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July 19, 2006

LEGEND:

Agency =

Agency Act =

Bonds =

Taxable Bonds =

Stadium =

City =

Company =

Lease Agreement =

Installment Sale Agreement =

PILOT Agreement =

State =

Team =

Dear :

This is in response to your request for a ruling that the Bonds are not private activity bonds within the meaning of §141 of the Internal Revenue Code because the private security or payment test is not satisfied and the private loan financing test is not met.

FACTS AND REPRESENTATIONS

Agency is a governmental agency and a public benefit corporation of the State organized and existing under the Agency Act for the purpose of promoting the economic welfare of the inhabitants of the City and promoting, developing, encouraging and assisting in certain projects to advance the job opportunities, health, general prosperity and economic welfare of the people of the State, and to improve their recreation opportunities, prosperity and standard of living.

Agency proposes to issue tax-exempt bonds (the “Bonds”) and two series of taxable bonds (the “Taxable Bonds”) the proceeds of which will be used in part to pay the costs of constructing a Stadium and/or a parking garage. The City and State will also provide additional financial assistance for the construction of facilities related to the Stadium. The City and State expect that the Stadium will create significant tax revenues, employment opportunities and help spur economic development in the area. It is also expected that the Stadium will help to attract increased tourism to the City and State.

City is the owner of the premises on which the Stadium will be located (the “Stadium Site”). City will lease the Stadium Site under a ground lease to the Agency. Agency will lease the Stadium Site to Company under a Lease Agreement, and Company will construct the Stadium as agent of the Agency. Company will grant a license to Team, an affiliate of Company, to use the Stadium. Agency will be the fee owner of the newly constructed Stadium, and Company will operate and maintain the Stadium.

Agency will construct or have constructed a parking garage (the “Parking Garage”) with funds other than the Bonds on land owned by the City and leased to the Agency (the “Parking Garage Site”). The Parking Garage will be owned by Agency and

operated by Company under a parking facilities agreement.[1] Under the parking facilities agreement, Company will retain a certain amount of net revenues from the Parking Garage and pay the Agency a percentage of net revenues above that amount. Revenues paid to the Agency under this revenue sharing arrangement will be allocated to operation and maintenance costs of the Stadium.

Team will enter into a Non-Relocation Agreement with the City, Agency and a public benefit corporation of the State. Under the Non-Relocation Agreement, the Team will agree to play substantially all of its home games at the Stadium. If the Team violates the agreement, it will be subject to certain remedies which include specific performance and liquidated damages. The amount of the liquidated damages will be unrelated to and in excess of the Bonds and may be pledged to pay debt service on the Bonds. Agency represents that it does not expect that any liquidated damages will be paid under the Non-Relocation Agreement.

Under various agreements, the Company will make several types of payments to the Agency, including rent for the Stadium under the Lease Agreement, payments under an Installment Sale Agreement, and payments in lieu of taxes (the "PILOTs") under a PILOT Agreement (the "PILOT Agreement"), all of which are further described below. Agency has represented that any payments not further described below will either not be private payments or will not, in the aggregate, exceed 10 percent of the debt service on the Bonds.

Under the Lease Agreement between Company and Agency, Company will pay annual rent to Agency for its use of the Stadium. The rent has been determined in an arm's length negotiation between the Agency and the Company and is comparable to rent paid on other professional sports stadiums. The Lease Agreement will be entered into during the three-year period beginning 18 months before the issue date of the Taxable Bonds. The rent payments made by Company to Agency will be allocated to, and sufficient to, pay the debt service on one series of Taxable Bonds. Company will also make payments to Agency under an Installment Sale Agreement that will be entered into during the three-year period beginning 18 months before the issue date of the Taxable Bonds. These payments will be allocated to, and sufficient to, pay the debt service on the second series of Taxable Bonds. Payments under the Lease Agreement and the Installment Sale Agreement will not be used or pledged to pay debt service on the Bonds.

The Company will also make PILOT payments to the Agency under a PILOT Agreement entered into between the Agency and the Company. State law authorizes municipalities in State to impose real property taxes and to abate such taxes. Under State law, all real property located within the State is subject to real property tax unless

[1] There are actually two parking facilities. Because the second parking garage is not under the PILOT Agreement and payments with respect to that garage will be allocated solely to operation and maintenance on the Stadium, we do not separately analyze that parking garage.

an exemption is provided by law. Other sections of State law abate real property taxes to varying degrees for different reasons, including providing incentives to induce certain types of development in the State, including commercial, business or industrial activity. State law also authorizes certain agencies, including the Agency, to enter into PILOT agreements. As further described below, property leased to, or owned by the Agency is exempt from real property taxes upon filing of the appropriate documents, including a description of a PILOT agreement. The Agency's exemption from real property taxes combined with its authority to enter into PILOT agreements enable it, in effect, to abate property taxes in a flexible manner that allows the Agency to promote economic development consistent with its charge.

The City's Department of Finance (the "Department") is the agency responsible for the administration and collection of all taxes, assessments and charges imposed by the City. The Department assesses all real property within the City, which includes taxable as well as tax-exempt property. Assessing each parcel of real property in the City is a three-step process. First, the Department assigns each parcel to one of four tax classes, one of which is commercial property. The Department then estimates the actual full value of each parcel. Finally, the Department applies an equalization rate to each class of property to adjust the full value of each parcel within the class to arrive at an assessed value. The City Council fixes the annual tax rate after establishing the amount of revenue necessary to be raised through property taxes in order to balance the City's budget.

Under State law, real property owned by, or leased to, the Agency is taxable if such property is leased to or operated by a private business unless an application for an exemption is filed, along with the material provisions of any associated agreement obligating another party to pay PILOTs. The filing of the application for exemption is within the discretion of the Agency. If the Agency does not file the application, the property will be subject to real property tax. The Agency is permitted to enter into agreements requiring PILOTs equal to the amount, or a portion of, real property taxes that the Agency would otherwise owe on the property. The Agency's exemption from real property taxes and its concomitant authority to enter into PILOT arrangements serves the same function as a property tax abatement. The City is receiving less revenue with respect to a particular piece of real property in recognition of certain economic benefits derived from inducing private parties to use the property. The PILOT agreements function as an inducement because the private parties paying the PILOTs expect that they would otherwise bear the economic burden of the property taxes. Therefore, the difference between the amounts of the PILOTs and the amounts of the property taxes represent a lower cost to them.

State law requires the Agency to establish a uniform tax exemption policy (the "Exemption Policy"), which it has done. The Exemption Policy sets consistent standards and procedures the Agency follows when agreeing to exempt specific project property from a tax, including the real property tax. The Exemption Policy requires that

before the Agency agrees to exempt a specific property from real property taxes, the Agency must enter into a PILOT agreement with the private party receiving the financial benefit of the exemption. The Exemption Policy provides standard formulas for PILOTs available to certain projects in order to induce development within the Agency's jurisdiction. The Exemption Policy also contains procedures under which the Agency may negotiate PILOTs with certain entities and permits deviations from the Exemption Policy if certain procedures are followed.

The Agency has used its authority to enter into over 200 PILOT arrangements for projects located in the City. While most of the PILOT payments under these agreements follow the standard levels of abatement in the Exemption Policy, some are negotiated under the Exemption Policy. The Agency has negotiated a variety of different payment formulas and schedules. In multiple instances, it has negotiated fixed payments of PILOTs. The Agency says that with respect to these PILOT arrangements, the difference between the amount of the PILOT and the amount of the property tax that would otherwise be owed on the property reflects the Agency's view of the financial benefit necessary to induce the expected economic benefits from the project. The Agency has entered into more than 20 agreements in which the amount of the PILOTs have been negotiated.

The Agency has decided to use its authority in this case to reduce real property taxes on the Stadium, the Stadium Site, the Parking Garage and the Parking Garage Site through the PILOT mechanism. Company and Agency will enter into the PILOT Agreement under which the Company will make annual PILOT payments for so long as the Company leases the Stadium and operates the Parking Garage. The PILOT Agreement will deviate from the Exemption Policy, but the Exemption Policy procedures for authorizing and approving the deviation have been followed. After execution of the PILOT Agreement, Agency will file an application for exemption from real property tax for the Stadium, the Stadium Site, the Parking Garage and the Parking Garage Site with the City assessor, along with the material provisions of the PILOT Agreement.

Under the PILOT Agreement, the Agency and the Company are agreeing that Company will pay a fixed amount of PILOTs each year. The Agency represents that the agreement reflects a reduction from the amount of the real property taxes that would have been imposed that the Agency believed was necessary to induce the Team to remain in the City. The PILOT payments in any given year are expected to exceed the debt service on the Bonds, but may not exceed the amount of the real property taxes for such year that would have been levied on the Stadium, the Stadium Site, the Parking Garage and the Parking Garage Site absent the PILOT Agreement (the "cap"). The cap will be determined on an annual basis using the same assessment method for the Stadium, the Stadium Site, the Parking Garage and the Parking Garage Site as is used for assessing properties of the same class within the City, and thus will be equal to the value of these properties times the current equalization rate times the current applicable tax rate.

The City and the Agency have determined that the PILOTs paid under the PILOT Agreement should be used to finance the Stadium, and have assigned the PILOTs to pay the debt service on the Bonds. The Bonds will be payable out of and secured by the revenues from the PILOTs made under the PILOT Agreement. The PILOTs in excess of the debt service on the Bonds will be properly allocable to the payment of ordinary and necessary expenses directly attributable to the operation and maintenance of the Stadium, used for renewal and replacement costs of the Stadium or deposited into the City's general fund to be used for governmental purposes.

The PILOT Agreement requires the Agency to submit annual statements to the Company specifying the amount and due date of the PILOT payments in the same manner that tax bills are mailed by the City to owners of privately owned property. If Company fails to make a PILOT payment, the Agency will have remedies substantially similar to remedies available to the City when a property owner fails to pay its real property taxes, which include foreclosure and public sale of Company's leasehold interest in the Stadium and Company's rights under the parking facilities agreement.

LAW

Under §103(a) and (b)(1), gross income does not include interest on any State or local bond unless the bond is a private activity bond that is not a qualified bond (within the meaning of §141). Under §141(a), a bond is a private activity bond if either the private business use test under §141(b)(1) and the private security or payments test under §141(b)(2) are satisfied, or the private loan financing test under §141(c) is satisfied.

Private Security or Payment Test – General

Section 141(b)(1) provides, in part, that the private business use test is satisfied if more than 10 percent of the proceeds of the issue are to be used for any private business use. Section 141(b)(2) provides, in part, that the private security or payments test is satisfied if the payment of the principal of, or the interest on, more than 10 percent of the proceeds of such issue is (under the terms of such issue or any underlying arrangement) directly or indirectly A) secured by any interest in property used or to be used for a private business use, or payments in respect of such property, or B) to be derived from payments (whether or not to the issuer) in respect of property, or borrowed money, used or to be used for a private business use.

Section 1.141-4(a)(1) of the Income Tax Regulations provides that the private security or payment test relates to the nature of the security for, and the source of, the payment of debt service on an issue. The private payment portion of the test takes into account the payment of the debt service on the issue that is directly or indirectly to be derived from payments (whether or not to the issuer or any related party) in respect of

property, or borrowed money, used or to be used for a private business use. The private security portion of the test takes into account the payment of the debt service on the issue that is directly or indirectly secured by any interest in property used or to be used for a private business use or payments in respect of property used or to be used for a private business use.

Section 1.141-4(c)(2)(i)(A) provides, in part, that both direct and indirect payments made by any nongovernmental person that is treated as using proceeds of the issue are taken into account as private payments to the extent allocable to the proceeds used by that person.

Section 1.141-4(c)(2)(i)(C) provides that payments by a person for a use of proceeds do not include the portion of any payment that is properly allocable to the payment of ordinary and necessary expenses (as defined under §162) directly attributable to the operation and maintenance of the financed property used by that person. For this purpose, general overhead and administrative expenses are not directly attributable to those operations and maintenance.

Section 1.141-4(c)(3)(i) provides that private payments for the use of property are allocated to the source or different sources of funding of property. The allocation to the source or different sources of funding is based on all of the facts and circumstances, including whether an allocation is consistent with the purposes of §141. For this purpose, different sources of funding may include different tax-exempt issues, taxable issues and equity.

Section 1.141-4(c)(3)(iii) provides in part that, except as provided in paragraphs (c)(3)(iv), if a payment is made for the use of property financed with two or more sources of funding, that payment must be allocated to those sources of funding in a manner that reasonably corresponds to the relative amounts of those sources of funding that are expended on that property.

Section 1.141-4(c)(3)(iv) provides that if an issuer enters into an arrangement in connection with the issuance of the bonds, payments under that arrangement are generally allocated to that issue. Generally an arrangement is treated as entered into in connection with the issuance of an issue if: (A) the issuer enters into the arrangement during the three-year period beginning 18 months before the issue date, and (B) the amount of payments reflects all or a portion of the debt service on the issue.

Section 1.141-4(d)(4) provides that property used or to be used for a private business use and payments in respect of that property are treated as private security if any interest in that property or payments secures the payment of debt service on the bonds. Generally, the rules in (c)(2)(i)(A) and (B) apply to determine the amount of payment treated as payments in respect of property used or to be used for a private business use.

Generally Applicable Taxes

Section 1.141-4(e)(1) provides that for purposes of the private security or payment test, generally applicable taxes are not taken into account (that is, are not payments from a nongovernmental person and are not payments in respect of property used for a private business use).

Section 1.141-4(e)(2) defines a generally applicable tax as an enforced contribution exacted pursuant to legislative authority in the exercise of the taxing power that is imposed and collected for the purpose of raising revenue to be used for governmental purposes. A generally applicable tax must have a uniform tax rate that is applied to all persons of the same classification in the appropriate jurisdiction and a generally applicable manner of determination and collection.

Section 1.141-4(e)(3) provides that a payment for a special privilege granted or service rendered is not a generally applicable tax. Special assessments paid by property owners benefiting from financed improvements are not generally applicable taxes. For example, a tax or a payment in lieu of tax that is limited to the property or persons benefited by an improvement is not a generally applicable tax.

Section 1.141-4(e)(4)(i) provides that a tax does not have a generally applicable manner of determination and collection to the extent that one or more taxpayers make any impermissible agreements relating to payment of those taxes.

Section 1.141-4(e)(4)(ii) provides the following examples of impermissible agreements that cause a tax to fail to have a generally applicable manner of determination and collection: an agreement to be personally liable on a tax that does not generally impose personal liability, to provide additional credit support such as a third party guarantee, or to pay unanticipated shortfalls; an agreement regarding the minimum market value of property subject to property tax; and an agreement not to challenge or seek deferral of the tax.

Section 1.141- 4(e)(4)(iii) provides the following examples of agreements that do not cause a tax to fail to have a generally applicable manner of determination and collection: an agreement to use a grant for specified purposes (whether or not that agreement is secured); a representation regarding the expected value of the property following the improvement; an agreement to insure the property and, if damaged, to restore the property; a right of a grantor to rescind the grant if property taxes are not paid; and an agreement to reduce or limit the amount of taxes collected to further a bona fide governmental purpose. For example, an agreement to abate taxes to encourage a property owner to rehabilitate property in a distressed area is a permissible agreement.

Payments in Lieu of Taxes

Section 1.141-4(e)(5) provides that a tax equivalency payment and any other payment in lieu of a tax is treated as a generally applicable tax if - (i) the payment is commensurate with and not greater than the amounts imposed by a statute for a tax of general application; and (ii) the payment is designated for a public purpose and is not a special charge (as described in Treas. Reg. §1.141-4(e)(3)). For example, a payment in lieu of taxes made in consideration for the use of property financed with tax-exempt bonds is treated as a special charge.

Private Loan Financing Test

Section 141(c)(1) provides, in part, that the private loan financing test is satisfied if the amount of the proceeds of the issue to be used (directly or indirectly) to make or finance loans to persons other than governmental units exceeds the lesser of 5 percent of such proceeds or $5,000,000.

Section 1.141-5(c) provides that any transaction that is generally characterized as a loan for federal income tax purposes is a loan for purposes of this section. In addition, a loan may arise from the direct lending of bond proceeds or may arise from transactions in which indirect benefits that are the economic equivalent of a loan are conveyed. Thus, the determination of whether a loan is made depends on the substance of a transaction rather than its form. For example, a lease or other contractual arrangement (for example, a management contract or an output contract) may in substance constitute a loan if the arrangement transfers tax ownership of the facility to a nongovernmental person.

Section 1.141-5(c)(3) provides that a grant of proceeds is not a loan. Whether a transaction may be treated as a grant or a loan depends on all of the facts and circumstances. Generally, a grant using proceeds of an issue that is secured by generally applicable taxes attributable to the improvements to be made with the grant is not treated as a loan, unless the grantee makes any impermissible agreements relating to the payment that results in the taxes imposed on that taxpayer not to be treated as generally applicable taxes under Treas. Reg. §1.141-4(e).

ANALYSIS

Private Use Test

The Agency concedes that the private use test is met. Because the private use test is met, the Bonds will be private activity bonds if the private security or payment test is met. Alternatively, the Bonds will be private activity bonds if the private loan financing test is met.

Private Security or Payment Test

There are a number of payments that Company will make with respect to this transaction. Under the regulations, it is clear that certain of these payments will not give rise to private payments or private security. Payments of rent under the Lease Agreement and payments under the Installment Sale Agreement will not be used or be available to pay debt service on the Bonds and will not secure the Bonds. These payments are properly allocable to the Taxable Bonds in accordance with Treas. Reg. §1.141-4(c)(3), and therefore are not private security or payments for the Bonds. The Company and/or Team will make additional payments other than the payments of rent under the Lease Agreement, payments under the Installment Sale Agreement and the PILOTs, but the Agency has represented that those payments in the aggregate will be less than 10 percent of the debt service on the Bonds or will be allocable to the payment of ordinary and necessary expenses directly attributable to the operation and maintenance of the Stadium within the meaning of Treas. Reg. §1.141-4(c)(2)(i)(C). Thus, even though these may be private payments with respect to the Bonds, they do not cause the Bonds to fail the private security or payment test. The Team is also required to pay liquidated damages if it violates the Non-Relocation Agreement. Because the Agency reasonably expects that these payments will never be made, we do not take them into account as private security or payments for the Bonds.

The payments that require analysis are the PILOT payments. The Company will make PILOT payments to the Agency that will be used to pay debt service on the Bonds. Any excess will be used to pay for operation and maintenance of the Stadium, payment of replacement and renewals costs on the Stadium, or deposited into the City's general fund to be used for governmental purposes. To the extent that the PILOT payments are used for operation and maintenance, they are not private payments under §1.141-4(c)(2)(i)(C). The portion of the PILOT payments used to pay debt service, replacement and renewal costs or deposited into the City's general fund will not be private payments if they are considered generally applicable taxes as defined by Treas. Reg. §1.141-4(e)(5).

The regulations specifically provide that PILOTs are considered generally applicable taxes if (i) they are commensurate with and not greater than the amounts imposed by a statute for a tax of general application and (ii) they are designated for a public purpose and do not constitute a special charge. The PILOTs Company will pay cannot be greater than the amounts imposed by a statute for a tax of general application. Under State law, a real property tax is imposed on all property in the State at a uniform rate and therefore is a tax of general application within the meaning of Treas. Reg. §1.141-4(e)(5)(i) (the "real property tax"). The PILOT Agreement caps the PILOTs at the amount of the real property tax, and uses the same assessment procedure and tax rate as is used to set property taxes each year to determine the cap. The PILOTs are also commensurate with the real property tax.

The word “commensurate” is not defined in the regulations. When the §141 regulations were originally proposed in 1994, the language in the first of the two parts of the provision on PILOTs required that PILOTs be measured by and equal to the amounts imposed by a regular statute for a tax of general application. When the regulations were finalized, the phrase “measured by and equal to” was dropped in favor of the term commensurate, and the preamble stated that the modifications were made in response to comments to make the regulations “more flexible for arrangements that reduce the amount of tax paid and permit a wider range of tax equivalency payments.” Commensurate has been defined to mean “equal in measure or extent” or “corresponding in size, extent, amount, or degree,” or “proportionate.” Merriam Webster’s Collegiate Dictionary (11th Edition, 2003). In light of the history of the regulations and the note from the preamble to the final regulations, commensurate is most appropriately defined here not as equal in measure but corresponding or proportionate in measure. The Agency determined the amount of the PILOTs it would accept with respect to the property by starting with the amount of the property taxes and considering the reduction that would correspond to the benefits to be expected from the project and that would induce the Company to go forward with the project on a basis that would secure those benefits. Generally, the PILOTs are of the same order of magnitude as the property taxes are initially projected to be and although the proportion between the PILOTs and the projected property taxes varies from year to year, the language of the regulations does not require the proportion to be consistent. In sum, the PILOTs are commensurate with and not greater than the real property tax, which is a tax of general application imposed by statute.

The second requirement that must be satisfied under Treas. Reg. §1.141-4(e)(5)(ii) is that the payment is designated for a public purpose and is not a special charge (as described in Treas. Reg. §1.141-4(e)(3)). Here the payments are designated for a public purpose. The PILOTs are being used to pay the debt service on the Bonds which were issued specifically for the purpose of financing the Stadium to promote and encourage economic development and recreational opportunities in City. To the extent that the PILOTs are not used to pay the Bonds (or for operation and maintenance) they are being used to renew and renovate the Stadium, which furthers the same purpose, or are being deposited in the City’s general fund to be used for governmental purposes. See Rev. Rul. 72-194, 1972-1 C.B. 94 (money expended by a state in promoting tourism is for an exclusively public purpose).

The PILOTs are not a special charge as described in Treas. Reg. §1.141-4(e)(3). A special charge is a payment for a privilege granted or service rendered. Treas. Reg. §1.141-4(e)(3). Without the PILOT Agreement, and the exemption from property tax that follows from it, Agency would owe property taxes on the Stadium and the Parking Garage, a cost Company can expect it would ultimately bear. The PILOT Agreement effectively reduces the amount of generally applicable tax that Agency will have to pay and passes, consistent with State law, the obligation of paying that reduced tax to the

Company. The structure of the tax and the PILOT system means that similar to Rev. Rul. 71-49, 1971-1 C.B. 103, the character of the payment from the Company to the Agency remains a payment of tax.

The PILOT Agreement does not create a new charge separate and apart from the system of real property taxes that Company has to pay for use of the Stadium and the Parking Garage. State law, City law and the Exemption Policy conceive of the system of property taxes, abatements and PILOTs as functionally integrated. PILOTs give Agency greater flexibility than is available with respect to abatements, but the function remains the same. The City authorizes a reduction in the revenues it would otherwise receive with respect to a piece of real property in exchange for benefits it expects to receive as a result of a particular use of the property. Agency has made widespread use of PILOT agreements. The Agency's practice with PILOTs lends credibility to its description of PILOTs as an integral part of the overall system connecting real property taxes and economic development.

The fact that the amount of the PILOTs is negotiated, is less than the amount of real property taxes that would otherwise be owed, and is different than the amounts other parties are paying on PILOT agreements does not negate this conclusion. Under Treas. Reg. §1.141-4(e)(4)(iii), it is clear that a real property tax with a uniform rate and a proper system of classifying properties remains a generally applicable tax even if the jurisdiction imposing the tax makes an agreement to reduce or limit the amount of taxes paid with respect to a particular piece of property in order to further a bona fide governmental purpose.

Based on the foregoing, we conclude that the PILOT payments satisfy the requirements of Treas. Reg. §1.141-4(e)(5)(i) and (ii) and therefore will be treated as generally applicable taxes that are not taken into account for purposes of the private security or payment test.

Private Loan Financing Test

Agency will spend the Bond proceeds on the costs of construction of the Stadium, which in turn will be leased to Company. Company will pay Agency rent under the Lease Agreement, parking revenues under the parking facilities agreement and also PILOTs. The PILOTs will be used to pay the debt service on the Bonds. The Bonds will be payable out of and secured by the PILOTs. Whether or not this arrangement constitutes a loan of the Bond proceeds depends upon whether all the facts and circumstances give rise to the indicia of a loan for tax purposes. Does Agency have a legally enforceable right to be repaid a fixed amount with a fixed maturity? Generally applicable taxes are not repayment of a loan. For example, under Treas. Reg. §1.141-5(c)(3), a grant of proceeds that is secured by generally applicable taxes attributable to the improvements to be made with the grant is not treated as a loan absent an impermissible agreement that would cause the taxes not to be treated as generally

applicable taxes under Treas. Reg. §1.141-4(e). The regulations do not specify whether PILOTs treated as generally applicable taxes for purposes of the private security or payment test are also to be treated as generally applicable taxes for purposes of the private loan financing test. However, it seems reasonable to do so, given the cross-reference to the provision on generally applicable taxes in the private loan financing test regulations and the fact that both tests are components of a single specialized Code provision which distinguishes private activity bonds from governmental bonds. Moreover, certain features of the PILOT agreement are the same or substantially the same as features of generally applicable taxes. For example, as discussed in detail above, the PILOTs are authorized under State law as an alternative and replacement to real property taxes and will be used for a governmental purpose. In addition, procedures for assessment, collection and default for failure to pay PILOTs are created to be the same or similar to those provisions for real property taxes. Accordingly, the Bond proceeds are not loaned to the Company because they are secured by PILOTs which are treated as generally applicable taxes. Moreover, the revenues from the Parking Garage are not repayments of a loan. These payments are based on a percentage of revenues above a certain amount; there is no fixed amount being repaid by a specified date. Therefore, the private loan financing test is not met with respect to the Bond transaction because the Bond proceeds are not loaned to Company.

CONCLUSION

Based solely on the facts described herein and representations made, we rule that the Bonds will not meet the private security or payment test of §141(b)(2) or the private loan financing test of §141(c). Therefore, the Bonds will not be private activity bonds within the meaning of §141.

Except as expressly provided herein, no opinion is expressed or implied concerning the tax consequences of any aspect of any transaction or item discussed or referenced in this letter.

The rulings contained in this letter are based upon information and representations submitted by the taxpayer and accompanied by a penalty of perjury statement executed by an appropriate party. While this office has not verified any of the material submitted in support of the request for rulings, it is subject to verification on examination.

This ruling is directed only to the taxpayer requesting it. Section 6110(k)(3) of the Code provides that it may not be used or cited as precedent.

In accordance with the Power of Attorney on file with this office, a copy of this letter is being sent to your authorized representatives.

Sincerely,

Assistant Chief Counsel (Exempt Organizations/Employment Tax/Government Entities)

By: Rebecca L. Harrigal
Chief, Tax Exempt Bond Branch