

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 MASTER LEASE AGREEMENT

2 34022

3 This Master Lease Agreement is made and entered into as of
4 OCT 01, 2015, between BANC OF AMERICA PUBLIC CAPITAL CORP, a
5 Kansas corporation, as Lessor, whose mailing address is 555 California Street, 4th Floor,
6 CA5-705-04-01, San Francisco, CA 94104, and City of Long Beach, as Lessee, whose
7 mailing address is 333 W. Ocean Boulevard, 6th Floor, Long Beach, California, 90802-
8 4664. For and in consideration of the mutual promises and agreements herein contained
9 and other good and valuable consideration, the receipt and sufficiency of which are hereby
10 acknowledged, the parties hereto agree as follows:

11 1. Definitions. Unless the context otherwise clearly requires, the
12 following terms shall have the respective meanings set forth below for all purposes of this
13 Agreement:

14 "Acceptance Certificate" means a certificate in substantially the form
15 attached hereto as Exhibit 3 and which shall be delivered by Lessee to Lessor upon receipt
16 and acceptance of the Equipment as provided in Paragraph 9 hereof.

17 "Acquisition Fund" means the fund of that name established and
18 administered pursuant to the Acquisition Fund Agreement.

19 "Acquisition Fund Agreement" means that certain agreement, Acquisition
20 Fund and Account Control Agreement, dated the Dated Date, among Lessor, Lessee and
21 Acquisition Fund Custodian, relating to the Acquisition Fund.

22 "Acquisition Fund Custodian" means MUFG Union Bank, N.A., in its capacity
23 as acquisition fund custodian under the Acquisition Fund Agreement, and its successors.

24 "Additional Payments" means any amounts (other than Rental Payments)
25 required to be paid by Lessee pursuant to the terms of this Agreement.

26 "Agreement" means this Master Lease Agreement, as supplemented and
27 amended from time to time in accordance with Paragraph 31 hereof.

28 "Code" means the Internal Revenue Code of 1986, as amended. Each

1 reference to a section of the Code herein shall be deemed to include the United States
2 Treasury Regulations proposed or in effect thereunder.

3 "Commencement Date" means, for each Lease, the date when Lessee's
4 obligation to pay rent commences under such Lease, which date shall be the earlier of (i)
5 the date on which the Equipment listed in such Lease is accepted by Lessee in the manner
6 described in Paragraph 9, or (ii) the date on which sufficient moneys to purchase the
7 Equipment listed in such Lease are deposited for that purpose with the Acquisition Fund
8 Custodian.

9 "Dated Date" means the date hereinabove first written.

10 "Equipment" means (a) the equipment, vehicles and other personal property
11 identified hereto, (b) any property acquired in substitution, renewal, repair or replacement
12 for or as additions, improvements, accessions and accumulations to any of such equipment
13 and (c) any accessories, equipment, vehicles and other personal property, parts and
14 appurtenances appertaining or attached to any of such equipment, vehicles and other
15 personal property or from time to time incorporated therein or installed thereon.

16 "Event of Default" is defined in Paragraph 24 hereof.

17 "Event of Non-appropriation" means a non-renewal of the term of this
18 Agreement by Lessee, determined by the failure or refusal of the governing body of Lessee
19 to appropriate moneys sufficient to pay the Rental Payments and reasonably estimated
20 Additional Payments for the next succeeding Renewal Term as provided herein.

21 "Fiscal Period" means the annual or biennial period used from time to time
22 by Lessee for its financial accounting and budgeting purposes. Lessee's current Fiscal
23 Period is currently September 30, 2015.

24 "Initial Term" means the period from the Dated Date to midnight on June 30,
25 2016.

26 "Lease" means a Schedule and the terms of this Agreement which are
27 incorporated by reference into such Schedule. Each Schedule shall constitute a separate
28 and independent Lease.

1 "Lease Term" means, with respect to each Lease, the Original Term and all
2 Schedule Renewal Terms specified in the related Schedule.

3 "Legally Available Funds" means funds that the governing body of Lessee
4 duly appropriates or are otherwise legally available for the purpose of making Payments
5 under this Agreement.

6 "Lessee" means the entity referred to as Lessee in the first paragraph of this
7 Agreement.

8 "Lessor" means (a) the entity referred to as Lessor in the first paragraph of
9 this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in
10 and to the Equipment, the Acquisition Fund or this Agreement (including Rental Payments)
11 pursuant to Paragraph 27 hereof, but does not include any entity solely by reason of that
12 entity retaining or assuming any obligation of Lessor to perform hereunder.

13 "Net Proceeds" means the amount remaining from the gross proceeds of any
14 insurance claim or condemnation award after deducting all expenses (including attorneys'
15 fees) incurred in the collection of such claim or award.

16 "Original Term" means, with respect to each Lease, the period from the
17 Commencement Date identified in the related Schedule until the end of the Fiscal Period
18 in effect at such Commencement Date.

19 "Payments" means the Rental Payments and the Additional Payments,
20 collectively.

21 "Prepayment Option Amount" means the amount determined pursuant to
22 Paragraph 7 hereof at which Lessee may prepay the aggregate principal component of
23 Rental Payments on any Rental Payment date for which a Prepayment Option Amount is
24 identified under the column titled "Prepayment Option Amount" on the Rental Payment
25 Schedule (see Exhibit 2 for sample) prior to the scheduled payment of all Rental Payments
26 to be paid hereunder for the Equipment.

27 "Purchase Price" means the total cost of the Equipment, including all delivery
28 charges, installation charges, financing costs, recording and filing fees and other costs

1 necessary to vest full, clear legal title to the Equipment in Lessee, subject to the security
2 interest granted to and retained by Lessor as set forth in this Agreement, and otherwise
3 incurred in connection with the financing provided by the lease-purchase of the Equipment
4 as herein provided.

5 "Renewal Term" means the four additional twelve-month successive periods
6 after the Initial Term, that is coextensive with Lessee's Fiscal Period and for which Lessee
7 may extend the term of this Agreement as provided in Paragraph 3 hereof.

8 "Rental Payments" means the amounts (allocable to a principal component
9 and an interest component) payable by Lessee pursuant to Paragraph 5 hereof, as
10 payments for the installment financing of the Purchase Price for the Equipment as set forth
11 in the Rental Payment Schedule.

12 "Rental Payment Schedule" means the schedule attached as Exhibit 2
13 hereto, as such schedule may be amended in accordance with this Agreement, which
14 shows the date and amount of each Rental Payment.

15 "Schedule" means each separately numbered Schedule of Property
16 substantially in the form of Exhibit 1 hereto, each of which incorporates the terms and
17 conditions of this Agreement and constitutes a separate Lease of Equipment hereunder.

18 "Schedule Renewal Term" means, with respect to each Lease, the
19 consecutive schedule renewal terms of such Lease as specified in the related Schedule,
20 the first of which commences immediately after the end of the applicable Original Term,
21 and each having a duration of one (1) year and a term coextensive with each successive
22 Fiscal Period of Lessee; provided that the final such schedule renewal term shall
23 commence on the first day of the last Fiscal Period and end on the first business day after
24 the last scheduled Rental Payment Date as specified in the related Schedule.

25 "Utilization Period" means the date by which Lessee must deliver the final
26 Acceptance Certificate (Exhibit 3) for the Equipment financed under this Agreement as
27 indicated in the applicable Schedule.

28 2. Agreement to Lease-Purchase Equipment. Lessee hereby agrees to

1 acquire, purchase and lease all the Equipment from Lessor, and Lessor hereby agrees to
2 sell, transfer and lease all the Equipment to Lessee, all on the terms and conditions set
3 forth in this Agreement.

4 3. Term. The Initial Term shall commence as of the Dated Date and shall
5 expire at midnight on June 30, 2016. Beginning at the expiration of the Initial Term, the
6 term of this Agreement may be extended for the Renewal Terms. In addition, there may
7 be successive appropriation by Lessee's governing body of amounts sufficient to pay
8 Rental Payments and reasonably estimated Additional Payments in full during each
9 succeeding Renewal Terms, unless this Agreement is terminated as provided in Paragraph
10 25 hereof. Notwithstanding the above, the term of this Agreement will expire upon the first
11 to occur of (a) the expiration of the Initial Term or any Renewal Term during which an Event
12 of Non-appropriation occurs, (b) the day after the last scheduled Rental Payment shown
13 on the Rental Payment Schedule is paid in full, (c) the day after the Prepayment Option
14 Amount is paid in full pursuant to Paragraph 7 hereof, except as otherwise therein provided,
15 or (d) an Event of Default and a termination of Lessee's rights under this Agreement as
16 provided in Paragraph 25 hereof.

17 4. Conditions to Lessor's Performance. As a prerequisite to the
18 performance by Lessor of any of its obligations pursuant to any Lease, Lessee shall deliver
19 to Lessor the following:

20 4.1 A fully completed Schedule of Property in the form of Exhibit 1
21 executed by Lessee and Lessor, and prior to each funding an Acceptance Certificate
22 in substantially the form attached to as Exhibit 3.

23 4.2 An Acquisition Fund Agreement, executed by Lessee and the
24 Acquisition Fund Custodian, unless Lessor pays 100% of the Purchase Price
25 directly to the vendor or manufacturer of the Equipment upon execution of the
26 Lease;

27 4.3 An Incumbency Certificate executed by the Clerk, in
28 substantially the form attached hereto as Exhibit 8, completed to the satisfaction of

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Lessor;

4.4 A certified copy of a minute order of Lessee's governing body in the form of authorizing the execution and delivery of this Agreement and any Lease incorporating this Agreement, and performance by Lessee of its obligations hereunder and thereunder;

4.5 An opinion of counsel to Lessor in substantially the form attached hereto as Exhibit 7 respecting such Lease and otherwise satisfactory to Lessor;

4.6 Evidence of insurance as required by Paragraph 16;

4.7 All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Paragraph 14;

4.8 A copy of a fully completed and executed Form 8038;

4.9 A Tax Certificate executed by an authorized officer of Lessee in substantially the form attached hereto as Exhibit 10;

4.10 A certified copy of the performance and payments bonds (if applicable) assuring completion of construction and installation of the Equipment as described in Paragraph 16.1; and,

4.11 Such other items, if any, as are set forth in such Lease or are reasonably required by Lessor.

4.12 In addition, the performance by Lessor of any of its obligations pursuant to any Lease shall be subject to: (i) no material adverse change in the financial condition of Lessee since the date of this Agreement, (ii) no Event of Default having occurred, and (iii) if no Acquisition Fund has been established, the Equipment must be accepted by Lessee as evidenced by its execution of a final Acceptance Certificate no later than the date indicated in the applicable Schedule (the "Utilization Period").

4.13 Subject to satisfaction of the foregoing, Lessor will pay the

1 Purchase Price for Equipment described in a Schedule to the vendor upon receipt
2 of the documents described in Paragraphs 9 and 14; or if an Acquisition Fund has
3 been established pursuant to an Acquisition Fund Agreement, Lessor will deposit
4 the Purchase Price for Equipment described in the Schedule with the Acquisition
5 Fund Custodian.

6 4.14 This Agreement is not a commitment by Lessor to enter into
7 any Lease not currently in existence, and nothing in this Agreement shall be
8 construed to impose any obligation upon Lessor to enter into any proposed Lease,
9 it being understood that whether Lessor enters into any proposed Lease shall be a
10 decision solely within Lessor's discretion.

11 4.15 Lessee will cooperate with Lessor in Lessor's review of any
12 proposed Lease. Without limiting the foregoing, Lessee will provide Lessor with any
13 documentation or information Lessor may request in connection with Lessor's
14 review of any proposed Lease. Such documentation may include without limitation,
15 documentation concerning the Equipment and its contemplated use and location
16 and documentation or information concerning the financial status of Lessee and
17 other matters related to Lessee.

18 5. Rental Payments. Lessee hereby agrees to pay Rental Payments for
19 the Equipment for the term of this Agreement from and after the Dated Date (but only from
20 Legally Available Funds) to Lessor at Lessor's mailing address set forth above (or at such
21 other address as may be designated from time to time pursuant to Paragraph 30 hereof)
22 in the amounts and on the dates specified in the Rental Payment Schedule. Rental
23 Payments made by check will be accepted subject to collection.

24 Lessee's obligation to make Rental Payments and to pay any Additional
25 Payments payable under this Agreement constitutes a current obligation payable
26 exclusively from Legally Available Funds and shall not be construed to be an indebtedness
27 within the meaning of any applicable constitutional or statutory limitation or requirement.
28 Lessee has not pledged its full faith and credit or its taxing power to make any Rental

1 Payments or any Additional Payments under this Agreement. Lessee shall not permit any
2 person or entity (including the federal government) to guarantee any Rental Payments
3 under this Agreement.

4 6. Agreement to Seek Appropriations; Notice of Event of
5 Nonappropriation. Lessee agrees that its primary business official will do all things lawfully
6 within such official's power (a) to include amounts to make Payments hereunder in each
7 annual or biennial budget (as appropriate) to be submitted to Lessee's governing body and
8 (b) to use best efforts to obtain and maintain funds from which Payments under this
9 Agreement may be made. Lessee hereby agrees to notify Lessor immediately (and in no
10 case later than 30 days prior to the last day of its then current Fiscal Period) of the
11 occurrence of an Event of Nonappropriation.

12 7. Prepayment Option. Lessee is hereby granted the option to prepay
13 the aggregate principal component of Rental Payments (in whole but not in part), prior to
14 the scheduled payment of the Rental Payments in full pursuant to this Agreement, on each
15 Rental Payment date for which a Prepayment Option Amount is identified under the column
16 titled "Prepayment Option Amount" on the Rental Payment Schedule. Such prepayment
17 amount shall equal the Prepayment Option Amount (assuming that all Rental Payments
18 and Additional Payments due on and prior to the prepayment date have been paid) shown
19 for the Rental Payment date on which such prepayment is to be effective under the column
20 titled "Prepayment Option Amount" on the Rental Payment Schedule. To exercise the
21 option granted under this Paragraph 7, Lessee shall give Lessor a written notice exercising
22 such option and designating the Rental Payment date on which such prepayment is to be
23 effective and the applicable Prepayment Option Amount, which notice shall be delivered to
24 Lessor at least thirty (30) days in advance of the proposed prepayment date. The
25 prepayment option herein granted may be exercised by Lessee whether or not one or more
26 Events of Default have occurred and are then continuing at the time of such exercise;
27 provided, however, that the prepayment of such principal component of Rental Payments
28 upon the exercise of such option during the continuance of an Event of Default shall not

1 limit, reduce or otherwise affect liabilities or obligations that Lessee has incurred as a result
2 of such Event of Default or otherwise terminate the term of this Agreement notwithstanding
3 anything in this Agreement to the contrary.

4 Immediately upon any such prepayment being made, Lessor shall execute
5 all documents necessary to confirm in Lessee title in and to the Equipment free and clear
6 of any lien, encumbrance or other interest created by Lessor, but without warranties and in
7 "where-is, as-is" condition, and release Lessor's security interest in the Equipment and
8 shall deliver such documents to Lessee. Lessor shall further cooperate in providing for the
9 filing of any necessary releases, termination statements or other similar documents and
10 the release of certificates of title or certificates of origin to Lessee.

11 8. Essentiality. Lessee's present intention is to make Rental Payments
12 and Additional Payments for the Initial Term and all Renewal Terms as long as it has
13 Legally Available Funds. In that regard, Lessee represents that (a) the use and operation
14 of the Equipment is essential to its proper, efficient and economic governmental operation
15 and (b) the functions performed by the Equipment could not be transferred to other
16 equipment available for its use. Lessee does not intend to sell or otherwise dispose of the
17 Equipment or any interest therein prior to the last Rental Payment (including all Renewal
18 Terms) scheduled to be paid hereunder.

19 9. Delivery and Installation. Lessee shall select the type, quantity and
20 supplier of each item of Equipment designated in Exhibit 1 hereto. Lessee, as Lessor's
21 agent for this purpose, shall then order such Equipment from such supplier. Any existing
22 purchase order for any portion of the Equipment that has not been delivered and installed
23 as of the Dated Date shall be deemed to be executed by Lessee in its capacity as Lessor's
24 agent for purposes of this Agreement. Lessor shall have no liability for any delay in delivery
25 or failure by the supplier to deliver any Equipment or to fill any purchase order or meet the
26 conditions thereof. Lessee, at its expense, will pay or cause the supplier to pay all
27 transportation, packing, taxes, duties, insurance, installation, testing and other charges in
28 connection with the delivery, installation and use of the Equipment. As soon as practicable

1 after receipt of the Equipment, Lessee shall furnish Lessor with an Acceptance Certificate.
2 Execution of the Acceptance Certificate by any employee, official or agent of Lessee having
3 authority in the premises or having managerial, supervisory or procurement duties with
4 respect to equipment of the same general type as the Equipment shall constitute
5 acceptance of the Equipment on behalf of Lessee. Regardless of whether Lessee has
6 furnished an Acceptance Certificate pursuant to this Paragraph 9, by making a Rental
7 Payment after its receipt of the Equipment pursuant to this Agreement, Lessee shall be
8 deemed to have accepted the Equipment on the date of such Rental Payment for purposes
9 of this Agreement. All Rental Payments paid prior to delivery of the Acceptance Certificate
10 shall be credited to Rental Payments as they become due as shown on the Rental Payment
11 Schedule.

12 Lessee understands and agrees that neither the manufacturer, seller or
13 supplier of any Equipment, nor any salesman or other agent of any such manufacturer,
14 seller or supplier, is an agent of Lessor. No salesman or agent of the manufacturer, seller
15 or supplier of any Equipment is authorized to waive or alter any term or condition of this
16 Agreement, and no representation as to Equipment or any other matter by the
17 manufacturer, seller or supplier of any Equipment shall in any way affect Lessee's duty to
18 pay the Rental Payments and perform its other obligations as set forth in this Agreement.
19 Lessee hereby acknowledges that it has or will have selected the Equipment identified on
20 Exhibit 1 hereto using its own criteria and not in reliance on any representations of Lessor.

21 10. Disclaimer of Warranties. LESSOR, NOT BEING THE
22 MANUFACTURER, SELLER OR SUPPLIER OF ANY OF THE EQUIPMENT, NOR A
23 DEALER IN ANY OF SUCH EQUIPMENT, HAS NOT MADE AND DOES NOT MAKE
24 ANY WARRANTY, REPRESENTATION OR COVENANT, EXPRESS OR IMPLIED, AS
25 TO ANY MATTER WHATEVER, INCLUDING BUT NOT LIMITED TO: THE
26 MERCHANTABILITY OF THE EQUIPMENT OR ITS FITNESS FOR ANY PARTICULAR
27 PURPOSE, THE DESIGN OR CONDITION OF THE EQUIPMENT, THE QUALITY OR
28 CAPACITY OF THE EQUIPMENT, THE WORKMANSHIP IN THE EQUIPMENT,

1 COMPLIANCE OF THE EQUIPMENT WITH THE REQUIREMENT OF ANY LAW, RULE,
2 SPECIFICATION OR CONTRACT PERTAINING THERETO, PATENT INFRINGEMENT
3 OR LATENT DEFECTS. Lessee accordingly agrees not to assert any claim whatsoever
4 against Lessor based thereon. Lessee further agrees, regardless of cause, not to assert
5 any claim whatsoever against Lessor for any direct, indirect, consequential, incidental or
6 special damages or loss of any classification. Lessor shall have no obligation to install,
7 erect, test, adjust, service or maintain any Equipment. Lessee shall look solely to the
8 manufacturer, seller and/or supplier for any and all claims related to the Equipment.
9 LESSEE ACQUIRES, PURCHASES AND LEASES THE EQUIPMENT 'WHERE-IS,
10 AS-IS" AND 'WITH ALL FAULTS."

11 Lessor hereby acknowledges that, so long as no Event of Default or Event of
12 Nonappropriation has occurred and is continuing hereunder, the warranties of the
13 manufacturer, seller and/or supplier of the Equipment, if any, are for the benefit of Lessee.

14 11. Title to Equipment. During the term of this Agreement, title to the
15 Equipment shall be vested in Lessee, subject to the rights of Lessor under this Agreement,
16 unless Lessor terminates this Agreement pursuant to Paragraph 25 hereof or an Event of
17 Nonappropriation occurs, in which event title to the Equipment shall immediately vest in
18 Lessor free and clear of any right, title or interest of Lessee. Lessee, at its expense, will
19 protect and defend Lessee's title to the Equipment and Lessor's rights and interests therein
20 and will keep the Equipment free and clear from any and all claims, liens, encumbrances
21 and legal processes of Lessee's creditors and other persons. All items of Equipment shall
22 at all times be and remain personal property notwithstanding that any such Equipment may
23 now or hereafter be affixed to realty.

24 12. Tax Covenants; Tax Indemnity Payments. Lessee agrees that it will
25 not take any action that would cause the interest component of Rental Payments to be or
26 to become ineligible for the exclusion from gross income of the owner or owners thereof
27 for federal income tax purposes, nor will it omit to take or cause to be taken, in timely
28 manner, any action, which omission would cause the interest component of Rental

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1 Payments to be or to become ineligible for the exclusion from gross income of the owner
2 or owners thereof for federal income tax purposes. Lessee agrees to (a) execute and
3 deliver to Lessor, upon Lessor's request, a tax certificate and agreement in form and
4 content acceptable to Lessor and Lessee, relating to the establishment and maintenance
5 of the excludability from gross income of the interest component of Rental Payments for
6 federal income tax purposes, and (b) complete and file or cause to be filed in a timely
7 manner an information reporting return (either I.R.S. Form 8038-G or I.R.S. Form 8038-
8 GC, as appropriate) in the form attached as Exhibit 4 hereto with respect to this Agreement
9 as required by the Code.

10 Lessee represents that neither Lessee nor any agency or unit of Lessee has
11 on hand any property, including cash and securities, that is legally required or otherwise
12 restricted (no matter where held or the source thereof) to be used directly or indirectly to
13 purchase the Equipment. Lessee has not and will not establish any funds or accounts (no
14 matter where held or the source thereof) the use of which is legally required or otherwise
15 restricted to pay directly or indirectly any Rental Payments under this Agreement. Lessor
16 and Lessee certify and covenant to each other and to the owners from time to time of
17 Lessor's interests in this Agreement that, so long as any Rental Payments remain unpaid
18 hereunder, moneys on deposit in the Acquisition Fund will not be used in a manner that
19 will cause this Agreement to be classified as "arbitrage bonds" within the meaning of
20 Section 148(a) of the Code.

21 If Lessee breaches the covenant contained in this Paragraph 12, the interest
22 component of Rental Payments may become includible in gross income of the owner or
23 owners thereof for federal income tax purposes. In such event, Lessee agrees to pay
24 promptly after any such determination of taxability and on each Rental Payment date
25 thereafter to Lessor an additional amount determined by Lessor to compensate such owner
26 or owners for the loss of such excludability (including, without limitation, compensation
27 relating to interest expense, penalties or additions to tax), which determination shall be
28 conclusive (absent manifest error). Notwithstanding anything herein to the contrary, any

1 additional amount payable by Lessee pursuant to this Paragraph 12 shall be payable solely
2 from Legally Available Funds.

3 It is Lessor's and Lessee's intention that this Agreement not constitutes a
4 "true" lease for federal income tax purposes and, therefore, it is Lessor's and Lessee's
5 intention that Lessee be considered the owner of the Equipment for federal income tax
6 purposes.

7 13. Use of Equipment, Inspection and Reports. During the term of this
8 Agreement, Lessee shall be entitled to quiet enjoyment of the Equipment and may possess
9 and use the Equipment in accordance with this Agreement, provided that Lessee is in
10 compliance in all respects with the terms of this Agreement and that such possession and
11 use are in conformity with all applicable laws, any insurance policies and any installation
12 requirements (including environmental specifications) or warranties of the manufacturer,
13 seller and/or supplier with respect to the Equipment. In addition, Lessee agrees to comply
14 in all respects with all applicable laws, regulations and rulings of any legislative, executive,
15 administrative, or judicial body, including, without limitation, all anti-money laundering laws
16 and regulations; provided that Lessee may contest in good faith the validity or application
17 of any such law, regulation or ruling in any reasonable manner that does not, in the opinion
18 of Lessor, adversely affect the interest (including the reversionary interest) of Lessor in and
19 to the Equipment or its interest or rights hereunder. Lessee shall provide all permits and
20 licenses, if any, necessary for the installation and operation of the Equipment. Lessor shall
21 have the right, upon reasonable prior notice to Lessee and during regular business hours,
22 to inspect the Equipment at the premises of Lessee or wherever the Equipment may be
23 located. Lessee shall promptly notify Lessor of any alleged encumbrances on the
24 Equipment or any accident allegedly resulting from the use or operation thereof or any
25 claim relating thereto.

26 During the term of the Agreement and at Lessor's request, Lessee shall
27 provide Lessor, no later than ten days prior to the end of each Fiscal Period (commencing
28 with Lessee's current Fiscal Period), with current budgets or other proof of appropriation

1 for the ensuing Fiscal Period and such other information relating to Lessee's ability to
2 continue the term of this Agreement for the next succeeding Renewal Term as may be
3 reasonably requested by Lessor.

4 During the term of this Agreement, Lessee shall furnish or cause to be
5 furnished to Lessor, at Lessee's expense, as soon as available and in any event not later
6 than 210 days after the close of each Fiscal Period, the audited financial statements of
7 Lessee as at the close of and for such Fiscal Period, all in reasonable detail, audited by
8 and with the report of Lessee's auditor.

9 14. Security Agreement; Further Assurances. To secure the performance
10 of all of Lessee's obligations hereunder, Lessee hereby grants to Lessor, and Lessor shall
11 have and retain, a security interest constituting a first and exclusive lien on (a) the
12 Equipment delivered hereunder, on all attachments, repairs, replacements and
13 modifications hereto or therefore and on any proceeds therefrom and (b) moneys and
14 investments held from time to time in the Acquisition Fund and any proceeds therefrom.
15 Lessee agrees to execute and deliver such additional documents, including, without
16 limitation, financing statements, certificates of title or certificates of origin (or applications
17 therefore) noting Lessor's interest thereon, opinions of counsel, notices and similar
18 instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate
19 to establish and maintain its security interest in the Equipment and in the moneys and
20 investments in the Acquisition Fund or for the confirmation or perfection of this Agreement
21 and Lessor's rights hereunder. Upon the occurrence of an Event of Default or an Event
22 of Nonappropriation or in the event that Lessee refuses or is otherwise unwilling to execute
23 and file financing statements to which Lessor is entitled in accordance with this Agreement
24 within ten days after Lessor's written request to Lessee therefore, Lessor is authorized to
25 file financing statements signed only by Lessor in accordance with the applicable Uniform
26 Commercial Code.

27 15. Risk of Loss. All risk of loss, damage, theft or destruction to each item
28 of Equipment shall be borne by Lessee. No such loss, damage, theft or destruction of the

1 Equipment, in whole or in part, shall impair the obligations of Lessee hereunder (including,
2 but not limited to, the obligation to pay Rental Payments when due), all of which shall
3 continue in full force and effect subject to the terms of this Agreement. If (a) the Equipment
4 or any portion thereof is destroyed (in whole or in part) or is damaged by fire or other
5 casualty or (b) title to, or the temporary use of, the Equipment or any part thereof is taken
6 under the exercise of the power of eminent domain, Lessee shall immediately notify Lessor.
7 Lessee and Lessor shall cause the Net Proceeds of any insurance claim or condemnation
8 award to be applied, at Lessor's option to (i) the prompt repair, restoration, modification or
9 replacement of the Equipment or (ii) the payment in full of the then applicable Prepayment
10 Option Amount. Any balance of Net Proceeds remaining after completion of such work or
11 payment of such Prepayment Option Amount shall be paid promptly to Lessee. If the Net
12 Proceeds are insufficient to pay the costs of such repair, restoration, modification or
13 replacement or to pay such Prepayment Option Amount in full, Lessee shall, at Lessor's
14 direction, either complete the work or pay the then applicable Prepayment Option Amount
15 in full and in either case pay any cost in excess of the amount of Net Proceeds, but only
16 from Legally Available Funds.

17 16. Insurance. In the event that Lessee is not self-insured as hereinafter
18 provided, Lessee, at its expense, shall throughout the term of this Agreement keep the
19 Equipment insured against theft, fire, collision (in the case of vehicles) and such other risks
20 as may be customary for each item of Equipment in the amounts and for the coverage set
21 forth in Exhibit 5 hereto, with carriers acceptable to Lessor, under a policy or policies
22 containing a loss payable endorsement in favor of Lessor, and affording to Lessor such
23 additional protection as Lessor shall reasonably require. Lessee shall further, at its
24 expense, maintain in effect throughout the term of this Agreement a policy or policies of
25 comprehensive public liability and property damage insurance in the amounts and for the
26 coverage set forth in Exhibit 5 hereto, with carriers satisfactory to Lessor. All such
27 insurance shall name Lessor as an additional insured. The policies required hereby shall
28 provide that they may not be canceled or materially altered without at least 30 days prior

1 written notice to Lessor. Lessee shall deliver to Lessor copies or other evidence
2 satisfactory to Lessor of each insurance policy and each renewal thereof. Failure by Lessor
3 to request evidence of such insurance policies or renewals, or otherwise to verify the
4 existence of such insurance, shall not constitute a waiver of the requirements hereof.
5 Lessor shall have the right, on behalf of itself and Lessee, to make claim for, receive
6 payment of and execute and endorse all documents, checks or drafts received in payment
7 for loss or damage under said insurance policies. If Lessee is self-insured with respect to
8 equipment such as the Equipment, Lessee shall maintain during the term of this Agreement
9 an actuarially sound self-insurance program in form satisfactory to Lessor and shall provide
10 evidence thereof in form and substance satisfactory to Lessor.

11 16.1 Surety Bonds; Lessee to Pursue Remedies against Contractors
12 and Subcontractors and their Sureties. Lessee has secured from each contractor
13 directly employed by Lessee, in connection with the acquisition, construction,
14 installation, improvement or equipping of the Equipment, payment and performance
15 bonds executed by a surety company authorized to do business in the State in a
16 sum equal to the entire amount to become payable under the contract with such
17 contractor. Each bond was conditioned on the completion of the work in accordance
18 with the plans and specifications for the Equipment and upon payment of all claims
19 of subcontractors and suppliers. Lessee shall deliver a certified copy of each such
20 bond to Lessor promptly upon receipt thereof by Lessee.

21 In the event of a material default of any contractor under any contract
22 in connection with the acquisition, construction, improvement or equipping of the
23 Equipment or in the event of a material breach of warranty with respect to any
24 material, workmanship or performance guaranty, Lessee will promptly proceed to
25 exhaust its remedies against the contractor, or supplier in default and against any
26 surety for the performance of such contract with respect to the contractor. Lessee
27 shall advise Lessor of the steps it intends to take in connection with any such default.
28 Any amounts received by way of damages, refunds, adjustments or otherwise in

1 connection with the foregoing shall be paid to Lessor and applied against Lessee's
2 obligations hereunder, net of legal fees.

3 17. Maintenance and Repairs. Lessee shall use the Equipment in a
4 careful and proper manner, in compliance with all applicable laws and regulations and, at
5 its expense, keep and maintain the Equipment in good repair and working order,
6 performing all maintenance and servicing necessary to maintain the value and utility of the
7 Equipment, reasonable wear and tear excepted. Without the prior written consent of
8 Lessor, Lessee shall not make any alterations, modifications or attachments to the
9 Equipment which cannot be removed without materially damaging the functional
10 capabilities, economic value or utility of the Equipment.

11 18. Taxes. Unless Lessee has provided Lessor with evidence necessary
12 to sustain an exemption therefrom, Lessee shall timely pay all assessments, license fees,
13 taxes (including sales, use, excise, personal property, ad valorem, stamp, documentary
14 and other taxes) and all other governmental charges, fees, fines or penalties whatsoever,
15 whether payable by Lessor or Lessee, now or hereafter imposed by any governmental
16 body or agency on or relating to the Equipment, the Acquisition Fund, the Rental Payments
17 or the use, registration, rental, shipment, transportation, delivery, ownership or operation
18 of the Equipment and on or relating to this Agreement or the Acquisition Fund Agreement;
19 provided, however, that the foregoing shall not include any federal, state or local income
20 or franchise taxes of Lessor.

21 19. Lessor's Performance of Lessee's Obligations. If Lessee shall fail duly
22 and promptly to perform any of its obligations hereunder, Lessor may, at its option, perform
23 any act or make any payment that Lessor deems necessary for the maintenance and
24 preservation of the Equipment and Lessor's interests therein, including, but not limited to,
25 payments for satisfaction of liens, repairs, taxes, levies and insurance. All expenses
26 incurred by Lessor in performing such acts and all such payments made by Lessor together
27 with late charges as provided in Paragraph 20 below, and any reasonable legal fees
28 incurred by Lessor in connection therewith, shall be payable by Lessee to Lessor on

1 demand. The performance of any act or payment by Lessor as aforesaid shall not be
2 deemed a waiver or release of any obligation or default on the part of Lessee.

3 20. Late Charges. Should Lessee fail to duly pay any part of any Rental
4 Payment or other sum to be paid to Lessor hereunder (including, but not limited to, any
5 amounts due as a result of Lessor's exercise of its rights under Paragraph 25 hereof) on
6 the date on which such amount is due hereunder, then Lessee shall pay to Lessor late
7 charges on such delinquent payment from the due date thereof until paid at the rate of
8 twelve percent (12%) per annum or the highest rate permitted by law, whichever is less.

9 21. Indemnification. Lessee assumes liability for, agrees to and does
10 hereby indemnify, protect and hold harmless Lessor and its agents, employees, officers,
11 directors, parents, subsidiaries and stockholders from and against any and all liabilities,
12 obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and
13 expenses (including reasonable attorneys' fees), of whatsoever kind and nature, arising
14 out of the use, condition (including, but not limited to, latent and other defects and whether
15 or not discoverable by Lessee or Lessor}, operation, ownership, selection, delivery,
16 storage, leasing or return of any item of Equipment, regardless of where, how and by whom
17 operated, or any failure on the part of Lessee to accept the Equipment or otherwise to
18 perform or comply with any conditions of this Agreement. Lessee is an independent
19 contractor and nothing contained herein shall authorize Lessee or any other person to
20 operate any item of Equipment so as to incur to impose any liability or obligation for or on
21 behalf of Lessor. Notwithstanding anything herein to the contrary, any indemnity amount
22 payable by Lessee pursuant to this Paragraph 21 shall be payable solely from Legally
23 Available Funds and only to the extent authorized by law.

24 22. No Offset; Unconditional Obligation. This Agreement is "triple net" and
25 Lessee's obligation to pay all Rental Payments and Additional Payments hereunder shall
26 be absolute and unconditional under any and all circumstances subject to the terms and
27 conditions of this Agreement. Without limiting the generality of the foregoing, Lessee shall
28 not be entitled to any abatement of rent or reduction thereof or setoff against rent, including,

1 but not limited to, abatements, reductions or setoffs due to any present or future claims of
2 Lessee against Lessor hereunder or otherwise; nor, except as otherwise expressly
3 provided herein, shall this Agreement terminate, or the respective obligations of Lessor or
4 Lessee be otherwise affected, by reason of any failure of the Equipment to perform in the
5 manner or to the extent that Lessee anticipated or to achieve cost or other savings that
6 Lessee anticipated, any defect in or damage to or loss or destruction of all or any of the
7 Equipment from whatsoever cause, the taking or requisitioning of the Equipment by
8 condemnation or otherwise, the lawful prohibition of Lessee's use of the Equipment, the
9 interference with such use by any private person or corporation, the invalidity or
10 unenforceability or lack of due authorization or other infirmity of this Agreement, or lack of
11 right, power or authority of Lessor to enter into this Agreement or any insolvency,
12 bankruptcy, reorganization or similar proceedings by or against Lessor or Lessee or for
13 any other cause whether similar or dissimilar to the foregoing, any present or future law to
14 the contrary notwithstanding, it being the intention of the parties hereto that the Rental
15 Payments and Additional Payments payable by Lessee hereunder shall continue to be
16 payable in all events unless the obligation to pay the same shall expire or be terminated
17 pursuant hereto (including upon the occurrence of an Event of Nonappropriation) or until
18 the Equipment has been returned to the possession of Lessor as herein provided (for all
19 purposes of this Agreement any item of Equipment shall not be deemed to have been
20 returned to Lessor's possession until all of Lessee's obligations with respect to the return,
21 transportation and storage thereof have been performed). To the extent permitted by
22 applicable law, Lessee hereby waives any and all rights that it may now have or that at any
23 time hereafter may be conferred upon it, by statute or otherwise, to terminate, cancel, quit
24 or surrender this Agreement or any of the items of Equipment except in accordance with
25 the express terms hereof.

26 23. Representations, Warranties of Lessee. Lessee hereby represents
27 and warrants to and agrees with Lessor on the date hereof and as of the Commencement
28 Date of each Lease as follows:

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23.1 Lessee is a state or a political subdivision thereof within the meaning of Section 103(c) of the Code.

23.2 Lessee has the power and authority under applicable law to enter into the transactions contemplated by this Agreement and the Acquisition Fund Agreement and has been duly authorized to execute and deliver this Agreement and the Acquisition Fund Agreement and to carry out its obligations hereunder and thereunder. Attached hereto as Exhibit 6 is a full, true and correct copy or an original of a resolution or other appropriate official action of Lessee's governing body specifically authorizing Lessee to execute and deliver this Agreement and the Acquisition Fund Agreement. Attached hereto as Exhibit 7 is a full, true and correct copy or an original of an opinion of Lessee's legal counsel regarding the legal, valid and binding nature of this Agreement and the Acquisition Fund Agreement on Lessee and certain other related matters.

23.3 All requirements have been met and procedures have occurred in order to ensure the enforceability of this Agreement and the Acquisition Fund Agreement, and Lessee has complied with such public bidding requirements, if any, as may be applicable to the transactions contemplated by this Agreement and the Acquisition Fund Agreement.

23.4 Lessee is not subject to any legal or contractual limitation or provision of any nature whatsoever that in any way limits, restricts or prevents Lessee from entering into this Agreement or the Acquisition Fund Agreement or performing any of its obligations hereunder, except to the extent that such performance may be limited by bankruptcy, insolvency, reorganization or other laws affecting creditors' rights generally.

23.5 There is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, public board or body, known to be pending or threatened against or affecting Lessee, nor to the best knowledge of Lessee is there any basis therefore, wherein an unfavorable decision, ruling or finding would

1 materially adversely affect the transactions contemplated by this Agreement, the
2 Acquisition Fund Agreement or any other agreement or instrument to which Lessee
3 is a party and which is used or contemplated for use in the consummation of the
4 transactions contemplated by this Agreement and the Acquisition Fund Agreement.
5 All authorizations, consents and approvals of governmental bodies or agencies
6 required in connection with the execution and delivery by Lessee of this Agreement
7 and the Acquisition Fund Agreement or in connection with the carrying out by
8 Lessee of its obligations hereunder and thereunder have been obtained, except with
9 respect to annual budgeting and appropriation procedures as required by State law.

10 23.6 The payment of the Rental Payments or any portion thereof is
11 not (under the terms of this Agreement, the Acquisition Fund Agreement or any
12 underlying arrangement) directly or indirectly (i) secured by any interest in property
13 used or to be used in any activity carried on by any person other than a state or
14 local governmental unit or payments in respect of such property; or (ii) on a present
15 value basis, derived from payments (whether or not to Lessee) in respect of
16 property, or borrowed money, used or to be used in any activity carried on by any
17 person other than a state or local governmental unit. The Equipment will not be
18 used, directly or indirectly, in any activity carried on by any person other than a state
19 or local governmental unit. No portion of the Purchase Price for the Equipment will
20 be used, directly or indirectly, to make or finance loans to any person other than
21 Lessee. Lessee has not entered into any management or other service contract with
22 respect to the use and operation of the Equipment.

23 23.7 The entering into and performance of this Agreement and the
24 Acquisition Fund Agreement will not violate any judgment, order, law or regulation
25 applicable to Lessee or result in any breach of, or constitute a default under, or result
26 in the creation of any lien, charge, security interest or other encumbrance upon any
27 assets of Lessee or on the Equipment or the Acquisition Fund pursuant to any
28 indenture, mortgage, deed of trust, bank loan or credit agreement or other

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instrument to which Lessee is a party or by which it or its assets may be bound, except as herein provided.

23.8 Lessee is acquiring the Equipment for use within its geographical boundaries.

23.9 The useful life of the Equipment will not be less than the stated full term of this Agreement, including all contemplated Renewal Terms.

23.10 Lessee has entered into this Agreement and the Acquisition Fund Agreement for the purpose of purchasing, acquiring and leasing the Equipment and not for the purpose of refinancing any outstanding obligation of Lessee more than 90 days in advance of its payment or prepayment date. The Purchase Price for the Equipment will be paid directly by the Acquisition Fund Custodian from the Acquisition Fund pursuant to the Acquisition Fund Agreement to the manufacturer, seller or supplier thereof, and no portion of the Purchase Price for the Equipment will be paid to Lessee as reimbursement for any expenditure paid by Lessee more than sixty (60) days prior to the execution and delivery of this Agreement.

23.11 Lessee has made sufficient appropriations or has other Legally Available Funds to pay all Rental Payments due during the Initial Term.

23.12 Lessee has not previously failed (for whatever reason) to appropriate amounts sufficient to pay its obligations that are subject to annual appropriation.

23.13 Lessee shall keep its books and records in accordance with generally accepted accounting principles and practices consistently applied and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows and notes, and (4) schedules and attachments to the financial statements) within two hundred ten (210) days of its fiscal year end, (ii) such other financial statements and information as Lessor may

1 reasonably request, and (iii) its annual budget for the following fiscal year within
2 ninety (90) days after the current fiscal year end.

3 Such statements shall be accompanied by an unqualified opinion of
4 Lessee's auditor. [Unqualified opinion of Lessee's auditor is a requirement not for
5 the annual budget but for the annual audited financial statements] Any of the
6 foregoing statements and any public credit information relating to Lessee may be
7 disseminated among Lessor and any of its affiliates and any of their respective
8 successors and assigns.

9 24. Events of Default. Each of the following events constitutes an "Event
10 of Default" hereunder:

11 24.1 Lessee fails to pay in full the Rental Payment due on any date
12 upon which such Rental Payment is due;

13 24.2 Lessee fails to comply with any other agreement or covenant
14 of Lessee hereunder for a period of thirty (30) days following receipt of written notice
15 of violation of such agreement or covenant and demand that such violation be
16 remedied;

17 24.3 Lessee institutes any proceedings under any bankruptcy,
18 insolvency, reorganization or similar law or a receiver or similar officer is appointed
19 for Lessee or any of its property;

20 24.4 Any warranty, representation or statement made in writing by
21 or on behalf of Lessee in connection with this Agreement is found to be incorrect or
22 misleading in any material respect on the date made; or,

23 24.5 Actual or attempted sale, lease or encumbrance of any of the
24 Equipment or the making of any levy, seizure or attachment thereof or thereon.

25 25. Repossession and Lessor's Other Rights upon Event of Default or
26 Event of Nonappropriation. Immediately upon the occurrence of an Event of Default or
27 immediately after the expiration of the Initial Term or any Renewal Term during which an
28 Event of Nonappropriation occurs, Lessor may terminate this Agreement or Lessee's rights

1 hereunder and in any such event repossess the Equipment, which Lessee hereby agrees,
2 at its expense, to surrender promptly to Lessor at such location in the continental United
3 States as Lessor shall direct. Such right of repossession and other rights as specifically
4 provided in this Paragraph 25 shall constitute the sole remedies for Lessee's failure to
5 make Payments or otherwise perform its obligations when required hereunder. If Lessor is
6 entitled to repossess the Equipment hereunder, Lessee shall permit Lessor or its agents
7 to enter the premises where the Equipment is then located. In the event of any such
8 repossession, Lessee shall execute and deliver such documents as may reasonably be
9 required to transfer title to and possession of the Equipment to Lessor, free and clear of all
10 liens and security interests to which the Equipment may have become subject.

11 Any termination of this Agreement at Lessor's option as provided in this
12 Paragraph 25 shall take effect at the end of the Initial Term or the Renewal Term then in
13 effect, unless Lessor (at its option) elects to terminate this Agreement on an earlier date.

14 Upon repossession, if the Equipment is damaged or otherwise made less
15 suitable for the purposes for which it was manufactured than when delivered to Lessee
16 (reasonable wear and tear excepted), Lessee agrees, at its option, to: (a) repair and restore
17 the Equipment to the same condition in which it was received by Lessee (reasonable wear
18 and tear excepted) and, at its expense, promptly return the Equipment to Lessor (or to a
19 location identified in a written notice to Lessee) or (b) pay to Lessor the actual costs of such
20 repair, restoration and return.

21 If Lessor terminates this Agreement pursuant to this Paragraph 25 or an
22 Event of Nonappropriation occurs and Lessee continues to use the Equipment after the
23 Initial Term or any Renewal Term during which the Event of Default or Event of
24 Nonappropriation occurs or if Lessee otherwise refuses to pay Rental Payments due during
25 a Renewal Term for which Lessee's governing body has appropriated sufficient Legally
26 Available Funds to pay such Rental Payments, Lessor shall be entitled to bring such action
27 at law or in equity to recover damages attributable to such holdover period for the
28 Equipment that Lessee continues to use or to the remainder of such Renewal Term for

1 which such appropriations have been made, provided that Lessor shall have no right to
2 accelerate Rental Payments or otherwise declare any Rental Payment not then in default
3 to be immediately due and payable.

4 Lessor shall also be entitled to exercise any or all remedies available to a
5 secured party under the applicable Uniform Commercial Code and all other rights and
6 remedies that Lessor may have at law or in equity, including the exercise of any rights and
7 remedies to which Lessor is entitled with respect to the Acquisition Fund under the
8 Acquisition Fund Agreement and hereunder.

9 No right or remedy herein conferred upon or reserved to Lessor is exclusive
10 of any right or remedy herein or at law or in equity or otherwise provided or permitted, but
11 each shall be cumulative of every other right or remedy given hereunder or now or hereafter
12 existing at law or in equity or by statute or otherwise, and may be enforced concurrently
13 therewith or from time to time.

14 No waiver of or delay or omission in the exercise of any right or remedy herein
15 provided or otherwise available to Lessor shall impair, affect or be construed as a waiver
16 of its rights thereafter to exercise the same. Any single or partial exercise by Lessor of any
17 right hereunder shall not preclude any other or further exercise of any right hereunder.

18 26. No Sale, Assignment or Other Disposition by Lessee. Lessee agrees
19 not to (a) sell, assign, transfer, lease, sublease, pledge or otherwise encumber or suffer a
20 lien or encumbrance upon or against any interest in this Agreement, the Acquisition Fund
21 Agreement (including the Acquisition Fund thereunder) or the Equipment, (b) remove the
22 Equipment from its Equipment Location hereto or (c) enter into any contract or agreement
23 with respect to the use and operation of any of the Equipment by any person other than
24 Lessee, without Lessor's prior written consent in each instance. Lessee shall at all times
25 remain liable for the performance of the covenants and conditions on its part to be
26 performed, notwithstanding any assigning, transferring or other conveyance that may be
27 made with such consent. Lessee shall take no action that may adversely affect the
28 excludability from gross income for federal income tax purposes or any portion of the

1 interest component of the Rental Payments.

2 27. Assignment by Lessor. Lessor may, at any time and from time to time
3 without Lessee's consent, assign, transfer or otherwise convey all or any part of its interest
4 in the Equipment, the Acquisition Fund, this Agreement or the Acquisition Fund Agreement,
5 including Lessor's rights to receive the Rental Payments or any part thereof (in which event
6 Lessee agrees to make all Rental Payments thereafter to the assignee designated by
7 Lessor), to terminate this Agreement or Lessee's rights hereunder if an Event of Default
8 has occurred, to receive tax indemnity payments pursuant to Paragraph 12 hereof and to
9 repossess the Equipment and exercise Lessor's other rights and remedies under
10 Paragraph 25 hereof; provided, however, that any such assignment, transfer or
11 conveyance to a trustee for the benefit of owners of certificates of participation shall be
12 made in a manner that conforms to any applicable State law. In addition, Lessor shall be
13 entitled to assign its right, title and interest in this Agreement and any Lease to a trustee
14 for the purpose of issuing certificates of participation or other forms of certificates
15 evidencing an undivided interest in such Lease, provided such certificates are sold only on
16 a private placement basis (and not pursuant to any "public offering") to a purchaser(s) who
17 represent that (i) such purchaser has sufficient knowledge and experience in financial and
18 business matters to be able to evaluate the risks and merits of the investment (ii) such
19 purchaser understands neither the Lease or certificates will be registered under the
20 Securities Act of 1933, (iii) such purchaser is either an "accredited investor" within the
21 meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer
22 within the meaning of Rule 144A, and (iv) that it is the intention of such purchaser to acquire
23 such certificates (A) for investment for its own account or (B) for resale in a transaction
24 exempt from registration under the Securities Act of 1933.

25 Nothing in this Paragraph 27 shall be construed, however, to prevent Lessor
26 from executing any such assignment, transfer or conveyance on a private placement basis
27 that does not involve funding through the use of certificates of participation within the
28 meaning of applicable State law, including any such assignment, transfer or conveyance

1 as part of a multiple asset pool to a partnership or trust, interests in which are offered and
2 sold in a private placement or limited offering only to investors whom Lessor reasonably
3 believes are qualified institutional buyers or accredited investors within the meaning of the
4 applicable federal securities law; provided, however, that in any event, Lessee shall not be
5 required to make Rental Payments, to send notices or to otherwise deal with respect to
6 matters arising under this Agreement with or to more than one individual or entity. No
7 assignment, transfer or conveyance permitted by this Paragraph 27 shall be effective until
8 Lessee's registration agent shall have received a written notice of assignment (in
9 substantially the form of Exhibit 9 attached hereto) that discloses the name and address of
10 each such assignee; provided, however, that if such assignment is made to a bank or trust
11 company as trustee or paying agent for owners of certificates of participation, trust
12 certificates or partnership interests with respect to the Rental Payments payable
13 hereunder, it shall thereafter be sufficient that a copy of the agency or trust agreement shall
14 have been deposited with Lessee until Lessee shall have been advised that such agency
15 or trust agreement is no longer in effect. During the term of this Agreement, Lessee shall
16 keep, or cause to be kept, a complete and accurate record of all such assignments in form
17 necessary to comply with Section 149 of the Code. Lessee agrees, if so requested, to
18 acknowledge each such assignment in writing within fifteen (15) days after request
19 therefore, but such acknowledgment shall in no way be deemed necessary to make any
20 assignment effective. Lessee further agrees that any moneys or other property received
21 by Lessor as a result of any such assignment, transfer or conveyance shall not inure to
22 Lessee's benefit.

23 28. Costs. Lessee shall pay to Lessor all costs and expenses, including
24 reasonable attorneys' fees and costs related to repossession of the Equipment (including,
25 without limitation, the costs and expenses to deliver possession of the Equipment to such
26 location as Lessor directs pursuant to Paragraph 25 hereof), and the exercise of remedies
27 with respect to the Acquisition Fund, incurred by Lessor in enforcing any of the terms,
28 conditions or provisions of this Agreement and the Acquisition Fund Agreement.

1 29. Severability. If any provision of this Agreement is or becomes invalid,
2 illegal or unenforceable, such invalidity, illegality or unenforceability will not affect the other
3 provisions of this Agreement, which shall be valid and enforceable to the fullest extent
4 permitted by law.

5 30. Notices. All notices, reports and other documents provided for in this
6 Agreement shall be deemed to have been given or made when delivered or if mailed by
7 certified mail, postage prepaid, addressed to Lessor or Lessee at their respective mailing
8 addresses set forth above or such other addresses as either of the parties hereto may
9 designate in writing to the other from time to time for such purpose, then on the date shown
10 on the return receipt.

11 31. Amendments. This Agreement, the Acquisition Fund Agreement and
12 the Exhibits attached hereto constitute the entire agreement between Lessor and Lessee
13 with respect to the Equipment and the subject matter hereof. No term or provision of this
14 Agreement may be changed, waived, amended or terminated except by a written
15 agreement signed by both Lessor and Lessee, except that Lessor may insert the serial
16 number and additional description details on Exhibit 1 hereto of any item of Equipment
17 after delivery thereof.

18 32. Construction. This Agreement shall in all respects be governed by
19 and construed in accordance with the laws of the State of California. The titles of the
20 Paragraphs of this Agreement are for convenience only and shall not define or limit any of
21 the terms or provisions hereof. Time is of the essence of this Agreement in each of its
22 provisions.

23 33. Parties; Survival of Certain Obligations and Indemnities.

24 33.1 The provisions of this Agreement shall be binding upon, and
25 (subject to the limitations of Paragraph 26 hereof) shall inure to the benefit of, the
26 respective assignees and successors of Lessor and Lessee.

27 33.2 The indemnities, assumptions of liabilities and obligations of
28 Lessee provided for in Paragraphs 9, 12 and 21 of this Agreement shall continue in

1 full force and effect notwithstanding the expiration or termination of the term of this
2 Agreement.

3 34. Interest. If under applicable law any part of the Rental Payments is
4 deemed or determined to be imputed interest, finance charges or time-price differential
5 ("Interest"), Lessor and Lessee agree that the Rental Payments shall be deemed to be
6 level payments of principal and Interest, with such Interest accruing on principal amounts
7 outstanding from time to time. The rate of such Interest is not intended to exceed the
8 maximum rate or amount of interest permitted by applicable law. If the Interest exceeds
9 such maximum, then at Lessor's option, if permitted by law, the Interest payable will be
10 reduced to the legally permitted maximum amount of interest, and any excessive Interest
11 will be used to reduce the principal amount of Lessee's obligation or be refunded to Lessee.

12 35. Acquisition Fund Agreement.

13 35.1 In order to provide financing to pay the Purchase Price for the
14 Equipment, Lessor and Lessee hereby agree to execute and deliver the Acquisition
15 Fund Agreement, substantially in the form of Attachment G hereto, on the date of
16 execution and delivery of this Agreement.

17 35.2 If an Event of Nonappropriation or an Event of Default occurs
18 prior to Lessee's acceptance of all the Equipment, the amount then on deposit in
19 the Acquisition Fund shall be applied to prepay the unpaid principal component of
20 the Rental Payments in whole on the first business day of the month next
21 succeeding the occurrence of either such Event plus accrued interest to the
22 prepayment date; provided, however, that the amount to be prepaid by Lessee
23 pursuant to this Paragraph 35 shall first be paid from moneys in the Acquisition Fund
24 and then from Legally Available Funds and other moneys available for such purpose
25 as a result of the exercise by Lessor of its rights and remedies under this Agreement.
26 Any funds on deposit in the Acquisition Fund on the prepayment date described in
27 this subparagraph (b) in excess of the unpaid principal component of the Rental
28 Payments to be prepaid plus accrued interest thereon to the prepayment date shall

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Long Beach, CA 90802-4664

1 be paid promptly to Lessee.

2 35.3 To the extent that Lessee has not accepted all items of
3 Equipment before the twelve-month anniversary of the date of the Schedule, or
4 there otherwise remains a balance on deposit in the Acquisition Fund on the twelve-
5 month anniversary of the date of the Schedule, the amount then on deposit in the
6 Acquisition Fund shall be applied to prepay the unpaid principal component of the
7 Rental Payments in part, in inverse order of Rental Payments, on the first business
8 day of the next month plus accrued interest to the prepayment date; provided,
9 however, that the amount to be prepaid by Lessee pursuant to this Paragraph 35
10 shall first be paid from moneys in the Acquisition Fund and then from Legally
11 Available Funds. Notwithstanding any such partial prepayment, this Agreement
12 shall remain in full force and effect with respect to the portion of the Equipment
13 accepted by Lessee during such twelve-month period, and the portion of the
14 principal component of Rental Payments remaining unpaid after such prepayment
15 plus accrued interest thereon shall remain payable in accordance with the terms of
16 this Agreement. Upon Lessor's request, Lessee shall execute an amendment to the
17 Rental Payment Schedule that reflects the change to the Rental Payments as a
18 result of such partial prepayment.

19 Lessee hereby acknowledges that it has read and understands this
20 Agreement.

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In Witness Whereof, Lessor and Lessee have each caused this Agreement to be duly executed and delivered as of the date first above written.

BANC OF AMERICA PUBLIC CAPITAL CORP, a Kansas corporation.

9/21, 2015

By [Signature]
Name Terri J. Preston
Title Authorized Agent

_____, 2015

By _____
Name _____
Title _____

"Lessor"

CITY OF LONG BEACH, a municipal corporation

Sept. 29, 2015

By [Signature] **EXECUTED PURSUANT TO SECTION 301 OF THE CITY CHARTER.**
City Manager

"Lessee" **Assistant City Manager**

This Agreement is approved as to form on Sept. 28, 2015.

CHARLES PARKIN, City Attorney

By [Signature]
Deputy

Duplicate Original No. 1 of 3 manually executed and serially numbered duplicate originals. To the extent that this Agreement constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Duplicate Original other than Duplicate Original No. 1.

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List of Exhibits:

EXHIBIT	DESCRIPTION
1	Schedule of Property
2	Rental Payment Schedule (Exhibit B to Schedule of Property)
3	Acceptance Certificate
4	IRS Form 8038/8038G/8038GC
5	Insurance Coverage Requirements
6	Minute Order of Lessees Governing Body
7	Form of Lessee's Opinion of Counsel
8	Incumbency Certificate
9	Notice and Acknowledgement of Sale
10	Tax Certificate

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ATTACHMENT G
ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

This Acquisition Fund and Account Control Agreement (this "Agreement"), dated as of _____, 20__ by and among Banc of America Public Capital Corp, a Kansas corporation (hereinafter referred to as "Lessor"), City of Long Beach, a political subdivision of the state of California (hereinafter referred to as "Lessee") and MUFG Union Bank of California, N.A., a national banking association (hereinafter referred to as "Acquisition Fund Custodian").

Reference is made to _____ dated as of _____, 20__, by and between Lessor and Lessee incorporating the terms of that certain Master Lease Agreement dated as of _____ between _____ (hereinafter referred to as the "Lease"), covering the acquisition and lease of certain Equipment described therein (the "Equipment"). It is a requirement of the Lease that the Purchase Price of the Equipment (an amount not to exceed _____) to be deposited into a special trust fund under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

The parties agree as follows:

1. Creation of Acquisition Fund

1.1 There is hereby created a special custody fund to be known as the "City of Long Beach - Acquisition Fund Account Number _____" (the "Acquisition Fund") to be held by the Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

1.2 The Acquisition Fund Custodian shall invest and reinvest moneys on deposit in the Acquisition Fund in Qualified Investments in accordance with written instructions received from Lessee. Lessee shall be solely responsible

1 for ascertaining that all proposed investments and reinvestments are Qualified
2 Investments and that they comply with federal, state and local laws, regulations and
3 ordinances governing investment of such funds and for providing appropriate notice
4 to the Acquisition Fund Custodian for the reinvestment of any maturing investment.
5 Accordingly, neither the Acquisition Fund Custodian nor Lessor shall be responsible
6 for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising
7 out of or related to the investment or reinvestment of all or any portion of the moneys
8 on deposit in the Acquisition Fund, and Lessee agrees to and does hereby release
9 the Acquisition Fund Custodian and Lessor from any such liability, cost, expenses,
10 loss or claim. Interest on the Acquisition Fund shall become part of the Acquisition
11 Fund, and gains and losses on the investment of the moneys on deposit in the
12 Acquisition Fund shall be borne by the Acquisition Fund, except for liability related
13 to the negligence, willful misconduct or fraud of Acquisition Fund Custodian. For
14 purposes of this agreement, "Qualified Investments" means any investments which
15 meet the requirements of applicable State of California and local laws and
16 regulations.

17 1.3 Unless the Acquisition Fund is earlier terminated in accordance
18 with the provisions of paragraph (d) below, amounts in the Acquisition Fund shall be
19 disbursed by the Acquisition Fund Custodian in payment of amounts described in
20 Section 2 hereof upon receipt of written authorization(s) from Lessor, as is more
21 fully described in Section 2 hereof. If the amounts in the Acquisition Fund are
22 insufficient to pay such amounts, Lessee shall provide any balance of the funds
23 needed to complete the acquisition of the Equipment. Any moneys remaining in the
24 Acquisition Fund after (the "Acquisition Period") shall be applied as provided in
25 Section 4 hereof.

26 1.4 The Acquisition Fund shall be terminated at the earliest of (i)
27 the final distribution of amounts in the Acquisition Fund or (ii) written notice given by
28 Lessor of the occurrence of a default or termination of the Lease due to non-

1 appropriation.

2 1.5 The Acquisition Fund Custodian may act in reliance upon any
3 writing or instrument or signature which it has determined to be genuine and may
4 assume the validity and accuracy of any statement or assertion contained in such a
5 writing or instrument. The Acquisition Fund Custodian shall not be liable in any
6 manner for the sufficiency or correctness as to form, manner of execution, or validity
7 of any instrument nor as to the authority or right of any person executing the same;
8 and its duties hereunder shall be limited to the receipt of such moneys, instruments
9 or other documents received by it as the Acquisition Fund Custodian, and for the
10 disposition of the same in accordance herewith.

11 1.6 Unless the Acquisition Fund Custodian is guilty of negligence,
12 willful misconduct or fraud with regard to its duties hereunder, Lessee agrees to and
13 does hereby release and indemnify the Acquisition Fund Custodian and hold it
14 harmless from any and all claims, liabilities, losses, actions, suits or proceedings at
15 law or in equity, or any other expense, fees or charges of any character or nature,
16 which it may incur or with which it may be threatened by reason of its acting as
17 Acquisition Fund Custodian under this Agreement; and in connection therewith
18 does, to the extent permitted by law, indemnify the Acquisition Fund Custodian
19 against any and all expenses; including reasonable attorneys' fees and costs.

20 1.7 If Lessee and Lessor shall be in disagreement about the
21 interpretation of the Lease, or about the rights and obligations, or the propriety of
22 any action contemplated by the Acquisition Fund Custodian hereunder, the
23 Acquisition Fund Custodian may, but shall not be required to, file an appropriate civil
24 action to resolve the disagreement. The Acquisition Fund Custodian shall be
25 reimbursed by Lessor, for all costs, including reasonable attorneys' fees, in
26 connection with such civil action, and shall be fully protected in suspending all or
27 part of its activities under this Agreement until a final judgment in such action is
28 received.

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1.8 The Acquisition Fund Custodian may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Acquisition Fund Custodian shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its negligence, willful misconduct or fraud.

1.9 Lessee shall reimburse the Acquisition Fund Custodian for all reasonable costs and expenses, including those of the Acquisition Fund Custodian's attorneys, agents and employees incurred for extraordinary administration of the Acquisition Fund and the performance of the Acquisition Fund Custodian's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Acquisition Fund.

1.10 Lessee shall from time to time, on demand, pay to the Acquisition Fund Custodian reasonable compensation for its services and shall reimburse the Acquisition Fund Custodian for all its advances and expenditures, including but not limited to advances to and fees and expenses of counsel. The obligation to pay such amounts shall survive the term of this Acquisition Fund Agreement.

1.11 The duties and responsibilities of Acquisition Fund Custodian shall be limited to those expressly set forth in this Agreement. With the exception of this Agreement, Acquisition Fund Custodian is not responsible for or chargeable with knowledge of any terms or provisions contained in any underlying agreement referred to in this Agreement or any other separate agreements and understandings between the parties. The Acquisition Fund Custodian shall not be liable for the accuracy of any calculations or the sufficiency of any funds for any purpose. The Acquisition Fund Custodian shall not have any liability under this Agreement except to the extent of its own gross negligence or willful misconduct. In no event shall the Acquisition Fund Custodian be liable for any special, indirect or consequential

1 damages.

2 2. Acquisition of Property

3 2.1 Acquisition Contracts. Lessee will arrange for, supervise and
4 provide for, or cause to be supervised and provided for, the acquisition of the
5 Equipment, with moneys available in the Acquisition Fund. Lessee represents the
6 estimated costs of the Equipment are within the funds estimated to be available
7 therefore, and Lessor makes no warranty or representation with respect thereto.
8 Lessor shall have no liability under any of the acquisition or construction contracts.
9 Lessee shall obtain all necessary permits and approvals, if any, for the acquisition,
10 equipping and installation of the Equipment, and the operation and maintenance
11 thereof.

12 2.2 Authorized Acquisition Fund Disbursements. Disbursements
13 from the Acquisition Fund shall be made for the purpose of paying (including the
14 reimbursement to Lessee for advances from its own funds to accomplish the
15 purposes hereinafter described) the cost of acquiring the Equipment.

16 2.3 Disbursement Procedure. No disbursement from the
17 Acquisition Fund ("Disbursement") shall be made unless and until Lessor has
18 approved such Disbursement. Prior to disbursement from the Acquisition Fund there
19 shall be filed with the Acquisition Fund Custodian a requisition for such payment in
20 the form of Disbursement Request attached hereto as Schedule 1 to the Acquisition
21 Fund Agreement, stating each amount to be paid and the name of the person, firm
22 or corporation to whom payment thereof is due. Each such Disbursement shall be
23 signed by an authorized representative of Lessee (an "Authorized Representative")
24 and by Lessor, and shall be subject to the following:

25 2.3.1 Delivery to Lessor of a certificate of Lessee to the effect
26 that: (i) an obligation in the stated amount has been incurred by Lessee, and
27 that the same is a proper charge against the Acquisition Fund for costs
28 relating to the Equipment identified in the Lease, and has not been paid; (ii)

1 the Authorized Representative has no notice of any vendor's, mechanic's or
2 other liens or rights to liens, chattel mortgages, conditional sales contracts or
3 security interest which should be satisfied or discharged before such
4 payment is made; (iii) such Disbursement contains no item representing
5 payment on account, or any retained percentages which Lessee is, at the
6 date of such certificate, entitled to retain; and (iv) the Equipment is insured in
7 accordance with the Lease;

8 2.3.2 Delivery to Lessor of invoices (and proofs of payment of
9 such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such
10 Equipment has passed to Lessee) and any additional documentation
11 reasonably requested by Lessor and delivery to Lessor of an Acceptance
12 Certificate executed by Lessee, together with any Purchase Agreement
13 Assignment or bill of sale and invoice therefore as required by Paragraph 9
14 of the Lease;

15 2.3.3 The disbursement shall occur during the Acquisition
16 Period set forth in the Schedule applicable to such Equipment;

17 2.3.4 There shall exist no Event of Default (nor any event
18 which, with notice or lapse of time or both, would become an Event of
19 Default); and,

20 2.3.5 No material adverse change in Lessee's or any
21 guarantor's financial condition shall have occurred since the date of the
22 Lease.

23 3. Deposit to Acquisition Fund. Upon satisfaction of the conditions
24 specified in Paragraph 4.1 of the Lease, Lessor will cause the Purchase Price to be
25 deposited in the Acquisition Fund. Lessee agrees to pay any costs with respect to the
26 Equipment in excess of amounts available therefore in the Acquisition Fund.

27 4. Excessive Acquisition Fund. Following the final disbursement from
28 the Acquisition Fund at the end of the Acquisition Period, or termination of the Acquisition

1 Fund as otherwise provided herein or in the Lease, the Acquisition Fund Custodian shall
2 transfer any remainder from the Acquisition Fund to Lessor for application to amounts owed
3 under the Lease in accordance with Paragraph 34(c) of the Lease.

4 5. Security Interest. The Acquisition Fund Custodian and Lessee
5 acknowledge and agree that the Acquisition Fund and all proceeds thereof are being held
6 by Acquisition Fund Custodian for disbursement or return as set forth herein. Lessee
7 hereby grants to Lessor a first priority perfected security interest in the Acquisition Fund,
8 and all proceeds thereof and all investments made with any amounts in the Acquisition
9 Fund. If the Acquisition Fund, or any part thereof, is converted to investments as set forth
10 in this Agreement, such investments shall be made in the name of Acquisition Fund
11 Custodian and the Acquisition Fund Custodian hereby agrees to hold such investments as
12 bailee for Lessor so that Lessor is deemed to have possession of such investments for the
13 purpose of perfecting its security interest.

14 5.1 Control of Acquisition Account. In order to perfect Lessor's
15 security interest by means of control in (i) the Acquisition Fund established
16 hereunder, (ii) all entitlements, investment property and other financial assets now
17 or hereafter credited to the Acquisition Fund, (iii) all of Lessee's rights in respect of
18 the Acquisition Fund, such entitlements, investment property and other financial
19 assets, and (iv) all products, proceeds and revenues of and from any of such
20 entitlements, investment property and other financial assets deposited in or credited
21 to the Acquisition Fund (collectively, the "Collateral"), Lessor, Lessee and
22 Acquisition Fund Custodian further agree as follows:

23 5.1.1 All terms used in this Section 5.1 which are defined in
24 the Commercial Code of the State of California ("Commercial Code") but are
25 not otherwise defined herein shall have the meanings assigned to such terms
26 in the Commercial Code, as in effect on the date of this Agreement.

27 5.1.2 Lessee hereby irrevocably authorizes Acquisition Fund
28 Custodian and Acquisition Fund Custodian hereby agrees, to comply with all

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instructions entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, in accordance with the terms hereof without further consent by Lessee, except as otherwise specifically provided in this Agreement.

5.1.3 Acquisition Fund Custodian hereby represents and warrants (a) that the records of Acquisition Fund Custodian show that Lessee is the sole owner of the Collateral, (b) that Acquisition Fund Custodian has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (c) that Acquisition Fund Custodian is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Acquisition Fund Custodian is obligated to accept from Lessor under this Agreement and entitlement orders that Acquisition Fund Custodian, subject to the provisions of paragraph 5.1.5 below, is obligated to accept from Lessee.

5.1.4 Without the prior written consent of Lessor, Acquisition Fund Custodian will not enter into any agreement by which Acquisition Fund Custodian agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph 5.1.5 below, Lessee, with respect to any portion or all of the Collateral. Acquisition Fund Custodian shall promptly notify Lessor if any person requests Acquisition Fund Custodian to enter into any such agreement or otherwise asserts or seeks to assert a lien, encumbrance or adverse claim against any portion or all of the Collateral.

5.1.5 Except as otherwise provided in this paragraph 5.1.5 and subject to Section 1.2 hereof, Acquisition Fund Custodian may allow Lessee to effect sales, trades, transfers and exchanges of Collateral within

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the Acquisition Fund, but will not, without the prior written consent of Lessor unless otherwise authorized by other Sections of this Agreement, allow Lessee to withdraw any Collateral from the Acquisition Fund. Acquisition Fund Custodian acknowledges that Lessor reserves the right, by delivery of written notice to Acquisition Fund Custodian, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Acquisition Fund when those withdrawals are intended to be used by Lessee for any purpose other than the acquisition of Equipment in accordance with the terms of this Agreement and the Lease. Further, Acquisition Fund Custodian hereby agrees to comply with any and all written instructions delivered by Lessor to Acquisition Fund Custodian (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor's claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

5.1.6 Lessee hereby irrevocably authorizes Acquisition Fund Custodian to comply with all instructions and entitlement orders delivered by Lessor to Acquisition Fund Custodian.

5.1.7 Acquisition Fund Custodian will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Acquisition Fund Custodian will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

5.1.8 Acquisition Fund Custodian is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in

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Section 6 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Acquisition Fund statements or reports issued or sent to Lessee with respect to the Acquisition Fund.

6. Miscellaneous. Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This Agreement may not be amended except in writing signed by all parties hereto. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below:

If to Lessor: Banc of America Public Capital Corp
555 California Street, 4th Floor
CA5-705-04-01
San Francisco, CA 94104
ATTN: Contract Administration
Tel No. (415) 765-1897
Fax No. (415) 343-0531

If to Lessee: City of Long Beach
333 W. Ocean Boulevard, 6th Floor
Long Beach, CA 90802-4664
Attn: Lori Koh
Tel No. (562) 570-5023
Fax No. (562) 570-5836

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If to Acquisition
Fund Custodian: MUFG Union Bank, N.A. Corporate Trust Department
120 S. San Pedro Street, Suite 400
Los Angeles, CA 90012
Attn: Alison Braunstein
Phone: (213) 972-5674
Fax: (213) 972-5694

In Witness Whereof, the parties have executed this Acquisition Fund Agreement as of the date first above written.

Banc of America Public Capital Corp As Lessor	City of Long Beach As Lessor
By _____ Name _____ Title _____	By _____ Name _____ Title _____

MUFG Union Bank, N.A.
As Acquisition Fund Custodian

By _____
Name _____
Title _____

1 ATTACHMENT H
2 EQUAL BENEFITS ORDINANCE DISCLOSURE
3

4 As a condition of being awarded a contract with the City of Long Beach
5 ("City"), the selected Contractor ("Contractor") may be required during the performance of
6 the Contract, to comply with the City's nondiscrimination provisions of the Equal Benefits
7 Ordinance ("EBO") set forth in the Long Beach Municipal Code section 2.73 et seq. The
8 EBO requires that during the performance of the contract, the Contractor shall provide
9 equal benefits to its employees with spouses and employees with domestic partners.
10 Benefits include but are not limited to, health benefits, bereavement leave, family medical
11 leave, member ship and membership discounts, moving expenses, retirement benefits
12 and travel benefits. A cash equivalent payment is permitted if an employer has made
13 all reasonable efforts to provide domestic partners with access to benefits but is unable
14 to do so. A situation in which a cash equivalent payment might be used if where the
15 employer has difficulty finding an insurance provider that is willing to provide domestic
16 partner benefits.

17 The EBO is applicable to the following employers:

- 18 • For-profit employers that have a contract with the City for the purchase of goods,
19 services, public works or improvements and other construction projects in the
20 amount of \$100,000 or more For-profit entities that generate \$350,000 or more in
21 annual gross receipts leasing City property pursuant to a written agreement for a
22 term exceeding 29 days in any calendar year

23 Contractors who are subject to the EBO must certify to the City before
24 execution of the contract that they are in compliance with the EBO by completing the EBO
25 Certification Form, attached, or that they have been issued a waiver by the City.
26 Contractors must also allow authorized City representatives access to records so the City
27 can verify compliance with the EBO. The EBO includes provisions that address difficulties
28 associated with implementing procedures to comply with the EBO. Contractors can delay

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1 implementation of procedures to comply with the EBO in the following circumstances:

2 1) By the first effective date after the first open enrollment process
3 following the contract start date, not to exceed two years, if the Contractor/vendor submits
4 evidence of taking reasonable measures to comply with the EBO;

5 2) At such time that the administrative steps can be taken to incorporate
6 nondiscrimination in benefits in the Contractor/vendor's infrastructure, not to exceed three
7 months; or

8 3) Upon expiration of the contractor's current collective bargaining
9 agreement(s).

10 Compliance with the EBO

11 If a contractor has not received a waiver from complying with the EBO and
12 the timeframe within which it can delay implementation has expired but it has failed to
13 comply with the EBO, the Contractor may be deemed to be in material breach of the
14 Contract. In the event of a material breach, the City may cancel, terminate or suspend the
15 City agreement, in whole or in part. The City also may deem the Contractor an irresponsible
16 bidder and disqualify the Contractor from contracting with the City for a period of three
17 years. In addition, the City may assess liquidated damages against the Contractor that
18 may be deducted from money otherwise due the Contractor. The City may also pursue
19 any other remedies available at law or in equity.

20 By my signature below, I acknowledge that the Contractor understands that
21 to the extent it is subject to the provisions of the Long Beach Municipal Code section 2.73,
22 the Contractor shall comply with this provision.

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Printed Name:	Title:	—
Signature:	Date:	—
Business Entity Name:		—

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ATTACHMENT I
RFP RESPONSE SECTION PROPOSED RATES

TERM	YIELD CURVE	% OF YIELD CURVE	SPREAD TO YIELD CURVE
1 YEAR			
2 YEARS			
3 YEARS			
4 YEARS			
5 YEARS			
6 YEARS			
7 YEARS			
8 YEARS			
9 YEARS			
10 YEARS			
15 YEARS			
20 YEARS			

FOOTNOTES:

- 1 Indicate the appropriate Yield Curve (Treasury) or other source.
- 2 What percent, if any of the Yield Curve specified in footnote 1
- 3 What spread, if any, from the Yield Curve in footnote 1 after, if any, percentage adjustments from footnote 2.

Provide a list of assets that cannot be financed

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EXHIBIT 1

SCHEDULE OF PROPERTY NO. ____

Re: Equipment Lease-Purchase Agreement, dated as of _____, between Banc of America Public Capital Corp, as Lessor, and City of Long Beach, as Lessee

1. Defined Terms. All terms used herein have the meanings ascribed to them in the above-referenced Equipment Lease-Purchase Agreement (the "Agreement").

2. Equipment. The following items of Equipment are hereby included under this Schedule of the Agreement.

Quantity	Description	Serial No.	Model No.	Location

3. Payment Schedule. The Rental Payments shall be in such amounts and payable on such dates as set forth in the Rental Payment Schedule attached to this Schedule as Exhibit 2. Rental Payments shall commence on the date on which the Equipment listed in this Schedule is accepted by Lessee, as indicated in an Acceptance Certificate substantially in the form of Exhibit 3 to the Agreement or the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with an Acquisition Fund Custodian, whichever is earlier.

4. Prepayment Option Amount Schedule. The Prepayment Option Amount on each Rental Payment date for the applicable Term in the Equipment listed in this Schedule shall be the amount set forth for such Rental Payment date in the "Prepayment Option Amount" column of the Rental Payment Schedule attached to this Schedule. The Prepayment Option Amount is in addition to all Rental Payments then due under this Schedule (including the Rental Payment shown on the same line in the Rental

1 Payment Schedule).

2 5. Representations and Warranties. Lessee hereby represents and
3 warrants that its representations and warranties set forth in the Agreement are true and
4 correct as though made on the date of commencement of Rental Payments on this
5 Schedule. Lessee further represents and warrants that (a) no material adverse change in
6 Lessee's financial condition has occurred since the date of the Agreement, (b) the
7 governing body of Lessee has authorized the execution and delivery of the Agreement and
8 the Leases pursuant to Council approval dated _____, (c) the Equipment
9 described in the Agreement referenced above is essential to the functions of the Lessee
10 or the services Lessee provides its citizens; (d) Lessee has immediate need for, and
11 expects to make immediate use of, substantially all such Equipment, which will be used by
12 Lessee only for the purpose of performing one or more of Lessee's governmental or
13 proprietary functions consistent with the permissible scope of its authority; and (e) Lessee
14 expects and anticipates adequate funds to be available for all future payments or rent due
15 after the current budgetary period.

16 6. The Lease. The terms and provisions of the Agreement (other than to
17 the extent that they relate solely to other Schedules or Equipment listed on other
18 Schedules) are hereby incorporated into this Schedule by reference and made a part
19 hereof.

20 7. Purchase Price. The Purchase Price which Lessor shall pay to the
21 Acquisition Fund Custodian in connection with this Schedule is \$_____, all of
22 which is for deposit to the Acquisition Fund.

23 8. Lease Term. The Lease Term shall consist of the Original Term,
24 ending on _____.

25 9. State. For purposes of this Agreement, "State" means the State of
26 California.

27 10. Fiscal Period. Lessee's current Fiscal Period extends from
28 _____ to _____.

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Banc of America Public Capital Corp
555 California Street, 4th Floor
CA5-705-04-01
San Francisco, California 94104

_____, 2015

By _____
Name _____
Title _____

_____, 2015

By _____
Name _____
Title _____

"Lessor"

CITY OF LONG BEACH
333 W. Ocean Boulevard, 6th Floor
Long Beach, California 90802-4664

_____, 2015

By _____
City Manager

"Lessee"

This Agreement is approved as to form on _____, 2015.

CHARLES PARKIN, City Attorney

By _____
Deputy

Duplicate Original No. ____ of ____ manually executed and serially
numbered duplicate originals. To the extent that this Lease constitutes chattel paper (as
defined in the Uniform Commercial Code), no security interest herein may be created
through the transfer or possession of any Duplicate Original other than Duplicate Original
No. 1.

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EXHIBIT 2

RENTAL PAYMENT SCHEDULE

<u>Rental Payment Number</u>	<u>Rental Payment Date</u>	<u>Rental Payment Amount</u>	<u>Interest Portion</u>	<u>Principal Portion</u>	<u>Prepayment Option Amount</u>

For purposes of this Lease, "Taxable Rate," with respect to the interest component of Rental Payments, means an annual rate of interest equal to ____%.

LESSEE: City of Long Beach

By: _____

Name: _____

Title: _____

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

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EXHIBIT 3

ACCEPTANCE CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting representative of Lessee identified below and, with respect to the above referenced Equipment Schedule and Lease, that:

1. The Equipment described below has been delivered and installed in accordance with Lessee's specifications, is in good working order and is fully operational and has been fully accepted by Lessee on or before the date indicated below:

2. Attached are (a) evidence of insurance with respect to the Equipment; (b) Vendor invoice(s) and/or bill(s) of sale relating to the Equipment, and if such invoices have been paid by Lessee, evidence of payment thereof (evidence of official intent to reimburse such payment as required by the Code having been delivered separately by Lessee); and (c) financing statements executed by Lessee as debtor and/or the original certificate of title or manufacturer's certificate of origin and title application, if any, for any Equipment which is subject of certificate of title laws.

3. Rental Payments shall be due and payable by Lessee on the dates and in the amounts indicated on the Payment Schedule attached to the Equipment Schedule. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Lease during the current Fiscal Year of Lessee. Lessee intends to make Rental Payments for the full lease Term if funds are appropriated for the Rental Payments in subsequent Fiscal Years.

4. Lessee hereby authorizes and directs Lessor to find the Acquisition cost of the Equipment by paying, or directing the payment by the Escrow Agent (if applicable) of, the invoice prices to the Vendor(s), in each case as set forth above, or by reimbursing Lessee in the event such invoice prices have been previously paid by Lessee.

5. Final Acceptance Certificate. This Acceptance Certificate constitutes final acceptance of all of the Equipment identified in the Equipment Schedule described above. Lessee certifies that upon payment in accordance with paragraph 4 above, or direction to the Escrow Agent (if applicable) to make payment, Lessor shall have fully and satisfactorily performed all of its covenants and obligations under the Lease [CHECK BOX IF APPLICABLE.]

CITY OF LONG BEACH,
Lessee

By: _____
Name: David Nakamoto
Title: City Treasurer
Date: _____

EXHIBIT 4
(Form 8038G)

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lana Beach, CA 90802-4664

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OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

EXHIBIT 5

INSURANCE COVERAGE REQUIREMENTS

To: Lessor:

From Lessee: City of Long Beach
333 W. Ocean Boulevard, 6th Floor
Long, Beach, CA 90802-4664

In accordance with Paragraph 15 of the Master Lease Agreement dated as of _____ (the "Agreement"), by and between Lessor and Lessee, Lessee shall deliver to Lessor a Certificate of Self Insurance on Lessee's standard form providing evidence of coverage for:

(a) Commercial general liability self-insurance equivalent in coverage scope to ISO CG 00 01 10 93 naming the Lessor as additional insured on a form equivalent in coverage scope to ISO CG 20 26 11 85 in an amount of \$250,000 per occurrence and \$500,000 general aggregate. Said insurance shall be primary insurance with respect to Lessor.

(b) Special perils property coverage in an amount sufficient to cover the full replacement value of Lessee's property and equipment as delineated in Exhibit 11 or the applicable Prepayment Option Amount in Exhibit 11, whichever is greater naming Lessor as additional insured and loss payee as its interests may appear.

The self-insurance program shall not be suspended, voided, changed, or canceled except after thirty (30) days prior written notice to Lessor, and shall be primary and not contributing to any other insurance or self-insurance maintained by Lessor.

With respect to damage to property, Lessor and Lessee hereby waive all rights of subrogation, one against the other, but only to the extent that collectible

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333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

1 commercial insurance is available for said damage. Lessee shall deliver to Lessor
2 evidence of coverage for approval as to sufficiency and form prior to the Agreement
3 hereunder.

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LESSEE: City of Long Beach

By: _____

Name: _____

Title: _____

Date: _____

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333 West Ocean Boulevard, 11th Floor
Lond Beach, CA 90802-4664

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EXHIBIT 6

Minute Order of Lessees Governing Body
(Approval of a transaction)



CITY OF LONG BEACH

DEPARTMENT OF FINANCIAL MANAGEMENT

333 West Ocean Boulevard, 6th Floor • Long Beach, CA 90802 • (562) 570-6465 • Fax (562) 570-5836

May 19, 2015

HONORABLE MAYOR AND CITY COUNCIL
City of Long Beach
California

RECOMMENDATION:

Adopt Specifications No. RFP FM15-076 and award a contract to Banc of America Public Capital Corporation, of Scottsdale, AZ, to provide master lease services on an as-needed basis, in an amount not to exceed \$111,000,000, for a period of five years, at the discretion of the City Manager. (Citywide)

DISCUSSION

City Council approval is requested to enter into a contract (Master Lease Agreement) with Banc of America Public Capital Corporation (BAPCC), to provide the City with master lease services on an as-needed basis, to facilitate the acquisition of eligible assets. The Master Lease Agreement allows the City to lease-finance assets such as computers, software systems, and higher-cost equipment purchases such as fire trucks, in an efficient low-cost manner. The City would enter into multiple individual lease agreements, whose terms will be governed by the Master Lease Agreement. Terms for individual leases may range from three to fifteen years, depending on the useful life of the asset. The interest rates on individual lease agreements are established through an agreed pricing formula, which provides for a fixed interest rate spread over the U.S. Treasury curve of like terms, adjusted to a tax-exempt rate. Rates may be locked-in up to five business days before funding is needed, thereby providing additional pricing flexibility for new acquisitions. Each acquisition and related individual lease under the Master Lease Agreement must be approved by the City Council.

A Request for Proposals (RFP) was advertised in the Press-Telegram on March 23, 2015, and 3,536 potential vendors specializing in equipment financing were notified of the RFP opportunity. Of those proposers, 45 proposers downloaded the specifications via our electronic bid system. The document was made available from the Purchasing Division located on the seventh floor of City Hall and the Division's website at www.longbeach.gov/purchasing. An RFP announcement was also included in the Purchasing Division's weekly update of Open Bid Opportunities, which is sent to 30 local, minority, and women-owned business groups. Two proposals were received on April 9, 2015. Of those two proposals, none were Disadvantaged Business Enterprises (DBEs), Minority-owned Business Enterprises (MBEs), certified Small Business Enterprises (SBEs), Women-owned Business Enterprises (WBEs), or Long Beach businesses (Local).

A selection committee, comprised of staff from the City Treasurer's Office, evaluated the proposals on the criteria set forth in the RFP. After evaluation of the proposals, the selection committee determined that BAPCC (not a DBE, MBE, SBE, WBE or Local), offered the best terms for the Master Lease Agreement based on:

- Compliance with the RFP specifications of \$111 million in all specified general categories;
- Lowest costly interest rate structure;
- Lease terms of three-years to fifteen years; and,
- No required minimum transaction size.

BAPCC's full compliance with the scope of the RFP will augment the City Treasury's investment services through additional investment oversight, enhanced reporting, application of portfolio optimization software, and enhanced compliance oversight.

Local Business Outreach

In an effort to align with the City's outreach goal, Long Beach businesses are encouraged to submit proposals for City contracts. The Purchasing Division also assists businesses with registering on the Bids Online database to download RFP specifications. Through outreach, 386 Long Beach vendors were notified to submit proposals, of which four downloaded and none submitted a proposal. The Purchasing Division is committed to continuing to perform outreach to local vendors to expand the bidder pool.

This matter was reviewed by Deputy City Attorney Amy R. Webber on April 29, 2015 and by Budget Management Officer Victoria Bell on April 30, 2015.

TIMING CONSIDERATIONS

City Council action to adopt Specifications No. RFP FM15-076 and award a contract concurrently is requested on May 19, 2015, to ensure the continuous availability of financing necessary to support the City's future initiatives.

FISCAL IMPACT

The total estimated usage of the Master Lease Agreement is \$111,000,000 over the next five years. The cost associated with each draw will depend on interest rates at the time of pricing. City Council approval of each project and lease financing recommendation remains a requirement and sufficient funds will have to be budgeted by the requesting department in order to fund the lease obligations under this agreement. There is no local job impact associated with this recommendation.

HONORABLE MAYOR AND CITY COUNCIL
May 19, 2015
Page 3

SUGGESTED ACTION:

Approve recommendation.

Respectfully submitted,



JOHN GROSS
DIRECTOR OF FINANCIAL MANAGEMENT

JG:DN
K:\EXEC\COUNCIL LETTERS\TREASURY\05-19-15 ccl - RFP FM15-076 - MASTER LEASE AGREEMENT.DOCX

APPROVED:



PATRICK H. WEST
CITY MANAGER

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

EXHIBIT 7

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[LETTERHEAD OF LESSEE'S COUNSEL]

[DATE OF LEASE]

LESSOR

Re: Master Lease Agreement dated as of _____, 2015 (the "Agreement")
by and between TBA ("Lessor") and CITY OF LONG BEACH, CALIFORNIA

("Lessee") Ladies and Gentlemen:

We have acted as counsel to Lessee with respect to the Agreement described above and various related matters, and in this capacity have reviewed a duplicate original or certified copy thereof And Equipment Schedule No. __ executed pursuant thereto (together with the Agreement, the Lease"). The terms capitalized in this opinion but not defined herein shall have the meanings assigned to them in the Lease. Based upon the examination of these and such other documents as we have deemed relevant, it is our opinion that:

1. Lessee is a municipal corporation and political subdivision of the State of California (the "State") within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended, and is duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has the power under applicable law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Lease has been duly authorized, executed and delivered by and on behalf of Lessee, and is a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

1 The authorization and execution of the Lease and all other proceedings of Lessee
2 relating to the transactions contemplated thereby have been performed in
3 accordance with all applicable open meeting, public records, public bidding and
4 other laws, rules and regulations of the State.

5 4. The execution of the Lease and the appropriation of moneys to pay the Rental
6 Payments coming due thereunder do not and will not result in the violation of any
7 constitutional, statutory or other limitation relating to the manner, form or amount
8 of indebtedness which may be incurred by Lessee.

9 5. There is no litigation, action, suit or proceeding pending or before any court,
10 administrative agency, arbitrator or governmental body that challenges the
11 organization or existence of Lessee, the authority of Lessee or its officers or its
12 employees to enter into the Lease, the proper authorization and/or execution of the
13 Lease or the documents contemplated thereby, the appropriation of moneys to
14 make Rental Payments under the Lease for the current Fiscal Year of Lessee, or
15 the ability of Lessee otherwise to perform its obligations under the Lease and the
16 transactions contemplated thereby. To the best of our knowledge, no such litigation,
17 action, suit or proceeding is threatened.

18 6. The Equipment is personal property, and when used by Lessee will not be or
19 become fixtures under the laws of the State.

20 7. Resolution and/or Minute Order No. _____ of the governing body
21 of Lessee was duly and validly adopted by such governing body on _____,
22 and such resolution has not been amended, modified, supplemented or repealed
23 and remains in full force and effect.

24 8. The portion of Rental Payments designated as and constituting interest paid by
25 Lessee and received by Lessor is excluded from Lessor's gross income for federal
26 income tax purposes under Section 103 of the Code and is exempt from State of
27 California personal income taxes; and such interest is not a specific item of tax
28 preference or other collateral for purposes of the federal individual or corporate

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CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lond Beach, CA 90802-4664

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alternative minimum taxes.

This opinion may be relied upon by the addressee hereof and its successors and assignees of interests in the Lease, but only with regard to matters specifically set forth herein. This opinion may not be relied upon by any third party that is not a successor or assignee of the addressee.

Very truly yours,

(type name and title under signature)

EXHIBIT 8

INCUMBENCY CERTIFICATE

The undersigned City Clerk of the City of Long Beach as Lessee certifies as follows:

A. The following listed persons are duly elected and acting officials of Lessee (the "Officials") in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof:

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Master Lease Agreement dated as of _____ and the Schedules(s) thereunder and all future Schedule(s) (the "Agreement") by and between Lessee and _____ these Agreements are binding and authorized Agreements of Lessee, enforceable in all respects in accordance with their terms.

NAME	TITLE	SIGNATURE
JOHN GROSS	Director of Finance Management	
DAVID NAKAMOTO	City Treasurer	
STEPHEN HANNAH	Chief Accounting Officer	
LORI KOH	Debt Manager	
GARY NGUYEN	Cash/Investment Manager	

Dated _____ BY _____
TITLE _____

The signer of this certificate cannot be listed above as an authorized signer.

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CHARLES PARKIN, City Attorney
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Long Beach, CA 90802-4664

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EXHIBIT 9

NOTICE OF ASSIGNMENT

Date: _____

City of Long Beach, CA City Treasurer
333 West Ocean Blvd, 61h Floor
Long Beach, CA 90802

Re: Assignment of Lease(s) (as defined on Exhibit 9.1 hereto) to the Master Lease Agreement, dated as of _____ as the same may be amended (the "Agreement") (the "Leases" and the Agreement to the extent it relates to the Leases are collectively, the ("Contracts") between the CITY OF LONG BEACH, CA ("Borrower") and _____ ("Assignor").

You are hereby notified of Assignor's sale, assignment and transfer to _____ ("Assignee") on _____ (the "Effective Date") of all of its right, title, interest and obligations in, to and under the Contracts referenced on the attached Exhibit 9.1, and the related certificates, instruments and agreements executed in connection therewith (collectively, the "Related Documents"). The term "Leases" specifically excludes all other agreements entered into under the Agreement and rental payments other than with respect to the Leases identified on Exhibit 9.1.

This notice does not change any of the terms, covenants or conditions of the Contracts or the payment schedule thereunder.

From and after the Effective Date, Borrower shall deliver all payments and copies of all notices and other communications given or made by the Borrower with respect to the Contracts and Related Documents to _____ on behalf of Assignee as instructed by either Assignee or by _____, acting as paying agent on behalf of Assignee.

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CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Lond Beach, CA 90802-4664

1 For Payments, Notices and Correspondence:

2 By Wire Transfer:

By Mail:

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7 Please contact Assignee at the phone number above with any questions regarding the foregoing.

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Assignor

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By: _____

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Name: _____

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EXHIBIT 9.1

CITY OF LONG BEACH

Master Lease Agreement Dated as of _____

Leases

CUSTOMER NUMBER	LEASE SCHEDULE NUMBER	DESCRIPTION	LESSOR CONTRACT NO.

OFFICE OF THE CITY ATTORNEY
CHARLES PARKIN, City Attorney
333 West Ocean Boulevard, 11th Floor
Long Beach, CA 90802-4664

EXHIBIT 10

TAX AGREEMENT AND ARBITRAGE CERTIFICATE

This TAX AGREEMENT AND ARBITRAGE CERTIFICATE (this "Certificate") is issued by CITY OF LONG BEACH, CALIFORNIA ("Lessee") in favor of Banc of America Public Capital Corp ("Lessor") in connection with that certain Master Lease Agreement dated as of, _____ (the "Agreement"), by and between Lessor and Lessee. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

Section 1. In General

1.1. This Certificate is executed for the purpose of establishing the reasonable expectations of Lessee as to future events regarding the financing of certain equipment (the "Equipment") to be acquired by Lessor and leased to Lessee pursuant to and in accordance with the Schedule of Property (the "Schedule") executed under the Agreement (together with all related documents executed pursuant thereto and contemporaneously herewith, the "Financing Documents"). As described in the Financing Documents, Lessor shall apply _ (the "Principal Amount") toward the acquisition of the Equipment and Lessee shall make Rental Payments under the terms and conditions as set forth in the Financing Documents.

1.2. The individual executing this Certificate on behalf of Lessee is delegated with the responsibility of reviewing and executing the Financing Documents, pursuant to the official action of Lessee adopted with respect to the Financing Documents, a copy of which has been delivered to Lessor.

1.3. The Financing Documents are being entered into for the purpose of providing funds for financing the cost of acquiring, equipping and installing the Equipment which is essential to the governmental functions of Lessee, which Equipment is described

1 in the Equipment Schedule. The Principal Amount will be deposited in escrow by Lessor
2 on the date of issuance of the Financing Documents and held by MUFG Union Bank, N.A.,
3 as escrow agent (the "Escrow Agent") pending acquisition of the Equipment under the
4 terms of that certain Escrow Agreement, (the "Escrow Agreement"), by and between
5 Lessor and Escrow Agent.

6 1.4. Lessee will timely file for each payment schedule issued under the
7 Lease a Form 8038- G (or, if the invoice price of the Equipment under such schedule is
8 less than \$100,000, a Form 8038-GC) relating to such Lease with the Internal Revenue
9 Service in accordance with Section 149(e) of the Internal Revenue Code of 1986, as
10 amended (the "Code").

11 Section 2. Non-Arbitrage Certifications

12 2.1. The Rental Payments due under the Financing Documents will be
13 made with legally available and lawfully appropriated monies. No sinking, debt service,
14 reserve or similar fund or account will be created or maintained for the payment of the
15 Rental Payments due under the Financing Documents or pledged as security therefore.

16 2.2. There have been and will be issued no obligations by or on behalf of
17 Lessee that would have a material adverse effect on Lessee's ability to enter into a tax-
18 exempt lease purchase or other financing, including any that would be deemed to be (i)
19 issued or sold within fifteen (15) days before or after the date of issuance of the Financing
20 Documents; (ii) issued or sold pursuant to a common plan of financing with the Financing
21 Documents; and (iii) paid out of substantially the same source of funds as, or deemed to
22 have substantially the same claim to be paid out of substantially the same source of funds
23 as, the Financing Documents.

24 2.3. Other than the Principal Amount held under the Escrow Agreement,
25 Lessee does not and will not have on hand any funds that are or will be restricted,
26 segregated, legally required or otherwise intended to be used, directly or indirectly, as a
27 substitute, replacement or separate source of financing for the Equipment.

28 2.4. No portion of the Principal Amount is being used by Lessee to acquire

1 investments which produce a yield materially higher than the yield realized by Lessor from
2 Rental Payments received under the Financing Documents.

3 2.5. The Principal Amount does not exceed the amount necessary for the
4 governmental purpose for which the Financing Documents were entered into. Such funds
5 are expected to be needed and fully expended for payment of the costs of acquiring,
6 equipping and installing the Equipment.

7 2.6. Lessee does not expect to convey, sublease or otherwise dispose of
8 the Equipment, in whole or in part, at a date which is earlier than the final Payment Date
9 under the Financing Documents.

10 Section 3. Disbursement of Funds; Reimbursement to Lessee

11 3.1. It is contemplated that the entire Principal Amount deposited in escrow
12 will be used to pay the acquisition cost of Equipment to the Vendors or manufacturers
13 thereof, provided that, if applicable, a portion of the principal amount may be paid to Lessee
14 as reimbursement for acquisition cost payments already made by it so long as the
15 conditions set forth in Section 3.2 below are satisfied.

16 3.2. Lessee shall not request that it be reimbursed for Equipment
17 acquisition cost payments already made by it unless each of the following conditions have
18 been satisfied:

19 (a) Lessee adopted a resolution and/or minute order or otherwise
20 declared its official intent in accordance with Treasury Regulation § 1.150-2 (the
21 "Declaration of Official Intent"), wherein Lessee expressed its intent to be reimbursed from
22 the proceeds of a borrowing for all or a portion of the cost of the Equipment, which
23 expenditure was paid to the Vendor not earlier than sixty (60) days before Lessee adopted
24 the Declaration of Official Intent;

25 (b) The reimbursement being requested will be made by a written
26 allocation before the later of eighteen (18) months after the expenditure was paid or
27 eighteen (18) months after the items of Equipment to which such payment relates were
28 placed in service;

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CHARLES PARKIN, City Attorney
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1 (c) The entire payment with respect to which reimbursement is being
2 sought is a capital expenditure, being a cost of a type properly chargeable to a capital
3 account under general federal income tax principles; and,

4 (d) Lessee will use any reimbursement payment for general operating
5 expenses and not in a manner which could be construed as an artifice or device under
6 Treasury Regulation§ 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or
7 arbitrage rebate requirements.

8 Section 4. Use and Investment of Funds; Temporary Period

9 4.1. Lessee has incurred or will incur, within six (6) months from the date
10 of issuance of the Financing Documents, binding obligations to pay an amount equal to at
11 least five percent (5%) of the Principal Amount toward the costs of the Equipment. An
12 obligation is not binding if it is subject to contingencies within Lessee's control. The
13 ordering and acceptance of the items of Equipment will proceed with due diligence to the
14 date of final acceptance of the Equipment.

15 4.2. No portion of the Principal Amount will be used to acquire
16 investments that do not carry out the governmental purpose of the Financing Documents
17 and that have a substantially guaranteed yield of five (5) years or more.

18 4.3. (a) Lessee covenants and agrees that it will rebate an amount
19 equal to excess earnings on the Principal Amount deposited under the Escrow Agreement
20 to the Internal Revenue Service if required by, and in accordance with, Section 148(f) of
21 the Code, and make the annual determinations and maintain the records required by and
22 otherwise comply with the regulations applicable thereto. Lessee reasonably expects to
23 cause the Equipment to be acquired by _____.

24 (b) Lessee will provide evidence to Lessor that the rebate amount has
25 been calculated and paid to the Internal Revenue Service in accordance with Section 148(f)
26 of the Code unless (i) the entire Principal Amount is expended on the Equipment by the
27 date that is no later than the three-year and no sooner than the twelvemonth anniversary
28 of the Financing Documents or (ii) the Principal Amount is expended on the Equipment in

1 accordance with the following schedule: At least fifteen percent (15%) of the Principal
2 Amount and interest earnings thereon will be applied to the cost of the Equipment no later
3 than the three-year and no sooner than the twelve-month anniversary of the date of
4 issuance of the Financing Documents; at least sixty percent (60%) of the Principal Amount
5 and interest earnings thereon will be applied to the cost of the Equipment within twelve (12)
6 months from the date of issuance of the Financing Documents; and one hundred percent
7 (100%) of the Principal Amount and interest earnings thereon will be applied to the cost of
8 the Equipment prior to eighteen (18) months from the date of issuance of the Financing
9 Documents.

10 (c) Lessee hereby covenants that (i) Lessee is a governmental unit with
11 general tax powers; (ii) the Lease is not a "private activity bond" under Section 141 of the
12 Code; and (iii) at least ninety-five percent (95%) of the Principal Amount is used for the
13 governmental activities of Lessee.

14 Section 5. Escrow Account

15 The Financing Documents provide that the monies deposited in escrow shall
16 be invested until payments to the Vendor(s) or manufacturer(s) of the Equipment are due.
17 Lessee will ensure that such investment will not result in Lessee's obligations under the
18 Financing Documents being treated as an "arbitrage bond" within the meaning of Section
19 148(a) of the Code. Any monies which are earned from the investment of these funds shall
20 be labeled as interest earned. All such monies will be disbursed on or promptly after the
21 date that Lessee accepts the Equipment.

22 Section 6. No Private Use; No Consumer Loan

23 6.1. Lessee will not exceed the private use restrictions set forth in Section
24 141 of the Code.

25 Specifically, Lessee will not permit more than ten percent (10%) of the
26 Principal Amount to be used for a Private Business Use (as defined herein) if, in addition,
27 the payment of more than ten percent (10%) of the Principal Amount plus interest earned
28 thereon is, directly or indirectly, secured by (i) any interest in property used or to be used

1 for a Private Business Use or (ii) any interest in payments in respect of such property or
2 derived from any payment in respect of property or borrowed money used or to be used
3 for a Private Business Use.

4 In addition, if both (A) more than five percent (5%) of the Principal Amount is
5 used as described above with respect to Private Business Use and (B) more than five
6 percent (5%) of the Principal Amount plus interest earned thereon is secured by Private
7 Business Use property or payments as described above, then the excess over such five
8 percent (5%) (the "Excess Private Use Portion") will be used for a Private Business Use
9 related to the governmental use of the Equipment. Any such Excess Private Use Portion
10 of the Principal Amount will not exceed the portion of the Principal Amount used for the
11 governmental use of the particular project to which such Excess Private Use Portion is
12 related. For purposes of this paragraph 6.1, "Private Business Use" means use of bond
13 proceeds or bond financed-property directly or indirectly in a trade or business carried on
14 by a natural person or in any activity carried on by a person other than a natural person,
15 excluding, however, use by a state or local governmental unit and excluding use as a
16 member of the general public.

17 6.2. No part of the Principal Amount or interest earned thereon will be
18 used, directly or indirectly, to make or finance any loans to non-governmental entities or
19 to any governmental agencies other than Lessee.

20 Section 7. No Federal Guarantee

21 7.1. Payment of the principal or interest due under the Financing
22 Documents is not directly or indirectly guaranteed, in whole or in part, by the United States
23 or an agency or instrumentality thereof.

24 7.2. No portion of the Principal Amount or interest earned thereon shall be
25 (i) used in making loans the payment of principal or interest of which are to be guaranteed,
26 in whole or in part, by the United States or any agency or instrumentality thereof, or (ii)
27 invested, directly or indirectly, in federally insured deposits or accounts if such investment
28 would cause the financing under the Financing Documents to be "federally guaranteed"

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1 within the meaning of Section 149(b) of the Code.

2 Section 8. Miscellaneous

3 8.1. Lessee shall keep a complete and accurate record of all owners or
4 assignees of the Financing Documents in form and substance satisfactory to comply with
5 the registration requirements of Section 149(a) of the Code unless Lessor or its assignee
6 agrees to act as Lessee's agent for such purpose.

7 8.2. Lessee shall maintain complete and accurate records establishing the
8 expenditure of the Principal Amount and interest earnings thereon for a period of five (5)
9 years after payment in full under the Financing Documents.

10 8.3. To the best of the undersigned's knowledge, information and belief,
11 the above expectations are reasonable and there are no other facts, estimates or
12 circumstances that would materially change the expectations expressed herein.

13 IN WITNESS WHEREOF, this Tax Agreement and Arbitrage Certificate has
14 been executed on behalf of Lessee as of [Month, day, 2015].

15
16 CITY OF LONG BEACH, CALIFORNIA,

17
18 Lessee

19 By: _____

20 Name: _____

21 Title: _____

22 Date: _____

23
24
25
26
27
28

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SCHEDULE 1

This Schedule is to be placed behind the Acquisition Fund Agreement.

Form of Disbursement Request No. _____

Re: Schedule of Property No. _____ dated as of _____, by and between Banc of America Public Capital Corp, as Lessor and City of Long Beach, as Lessee, incorporating the terms of that certain Master Lease Agreement dated as of _____, by and between Lessor and Lessee (the "Lease") In accordance with the terms of the Acquisition Fund and Account Control Agreement, dated as of _____ (the "Acquisition Fund and Account Control Agreement") by and among Banc of America Public Capital Corp ("Lessor"), City of Long Beach ("Lessee") and MUFG Union Bank , N.A., (the "Acquisition Fund Custodian"), the undersigned hereby requests the Acquisition Fund Custodian pay the following persons the following amounts from the Acquisition Fund created under the Acquisition Fund and Account Control Agreement (the "Acquisition Fund") for the following purposes.

Payee's Name and Address	Invoice Number	Dollar Amount	Purpose

The undersigned hereby certifies as follows:

(i) An obligation in the stated amount has been incurred by Lessee, and the same is a proper charge against the Acquisition Fund for costs relating to the Equipment identified in the Lease, and has not been paid. Attached hereto is the original invoice with respect to such obligation.

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1 (ii) The undersigned, as Authorized Representative, has no notice of any
2 vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales
3 contracts or security interest which should be satisfied or discharged before such payment
4 is made.

5 (iii) This Disbursement contains no item representing payment on
6 account, or any retained percentages which Lessee is, at the date hereof, entitled to retain.

7 (iv) The Equipment is insured in accordance with the Lease.

8 (v) No Event of Default, and no event which with notice or lapse of time,
9 or both, would become an Event of Default, under the Lease has occurred and is continuing
10 at the date hereof.

11 (vi) The disbursement shall occur prior to the end of the Utilization Period
12 set forth in the Schedule applicable to such Equipment.

13 (vii) No material adverse change in Lessee's or any guarantor's financial
14 condition shall have occurred since the date of the Lease.

15
16 Dated: _____

CITY OF LONG BEACH

17 By _____

18 Name _____

19 Title: Authorized Representative

20
21 Disbursement of funds from the
22 Acquisition Fund in accordance with the
23 foregoing Disbursement Request
24 hereby is authorized

25
26 _____
As Lessor under the Lease

27
28