

CITY OF CLAYTON, OHIO

RESOLUTION NO. R- 07 - 23 - 50

A RESOLUTION AUTHORIZING THE NEGOTIATION, EXECUTION, AND DELIVERY OF GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 IN PRINCIPAL AMOUNT NOT TO EXCEED \$44,907.90 BETWEEN CITY OF CLAYTON, OHIO AND THE HUNTINGTON NATIONAL BANK AND PRESCRIBING OTHER DETAILS IN CONNECTION THEREWITH

WHEREAS, the City of Clayton, Ohio (the “Lessee”) is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and

WHEREAS, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in Attachment 2 to the Lease is appropriate and necessary to the function and operations of the Lessee; and

WHEREAS, The Huntington National Bank, (the “Lessor”) shall act as Lessor under said Lease; and

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State.

NOW THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF CLAYTON, STATE OF OHIO:

Section 1. The Lease- Purchase Agreement, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the City Manager of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee (*Exhibit A*) with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. The Lessee’s obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a

general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of Ohio.

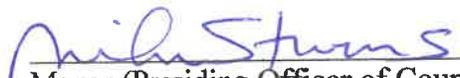
Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified, and approved.

Section 5. As to said Lease, the Municipality reserves the right to consider for approval at a future date the issuance of not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the fiscal year in which each such Lease is issued and hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

ADOPTED BY COUNCIL ON JULY 20, 2023.

AUTHENTICATION:

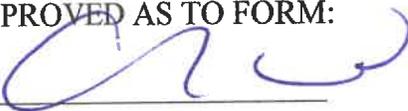


Mayor (Presiding Officer of Council)



Clerk of Council

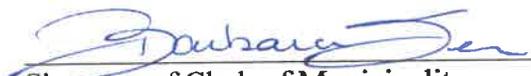
APPROVED AS TO FORM:



Law Director

CERTIFICATION

The Undersigned Clerk of the above-named Municipality hereby certifies and attests that the undersigned has access to the official records of the Governing Body of the Municipality, that the foregoing resolution was duly adopted by said Governing Body of the Municipality at a meeting of said Governing Body and that such resolution has not been amended or altered and is in full force and effect on the date stated below.



Signature of Clerk of Municipality

Print Name: BARBARA SEJM

Official Title: Clerk of Council

Date: July 20, 2023

CERTIFICATION OF PUBLICATION

This shall certify that that the text of the above referenced enactment or a summary thereof was published once in the following newspaper and a summary posted in three places of public access as designated by Council.

Name of newspaper

Date of publication

Registered Herald July 26, 2023

Barbara Jea
CLERK



City of Clayton Ohio
 6001 Salem Avenue
 Clayton, OH 45315

RE: Governmental Lease-Purchase Agreement Number

Dear Sir or Madam:

Thank you for choosing The Huntington National Bank for your capital equipment financing needs! Enclosed are the lease documents necessary to close the above mentioned transaction. The purpose of this letter is to provide you with step-by-step instructions as to what is required with respect to each document. At any time, if you have any questions, please don't hesitate to contact **Michelle Granich** at (614) 331-1892 for assistance. A return FedEx air bill is provided for your convenience.

<u>Document</u>	<u>Action Required</u>
• Governmental Lease-Purchase Agreement	Authorized Signature of Lessee and Clerk or Secretary of Lessee; <u>Clerk or Secretary signature must be someone other than the person providing Authorized Signature of Lessee</u>
• Attachment 1 - Lease Payment Schedule	Authorized Signature of Lessee
• Attachment 2 - Equipment Description	Authorized Signature of Lessee
• Attachment 3 - Acceptance Certificate	Authorized Signature of Lessee and Date <u>upon Equipment Acceptance</u>
• Attachment 4 - Insurance Coverage Requirements	Authorized Signature of Lessee; please also provide the name and contact information for your property and liability insurance carrier(s)
• Opinion of Counsel	Opinion Letter must be reproduced in its entirety (with Lessee's legal name replacing the blank space in paragraph one) on Lessee's legal counsel's letterhead and signed by Lessee's legal counsel
• Resolution	Resolution must be certified by an Authorized Signature of Lessee as a copy of resolution adopted by Lessee
• Lessee Fact Sheet	Please provide the requested information
• IRS Form 8038GC	Please consult Lessee's tax or financial professional regarding completion and provide a copy of the filed form
• Escrow Agreement and/or State Rider (if applicable)	Authorized Signature of Lessee, if applicable
➤ <u>Other Items Needed From Lessee:</u>	<ul style="list-style-type: none"> - Lessee's Sales Tax Exemption Certificate - Vendor invoices for the total cost of the Equipment showing "Sold to and Shipped to: Lessee's Name and Address" - Initial Payment as Indicated on Invoice



**GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023
(TAX-EXEMPT)**

LESSOR	Name The Huntington National Bank	Email: customerservice@financediv.com	
	Address 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305	Fax Number: 319-833-4577	
LESSEE	Full Legal Name City of Clayton Ohio	Email: kschweitzer@clayton.oh.us	
	Primary Address 6001 Salem Avenue, Clayton, OH 45315	Fax: (937) 836-6773	
		Fiscal Year End: December	FEIN: 31-0909460
LEASE PAYMENT INFORMATION	Principal Portion: \$44,907.90	Lease Payments: <i>See Attachment 1: Lease Payment Schedule</i>	
	Interest Rate: 6.75%	Payment Frequency:	
	Maximum Lease Term: 48 Months	Semiannual	
BANK QUALIFIED	YOU hereby designate this Lease as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Internal Revenue Code and represent that the aggregate face amount of all tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds) issued or to be issued by YOU and YOUR subordinate entities during the calendar year in which WE fund this Lease is not reasonably expected to exceed \$10,000,000.		

TERMS AND CONDITIONS

Please read this Governmental Lease-Purchase Agreement No. 008-0883355-301 (including all attachments and schedules hereto, and any related escrow agreement, "Lease") carefully and feel free to ask US any questions YOU may have about it. Words "YOU" and "YOUR" refer to the "Lessee," and the words "WE," "US" and "OUR" refer to the "Lessor," its successors and assigns.

- LEASE:** WE agree to lease to YOU and YOU agree to lease from US, the equipment listed on Attachment 2: Equipment Description, including all replacement parts, repairs, additions and accessories ("Equipment") on the terms and conditions of this Lease and on any attached schedule.
- TERM:** This Lease is effective on the earlier of the date on which WE disburse funds to the vendor of the Equipment or the date on which WE deposit funds for the purchase of the Equipment with an escrow agent (the "Commencement Date"), which date YOU hereby authorize US to fill in on the executed Lease Payment Schedule following OUR receipt from YOU of the executed Acceptance Certificate in the form set forth as Attachment 3 hereto, and continues thereafter for an Initial Term ("Initial Term") ending at the end of YOUR budget year in effect on the Commencement Date and may be continued by YOU for additional one-year renewal terms ("Renewal Terms"), coinciding with YOUR budget year, up to the total number of months indicated above as the Maximum Lease Term; provided, however, that at the end of the Initial Term and at the end of each Renewal Term until the Maximum Lease Term has been completed, YOU will be deemed to have continued this Lease for the next Renewal Term unless YOU have terminated this Lease pursuant to Section 5 or Section 17. Lease Payments will be due as set forth on Attachment 1 until the balance of the Lease Payments and any additional Lease Payments or expenses chargeable to YOU under this Lease are paid in full. As set forth in the Lease Payment Schedule, a portion of each Lease Payment is paid as, and represents payment of, interest. YOUR obligation to pay Lease Payments and YOUR other Lease obligations are absolute and unconditional and are not subject to cancellation, reduction, setoff or counterclaim except as provided in Section 5. **THIS LEASE IS NON-CANCELABLE, EXCEPT AS PROVIDED IN SECTION 5.**
- LATE CHARGES.** If a Lease Payment is not made on the date when due, YOU will pay US a late charge at the rate of 10% of the amount due or the maximum amount permitted by law, whichever is less, from the due date.
- CONTINUATION OF LEASE TERM.** YOU currently intend, subject to Section 5, to continue this Lease, and to pay Lease Payments hereunder, through the Maximum Lease Term. YOU reasonably believe that legally available funds in an amount sufficient to make all Lease Payments during the Maximum Lease Term can be obtained. YOUR responsible financial officer will do all things lawfully within his or her power to obtain and maintain funds from which Lease Payments may be made, including making provision for Lease Payments to the extent necessary in each proposed annual budget submitted for approval in accordance with YOUR applicable procedures and to exhaust all available reviews and appeals if that portion of the budget is not approved. Notwithstanding the foregoing, the decision whether to budget or appropriate funds and to extend this Lease for any Renewal Term is solely within the discretion of YOUR governing body.
- NONAPPROPRIATION.** YOU are obligated only to pay such Lease Payments under this Lease as may lawfully be made from funds budgeted and appropriated for that purpose during YOUR then current budget year. If YOU fail to appropriate or otherwise make available funds to pay the Lease Payments required to be paid in the next occurring Renewal Term, this Lease will be deemed terminated at the end of the then current Initial Term or Renewal Term. YOU agree to deliver written notice to US of such termination at least 90 days prior to the end of the then current Initial Term or Renewal Term, but failure to give such notice will not extend the term of this Lease beyond the then current Initial Term or Renewal Term. If this Lease is terminated in accordance with this Section, YOU agree, at YOUR cost and expense, to peaceably deliver the Equipment to US at the location or locations specified by US.
- WARRANTIES.** WE are leasing the Equipment to YOU "AS-IS" and WE MAKE NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE. To the extent such warranties are transferable, WE transfer to YOU, without recourse, for the term of this Lease all warranties, if any, made by the manufacturer. YOU ALSO ACKNOWLEDGE THAT NO ONE IS AUTHORIZED TO WAIVE OR CHANGE ANY TERM, PROVISION OR CONDITION OF THIS LEASE EXCEPT IN WRITING AND SIGNED BY THE PARTIES HERETO, AND, EXCEPT FOR THE MANUFACTURER WARRANTIES, MAKE ANY REPRESENTATION OR WARRANTY ABOUT THIS LEASE OR THE EQUIPMENT. WE WILL NOT BE LIABLE FOR SPECIAL, RESULTING OR CONSEQUENTIAL DAMAGES OR LOSS OF PROFIT OCCASIONED BY ANY BREACH OF WARRANTY OR REPRESENTATION OR RESULTING FROM THE USE OR PERFORMANCE OF THE EQUIPMENT. YOUR OBLIGATION TO PAY IN FULL ANY AMOUNT DUE UNDER THE LEASE WILL NOT BE AFFECTED BY ANY DISPUTE, CLAIM, COUNTERCLAIM, DEFENSE OR OTHER RIGHT WHICH YOU MAY HAVE OR ASSERT AGAINST THE SUPPLIER OR THE EQUIPMENT MANUFACTURER.
- DELIVERY AND ACCEPTANCE.** YOU ARE RESPONSIBLE, AT YOUR OWN COST, TO ARRANGE FOR THE DELIVERY AND INSTALLATION OF THE EQUIPMENT (UNLESS THOSE COSTS ARE INCLUDED IN THE COSTS OF THE EQUIPMENT TO US). WHEN THE EQUIPMENT HAS BEEN DELIVERED AND INSTALLED, YOU WILL IMMEDIATELY SIGN AND DELIVER TO US A SEPARATE ACCEPTANCE CERTIFICATE IN THE FORM SET FORTH AS ATTACHMENT 3 HERETO. WE MAY, AT OUR DISCRETION, CONFIRM BY TELEPHONE THAT YOU HAVE ACCEPTED THE EQUIPMENT, AND THAT TELEPHONE VERIFICATION OF YOUR ACCEPTANCE OF THE EQUIPMENT WILL HAVE THE SAME EFFECT AS A SIGNED ACCEPTANCE CERTIFICATE.

(Terms and Conditions continued on the next page of this Lease.)

LESSEE SIGNATURE	YOU agree to all of the Terms and Conditions contained in both sides of this Lease, and in any attachments to this Lease (all of which are included by reference) and become part of this Lease. YOU acknowledge that YOU have read and agreed to all the Terms and Conditions.	LESSOR SIGNATURE	Name of Lessor The Huntington National Bank
	City of Clayton Ohio Legal Name of Lessee		By _____ Signature
	By <i>Aracada Zimmerman</i> Signature		Print Name and Title _____
Print Name and Title Aracada Zimmerman, CM		008-0883355-301 Lease Number	

I, the undersigned, do hereby certify that the officer of Lessee who executed the foregoing Lease on behalf of Lessee and whose genuine signature appears thereon, (1) is the duly qualified and acting officer of Lessee as stated beneath his or her signature and (2) is duly authorized to execute and deliver the foregoing Agreement on behalf of Lessee.

Signature: *Barbara Seier* Title: *Clerk of Council*

THE ABOVE CERTIFICATION MUST BE SIGNED BY THE CLERK OR SECRETARY OF LESSEE, AND THE CLERK OR SECRETARY MUST BE A DIFFERENT INDIVIDUAL THAN THE OFFICER SIGNING IN THE "LESSEE SIGNATURE" BOX.

CERTIFICATE OF CLERK OR SECRETARY

8. TITLE, PERSONAL PROPERTY, LOCATION, INSPECTION, NO MODIFICATIONS OR ALTERATIONS. YOU have title to the Equipment; provided that title to the Equipment will immediately and without any action by YOU vest in US, and YOU will immediately surrender possession of the Equipment to US, (a) upon any termination of this Lease other than termination pursuant to Section 17 (including but not limited to any termination pursuant to Section 5) or (b) if YOU are in default of this Lease. It is the intent of the parties hereto that any transfer of title to US pursuant to this Section will occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. YOU will, nevertheless, execute and deliver any such instruments as WE may request to evidence such transfer. As security for YOUR obligations hereunder, to the extent permitted by law, YOU grant to US a first and prior security interest in the Equipment, all cash and negotiable instruments comprising the escrow fund held under any related escrow agreement, and all proceeds of the foregoing. YOU have the right to use the Equipment during the term of this Lease, except as otherwise expressly set forth in this Lease. Although the Equipment may become attached to real estate, it remains personal property. YOU agree not to alter or modify the Equipment or permit a lien to be placed upon the Equipment or to remove the Equipment without OUR prior written consent. YOU agree to provide US with waivers of interest or liens from anyone claiming any interest in the real estate on which any items of Equipment is located. WE also have the right, at reasonable times, to inspect the Equipment.

9. MAINTENANCE. YOU are required, at YOUR own cost and expense, to keep the Equipment in good repair, condition and working order, except for ordinary wear and tear, and to supply all parts and servicing required. All replacement parts used or installed and repairs made to the Equipment will become OUR property. YOU acknowledge that WE are not responsible for providing any required maintenance and/or service for the Equipment. YOU will make all claims for service and/or maintenance solely to the supplier and/or manufacturer and such claims will not affect YOUR obligation to make Lease Payments.

10. ASSIGNMENT. YOU agree not to transfer, sell, sublease, assign, pledge or encumber either the Equipment or any rights under this Lease without OUR prior written consent. YOU agree that WE may sell, assign or transfer this Lease and, if WE do, the new owner will have the same rights and benefits, but not the obligations, that WE now have. The rights of the new owner will not be subject to any claims, counterclaims, defenses or set-offs that YOU may have against US. No assignment will be effective until YOU have received written notice from the assignor of the name and address of the assignee. YOU or YOUR agent will maintain a written record of each assignment in form necessary to comply with Section 149(a) of the Internal Revenue Code of 1986, as amended.

11. LOSS OR DAMAGE. YOU are responsible for the risk of loss or destruction of, or damage to, the Equipment. No such loss or damage relieves YOU from any obligation under this Lease. If any of the Equipment is damaged by fire or other casualty or if title to, or the temporary use of, any of the Equipment is taken under the exercise of the power of eminent domain, the net proceeds ("Net Proceeds") of any insurance claim or condemnation award will be applied to the prompt replacement, repair, restoration, modification or improvement of that Equipment, unless YOU have exercised YOUR option to purchase the Equipment pursuant to Section 17. Any balance of the Net Proceeds remaining after such work has been completed will be paid to YOU.

12. INDEMNITY. WE are not responsible for any losses or injuries caused by the manufacture, acquisition, delivery, installation, ownership, use, lease, possession, maintenance, operation or rejection of the Equipment or defects in the Equipment. To the extent permitted by law, YOU agree to reimburse S for and to defend US against any claim for losses or injuries (including attorneys' fees and other expenses for the defense of such claim), regardless of nature, relating to the Equipment, including, without limitation, its manufacture, acquisition, delivery, installation, ownership, use, lease, possession, maintenance or operation. This indemnity will continue even after the termination of this Lease.

13. TAXES. YOU agree to pay any applicable license and registration fees, sale and use taxes, personal property taxes and all other taxes and charges, relating to the ownership, leasing, rental, sale, purchase, possession or use of the Equipment (except those based on OUR net income). YOU agree that if WE pay any taxes or charges, YOU will reimburse US for all such payments and will pay US interest and a late charge (as calculated in Section 3) on such payments with the next Lease Payment, plus a fee for OUR collecting and administering any taxes, assessments or fees and remitting them to the appropriate authorities.

14. INSURANCE. During the term of this Lease, YOU will keep the Equipment insured against all risks of loss or damage in an amount not less than the replacement cost of the Equipment. YOU will also obtain and maintain for the term of this Lease, liability insurance insuring against liability for bodily injury and property damage with a minimum limit of \$1,000,000.00 combined single limit or such greater amount as may be prescribed by any applicable state law. WE will be the sole named loss payee on the property insurance and named as an additional insured on the liability insurance, and such insurance shall provide US at least thirty days written notice of cancellation. YOU will pay all premiums for such insurance and must deliver proof of insurance coverage satisfactory to US. If YOU do not provide such insurance, YOU agree that WE have the right, but not the obligation, to obtain such insurance and add an insurance fee to the amount due from YOU.

15. DEFAULT. Subject to Section 5, YOU are in default of this Lease if any of the following occurs: (a) YOU fail to pay any Lease Payment or other sum when due; (b) YOU breach any warranty or other obligation under this Lease, or any other agreement with US, (c) YOU become insolvent or unable to pay YOUR debts when due, YOU make an assignment for the benefit of creditors or YOU undergo a substantial deterioration in YOUR financial condition, or (d) YOU file or have filed against YOU a petition for liquidation, reorganization, adjustment of debt or similar relief under the Federal Bankruptcy Code or any other present or future federal or state bankruptcy or insolvency law, or a trustee, receiver or liquidator is appointed for YOU or a substantial part of YOUR assets.

16. REMEDIES. WE have the following remedies if YOU are in default of this Lease: WE may declare the entire balance of the unpaid Lease Payments for the then current Initial Term or Renewal Term immediately due and payable; sue for and receive all Lease Payments and any other payments then accrued or accelerated under this Lease; take whatever action at law or in equity may appear necessary or desirable to enforce OUR rights as owner of the Equipment; charge YOU interest on all monies due US at the rate of eighteen percent (18%) per year from the date of default until paid, but in no event more than the maximum rate permitted by law; charge YOU a return-check or non-sufficient funds charge ("NSF Charge") of \$25.00 for a check that is returned for any reason; and require that YOU return the Equipment to US and, if YOU fail to return the Equipment, enter upon the premises peacefully with or without legal process where the Equipment is located and repossess the Equipment. Such return or repossession of the Equipment will not constitute a termination of this Lease unless WE expressly notify YOU in writing. If the Equipment is returned or repossessed by US and unless WE terminate this Lease, WE will sell or re-rent the Equipment to any persons with any terms WE determine, at one or more public or private sales, with or without notice to YOU, and apply the net proceeds after deducting the costs and expenses of such sale or re-rent, to YOUR obligations with YOU remaining liable for any deficiency and with any excess over the amounts described in this Section plus the then applicable Purchase Price to be paid to YOU. YOU are also required to pay (i) all expenses incurred by US in connection with the enforcement of any remedies, including all expenses of repossessing, storing, shipping, repairing and selling the Equipment, and (ii) reasonable attorneys' fees.

17. PURCHASE OPTION. Provided YOU are not in default, YOU will have the option to purchase all, but not less than all, of the Equipment (a) on the date the last Lease Payment is due (assuming this Lease is renewed at the end of the Initial Term and each Renewal Term), if this Lease is still in effect on that day, upon payment in full of Lease Payments and all other amounts then due and the payment of One Dollar to US; (b) on the last day of the Initial Term or any Renewal Term then in effect, upon at least 30 days' prior written notice to US and payment in full to US of the Lease Payments and all other amounts then due plus the then applicable Purchase Price set forth on the Lease Payment Schedule; or (c) if substantial damage to or destruction or condemnation of substantially all of the Equipment has occurred, on the day specified in YOUR written notice to US of YOUR exercise of the purchase option upon at least 30 days' prior notice to US and payment in full to US of the Lease Payments and all other amounts then due plus the then applicable Purchase Price set forth on the Lease Payment Schedule.

18. REPRESENTATIONS AND WARRANTIES. YOU warrant and represent as follows: (a) YOU are a public body corporate and politic duly organized and existing under the constitution and laws of YOUR State with full power and authority to enter into this Lease and to perform all of YOUR obligations hereunder; (b) YOU have duly authorized the execution and delivery of this Lease by proper action by YOUR governing body, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Lease; (c) YOU have complied with such public bidding requirements as are applicable to this Lease and the acquisition by YOU of the Equipment; (d) all authorizations, consents and approvals of governmental bodies or agencies required in connection with the execution and delivery by YOU of this Lease or in connection with the carrying out of YOUR obligations hereunder have been obtained; (e) this Lease constitutes the legal, valid and binding obligation of YOU enforceable in accordance with its terms, except to the extent limited by applicable bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally; (f) YOU have, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current budget year to make the Lease Payments scheduled to come due during the current budget year and to meet YOUR other obligations under this Lease during the current budget year, and those funds have not been expended for other purposes; (g) there is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by this Lease or our interest in the Equipment; (h) the Equipment is essential to YOUR functions or to the services YOU provide to YOUR citizens, YOU have an immediate need for the Equipment and expect to make immediate use of the Equipment, YOUR need for the Equipment is not temporary and YOU do not expect the need for any item of the Equipment to diminish in the foreseeable future, including the Maximum Lease Term, and the Equipment will be used by YOU only for the purpose of performing one or more of YOUR governmental or proprietary functions consistent with the permissible scope of YOUR authority and will not be used in the trade or business of any other entity or person; and (i) YOU have never failed to appropriate or otherwise make available funds sufficient to pay rental or other payments coming due under any lease purchase, installment sale or other similar agreement.

19. UCC FILINGS AND FINANCIAL STATEMENTS. YOU authorize US to file a financing statement with respect to the Equipment. If WE feel it is necessary, YOU agree to submit financial statements (audited if available) on an annual basis.

20. UCC - ARTICLE 2A PROVISIONS. YOU agree that this Lease is a Finance Lease as that term is defined in Article 2A of the Uniform Commercial Code ("UCC"). YOU acknowledge that WE have given YOU the name of the Supplier of the Equipment. WE hereby notify YOU that YOU may have rights under the contract with the Supplier and YOU may contact the Supplier for a description of any rights or warranties that YOU may have under this supply contract. YOU also waive any and all rights and remedies granted YOU under Sections 2A-508 through 2A-522 of the UCC.

21. TAX EXEMPTION. YOU will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, and the applicable regulations thereunder to maintain the exclusion of the interest portion of the Lease Payments from gross income for purposes of federal income taxation. YOU will file all necessary informational returns with the IRS, on a timely basis, and provide US with copies of such filed returns relating to this Lease. If YOU fail to file the necessary informational returns on a timely basis, YOU authorize US, in OUR sole discretion, to engage a tax professional to complete the required returns on YOUR behalf and expense, which YOU will promptly execute and file. If it is determined that any of the interest may not be excluded from gross income, YOU agree to pay to US an additional amount determined by US for the loss of such exclusibility.

22. BANK QUALIFICATION. If this Lease has been designated a "qualified tax-exempt obligation" on the front page of this Lease, YOU and all YOUR subordinate entities will not issue in excess of \$10,000,000 of qualified tax-exempt obligations (including this Lease, but excluding private activity bonds other than qualified 501(c)(3) bonds) during the calendar year in which WE fund this Lease without first obtaining an opinion of nationally recognized counsel in the area of tax-exempt municipal obligations acceptable to US that the designation of this Lease as a "qualified tax-exempt obligation" will not be adversely affected.

23. CHOICE OF LAW; JURY TRIAL WAIVER. This Lease will be governed and construed in accordance with federal law and, to the extent not preempted by federal law, the laws of the state where YOU are located. To the extent permitted by law, YOU agree to waive YOUR rights to a trial by jury.

24. ENTIRE AGREEMENT; SEVERABILITY; WAIVERS. This Lease contains the entire agreement and understanding. No agreements or understandings are binding on the parties unless set forth in writing and signed by the parties. Any provision of this Lease which for any reason may be held unenforceable in any jurisdiction will, as to such jurisdiction, be ineffective without invalidating the remaining provisions of this Lease.

25. COUNTERPARTS; NOTICES; ELECTRONIC TRANSACTION. This Lease may be simultaneously executed in counterparts, each of which will be an original and all of which will constitute but one and the same instrument. Notices hereunder shall be deemed given when delivered personally, sent via overnight courier, facsimile or e-mail (with confirmation of transmission), or certified U.S. Mail, addressed as set forth above. Copies, electronic files and other reproductions of original documents shall be deemed to be authentic counterparts for all purposes. There shall be only one original counterpart of this Lease and it shall bear OUR original ink or electronic signature and be marked "Original." To the extent that this Lease constitutes chattel paper (as that term is defined by the UCC), a security or ownership interest intended to be created through the transfer and possession of this Lease can be done only by the transfer of such original bearing OUR ink or electronic original signature. YOU consent to the use of electronic signatures on this Lease and any related documents.

26. ROLE OF LESSOR. WE have not acted and will not act as a fiduciary for YOU or as YOUR agent or municipal advisor. WE have not and will not provide financial, legal, tax, accounting or other advice to YOU or to any financial advisor or placement agent engaged by YOU with respect to this Lease. YOU, YOUR financial advisor, placement agent or municipal advisor, if any, shall each seek and obtain YOUR own financial, legal, tax, accounting and other advice with respect to this Lease from YOUR own advisors (including as it relates to structure, timing, terms and similar matters).

**ATTACHMENT 1 TO
GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023**

LEASE PAYMENT SCHEDULE

LESSOR: The Huntington National Bank

LESSEE: City of Clayton Ohio

COMMENCEMENT DATE*: _____

INTEREST RATE: 6.75%

PAYMENT FREQUENCY: Semiannual

The first Lease Payment shall be due in arrears on the date that is six month(s) after the Commencement Date, and subsequent Lease Payments shall be due semi-annually on the same day of each six month period thereafter until paid in full.

<u>Payment Number</u>	<u>Rental Payment</u>	<u>Interest Portion</u>	<u>Principal Portion</u>	<u>Purchase Price</u>
				44,907.60
1	6,427.73	784.83	6,164.61	36,264.70
2	6,427.73	1,384.42	6,193.65	34,221.39
3	6,427.73	1,206.61	6,223.71	29,000.27
4	6,427.73	1,022.51	6,254.84	23,595.05
5	6,427.73	831.94	6,287.06	17,999.26
6	6,427.73	634.63	6,320.42	12,206.16
7	6,427.73	430.38	6,354.96	6,208.81
8	6,427.73	218.91	6,390.72	0.00
Totals	51,421.84	6,514.23	50,189.97	

Lessee: City of Clayton Ohio

By:  Amanda Zimmerlin, City Manager

*YOU hereby authorize US to fill in the Commencement Date based on the earlier of the date that WE disburse funds to the Vendor of the Equipment following receipt of YOUR executed Acceptance Certificate, or the date on which WE deposit funds for the purchase of the Equipment with an escrow agent.

ATTACHMENT 2 TO
GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023

EQUIPMENT DESCRIPTION

The Equipment consists of the equipment described below, together with any and all replacement parts, additions, repairs, modifications, attachments and accessories thereto, any and all substitutions, replacements or exchanges therefor, and any and all insurance and/or proceeds thereof.

Description/Serial No./Model No.	Location	Total Cost
(1) Toro Groundsmaster 3500 together with all attachments and accessories thereto	6001 Salem Avenue, Clayton, OH 45315	\$44,907.90

Lessee: City of Clayton Ohio

By: 

Amanda Zimmerlin, City Manager

**ATTACHMENT 3 TO
GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023
ACCEPTANCE CERTIFICATE**

The Huntington National Bank
11100 Wayzata Blvd, Suite 700
Minnetonka, MN 55305

Re: Governmental Lease-Purchase Agreement No. 008-0883355-301 between The Huntington National Bank, as Lessor (the "Lessor"), and City of Clayton Ohio, as Lessee (the "Lessee").

Ladies and Gentlemen:

In accordance with the above-referenced Governmental Lease-Purchase Agreement No. 008-0883355-301 (the "Lease"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Equipment (as such term is defined in the Lease) listed in the Lease has been delivered, installed and accepted on the date hereof.
2. Lessee has conducted such inspection and/or testing of the Equipment listed in the Lease as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.
3. Lessee is currently maintaining the insurance coverage required by Section 14 of the Lease.
4. No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, a default as set forth in Section 15 of the Lease exists at the date hereof.
5. We acknowledge that Lessor is neither the vendor nor manufacturer or distributor of the Equipment and has no control, knowledge or familiarity with the condition, capacity, functioning or other characteristics of the Equipment.
6. The serial number for each item of Equipment that is set forth in the Lease is correct.
7. Lessee hereby acknowledges and agrees to the Lease Payment Schedule attached to the Lease as Attachment 1.

Date:

July 20, 2023

Lessee: City of Clayton Ohio

By:



Amanda Zimmerlin, City Manager

ATTACHMENT 4 TO
GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023

INSURANCE COVERAGE REQUIREMENTS

RE: INSURANCE COVERAGE REQUIREMENTS

1. In accordance with the Governmental Lease-Purchase Agreement, Lessee certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

Insurance Company Liability: <i>Public Entities Pool Burnham & Flowers</i>	Agent Name: <i>Thomas Welsh</i>	Business Phone # Fax Phone # <i>614-353-1077 269-276-4077</i>
Insurance Company Property: <i>Same</i>	Agent Name: <i>Same</i>	Business Phone # Fax Phone # <i>Same</i>

to issue: (check to indicate coverage)

a. All Risk Physical Damage Insurance on the following leased Property evidenced by a Certificate of Insurance and Long Form Loss Payable Clause naming The Huntington National Bank and/or its assigns as Loss Payee.

Leased Property: (1) Toro Groundskeeper 3500 together with all attachments and accessories thereto

Coverage Required: \$44,907.90

b. Public Liability Insurance evidenced by a Certificate of Insurance naming The Huntington National Bank and/or its assigns as an Additional Insured.

Minimum Coverage Required: -

\$1,000,000.00 per person
\$1,000,000.00 aggregate bodily injury liability
\$1,000,000.00 property damage liability

Proof of insurance coverage will be provided to The Huntington National Bank, 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305, prior to the time that the property is delivered to Lessee.

Please fax a copy of the Certificate of Insurance or binder to Michelle Granich at (952) 656-0000.

Lessee: City of Clayton Ohio

By:

Amanda Zimmerlin, City Manager



OHIO ADDENDUM
TO GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023

LESSOR: The Huntington National Bank

LESSEE: City of Clayton Ohio

This Addendum is hereby incorporated in and is hereby made a part of the above-referenced Governmental Lease-Purchase Agreement No. 008-0883355-301 (together with all Exhibits and Attachments and this Addendum, the "Lease"). Words "YOU" and "YOUR" refer to the "Lessee" and the words "WE," "US" and "OUR" refer to the "Lessor," its successors and assigns. Lessor and Lessee hereby agree that capitalized terms used herein and not otherwise defined herein shall have the terms assigned to such terms in the Lease and that the following changes and additions shall be made to the Lease:

1. Section 5 of the Lease is hereby deleted and the following Section 5 is hereby inserted in lieu thereof:

5. **NONAPPROPRIATION.** YOU are obligated only to pay such Lease Payments under this Lease as may lawfully be made from funds budgeted and appropriated for that purpose during YOUR then current budget year. If YOU fail to appropriate or otherwise make available funds to pay the Lease Payments required to be paid in the next occurring Renewal Term, and YOU cannot certify that those funds are available or in the process of collection, this Lease will be deemed terminated at the end of the then current Initial Term or Renewal Term. YOU agree to deliver written notice to US of such termination at least 90 days prior to the end of the then current Initial Term or Renewal Term, but failure to give such notice will not extend the term of this Lease beyond the then current Initial Term or Renewal Term. If this Lease is terminated in accordance with this Section, YOU agree, at YOUR cost and expense, to peaceably deliver the Equipment to US at the location or locations specified by US.

2. Section 12 of the Lease is hereby deleted.

3. **Fiscal Officer's Certificate.** Notwithstanding any provision in this Lease, this Lease will not be effective until a certificate of Lessee's fiscal officer in substantially the form attached hereto has been signed and attached hereto.

Except as specifically set forth in this Addendum, all terms and conditions contained in the Lease will remain in full force and effect and are hereby ratified and confirmed.

Lessor: The Huntington National Bank

Lessee: City of Clayton Ohio

By:

By:

Title: _____

Amanda Zimmerlin, City Manager



OHIO ADDENDUM
TO GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023

FISCAL OFFICER'S CERTIFICATE

The undersigned, as fiscal officer of the Lessee, hereby certifies that the money required for the payment of the obligations of the Lessee under the attached contract during the current fiscal year has been lawfully appropriated for such purposes and is in the treasury or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Section 5705.41 of the Ohio Revised Code.

Dated: 6-22, 2023

LESSEE: City of Clayton Ohio



Signature of Fiscal Officer

Kevin Schweitzer

Printed Name of Fiscal Officer

OPINION OF COUNSEL

(To be on Attorney's Letterhead)

Date: June 21, 2023

Lessee: City of Clayton Ohio
6001 Salem Avenue
Clayton, OH 45315

Lessor: The Huntington National Bank
11100 Wayzata Blvd, Suite 700
Minnetonka, MN 55305

Re: Governmental Lease-Purchase Agreement No. 008-0883355-301, dated as of June 21, 2023, by and between City of Clayton Ohio and The Huntington National Bank.

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the Governmental Lease-Purchase Agreement described above and the related escrow agreement, if any (together, the "Lease") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and all exhibits and attachments thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a public corporation and political subdivision of the State of Ohio (the "State") within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, is duly organized, existing and operating under the Constitution and laws of the State, and has a substantial amount of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power. The full, true and correct legal name of Lessee is _____.
2. Lessee is authorized and has power under State law to enter into the Lease and lease the equipment with an option to purchase, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Lease and the other documents described above have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and the Lease is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights. No further approval, consent or withholding of objection is required from any federal, state or local governmental authority with respect to the entering into or performance by the Lessee of the Lease and the transaction contemplated thereby.
4. Lessee has no authority (statutory or otherwise) to terminate the Lease prior to the end of its term for any reason other than pursuant to the terms of Section 5 of the Lease.
5. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable State and Federal laws.
6. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.
7. There is no litigation, action, suit, or proceeding pending or before any court, administrative agency, arbitrator or governmental body that challenges the organization or existence of Lessee; the authority of the Lessee or its officers; the proper authorization, approval and execution of the Lease and the other documents described above; the

appropriation of monies to make Lease Payments under the Lease for the current fiscal year, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

8. The equipment leased pursuant to the Lease constitutes personal property and when subject to use by Lessee will not be or become fixtures under applicable law.

9. The leasing of the equipment pursuant to the Lease is exempt from all sales, use and documentary stamp taxes against either Lessor or Lessee during the term of the Lease, and such equipment will be exempt from all state and local personal property or other ad valorem taxes.

This opinion of counsel may be relied upon by The Huntington National Bank and its successors and assigns.

Very truly yours,

RESOLUTION
GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301
DATED AS OF June 21, 2023

A resolution authorizing the negotiation, execution, and delivery of Governmental Lease-Purchase Agreement No. 008-0883355-301 dated June 21, 2023 (the "Lease"), in principal amount not to exceed \$44,907.90, between City of Clayton Ohio, 6001 Salem Avenue, Clayton, OH 45315 and The Huntington National Bank, 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305; and prescribing other details in connection therewith.

WHEREAS, City of Clayton Ohio, (the "Lessee") is a political subdivision duly organized and existing pursuant to the Constitution and laws of the State of Ohio; and

WHEREAS, Lessee is duly authorized by applicable law to acquire such items of personal property as are needed to carry out its governmental functions and to acquire such personal property by entering into lease-purchase agreements; and

WHEREAS, Lessee hereby finds and determines that the execution of a Lease for the purpose of leasing with the option to purchase the property designated and set forth in Attachment 2 to the Lease is appropriate and necessary to the function and operations of the Lessee; and

WHEREAS, The Huntington National Bank, (the "Lessor") shall act as Lessor under said Lease; and

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF City of Clayton Ohio:

Section 1. The Lease, in substantially the form as presently before the governing body of the Lessee, is hereby approved, and the _____ of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver the Lease and related documents in substantially the form as presently before the governing body of the Lessee, with such changes therein as shall be approved by such officer, and which Lease will be available for public inspection at the offices of Lessee.

Section 2. The Lessee shall, and the officers, agents and employees of the Lessee are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Lessee with respect to the Lease.

Section 3. The Lessee's obligations under the Lease shall be expressly subject to annual appropriation by Lessee; and such obligations under the Lease shall not constitute a general obligation of Lessee or indebtedness of Lessee within the meaning of the Constitution and laws of the State of Ohio.

Section 4. All other related contracts and agreements necessary and incidental to the Lease are hereby authorized, ratified and approved.

Section 5. Lessee reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not "qualified 501(c)(3) bonds") during the current calendar year and hereby designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. This resolution shall take effect immediately upon its adoption and approval.

CERTIFIED AS TRUE AND CORRECT this ____ day of _____, 20____.

Signature of Clerk, Secretary or Assistant Secretary

Printed Name of Clerk, Secretary or Assistant Secretary



LESSEE FACT SHEET
TO GOVERNMENTAL LEASE-PURCHASE AGREEMENT NO. 008-0883355-301 DATED AS OF June 21, 2023

Please fill in ALL of the following questions and return this form with the lease documents:

1. Equipment location address: 6001 Salem Ave, Clayton, OH 45315
2. Send bills to the following address: 6996 Taywood Rd.
Englewood, OH 45322
ATTENTION: Barb Seim
3. Name of person who issues payment and Phone number: Kevin Schweitzer
(937) 836-3500
4. Contract information of person responsible for preparing and filing Form 8038-G or 8038-GC:
Name: Kevin Schweitzer Phone: 937-836-3500 E-mail: kschweitzer@clayton-oh-us
Address: 6996 Taywood Rd. Englewood, OH 45322
5. Fiscal year end: 12/31



Insurance Certificate Request

11100 Wayzata Blvd, Ste 700, Minnetonka, MN 55305

To	To Whom It May Concern	From	Michelle Granich
Company	Burnham & Flowers Insurance	Phone	(614) 331-1892
Fax	269-276-4077	Email	Michelle.Granich@huntington.com
Phone	614-353-1077		
Subject	INSURANCE CERTIFICATE REQUEST	Date	June 21, 2023

Message:

Our mutual customer, City of Clayton Ohio, is leasing equipment through The Huntington National Bank. We are in need of an INSURANCE CERTIFICATE for the equipment leased prior to us closing out their transaction. Please see below for specifics. Thanks!

Please include the following items on the certificate:

1. INSURED: City of Clayton Ohio, 6001 Salem Avenue, Clayton, OH 45315
2. COVERAGES: <ul style="list-style-type: none"> • Liability Insurance – Minimum \$1,000,000.00 per occurrence in Combined Single Limit or such greater minimum as may be prescribed by any applicable state law specifying minimum insurance requirements. <ul style="list-style-type: none"> ➢ Policy Number ➢ Policy Effective Date & Policy Expiration Date • Property Damage – Cost: \$44,907.90 or ACV <ul style="list-style-type: none"> ➢ Comprehensive & Collision Deductibles (if applicable) or Physical Damage Deductible (Shall not exceed \$10,000 or 10% of Total Cost) ➢ Policy Number ➢ Policy Effective Date & Policy Expiration Date
3. DESCRIPTION OF EQUIPMENT: (1) Toro Groundsmaster 3500 together with all attachments and accessories thereto Or reference: "Leased Equipment on HNB Contract Number 008-0883355-301", if the description is too long
4. The Huntington National Bank, its successors and assigns needs to be listed as Loss Payee & Additional Insured on the Insurance Certificate.

If you have any questions, please feel free to contact me. Please send the certificate to my attention as soon as possible to Michelle.Granich@huntington.com. Thank you!

Michelle Granich
Sales Rep

The Huntington National Bank, 11100 Wayzata Blvd, Suite 700, Minnetonka, MN 55305

THE INFORMATION CONTAINED IN THIS FACSIMILE IS CONFIDENTIAL AND IS INTENDED ONLY FOR THE USE OF THE INDIVIDUAL NAMED ABOVE. IF THE READER OF THIS INFORMATION IS NOT THE INTENDED RECIPIENT, YOU ARE HEREBY NOTIFIED THAT ANY DISSEMINATION, DISTRIBUTION OR COPYING OF THIS COMMUNICATION IS STRICTLY PROHIBITED AND YOU ARE DIRECTED TO DESTROY IT. IF YOU HAVE RECEIVED THIS COMMUNICATION IN ERROR, PLEASE CONTACT US IMMEDIATELY BY TELEPHONE AT 800-442-7811.

Form **8038-GC**

(Rev. October 2021)
Department of the Treasury
Internal Revenue Service

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

► Under Internal Revenue Code section 149(e)
**Caution: If the issue price of the issue is \$100,000 or more, use Form 8038-G.
► Go to www.irs.gov/Form8038GC for instructions and the latest information.**

OMB No. 1545-0047

Part I Reporting Authority Check box if Amended Return

1 Issuer's name
City of Clayton

2 Issuer's employer identification number (EIN)
31-0909460

3 Number and street (or P.O. box if mail isn't delivered to street address) Room/suite
6996 Taywood Road

4 City, town, or post office, state, and ZIP code
Englewood, OH 45322

5 Report number (For IRS Use Only)

6 Name and title of officer or other employee of issuer or designated contact person whom the IRS may call for more information
Kevin Schweitzer, Director of Finance

7 Telephone number of officer or legal representative
937-836-3500 x 132

Part II Description of Obligations Check one box: Single issue Consolidated return

8a	Issue price of obligation(s) (see instructions)	8a	44,907.90
b	Issue date (single issue) or calendar date (consolidated). Enter date in MM/DD/YYYY format (for example, 01/01/2009) (see instructions) ► 06/21/2023		
9	Amount of the reported obligation(s) on line 8a that is:		
a	For leases for vehicles	9a	
b	For leases for office equipment	9b	
c	For leases for real property	9c	
d	For leases for other (see instructions)	9d	golf course equip
e	For bank loans for vehicles	9e	
f	For bank loans for office equipment	9f	
g	For bank loans for real property	9g	
h	For bank loans for other (see instructions)	9h	
i	Used to refund prior issue(s)	9i	
j	Representing a loan from the proceeds of another tax-exempt obligation (for example, bond bank)	9j	
k	Other	9k	

10 If the issuer has designated any issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check this box

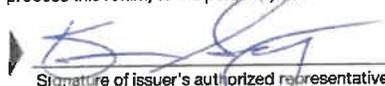
11 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check this box (see instructions)

12 Vendor's or bank's name: **Huntington Bank**

13 Vendor's or bank's employer identification number:

Signature and Consent

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person(s) that I have authorized above.

 **Kevin Schweitzer**
Signature of issuer's authorized representative Date: **6-21-23** Type or print name and title: **Director of Finance**

Paid Preparer Use Only	Print/Type preparer's name	Preparer's signature	Date	Check <input type="checkbox"/> if self-employed	PTIN
	Firm's name ►	Firm's EIN ►			
	Firm's address ►	Phone no.			

Future Developments

For the latest information about developments related to Form 8038-GC and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form8038GC.

General Instructions

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

Purpose of Form

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

Who Must File

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

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

Filing a separate return for a single issue.

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

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

pay a penalty in lieu of arbitrage rebate. See the instructions for line 11, later.

Filing a consolidated return for multiple issues.

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

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

When To File

To file a separate return for a single issue, file Form 8038-GC on or before the 15th day of the 2nd calendar month after the close of the calendar quarter in which the issue is issued.

To file a consolidated return for multiple issues, file Form 8038-GC on or before February 15 of the calendar year following the year in which the issue is issued.

Late filing. An issuer may be granted an extension of time to file Form 8038-GC under section 3 of Rev. Proc. 2002-48, 2002-37 I.R.B. 531, if it is determined that the failure to file on time isn't due to willful neglect. Write at the top of the form, "Request for Relief under section 3 of Rev. Proc. 2002-48." Attach to the Form 8038-GC a letter briefly stating why the form wasn't submitted to the IRS on time. Also, indicate whether the obligation in question is under examination by the IRS. Don't submit copies of any bond documents, leases, or installment sale documents. See *Where To File* next.

Where To File

File Form 8038-GC and any attachments at the following address.

Department of the Treasury
Internal Revenue Service Center
Ogden, UT 84201

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

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

The PDS can tell you how to get written proof of the mailing date.

Other Forms That May Be Required

For rebating arbitrage (or paying a penalty in lieu of arbitrage rebate) to the federal government, use Form 8038-T, Arbitrage Rebate, Yield Reduction and Penalty in Lieu of Arbitrage Rebate. For private activity bonds, use Form 8038, Information Return for Tax-Exempt Private Activity Bond Issues.

For a tax-exempt governmental obligation with an issue price of \$100,000 or more, use Form 8038-G.

Rounding to Whole Dollars

You may show the money items on this return as whole-dollar amounts. To do so, drop any amount less than 50 cents and increase any amount from 50 to 99 cents to the next higher dollar. For example, \$1.49 becomes \$1 and \$2.50 becomes \$3. If two or more amounts must be added to figure the amount to enter on a line, include cents when adding the amounts and round off only the total.

Definitions

Obligations. This refers to a single tax-exempt governmental obligation if Form 8038-GC is used for separate reporting or to multiple tax-exempt governmental obligations if the form is used for consolidated reporting.

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

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

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

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

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

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

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

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

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

In lieu of rebating any arbitrage that may be owed to the United States, the issuer of a construction issue may make an irrevocable election to pay a penalty. The penalty is equal to 1-1/2% of the amount of construction proceeds that do not meet certain spending requirements. See section 148(f)(4)(C) and the Instructions for Form 8038-T.

Specific Instructions

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

Part I—Reporting Authority

Amended return. An issuer may file an amended return to change or add to the information reported on a previously filed return for the same date of issue. If you are filing to correct errors or change a previously filed return, check the *Amended Return* box in the heading of the form.

The amended return must provide all the information reported on the original return, in addition to the new corrected information. Attach an explanation of the reason for the amended return and write across the top "Amended Return Explanation."

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

Line 2. An issuer that doesn't have an employer identification number (EIN) should apply for one online by visiting the IRS website at www.irs.gov/EIN. The organization may also apply for an EIN by faxing or mailing Form SS-4 to the IRS.

Lines 3 and 4. Enter the issuer's address or the address of the designated contact person listed on line 6. If the issuer wishes to use its own address and the issuer receives its mail in care of a third party authorized representative (such as an accountant or attorney), enter on the street address line "C/O" followed by the third party's name and street address or P.O. box. Include the suite, room, or other unit number after the street address. If the post office doesn't deliver

mail to the street address and the issuer has a P.O. box, show the box number instead of the street address. If a change in address occurs after the return is filed, use Form 8822, Change of Address, to notify the IRS of the new address.

Note: The address entered on lines 3 and 4 is the address the IRS will use for all written communications regarding the processing of this return, including any notices. By authorizing a person other than an authorized officer or other employee of the issuer to communicate with the IRS and whom the IRS may contact about this return, the issuer authorizes the IRS to communicate directly with the individual listed on line 6, whose address is entered on lines 3 and 4 and consents to disclose the issuer's return information to that individual, as necessary, to process this return.

Line 5. This line is for IRS use only. Don't make any entries in this box.

Part II—Description of Obligations

Check the appropriate box designating this as a return on a single issue basis or a consolidated return basis.

Line 8a. The issue price of obligations is generally determined under Regulations section 1.148-1(b). Thus, when issued for cash, the issue price is the price at which a substantial amount of the obligations are sold to the public. To determine the issue price of an obligation issued for property, see sections 1273 and 1274 and the related regulations.

Line 8b. For a single issue, enter the date of issue (for example, 03/15/2020 for a single issue issued on March 15, 2020), generally the date on which the issuer physically exchanges the bonds that are part of the issue for the underwriter's (or other purchaser's) funds; for a lease or installment sale, enter the date interest starts to accrue. For issues reported on a consolidated basis, enter the first day of the calendar year during which the obligations were issued (for example, for calendar year 2020, enter 01/01/2020).

Lines 9a through 9h. Complete this section if property other than cash is exchanged for the obligation, for example, acquiring a police car, a fire truck, or telephone equipment through a series of monthly payments. (This type of obligation is sometimes referred to as a "municipal lease.") Also, complete this section if real property is directly acquired in exchange for an obligation to make periodic payments of interest and principal.

Don't complete lines 9a through 9d if the proceeds of an obligation are received in the form of cash even if the term "lease" is used in the title of the issue. For lines 9a through 9d, enter the amount on the appropriate line that represents a lease or installment

purchase. For line 9d, enter the type of item that is leased. For lines 9e through 9h, enter the amount on the appropriate line that represents a bank loan. For line 9h, enter the type of bank loan.

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

Line 9k. Enter on line 9k the amount on line 8a that doesn't represent an obligation described on lines 9a through 9j.

Line 10. Check this box if the issuer has designated any issue as a "small issuer exception" under section 265(b)(3)(B)(i)(III).

Line 11. Check this box if the issue is a construction issue and an irrevocable election to pay a penalty in lieu of arbitrage rebate has been made on or before the date the bonds were issued. The penalty is payable with a Form 8038-T for each 6-month period after the date the bonds are issued. Don't make any payment of penalty in lieu of rebate with Form 8038-GC. See Rev. Proc. 92-22, 1992-1 C.B. 736, for rules regarding the "election document."

Line 12. Enter the name of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Line 13. Enter the employer identification number of the vendor or bank who is a party to the installment purchase agreement, loan, or financial lease. If there are multiple vendors or banks, the issuer should attach a schedule.

Signature and Consent

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

Note: If the issuer authorizes on line 6 the IRS to communicate with a person other than an officer or other employee of the issuer (such authorization shall include contact both in writing regardless of the address entered on lines 3 and 4, and by telephone), by signing this form, the issuer's authorized representative consents to the disclosure of the issuer's return information, as necessary to process this return, to such person.

Paid Preparer

If an authorized representative of the issuer filled in its return, the paid preparer's space should remain blank. Anyone who prepares the return but does not charge the organization shouldn't sign the return. Certain others who prepare the return shouldn't sign. For example, a regular, full-time employee of the issuer, such as a clerk, secretary, etc., shouldn't sign.

Generally, anyone who is paid to prepare a return must sign it and fill in the other blanks in the *Paid Preparer Use Only* area of the return. A paid preparer cannot use a social security number in the *Paid Preparer Use Only* box. The paid preparer must use a preparer tax identification number (PTIN). If the paid preparer is self-employed, the preparer should enter his or her address in the box.

The paid preparer must:

- Sign the return in the space provided for the preparer's signature, and
- Give a copy of the return to the issuer.

Paperwork Reduction Act Notice

We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws.

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

The time needed to complete and file this form will vary depending on individual circumstances. The estimated burden for tax exempt organizations filing this form is approved under OMB control number 1545-0047 and is included in the estimates shown in the instructions for their information return.

If you have suggestions for making this form simpler, we would be happy to hear from you. You can send us comments through www.irs.gov/FormComments. Or you can write to:

Internal Revenue Service
Tax Forms and Publications
1111 Constitution Ave. NW, IR-6526
Washington, DC 20224

Do not send Form 8038-GC to this address. Instead, see *Where To File*, earlier.

LAW OFFICE OF MARTINA M. DILLON, ESQ.

7501 Paragon Road, Suite A

Dayton, Ohio 45459

Phone: 937-434-1908

martina@mdillonlaw.com

Date: June 26, 2023

Lessee: City of Clayton Ohio
6001 Salem Avenue
Clayton, OH 45315

Lessor: The Huntington National Bank
11100 Wayzata Blvd, Suite 700
Minnetonka, MN 55305

Re: Governmental Lease-Purchase Agreement No. 008-0883355-301, dated as of June 21, 2023, by and between City of Clayton Ohio and The Huntington National Bank.

Ladies and Gentlemen:

I have acted as counsel to Lessee with respect to the Governmental Lease-Purchase Agreement described above and the related escrow agreement, if any (together, the "Lease") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Lease and all exhibits and attachments thereto. Based upon the examination of these and such other documents as I deem relevant, it is my opinion that:

1. Lessee is a public corporation and political subdivision of the State of Ohio (the "State") within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, is duly organized, existing and operating under the Constitution and laws of the State, and has a substantial amount of the following sovereign powers: (a) the power to tax, (b) the power of eminent domain, and (c) police power. The full, true and correct legal name of Lessee is City of Clayton, Ohio.
2. Lessee is authorized and has power under State law to enter into the Lease and lease the equipment with an option to purchase, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Lease and the other documents described above have been duly authorized, approved, executed and delivered by and on behalf of Lessee, and the Lease is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights. No further approval, consent or withholding of objection is required from any federal, state or local governmental

authority with respect to the entering into or performance by the Lessee of the Lease and the transaction contemplated thereby.

4. Lessee has no authority (statutory or otherwise) to terminate the Lease prior to the end of its term for any reason other than pursuant to the terms of Section 5 of the Lease.

5. The authorization, approval and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable State and Federal laws.

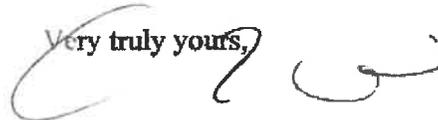
6. The execution of the Lease and the appropriation of moneys to pay the payments coming due under the Lease do not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

7. There is no litigation, action, suit, or proceeding pending or before any court, administrative agency, arbitrator or governmental body that challenges the organization or existence of Lessee; the authority of the Lessee or its officers; the proper authorization, approval and execution of the Lease and the other documents described above; the appropriation of monies to make Lease Payments under the Lease for the current fiscal year, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby.

8. The equipment leased pursuant to the Lease constitutes personal property and when subject to use by Lessee will not be or become fixtures under applicable law.

This opinion of counsel may be relied upon by The Huntington National Bank and its successors and assigns.

Very truly yours,



Martina M. Dillon, Esq.