

as expectations of the City and not as representations of fact. On the basis of such facts, estimates and circumstances, it is expected that the proceeds of the Parking Property Schedule will be used in a manner that would not cause the Parking Property Schedule to be considered an "arbitrage bond" within the meaning of Section 148 of the Code.

1.3. The following terms have the following meanings when used in this Certificate:

Bond Counsel shall mean nationally recognized municipal bond counsel selected by the City.

Bond Year shall mean each one-year period (or shorter period from the Closing Date) that ends at the close of business on each September 15 or, if the last Installment Payment owing under the Parking Property Schedule is not paid on a September 15, such shorter period from the last preceding September 15 to the date on which such last Installment Payment is made.

Closing Date shall mean October 28, 2011, the date of execution and delivery of the Parking Property Schedule.

Computation Date shall mean an installment computation date (the last day of the fifth and each succeeding fifth Bond Year) and the final computation date (the date the last Bond is discharged). If the Installment Payments owing under the Parking Property Schedule are paid when due, the installment computation dates for the Parking Property Schedule shall be September 15, 2016 and September 15, 2021, September 15, 2026 and the final computation date shall be October 28, 2026.

Construction Account shall mean the Construction Account created in the Escrow Fund established under the Escrow Agreement.

Escrow Agreement shall mean the Escrow Agreement referred to in the Parking Property Schedule, dated as of October 28, 2011, by and between the City and the Lessor, as amended or supplemented from time to time.

Escrow Fund shall mean the Escrow Fund established under the Escrow Agreement.

Gross Proceeds shall mean, with respect to the Parking Property Schedule, all proceeds of the Parking Property Schedule (including sale proceeds and transferred proceeds) and any funds (other than proceeds) that are part of any reserve or replacement fund for the Parking Property Schedule.

Investment Property shall mean any security, obligation (other than a Non-AMT Obligation), annuity contract or investment-type property.

Non-AMT Obligation means any obligation the interest on which is not includible in gross income under Section 103 of the Code and which is not a "specified private activity bond" (within the meaning of Section 57(a)(5)(C) of the Code).

Nonpurpose Investment shall mean any Investment Property that is not a purpose investment in which Gross Proceeds of the Parking Property Schedule are invested.

Project shall mean the construction and installation of energy efficiency improvements certain City-owned parking garages and related fees and expenses.

Rebatable Arbitrage shall mean, as of any Computation Date, the excess of the future value of all nonpurpose receipts with respect to the Parking Property Schedule, over the future value of all nonpurpose payments with respect to the Parking Property Schedule, or with respect to a Voluntary Computation Date, the amount of the payment that would be payable to the United States under Section 148(f) of the Code if such date were a "Computation Date."

Regulations shall mean the Treasury Regulations applicable to the Lease Purchase Agreement and the Parking Property Schedule and promulgated under the Code, including, without limitation, Treasury Regulations, Sections 1.148-0 through 1.148-11, and Sections 1.149(b)-1, 1.149(d)-1, 1.149(g)-1, 1.150-1 and 1.150-2.

Voluntary Computation Date means September 15, 2012, and each September 15 thereafter, excluding Computation Dates.

Yield, with reference to any obligation, means that discount rate which, when computing the present value of all unconditionally payable payments of principal and interest paid and to be paid on such obligation and taking into account payments made for qualified guarantees, produces an amount equal to the present value of the issue price of the obligation.

Yield of the Parking Property Schedule shall mean 4.86000%.

II. The Purpose of the Parking Property Schedule.

1.1. The Parking Property Schedule is entered into pursuant to the Resolution for the purposes of providing funds to be used to finance costs of the Project. The City expects to expend the following sums from the proceeds of the Parking Property Schedule for the Project:

| | |
|----------------------------------------------|------------------|
| Lighting Upgrade — Park One Parking Garage | \$209,433 |
| Lighting Upgrade — Park Two Parking Garage | \$163,827 |
| Lighting Upgrade — Park Three Parking Garage | \$ 84,784 |
| Lighting Upgrade — Park Four Parking Garage | <u>\$120,267</u> |
| Total: | \$578,311 |

2.2 Any costs in excess of the proceeds of the Parking Property Schedule will be paid from other funds of the City available therefor.

III. Sources and Disbursements of Funds.

3.1. The aggregate amount of the principal components payable by the City pursuant to the Parking Property Schedule equals \$578,311.00. The City is executing and delivering the Parking Property Schedule to the Lessor in exchange for proceeds in the amount of \$578,311.00. The issue price of the Parking Property Schedule, as defined in Section 1.148-1(b) of the Regulations and Sections 1273(b)(1) and (2) of the Code, is \$578,311.00, equal to the principal amount thereof.

3.2. \$578,311.00 of the proceeds of the Parking Property Schedule are expected to be deposited in the Construction Account to pay the costs of the Project. Costs of entering into the Parking Property Schedule will be paid from other available funds of the City.

3.3. The Parking Property Schedule is not a hedge bond (as defined in Section 149(g) of the Code) since at least 85% of the spendable proceeds of the Parking Property Schedule are to be used to pay costs of the Project within three years after the date hereof and less than 50% of the proceeds of the Parking Property Schedule are to be invested in nonpurpose investments having a substantially guaranteed yield for four years or more.

IV. Yield of the Parking Property Schedule.

4.1. No other obligations of the City are being (a) issued at substantially the same time as the Parking Property Schedule, (b) sold pursuant to the same plan of financing as the Parking Property Schedule, and (c) paid out of substantially the same source of funds (or which will have substantially the same claim to be paid out of substantially the same source of funds) as will be used to pay the Parking Property Schedule, within the meaning of Section 1.150-1(c) of the Regulations. Contemporaneous with the execution and delivery of the Parking Property Schedule, the City is entering into Property Schedule No. 1 to the Lease-Purchase Agreement (the "Airport Property Schedule"). The installment payments payable by the City pursuant to the Parking Property Schedule and the Airport Property Schedule shall be payable, as specified in the Resolution, only from current funds which are budgeted and appropriated solely from the City's Parking Enterprise Fund and the City's Airport Enterprise Fund, respectively, for such purpose during the fiscal year of the City for which such funds were budgeted and appropriated.

4.2. The Yield of the Parking Property Schedule computed in accordance with Section 148 of the Code and applicable Regulations, is 4.86000% per annum.

V. Temporary Investments.

5.1 Except as described in Section 5.2 hereof, none of the proceeds of the Parking Property Schedule will be invested at a materially higher yield.

5.2. Proceeds of the Parking Property Schedule deposited in the Construction Account are to be used to finance the costs of the Project. The estimated total cost of the Project, including implementation, administration, construction management and

contingencies, excluding costs of entering into the Parking Property Schedule, is not less than \$578,311.00.

(a) The City has incurred or will incur within six months after the date hereof substantial binding obligations to undertake the Project (in the form of binding contracts or commitments) in an aggregate amount not less than five percent of the net sale proceeds of the Parking Property Schedule (i.e., \$28,916).

(b) Work on the Project and allocation of the net sale proceeds and investment proceeds of the Parking Property Schedule to expenditures will proceed with due diligence to completion and it is reasonably expected the Project will be completed and all net sale proceeds of the Parking Property Schedule will be so allocated by March 28, 2013.

(c) The net sale proceeds of the Parking Property Schedule, plus investment earnings thereon, do not exceed the amount to be spent by the City to acquire and construct the Project.

(d) The City expects to spend on the Project, within not more than three years from the date hereof, all of the net sale and investment proceeds to be derived by the City from the issuance of the Parking Property Schedule.

Therefore, the City may invest said amounts deposited in the Construction Account without yield restriction for a temporary period ending three years from the Closing Date pursuant to Section 1.148-2(e)(2) of the Regulations. Should any of the proceeds of the Parking Property Schedule not be so expended by the end of such period, the City may either (i) invest such amounts at a yield which does not exceed the Yield of the Parking Property Schedule, or (ii) comply with the provisions of Section 1.148-5(c) of the Regulations and make such payments at such times as are required pursuant to Section 1.148-5(c) to reduce the Yield on any investments made subsequent to expiration of the temporary period to a Yield not materially higher than the Yield of the Parking Property Schedule.

VI. No Sinking Fund.

6.1. The City has not created or established, and does not expect to create or establish, any sinking or similar fund which is reasonably expected to be used to pay debt service on the Parking Property Schedule or which is pledged as collateral to secure the Parking Property Schedule. No amounts in any other funds or accounts of the City are reserved for or pledged to the payment of debt service on the Parking Property Schedule or will be used to replace funds that will be used to pay debt service on the Parking Property Schedule.

VII. Sale Proceeds.

7.1. The sale proceeds of the Parking Property Schedule do not exceed the amount necessary to achieve the purposes described in Section II hereof. No portion of the Parking Property Schedule is issued solely for the purpose of investing the proceeds

at a materially higher yield than the Yield of the Parking Property Schedule. None of the proceeds of the Parking Property Schedule will be used directly or indirectly to replace funds which were used directly or indirectly to acquire obligations with a yield that is materially higher than the Yield of the Parking Property Schedule.

7.2. In connection with the execution and delivery of the Parking Property Schedule, except as specifically provided in Sections 148(c) and (d) of the Code, the City has not engaged and will not engage in any transaction or series of transactions (i) enabling the City to exploit the difference between tax-exempt and taxable interest rates to gain a material financial advantage, and (ii) increasing the burdens on the market for tax-exempt obligations in any manner including, without limitation, by selling any obligation that would not otherwise be sold, or by selling more obligations, or issuing them sooner, or allowing them to remain outstanding longer, than would otherwise be necessary.

VIII. Miscellaneous.

8.1. The City has no present intention to sell or otherwise dispose of the facilities financed with proceeds of the Parking Property Schedule before the termination of the Parking Property Schedule. The City expects that such property will continue to be owned and operated by the City substantially in the manner in which similar property is now owned and operated for an indefinite period concluding not earlier than the final stated termination date of the Parking Property Schedule.

8.2. The City reasonably expects that during the term of the Parking Property Schedule no private business use will be made of the facilities financed with proceeds thereof and that no private payments or security will be made or furnished that would cause the Parking Property Schedule to consist of "private activity bonds", within the meaning of Section 141 of the Code and applicable Regulations. No proceeds of the Parking Property Schedule are being or will be loaned to any nongovernmental person. The City reasonably expects that the Parking Property Schedule will not consist of private activity bonds within the meaning of Section 141 of the Code.

8.3. The weighted average maturity of the Parking Property Schedule (8.642 years) does not exceed 120 percent of the average reasonably expected economic life of the Project. Such average reasonably expected economic life is not less than 15 years. It is not expected that any replacement proceeds of the Parking Property Schedule will arise subsequent to the execution and delivery of the Parking Property Schedule.

IX. Minor Portion.

9.1. An aggregate amount not to exceed the "minor portion" amount for the Parking Property Schedule (\$28,916) may be invested pursuant to Section 148(e) of the Code and Section 1.148-2(g) of the Regulations without restriction as to Yield. To the extent the amount on hand in the Construction Account has been credited thereto longer than the period described in Section 5.2 hereof, such amount may be invested up to the minor portion amount at a yield greater than the Yield of the Parking Property Schedule.

Such amounts are Gross Proceeds of the Parking Property Schedule, however, and subject to the rebate requirements set forth in Sections X and XI hereof.

X. Rebate.

10.1 The City, in the Resolution, has covenanted to comply with the requirements of Section 148(f) of the Code with respect to the Parking Property Schedule. The City covenants that it will consult with Bond Counsel and undertake to determine what is required with respect to the rebate provisions contained in Section 148(f) of the Code from time to time and will comply with any requirements that may be applicable to the Parking Property Schedule. The methodology described in this Certificate will be followed, except to the extent inconsistent with any requirements of future regulations or written advice received from Bond Counsel.

10.2. Subject to any applicable exceptions or exemptions available under the Code or regulations, detailed records with respect to each and every Nonpurpose Investment attributable to Gross Proceeds of the Parking Property Schedule will be maintained by the City including: (i) purchase date, (ii) purchase price, (iii) brokerage or other transaction costs of purchase, (iv) information establishing fair market value on the date such investment became a Nonpurpose Investment, (v) any accrued interest paid, (vi) face amount, (vii) coupon or Stated interest rate, (viii) periodicity of interest payments, (ix) disposition price, (x) any accrued interest received, (xi) disposition date, and (xii) brokerage or other transaction costs of disposition. Such detailed recordkeeping is required for the calculation of the Rebatable Arbitrage.

XI. Retable Arbitrage Calculation and Payment.

11.1. Subject to any applicable exceptions or exemptions available under the Code or regulations, the City shall pay to the United States Department of the Treasury from funds legally available therefor: (A) not later than 60 days after each Computation Date, an amount which, when added to the future value as of the Computation Date of all previous rebate payments, equals at least 90% of the Rebatable Arbitrage calculated as of such Computation Date; and (B) not later than 60 days after the final Computation Date, an amount which, when added to the future value as of the Computation Date of all previous rebate payments, equals 100% of the Rebatable Arbitrage.

11.2. Any payment required to be made pursuant hereto shall be filed with the Internal Revenue Service Center, Ogden, Utah 84201 (or at such other address as the Internal Revenue Service may from time to time designate), on or before the date such payment is due, and shall be accompanied by a completed and executed Internal Revenue Service Form 8038-T. The City shall retain records of the calculations required by this Section XI until six years after the final Computation Date for the Parking Property Schedule.

11.3. The City shall file or cause to be filed such reports or other documents with the Internal Revenue Service as required by Section 148(f) of the Code.

11.4. Notwithstanding anything in this Certificate or any other provisions of the Resolution to the contrary, the obligation to remit the Rebatale Arbitrage with respect to the Parking Property Schedule to the United States Department of the Treasury and to comply with all other requirements contained in this Certificate shall survive the defeasance of the Parking Property Schedule.

11.5. The Project will be owned and operated by the City and used for governmental purposes. All of the Gross Proceeds qualify for the temporary period under Section 1.148-2(e)(2) of the Regulations. Apart from the sale proceeds of the Parking Property Schedule and investment proceeds derived therefrom, the City does not expect that any other Gross Proceeds will arise. Thus, if the expenditure tests set forth in Section 1.148-7(d)(1)(i) of the Regulations are met (i.e., the following percentages of Gross Proceeds are spent within the following periods beginning on the date of issuance: at least 15% within six months (March 28, 2012); 60% within one year (October 28, 2012), and 100% within eighteen months (March 28, 2013) (subject to a reasonable contractual retainage amount not exceeding five percent of the net sale proceeds of the Parking Property Schedule as of October 28, 2011 to be spent within 30 months after the date hereof, as defined in Section 1.148-7(h) of the Regulations)), then the City may elect to treat the Gross Proceeds as exempt from the rebate requirements of Section 148(f) of the Code pursuant to the "18 month" spending exception provided under Section 1.148-7(d) of the Regulations.

11.6. If Gross Proceeds subject to arbitrage rebate arise, either as a result of the failure to expend all Gross Proceeds as provided in Section 11.6 hereof, or from another cause, for purposes of complying with Section 148(f), the City will prepare or have prepared a calculation of the Rebatale Arbitrage for the Parking Property Schedule consistent with the rules described in this Section XI.

11.7. The City will prepare the calculation of the Rebatale Arbitrage within 30 days after each Computation Date and will, within 30 days after each Voluntary Computation Date, calculate the Rebatale Arbitrage on the assumption such Voluntary Computation Date is a Computation Date and file a copy of such calculations in the office of the City Clerk.

11.8. The City agrees to retain detailed records and documents relating to the expenditure of Gross Proceeds, the use of the facilities financed thereby and the investment of Gross Proceeds until three years following the retirement of the Parking Property Schedule to the extent required by applicable IRS rules and the Regulations and shall consult with counsel regarding such retention as appropriate.

XII. Amendments.

12.1 The City may amend or supplement the provisions of Sections X or XI hereof by filing an executed copy of such amendment or supplement with the City Finance Director accompanied by an opinion of Bond Counsel to the effect that such amendment or supplement is required by, or better complies with, the provisions of Section 148 and applicable Regulations.

WITNESS our hands, on behalf of the City, officially as Mayor, City Finance Director and City Clerk of the City of Billings, Montana as of this 28th day of October, 2011.

CITY OF BILLINGS, MONTANA

Mayor

City Finance Director

City Clerk

Language for UCC Financing Statements

Schedule 1

SECURED PARTY: U.S. Bancorp Equipment Finance, Inc.

DEBTOR: City of Billings, Montana

This financing statement covers all of Debtor's right, title and interest, whether now owned or hereafter acquired, in and to the equipment sold to Debtor under Property Schedule No. 2 dated October 28, 2011 to that certain Master Tax-Exempt Installment Purchase Agreement dated as of October 28, 2011, in each case between Debtor, as Purchaser, and Secured Party, as Seller, together with all accessions, substitutions and replacements thereto and therefor, and proceeds (cash and non-cash), including, without limitation, insurance proceeds, thereof, including without limiting, all equipment described on Exhibit A attached hereto and made a part hereof.

EXHIBIT A
Description of Property

PROJECT

LOCATION

Lighting Upgrade

Park One Parking Garage

Lighting Upgrade

Park Two Parking Garage

Lighting Upgrade

Park Two Garage Addition

Lighting Upgrade

Park Three Parking Garage

INSURANCE AUTHORIZATION AND VERIFICATION

Date: October 28, 2011
No. 2

Property Schedule

| | |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|
| To: City of Billings, Montana ("Purchaser") P.O. Box 1178 Billings, Montana 59103 Attention: City Finance Director | From: U.S. Bancorp Equipment Finance, Inc. (the "Seller") 13010 SW 68th Parkway, Suite 100 Portland, Oregon 97223 Attn: Chris Jones |
|--------------------------------------------------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------|

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

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

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

Purchaser must carry PROPERTY Insurance (or, for vehicles, Physical Damage Insurance) in an amount no less than the 'Insurable Value' \$578,311.00 with deductibles no more than \$25,000.00.

*Purchaser: Please execute this form and return with your document package. Seller will fax this form to your insurance agency for endorsement. In lieu of agent endorsement, Purchaser's agent may submit insurance certificates demonstrating compliance with all requirements. If fully executed form (or Purchaser-executed form plus certificates) is not provided within 15 days, we have the right to purchase such insurance at your expense. Should you have any questions, please contact Chris Jones at (303) 862-1201.

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

Agency/Agent: Hoiness LaBar Insurance

Address: A Member of Payne Financial Group
P.O. Box 30638
Billings, Montana 59107-0638
Phone: (406) 238-1900

**PURCHASER:
CITY OF BILLINGS, MONTANA**

By: _____
Name:
Title:

TO THE AGENT: In lieu of providing a certificate, please execute this form in the space below and promptly fax it to Seller at (406) 657-8363. This fully endorsed form shall serve as proof that Purchaser's insurance meets the above requirements.

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

Print Name Of Agency: X _____

By: X _____
(Agent's Signature)

Print Name: X _____
Date: X _____

Insurable Value: \$578,311.00

ATTACHED: PROPERTY DESCRIPTION FOR PROPERTY SCHEDULE NO. 2

EXHIBIT A
Description of Property

| <u>PROJECT</u> | <u>LOCATION</u> | <u>BUDGET</u> |
|-----------------------------------------|---------------------------|----------------|
| Lighting Upgrade | Park One Parking Garage | \$209,433 |
| Lighting Upgrade | Park Two Parking Garage | 163,827 |
| Lighting Upgrade | Park Two Garage Addition | 84,784 |
| Lighting Upgrade | Park Three Parking Garage | <u>120,267</u> |
| TOTAL PROPERTY SCHEDULE PURCHASE AMOUNT | | \$578,311 |