules provided in Reg. § 1.148-9(b).

Generally, when Proceeds of the Bonds discharge any of the outstanding principal amount of the Prior Bonds, the proceeds of the Prior Bonds become Transferred Proceeds of the Bonds in an amount equal to the proceeds of the Prior Bonds on the date

of that discharge, multiplied by a fraction (i) the numerator of which is the principal amount of the Prior Bonds discharged with the Proceeds of the Bonds on the date of that discharge, and (ii) the denominator of which is the total outstanding principal amount of the Prior Bonds on the date immediately before the date of that discharge.

(mm) **Underwriter** shall mean Piper Jaffray & Co.

(nn) **Yield Reduction Amount or Amounts** shall mean any amount paid to the United States to reduce the yield on Investment Property for yield restriction purposes pursuant to Section 1.148-5(c) of the Regulations.

ARTICLE II

CERTAIN REPRESENTATIONS AND COVENANTS OF THE ISSUER AND THE BORROWER

Section 2.01. Tax Status of Bonds. The Borrower has not taken any action and knows of no action that any person has taken or intends to take which would cause interest on the Bonds to be includible in the gross income of the bondholders for federal income tax purposes.

Section 2.02. Description of the Project. The Borrower hereby represents and warrants for the benefit of the Issuer that the description of the Project set forth in the Loan Agreement is true and accurate.

Section 2.03. De Minimis Unrelated Use. The Issuer and the Borrower hereby represent that not more than five percent of the Sale Proceeds of the Bonds will be used for any unrelated private business use.

Section 2.04. Single Issue. There are no other obligations of the Issuer or the Borrower which (i) will be paid out of substantially the same source of funds as the Bonds, (ii) are being sold at substantially the same time as the Bonds (*i.e.*, less than 15 days apart), and (iii) are being sold pursuant to the same plan of financing with the Bonds.

Section 2.05. No Sale of Financed Project. The Borrower will not sell, encumber or otherwise dispose of any property comprising the Project financed by the Bonds prior to the final maturity date of the Bonds (except such parts or portions thereof may be disposed of due to normal wear, obsolescence or depreciation) without a written opinion of Bond Counsel to the effect that any such disposition will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 2.06. Allocation of Proceeds and Equity to Expenditures. The Issuer hereby represents that allocation of Proceeds and equity to expenditures will be made by it using any reasonable and Consistently Applied Accounting method.

Section 2.07. No Working Capital. The Issuer and the Borrower hereby represent that no portion of the Sale Proceeds of the Bonds or investment earnings thereon will be used to pay expenditures or be allocated to the reimbursement of expenditures other than expenditures which are (i) "capital expenditures" within the meaning of Regulations Section 1.150-1 (*i.e.*, any cost of

a type that is properly chargeable to a capital account, or which would be so chargeable with proper election, under general federal income tax principles); (ii) costs of issuance, carrying and repaying the Bonds; (iii) fees for a "qualified guarantee" (within the meaning of Regulations Section 1.148-4(f)); (iv) amounts paid to the United States under Regulations Section 1.148-5(c) as yield reduction payments; (v) costs that do not exceed 5% of the issue price of the Bonds (net of pre-issuance accrued interest) and that are directly related to capital expenditures financed by the Bonds (e.g., initial operating expenses for the Project); and (vi) principal and interest on the Bonds paid from excess unexpected sale or investment proceeds. Accordingly, no portion of the Sale Proceeds of the Bonds or investment earnings thereon will be used to pay expenditures which are "restricted working capital expenditures" within the meaning of Regulations Section 1.148-1(b).

Section 2.08. Management Contract Limitations. The Borrower agrees not to enter into, materially modify or extend a management or service agreement with respect to any portion of the Project financed or refinanced with Proceeds of the Bonds with any entity other than a state or local governmental unit unless such agreement complies with Rev. Proc. 97-13 issued January 10, 1997, or any successor revenue procedure or regulation thereto.

Section 2.09. Representations by the Issuer for Purposes of IRS Form 8038-G. Section 149(e) of the Code requires as a condition to qualification for tax exemption that the Issuer provide to the Secretary of the Treasury certain information with respect to the Bonds and the application of the Proceeds derived therefrom. The issue price of the Bonds has been established by the Underwriter in the Certificate of the Underwriters delivered on the Issue Date. The Issuer believes the following information is accurate and will use it in satisfying this information reporting requirement. Accordingly, the Issuer hereby represents as follows:

(a)	Issue price of the Bonds	\$2,975,000.00
(b)	Original Issue Premium	\$81,298.75
(c)	Costs of Issuance (including Underwriter's fee and contingency)	\$57,053.11
(d)	Reasonably Required Reserve Fund Deposits	\$-0-
(e)	Proceeds used to refund the Prior Bonds	\$2,969,245.64
(f)	Date of final maturity of the Bonds	03/01/2020
(g)	Stated redemption price at maturity of the entire issue of the Bonds	\$2,945,000.00
(h)	Weighted average maturity of the entire issue of the Bonds	4.9198 years
(i)	Yield on the entire issue of the Bonds	1.826315%

Section 2.10. Refunding Plan. The Proceeds of the Bonds will be used on November 19, 2010 to refund the Prior Bonds for the purpose of realizing net present value debt service savings and to pay Costs of Issuance.

ARTICLE III

USE OF BOND PROCEEDS

Section 3.01. Anticipated Use of Proceeds. The Issuer covenants, represents and warrants that the Proceeds in the amount of \$2,969,245.64 of the Bonds will be used to refund the Prior Bonds as set forth in the Bond Resolution and the Loan Agreement.

ARTICLE IV

ARBITRAGE REPRESENTATIONS OF THE ISSUER AND THE BORROWER

Section 4.01. Purpose. The Bonds are being issued to provide funds, together with other funds loaned by Issuer to the Borrower, which will be used to (i) refund the Prior Bonds and (ii) pay certain costs incurred in connection with the issuance of the Bonds.

Section 4.02. Security. The Bonds are special limited obligations of the Issuer equally and ratably payable from and secured by certain revenues received by the Issuer from the Borrower pursuant to the Loan Agreement and from amounts on deposit in certain funds and accounts established under the Bond Resolution (except the Rebate Account) and earnings thereon. The Loan Agreement is the unconditional general obligation of the Borrower to make loan repayments that, in the aggregate, equal the principal of, redemption price and interest on the Bonds issued to provide funds for the Borrower plus additional funds loaned by the Issuer. The obligation to repay amounts loaned to the Borrower by the Issuer will be evidenced by the Series 1999 Note.

Section 4.03. Elections and Representations. In connection with the issuance of the Bonds, the Borrower hereby elects and represents as follows:

(a) The Issuer and the Borrower will use a reasonable, Consistently Applied Accounting Method to account for Gross Proceeds, Nonpurpose Investments and expenditures for the Bonds. The Issuer and the Borrower shall additionally use a Consistently Applied Accounting Method for allocating Proceeds of the Bonds to expenditures, subject to the Current Outlay of Cash rule.

(b) Neither Issuer nor the Borrower shall commingle Proceeds of the Bonds with any other fund.

(c) The Borrower and the Issuer hereby make the following elections and other choices pursuant to the Regulations with respect to the Bonds:

(i) The Issuer and the Borrower elect the bond year stated in the definition of the Bond Year.

(ii) The Issuer and the Borrower elect to avail themselves of all unrestricted yield investments granted in the Regulations for temporary period, reasonably required reserve fund and minor portion investments.

Section 4.04. Survival of Defeasance or Payment. The obligation of the Issuer to remit the Rebate Amount or the Yield Reduction Amount to the Treasury Department at the appropriate time and manner (and the obligation of the Borrower, if any, in the Loan Agreement to reimburse the Issuer for such payment) shall survive the defeasance of the Bonds.

ARTICLE V

REPRESENTATIONS AND REASONABLE EXPECTATIONS OF THE ISSUER AND THE BORROWER

Section 5.01. Authorizations. The Issuer is authorized to issue the Bonds pursuant to: (i) the provisions of Minnesota Statutes, Chapter 446A, and (ii) the Bond Resolution.

Concurrently with the issuance of the Prior Bonds, the Borrower entered into a Loan Agreement with the Issuer under which the Issuer lent the Borrower \$21,025,000.00 of which \$17,090,534.03 (the "Loan") was provided from the Proceeds of the Prior Bonds and the balance of which was provided from available monies in the Issuer's Transportation Revolving Loan Fund (the "Revolving Fund"). Thus, the initial principal amount of the Loan exceeded the principal amount of the Prior Bonds and will continue to exceed the principal amount of the Bonds. However, the interest rate on the Loan is a rate which is approximately 1.5% less than the true interest cost of the Prior Bonds and the Bonds, reflecting an interest rate subsidy to the Borrower.

Section 5.02. Statement as to Facts and Estimates. On the basis of the facts and estimates in existence on the date hereof, to the best of the knowledge and belief of the undersigned officer of the Issuer, and the undersigned officers of the Borrower, the representations and statements set forth in this Article V of this Tax Exemption Agreement are true and correct as of the date hereof. In rendering the representations and statements set forth in Article V of this Tax Exemption Agreement, the Issuer has relied upon the representations and certifications made by the Borrower in this Tax Exemption Agreement. In addition, both the Issuer and the Borrower have relied upon the certifications contained in the Certificate of the Underwriters (attached hereto as Exhibit A) and the Certificate of the Financial Advisor (attached hereto as Exhibit B).

Section 5.03. Application of Sale Proceeds and Other Amounts. The Issuer makes the following representations:

(a) **Sale Proceeds and Equity Contribution.** The amount of Sale Proceeds of the Bonds received by the Issuer from the sale of the Bonds (principal amount of \$2,945,000.00 plus original issue premium of \$81,298.75 less Underwriter's discount of

\$21,428.42) is \$3,004,870.33. Simultaneously, upon receipt of the Bond Proceeds, the Issuer will deposit in the funds described below \$11,637.05 from existing Issuer funds pledged to the payment of Prior Bonds.

(b) **Debt Service Fund.** An amount of Net Proceeds equal to \$2,969,245.64 of the Bonds will be deposited to the Debt Service Fund established under the Prior Resolution and used to pay the registered owners of the Outstanding Prior Bonds on November 19, 2010.

(c) **Loan Account.** No amount of Sale Proceeds will be deposited into the Bond Proceeds subaccount of the Loan Account of the Prior Bonds.

(d) **Costs of Issuance.** An amount of Sale Proceeds of the Bonds equal to \$55,624.69 of the Bonds and an amount of existing Issuer funds pledged to the payment of Prior Funds in the amount of \$11,637.05 for an aggregate total of \$47,261.74 will be deposited in the Cost of Issuance Fund and used to pay the costs of issuance (exclusive of Underwriter's Fee) within 90 days of the date hereof. Any excess amounts after such date will be returned to the Issuer as an overpayment of Issuer funds.

(e) **Underwriter's Discount.** An amount of the Sale Proceeds equal to \$21,428.42 will be paid to the Underwriter on the date hereof.

Section 5.04. Investment Earnings. Any income earned on the investment of amounts deposited in the funds described above is to be transferred to the Revenue Fund as set forth in the Bond Resolution and will be available to pay debt service on the Bonds. The Issuer does not reasonably expect that investment earnings during the construction or acquisition period of the Project will exceed interest payable on the Bonds during such period. The Issuer has not funded any interest for such period from Sale Proceeds.

Section 5.05. No Overburdening the Market. The total of Sale Proceeds and Investment Proceeds is not expected to exceed the amount necessary for the purposes for which the Bonds are being issued. The Total Sale Proceeds and Investment Proceeds do not exceed the total cost of the Project.

Section 5.06. Allocation and Accounting Rules. The Issuer and the Borrower shall use a Consistently Applied Accounting Method to account for Gross Proceeds, Nonpurpose Investments and expenditures of the Bonds ("Overall Accounting Method"). The Issuer and the Borrower shall additionally use a reasonable Consistently Applied Accounting Method for allocating Proceeds of the Bonds to expenditures, subject to the Current Outlay of Cash rule. Reasonable accounting methods for allocating funds from different sources to expenditures for the same governmental purpose include a "specific tracing" method, a "gross-proceeds-spent-first" method, a "first-in-first-out" method or a ratable allocation method. The Issuer and/or the Borrower may use a different accounting method to account for a particular expenditure, provided that the use of a different method is for a *bona fide* purpose and is not an artifice or device to avoid or minimize rebate or private business use.

(a) **Choice of Accounting Methods.** The Issuer and the Borrower shall use the cash method of accounting as its Overall Accounting Method. The Issuer and the

Borrower shall use the specific tracing method to allocate Gross Proceeds to expenditures.

(b) **No Commingled Funds.** The Issuer and the Borrower shall not establish or maintain a Commingled Fund.

(c) **Books and Records.** The Issuer and the Borrower shall maintain books and records sufficient to establish the accounting method used and the allocation of Gross Proceeds to expenditures. The Issuer and the Borrower must retain records of the expenditures of Gross Proceeds until six years after the retirement of the last obligation of the Bonds or for such other period as the Treasury Department may, by regulations or rulings, provide.

(d) **Timing.** The Issuer and the Borrower shall account for the allocation of Gross Proceeds to expenditures not later than 18 months after the later of the date the expenditure is paid or the date the Project is placed in service. However, in no event may the allocation be made later than 60 days after the fifth anniversary of the Issue Date of the Bonds or the date 60 days after the retirement of the Bonds, if earlier.

Section 5.07. Flow of Funds and Accounting Methods. The Issuer represents that revenues derived from the Loan Agreement (excluding certain prepayments which are required to be directly deposited in the Redemption Fund) and investment earnings on all accounts allocable to the Bonds will be deposited in the Revenue Fund and will be applied in the following manner:

(a) To the Debt Service Fund, on or before each interest payment date (each March 1 and September 1, beginning on March 1, 2011) and each principal installment date (each March 1), an amount equal to the interest and principal due and payable on the Bonds on such interest payment date or principal installment date;

(b) Any Revenues received as prepayments of the Series 1999 Note shall be deposited to the Redemption Fund; and

(c) On each March 2, commencing on March 2, 2011, if no Event of Default exists, the Issuer may withdraw all amounts remaining in the Revenue Fund free and clear of the lien and pledge of the Bond Resolution and may use such monies for any permissible purpose. Upon withdrawal, such monies shall not be available for or pledged to the payment of the Bonds.

For purposes of accounting for the Revenue Fund, Debt Service Fund and the Redemption Fund, the Issuer hereby adopts the following reasonable accounting methods:

(1) Investment earnings derived from the investment of Sale Proceeds (and investment earnings thereon) of the Bonds deposited in any Fund (except the Rebate Fund) established under the Bond Resolution shall first be applied to pay the interest component of debt service on the Bonds to the extent thereof and second to be applied to pay principal on the Bonds to the extent thereof.

(2) Revenues from the Loan Agreement shall be allocated on a percentage basis, using the aggregate principal amount of the loan made from Net Proceeds as the numerator and using the aggregate principal amount of the loan as the denominator. Revenues derived from the Loan Agreement to the extent attributable to Proceeds (and investment earnings thereon) of the Bonds shall be applied to the extent thereof to the payment of debt service on the Bonds and any excess shall be deposited in the Redemption Fund.

(3) Revenues from the Loan Agreement attributable to Revolving Fund monies (i.e., a source other than proceeds of the Bonds); and investment earnings from the investment of such amounts, shall then be applied to the extent needed to pay debt service on the Bonds.

(4) For purposes of the foregoing flow of funds with respect to each source of funds, the Issuer will apply such funds on a first-in-first-out basis.

Section 5.08. Funds and Accounts. Except for the Revenue Fund, the Debt Service Fund, and the Redemption Fund, neither the Issuer nor the Borrower has created or established, and does not expect to create or establish, any fund or account in connection with the Bonds that is reasonably expected to be used to pay debt service on the Bonds.

(a) **Revenue Fund.** Pursuant to the Bond Resolution, all Revenues are deposited to the Revenue Fund and (1) are transferred to the Debt Service Fund, as necessary for payments of principal and interest on the Bonds; (2) are transferred to the Redemption Fund to the extent Revenues are received as prepayment; and (3) are withdrawn on March 2 of each year. The Revenue Fund will be used primarily to achieve a proper matching of revenue and principal and interest payments on the Bonds within each Bond year and will be depleted at least annually on or about March 2. Monies deposited in the Revenue Fund to extent used for payment of debt service on the Bonds will be used within 13 months of deposit therein.

(b) **Debt Service Fund.** Pursuant to the Bond Resolution, the Issuer must apply monies on deposit in the Debt Service Fund for the purpose of paying interest on, principal of and the redemption price of the Bonds. The Debt Service Fund is a bona fide debt service fund which will be used primarily to achieve a proper matching of revenues and debt service within each Bond Year and is expected to be depleted at least once a year except for a carryover amount not to exceed the greater of 1/12 of annual debt service on the Bonds for the immediately preceding Bond Year or earnings on amounts in such funds for the immediately preceding Bond Year. Amounts deposited in the Revenue Fund for the purpose of paying interest on, principal of and the redemption price of the Bonds will be used to pay debt service on the Bonds within a 12 month period beginning on the date of deposit therein, and any income earned from the investment of such amounts will be credited to the Revenue Fund and is expected to be used for the purposes thereof within one year from date of receipt.

(c) **Intentionally Omitted.**

(d) **Cost of Issuance Account.** The Issuer shall use the amount deposited to the Cost of Issuance Fund from the Sale Proceeds of the Bonds and from existing Authority funds to the payment of the Prior Bonds to pay Costs of Issuance on the Bonds.

(e) **Rebate Fund.** Pursuant to the Bond Resolution, amounts on deposit in the Rebate Fund are not pledged to the payment of the Bonds and may only be used to make payments to the United States of America.

Section 5.09. No Other Funds. Other than the funds or accounts specifically described in this Article V, no fund or account which secures or otherwise relates to the Bonds has been established, nor are any funds or accounts expected to be established, pursuant to the Bond Resolution.

Section 5.10. Single Issue. Other than the Series 1999 Note, there are no other obligations which (i) will be paid out of substantially the same source of funds as the Bonds, (ii) are being sold at substantially the same time as the Bonds (*i.e.*, less than 15 days apart), and (iii) are being sold pursuant to the same plan of financing with the Bonds.

Section 5.11. No Replacement. No portion of the amounts received or deemed received from the sale of the Bonds will be used as a substitute for other funds which were otherwise to be used as a source of financing for the Bonds, and which have been or will be used to acquire, directly or indirectly, obligations producing a yield materially higher than the yield on the Bonds. In addition, there are no obligations pledged (directly or indirectly), other than as described herein, as security for the payment of debt service on the Bonds for which there is a reasonable assurance that the amounts will be available for the payment of debt service on the Bonds in the event that the Issuer encounters financial difficulties. There are no "other replacement proceeds" within the meaning of Regulations Section 1.148-1(c)(4).

Section 5.12. Intentionally Omitted.

Section 5.13. Expectations Regarding Yield Limitations. The Issuer makes the following representations and covenants:

(a) **Debt Service Fund.** Revenues periodically deposited in and held in the Debt Service Fund which are expected to be used for the payment of the principal or redemption price of and interest on the Bonds will be invested without regard to yield restriction. Any amounts deposited in the Debt Service Fund for the purpose of redeeming Bonds which are expected to be used to redeem Bonds within 13 months of receipt (which receipt is in the Revenue Account initially) may be invested at an unrestricted yield. Any amounts deposited for the purpose of redeeming Bonds not expended within 13 months shall be invested at a yield not in excess of the Bond Yield plus one-thousandth (1/1000) of one percentage point, except to the extent such amounts are within the minor portion.

(b) **Cost of Issuance Fund.** The amounts deposited for payment of costs of issuance of the Bonds may be invested without regard to yield restriction until three years from the date hereof and thereafter at a yield not materially higher (1/8 of one percentage point) than the Bond Yield, except to the extent such amounts are within the minor

portion or unless the requirements of Regulations Section 1.148-5(c) are met with respect to yield reduction payments.

(c) **Intentionally Omitted.**

(d) **Rebate Fund.** Amounts deposited in the Rebate Fund are, or will be treated as, Gross Proceeds of the Bonds, and will be invested at an unrestricted yield for a temporary period of 30 days and thereafter at a yield not materially higher than the yield on the Bonds, except to the extent such amounts are within the minor portion or unless the requirements of Regulations Section 1.148-5(c) are met with respect to yield reduction payments.

(e) **Intentionally Omitted.**

(f) **Intentionally Omitted.**

(g) **Revenue Fund.** Amounts in the Revenue Fund may be invested at an unrestricted yield for a temporary period of 30 days, and otherwise may be invested at an unrestricted yield if and to the extent and for the period identified above for the fund to which such amounts are transferred in accordance with the Bond Resolution. Amounts withdrawn from, or to be withdrawn from, the Revenue Fund free and clear of the Bond Resolution are not Gross Proceeds of the Bonds and are not subject to yield restriction.

(h) **Reinvestment of Investment Earnings – Allocable to Sale Proceeds.** Investment earnings on Nonpurpose Investments allocable to Sale Proceeds (or earnings thereon) in the Cost of Issuance Fund or Debt Service Fund may be reinvested without regard to yield restriction until three years from the date hereof. In addition, such earnings may be reinvested without regard to yield restriction for the period ending one year from the date of receipt and thereafter may be reinvested at not more than the Bond Yield plus one-eighth of one percentage point, except to the extent such amounts are within the minor portion or unless the requirements of Regulations Section 1.148-5(c) are met with respect to yield reduction payments.

(i) **Minor Portion.** Gross Proceeds may be invested at an unrestricted yield as part of a minor portion which is not in excess of \$100,000. The Gross Proceeds utilizing this minor portion may be in any one or more accounts for any length of time.

(j) **Thirty-Day Temporary Period.** Gross Proceeds not otherwise eligible for a temporary period described above qualify for a temporary period of 30 days beginning on the date of receipt, during which temporary period they may be invested at an unrestricted yield.

Section 5.14. No Sale of Financed Project. The Borrower will not sell, encumber or otherwise dispose of any property comprising the Project financed by the Prior Bonds prior to the final maturity date of the Bonds (except such parts or portions thereof that may be disposed of due to normal wear, obsolescence or depreciation) without a written opinion of nationally recognized bond counsel to the effect that any such disposition will not adversely affect the exclusion of interest on the Bonds from gross income for federal income tax purposes.

Section 5.15. Program Investments. The Loan which becomes Transferred Proceeds of the Bonds were made with the Proceeds of the Prior Bonds. The Issuer has determined that the portion of the Loan to the Borrower funded with Proceeds of the Bonds (the "Bond Financed Portion") is part of a program meeting the requirements necessary for "Program Investments" (within the meaning of Reg. § 1.148-1(b)) in that: (a) the Program involves the acquisition by the Authority of obligations of the Borrower and others which are investments acquired by the Authority to carry out the governmental purpose of the Bonds and; (b) at least 95% of the cost of the Bond Financed Portion of the Loan are obligations of the Borrower; (c) at least 95% of the amounts received by the Authority with respect to the Bond Financed Portion of the Loan will be used to pay principal, interest or redemption prices on the Bonds, to make additional loans or to reimburse or to pay for administrative costs of issuing the Bonds or administrative costs directly related to the Program; (d) the Program documents prohibit any obligor on a loan or any related party from purchasing any Bonds in an amount related to the amount of the loan acquired from the obligor; and (e) the Issuer has not waived the right to treat the Loan as a "program investment." The Issuer may sell the Loan from time to time to pay any shortfalls in debt service, to raise additional monies for the Program, or to retire or defease the Bonds. The yield on the loan to the Borrower will not exceed the Yield of the Bonds by more than one and one-half percent (1-1/2%), as further set forth in Section 5.16.

Section 5.16. Loan Agreement. Based upon representations of the Underwriter set forth in Exhibit A and the Financial Adviser set forth in Exhibit B attached hereto, the yield to the Issuer from the Loan Agreement (the "Program Investment"), exclusive of Qualified Administrative Costs such as costs of issuance of the Bonds, will not exceed the yield on the Bonds by more than one and one-half percent (1-1/2%). The yield on the Program Investment is that yield which, when used in computing the present worth of all payments (exclusive of payments of Qualified Administrative Costs) to be paid on the Loan Agreement, produces an amount equal to its purchase price (based upon semi-annual compounding, a 360-day year and monthly payments received under the Program Investment treated as received semi-annually). The purchase price of the Program Investment is substantially higher than the issue price of the Prior Bonds and the Bonds because amounts other than Proceeds of the Prior Bonds and the Bonds are loaned to the Borrower.

Section 5.17. Rebate Calculation and Payment. The Issuer has covenanted in Article IX of this Tax Exemption Agreement and in Section 4.12 of the Bond Resolution to pay or cause to be paid to the United States Treasury at the times and in the amounts determined under Section 4.12 of the Bond Resolution, the Rebate Amount and Yield Reduction Amounts as described in this Tax Exemption Agreement. In its authorizing resolution relating to the Series 1999 Note, the Borrower has covenanted to comply with the rebate requirements of the Code relating to the Series 1999 Note, if any and will make the necessary calculations and payments with respect to the Prior Bonds on November 19, 2010, the Final Computation Date under the Prior Resolution.

Section 5.18. No Abusive Arbitrage Device; Intentional Acts. The Bonds are not and will not be part of a transaction or series of transactions that attempts to circumvent the provisions of Section 148 of the Code and the Regulations thereunder (i) enabling the Issuer or the Borrower to exploit the difference between tax-exempt and taxable interest rates to obtain a material financial advantage and (ii) overburdening the tax-exempt bond market. Neither the

Issuer nor the Borrower shall intentionally use any portion of the Proceeds of the Bonds to acquire higher yield investments or to replace funds which were used, directly or indirectly, to acquire higher yielding investments except as otherwise described herein. The Issuer and Borrower will not take any intentional actions to earn arbitrage if that action, had it been reasonably expected on the Issue Date, would have caused the Bonds to be arbitrage bonds.

Section 5.19. General Arbitrage Matters. The Bonds are a refunding issue. The Bonds are not a multipurpose issue. The Borrower is a conduit borrower which is treated as the issuer of the Bonds for certain purposes. There is no qualified guaranty or qualified hedge relating to the Bonds. The Issuer does not waive the right to invest in higher yield investments during any temporary period or as to a reasonably required reserve or replacement fund or as to a minor portion. The loan evidenced by the Loan Agreement is a purpose investment. In lieu of investing monies at a yield not in excess of the Bonds, investments may be made in certain tax-exempt bonds, being bonds the interest on which is excluded from gross income under Section 103(a) of the Code and is not subject to the federal alternative minimum tax as a preference item.

ARTICLE VI

REPRESENTATIONS AND REASONABLE EXPECTATIONS OF THE BORROWER

Section 6.01. Statement as to Facts and Estimates. On the basis of the facts and estimates in existence on the date hereof, to the best of the knowledge and belief of the undersigned officer of the Borrower, the representations and statements set forth in this Article VI of this Tax Exemption Agreement are true and correct as of the date hereof. The Borrower has relied upon the certifications contained in the Certificate of the Underwriters (attached hereto as Exhibit A) and the Certificate of the Financial Advisor (attached hereto as Exhibit B).

Section 6.02. Calculation of Rebate and Yield Reduction Amounts. Section 148(f) of the Code requires the payment to the United States of the excess of the amount earned on the investment of Gross Proceeds in Nonpurpose Investments over the amount that would have been earned on such investments had the amount so invested been invested at a rate equal to the Bond Yield on the Bonds, together with any income attributable to such excess. In addition, the Regulations permit the payment of Yield Reduction Amounts to achieve yield restriction under certain circumstances. Except as provided below in Section 6.03, all amounts treated as Gross Proceeds are subject to the Rebate Requirement and the payment of Yield Reduction Amounts, if necessary. In order to meet the Rebate Requirement of Section 148(f), the Borrower agrees and covenants to take the following actions:

(a) Within 45 days after each Installment Computation Date and the Final Computation Date, the Issuer shall cause the Financial Consultant to prepare a calculation of the Rebate Amount, and Yield Reduction Amount, if any, as of such Installment Computation Date or Final Computation Date, and shall transfer funds, sufficient to increase the amount in the Rebate Fund to the Rebate Amount and/or the Yield Reduction Amount, if any.

(b) The Issuer shall comply with the requirements of Section 148(f), including payments of Yield Reduction Amounts and payments of rebate installments (in amounts which, when added to the future values as of such Installment Computation Date, of previous rebate payments equal at least 90% of the Rebate Amount, exclusive of Yield Reduction Amounts) within 60 days after each Installment Computation Date and payment of the final rebate payment within 60 days after the Final Computation Date. The Issuer shall prepare, execute and deliver the Internal Revenue Service Form 8038-T, as appropriate.

(c) For each Installment Computation Date or Final Computation Date, the Financial Consultant shall calculate the Rebate Amount and Yield Reduction Amount, if any, by any appropriate method described in the Code and Regulations applicable to the Bonds. In addition, where Nonpurpose Investments are retained by the Borrower after the Final Computation Date any unrealized gains or losses as of the Final Computation Date of the Bonds must be taken into account in calculating earnings on Nonpurpose Investments to the extent required by the Regulations.

Section 6.03. Rebate Exceptions. Notwithstanding anything in Article VI to the contrary, if the gross earnings from the investments held in the Revenue Fund, Debt Service Fund and Redemption Fund (to the extent the monies therein perform as a bona fide debt service fund as described in Section 5.08(c)) for the Bond Year in question that are attributable to Nonpurpose Investments, are less than \$100,000 then an amount earned on the investments held in the Debt Service Fund shall not be taken into account in determining the Rebate Amount. For purposes of this Section 6.03, the term "gross earnings" means the aggregate amount earned on the Nonpurpose Investments allocated to the Gross Proceeds of the Bonds that are credited to the Revenue Fund, including amounts earned on such amounts.

The Bonds are not entitled to the small issuer exception to rebate.

The Issuer and Borrower do not expect to meet any of the spending exceptions to rebate, being the six-month rule, the 18-month rule and the 2-year rule applicable to construction issues. If despite this expectation a spending exception to rebate is met, the Borrower and Issuer will take advantage of the exception.

Section 6.04. Financial Consultant.

(a) The Issuer shall engage a Financial Consultant to calculate the Rebate Amount and Yield Reduction Amount, if any, in respect of the Bonds under Section 148(f) of the Code. The Financial Consultant must be experienced in calculations of Rebate Amount and must be acceptable to the Issuer. The Issuer shall not be required to engage a Financial Consultant if it establishes that the Bonds are exempt from arbitrage rebate, in accordance with the exemption provisions of Section 148(f).

(b) The Financial Consultant may at any time resign and be discharged of the duties and obligations created by this Tax Exemption Agreement by giving notice to the Issuer. The Financial Consultant may be removed at any time by an instrument signed by

the Issuer. The Issuer shall, upon the resignation or removal of the Financial Consultant appoint a successor Financial Consultant.

(c) Each successor Financial Consultant appointed pursuant to this Section shall be either a firm of independent accountants or another entity experienced in calculating rebate payments required by Section 148(f) of the Code. The charges and fees for such Financial Consultant shall be paid by the Issuer upon presentation of an invoice for services rendered in connection therewith (subject to the obligation, if any, of the Borrower in the Loan Agreement to reimburse the Issuer for such payments).

(d) The Issuer may, by notice in writing to the Financial Consultant, determine to discharge the Financial Consultant from its duties hereunder, and to make the calculations of the Rebate Amount and Yield Reduction Amount, if any, itself.

ARTICLE VII

ISSUER'S ACTIONS

Section 7.01. Form 8038-G. Form 8038-G of the Internal Revenue Service has been completed by the Issuer in substantially the form attached hereto as Exhibit C. The Form 8038-G has been reviewed and executed by an authorized officer of the Issuer and will be sent to the Secretary of the Treasury by certified mail on the date hereof.

ARTICLE VIII

INVESTMENT LIMITATIONS FOR THE GROSS PROCEEDS OF THE BONDS

Section 8.01. Generally. Neither the Issuer nor the Borrower will make any investment in Investment Property acquired with Gross Proceeds that is inconsistent with its expectations set forth in Articles V and VI hereof. The following provisions are from the Code and Regulations as they exist on the Issue Date of the Bonds. The Issuer has been advised that the Code may change from time to time, and that Regulations may be amended or revised and promulgated with a retroactive effective date. The Issuer will make investments at fair market value, or pursuant to the rules set forth below that establish safe harbors with respect to fair market value.

Section 8.02. Federal Guaranty. The Borrower represents that no portion of the Proceeds of the Bonds will be invested, directly or indirectly by the Borrower, in a manner which would cause the Bonds to be federally guaranteed within the meaning of Section 149(b) of the Code. The pledged use by the Borrower of federal grants received in reimbursement for a portion of the cost of the Project to pay the Series 1999 Note, and from such Borrower's payments by the Issuer to pay the Bonds, does not cause the Bonds or the Series 1999 Note to be federally guaranteed.

Section 8.03. Non-Market Investments. The Issuer represents that the investment of Gross Proceeds of the Bonds in investments that are not of a type traded on an established securities market, within the meaning of Section 1273 of the Code, shall be made in accordance with the following limitations and safe harbors:

(a) No investment shall be part of an arrangement to pay to a party other than the United States, an amount that is required to be paid to the United States, by entering into a transaction that reduces the Rebate Amount.

(b) If any Gross Proceeds of the Bonds are or will be invested in a certificate of deposit that has a fixed interest rate, a fixed payment schedule, and a substantial penalty for early withdrawal, then the purchase price of the certificate of deposit shall be its fair market value if:

(1) the yield on the certificate of deposit is not less than the yield on reasonably comparable direct obligations of the United States; and

(2) either:

(i) the yield on the certificate of deposit is not less than the highest yield that is published or posted by the provider to be currently available from the provider on comparable certificates of deposit offered to the public; or

(ii) the Issuer follows a bidding procedure in which (A) it makes *bona fide* solicitations for a specified certificate of deposit and receives at least three qualifying bids from providers that have no material financial interest in the issue; (B) it purchases the highest yielding certificate of deposit for which a qualifying bid is made; and (C) the yield on the certificate of deposit is not less than the yield then currently available from the provider on comparable certificates of deposit offered to other persons from a source of funds other than Gross Proceeds of an issue of tax-exempt bonds.

(c) If any Gross Proceeds are or will be invested in Nonpurpose Investments pursuant to an investment agreement that has specifically negotiated withdrawal or reinvestment provisions and a specifically negotiated interest rate or in a forward supply contract to supply investments on two or more future dates (a "Guaranteed Investment Contract") then the purchase price of the Investment shall be its fair market value if the following requirements are satisfied:

(1) The Issuer makes a Bona Fide Solicitation for the Guaranteed Investment Contract. A solicitation is *bona fide* if the following requirements are met:

(i) The bid specifications are in writing and are timely forwarded to potential providers.

(ii) The bid specifications include all material terms of the bid. A term is material if it may directly or indirectly affect the yield or the cost of the investment.

(iii) The bid specifications include a statement notifying potential providers that submission of a bid is a representation that the potential provider did not consult with any other potential provider about its bid, that the bid was determined without regard to any other formal or informal agreement that the potential provider has with the Issuer or any other person (whether or not in connection with the bond issue), and that the bid is not being submitted solely as a courtesy to the Issuer or any other person for purposes of satisfying the requirements of Regulation section 1.148-5(d)(6)(iii)(B)(1) or (2).

(iv) The terms of the bid specifications are commercially reasonable. A term is commercially reasonable if there is a legitimate business purpose for the term other than to increase the purchase price or reduce the yield of the investment.

(v) The terms of the solicitation take into account the Issuer's reasonably expected deposit and drawdown schedule for the amounts to be invested.

(vi) All potential providers have an equal opportunity to bid and no potential provider is given the opportunity to review other bids before providing a bid.

(vii) At least three Reasonably Competitive Providers are solicited for bids. A Reasonably Competitive Provider is a provider that has an established industry reputation as a competitive provider of the type of investments being purchased.

(2) The bids received by the Issuer meet all of the following requirements:

(i) The Issuer receives at least three bids from providers that the Issuer solicited under a Bona Fide Solicitation that do not have a material financial interest in the issue. A lead underwriter in a negotiated underwriting transaction is deemed to have a material financial interest in the issue until 15 days after the issue date of the issue. In addition, any entity acting as a financial advisor with respect to the purchase of the investment at the time the bid specifications are forwarded to potential providers has a material financial interest in the issue. A provider that is a related party to a provider that has a material financial interest in the issue is deemed to have a material financial interest in the issue.

(ii) At least one of the three bids received is from a Reasonably Competitive Provider.

- (iii) If the Issuer uses an agent to conduct the bidding process, the agent did not bid to provide the investment.
- (3) The winning bid is the highest yielding *bona fide* bid (determined net of any broker's fees).
- (4) The obligor on the Guaranteed Investment Contract certifies the administrative costs that it pays (or expects to pay, if any) to third parties in connection with supplying the investment.
- (5) The Issuer retains the following records with the bond documents until three years after the last outstanding bond is redeemed:
- (i) A copy of the contract.
- (ii) The receipt or other record of the amount actually paid by the Issuer for the investments, including a record of any administrative costs paid by the Issuer, and the certification that such administrative costs were paid to third parties in connection with supplying the investment.
- (iii) For each bid that is submitted, the name of the person and entity submitting the bid, the time and date of the bid and the bid results.
- (iv) The bid solicitation form and, if the terms of the purchase agreement or the Guaranteed Investment Contract deviated from the bid solicitation form or a submitted bid is modified, a brief statement explaining the deviation and stating the purpose for the deviation. For example, if the Issuer purchases a portfolio of investments for a yield restricted defeasance escrow and, in order to satisfy the yield restriction requirements of section 148, an investment in the winning bid is replaced with an investment with a lower yield, the Issuer must retain a record of the substitution and how the price of the substitute investment was determined. If the Issuer replaces an investment in the winning bid portfolio with another investment, the purchase price of the new investment is not covered by the safe harbor unless the investment is bid under a bidding procedure meeting the requirements of set out in this Article VIII.

ARTICLE IX

MISCELLANEOUS

Section 9.01. Recordkeeping Obligation. The Issuer and the Borrower must retain or cause to be retained records of the determination required by Section 6.02 until six years after the retirement of the last obligations of the Bonds or for such other period as the Treasury

Department may, by regulations or rulings, provide. For purposes of compliance with this requirement, the Issuer shall keep the records with respect to Nonpurpose Investments held by the Issuer. Such records must include, but are not necessarily limited to, information regarding the following with respect to each and every Nonpurpose Investment:

- (1) the purchase price;
- (2) nominal rate of interest;
- (3) amount of accrued interest purchased (included in purchase price);
- (4) par or face amount;
- (5) purchase date;
- (6) maturity date;
- (7) amount of original issue discount or premium (if any);
- (8) type of Investment Property;
- (9) frequency of periodic payments;
- (10) period of compounding;
- (11) yield to maturity;
- (12) date of disposition;
- (13) all receipts with respect to such Investment Property;
- (14) any brokerage commissions or similar fees;
- (15) amount realized on the disposition (including accrued interest); and
- (16) market price data sufficient to establish that the purchase price was equal to the fair market value on the date of acquisition or, if earlier, on the date of a binding contract to acquire such Investment Property. For instance, it would be sufficient for the Issuer when purchasing a Treasury Bill to record: that it had received three independent, arm's-length bids; the bidders; the bids themselves; and that the Borrower had chosen the lowest bid. In the case of a Guaranteed Investment Contract, Issuer shall retain the records described in section 8.03(c)(5) of this Tax Exemption Agreement.

Section 9.02. Rebate Fund.

- (a) The Issuer shall establish and thereafter maintain a Rebate Fund, so long as any Bonds are outstanding, which shall be held separate and apart from all other

monies of the Issuer. Monies in the Rebate Fund are neither pledged to nor available to be used to pay debt service on the Bonds.

(b) The Issuer shall deposit into the Rebate Fund such amounts as are required to be deposited therein pursuant to this Tax Exemption Agreement, the Bond Resolution and the Loan Agreement. Subject to the transfer provisions provided in paragraph (f) below, all money at any time deposited into the Rebate Fund shall be held by the Issuer in trust, to the extent required to satisfy the Rebate Fund, for payment to the United States Treasury, and neither the Issuer, the Borrower, nor the owner of any Bonds shall have any rights in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section, the Bond Resolution and by the Loan Agreement.

(c) The Issuer shall direct amounts in any fund or account created by the Bond Resolution to be transferred into the Rebate Fund if and to the extent required by this Tax Exemption Agreement. Computations of the Rebate Fund shall be furnished by or on behalf of the Issuer in accordance with this Tax Exemption Agreement.

(d) The Issuer shall have no obligation to rebate any amounts required to be rebated pursuant to this Section 9.02, other than from Revenue or from other monies provided to it by the Borrower.

(e) The Issuer shall invest all amounts held in the Rebate Fund, subject to the restrictions set forth in this Tax Exemption Agreement. All earnings on investments in the Rebate Fund shall be retained in the Rebate Fund. Money shall not be transferred from the Rebate Fund except as provided in paragraph (f) below.

(f) The Issuer shall remit part or all of the balances in the Rebate Fund to the United States Treasury, as required to preserve excludability from gross income for Federal income tax purposes, of interest paid on the Bonds. In addition, the Issuer may transfer monies into or transfer monies out of the Rebate Fund from or into such accounts or funds provided that the amount transferred shall not exceed the excess of the amount on deposit in the Rebate Fund over the rebate liability less amounts previously paid to the U.S. Treasury as rebate with respect to the Bonds. Any funds remaining in the Rebate Fund after redemption and payment of all of the Bonds, and payment and satisfaction of any Rebate Fund, or provisions made therefor satisfactory to the Issuer, shall be withdrawn and remitted to the Issuer.

Section 9.03. Limited Liability of Issuer. The liability of the Issuer hereunder shall be limited to the same extent as set forth in the Bonds and the Bond Resolution.

Section 9.04. Amendment. In order to comply with the covenants in the Bond Resolution and the Loan Agreement regarding compliance with the requirements of the Code and the exclusion from federal income taxation of the interest paid and to be paid on the Bonds, the procedures set forth in the provisions of this Tax Exemption Agreement may be modified as necessary, based on the advice of nationally recognized bond counsel, to comply with such rulings, regulations, legislation or judicial decisions as may be applicable to the Bonds.

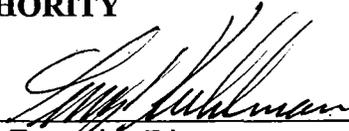
Section 9.05. Reliance. The representations, warranties and covenants of the Borrower and the Issuer contained in this Tax Exemption Agreement are made for the benefit of the Issuer, the Bondholders and Bond Counsel.

Section 9.06. Counterparts. This Tax Exemption Agreement may be executed in multiple counterparts, each of which shall be regarded for all purposes as an original, and such counterparts shall constitute but one and the same instrument. All headings herein and the Table of Contents hereof are for convenience of reference only and shall not affect the interpretation of any provision hereof.

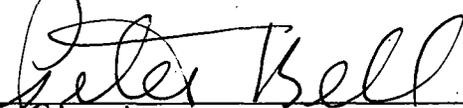
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IN WITNESS WHEREOF, we have hereunto set our hands to this Tax Exemption Agreement this 18th day of November, 2010.

**MINNESOTA PUBLIC FACILITIES
AUTHORITY**

By: 
Title: Executive Director

THE METROPOLITAN COUNCIL

By: 
Title: Chair

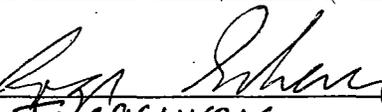
By: 
Title: Treasurer

EXHIBIT A
CERTIFICATE OF THE UNDERWRITERS

ISSUE PRICE CERTIFICATE

November 18, 2010

Minnesota Public Facilities Authority
First National Bank Building, Suite E-200
332 Minnesota Street
St. Paul, Minnesota 55101

Briggs and Morgan
Professional Association
2400 IDS Center
Minneapolis, Minnesota 55402

Re: Minnesota Public Facilities Authority Transportation Revenue Refunding
Bonds, Series 2010-T1 (Metropolitan Council Project)

Ladies and Gentlemen:

We have served as underwriter in connection with the sale by the Minnesota Public Facilities Authority ("Authority") and the purchase by the underwriter of \$2,945,000 aggregate principal amount of Minnesota Public Facilities Authority, Transportation Revenue Refunding Bonds, Series 2010-T1 Bonds (Metropolitan Council Project) ("Series 2010-T1 Bonds") as a result of being the winning bidder for the Series 2010-T1 Bonds. Based upon our records and other information available to us which we have no reason to believe to be incorrect, we hereby certify as follows:

1. (i) Each maturity of the Series 2010-T1 Bonds has been the subject of a *bona fide* initial offering to the public (excluding bond houses, brokers, or similar person or organizations acting in the capacity of underwriters or wholesalers) at the respective initial public offering prices set forth in the Official Statement relating to the Series 2010-T1 Bonds ("Official Statement").

(ii) At least 10% of the principal amount of each maturity of the Series 2010-T1 Bonds was sold to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at the respective initial offering prices or yields set forth in the Official Statement, except for the Series 2010-T1 Bonds maturing in the years 2015, 2016, 2017, 2018, 2019, and 2020.

(iii) At the time we submitted our Bid, based upon then prevailing market conditions, we reasonably expected to sell at least 10% of each maturity of Series 2010-T2 Bonds to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) at the respective initial offering prices or yields set forth in the Official Statement and the initial offering price of each maturity of the Series 2010-

T1 Bonds to the public (excluding bond houses, brokers or similar persons or organizations acting in the capacity of underwriters or wholesalers) represented their fair market value.

2. The aggregate offering price of the Series 2010-T1 Bonds based on the initial offering prices or yields to the public set forth in the Official Statement for the Series 2010-T2 Bonds is \$3,026,295.75.

We understand that the representations contained herein may be relied upon by the Authority in making certain of the representations contained in the Tax Compliance Certificate executed by the Authority in connection with the issuance of the Series 2010-T1 Bonds, and we further understand that Briggs and Morgan, Professional Association, Bond Counsel to the Authority, may rely upon this certificate, among other things, in providing an opinion with respect to the exclusion from gross income of the interest on the Series 2010-T1 Bonds pursuant to Section 103 of the Internal Revenue Code of 1986, as amended, provided, however, that nothing herein represents the interpretation by the undersigned of any rules or laws under the Code and no assurance can be given by the undersigned that the representations made hereunder are sufficient for any legal purpose.

Very truly yours,

Piper Jaffray & Co.,
as Underwriter

By:


Authorized Officer

EXHIBIT B
CERTIFICATE OF THE FINANCIAL ADVISOR

CERTIFICATE OF FINANCIAL ADVISOR

November 18, 2010

Minnesota Public Facilities Authority
Department of Employment and Economic Development
First National Bank Building, Suite E200
332 Minnesota Street
St. Paul, MN 55101

Briggs and Morgan, P.A.
2200 IDS Center
80 South Eighth Street
Minneapolis, MN 55402

**Re: Minnesota Public Facilities Authority Transportation Revenue Refunding
Bonds, Series 2010-T1 (The Metropolitan Council)**

Ladies and Gentlemen:

The undersigned, financial advisor to the Minnesota Public Facilities Authority ("Authority") with respect to the above-captioned bonds ("Series 2010-T1 Bonds"), hereby represents as follows:

1. We have reviewed the Tax Exemption Agreement and Certificate executed by the Authority on the date hereof;
2. None of the Series 2010-T1 Bonds (a) are subject to optional redemption within five years of the date hereof, (b) are issued at an issue price that exceeds the stated redemption price at maturity by more than one-fourth of one percent (.25%) multiplied by the product of the stated redemption price at maturity and the number of complete years to the first optional redemption date of the bond, or (c) bears interest at increasing interest rates (*i.e.*, a stepped coupon bond). Accordingly, the yield on the Series 2010-T1 Bonds is not subject to the special yield calculation rule contained in Reg. § 1.148-4(b)(3) relating to assumed optional redemptions of bonds producing the lowest yield on the issue.
3. The Series 2010-T1 Bonds do not include any bond which is subject to expected contingent early redemption. For this purpose contingent early redemption includes redemption

using certain excess revenues, in the event such revenues are available, but does not include excess proceeds calls, calamity calls and refundings.

4. The Arbitrage Yield on the Series 2010-T1 Bonds is 1.826315%, or that percentage which when used in computing the present worth of all payments of principal of (taking into account the adjustments pursuant to paragraph 2 above) and interest on the Series 2010-T1 Bonds produces an amount equal to the purchase price of the Series 2010-T1 Bonds of \$3,026,298.75. For purposes hereof, the Arbitrage Yield on the Series 2010-T1 Bonds has been calculated on a 360-day basis with interest compounded semi-annually.

5. The true interest cost of the Series 2010-T1 Bonds, as calculated by us, is 1.981895% per annum, which is less than the 5.00% per annum true interest cost limit set forth in the Authority's Series 2010 Bond Resolution, Resolution 10-15, with respect to the issuance of the Series 2010-T1 Bonds.

Very truly yours,

PUBLIC FINANCIAL MANAGEMENT, INC.

By: 
Lisa L. Daniel, Managing Director

EXHIBIT C
FORM 8038-G

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name Minnesota Public Facilities Authority		2 Issuer's employer identification number (EIN) 41 ; 6007162
3 Number and street (or P.O. box if mail is not delivered to street address) First National Bank Building, 332 Minnesota Street	Room/suite 200-E	4 Report number (For IRS Use Only) 3
5 City, town, or post office, state, and ZIP code Saint Paul, Minnesota 55101		6 Date of issue 11-18-2010
7 Name of issue Transportation Revenue Refunding Bonds, Series 2010-T1 (The Metropolitan Council Project))		8 CUSIP number 604112 DG4
9 Name and title of officer of the issuer or other person whom the IRS may call for more information Terry Kuhlman, Executive Director		10 Telephone number of officer or other person (651) 259-7468

Part II Type of Issue (enter the issue price) See instructions and attach schedule		
11 Education		
12 Health and hospital		
13 Transportation	3,026,299	00
14 Public safety		
15 Environment (including sewage bonds)		
16 Housing		
17 Utilities		
18 Other. Describe ►		
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	03/01/2020	\$ 3,026,299	\$ 2,945,000	4.9198 years	1.826315 %

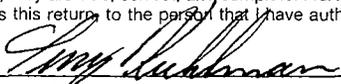
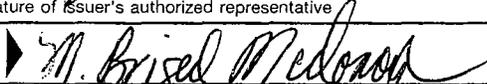
Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)				
22	Proceeds used for accrued interest			0 00
23	Issue price of entire issue (enter amount from line 21, column (b))			3,026,299 00
24	Proceeds used for bond issuance costs (including underwriters' discount)	57,053	00	
25	Proceeds used for credit enhancement	0	00	
26	Proceeds allocated to reasonably required reserve or replacement fund	0	00	
27	Proceeds used to currently refund prior issues	2,969,246	00	
28	Proceeds used to advance refund prior issues	0	00	
29	Total (add lines 24 through 28)			3,026,299 00
30	Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)			0 00

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	5.012 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)	11/19/2010
34	Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	3/18/1999

For Privacy Act and Paperwork Reduction Act Notice, see separate instructions. Cat. No. 63773S Form **8038-G** (Rev. 5-2010)

Part VI Miscellaneous

35	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)	35	0	00
36a	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC) (see instructions)	36a	0	00
b	Enter the final maturity date of the GIC ▶ _____			
37	Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units	37a		00
b	If this issue is a loan made from the proceeds of another tax-exempt issue, check box ▶ <input type="checkbox"/> and enter the name of the issuer ▶ _____ and the date of the issue ▶ _____			
38	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box ▶ <input type="checkbox"/>			
39	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box ▶ <input type="checkbox"/>			
40	If the issuer has identified a hedge, check box ▶ <input type="checkbox"/>			

Signature and Consent	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	 Signature of issuer's authorized representative	11/18/10 Date	Terry Kuhlman, Executive Director Type or print name and title	
Paid Preparer's Use Only	Preparer's signature ▶ 	Date 11/18/10	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN P01204262
	Firm's name (or yours if self-employed), address, and ZIP code ▶ Briggs & Morgan, P.A., 2200 IDS Center, 80 S. 8th St., Minneapolis, MN 55402	EIN 41	Phone no. (612) 977-8121	