

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20031521

1. REQUESTED MOTION:

ACTION REQUESTED: Board approval and Chairman's signature on Form 8038-T for payment of arbitrage liability, as required by the 1993 Regulations, to the U.S. Treasury for a total of \$350.45.

WHY ACTION IS NECESSARY: To comply with 1993 Regulations as set forth by the Internal Revenue Service (IRS).

WHAT ACTION ACCOMPLISHES: Remits yield reduction payment for Lee County, Florida Certificates of Participation, Series 1993.

2. DEPARTMENTAL CATEGORY:

C15D

3. MEETING DATE:

01-13-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:
(Specify)

- STATUTE
- ORDINANCE
- ADMIN. CODE
- OTHER
- Federal Internal Revenue
- Service Regulations 1.148

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER
 - B. DEPARTMENT Clerk of Circuit Court
 - C. DIVISION Finance & Records Dept.
- BY: Donna G. Harn *dh*

7. BACKGROUND:

Federal arbitrage regulations dictate that a bond issuer remit to the federal government any interest earned on bond proceeds that exceeds the bond yield. A calculation of arbitrage rebate or yield reduction liability must be performed every five years from date of issue of the bonds and any ensuing liability is due to the federal government within 60 days of this determination date. The five-year calculation on the Lee County Certificates of Participation, Series 1993 has been prepared by the Clerk's Finance and Records Department and reviewed by arbitrage consulting firm, MuniFinancial. Because the consulting firm did not complete its review by the determination date an interest payment of \$1.78 is due which will be reimbursed by MuniFinancial. A yield reduction payment of \$348.67 plus interest of \$1.78 (totaling \$350.45) is due to the U.S. Treasury by January 25, 2004.

The funding source is listed below:

Certificates of Participation, Series 1993 GB5199022060.504983 \$350.45.

After approval by the Board and Chairman's signature, please return the original Form 8038-T to the Finance and Records Department for submission to the U.S. Treasury by January 25, 2004.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL:

A Department Director	B Purchasing or Contracts	C Human Resources	D Other	E County Attorney	F Budget Services				G County Manager
<i>dh</i>				<i>[Signature]</i> 12/29/03	OA <i>RK</i>	OM <i>SG</i>	Risk <i>SR</i>	GC <i>RK</i>	<i>[Signature]</i>

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

CO. ATTY
FORWARDED
TO CO. ADMIN.
[Signature]

RECEIVED BY
COUNTY ADMIN:
12/29/03
12/25/03
COUNTY ADMIN
FORWARDED TO:
12/29/03
12/29/03

Arbitrage Rebate and Penalty in Lieu of Arbitrage Rebate

Department of the Treasury
Internal Revenue Service

▶ Under Sections 143(g)(3) and 148(f)
and Sections 103(c)(6)(D) and 103A(i)(4) of the Internal Revenue Code of 1954

Part I Reporting Authority Check box if Amended Return

1 Issuer's name Lee County, Florida	2 Issuer's employer identification number 59 : 6000702
3 Number and street (or P.O. box no. if mail is not delivered to street address) Room/suite 2115 Second St.	4 Report number 7 G1993-7
5 City, town, or post office, state, and ZIP code Ft. Myers, FL 33901	6 Date of issue 9/1/93
7 Name of issue Certificates of Participation, Series 1993	8 CUSIP number 523485
9 Name and title of officer or legal representative whom the IRS may call for more information Donna G. Harn	10 Telephone number of officer or legal representative (239) 335-2300
11 Type of issue ▶ Governmental Buildings for Lease to Lee County, FL Issue price ▶	11 \$ 17,001,410.35
12 Amount of arbitrage rebate previously paid for this issue	12 \$ 0
13 If Form 8038, Form 8038-G, or Form 8038-GC was not filed, check here ▶ <input type="checkbox"/>	
14 Date of most recently filed Form 8038-T for this issue (MMDDYYYY)	
15 Is this the final Form 8038-T for this issue? ▶ <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	

Part II Yield Reduction, Arbitrage Rebate, and Penalty in Lieu of Arbitrage Rebate

Yield Reduction	
16 Amount of yield reduction payment (see instructions)	16 \$ 348.67
Arbitrage Rebate	
17 Amount of rebate paid for the period (MMDDYYYY) from ▶ to ▶	17 \$
18 Penalty for failure to pay arbitrage rebate on time (attach statement)	18 \$
19 Interest on underpayment of arbitrage rebate (see instructions)	19 \$
Penalty in Lieu of Arbitrage Rebate	
20 Number of months since date of issue, check the box: <input type="checkbox"/> 6 mos <input type="checkbox"/> 12 mos <input type="checkbox"/> 18 mos <input type="checkbox"/> 24 mos <input type="checkbox"/> Other. No. of mos ▶	
21 Available construction proceeds ▶ \$ Unspent ▶ \$	
22 If you elected to terminate the election to pay the penalty in lieu of arbitrage rebate, check one of the following (see instructions): <input type="checkbox"/> A <input type="checkbox"/> B Date of termination (MMDDYYYY)	
23 Penalty in lieu of rebate	23 \$
24 Penalty upon termination	24 \$
25 Penalty for failure to pay on time (attach statement)	25 \$
26 Interest on underpayment of penalty in lieu of rebate or upon termination (see instructions)	26 \$
27 Total payment. Add lines 16, 17, 18, 19, 23, 24, 25, and 26. Enter total here ▶	27 \$

Part III Elections by the Issuer Check "Yes" or "No" for each question (see instructions)

		Yes	No
A. Elections made under the 1992 regulations. Did you elect to:			
28 Apply the rules under section 148 to determine if the bond complies with section 103(c)(6)(D) of the 1954 Code?	28	<input type="checkbox"/>	<input checked="" type="checkbox"/>
29 Treat the last day of the bond year on a variable yield issue as the computation date?	29	<input type="checkbox"/>	<input checked="" type="checkbox"/>
30 Treat a transitioned variable yield issue as a fixed yield issue?	30	<input type="checkbox"/>	<input checked="" type="checkbox"/>
31 Treat a variable yield bond that is not a tender bond as a fixed yield bond after it converted to a fixed rate?	31	<input type="checkbox"/>	<input checked="" type="checkbox"/>
32 Continue treating an issue as a variable yield issue after all the bonds in the issue converted to a fixed rate?	32	<input type="checkbox"/>	<input checked="" type="checkbox"/>
33 Recompute the yield on a transitioned fixed yield issue?	33	<input type="checkbox"/>	<input checked="" type="checkbox"/>
B. Elections made under the 1993 regulations. Did you elect to:			
34 Identify a hedge?	34	<input type="checkbox"/>	<input checked="" type="checkbox"/>
35 Use an actual facts analysis?	35	<input type="checkbox"/>	<input checked="" type="checkbox"/>
36 Exclude earnings on a reasonably required reserve or replacement fund from available construction proceeds?	36	<input type="checkbox"/>	<input checked="" type="checkbox"/>
37 Treat the different purposes of a multipurpose issue as separate issues for purposes of the 2-year exception?	37	<input type="checkbox"/>	<input checked="" type="checkbox"/>
38 Treat each loan of a pooled financing issue as a separate issue for purposes of applying the spending exception?	38	<input type="checkbox"/>	<input checked="" type="checkbox"/>
39 Apply certain provisions of section 1.148-11(b) before the effective date?	39	<input type="checkbox"/>	<input checked="" type="checkbox"/>
40 Apply certain provisions of section 1.148-11A(i) before the effective date?	40	<input type="checkbox"/>	<input checked="" type="checkbox"/>

Under penalties of perjury, I declare that I have examined this return, and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature of officer	Date	Type or print name and title
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December 23, 2003

Ms. Marcia Simons
Debt Analyst
Lee County Clerk of the Circuit Court
Finance and Records Department
P.O. Box 2238
Fort Myers, Florida 33902-2238

RE: Arbitrage Rebate and Yield Reduction Payment Liability Calculation Review

Dear Ms. Simons:

At the request of Lee County (the "County"), MuniFinancial has completed the Arbitrage Rebate and Yield Reduction Payment Liability Calculation Review for the County's \$17,245,000 Certificates of Participation, Series 1993 (the "Obligations"). Lee County has requested that we review the methodology used in the calculation of the arbitrage rebate and yield reduction payment liability for the period beginning September 30, 1993, the *delivery date*, and ending September 30, 2003, the *installment computation date*. There is no amount due to the U.S. Treasury with respect to arbitrage rebate because the calculations resulted in a negative amount of \$(414,713.72).

However, the Debt Service Reserve Fund was liquidated on January 21, 2000, and the proceeds were used for the purpose of construction (the "Liquidated DSRF Proceeds"). From January 21, 2000 through September 27, 2002 (the "Yield Restricted Period"), the date on which no unspent funds remained from the Liquidated DSRF Proceeds, these Liquidated DSRF Proceeds were subject to yield restriction. During the Yield Restricted Period the Liquidated DSRF Proceeds generated an investment yield that met the definition of a materially higher yield. A yield reduction payment in the amount of \$348.67 is due to the U.S. Treasury as of the *installment computation date*. Interest is also due for the period from the installment computation date through January 15, 2004, in the amount of \$1.78. The total due to the U.S. Treasury no later than January 25, 2004, is \$350.45.

In the process of reviewing the arbitrage rebate and yield reduction payment liability calculated by Lee County, MuniFinancial has reviewed the following documents: the Official Statement for the Obligations, Certificate as to Arbitrage and Certain Other Tax Matters, IRS Form 8038-G, and Accountant's Verification Report (the "Documents"). MuniFinancial assumes the Documents are accurate and contain no errors or omissions that would affect the calculation of the rebate liability.

In the process of evaluating the methodology employed in the calculation of the arbitrage rebate and yield reduction payment liability prepared by Lee County, MuniFinancial has reviewed the mathematical spreadsheets (the "Spreadsheets") used by Lee County in preparing the calculation of the arbitrage rebate and yield reduction payment liability for the Obligations. MuniFinancial assumes the information used in the Spreadsheets and in the preparation of the calculation is accurate, including the dates and amounts of the cash flow

transactions, and contains no errors or omissions that would affect the calculation of the arbitrage rebate and yield reduction payment liability.

MuniFinancial compared certain information presented in the Documents to corresponding information used in the Spreadsheets. All information presented in the Documents that was compared to the information in the Spreadsheets was found to be the same as that in the Spreadsheets.

MuniFinancial is of the opinion that the Spreadsheets prepared by Lee County for the purpose of calculating the arbitrage rebate and yield reduction payment liability with respect to the Obligations as of September 30, 2003, employ a methodology consistent with the requirements of the Internal Revenue Code and Regulations with respect to calculation of arbitrage rebate and yield reduction payment liability.

MuniFinancial has also reviewed the methodology used in the treatment of transferred proceeds, reserve funds, and escrow funds and is of the opinion that Lee County employed a methodology consistent with the requirements of the Internal Revenue Code and Regulations with respect to calculation of arbitrage rebate and yield reduction payment liability.

This report is intended for the information of Lee County and should not be used for any other purpose.

If you have questions regarding this calculation, or any other concerns, please call me at 800-428-8996.

Very truly yours,
MuniFinancial



Linda W. Dufresne, CPA
Principal Consultant, Southeast Region
Arbitrage Rebate Services