



## Legislation Text

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**File #:** RES 15-2088, **Version:** 1

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Authorizing the execution and delivery of Property Schedules No. 7 and 8 to a Tax-exempt/Lease Purchase Agreement and related documents for the purchase of Public Safety Equipment, Public Works Equipment, and certain other capital equipment and determining other matters in connection therewith

WHEREAS, the City of Saint Paul, Minnesota (the "City") entered into a capital Master Tax-Exempt/Lease Purchase Agreement, dated May 7, 2012 (the "Master Lease Purchase Agreement"), by and between the City and U.S. Bancorp Government Leasing and Finance, Inc. (the "Lessor"), where the City may enter into individual tax-exempt leases for the purchase and financing of various items of capital equipment; and

WHEREAS, at the same time as the City entered into the Master Lease Purchase Agreement, the City also entered into Property Schedule Nos. 1 and 2 to the Master Lease Purchase Agreement, which provided for the acquisition of certain capital equipment; and

WHEREAS, the City has also previously entered into Property Schedule Nos. 3, 4, 5 and 6 to the Master Lease Purchase Agreement, which provided for the acquisition of certain capital equipment; and

WHEREAS, the City now wishes to enter into Property Schedule Nos. 7 and 8 to the Master Lease Purchase Agreement (the "Supplements") (collectively, with the Master Lease Agreement, the "Lease Purchase Agreement"), which provide for three and seven year leases in the aggregate principal amount not to exceed \$3,255,000; and

WHEREAS, the interest rates on the Supplements are estimated to not to exceed the following: (i) 1.50% for the three year Supplement, and (ii) 2.10% for the seven year Supplement provided the Supplements are funded on or prior to December 31, 2015; and

WHEREAS, if the Supplements are funded after December 31, 2015, the Lessor has outlined the index that the rates will be based upon in the Lessor's financing proposal; and

WHEREAS, the proceeds of the Supplements will finance certain public safety, public works and other capital equipment for the City (the "Equipment") as described on Exhibit A attached hereto; and

WHEREAS, the City previously approved the Master Lease Purchase Agreement and Property Schedules No. 1, 2, 3, 4, 5 and 6; and

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

WHEREAS, by entering into the Supplements, the City will exercise the powers under the City's home rule charter and Minnesota Statutes, Section 465.71, as amended; and

WHEREAS, the Equipment is essential for the City to perform its governmental functions; and

WHEREAS, the funds made available under the Supplements and the Lease Purchase Agreement will be applied to reimburse the City for the acquisition of the Equipment or for the purchase of the Equipment in

accordance with the documentation required by the Lessor; and

WHEREAS, the Lease Purchase Agreement (including the Supplements) is subject to annual non-appropriation, and the City has the right to terminate the Lease Purchase Agreement (and the Supplements), in accordance with the terms thereof, at the end of any fiscal year.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Saint Paul, Minnesota, as follows:

1. Approval of Documents. It is hereby found and determined that the terms of the Master Lease Purchase Agreement previously approved by the City and related documents, certificates and instruments (collectively, the "Financing Documents") in the forms presented to this meeting and incorporated in this resolution are in the best interests of the City for the acquisition and financing of the Equipment. The Equipment financed with proceeds of the Lease Purchase Agreement is capital equipment.

2. Authorized Officials. The Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The Director, Office of Financial Services is hereby authorized to approve the terms and forms of the Supplements provided such terms are within the terms discussed in the recitals hereto. The Mayor of the City, the Director of the Office of Financial Services, or their designees and any other officer of the City who are authorized to execute contracts on behalf of the City are, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents with any changes, insertions and omissions therein as may be approved by the officers who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The Mayor of the City, the Director of the Office of Financial Services, or their designees and any other officer of the City are authorized, if required by the Lessor, to affix the official seal of the City to the Financing Documents and attest the same.

3. Execution of Documents. The proper officers of the City be, and each of them hereby are, authorized and directed to execute and deliver any and all papers, instruments, documents opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Financing Documents.

4. Not Qualified Tax-Exempt Obligations. The Supplements, together with other tax-exempt obligations previously issued by and anticipated to be issued by the City in calendar year 2015 exceed \$10,000,000. Therefore, the City cannot and does not designate the Supplements as a "qualified tax-exempt obligation" for purposes of Section 265 of the Internal Revenue Code of 1986, as amended (the "Code").

5. No Arbitrage. Until expended on the Equipment, the proceeds of the Lease Purchase Agreement will be deposited and utilized in conformance with the terms and documents required by the Lessor. Payments on the Lease Purchase Agreement shall be made from annual appropriations, and money to make such payment shall not be segregated in any special fund of the City. No portion of the proceeds of the Lease Purchase Agreement will be used directly or indirectly to acquire higher yielding investments or to replace funds which were used directly or indirectly to acquire higher yielding investments, except (1) for a reasonable temporary period until such proceeds are needed for the purpose for which the Lease Purchase Agreement is entered into, and (2) an addition to the above in an amount not greater than five percent (5.00%). In addition, the proceeds of the Lease Purchase Agreement and moneys used to make payments on the Lease Purchase Agreement shall not be invested in obligations or deposits issued by, guaranteed by or insured by the United States or any agency or instrumentality thereof if and to the extent that such investment would cause the Lease Purchase Agreement to be "federally guaranteed" within the meaning of Section 149 (b) of the Code.

6. No General Obligation Pledge; Initial Appropriation. The Lease Purchase Agreement (and

each Supplement) is not a general obligation of the City, but rather the Lease Purchase Agreement (and each Supplement) is payable from amounts to be annually appropriated, and the full faith, credit and taxing powers of the City are not pledged to the payment of the Lease Purchase Agreement (and each Supplement). By other actions to be taken with respect to the calendar year 2015 City budget, the City Council will consider the appropriation of money to make the payments due on Supplements in calendar year 2015.

7. Records and Certificates. The officers of the City are hereby authorized and directed to prepare and furnish to the Lessor and Barnes & Thornburg LLP, as bond counsel to the City, certified copies of all proceedings and records of the City relating to Lease Purchase Agreement and to the financial condition and affairs of the City, and such other affidavits, certificates and information as are required to show the fact relating to the legality of the Lease Purchase Agreement, and all such certified copies, certificates, and affidavits, including any heretofore furnished, shall be deemed representations of the City as to the facts recited therein.

8. Negative Covenants as to Use or Proceeds and Equipment. The City hereby covenants not to use the proceeds of the Lease Purchase Agreement or to use the Equipment, or to cause or permit them to be used, or to enter into any deferred payment arrangements for the cost of the Equipment, in such a manner as to cause the Lease Purchase Agreement to be a "private activity bond" within the meaning of Sections 103 and 141 through 150 of the Code. The City reasonably expects that no actions will be taken over the term of the Lease Purchase Agreement that would cause it to be a "private activity bond", and the average term of Lease Purchase Agreement is not longer than reasonably necessary for the governmental purpose. The City hereby covenants not to use the proceeds of the Lease Purchase Agreement in such a manner as to cause the Lease Purchase Agreement to be a "hedge bond" within the meaning of Section 149(g) of the Code.

9. Tax-Exempt Status of Lease Purchase Agreement; Rebate; Elections. The City shall comply with the requirements necessary under the Code to establish and maintain the exclusion from gross income under Section 103 of the Code of the interest on the Lease Purchase Agreement. If any elections are available now, or hereafter with respect to arbitrage or rebate matters relating to Lease Purchase Agreement, the Mayor and Director of the Office of Financial Services, or their designees, are hereby authorized and directed to make such elections as they deem necessary, appropriate or desirable in connection with the Lease Purchase Agreement, and all such elections shall be, and shall be deemed and treated as, elections of the City.

10. Reimbursement. The City intends to make expenditures for the Equipment and reimburse such expenditures from the proceeds of the Supplements. This resolution is intended to constitute a declaration of the City's official intent, for purposes of Section 1.150-2 of the Treasury Regulations, with respect to certain original expenditures made from any sources other than the proceeds of the Supplements, in conjunction with the Equipment financed thereby.

11. Bond Counsel. Barnes & Thornburg LLP is hereby designated as bond counsel to the City with respect to the Lease Purchase Agreement and is hereby authorized to take all actions necessary to prepare necessary documents to permit the execution of the Supplements and the financing of the Equipment.

12. Severability. If any section, paragraph or provision on this resolution shall be held to be invalid, or unenforceable for any reason, the invalidity or unenforceability of such section, paragraph, or provision shall not affect any of the remaining provisions of this resolution.

13. Headings. Headings in this resolution are included for convenience only and are not a part hereof. The Headings in this resolution are not intended to limit or define the meaning of any provision hereto.

Adopted by the City Council of the City of Saint Paul, Minnesota on this 25th day of November, 2015.

