



State of West Virginia  
Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

## Request for Quotation

RFQ NUMBER

FAR120000

PAGE

1

ADDRESS CORRESPONDENCE TO ATTENTION OF:

KRISTA FERRELL  
304-558-2596

VENDOR

**Fifth Third Equipment Finance**  
**Attn: Mark Keegan**  
**21 East State Street MD468371**  
**Columbus, OH 43215**

SHIP TO

DEPARTMENT OF ADMINISTRATION  
FINANCIAL ACCOUNTING AND  
REPORTING SECTION  
2101 WASHINGTON ST E  
CHARLESTON, WV  
25305-1510 304-558-4083

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
04/04/2012				

BID OPENING DATE:

04/26/2012

BID OPENING TIME 01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
0001	1	EA		946-54		
STATE MASTER LEASE PURCHASE AGREEMENT						
REQUEST FOR QUOTATION (RFQ)						
THE WEST VIRGINIA STATE PURCHASING DIVISION FOR THE AGENCY, THE WEST VIRGINIA OFFICE OF TECHNOLOGY, IS SOLICITING BIDS TO PROVIDE FINANCING SERVICES FOR EQUIPMENT AND OTHER CAPITAL FINANCING NEEDS OF VARIOUS STATE AGENCIES IN THE FORM OF A MASTER LEASE PURCHASE AGREEMENT PER THE ATTACHED SPECIFICATIONS.						
TECHNICAL QUESTIONS CONCERNING THIS SOLICITATION MUST BE SUBMITTED IN WRITING TO KRISTA FERRELL IN THE WEST VIRGINIA STATE PURCHASING DIVISION VIA FAX AT 304-558-4115 OR VIA EMAIL AT KRISTA.S.FERRELL@WV.GOV.						
DEADLINE FOR ALL TECHNICAL QUESTIONS IS 04/17/2012 AT THE CLOSE OF BUSINESS.						
ALL TECHNICAL QUESTIONS RECEIVED WILL BE ANSWERED BY FORMAL WRITTEN ADDENDUM TO BE ISSUED BY THE PURCHASING DIVISION AFTER THE DEADLINE HAS LAPSED.						
VERBAL COMMUNICATION: ANY VERBAL COMMUNICATION BETWEEN THE VENODR AND ANY STATE PERSONNEL IS NOT BINDING. ONLY INFORMATION ISSUED IN WRITING AND ADDED TO THE RFQ SPECIFICATIONS BY AND OFFICIAL WRITTEN ADDENDUM BY THE PURCHASING DIVISION IS BINDING.						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	Mark Keegan	TELEPHONE	614-744-5488	DATE	04/25/2012
TITLE	Vice President	FEIN	31-0854434	ADDRESS CHANGES TO BE NOTED ABOVE	

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

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WV PURCHASING  
DIVISION

## GENERAL TERMS & CONDITIONS REQUEST FOR QUOTATION (RFQ) AND REQUEST FOR PROPOSAL (RFP)

1. Awards will be made in the best interest of the State of West Virginia.
2. The State may accept or reject in part, or in whole, any bid.
3. Prior to any award, the apparent successful vendor must be properly registered with the Purchasing Division and have paid the required \$125 fee.
4. All services performed or goods delivered under State Purchase Order/Contracts are to be continued for the term of the Purchase Order/Contracts, contingent upon funds being appropriated by the Legislature or otherwise being made available. In the event funds are not appropriated or otherwise available for these services or goods this Purchase Order/Contract becomes void and of no effect after June 30.
5. Payment may only be made after the delivery and acceptance of goods or services.
6. Interest may be paid for late payment in accordance with the **West Virginia Code**.
7. Vendor preference will be granted upon written request in accordance with the **West Virginia Code**.
8. The State of West Virginia is exempt from federal and state taxes and will not pay or reimburse such taxes.
9. The Director of Purchasing may cancel any Purchase Order/Contract upon 30 days written notice to the seller.
10. The laws of the State of West Virginia and the **Legislative Rules** of the Purchasing Division shall govern the purchasing process.
11. Any reference to automatic renewal is hereby deleted. The Contract may be renewed only upon mutual written agreement of the parties.
12. **BANKRUPTCY:** In the event the vendor/contractor files for bankruptcy protection, the State may deem this contract null and void, and terminate such contract without further order.
13. **HIPAA BUSINESS ASSOCIATE ADDENDUM:** The West Virginia State Government HIPAA Business Associate Addendum (BAA), approved by the Attorney General, is available online at [www.state.wv.us/admin/purchase/vrc/hipaa.html](http://www.state.wv.us/admin/purchase/vrc/hipaa.html) and is hereby made part of the agreement provided that the Agency meets the definition of a Cover Entity (45 CFR §160.103) and will be disclosing Protected Health Information (45 CFR §160.103) to the vendor.
14. **CONFIDENTIALITY:** The vendor agrees that he or she will not disclose to anyone, directly or indirectly, any such personally identifiable information or other confidential information gained from the agency, unless the individual who is the subject of the information consents to the disclosure in writing or the disclosure is made pursuant to the agency's policies, procedures, and rules. Vendor further agrees to comply with the Confidentiality Policies and Information Security Accountability Requirements, set forth in <http://www.state.wv.us/admin/purchase/privacy/noticeConfidentiality.pdf>.
15. **LICENSING:** Vendors must be licensed and in good standing in accordance with any and all state and local laws and requirements by any state or local agency of West Virginia, including, but not limited to, the West Virginia Secretary of State's Office, the West Virginia Tax Department, and the West Virginia Insurance Commission. The vendor must provide all necessary releases to obtain information to enable the director or spending unit to verify that the vendor is licensed and in good standing with the above entities.
16. **ANTITRUST:** In submitting a bid to any agency for the State of West Virginia, the bidder offers and agrees that if the bid is accepted the bidder will convey, sell, assign or transfer to the State of West Virginia all rights, title and interest in and to all causes of action it may now or hereafter acquire under the antitrust laws of the United States and the State of West Virginia for price fixing and/or unreasonable restraints of trade relating to the particular commodities or services purchased or acquired by the State of West Virginia. Such assignment shall be made and become effective at the time the purchasing agency tenders the initial payment to the bidder.

I certify that this bid is made without prior understanding, agreement, or connection with any corporation, firm, limited liability company, partnership, or person or entity submitting a bid for the same material, supplies, equipment or services and is in all respects fair and without collusion or Fraud. I further certify that I am authorized to sign the certification on behalf of the bidder or this bid.

### INSTRUCTIONS TO BIDDERS

1. Use the quotation forms provided by the Purchasing Division. Complete all sections of the quotation form.
2. Items offered must be in compliance with the specifications. Any deviation from the specifications must be clearly indicated by the bidder. Alternates offered by the bidder as **EQUAL** to the specifications must be clearly defined. A bidder offering an alternate should attach complete specifications and literature to the bid. The Purchasing Division may waive minor deviations to specifications.
3. Unit prices shall prevail in case of discrepancy. All quotations are considered F.O.B. destination unless alternate shipping terms are clearly identified in the quotation.
4. All quotations must be delivered by the bidder to the office listed below prior to the date and time of the bid opening. Failure of the bidder to deliver the quotations on time will result in bid disqualifications: Department of Administration, Purchasing Division, 2019 Washington Street East, P.O. Box 50130, Charleston, WV 25305-0130
5. Communication during the solicitation, bid, evaluation or award periods, except through the Purchasing Division, is strictly prohibited (W.Va. C.S.R. §148-1-6.6).





State of West Virginia  
Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

# Request for Quotation

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PAGE

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ADDRESS CORRESPONDENCE TO ATTENTION OF

KRISTA FERRELL  
304-558-2596

RFQ COPY

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DEPARTMENT OF ADMINISTRATION  
FINANCIAL ACCOUNTING AND  
REPORTING SECTION  
2101 WASHINGTON ST E  
CHARLESTON, WV  
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DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
04/04/2012				
BID OPENING DATE: 04/26/2012		BID OPENING TIME 01:30PM		

LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
NO CONTACT BETWEEN THE VENDOR AND ANY AGENCY REGARDING THE SUBJECT MATTER OF THIS RFQ IS PERMITTED WITHOUT THE EXPRESS WRITTEN CONSENT OF THE STATE BUYER. VIOLATION MAY RESULT IN REJECTION OF THE BID. THE STATE BUYER NAMED ABOVE IS THE SOLE CONTACT FOR ANY AND ALL INQUIRIES AFTER THIS RFQ HAS BEEN RELEASED.						
EXHIBIT 10						
REQUISITION NO.: .....						
ADDENDUM ACKNOWLEDGEMENT						
I HEREBY ACKNOWLEDGE RECEIPT OF THE FOLLOWING CHECKED ADDENDUM(S) AND HAVE MADE THE NECESSARY REVISIONS TO MY PROPOSAL, PLANS AND/OR SPECIFICATION, ETC.						
ADDENDUM NO.'S:						
NO. 1 <input checked="" type="checkbox"/> .....						
NO. 2 .....						
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NO. 4 .....						
NO. 5 .....						
I UNDERSTAND THAT FAILURE TO CONFIRM THE RECEIPT OF THE ADDENDUM(S) MAY BE CAUSE FOR REJECTION OF BIDS.						
VENDOR MUST CLEARLY UNDERSTAND THAT ANY VERBAL REPRESENTATION MADE OR ASSUMED TO BE MADE DURING ANY ORAL DISCUSSION HELD BETWEEN VENDOR'S REPRESENTATIVES						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Mark Keegan</i>	TELEPHONE 614-744-5488	DATE 04/25/2012
TITLE VICE PRESIDENT	FEIN 31-0854434	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'





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KRISTA FERRELL  
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DEPARTMENT OF ADMINISTRATION  
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AND ANY STATE PERSONNEL IS NOT BINDING. ONLY THE INFORMATION ISSUED IN WRITING AND ADDED TO THE SPECIFICATIONS BY AN OFFICIAL ADDENDUM IS BINDING.						
<i>Mark Keegan</i> ..... SIGNATURE						
<i>FIFTH THIRD BANK</i> ..... COMPANY						
<i>04/25/2012</i> ..... DATE						
NOTE: THIS ADDENDUM ACKNOWLEDGEMENT SHOULD BE SUBMITTED WITH THE BID.						
REV. 09/21/2009						
ANY INDIVIDUAL SIGNING THIS BID IS CERTIFYING THAT: (1) HE OR SHE IS AUTHORIZED BY THE BIDDER TO EXECUTE THE BID OR ANY DOCUMENTS RELATED THERETO ON BEHALF OF THE BIDDER, (2) THAT HE OR SHE IS AUTHORIZED TO BIND THE BIDDER IN A CONTRACTUAL RELATIONSHIP, AND (3) THAT THE BIDDER HAS PROPERLY REGISTERED WITH ANY STATE AGENCIES THAT MAY REQUIRE REGISTRATION.						
NOTICE						
A SIGNED BID MUST BE SUBMITTED TO:						
DEPARTMENT OF ADMINISTRATION PURCHASING DIVISION BUILDING 15 2019 WASHINGTON STREET, EAST						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE <i>Mark Keegan</i>	TELEPHONE <i>614-744-5488</i>	DATE <i>04/25/2012</i>
TITLE <i>VICE President</i>	FEIN <i>31-0854434</i>	ADDRESS CHANGES TO BE NOTED ABOVE

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'





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## Request for Quotation

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ADDRESS CORRESPONDENCE TO ATTENTION OF:

KRISTA FERRELL  
304-558-2596

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DEPARTMENT OF ADMINISTRATION  
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2101 WASHINGTON ST E  
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LINE	QUANTITY	UOP	CAT. NO.	ITEM NUMBER	UNIT PRICE	AMOUNT
				CHARLESTON, WV 25305-0130		
				THE BID SHOULD CONTAIN THIS INFORMATION ON THE FACE OF THE ENVELOPE OR THE BID MAY NOT BE CONSIDERED:		
				SEALED BID		
				BUYER:	KRISTA FERRELL-FILE 21	
				RFQ. NO.:	FAR120000	
				BID OPENING DATE:	04/26/2012	
				BID OPENING TIME:	1:30 PM	
				PLEASE PROVIDE A FAX NUMBER IN CASE IT IS NECESSARY TO CONTACT YOU REGARDING YOUR BID:		
					614-744-7606	
				CONTACT PERSON (PLEASE PRINT CLEARLY):		
					MARK KEEGAN	

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
<i>Mark Keegan</i>	614-744-5488	04/25/2012
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
VICE President	31-0854434	

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'

## RFQ

### FAR120000

#### Section 1: General Information

##### 1.1 Purpose:

The WV State Purchasing Division for the Finance Division of the Department of Administration is soliciting quotations from qualified vendors to provide financing for equipment and other capital financing needs of various State agencies in the form of a Master Lease Purchase Agreement per the specifications provided in this document.

##### 1.2 Background:

The state of West Virginia has held a statewide financing contract since 1996. There have been 49 appendices from 2004-2012. Since the last contract, dated January 2009, there have been 14 appendices totaling \$24,670,338, with the highest single appendix being \$6.6 million. We anticipate \$10 million to \$15 million annually. The average finance package over the duration of the last contract has been \$1.8 million. The financing contract will be available to all West Virginia State Agencies.

#### Section 2: Scope of Work

##### 2.1 Terms of the Master Lease Purchase Financing Agreement:

The Master Lease Purchase Financing Agreement (MLPFA) will control each financing completed, contemplating that an appendix evidencing each financing will be issued through a separate purchase order for each user agency referencing the Agreement. As each agency has its own various accounts, a separate appendix and purchase order must be issued for each financing. The Lessor shall have the right to accept or reject an appendix to the MLPFA.

Each appendix will include the State agency, source of funding, use of equipment, beginning date, term, list of equipment, payment schedule, essential use certificate, tax compliance agreement, no arbitrage certificate, and opinion of counsel. The payment schedule will specify the amount financed, rate, term payment due dates, and the principal balance, payment amount, and interest for each payment.

A representative of the Department of Administration will coordinate all efforts between Purchasing and the Bidder(s) in finalizing the Agreement and between the user agencies and the Bidder(s) in preparing appendices. The State Comptroller's Office will prepare all documents necessary (the appendices and acceptance certificate and request for payment), and will submit documents to the Purchasing Division for final processing. All purchase orders released against the contract will be signed by the Director of Purchasing or designee.



The rate of interest will be based upon a percentage of an Index (defined in Section 2.2) and will be fixed on the date of execution of an appendix with payments to be made in arrears. The initial lease payment will be due on the first day of the month following the month in which the appendix was effective, with subsequent payments due on the first day of each following month for the term of the financing, unless otherwise agreed. Lease payments will be calculated on a level payment basis, using a single fixed rate of interest for either: three, four, five, or seven year terms. Interest will be calculated on a 360/265 day basis.

## **2.2 Equipment or Capital Expenditures to be Purchased**

The purchase will be obtained in accordance with Purchasing laws, regulations and policies, and will consist of personal property and capital expenditures deemed essential. Each financing will be worth a minimum of \$100,000 in total purchased. Several items for an agency may be combined into one (1) appendix. In these instances, funds for the appendices need to be escrowed. Bidders must be able to provide escrowed funds or offer an alternative acceptable to the State.

Total purchases under the Agreement are not expected to exceed \$25,000,000 for the initial term of the Agreement. The State does not guarantee that any purchases will be made during the term of the Agreement. It is also not known how the lease amounts will be distributed among the three, four, five, and seven year terms. Furthermore, the exact equipment or capital expenditure needs of the agencies are not known and will not be surveyed for the purpose of this Request for Quotation (RFQ). However, a listing of equipment financed in the last four (4) years pursuant to the similar financing agreement is attached for the sole purpose of demonstrating past uses and is not to be construed as an indication of future uses.

The State plans to finance only essential needs and to finance such over a period not to exceed the equipment's useful life or seven years, whichever is less.

## **2.3 Rate**

Each bidder is required to bid a percentage of the index for each of the three, four, five, and seven year lease terms for monthly payments in arrears, as indicated on the attached bid form. The percentage of the index will remain fixed during the term of the Agreement and any renewal or extension thereof. The index is defined as the interest rate SWAP, as reported by the Federal Reserve on a weekly average basis for the week preceding the date of execution of an appendix and as published weekly by the Federal Reserve in Publication H.15, a copy of which is attached for reference purposes.

## **2.4 Other Terms**

The Finance Division will not entertain any alternative terms from vendors. Any requests for clarifications of this contract can be submitted to the Purchasing Division ahead of the time of bid opening.

## **Section 3: Compliance with Laws and Regulations**

The contractor shall procure all necessary permits and licenses to comply with all applicable laws, Federal State, or municipal, along with all regulations, and ordinances of any regulating body.

The Vendor shall pay any applicable sales, use, or personal property taxes arising out of this contract and the transactions contemplated thereby. Any other taxes levied upon this contract, the transaction, the equipment, or services delivered pursuant hereto shall be borne by the contractor. It is clearly understood that the State of West Virginia is exempt from any taxes regarding performance of the scope of work of this contract.

#### Section 4: Cost Sheet

Bidders are asked to complete the below Costing Table. Vendors failing to complete this section in its entirety may be disqualified as the submitted bid may not be able to be evaluated.

##### Financing Period

##### Discount/Premium from H.15

3 Year Financing Term	<u>Prior week ending (2 yrs) swap + 206 basis points, X 65%</u>
4 Year Financing Term	<u>Prior week ending (2 yrs) swap + 213 basis points, X 65%</u>
5 Year Financing Term	<u>Prior week ending (3 yrs) swap + 224 basis points, X 65%</u>
7 Year Financing Term	<u>Prior week ending (4 yrs) swap + 263 basis points, X 65%</u>

#### Section 5: Attachments

Attachment A: State of West Virginia Master Lease Purchase Financing Agreement including Appendices and Attachments to Appendices.

Attachment B: State of West Virginia Master Lease Program Blanket Purchase Order

Attachment C: State of West Virginia Master Lease Program Submission Form

Attachment E: Listing of State Equipment Financed from 2009-March 2012

Attachment F: Selected Interest Rate Schedule (Federal Reserve in Publication H.15)



**STATE OF WEST VIRGINIA MASTER LEASE**  
**PURCHASE FINANCING AGREEMENT**

THIS MASTER LEASE PURCHASE FINANCING AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_ ("Lessor"), and the PURCHASING DIVISION OF THE DEPARTMENT OF ADMINISTRATION of the State of West Virginia ("Purchasing"), on behalf of the Lessees specified in the attached appendices ("Lessee" or "Lessees").

The parties hereto do mutually covenant and agree as follows:

1. Lease

Pursuant to the provisions of Chapter 5A of the West Virginia Code, Purchasing, on behalf of the Lessees specified in the attached appendices, as body politics duly organized and existing under the laws of the State of West Virginia, agrees to lease from Lessor the various items of equipment specified in each appendix ("Equipment"), and Lessor, as specified above, agrees to lease to Lessees the Equipment in accordance with the terms and conditions of this Master Lease Purchase Financing Agreement ("Lease"). Upon execution, this Lease is binding on and enforceable against Lessor and Lessees in accordance with its terms.

This Lease will control each financing completed, and an appendix evidencing each financing will be issued through a separate purchase order for each user agency referencing the Lease (an "Appendix" or "Appendices"). As each agency has its own various accounts, a separate Appendix and purchase order must be issued for each financing. The Lessor shall have the sole right to accept or reject an Appendix to the Lease.

Several items for an agency may be combined into one Appendix. Therefore, funds for certain Appendices may need to be escrowed, while in other cases no escrow will be needed. Lessor must be able provide escrowed funds or offer an alternative acceptable to Purchasing and Lessee.

2. Covenants of Lessor

Lessor, and any assignee of Lessor, shall allow Lessees to quietly have, hold and enjoy the Equipment, without suit, trouble or hindrance from Lessor during the term of this Lease, except as expressly set forth in this Lease.

3. Covenants of Lessees

Lessees are not prohibited by the Constitution or laws of the State of West Virginia from entering into this Lease. No approval, consent or withholding of objection is required from any governmental authority not a signatory to this Lease with respect to the performance or obligations of Lessees under this Lease. This Lease will not violate any judgment, law or regulation applicable to Lessees or result in any breach of, or constitute a default under, or result

in the creation of any lien or encumbrance upon the assets of the Lessees or on the Equipment pursuant to, any other instrument to which Lessees are a party.

#### 4. Equipment Delivery and Acceptance

Lessees shall accept the Equipment when and if delivered and placed in good working order in accordance with the Purchase Order for such item of Equipment and hereby authorize the Lessor to add to the appropriate Appendix the serial number of each item of Equipment so delivered. Lessees shall have thirty (30) days from date of delivery to accept the Equipment and deliver an Equipment Acceptance Certificate or to have the Equipment returned. Notice of any Equipment defects shall be given to Lessor within thirty (30) days of delivery, unless not discovered at that time by reasonable efforts.

Lessor agrees to pay the invoices for the accepted Equipment within seven (7) days of receipt of the Equipment Acceptance Certificate and Request for Payment, but shall not be liable for the specific performance of the Lease or for damages, if for any reason, the supplier delays or fails to fill the order. Any delay in such delivery shall not affect the validity of this Lease.

In the event any portion of the Equipment is not accepted or the cost of the Equipment is less than the funding under an Appendix, then the amount of the funding remaining shall be applied as a partial prepayment on that Appendix.

#### 5. Term

The Lease shall be for an original term of one (1) year, subject to renewal in accordance with Section 22 of this Lease. The term of each Appendix, evidencing each financing, shall commence on the date specified in each Appendix and shall terminate upon the first to occur:

- (a) The payment of the purchase option price;
- (b) The payment of all lease payments;
- (c) An Event of Non-appropriation; or
- (d) An Event of Default.

The terms and conditions contained in this Lease shall be the terms and conditions of each Appendix and the terms and conditions during any renewal of the financing available under this Lease.

#### 6. Event of Non-Appropriation

If a Lessee is not allotted funds in any succeeding fiscal year for the continued use of the service covered by this Lease by the West Virginia Legislature, the Lessee may terminate the Appendix at the end of the affected current fiscal period without further charge or penalty. An "Event of Non-appropriation" shall be deemed to have occurred if: (a) Sufficient funds are not appropriated for lease payments under an Appendix in any fiscal year; and (b) a Lessee shall have at such time no funds duly authorized or otherwise available for the lease payments. Lessee agrees to provide written notice of an Event of Non-appropriation to Lessor as soon as Lessee



determines that such an event exists. No penalty shall accrue to the Lessee in the event this provision is exercised.

Upon the occurrence of an Event of Non-appropriation, that Appendix shall terminate without penalty at the end of the then current fiscal year and the Lease and other payments under that Appendix shall be canceled. Lessee agrees to return the Equipment to Lessor, together with a release of all Lessee's title and interest therein. It is the intention of the parties that any transfer of title to Lessor pursuant to this Section shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee agrees, nevertheless, to execute and deliver any such instruments as Lessor may reasonably request to evidence such transfer. An Event of Non-appropriation shall not be deemed an event of default. Furthermore, an Event of Non-appropriation under one Appendix shall not be deemed an Event of Non-appropriation under any other Appendix.

#### 7. Lease Termination

The Lessor may not unilaterally terminate this Lease at any time; however, this Lease is subject to termination upon the occurrence of any one of the following events:

- (a) The Director of Purchasing terminates the Lease for any reason and at any time upon providing Lessor a thirty (30) day written notice thereof;
- (b) The expiration of the current term without any further action or notice by either party; or
- (c) The mutual written agreement of the parties prior to the expiration of the then current term.

Any such termination of the Lease shall not affect the financing under any Appendix executed prior to the effective Lease termination date.

#### 8. Warranties/Guarantees

Each Lessee acknowledges that it has selected the Equipment financed under this Lease and that Lessor is not the manufacturer or dealer in the Equipment herein leased. As Lessor is not the manufacturer or dealer in the Equipment, Lessor makes, and has made, no representations or warranties whatsoever as to the existence or availability of warranties by the vendor of any item(s) of Equipment. Lessor hereby assigns to each Lessee for and during the lease term all manufacturers' warranties or guarantees, expressed or implied, issued on or applicable to the Equipment acquired by that Lessee, if any.

LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR PARTICULAR PURPOSE OR FITNESS FOR USE OF THE EQUIPMENT, OR WARRANTY WITH RESPECT THERETO. IN NO EVENT SHALL LESSOR BE LIABLE FOR ANY INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGE IN CONNECTION WITH OR ARISING OUT OF THIS LEASE OR THE EXISTENCE, FURNISHING, FUNCTIONING OR LESSEES' USE OF ANY ITEM(S) OF

EQUIPMENT PROVIDED IN THIS LEASE. HOWEVER, LESSOR AGREES TO BE LIABLE FOR ANY LOSS TO TANGIBLE PERSONAL PROPERTY OR INJURY TO PERSONS CAUSED BY THE NEGLIGENCE OF LESSOR.

9. Lease Payments

Lessees agree to pay to Lessor monthly lease payments, comprised of the principal and accrued interest, in the amounts set forth in each payment schedule. The term of each Appendix shall not exceed the useful life of the Equipment financed under that Appendix. The Index is defined as the annualized interest on three-, four-, five- or seven-year interest rate SWAPS, shown below for the applicable term, as reported by the Federal Reserve weekly in Publication H.15 on a weekly average basis for the week preceding the date of execution of an Appendix, fixing as of such date adjusted by adding or subtracting the indicated index amounts, as follows:

- (a) 3-Year Financing Term= \_\_\_\_\_
- (b) 4-Year Financing Term= \_\_\_\_\_
- (c) 5-Year Financing Term= \_\_\_\_\_
- (d) 7-Year Financing Term= \_\_\_\_\_

The above Index amounts will remain fixed during the term of each Appendix, the term of this Lease, and any renewal or extension thereof.

All payments shall be made in arrears for the preceding period, and shall be absolute and unconditional in all events, without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances, except as expressly provided in Section 6 of this Lease, provided with respect to any item of Equipment Lessor has provided the funds to finance such item of Equipment and no payment with respect to such item of Equipment has been withheld from a vendor. Lessor shall provide invoices to Lessees in a timely manner.

The obligation of each Lessee to pay lease payments hereunder is a current expense of that Lessee and not a debt in contravention of any applicable constitutional or statutory limitation or requirement, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or monies.

Lessees reasonably believe that sufficient funds can be obtained to make all lease payments during the term of this Lease and hereby covenant that they will use their best efforts to obtain, maintain and properly request funds from which the lease payments may be made, including making provisions for such payments to the extent necessary in each budget submitted for the purpose of obtaining funding, using their best efforts to have such portion of the budget approved. Lessees intend to make lease payments for the full term of this Lease and represent that the Equipment will be used for one or more authorized governmental or proprietary functions essential to their proper, efficient and economic operation.



#### 10. Use and Maintenance

Lessees agree to comply with all federal, state and local laws, ordinances, and regulations applicable to the possession, use or maintenance of the Equipment.

Lessees will not use, operate or maintain the Equipment improperly, carelessly, or in violation of any applicable law. Lessees will, at their expense, maintain, preserve and keep the Equipment in good repair, working order and condition.

Material alterations, modifications, additions or attachments to the Equipment must have the written approval of the Lessor, which consent shall not be unreasonably withheld, and such action shall be performed at the sole expense of each Lessee. All alterations, modifications, additions or attachments shall not reduce the value or usefulness of the Equipment.

During the term of this Lease, Lessor and its officers, employees or agents shall have the right at all reasonable times during business hours of each Lessee to enter into and upon the property of such Lessee for the purpose of inspecting the Equipment.

#### 11. Insurance and Loss of Equipment

Lessees are self-insured through the West Virginia Board of Risk and Insurance Management and will protect the interests of the Lessor and Lessee against Equipment losses or damage. Lessees are also self-insured against liability related to the Equipment. In the event of any loss, damage, injury or accident involving the Equipment, the appropriate Lessee shall promptly provide the Lessor with written notice thereof and make available to Lessor all information and documentation thereof.

If any Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty, or if title to, or the temporary use of, the Equipment or any part thereof is taken under the exercise of the power of eminent domain, Lessee and Lessor will cause the net proceeds of any insurance claim or condemnation award to be applied either to the prompt repair, restoration, modification or replacement of the Equipment or, at Lessee's option, to the payment of the appropriate portion of the purchase option price.

Any balance of the net proceeds remaining after such work or purchase has been completed shall be paid to the appropriate Lessee. Net proceeds shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award after deducting all expenses incurred in the collection of such claims or award. If the net proceeds are insufficient to pay in full the cost of any repair, restoration, modification or replacement, Lessee shall either: (a) Complete the work and pay any cost in excess of the amount of net proceeds; or (b) pay to Lessor the purchase option price. The amount of the net proceeds in excess of the then applicable purchase option price, if any, may be retained by Lessee.

In the event the purchase option payment for any item(s) of Equipment is paid in accordance with this section, Lessor agrees to release any security interest on that item(s) of Equipment.

12. Title to Leased Equipment

During the term of this Lease, title to the Equipment listed in an Appendix shall vest in the related Lessee so long as such Lessee shall not be in default or this Lease shall not have been terminated as to such Equipment. To secure all obligations hereunder, the related Lessee hereby grants to Lessor a security interest in any and all right, title and interest of Lessee in the Equipment. Lessee shall promptly discharge any mechanics', materialmen's or other liens placed on the Equipment.

Lessor shall convey all of the Lessor's right and interest in and to the Equipment listed in an Appendix to Lessee upon payment of all the lease payments required in accordance with the related Appendix or the purchase option price set forth in the applicable payment schedule, if the Lessee is not on such date in default as to any terms of this Lease.

13. Taxes and Other Charges

Lessees represent that they are exempt from federal, state and local taxation, and as such, shall not be liable or responsible for the payment or reimbursement of any tax of any type incurred in connection with this Lease, nor will they file any tax returns or reports on behalf of Lessor or its assignees.

As title to the Equipment shall vest in the appropriate Lessees during the term of this Lease, the Equipment is exempt from personal property tax pursuant to West Virginia Code § 11-3-9(a)(27). Each Lessee also represents that, to the best of its knowledge, no licensing or titling fees based upon the use, possession or acquisition of the Equipment are due under the current laws of West Virginia.

It is the intention of the Lessor and Lessees that the interest portion of the lease payments made under this Lease be and remain exempt from federal income taxation. Lessees covenant that they will take any and all action reasonably necessary to maintain the exemption from federal income taxation of the interest portion of the lease payments, and that they will not perform any act or enter into any agreement or use or permit the use of the Equipment or any portion thereof in a manner that shall have the effect of terminating or denying the exemption from federal income taxation of the interest portion of the lease payments, including, without limitation, leasing all or any portion of the Equipment or contracting with a third party for the use or operation of all or any portion of the Equipment if entering into such lease or contract would have such effect.



#### 14. Assignment

This Lease, the Appendices, and the obligations of Lessees to make payments thereunder, may not be sold, assigned or otherwise disposed of in whole or in part to one or more successors, grantors, holders, assignees or sub-assignees by Lessor, except upon the written consent of the Department of Administration and the appropriate Lessee, which consent will not be unreasonably withheld or delayed. Further, Lessor hereby covenants not to sell or offer to sell this Lease through, nor shall this Lease be sold through, (1) a certificate of participation program, whereby two or more interests are created in the Lease, the Equipment or the lease payments; or (2) other similar instruments, agreements, securitizations and obligations through a pool, trust, limited partnership, or other entity, except with the express written consent of Lessee.

To request consent to assign Lessor's interest herein, in whole or in part, Lessor will cause a written request to assign to be sent to the Department of Administration and the appropriate Lessee, requesting approval. Upon submission of the request, Lessor shall provide the Department of Administration and the Lessee with a duplicate original counterpart of the documents effectuating the assignment, or a written notice signed by both Lessor and the assignee confirming the assignment of Lessor's interest in one or more Appendices, the name and address of the assignee, and stating that assignee accepts the assignment under the terms and conditions of this Lease. Any assignment documents or other instruments of sale must also be approved as to form by the Attorney General.

Upon receipt of a request to assign, the Department of Administration will notify Lessor in writing of its decision. In the event the Department of Administration approves the request to assign, the Department of Administration shall (i) acknowledge its approval in writing to Lessor, and (ii) record the assignment in its book entry system as that term is defined in the Internal Revenue Code of 1986, as amended. Upon assignment of a Lessee's interest herein, such Lessee will cause written notice of such assignment to be sent to Lessor disclosing the name and address of an assignee. No further action will be required by Lessor or by Lessee to evidence an assignment.

Lessees agree to make all payments to the assignee designated in the assignment, notwithstanding any claim, defense, set-off or counterclaim whatsoever, whether arising from a breach of the purchase order for the Equipment or otherwise, that such Lessee may from time to time have against any provider of the Equipment. Lessees agree to execute all documents, including notices of assignment, chattel mortgages or financing statements, which may be reasonably requested by Lessor or assignee to protect its interests in the Equipment and in this Lease.

During the term of this Lease, the Lessees shall each keep a complete and accurate register of all such assignments in form necessary to comply with Section 149(a) of the Internal Revenue Code of 1986, as amended. The Lessees may require the person requesting any transfer to reimburse them for any tax or other governmental charge payable in connection therewith.

This Lease and the interest of the Lessees in the Equipment may not be sold, assigned or encumbered by any Lessee without the prior written consent of Lessor, except that each Lessee

shall have the right to assign or lease the Equipment, in whole or in part, to other agencies or the State of West Virginia for governmental use only. Any such transfer or lease of the Equipment shall not diminish Lessee's obligations to make payments under this Lease.

15. Indemnification

The laws and Constitution of West Virginia prohibit the Lessees from protecting, holding harmless or indemnifying Lessor from and against any liability, obligations, losses, claims or damages whatsoever. Therefore, the Lessees only agree to be responsible for their own actions under this Lease.

16. Personal Property

The Equipment is and shall at all times during the lease term be and remain personal property.

17. Option to Purchase

Lessees shall be entitled to purchase the Equipment as follows:

- (a) Upon payment of all lease and other payments required under an Appendix; or
- (b) Upon written notice delivered to Lessor by the appropriate Lessee at least thirty (30) days before the proposed date for payment, and upon the payment on such date of the purchase option price for that Appendix.

As used herein, purchase option price means the amount equal to the outstanding principal, as set forth in the payment schedule, plus any unpaid interest that has accrued on such principal to the date of payment of the purchase option price, provided that any other sum due under this Lease has or is being paid, payable at the option of Lessee for the purpose of purchasing the Equipment.

A Lessee may, at Lessee's option, make partial prepayments of a portion of the purchase option price upon written notice delivered at least thirty (30) days in advance of the proposed date for payment and upon payment on such date of the partial prepayment, being an amount equal to a portion of the outstanding principal set forth in the payment schedule and any unpaid interest that has accrued on such portion of the outstanding principal to the date of payment of the partial prepayment. As provided herein, if any portion of the Equipment is not accepted or the cost of the Equipment is less than the funding under an Appendix, then the amount of the funding remaining shall be applied as a partial prepayment toward that Appendix.

A revised payment schedule reflecting all partial prepayments, consistent with the financing structure contemplated herein, to reflect such partial prepayment shall be attached to the related Appendix as a change order to the Appendix. Partial prepayments shall entitle Lessee to a release of any security interest on the item(s) of Equipment which have been prepaid in full.

## 18. Event of Default

The following constitute an "Event of Default" under this Lease:

- (a) Failure by a Lessee to pay any lease payment or other payment required to be paid under an Appendix within forty-five (45) days of when due; or
- (b) Failure by a Lessee to maintain insurance on the Equipment in accordance with this Lease; or
- (c) Failure by a Lessee to observe and perform any other covenant, condition or agreement on its part to be observed or performed for a period of thirty (30) days after written notice is given to the Lessee by Lessor, specifying such failure and requesting that it be remedied, provided that if the failure stated in such notice cannot be corrected within such thirty (30) day period, the Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected; or
- (d) Initiation by or against a Lessee of a proceeding under any federal or state bankruptcy or insolvency laws.

An Event of Non-appropriation shall not be deemed an Event of Default. Furthermore, a default under one Appendix shall not be deemed an Event of Default under any other Appendix.

## 19. Remedies on Default

Upon the occurrence of an Event of Default as specified in this Lease, Lessor shall provide written notification of default which that Lessee must remedy within thirty (30) days from the date of notice of default, or Lessor shall have the right, at its option, without any further demand or notice, to pursue any one or more of the following remedial steps:

- (a) Terminate this Lease and retake possession of the Equipment and sell, lease, sublease or make other disposition of the Equipment in a reasonable and commercial manner;
- (b) Declare an amount equal to all payments due during the fiscal year in which the default occurred to be immediately due and payable, whereupon the same shall become immediately due and payable; or
- (c) Proceed by appropriate court action to enforce performance by the Lessee of the applicable covenants of this Lease or to recover for the breach thereof.

All of Lessee's right, title and interest in any Equipment the possession of which is retaken by Lessor upon the occurrence of an Event of Default shall terminate immediately upon such repossession. Lessee agrees to return the Equipment to Lessor, together with a release all of Lessee's title and interest therein. It is the intent of the parties hereto that any transfer of title to Lessor shall occur automatically without the necessity of any bill of sale, certificate of title or other instrument of conveyance. Lessee agrees, nevertheless, to execute and deliver any such instruments as Lessor may reasonably request to evidence such transfer.



No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Lease or now hereafter existing at law or in equity.

20. Force Majeure

If by reason of force majeure, Lessor or a Lessee is unable, in whole or in part, to carry out its obligations under this Lease, other than payments of lease payments or other payments required hereunder, Lessor or Lessee, as the case may be, shall not be deemed in default during the continuance of such inability. The term "force majeure" as used herein shall mean, without limitation, the following: acts of God; strikes; lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or the State of West Virginia or any of their departments, agencies or officials, or any civil or military authority; insurrections; riots; landslides; earthquakes; fires; storms; droughts; floods; or explosions.

21. Escrow Agent

Lessor shall have the right to designate an entity to act as the Escrow Agent for the purpose of holding and administering special trust funds designated as Acquisition Funds for the benefit of Lessor and the appropriate Lessee. The appointment of \_\_\_\_\_ as Escrow Agent is hereby acknowledged.

Lessor shall deposit the amount specified in each Appendix in a separate Acquisition Fund. Moneys held by the Escrow Agent hereunder shall be invested and reinvested by the Escrow Agent upon order of a representative of the appropriate Lessee in Qualified Investments, as hereinafter defined, maturing or subject to redemption at the option of the holder thereof prior to the date on which it is expected that such funds will be needed. Such investments shall be held by the Escrow Agent in the appropriate Acquisition Fund, and any interest earned on such investments shall be deposited in that Acquisition Fund. The Escrow Agent may act as purchaser or agent in the making or disposing of any investment.

"Qualified Investments" means (a) direct general obligations of the United States of America; (b) obligations the timely payment of the principal of and interest on which is fully and unconditionally guaranteed by the United States of America; or (c) certificates of deposit, time deposits or demand deposits with any bank or savings institution including the Escrow Agent or any affiliate thereof, provided that such is insured by the Federal Deposit Insurance Corporation.

Moneys in each Acquisition Fund shall be used to pay for the cost of acquisition of the Equipment specified in the appropriate Appendix. Payment shall be made from the appropriate Acquisition Fund for the cost of acquiring part or all of the Equipment upon presentation to the Escrow Agent of one or more Payment Request and Acceptance Certificates, properly executed by the appropriate Lessee and approved by Lessor, together with an invoice for the cost of the acquisition of the Equipment.

Each Acquisition Fund shall terminate upon the occurrence of the earlier of (a) the presentation of a proper Payment Request and Acceptance Certificate designated "Final Acceptance Certificate" properly executed by that Lessee or a properly executed notice by the Lessee that no additional funds will be needed from that Acquisition Fund, or (b) the presentation of written notification by Lessor, or an assignee or sub-assignee of all of Lessor's interest in this Lease or an Agent on their behalf, that an Event of Default or Non-appropriation has occurred with respect to the appropriate Appendix or that such Lessee has terminated the Lease. Upon termination as described in clause (a) of this paragraph, any amount remaining in that Acquisition Fund shall be used to prepay the principal component of Rental Payments for that Appendix, unless otherwise directed by Lessor and Lessee, and the Payment Schedule shall be revised accordingly. Upon termination as described in clause (b) of this paragraph, any amount remaining in that Acquisition Fund shall be immediately paid to Lessor or, pro rata, to any assignee or sub-assignees of Lessor.

The Escrow Agent may resign by giving at least 30 days' written notice to Lessee and Lessor, but such resignation shall not take effect until the appointment of a successor Escrow Agent. The substitution of another bank or trust company to act as Escrow Agent under this Escrow Agreement may occur by written agreement of Lessor and Lessee. In addition, the Escrow Agent may be removed at any time, with or without cause, by an instrument in writing executed by Lessor and Lessee. In the event of any resignation or removal of the Escrow Agent, a successor Escrow Agent shall be appointed by an instrument in writing executed by Lessor and Lessee. Such successor Escrow Agent shall indicate its acceptance of such appointment by an instrument in writing delivered to Lessor, Lessee and the predecessor Escrow Agent. Thereupon such successor Escrow Agent shall, without any further act or deed, be fully vested with all the trusts, powers, rights, duties and obligation as Escrow Agent under this Lease, and the predecessor Escrow Agent shall deliver all moneys and securities held by it under this Lease to such successor Escrow Agent.

The Escrow Agent shall incur no liability to make any disbursements except from funds held in the appropriate Acquisition Fund. The Escrow Agent makes no representations or warranties as to the title to any Equipment or as to the performance of any obligations of Lessor or Lessee. In executing this Lease, the Escrow Agent agrees to be bound by the provisions of this Section.

## 22. Renewal

Upon written mutual agreement of the parties, this Lease may be renewed under the same terms and conditions for a maximum of two (2) additional terms of one (1) year each. A written renewal notice, as initiated by either party evidencing the intent to renew the Lease, shall be provided to the other party at least ninety (90) days prior to the expiration of the current term of the Lease. If no renewal notice is provided to one party by the other party prior to expiration, this Lease will terminate on the expiration date.

23. Notices

All notices to be given under this Lease shall be made in writing and mailed to the other party at its address set forth in the appropriate Appendix or at such address as the party may provide in writing from time to time. Any such notice shall be deemed to have been received five (5) days subsequent to mailing.

24. Binding Effect

This Lease shall inure to the benefit of and shall be binding upon Lessor and Lessees and their respective successors and assigns.

25. Severability

In the event any provision of this Lease shall be held invalid, prohibited or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

26. Amendments

All amendments, modifications, alterations or changes to this Lease shall be in writing and signed by both parties.

27. Execution in Counterparts

This Lease may be executed in several counterparts. The parties hereto agree that multiple originals of this Lease have been executed.

28. Section Headings

All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Lease.

29. Governing Law

This Lease shall be governed by and construed in accordance with the laws of the State of West Virginia.

30. Delivery of Related Documents

Upon the request of the Lessor, a Lessee will provide all documentation reasonably requested by the Lessor. In the event an Internal Revenue Service Form 8038-G or 8038-GC needs to be filed in connection with this transaction, Lessor shall prepare such form and Lessee will execute and file the form. A copy of the form filed will be sent to Lessor for its records.



31. Entire Agreement; Waiver

This Lease, together with the Request for Quotations ("RFQ") dated \_\_\_\_\_, purchase order(s) and other attachments hereto, and other documents or instruments executed by Lessor, Purchasing and Lessees in connection herewith, constitute the entire agreement between the parties with respect to the Equipment. The waiver by one party of any breach of any term, covenant or condition hereto must be in writing and shall not operate as a waiver of any subsequent breach thereof.

WITNESS THE FOLLOWING SIGNATURES:

LESSOR: \_\_\_\_\_ PURCHASING DIVISION, DEPARTMENT OF  
ADMINISTRATION, STATE OF WEST VIRGINIA

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

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

ESCROW AGENT: \_\_\_\_\_ APPROVED AS TO FORM THIS  
\_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_

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

TITLE: \_\_\_\_\_ TITLE: ASSISTANT ATTORNEY GENERAL

List of Potential Closing Documents for this Master Lease:

- Lessor's Incumbency Certificate
- Notice and Consent to Assignment, if necessary
- Opinion of Counsel Letter

Appendices (and Attachments to Appendices):

- Counterpart No. 1 – Lessor's Original
- Counterpart No. 2 – Lessee's Copy
- Equipment Schedule (Copies of Purchase Orders)
- Payment Schedule
- Certificate of Essential Use
- Acceptance Certificate and Request for Payment
- Tax Compliance Agreement and No Arbitrage Certificate with Exhibit A
- Instruments of title to Equipment, if necessary (MSOs, etc.)
- IRS Form 8038G, or 8038-GC
- Sales Tax Exemption, if necessary
- Opinion of Lessee's Counsel

## OPINION OF COUNSEL LETTER (FOR MASTER LEASE)

Lessor \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

RE: Master Lease Purchase Financing Agreement

Gentlemen:

As counsel for the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing"), I have examined duly executed originals of the Master Lease Purchase Financing Agreement ("Lease") dated \_\_\_\_\_, between Purchasing and \_\_\_\_\_, Lessor. Based upon the examination and upon such other examination as I have deemed appropriate, I am of the opinion that:

1. The Lease has been duly authorized, executed and delivered by Purchasing and is a legal, valid and binding obligation, enforceable in accordance with its terms.
2. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way affecting the validity of the Lease.
3. The signatures of the officials of Purchasing as they appear on the Lease are true and genuine. I know said officials and know them to hold the positions set forth below their names.
4. West Virginia is a state within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings.

Very truly yours,

DAWN E. WARFIELD  
DEPUTY ATTORNEY GENERAL



**MASTER LEASE PURCHASE FINANCING AGREEMENT**  
**PURCHASE ORDER \_\_\_\_\_**  
**APPENDIX # \_\_\_\_\_**

**THIS APPENDIX** ("Appendix"), made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, ("Lessor") and the \_\_\_\_\_, ("Lessee"), to that MASTER LEASE PURCHASE FINANCING AGREEMENT ("Lease") dated \_\_\_\_\_, 20\_\_\_\_, by and between Lessor and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing").

The parties hereto do mutually covenant and agree, as follows:

1. This Appendix is made a part of the Lease and hereby attached thereto and the terms and conditions of the Lease control this Appendix.
2. The term of this Appendix shall commence \_\_\_\_\_ 20\_\_\_\_, and shall terminate in accordance with the Lease.
3. The Equipment financed by Lessor is listed in the attached Equipment Schedule.
4. Payments shall be made by Lessee in accordance with the attached Payment Schedule and the Lease.
5. Funds in the amount of \$\_\_\_\_\_ will be deposited in an escrow account. If the dollar amount in this paragraph 5 is zero, then no funds have been deposited into escrow for this Appendix.

This is one of two serially numbered, manually executed counterparts of this document. To the extent that this Appendix constitutes chattel paper under the Uniform Commercial Code, a security interest in this Appendix may be created through the transfer and possession of Counterpart No. 1 only, without the need to transfer possession of any other original or counterpart or copy of this Appendix or any original or counterpart or copy of any exhibits, addenda, schedules, certificates, riders or other documents and instruments executed and delivered in connection with this Appendix.

**WITNESS THE FOLLOWING SIGNATURES:**

LESSOR: \_\_\_\_\_ LESSEE: \_\_\_\_\_

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

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

APPROVED: \_\_\_\_\_  
 WV Department of Administration

**Counterpart No. 1 - Lessor's Original**

**MASTER LEASE PURCHASE FINANCING AGREEMENT  
PURCHASE ORDER \_\_\_\_\_  
APPENDIX # \_\_\_\_\_**

**THIS APPENDIX** ("Appendix"), made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_, ("Lessor") and the \_\_\_\_\_, ("Lessee"), to that MASTER LEASE PURCHASE FINANCING AGREEMENT ("Lease") dated \_\_\_\_\_, 20\_\_\_\_, by and between Lessor and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing").

The parties hereto do mutually covenant and agree, as follows:

6. This Appendix is made a part of the Lease and hereby attached thereto and the terms and conditions of the Lease control this Appendix.
7. The term of this Appendix shall commence \_\_\_\_\_ 20\_\_\_\_, and shall terminate in accordance with the Lease.
8. The Equipment financed by Lessor is listed in the attached Equipment Schedule.
9. Payments shall be made by Lessee in accordance with the attached Payment Schedule and the Lease.
10. Funds in the amount of \$ \_\_\_\_\_ will be deposited in an escrow account. If the dollar amount in this paragraph 5 is zero, then no funds have been deposited into escrow for this Appendix.

This is one of two serially numbered, manually executed counterparts of this document. To the extent that this Appendix constitutes chattel paper under the Uniform Commercial Code, a security interest in this Appendix may be created through the transfer and possession of Counterpart No. 1 only, without the need to transfer possession of any other original or counterpart or copy of this Appendix or any original or counterpart or copy of any exhibits, addenda, schedules, certificates, riders or other documents and instruments executed and delivered in connection with this Appendix.

WITNESS THE FOLLOWING SIGNATURES:

LESSOR: \_\_\_\_\_ LESSEE: \_\_\_\_\_

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

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

APPROVED: \_\_\_\_\_  
Department of Administration

**Counterpart No. 2 - Lessee's Copy**

**EQUIPMENT SCHEDULE TO APPENDIX NO. \_\_\_\_\_**

See Attached Purchase Orders



**PAYMENT SCHEDULE (EXAMPLE OF FORMAT REQUIRED)**  
**APPENDIX # \_\_\_\_\_**

Purchase Price:  
Term:  
Rate:

\$ \_\_\_\_\_  
+ \_\_\_\_\_  
\_\_\_\_\_ %

[illegible]

**CERTIFICATE OF ESSENTIAL USE**

THE UNDERSIGNED, \_\_\_\_\_ of the State of West Virginia, on behalf of the named Lessee in that certain APPENDIX to the Lease Purchase Financing Agreement ("Appendix") dated \_\_\_\_\_, 20\_\_\_\_, with \_\_\_\_\_, Lessor, hereby certifies as follows:

1. The Equipment will be used by the Lessee for the specific purpose of \_\_\_\_\_.
2. The Equipment is essential for the functioning of Lessee and is immediately needed by Lessee. Such need is neither temporary nor expected to diminish during the term of the Lease. The Equipment is expected to be used by Lessee for a period in excess of the term of the Appendix.
3. Funds for lease payments are expected to come from the \_\_\_\_\_.
4. The Appendix was issued under and pursuant to West Virginia law to finance the acquisition of the Equipment described therein.
5. Pursuant to the Appendix, Lessee is entitled to receive the Equipment in consideration for the obligation under the Appendix. The Equipment will be used in furtherance of the public purposes of Lessee. The Lessee does not intend to sell or to otherwise dispose of the Equipment during the term of the Appendix.
6. Lessee expects to make lease payments from its annual appropriation. The remaining funds of the Lessee are not reasonably expected to be used to make such payments and no other monies are pledged to the Appendix.
7. Lessee has not received notice that this Certificate may not be relied upon with respect to its own debt issues nor has it been advised that any adverse action by the Commissioner of the Internal Revenue Service is contemplated.
8. None of the proceeds of the Appendix or the investment earnings thereon will be used, directly or indirectly, in any trade or business carried on or by any person other than a "governmental unit" within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended ("Code").
9. Where an Acquisition Fund is created, Lessee hereby appoints the Escrow Agent as its agent for the purpose of maintaining a book entry system as required by the Code. In compliance with Section 149(a) of the Code, Lessee agrees to affix a copy of each notification of assignment to Lessee's counterpart of the Appendix.
10. No more than 10% of the use of the Equipment in any month will be by persons

or entities other than the Lessee or its employees on matters relating to such employment, and no more than 5% of use of the Equipment in any month will be unrelated to use by or for the Lessee. No management contract shall be entered into with respect to the Equipment unless (a) at least half of the compensation is on a periodic, fixed-fee basis; (b) no compensation is based on a share of net profits; and (c) Lessee is able to terminate the contract without penalty at the end of any three years.

11. The undersigned has the power and authority to execute this Certificate on behalf of Lessee.

To the best of my knowledge, information and belief, the expectations expressed herein are reasonable and there are no facts, estimates or circumstances other than those expressed herein that would materially affect the expectations herein expressed.

IN WITNESS WHEREOF, I have hereunto set my hand this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
LESSEE \_\_\_\_\_

ACCEPTANCE CERTIFICATE AND REQUEST FOR PAYMENT

APPENDIX NO. \_\_\_\_\_

The Lessee, \_\_\_\_\_, hereby accepts the Equipment described below and requests the Lessor, \_\_\_\_\_, to pay to the person or corporation designated below as Payee, the sum set forth below in payment of the acquisition and installation costs of the Equipment in accordance with the Appendix issued to that Lease between Lessor and the Purchasing Division, Department of Administration of the State of West Virginia, on behalf of Lessee, dated \_\_\_\_\_, 20 \_\_\_\_\_. The amount shown below is due and payable under the invoice of the Payee with respect to the Equipment and has not formed the basis of any prior request for payment. This Certificate is based upon facts, circumstances, estimates and expectations of Lessee as of the date on which the Appendix was executed, and to the best of my knowledge and belief, as of this date, such facts, circumstances and estimates are true and correct and such expectations are reasonable.

PAYEE:

AMOUNT: \$

DESCRIPTION OF EQUIPMENT: See Attached

DATED:

LESSEE:

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

NAME: \_\_\_\_\_

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

LESSOR:

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

NAME: \_\_\_\_\_

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



**TAX COMPLIANCE AGREEMENT  
AND  
NO ARBITRAGE CERTIFICATE**

THIS TAX COMPLIANCE AGREEMENT AND NO ARBITRAGE CERTIFICATE ("Certificate") is issued in connection with the Master Lease Purchase Financing Agreement dated as of \_\_\_\_\_, 200\_\_ (the "Lease") by and between \_\_\_\_\_, ("Lessor") and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing"), on behalf of duly organized and existing agencies thereof that enter into Appendices pursuant thereto ("Lessees").

In connection with the execution and delivery of Appendix No. \_\_\_\_\_ and related documents (consisting of a Payment Schedule, Equipment Schedule to Appendix No. \_\_\_\_\_, Certificate of Essential Use, and Opinion of Lessee's Counsel), all dated as of \_\_\_\_\_, 20\_\_\_\_, and constituting Appendix No. \_\_\_\_\_ under the Lease (collectively, the "Appendix"), Purchasing and the Lessee ("Lessee") that will be using the items of Equipment subject to the Appendix, by duly authorized officers, hereby certify as follows with respect to the financing of \$\_\_\_\_\_ (the "Takedown Amount") of Equipment pursuant to the Appendix and the Lease:

1. In General.

1.1 This Certificate is executed for the purpose of establishing the reasonable expectations of Purchasing and the Lessee on the date hereof as to future events regarding the financing of certain equipment by Lessee as described in the Lease and all related documents executed pursuant thereto, including the Appendix.

1.2 The undersigned are duly authorized to, and are executing and delivering this Certificate with respect to Purchasing on behalf of Purchasing as an officer of Purchasing, and with respect to the Lessee on behalf of Lessee as an officer of Lessee, each delegated with the responsibility of reviewing, executing and administering the Lease and the Appendix. This Certificate may be relied upon as the certificate of Purchasing and the Lessee.

1.3 The undersigned are familiar with the facts, circumstances and estimates herein certified. To the best of the undersigned's knowledge, information and belief, the expectations contained in this Certificate are reasonable.

1.4 Neither Purchasing nor the Lessee has been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose certifications as to arbitrage and related matters may not be relied upon, or of any disqualification of Purchasing or the Lessee by the Internal Revenue Service because a certification made by Purchasing or the Lessee contains a material misrepresentation.

## 2. Purpose of the Appendix.

The Appendix has been entered into by the Lessee for the purpose of financing the cost of acquiring, equipping and installing certain equipment which is essential to the governmental functions of the Lessee (the "Equipment"), which Equipment is or will be more specifically described in the Acceptance Certificates and Requests for Payment executed or to be executed by the Lessee and made a part of the Appendix. The Appendix was executed and delivered by the Lessee pursuant to the Lease for the purpose of obtaining funds to be paid to the vendors of the Equipment. Included as part of the Appendix is a Payment Schedule which sets forth the principal and interest components of each Lease Payment to be made by the Lessee under the financing transaction evidenced by the Appendix and the Lease. The aggregate principal amount of the financing shown on the Payment Schedule, being the Takedown Amount, is expected to be used to pay the acquisition cost of the Equipment to vendors of the Equipment within six months of the date hereof, with the acquisition cost of each item of Equipment to be paid to the vendor thereof upon execution and delivery by the Lessee to the Lessor of an Acceptance Certificate and Request for Payment with respect thereto.

## 3. Proceeds of Appendix.

3.1 Of the total Takedown Amount of \$\_\_\_\_\_, \$\_\_\_\_\_ is to be paid to Lessee or the vendors of the Equipment by the Lessor on the date hereof pursuant to Acceptance Certificate(s) and Request(s) for Payment executed by Lessee and attached to the Appendix. The remaining balance of the Takedown Amount, or \$\_\_\_\_\_, plus interest earnings thereon (the "Acquisition Fund") is expected to be used to pay the remaining acquisition costs of the Equipment on or before the six-month anniversary of the date hereof as a result of the Lessee submitting Acceptance Certificate(s) and Request(s) for Payment with respect thereto by such date. Pending use of the Acquisition Fund to pay Equipment acquisition costs, such amount will be held by the Escrow Agent in escrow, with interest earnings thereon being credited to the account of the Lessee. In the event that the full Acquisition Fund, plus interest earnings thereon, has not been used to pay acquisition costs of Equipment on or before the six-month anniversary of the date hereof, the Lessee hereby agrees that such failure shall constitute notice that no additional funds are needed from the Acquisition Fund created with the proceeds of the Appendix and directs the Lessor to apply such remaining amount, less expenses, on such date first against the lease payment due on that date or, if no lease payment, with any amount remaining after such application to be applied to prepayment of Lessee's lease payment obligation under the Appendix.

3.2 To the extent that the Acquisition Fund is invested in certificates of deposit, time deposits or demand deposits with a bank or savings institution provided that such is insured by the Federal Deposit Insurance Corporation, the Lessee will insure that the certificates of deposit are traded on an active secondary market or the financial institution accepting such deposits has certified that the deposits produce a market yield equal to or in excess of the yield on Treasury securities or comparable obligations traded on an active secondary market.

3.3 Payments due under the Payment Schedule included as part of the Appendix will be made from funds of Lessee with monies appropriated to it. Lessee does not expect that any sinking or other similar fund for the payment of the principal of and interest on the amount financed pursuant to the Appendix will be created or established.

3.4 The Lessee does not expect to sell or otherwise dispose of the Equipment being financed pursuant to the Appendix, in whole or in part, at a date which is significantly earlier than the due date of the final lease payment due under the Payment Schedule included as part of the Appendix.

3.5 The Takedown Amount represents and equals the purchase price of Appendix. By a Certificate attached hereto as Exhibit A, the Lessor has set out information regarding the fair market value at which the Lessor could transfer its interest in the lease of Equipment pursuant to the Appendix.

4. Exempt Use.

4.1 None of the proceeds of the financing pursuant to the Appendix, or the Equipment, will be used in any "private business use" within the meaning of Section 141(b)(6) of the Internal Revenue Code of 1986, as amended (the "Code").

4.2 None of the proceeds of the financing pursuant to the Appendix will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

5. No Federal Guarantee.

5.1 Payment of the principal or interest due under the Payment Schedule included as part of the financing pursuant to the Appendix is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.

5.2 No portion of the proceeds of the financing pursuant to the Appendix shall be (i) used in making loans the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured

deposits or accounts if such investment would cause the financing pursuant to the Appendix to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

6. Miscellaneous.

6.1 The Lessee agrees to comply with the rebate requirement set forth in Section 148(f) of the Code in the event that for any reason the entire proceeds of the Appendix are not expended, and the Acquisition Fund fully depleted, within six months from the date hereof such that Section 148(f)(4)(B) is applicable to the financing pursuant to the Appendix.

6.2 The Lessee shall keep a complete and accurate record of all owners or assignees of the Lease and the financing of Equipment pursuant to the Appendix in form and substance satisfactory to comply with Section 149(a) of the Code.

6.3 The Lessor or the Escrow Agent, as applicable shall maintain complete and accurate records establishing the expenditure of the proceeds of the financing pursuant to the Appendix and interest earning thereon.

IN WITNESS WHEREOF, We have executed this Tax Compliance Agreement and No Arbitrage Certificate on behalf of the Purchasing Division of the Department of Administration of the State of West Virginia and the Lessee named below, as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST:

STATE OF WEST VIRGINIA,  
Purchasing Division of the Department  
of Administration

\_\_\_\_\_

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

ATTEST:

Lessee:

\_\_\_\_\_

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



## EXHIBIT A

TO TAX COMPLIANCE AGREEMENT  
AND NO ARBITRAGE CERTIFICATECERTIFICATE OF LESSOR

\_\_\_\_\_, as Lessor ("Lessor"), under the Master Lease Purchase Financing Agreement dated as of \_\_\_\_\_, 20\_\_\_\_ (the "Lease") between the Lessor and the Purchasing Division of the Department of Administration of the State of West Virginia ("Purchasing"), on behalf of the agencies of the State specified as lessees on the Appendices attached to the Lease ("Lessees") and under the Appendix and related documents constituting Appendix No. \_\_\_\_\_ under the Lease (the "Appendix"), which Appendix relates to the financing of \$\_\_\_\_\_ of Equipment and was executed and delivered by \_\_\_\_\_, as the Lessee (the "Lessee") to the Lessor on the date hereof, hereby certifies as follows in connection with the Lessee's execution of the Appendix.

1. On the date hereof, the Lessor has acquired its interest in the Appendix for the aggregate purchase price of \$\_\_\_\_\_. No payment was made in respect to accrued interest on the Appendix.
2. The Lessor acknowledges that any assignment of the Appendix must comply with the terms of Article 14 of the Lease.
3. As of the date hereof the fair market value of the Appendix is not greater than \$\_\_\_\_\_.

IN WITNESS WHEREOF, this Certificate is executed on behalf of the Lessor as of the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

ATTEST/WITNESS:

LESSOR:

\_\_\_\_\_

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

**OPINION OF LESSEE'S COUNSEL (FOR EACH APPENDIX)**

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RE: Appendix No. \_\_\_\_\_ to Master Lease Purchase  
Financing Agreement with Purchasing Division of the  
Department of Administration, State of West Virginia

Gentlemen:

As counsel for \_\_\_\_\_, Lessee, I have examined a duly executed original of the Master Lease Purchase Financing Agreement ("Lease") and the duly executed original of the Appendix to the Lease Purchase Financing Agreement ("Appendix") dated \_\_\_\_\_ between Lessee and \_\_\_\_\_, Lessor. Based upon the examination and upon such other examination as I have deemed appropriate, I am of the opinion that:

1. Lessee is a public body corporate and politic, legally existing under the laws of the State of West Virginia.
2. The Appendix has been duly authorized, executed and delivered by Lessee and is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms.
3. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, in any way affecting the validity of the Appendix.
4. The signature of the official of Lessee, as it appears on the Appendix, is true and genuine. I know said official and know him/her to hold the position set forth below his/her name.
5. The Equipment leased pursuant to the Appendix constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.
6. West Virginia is a state within the meaning of Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings.

Very truly yours,

DAWN E. WARFIELD  
DEPUTY ATTORNEY GENERAL

STATE OF WEST VIRGINIA  
MASTER LEASE PURCHASE FINANCING AGREEMENT

BLANKET PURCHASE ORDER

To provide financing for equipment and other capital financing needs of various state agencies in the form of a Master Lease Purchase Financing Agreement (the "Lease") in accordance with the terms and conditions set forth in the attached Lease.

Term

The Term of the Lease shall commence on \_\_\_\_\_, and extend for one (1) year, subject to renewal in accordance with Section 22 of the Lease. The term of each Appendix, evidencing each financing, shall commence on the date specified in each Appendix.

The terms and conditions contained in the Lease shall be the terms and conditions of each Appendix and the terms and conditions during any renewal of the financing available under the Lease.

Renewal

Upon written mutual agreement of the parties, the Lease may be renewed under the same terms and conditions for a maximum of two (2) additional terms of one (1) year each. A written renewal notice, as initiated by either party evidencing the intent to renew the Lease, shall be provided to the other party at least ninety (90) days prior to the expiration of the current term of the Lease. If no renewal notice is provided to one party by the other party prior to expiration, the Lease will terminate on the expiration date.

Termination

The Lessor may not unilaterally terminate this Lease at any time; however, the Lease is subject to termination upon the occurrence of any one of the following events:

- (a) The Director of Purchasing terminates this Lease for any reason and at any time upon providing Lessor a thirty (30) day written notice thereof;
- (b) The expiration of the current term without any further action or notice by either party; or
- (c) The mutual written agreement of the parties prior to the expiration of the then current term.

Any such termination of the Lease shall not affect the financing under any Appendix executed prior to the effective Lease termination date.

### Financing

All separate financings under the Lease shall be evidenced by an Appendix to the Lease and shall be signed by the Lessor and the applicable state agency, as Lessee, and approved by the Department of Administration and the Attorney General.

The Appendix shall provide for the commencement date of that particular financing; a listing of all Equipment, which shall be financed under that Appendix as set forth on an Equipment Schedule; a Payment Schedule; and any amounts deposited in an escrow account pursuant to the terms of the Lease.

### Ordering Procedure

All Purchase Orders issued against this contract must be signed by the Purchasing Division Director or designee. Spending unit(s) shall issue a WV-35 to the Finance Division. The Finance Division will submit the WV-35 to the Purchasing Division for processing and approvals.



**STATE OF WEST VIRGINIA  
MASTER LEASE PROGRAM  
SUBMISSION FORM**

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

Appendix Number 2012-\_\_\_\_\_

State Unit Requiring Equipment: \_\_\_\_\_

**Finance Package Contact (Name & Title)** \_\_\_\_\_

Mailing Address: \_\_\_\_\_

Overnight Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Billing Contact (Name & Title)** \_\_\_\_\_

Billing Address: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Fax Number: \_\_\_\_\_

Email Address: \_\_\_\_\_

**Description of Equipment Usage:**

Nature of State Unit's Operation: \_\_\_\_\_

Equipment Description: \_\_\_\_\_

How is this equipment essential to operation? \_\_\_\_\_

Is this replacement or additional equipment? \_\_\_\_\_

If replacement, how old is current equipment and how often is equipment normally replaced? \_\_\_\_\_

What is the expected useful life of this equipment? \_\_\_\_\_

Equipment Cost: \_\_\_\_\_ Term Requested: \_\_\_\_\_

Down Payment: \_\_\_\_\_ Anticipated Delivery Date: \_\_\_\_\_

Amount Financed: \_\_\_\_\_

Are escrow fund to be invested? (please circle)      YES      NO

Is the agency a subunit of the State's General Revenue Fund? \_\_\_\_\_

If yes, we do not need financial statements. If no, please submit financial statements and current fiscal year operating budget.

**\*\* Attach a copy of the purchasing requisition**

We have reviewed the above request and certify that the request complies with the standards for the State Master Lease Program and certify that as of the request, it is our reasonable belief that funds will be available to make lease payments throughout the lease term.

\_\_\_\_\_  
Department of Administration

\_\_\_\_\_  
Date

\_\_\_\_\_  
FINANCING VENDOR

\_\_\_\_\_  
Date

State of West Virginia  
Equipment Financed from  
2009-2012

Appendix	Description
2009-01	Vehicles
2009-02	Vehicles
2009-03	Vehicles
2009-04	Computer Equipment
2009-05	Phones
2009-06	Mainframe
2009-07	Vehicles
2009-08	Vehicles
2009-09	Vehicles
2009-10	Vehicles
2009-11	Computer Equipment
2009-12	Printer/Collator
2009-13	Computer Equipment
2009-14	Computer Equipment

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### Selected Interest Rates (Weekly) - H.15

Full PDF Print

Current Release [Release Dates](#) [Daily Update](#) [Historical Data](#) [About](#) [Announcements](#)

#### Current Release (48 KB PDF)

Release Date: March 5, 2012

The weekly release is posted on Monday. Daily updates of the weekly release are posted Tuesday through Friday on this site. If Monday is a holiday, the weekly release will be posted on Tuesday after the holiday and the daily update will not be posted on that Tuesday.

March 5, 2012  
H.15 Selected Interest Rates  
Yields in percent per annum

Instruments	2012 Feb 27	2012 Feb 28	2012 Feb 29	2012 Mar 1	2012 Mar 2	Week Ending		2012 Feb
						Mar 2	Feb 24	
Federal funds (effective) 1 2 3	0.10	0.10	0.10	0.11	0.11	0.09	0.09	0.10
Commercial Paper 3 4 5 6								
Nonfinancial								
1-month	0.13	0.13	0.13	0.13	0.13	0.13	0.12	0.12
2-month	0.16	0.12	0.19	0.17	0.16	0.16	0.12	0.13
3-month	n.a.	0.20	0.21	0.21	0.20	0.21	0.16	0.17
Financial								
1-month	0.05	0.08	0.11	0.05	0.05	0.07	0.10	0.09
2-month	0.15	0.14	0.15	0.14	0.13	0.14	0.14	0.13
3-month	0.19	0.20	0.19	0.18	0.31	0.21	0.18	0.21
CDs (secondary market) 7 8								
1-month	0.18	0.18	0.18	0.18	0.17	0.18	0.18	0.18
3-month	0.30	0.30	0.30	0.29	0.27	0.29	0.29	0.30
6-month	0.53	0.53	0.53	0.53	0.49	0.52	0.52	0.52
Eurodollar deposits (London) 9 8								
1-month	0.33	0.33	0.33	0.33	0.33	0.33	0.33	0.34
3-month	0.45	0.45	0.45	0.45	0.45	0.45	0.46	0.48
6-month	0.65	0.65	0.65	0.65	0.65	0.65	0.67	0.68
Bank prime loan 2 3 9	3.25	3.25	3.25	3.25	3.25	3.25	3.25	3.25
Discount window primary credit 2 10	0.75	0.75	0.75	0.75	0.75	0.75	0.75	0.75
U.S. government securities								
Treasury bills (secondary market) 3 4								
4-week	0.07	0.10	0.08	0.07	0.06	0.08	0.06	0.06
3-month	0.12	0.10	0.08	0.08	0.07	0.09	0.09	0.09
6-month	0.14	0.14	0.13	0.13	0.12	0.13	0.14	0.12
1-year	0.16	0.17	0.17	0.17	0.16	0.17	0.16	0.15
Treasury constant maturities								
Nominal 11								
1-month	0.08	0.10	0.08	0.07	0.06	0.08	0.06	0.06
3-month	0.12	0.10	0.08	0.08	0.07	0.09	0.09	0.09
6-month	0.14	0.14	0.13	0.13	0.12	0.13	0.14	0.12

Instruments	2012 Feb 27	2012 Feb 28	2012 Feb 29	2012 Mar 1	2012 Mar 2	Week Ending		2012 Feb
						Mar 2	Feb 24	
1-year	0.17	0.18	0.18	0.18	0.17	0.18	0.17	0.16
2-year	0.30	0.30	0.30	0.30	0.28	0.30	0.31	0.28
3-year	0.40	0.41	0.43	0.43	0.41	0.42	0.43	0.38
5-year	0.84	0.84	0.87	0.89	0.84	0.86	0.89	0.83
7-year	1.35	1.36	1.39	1.44	1.38	1.38	1.42	1.37
10-year	1.92	1.94	1.98	2.03	1.99	1.97	2.01	1.97
20-year	2.69	2.71	2.73	2.80	2.77	2.74	2.79	2.75
30-year	3.04	3.07	3.08	3.15	3.11	3.09	3.15	3.11
Inflation Indexed <sup>12</sup>								
5-year	-1.18	-1.15	-1.12	-1.10	-1.11	-1.13	-1.12	-1.11
7-year	-0.72	-0.70	-0.66	-0.64	-0.64	-0.67	-0.66	-0.69
10-year	-0.32	-0.31	-0.28	-0.23	-0.24	-0.28	-0.27	-0.25
20-year	0.36	0.37	0.39	0.46	0.46	0.41	0.41	0.45
30-year	0.70	0.72	0.73	0.80	0.81	0.75	0.77	0.72
Inflation-indexed long-term average <sup>13</sup>	0.31	0.32	0.38	0.44	0.44	0.38	0.37	0.36
Interest rate swaps <sup>14</sup>								
1-year	0.53	0.51	0.49	0.48	0.46	0.49	0.53	0.50
2-year	0.59	0.57	0.56	0.56	0.53	0.56	0.60	0.56
3-year	0.71	0.69	0.68	0.69	0.65	0.68	0.73	0.67
4-year	0.90	0.88	0.89	0.91	0.86	0.89	0.94	0.87
5-year	1.12	1.10	1.12	1.16	1.11	1.12	1.17	1.10
7-year	1.57	1.54	1.59	1.64	1.58	1.58	1.64	1.57
10-year	2.03	2.01	2.06	2.12	2.07	2.06	2.11	2.05
30-year	2.76	2.73	2.78	2.84	2.80	2.78	2.84	2.80
Corporate bonds								
Moody's seasoned								
Aaa <sup>15</sup>	3.78	3.80	3.80	3.87	3.83	3.82	3.85	3.85
Baa	5.04	5.06	5.08	5.13	5.08	5.08	5.15	5.14
State & local bonds <sup>16</sup>				3.72		3.72	3.69	3.66
Conventional mortgages <sup>17</sup>				3.90		3.90	3.95	3.89

n.a. Not available.

#### Footnotes

- The daily effective federal funds rate is a weighted average of rates on brokered trades.
- Weekly figures are averages of 7 calendar days ending on Wednesday of the current week; monthly figures include each calendar day in the month.
- Annualized using a 360-day year or bank interest.
- On a discount basis.
- Interest rates interpolated from data on certain commercial paper trades settled by The Depository Trust Company. The trades represent sales of commercial paper by dealers or direct issuers to investors (that is, the offer side). The 1-, 2-, and 3-month rates are equivalent to the 30-, 60-, and 90-day rates reported on the Board's Commercial Paper Web page ([www.federalreserve.gov/releases/cpi](http://www.federalreserve.gov/releases/cpi)).
- Financial paper that is insured by the FDIC's Temporary Liquidity Guarantee Program is not excluded from relevant indexes, nor is any financial or nonfinancial commercial paper that may be directly or indirectly affected by one or more of the Federal Reserve's liquidity facilities. Thus the rates published after September 19, 2008, likely reflect the direct or indirect effects of the new temporary programs and, accordingly, likely are not comparable for some purposes to rates published prior to that period.
- An average of dealer bid rates on nationally traded certificates of deposit.
- Source: Bloomberg and CTRB ICAP Fixed Income & Money Market Products.
- Rate posted by a majority of top 25 (by assets in domestic offices) insured U.S.-chartered commercial banks. Prime is one of several base rates used by banks to price short-term business loans.
- The rate charged for discounts made and advances extended under the Federal Reserve's primary credit discount window program, which became effective January 8, 2003. This rate replaces that for adjustment credit, which was discontinued after January 8, 2003. For further information, see [www.federalreserve.gov/monetarypolicy/press/crcp/2002/200210312/default.htm](http://www.federalreserve.gov/monetarypolicy/press/crcp/2002/200210312/default.htm). The rate reported is that for the Federal Reserve Bank of New York. Historical series for the rate on adjustment credit as well as the rate on primary credit are available at [www.federalreserve.gov/releases/h15/data.htm](http://www.federalreserve.gov/releases/h15/data.htm).



11. Yields on actively traded non-inflation-indexed issues adjusted to constant maturities. The 30-year Treasury constant maturity series was discontinued on February 18, 2002, and reintroduced on February 9, 2006. From February 18, 2002, to February 9, 2006, the U.S. Treasury published a factor for adjusting the daily nominal 20-year constant maturity in order to estimate a 30-year nominal rate. The historical adjustment factor can be found at [www.treasury.gov/finance-center/data-chart-center/interest-rates/](http://www.treasury.gov/finance-center/data-chart-center/interest-rates/). Source: U.S. Treasury.

12. Yields on Treasury Inflation Protected Securities (TIPS) adjusted to constant maturities. Source: U.S. Treasury. Additional information on both nominal and inflation-indexed yields may be found at [www.treasury.gov/finance-center/data-chart-center/interest-rates/](http://www.treasury.gov/finance-center/data-chart-center/interest-rates/).

13. Based on the unweighted average bid yields for all TIPS with remaining terms to maturity of more than 10 years.

14. International Swaps and Derivatives Association (ISDA) mid-market par swap rates. Rates are for a Fixed Rate Payer in return for receiving three month LIBOR, and are based on rates collected at 11:00 a.m. Eastern time by Garban InterCapital plc and published on Reuters Page ISDAFIX31. ISDAFIX is a registered service mark of ISDA. Source: Reuters Limited.

15. Moody's Aaa rates through December 6, 2001, are averages of Aaa utility and Aaa industrial bond rates. As of December 7, 2001, these rates are averages of Aaa industrial bonds only.

16. Bond Buyer Index, general obligation, 20 years to maturity, mixed quality, Thursday quotations.

17. Contract interest rates on commitments for fixed-rate first mortgages. Source: Primary Mortgage Market Survey® data provided by Freddie Mac.

Note: Weekly and monthly figures on this release, as well as annual figures available on the Board's historical H.15 web site (see below), are averages of business days unless otherwise noted.

Current and historical H.15 data are available on the Federal Reserve Board's web site ([www.federalreserve.gov/](http://www.federalreserve.gov/)). For information about individual copies or subscriptions, contact Publications Services at the Federal Reserve Board (phone 202-452-3244, fax 202-728-5886).

#### Description of the Treasury Nominal and Inflation-Indexed Constant Maturity Series

Yields on Treasury nominal securities at "constant maturity" are interpolated by the U.S. Treasury from the daily yield curve for non-inflation-indexed Treasury securities. This curve, which relates the yield on a security to its time to maturity, is based on the closing market bid yields on actively traded Treasury securities in the over-the-counter market. These market yields are calculated from composites of quotations obtained by the Federal Reserve Bank of New York. The constant maturity yield values are read from the yield curve at fixed maturities, currently 1, 3, and 6 months and 1, 2, 3, 5, 7, 10, 20, and 30 years. This method provides a yield for a 10-year maturity, for example, even if no outstanding security has exactly 10 years remaining to maturity. Similarly, yields on inflation-indexed securities at "constant maturity" are interpolated from the daily yield curve for Treasury Inflation Protected Securities in the over-the-counter market. The inflation-indexed constant maturity yields are read from this yield curve at fixed maturities, currently 5, 7, 10, and 20 years.

Last update: March 5, 2012

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**VENDOR PREFERENCE CERTIFICATE**

Certification and application\* is hereby made for Preference in accordance with **West Virginia Code**, §5A-3-37. (Does not apply to construction contracts). **West Virginia Code**, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the **West Virginia Code**. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Resident Vendor Preference, if applicable.

**1. Application is made for 2.5% resident vendor preference for the reason checked:**

- \_\_\_\_ Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
- \_\_\_\_ Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,
- \_\_\_\_ Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,

**2. Application is made for 2.5% resident vendor preference for the reason checked:**

- \_\_\_\_ Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

**3. Application is made for 2.5% resident vendor preference for the reason checked:**

- \_\_\_\_ Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,

**4. Application is made for 5% resident vendor preference for the reason checked:**

- \_\_\_\_ Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,

**5. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**

- \_\_\_\_ Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,

**6. Application is made for 3.5% resident vendor preference who is a veteran for the reason checked:**

- \_\_\_\_ Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (**West Virginia Code**, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: FIFTH THIRD BANK

Signed: Mark Keegan

Date: 04/25/2012

Title: VICE PRESIDENT

\*Check any combination of preference consideration(s) indicated above, which you are entitled to receive.



STATE OF WEST VIRGINIA  
Purchasing Division**PURCHASING AFFIDAVIT**

West Virginia Code §5A-3-10a states: No contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and the debt owed is an amount greater than one thousand dollars in the aggregate.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Debtor" means any individual, corporation, partnership, association, limited liability company or any other form or business association owing a debt to the state or any of its political subdivisions. "Political subdivision" means any county commission; municipality; county board of education; any instrumentality established by a county or municipality; any separate corporation or instrumentality established by one or more counties or municipalities, as permitted by law; or any public body charged by law with the performance of a government function or whose jurisdiction is coextensive with one or more counties or municipalities. "Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**EXCEPTION:** The prohibition of this section does not apply where a vendor has contested any tax administered pursuant to chapter eleven of this code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

Under penalty of law for false swearing (*West Virginia Code* §61-5-3), it is hereby certified that the vendor affirms and acknowledges the information in this affidavit and is in compliance with the requirements as stated.

**WITNESS THE FOLLOWING SIGNATURE**Vendor's Name: Fifth Third BankAuthorized Signature: [Signature] Christian Hyek, Vice President Date: 4-18-12State of OhioCounty of Hamilton, to-wit:Taken, subscribed, and sworn to before me this 18 day of April, 2012

My Commission expires \_\_\_\_\_, 20\_\_\_\_.

AFFIX SEAL



Paula D. McQueen  
Notary Public, State of Ohio  
My Commission Expires 10-13-2013

NOTARY PUBLIC

Paula D. McQueen



State of West Virginia  
Department of Administration  
Purchasing Division  
2019 Washington Street East  
Post Office Box 50130  
Charleston, WV 25305-0130

## Request for Quotation

RFQ NUMBER

FAR120000

PAGE

1

ADDRESS CORRESPONDENCE TO ATTENTION OF:

KRISTA FERRELL  
304-558-2596

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Fifth Third Bank  
21 East State Street, Maildrop 468371  
Columbus, OH 43215  
Attn: Mark Keegan

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DEPARTMENT OF ADMINISTRATION  
FINANCIAL ACCOUNTING AND  
REPORTING SECTION  
2101 WASHINGTON ST E  
CHARLESTON, WV  
25305-1510 304-558-4083

DATE PRINTED	TERMS OF SALE	SHIP VIA	F.O.B.	FREIGHT TERMS
04/19/2012				

BID OPENING DATE:

04/26/2012

BID OPENING TIME

01:30PM

LINE	QUANTITY	UOP	CAT NO	ITEM NUMBER	UNIT PRICE	AMOUNT
ADDENDUM NO. 1						
THIS ADDENDUM IS ISSUED TO PROVIDE ANSWERS TO ALL TECHNICAL QUESTIONS SUBMITTED IN ACCORDANCE WITH THE PROVISIONS OF THE ORIGINAL REQUEST FOR QUOTATION (FAR120000).						
BID OPENING DATE REMAINS: 04/26/2012 BID OPENING TIME REMAINS: 1:30 PM						
***** END ADDENDUM NO. 1 *****						
0001	1	EA		946-54		
STATE MASTER LEASE PURCHASE AGREEMENT						
***** THIS IS THE END OF RFQ FAR120000 ***** TOTAL:						

SEE REVERSE SIDE FOR TERMS AND CONDITIONS

SIGNATURE	TELEPHONE	DATE
Mark Keegan	614-784-5488	04/25/2012
TITLE	FEIN	ADDRESS CHANGES TO BE NOTED ABOVE
Vice President	31-0854439	

WHEN RESPONDING TO RFQ, INSERT NAME AND ADDRESS IN SPACE ABOVE LABELED 'VENDOR'



**FAR120000 ADDENDUM # 1**

1) If bids are delivered in person, what office & address should they be delivered to?

**2019 Washington St. E, Building #15, Charleston, WV 25305**

2) When is the deadline for submitting a bid?

**April 26, 2012 at 1:30 p.m. No bids accepted after that date or time.**

3) RFQ -section 2.1 Last sentence states "Interest is calculated on a 360/265 day basis. Is this a typo?

**Yes, it should read 360/365**

**If this is not a typo, please explain**

4) Prior year RFP's have noted a separate pricing request for indirect state agencies and direct state agencies. Will only direct state agencies be allowed to submit to the Master Lease program?

**No, both direct and indirect state agencies will be allowed to submit to the Master Lease Program (i.e. Marshall University, Glenville State College, etc.)**

5) Escrow Agency – Of the 14 appendices issued since the last contract date of January 2009, how many involved the use of the escrow agent?

**All have been escrowed.**

6) Escrow Agency – can an example be provided of when an appendix may be required to use the escrow agent?

**Vehicle purchases – monies are escrowed and invoices are submitted via Acceptance Certificate and Request for Payment. The bank becomes the lien holder on the vehicle title.**

7) Are the lease document negotiable? What would be the scope of changes that could be modified?



**Additional language may be considered for the purpose of clarification, but the fundamental terms and the conditions of the lease are not negotiable. We will not consider using any vendor's lease financing documents.**

**8) Please expand upon self insurance scope and practice, caps**

**Perhaps the term "self-insured" is the wrong way to phrase it. The State is insured for liability through BRIM with a limit of \$1 Million per occurrence; for property damage the limit is the actual cash value of the item at the time of loss.**

**9) Section 17, 1<sup>st</sup> paragraph of the Master Lease. Please explain further the intent of the paragraph.**

**If state agency pays off the debt early, the state agency will pay the accrued interest to the date of payoff, no additional interest will be paid.**

**10) There is no requirement to deliver annual or quarterly financial statements within regulatory required timeframes. How can this be included?**

**Annual financial statements can be offered.**

**11) According to the new IRS regulations, we cannot prepare the 8038G/GC form; it must be prepared by either the issuer or a paid preparer on behalf of the issuer.**

**Will the State comply with this IRS regulation in lieu of Item 30 in the RFP requiring the Lessor to prepare?**

**We will prepare and send to Government and send copy to bank with contracts, and will amend the Master Lease terms accordingly.**

**12) The last sentence in section 2.1 indicates interest will be calculated on a 360/265 day basis. We calculate using a 360/30 day basis and are not familiar with 360/265 day basis. Is 360/30 day basis acceptable?**

**This was a typo it should have read 360/365. The 360/30 is not acceptable.**

13) Can an alternative indexing method be proposed instead of the method described in Section 2.3?

No

14) Item 9 – The Director of Purchasing may cancel any Purchase Order/Contract upon thirty (30) days written notice to seller. Is the intent to provide for cancellation of the Master Lease Agreement, which would not affect the individual Appendix previously issued?

Yes

15) Item 11 – any reference to automatic renewal is hereby deleted. Do you intend the Master Lease Agreement term to be for 1 year and per Section 22 allow a provision to renew the Master Agreement for 2 additional 1 yr terms? Is this the “no automatic renewal” reference contemplated here?

Yes

16) Partial prepayments by lessees - How often a lessee can make a prepayment, i.e. once a year is not addressed, Is a onetime principal pre-payment option each year acceptable understanding we would not modify the UCC filing on the originally financed assets until an Appendix is paid in full?

An example of a prepayment would be a wrecked vehicle that has been deemed totaled by the insurance. We would request a buyout quote from the bank which would require a buyout amount and a new calculated amortization schedule. This is done in order to obtain the title of the totaled vehicle.

When one item of Equipment is paid off, Section 17 of the Lease requires a release of the security interest in that item. So the UCC filing would have to be amended to reflect that change, and the Equipment list for that Appendix would also need to be revised.

**There is currently no limit on the frequency of prepayments. Except for casualty losses, we could possibly consider a onetime per year prepayment option.**



**LEASE PROPOSAL PREPARED FOR**

**State of West Virginia**

**IS PRESENTED ON THIS DATE**

**04/26/2012**

**BY**

**FIFTH THIRD BANK, Central Ohio**

**21 East State Street**

**Columbus, OH43125**

**Phone: (614) 744-5488**

**Fax: (614) 744-7606**

**e-mail: mark.keegan@53.com**

**Proposal Prepared**

**BY: Mark Keegan**

Vice President

Fifth Third Equipment Finance Company

04/26/2012

Krista S. Ferrell  
Buyer Supervisor – File 21  
Department of Administration, Purchasing Division  
Building 15, 2019 Washington Street, East  
Charleston, West Virginia, 25305

Dear Ms. Ferrell,

Fifth Third Bank, its participants, or assigns (“Fifth Third Bank” or “Lessor”) present the following lease proposal for the lease of Equipment, specified at locations in the United States, to The State of West Virginia (“Lessee”) in an amount up to \$25,000,000 (“Equipment Cost”). This Proposal is subject to the terms and conditions described in this letter and the attached Exhibit “A” (“Lease Facility” or “Lease”).

In today’s complex business environment, the demand for a strong financial partner is tremendous. Fifth Third Equipment Finance ranks among the top Equipment Finance Companies in the United States.

With a full service bank in excess of \$110 Billion in assets behind us, and over \$5 Billion in leased assets, our team can assess your needs and provide a comprehensive financial package - something few independent leasing companies can provide! Our “Pledge of Service”: guarantee our clients prompt, professional service and reliability, allowing you to take care of business. Our list of Products and their benefits are many.

Products		Benefits	
○ Municipal leases	○ Tax exempt leases for non-profits	○ Reduces Issuance cost	○ Longer and more flexible terms
○ Bank Qualified	○ Escrow Feature	○ Conserves capital	○ 100% financing
○ Syndicated - Non-Bank Qualified	○ Land and Building Financing Available	○ Fixed and Variable payments	○ Expands capital budgets
○ QTE True leases		○ Firm Term & Non-Appropriation	○ Creates liquidity

Finding solutions to your equipment finance needs is what Fifth Third Equipment Finance does best. Whether its computers, transportation, production equipment or office furniture, let the professionals at the Fifth Third Bank Equipment Finance Company be your partner, and we’ll work hard to be **The only bank you’ll ever need for Equipment Financing!**

This letter is not a commitment to undertake this financing. The appropriate officers of Lessor can issue a commitment only after full credit and economic review and subsequent approval. Lessor reserves the right to decline the issuance of a commitment for any reason whatsoever. If Lessor issues a commitment, it may




modify the terms of this proposal and may add such additional requirements (including, but not limited to, financial covenants, requirements of guaranties or other credit support, and/or special equipment maintenance and return conditions), as Lessor may deem advisable. A commitment shall not be binding on Lessor unless it is in writing and signed by Lessor. Lessor will have the sole right to assign this proposal or any lease between Lessee and Lessor. The terms and conditions outlined herein are not all inclusive. Any approval of the Lease Facility described herein is subject to no material adverse change in the Lessee's financial or business condition. If this proposal letter is satisfactory to Lessee, please sign this proposal and initial the Exhibit(s).

Your acceptance of this proposal represents your intent to exclusively move forward with Lessor in order to expedite this transaction. Please feel free to contact me 614-744-5488, [mark.keegan@53.com](mailto:mark.keegan@53.com), FAX -614-744-7606 if you have any questions, or would like to discuss this proposal in greater detail. Upon notification of acceptance, we will promptly begin the approval process so that we may be in a position to finalize this transaction with you. Thank you for allowing us the opportunity to submit this proposal to you.

Yours very truly,

FIFTH THIRD EQUIPMENT FINANCE COMPANY

  
Leasing Officer Name, Title

Accepted: \_\_\_\_\_

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

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

## Exhibit 'A'

<b>LEASE STRUCTURE:</b>	Tax Exempt Non-Appropriation Lease
<b>LESSOR:</b>	Fifth Third Equipment Finance Company, its affiliates or assigns
<b>LESSEE:</b>	State of West Virginia
<b>EQUIPMENT:</b>	Various equipment such as vehicles, computers, phone systems, computer equipment, printer/collator
<b>EQUIPMENT COST:</b>	Not to exceed \$25,000,000
<b>DELIVERY AND ACCEPTANCE DATE:</b>	To be determined
<b>BASE TERM COMMENCEMENT DATE:</b>	To be determined
<b>BASE TERM:</b>	See RFP Response Attached
<b>RENT:</b>	
<b>ESCROW PERIOD:</b>	As defined in the State of West Virginia Master Lease and Purchase Agreement - Escrow Agent shall be Fifth Third Securities
<b>BASE TERM:</b>	As defined in the State of West Virginia Master Lease and Purchase Agreement
<b>INTEREST RATE:</b>	See RFP Response Attached: As entered in Section 4

<b>Financing Term</b>	<b>Discount/Premium from H15</b>
3 Years	prior week ending (2yrs) swap + 206 basis points, x 65%
4 Years	prior week ending (2yrs) swap + 213 basis points, x 65%
5 Years	prior week ending (3yrs) swap + 224 basis points, x 65%
7 Years	prior week ending (4yrs) swap + 263 basis points, x 65%

<b>END OF TERM:</b>	As defined in the State of West Virginia Master Lease and Purchase Agreement
<b>INDEXING LANGUAGE</b>	As defined in the State of West Virginia Master Lease and Purchase Agreement
<b>PREPAYMENT:</b>	As defined in the State of West Virginia Master Lease and Purchase Agreement
<b>TYPE OF LEASE:</b>	As defined in the State of West Virginia Master Lease and Purchase Agreement
<b>DOCUMENTATION:</b>	It is anticipated that the required Lease documentation will include but not be limited to an Equipment Lease Agreement, Delivery and Acceptance

Certificate, Board Resolutions, Incumbency Certificates, Legal Opinions, and other documents as required by Lessor. The Lease documentation will contain terms and conditions as are customary for transactions of this type and under the structure reviewed in this letter.

**NON-APPROPRIATION:** In the event that funds are not appropriated for each fiscal year, the Lease is subject to termination by the Lessee.

**INSURANCE:** The Lessee will provide a certificate of insurance as evidence of all required physical damage, business interruption, and liability insurance coverage in an amount and by an insurance carrier satisfactory to the Lessor. The Lessor must be listed on the policy as sole loss payee and additional insured on the certificate of insurance, which is to be provided to the Lessor prior to closing.

**ACCEPTANCE OF PROPOSAL:** Lessee is asked to acknowledge its acceptance of this Lease proposal and its application to Lessor by signing and returning the enclosed copy of this letter to Lessor by 05/31/2012.

**REPORTING:** Lessee will be required to provide the Lessor with such financial and operating information as Bank may request from time to time on Lessee. As a minimum, Lessee shall provide yearend audited financial statements, time of delivery to be determined at a later date.

**PROPOSAL ONLY:** This letter is not a commitment to undertake this financing. A commitment can be issued only after full credit and economic review and subsequent approval by the appropriate officers of Lessor. Lessor reserves the right to decline the issuance of a commitment for any reason whatsoever. If a commitment is issued by Lessor, it may modify the terms of this proposal and may add such additional requirements as Lessor may deem advisable. A commitment shall not be binding on Lessor unless it is in writing and signed by Lessor.