

STATE OF MINNESOTA
COUNTY OF HENNEPIN

IN DISTRICT COURT
SIXTH JUDICIAL DISTRICT

Harry R. Welty, Laurence J. Burda,
Dean Davidson, Robert D. Sershon,
and Art Johnston,

Court File No. 69DU-CV-09-758

Plaintiffs,

AFFIDAVIT OF MICHAEL HOHEISEL

vs.

Independent School District #709
and Johnson Controls, Inc.,

Defendants.

STATE OF MINNESOTA)
) ss.
COUNTY OF ST. LOUIS)

Michael Hoheisel, being first duly sworn, states as follows:

1. I am employed by Northland Securities, Inc. located at 45 South 7th Street, Suite 1900 in Minneapolis, Minnesota. I am a Senior Vice President of Northland, specializing in Public Finance. I have advised public school districts in Minnesota and across the Midwest on matters of public finance since 1992.

2. Northland served as the financial advisor to Independent School District No. 709, Duluth Public Schools, ("District") on its issuance of \$59,235,000 General Obligation Alternative Facilities Bonds, Series 2008A and \$111,440,000 Full Term Certificates of Participation, Series 2008B. These tax exempt bonds and certificates ("Bonds") total \$170,675,000 to finance construction to renovate thirteen District school buildings for completion by February 1, 2013 ("School Renovation Plan"). I am the financial advisor for Northland on these Bonds. The District

has established a budget for the School Renovation Plan of \$295,983,647. The entire project is estimated to be completed by February 2013 which is within five years of the initial debt issuance in February 2008 under the Plan. In May 2008, \$170 million in bonds were sold to establish an account to finance 2008 and 2009 construction under the School Renovation Plan. Within approximately one hundred days, or by July 31, 2009, Northland will be facilitating the sale of another \$70 million in Bonds for continued implementation of the School Renovation Plan. Additional Bonds are also anticipated for issuance in later 2009 and 2010 or 2011 for further implementation of the Plan. The total debt that the District will be issuing to carry out the School Renovation Plan is anticipated to be \$282,145,000 depending on costs of construction, investment earnings and other factors relating to the Bonds. An additional element important to a public body when issuing tax exempt bonds are the market interest rates prevailing at the time of sale. The interest rates can be a significant variable in the taxpayer cost of the public improvement project financed by the bonds.

3. The market rate for tax exempt municipal bonds such as those to be issued this summer to finance construction of the School Renovation Plan is currently near historic lows. The estimated current rate is a true interest cost (TIC) of 4.18%. The TIC of the Series 2008A and Series 2008 bonds were 4.13% and 4.43%, respectively. The economic downturn has resulted in a highly desirable environment to enter into the bond markets for public bodies like the District to finance public improvements at low rates.

4. It is the generally held view in the bond community that these rates will not go down but rather, are likely to increase in the near future. Government actions such as the unprecedented infusion of capital in the credit markets and the creation of the stimulus borrowing packages such as Build America Bonds, Qualified Energy Conservation Bonds, etc... are intended to stimulate the

economy. When the intended effect begins to be realized and the economy is able to generate growth coupled with bond supply and investor demands, interest rates will rise. This will affect the rates at which public bodies like the District can issue bonds. The higher the rate a tax exempt bond must yield to attract buyers in the market, the more expensive it will be for District taxpayers standing behind those bonds to finance projects through the issuance of bonds.

5. Given the magnitude of the economic stimulus working its way through the system at this time, the likelihood that bond rates will increase in the near future is high. Further, such an increase or increases can happen literally overnight.

6. The District's planned \$70 million bond sale described above is subject to a strict pre-issuance series of procedures and approvals that must be fulfilled before the sale can occur. These include, but are not limited too, submittal of the application for review and comment to the Minnesota Department of Education (MDE), MDE's approval of the plan, the School Board's setting of the sale, publication requirements, the gathering of financial information to bring the issue to market and the acceptance of winning bid. Barring delays, this sale can be made by July 31, 2009.

7. The District cannot sell these bonds, however, if construction is suspended or substantially delayed. Northland is required to verify as part of the tax exempt bond sale process the purpose for which the bonds are issued is occurring and proceeding as planned. Thus, if construction is suspended or substantially delayed for any reason up to the time of sale, the sale cannot go forward and will be delayed until any such construction delay is fully resolved.

8. It has been brought to my attention that in March 2009 a lawsuit was commenced in state district court in Duluth by a group of taxpayers challenging the authority of the District to enter into contracts with Johnson Controls. Northland is aware that Johnson Controls provides the

architectural, engineering and construction management services to the District for the School Renovation Plan. The plaintiffs in this suit challenge the District's authority to enter into contracts with Johnson Controls and seek the return of substantially all funds paid or to be paid to Johnson Controls for its services in carrying out the Plan. As financial advisor, Northland is required to monitor any action that may result in delays in School Renovation Plan construction and advise the District of the consequences of such a delay in the issuance of bonds.

9. I have calculated the possible cost to District taxpayers in higher bond rates if construction delays were to force the sale of the \$70 million in bonds to be delayed, pending resolution of these disputes. Exhibit A to this affidavit describes two possible delay periods, one of three months and one of six months. The Exhibit makes assumptions about the potential rise in bond rates over those periods, when compared to rates we anticipate if the sale were to go forward as now planned. I have used an increase of 25 basis points (.25%) in the three months delay scenario and 50 basis points (.50%) in the six months scenario. I have used conservative assumptions as to possible increases in rates over these periods. Increases could be higher. As I stated earlier, it is possible but unlikely that over these periods the bond rates will stay the same or decrease.

10. My two examples in Exhibit A reflect a possible increased cost to District taxpayers due to higher bond rates of \$1,574,210 over the twenty-year life of the bonds (three-month delay) and \$2,912,515 over the twenty-year life of the bonds (six-month delay). The present value of these increases is \$1,055,047 and \$1,928,679, respectively.

FURTHER YOUR AFFIANT SAYETH NOT.

Michael Hoheisel

Michael Hoheisel

Subscribed and sworn to before me
this 21st day of April, 2009.

Beverly Lawless
Notary Public



EXHIBIT A

April 21, 2009



Present Value of Options - Semi Annual Compounding							
Enter Annual PV % (Bond Yield)				4.5000000%			
Enter Starting Date				8/1/2009			
Date	8/1/2009 Sale Future Value	11/1/2009 Sale Future Value	2/1/2010 Sale Future Value	PV Factor	8/1/2009 Sale Present Value	11/1/2009 Sale Present Value	2/1/2010 Sale Present Value
8/1/09				1.0000000000	0.00	0.00	0.00
2/1/10				0.9779951100	0.00	0.00	0.00
8/1/10	1,314,851.25	1,396,622.50		0.9564744352	1,257,621.61	1,335,833.72	0.00
2/1/11	1,314,851.25	1,396,622.50	2,948,497.50	0.9354273205	1,229,947.78	1,306,438.84	2,758,105.12
8/1/11	1,314,851.25	1,396,622.50	1,474,248.75	0.9148433453	1,202,882.92	1,277,690.80	1,348,706.66
2/1/12	3,679,851.25	3,666,622.50	3,649,248.75	0.8947123181	3,292,408.24	3,280,572.32	3,265,027.81
8/1/12	1,295,340.00	1,375,057.50	1,450,867.50	0.8750242720	1,133,453.94	1,203,208.69	1,269,544.28
2/1/13	3,800,340.00	3,790,057.50	3,775,867.50	0.8557694591	3,252,214.91	3,243,415.46	3,231,272.09
8/1/13	1,270,290.00	1,347,888.75	1,421,805.00	0.8369383464	1,063,154.41	1,128,099.78	1,189,963.13
2/1/14	3,925,290.00	3,922,888.75	3,906,805.00	0.8185216101	3,212,934.69	3,210,969.22	3,197,804.32
8/1/14	1,239,757.50	1,315,057.50	1,387,015.00	0.8005101322	992,438.44	1,052,716.85	1,110,319.56
2/1/15	4,059,757.50	4,060,057.50	4,052,015.00	0.7828949948	3,178,363.83	3,178,598.70	3,172,302.26
8/1/15	1,202,392.50	1,275,255.00	1,345,041.25	0.7656674765	920,632.83	976,421.28	1,029,854.34
2/1/16	4,202,392.50	4,205,255.00	4,200,041.25	0.7488190480	3,146,831.55	3,148,975.05	3,145,070.89
8/1/16	1,160,392.50	1,230,572.50	1,297,933.75	0.7323413672	849,803.43	901,199.15	950,530.58
2/1/17	4,355,392.50	4,360,572.50	4,357,933.75	0.7162262760	3,119,446.55	3,123,156.60	3,121,266.66
8/1/17	1,111,668.75	1,178,927.50	1,243,618.75	0.7004657956	778,685.94	825,798.39	871,112.40
2/1/18	4,511,668.75	4,523,927.50	4,528,618.75	0.6850521228	3,090,728.25	3,099,126.14	3,102,339.89
8/1/18	1,055,568.75	1,117,881.25	1,181,203.75	0.6699776262	707,207.45	748,955.43	791,380.08
2/1/19	4,680,568.75	4,697,881.25	4,706,203.75	0.6552348423	3,066,871.73	3,078,215.48	3,083,668.67
8/1/19	992,131.25	1,050,756.25	1,110,703.75	0.6408164717	635,774.05	673,341.91	711,757.26
2/1/20	4,857,131.25	4,885,756.25	4,890,703.75	0.6267153757	3,044,038.84	3,061,978.56	3,065,079.24
8/1/20	920,628.75	975,015.00	1,031,323.75	0.6129245728	564,275.98	597,610.65	632,123.67
2/1/21	5,045,628.75	5,080,015.00	5,091,323.75	0.5994372350	3,024,537.75	3,045,150.15	3,051,929.03
8/1/21	840,191.25	889,836.25	942,003.75	0.5862466846	492,559.33	521,663.55	552,246.58
2/1/22	5,250,191.25	5,284,836.25	5,307,003.75	0.5733463908	3,010,178.20	3,030,041.79	3,042,751.45
8/1/22	750,888.75	797,541.25	842,700.00	0.5607299666	421,045.82	447,205.28	472,527.14
2/1/23	5,460,888.75	5,502,541.25	5,527,700.00	0.5483911654	2,994,703.15	3,017,545.01	3,031,341.84
8/1/23	651,978.75	692,855.00	732,602.50	0.5363238781	349,671.77	371,594.68	392,912.21
2/1/24	5,681,978.75	5,732,855.00	5,767,602.50	0.5245221302	2,980,323.60	3,007,009.32	3,025,235.15
8/1/24	543,833.75	578,195.00	611,762.50	0.5129800784	278,975.88	296,602.52	313,821.98
2/1/25	5,918,833.75	5,973,195.00	6,016,762.50	0.5016920082	2,969,431.59	2,996,704.20	3,018,561.66
8/1/25	425,583.75	452,761.25	479,340.00	0.4906523308	208,813.66	222,148.36	235,189.29
2/1/26	6,165,583.75	6,232,761.25	6,284,340.00	0.4798555802	2,958,589.77	2,990,825.27	3,015,575.62
8/1/26	296,433.75	315,486.25	334,215.00	0.4692964110	139,115.29	148,056.56	156,845.90
2/1/27	6,426,433.75	6,500,486.25	6,564,215.00	0.4589695951	2,949,537.70	2,983,525.54	3,012,775.10
8/1/27	155,443.75	165,500.00	175,350.00	0.4488700197	69,774.04	74,287.99	78,709.36
2/1/28	6,700,443.75	6,785,500.00	6,855,350.00	0.4389926843	2,941,445.79	2,978,784.86	3,009,448.50
Totals	102,579,452.50	104,153,662.50	105,491,967.50		65,528,420.69	66,583,468.07	67,457,099.69
Difference from Option 1	NA	(1,574,210.00)	(2,912,515.00)		NA	(1,055,047.37)	(1,928,679.00)