

AN ORDINANCE 2018-02-15-0112

AUTHORIZING THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP AND AN ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP AND FROST BANK FOR THE ACQUISITION OF ONE (1) HELICOPTER FOR THE POLICE DEPARTMENT; AUTHORIZING SCHEDULE A TO THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT IN THE TOTAL AMOUNT OF \$4,963,223.00, AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

* * * * *

WHEREAS, the City of San Antonio, Texas (“City” or “Lessee”) is a home rule municipality, a political subdivision of, and is duly organized and existing pursuant to the Constitution and laws of the State of Texas (“State”); and

WHEREAS, pursuant to applicable law, the City Council (“Council”) of the City is authorized to acquire, dispose of, and encumber personal property, including, without limitation, rights and interest in property, and leases necessary to the functions or operations of the City; and

WHEREAS, a Request for Bid for Tax-Exempt Equipment Lease/Purchase Financing (“RFB”), soliciting bids for a tax-exempt equipment lease/purchase financing provider was issued by the City on December 18, 2017; and

WHEREAS, seven (7) financial institutions submitted bids in response to the RFB, which were received by the City and evaluated by the Finance Department; and

WHEREAS, City Staff recommended that the City, as “Lessee”, enter into a Master Agreement (defined herein) with Banc of America Public Capital Corp as “Lessor” (attached hereto as **Exhibit A**) and an Escrow and Account Control Agreement with the Lessor, the Lessee, and Frost Bank, San Antonio, Texas as “Escrow Agent” (attached hereto as **Exhibit B**), providing terms and conditions under which lease/purchase transactions shall be conducted by and between the parties; and

WHEREAS, the Lessee desires to acquire on or about February 21, 2018, one (1) helicopter (“Helicopter”) for the total amount of \$4,963,223.00, as disclosed in

Schedule A to the Master Agreement attached hereto as **Exhibit C** and incorporated by reference for all purposes; and

WHEREAS, the Helicopter is sometimes hereafter collectively referred to as the "Equipment"; and

WHEREAS, Lessor shall act as lessor under Schedule A to the Master Agreement; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental and/or proprietary functions; and

WHEREAS, the Council hereby finds and determines that the adoption of this Ordinance and authorization for the execution and delivery of Schedule A to the Master Agreement are in the best interests of the City; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The City hereby approves the bid form presented by Banc of America Public Capital Corp as the low bid and selects and approves Banc of America Public Capital Corp as the finance provider of the Master Tax-Exempt Equipment Lease/Purchase Agreement which provides for the financing of \$4,963,223.00 for the acquisition of the Helicopter for the Police Department at an interest rate of 2.6422% for an eighty-four (84) month term to pay the costs of the transaction. The terms and conditions of that certain Master Equipment Lease/Purchase Agreement ("Master Agreement") by and between the City and Banc of America Public Capital Corp, a true and correct copy of which is attached hereto as **Exhibit A**, are hereby approved. The City Manager, the City Manager's designee, and/or the City's Chief Financial Officer or his designee, and/or the Deputy Chief Financial Officer or his designee, acting on behalf of the City, are hereby authorized to execute and enter into the Master Agreement in substantially the form set forth in **Exhibit A** hereto.

SECTION 2. The City hereby selects and approves Frost Bank, San Antonio, Texas, as the account agent of the Escrow and Account Control Agreement (the "Escrow Agreement"). The terms and conditions of that certain Escrow and Account Control Agreement ("Escrow Agreement") by and among the City; Frost Bank, San Antonio, Texas; and Banc of America Public Capital Corp, a true and correct copy of which is attached hereto as **Exhibit B**, are hereby approved. The City Manager, the City Manager's designee, and/or the City's Chief Financial Officer or his designee, and/or the Deputy Chief Financial Officer or his designee, acting on behalf of the City, are hereby authorized to execute and enter into the Escrow Agreement in substantially the form set forth in **Exhibit B** hereto.

SECTION 3. Schedule A to the Master Agreement, as attached hereto as **Exhibit C** is hereby approved and is incorporated by reference into this Ordinance for all purposes.

SECTION 4. The City Manager, the City Manager's designee, and/or the City's Chief Financial Officer or his designee, and/or the Deputy Chief Financial Officer or his designee, acting on behalf of the City, are hereby authorized to negotiate, execute and enter into Schedule A to the Master Agreement which document is available for public inspection at the Office of the City Clerk. The Mayor, City Manager, Chief Financial Officer, Deputy Chief Financial Officer, City Attorney, and the City Clerk (each an "Authorized Officer"), acting on behalf of the City, are each hereby authorized to enter into, execute, and deliver such other documents and certificates relating to Schedule A to the Master Agreement as the Authorized Officer deems necessary and appropriate as specified in Schedule A to the Master Agreement, without further action by this Council. All other related contracts, certificates, and agreements necessary and incidental to Schedule A to the Master Agreement are hereby authorized, with the exception of adding future Schedules to the Master Agreement, other than Schedule A as authorized by this Ordinance. Future Schedules to the Master Agreement shall require approval by Council.

SECTION 5. The aggregate original principal amount for the Equipment shall not exceed the amount set forth in Schedule A to the Master Agreement and shall bear interest as set forth in Schedule A to the Master Agreement and Schedule A to the Master Agreement shall contain such options to purchase and/or prepay by the City as set forth therein.

SECTION 6. The City's obligations under Schedule A to the Master Agreement shall be subject to annual appropriation or renewal by the Council as set forth in the Master Agreement and the City's obligations under Schedule A to the Master Agreement shall not constitute a general obligation of the City or indebtedness under the Constitution or laws of the State.

SECTION 7. The Chief Financial Officer and/or the Deputy Chief Financial Officer are authorized to record and account for Schedule A to the Master Agreement in accordance with generally accepted accounting principles and all other applicable laws.

SECTION 8. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 9. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

SECTION 10. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 11. If any provision of this Ordinance or the application thereof to any person


or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 12. The financial allocations in this Ordinance are subject to approval by the Deputy Chief Financial Officer, City of San Antonio. The Deputy Chief Financial Officer may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

SECTION 13. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, Texas Government Code.


SECTION 14. This Ordinance is effective immediately, upon passage by eight (8) affirmative votes; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND ADOPTED by an affirmative vote of 9 members of the City Council of the City of San Antonio, Texas, this the 15th day of February, 2018.




M A Y O R
Ron Nirenberg

ATTEST:



Leticia Vacek, City Clerk

I the undersigned, the City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Ordinance prior to its adoption and passage aforesaid.



Andrew Segovia, City Attorney
City of San Antonio, Texas

**CERTIFICATE OF CITY CLERK
OF
CITY OF SAN ANTONIO, TEXAS**

THE UNDERSIGNED HEREBY CERTIFIES that:

1. The City of San Antonio, Texas (the "City") is a body corporate and politic and a Texas home rule municipality, and was validly created and exists under the laws and the Constitution of the State of Texas and is a political subdivision or governmental agency thereof.

2. On the 15th day of February, 2018 the City Council (the "Council") of the City convened in regular session at its regular meeting place in the Municipal Plaza Building of the City (the "Meeting"), the duly constituted members of the Council being as follows:

| | |
|---------------------|----------------------------|
| Ron Nirenberg | Mayor |
| Greg Brockhouse | Mayor Pro Tem, District 6 |
| Roberto C. Trevino | Councilmember, District 1 |
| William "Cruz" Shaw | Councilmember, District 2 |
| Rebecca J. Viagran | Councilmember, District 3 |
| Rey Saldana | Councilmember, District 4 |
| Shirley Gonzales | Councilmember, District 5 |
| Ana E. Sandoval | Councilmember, District 7 |
| Manny Pelaez | Councilmember, District 8 |
| John Courage | Councilmember, District 9 |
| Clayton H. Perry | Councilmember, District 10 |

and all of such persons were present at the Meeting, except the following: GONZALES AND SANDOVAL, thus constituting a quorum. Among other business considered at the Meeting, the attached Ordinance (the "Ordinance") entitled:

AUTHORIZING THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP AND AN ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP AND FROST BANK FOR THE ACQUISITION OF ONE (1) HELICOPTER FOR THE POLICE DEPARTMENT; AUTHORIZING SCHEDULE A TO THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT IN THE TOTAL AMOUNT OF \$4,963,223.00, AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

was introduced and submitted to the Council for passage and adoption. After presentation and due consideration of the Ordinance, a motion was made by Councilmember COURAGE that the Ordinance be finally passed and adopted in accordance with the City's Home Rule

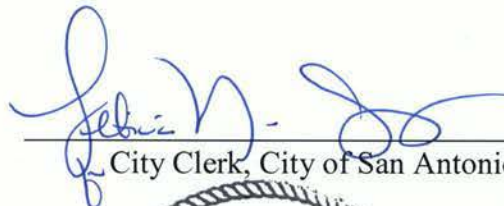
Charter. The motion was seconded by Councilmember SHAW and carried by the following vote:

9 voted "For" 0 voted Against" 0 abstained

all as shown in the official Minutes of the Council for the Meeting.

3. The attached Ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the Council of the City on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Council was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Ordinance would be considered; and the Meeting and deliberation of the aforesaid public business, including the subject of the Ordinance, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this 14th day of February, 2018.



City Clerk, City of San Antonio, Texas



| | | | | | | | |
|---------------------|--|--------------------|------------|------------|----------------|---------------|---------------|
| Agenda Item: | 22A (in consent vote: 5, 6, 7, 8, 9, 10, 11, 12A, 12B, 12C, 12D, 12E, 13A, 13B, 13C, 13D, 14, 15, 16, 17, 19, 21B, 22A, 22B, 22C, 23A, 23B, 23C, 23D, 23E, 23F, 23G, 23H) | | | | | | |
| Date: | 02/15/2018 | | | | | | |
| Time: | 09:16:43 AM | | | | | | |
| Vote Type: | Motion to Approve | | | | | | |
| Description: | Ordinance approving the Master Tax-Exempt Lease Purchase Agreement for a Police Helicopter with Banc of America Public Capital Corp and an Escrow and Account Control Agreement with Banc of America Public Capital Corp and Frost Bank; and approving Exhibits and related Schedules to the Master Tax-Exempt Lease Purchase Agreement in the amount of \$4,963,223 for the acquisition of a Police Helicopter for the Police Department. | | | | | | |
| Result: | Passed | | | | | | |
| Voter | Group | Not Present | Yea | Nay | Abstain | Motion | Second |
| Ron Nirenberg | Mayor | | x | | | | |
| Roberto C. Treviño | District 1 | | x | | | | |
| William Cruz Shaw | District 2 | | x | | | | x |
| Rebecca Viagran | District 3 | | x | | | | |
| Rey Saldaña | District 4 | | x | | | | |
| Shirley Gonzales | District 5 | x | | | | | |
| Greg Brockhouse | District 6 | | x | | | | |
| Ana E. Sandoval | District 7 | x | | | | | |
| Manny Pelaez | District 8 | | x | | | | |
| John Courage | District 9 | | x | | | x | |
| Clayton H. Perry | District 10 | | x | | | | |

EXHIBIT A

MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

(POLICE DEPARTMENT)

THIS MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT (the "*Agreement*"), dated as of February 21, 2018, is by and between **BANC OF AMERICA PUBLIC CAPITAL CORP** ("*Lessor*"), and the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*").

WITNESSETH:

WHEREAS, Lessee is a political subdivision of the State of Texas, and is authorized and empowered under the laws of the State, particularly the Public Property Finance Act, Texas Loc. Gov't. Code Ann. §271.001 et seq. (the "*Act*") to lease, as lessee, to purchase, finance, and receive, and to control and dispose of personal property, whether movable or fixed, considered by the City Council of Lessee to be necessary, useful or appropriate to one or more governmental purposes of Lessee; and

WHEREAS, the parties hereto desire that Lessee lease from Lessor the Equipment (defined below) to be identified by Lessee, on the terms and conditions set forth below, which Equipment the City Council of Lessee (the "*City Council*") shall determine is necessary, useful and appropriate to one or more governmental purposes of Lessee and shall be specifically identified in Schedule A (as hereinafter defined) attached hereto and made a part hereof; and

WHEREAS, the relationship between the parties shall be a continuing one for the term described in this Agreement and any renewals hereof, and additional Equipment may be leased from time to time by execution of additional Schedules by the parties hereto and as otherwise provided herein; and

WHEREAS, Lessee shall make Lease Payments (as hereinafter defined) and certain other payments directly to Lessor for the possession, use and ownership of the Equipment; and

WHEREAS, this Agreement shall not constitute a debt or liability obligation of the State (as hereinafter defined) or Lessee or any political subdivision of the State, or a pledge of the faith and credit or taxing power of the State, or Lessee, or any political subdivision of the State, but shall be a special obligation payable solely from the current revenues of Lessee, subject to annual appropriation by the City Council of Lessee, in accordance with the provisions hereof; and

WHEREAS, as security for the payment of all of Lessee's obligations under this Agreement Lessee shall assign to Lessor a first priority perfected security interest in the Equipment;

NOW, THEREFORE, for and in consideration of the premises and of the covenants hereinafter contained, and other valuable considerations, the parties hereto agree as follows:

SECTION 1. DEFINITIONS.

For the purposes of this Agreement and related documents, the following definitions will apply:

1.1. Acceptance Certificate. A Certificate of Lessee, in substantially the form set forth on Attachment A to Schedule A hereunder, which sample Schedule A is attached hereto and incorporated herein for all purposes as Exhibit A, by which Lessee accepts delivery of the Equipment and authorizes Lessor to disburse funds to purchase the Equipment.

1.2. Acceptance Date. Unless otherwise agreed to by the prior written consent of Lessor, the date on which the Acceptance Certificate is executed and delivered by Lessee to Lessor pursuant to the terms of this Agreement.

1.3. Escrow and Account Control Agreement. The Escrow and Account Control Agreement (the "Escrow Agreement") dated as of February 21, 2018 by and among Lessor, Lessee and Frost Bank, San Antonio, Texas (the "Escrow Agent").

1.3A. Acquisition Period. The period stated in Schedule A during which the Lease Proceeds attributable to such Lease may be expended on for the Contract Price of the Equipment.

1.4. Agreement Date. The Agreement Date means the date first written above.

1.5. Authorized Investments. Any investment authorized pursuant to the Public Funds Investment Act, Texas Government Code §2256.001 et seq. as amended from time to time, and the written investment policy of Lessee most recently approved by the City Council.

1.6. Authorized Officer. (i) In the case of Lessor, any President or Vice President, and when used in reference to an act or document of Lessor, also means any other person authorized to perform the act or sign the document, and (ii) in the case of Lessee, the Mayor of the Lessee, or any other person authorized by the City Council of Lessee pursuant to the terms of the ordinance approving this Agreement.

1.7. Closing. The date of delivery of all executed documents related to this Agreement and Schedule A hereunder as required under Section 2.1 of this Agreement and Schedule A.

1.8. Contract Price. The all-inclusive price of an item of Equipment, including the cost of installation, freight, taxes and training (such costs not to exceed 20% of the total cost of the Equipment), but excluding the cost of any service contract, as set forth in the applicable Purchase Agreement.

1.9. Contract Rate. The Contract Rate means the rate identified as such in Schedule A. The Contract Rate for Schedule A shall remain constant and unchanged for the entire term of Schedule A, except as set forth herein, there shall be no adjustments to or revisions of the Contract Rate at any time during this Agreement.

1.10. Determination of Taxability. A determination, made in regard to section 103 of the Code (as defined herein) in the form of a final determination, decision or decree by the Commissioner or any District Director of Internal Revenue, or by any court of competent jurisdiction, which is not subject to further review to the effect that by reason of any action or inaction by Lessee or any violation by Lessee of any of its covenants or representations in this Agreement or any misrepresentation in any certificate furnished in connection with a Schedule hereunder, the interest payable by the Lessee on such Schedule is includable in the gross income of the Lessor under the Code.

1.11. Equipment. The goods enumerated in Schedule A that is now or may hereafter from time to time become attached hereto and incorporated herein by reference, together and with any and all additions, modifications, attachments, replacements and parts thereof.

1.12. Equipment Acquisition Account. The account so designated and established by Lessee pursuant to Section 14.2 hereof.

1.13. Lease. This Lease including Schedule A in substantially the form as set forth in Exhibit A. The Lease is sometimes referred in this document and in Schedule A as the "Agreement."

1.14 Lease Proceeds. The total amount of money or other consideration to be paid or provided by Lessor, in no event to exceed the Maximum Contract Amount, for application in accordance with Schedule A and Section 14 hereof, including (a) the Contract Price of each item of Equipment set forth on Schedule A payable to the Vendor thereof upon acceptance by Lessee and (b) the amount, if any, paid by Lessee and applied to the reasonable costs of issuance of Schedule A.

1.15. Lease Term. The period during which the Lease is in effect, in accordance with Section 3 hereof.

1.16. Lease Term Commencement Date. The date as set forth on Schedule A hereto.

1.17. Lease Term Interest Rate. The interest rate per annum on the Lease Proceeds as set forth on Schedule A hereto, as and if adjusted pursuant to the provisions of Section 4.4 (a) hereof.

1.18. Maximum Contract Amount. The amount as set forth on Schedule A hereto, which amount is \$4,963,223.00.

1.19. Prepayment Price. The amount of outstanding principal balance of Lease Payments which Lessee may from time to time pay or cause to be paid to Lessor in addition to all other amounts then owed hereunder by Lessee in order to prepay the Lease, as provided in Section 5 hereof, such amount being set forth in Schedule A.

1.20. Purchase Agreement or Purchase Agreements. Each of the purchase agreements between Lessee and the Vendors of the Equipment.

1.21. Rebate Account. The account so designated by Lessee if so established pursuant to this Agreement.

1.22. Lease Payments. The scheduled payments (but excluding reimbursements and other amounts payable to Lessor hereunder) payable by Lessee pursuant to the provisions of this Agreement and Schedule A.

1.23. Schedule A. The document(s) now or hereafter from time to time attached hereto and incorporated herein by reference and signed by the parties which, among other things, describes the Equipment to be leased by Lessor to Lessee, describes the Lease Term for the Equipment listed thereon and Lessee's obligations with respect to payment. Schedule A shall be in substantially the form as set forth in Exhibit A.

1.24. State. The State of Texas.

1.25. Taxable Rate. The taxable interest rate specified in Schedule A, based upon a 360-day year of twelve 30-day months, payable in accordance with Section 4.4 hereof.

1.26. Total Contract Price. The amount as set forth in Schedule A hereto.

1.27. UCC. Texas Business & Commerce Code §§ 1.101 – 11.108.

1.28. Vendor or Vendors. The manufacturer or manufacturers of an item of Equipment, as well as the agents or dealers of the manufacturer, from whom Lessee has purchased or is purchasing items of Equipment.

SECTION 2. LEASE OF EQUIPMENT.

2.1. Acquisition of Equipment; Conditions Precedent.

(a) Lessee either has ordered or shall order the Equipment pursuant to one or more Purchase Agreements from one or more Vendors. Lessee shall remain liable to each such Vendor with respect to its duties and obligations in accordance with the Purchase Agreement, and as between Lessor and Lessee, Lessee shall bear the risk of loss with respect to any loss or claim relating to any item of Equipment covered by any Purchase Agreement.

(b) The obligation of Lessor to deposit the Lease Proceeds to the Equipment Acquisition Account is subject to the receipt by Lessor of the following documents and the satisfaction of the following conditions, all of which shall be reasonably satisfactory to Lessor in form and substance:

(i) There shall exist no Event of Default (as defined in Section 12.1 hereof) under this Agreement or Schedule A hereunder, or any condition, event or act which with notice or lapse of time, or both, would become an Event of Default thereunder which has not been remedied or waived;

(ii) There shall exist no material adverse change in the financial condition of Lessee;

- (iii) This Agreement, Schedule A (including Attachments B through M) duly executed by Lessee;
- (iv) Evidence of insurance as required under Section 6.7 hereof;
- (v) Escrow Agreement executed by Escrow Agent, Lessor and Lessee; and
- (vi) Financial information and such other documents, instruments or other items as may be reasonably required by Lessor.

2.2. Lease of Equipment.

(a) Upon execution of Schedule A and satisfaction of the conditions described in Section 2.1(b) above, Lessor shall provide the Lease Proceeds specified in Schedule A to acquire the Equipment and to lease to Lessee, and Lessee shall lease from Lessor the Equipment, all in accordance with the provisions of this Agreement and Schedule A, to have and to hold for the Lease Term. Lessee hereby acknowledges and agrees that Lessor shall retain a perfected first priority security interest in the Equipment in accordance with this Agreement. The execution and delivery of this Agreement and Schedule A hereunder shall not obligate Lessor to execute and deliver any other Schedule A or to provide any funds or other consideration with respect to any other Schedule A unless and until such Schedule A has been executed and delivered by all other parties thereto and all conditions set forth in this Agreement and such Schedule A have been satisfied.

SECTION 3. AGREEMENT TERM AND LEASE TERM.

3.1. Agreement Term. This Agreement shall be in effect from the Agreement Date until the earliest of (a) termination under Section 3.4 or (b) termination under Section 12.2; provided, however, no Schedule shall be executed after any Non-Appropriation or Event of Default. Schedule A shall be in effect for the Lease Term commencing upon the Lease Term Commencement Date and ending as provided in Section 3.3. Lessee's City Manager or Chief Financial Officer shall have authority to execute renewals on behalf of Lessee without further action by the City Council.

3.2 Lease Term.

(a) The Lease Term for Schedule A shall commence on the Lease Term Commencement Date set forth in Schedule A and shall terminate in accordance with Section 3.3. Schedule A is subject to the approval of the City Council, as evidenced by passage of an ordinance.

3.3. Termination of Lease Term. The Lease Term for Schedule A will terminate upon the earliest to occur of any of the following events:

(a) The non-renewal thereof in accordance with the terms and conditions of Section 3.4 of this Agreement; or

(b) The exercise by Lessee of the option granted under the provisions of Sections 5.1 or 6.8 hereof to purchase the Equipment identified in Schedule A; or

(c) Lessor's election to terminate this Agreement under Section 12.2 due to Lessee's default hereunder; or

(d) The payment by Lessee of all Lease Payments in accordance with this Agreement with respect to Schedule A and any additional amounts required to be paid by Lessee hereunder.

3.4. Non-appropriation. Subject to the provisions of Section 15 hereof, in the event sufficient funds are not appropriated for the payment of all Lease Payments required to be paid in the succeeding Fiscal Year of Lessee, then Lessee may terminate this Agreement, and/or any Lease executed hereunder, at the end of the then current Fiscal Year of Lessee, and Lessee shall not be obligated to make payment of the Lease Payments provided for in Schedule A. LESSEE AGREES TO DELIVER NOTICE TO LESSOR OF SUCH TERMINATION WITHIN 10 DAYS AFTER ITS FINAL BUDGET FOR THE NEXT FISCAL YEAR IS APPROVED.

SECTION 4. LEASE PAYMENTS.

4.1. Lease Payments to Constitute a Current Expense of Lessee. Lessor and Lessee understand and intend that the obligation of Lessee to pay Lease Payments hereunder and under Schedule A shall constitute a current expense of Lessee and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by Lessee, nor shall anything construed herein constitute a pledge of the general tax revenues, funds or moneys of Lessee. No provision, covenant or agreement contained in this Agreement or any obligation herein imposed on Lessee, or the breach thereof, shall constitute or give rise to or impose upon Lessee a pecuniary liability, a charge upon its general credit or taxing powers, (if any), or a pledge of its general revenues. In making the provisions, covenants and agreements set forth in this Agreement, Lessee has not obligated itself except with respect to the Equipment and the application of Lease Payments to be paid by Lessee hereunder.

4.2. Amount and Times of Payment. As rental for the Equipment, Lessee hereby agrees to pay Lessor the amounts specified in Schedule A at the times and in the manner set forth therein, and, if applicable, the amounts set forth in Section 15.1(c).

4.3. Allocation of Interest. A portion of each Lease Payment shall be allocated to interest in accordance with the amortization schedule attached to Schedule A and its corresponding Acceptance Certificates.

4.4. Lease Term Interest Rate.

(a) The principal component of the Lease Payments shall bear interest during the Lease Term at the rate set forth in Schedule A (the "*Interest Rate*"); provided, however, not more than thirty (30) calendar days after the date of a Determination of Taxability, such interest rate set forth in Schedule A shall automatically increase to the Taxable Rate retroactive to the date of the occurrence of the Determination of Taxability and Lessee will pay such additional

amount as will result in Lessor receiving the interest component of the Lease Payments at the Taxable Rate; provided, further, that such Interest Rate set forth in Schedule A or such Interest Rate set forth in Schedule A as increased by the terms hereof, respectively, shall never exceed the then maximum interest rate allowed for similar governmental obligations pursuant to Chapter 1204, Texas Government Code, or other applicable laws in effect as of the date of Schedule A or as of the date of any increase to such interest rate, respectively.

(b) Amortization Period. The amortization period for Schedule A shall be eighty-four (84) months, and payments shall be payable in substantially equal principal and interest payments, unless otherwise agreed by the parties and so indicated on Schedule A. Interest shall accrue commencing on the date of delivery of Lease Proceeds under Schedule A.

4.5. Place of Payments. All payments required to be made to Lessor hereunder shall be made at Lessor's principal office or as may be otherwise directed by Lessor or its assignee.

4.6. Late Payment. Should Lessee fail to pay any part of the Lease Payments or any other sum required to be paid by Lessor on or before the due date thereof, such unpaid amount shall continue to accrue interest at a rate equal to the Interest Rate plus five percent (5%) (the "Late Rate") until paid; provided, however, that the total amount of interest paid shall not exceed the maximum prescribed by Chapter 1204, Texas Government Code.

4.7. Abatement of Payments. There will be no abatement or reduction of payments by Lessee for any reason, including but not limited to, any defense, recoupment, setoff, counterclaim, or any claim (real or imaginary) arising out of or related to any defects, damages, malfunctions, breakdowns or infirmities of the Equipment. Lessee assumes and shall bear the entire risk of loss and damage to the Equipment from any cause whatsoever, it being the intention of the parties that the Lease Payments shall be made in all events unless the obligation to make Lease Payments is terminated as otherwise provided herein.

4.8. Lease Payments to Be Unconditional. The obligations of Lessee to make payment of the Lease Payments, subject to annual appropriation, and all other payments and fees due hereunder, subject to annual appropriation, as well as to perform and observe all other covenants hereunder, shall be absolute and unconditional in all events, without abatement, diminution, deduction, set-off or defense for any reason, including without limitation any failure of the Equipment to be delivered or installed, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation, destruction or unforeseen circumstances. Notwithstanding any dispute between Lessee and Lessor, any Vendor or any other person, Lessee shall make all Lease Payments when due and shall not withhold any Lease Payments pending final resolution of such dispute, nor shall Lessee assert any right of set-off or counterclaim against its obligation to make such payments required under this Agreement.

4.8A. Lessee Right of Independent Action. Nothing herein shall be deemed or construed to prohibit or prevent Lessee from asserting or claiming any right or remedy (at law or in equity) it may have against Lessor under any contract or otherwise in an independent cause of action which does not involve or constitute a right or claim to abatement, diminution, deduction, set-off or defense to any of Lessee's obligations under a Lease.

4.9. Appointment of Servicer. Lessor shall have the right, at its expense, to designate an entity to act as the “*Servicer*” for the collection of Lease Payments payable by Lessee, the enforcement of remedies or the distribution of funds to one or more holders of interests in this Agreement, as provided in Section 13.2. Any Servicer appointed under this Section shall be a trust company or a bank having the powers of a trust company, having a capital and surplus of not less than fifty million (\$50,000,000.00) dollars. Any such Servicer shall notify Lessee and Lessor of its acceptance of the appointment and, upon giving such notice, shall become Servicer, vested with all the property, rights and powers of the Servicer hereunder, without any further act or conveyance. Such Servicer shall execute, deliver, record and file such instruments as are required to confirm or perfect its acceptance hereunder and set forth its duties hereunder.

SECTION 5. PREPAYMENT; PURCHASE.

5.1. Purchase Rights. Lessee shall be entitled to full title and all ownership interests in the Equipment identified on Schedule A, and Lessor’s security interest therein shall be terminated:

(a) Upon payment in full of all Lease Payments under Schedule A and all other amounts due under this Agreement, with respect to Schedule A; or

(b) Upon written notice by Lessee delivered at least thirty (30) days in advance of any date on which a Lease Payment is due, and upon the payment on such date of the Lease Payments due, the Prepayment Price, and all other amounts owed by Lessee under Schedule A.

5.2. Optional Prepayment. Lessee shall have the right to prepay the outstanding principal balance of any Schedule A hereunder, in full or in part on any Lease payment date; provided, that as conditions precedent to Lessee’s right to make, and Lessor’s obligation to accept, any such prepayment: (i) Lessor shall have actually received the notice required in Section 5.1(b) above providing the amount of principal which will be prepaid (the “*Prepaid Principal*”) and the date (the “*Prepayment Date*”) on which the prepayment will be made; (ii) each prepayment of principal shall be in the amount of twenty-five (\$25,000) dollars or a larger integral multiple of five thousand (\$5,000) dollars (unless the prepayment retires the outstanding balance of the Schedule A in full); and (iii) each such prepayment shall be in the amount of one hundred percent (100%) of the principal amount to be prepaid plus accrued unpaid interest thereon to the Prepayment Date, plus any other sums which have become due to Lessor under such Schedule A on or before the Prepayment Date but have not been paid, provided, however, in no event shall any prepayment cause the Interest Rate on such Schedule A to exceed the maximum interest rate allowed for similar governmental obligations pursuant to Chapter 1204, Texas Government Code, as amended, or other applicable laws in effect as of the date of such Schedule A. All prepayments of principal shall be applied to principal in inverse order of maturity. There are no prepayment premiums.

5.3. Consummation of Purchase. Lessor’s security interest in the Equipment identified in Schedule A shall be terminated and released automatically in conjunction with the receipt of the full Prepayment Price or the final Lease Payment due thereunder plus any other

amounts then due from Lessee hereunder, unless an Event of Default hereunder shall have occurred and be continuing as of such date. Such date may at the discretion of Lessor be extended for such additional period as Lessor's counsel reasonably determines to be necessary to reflect the impact of, and avoid the risks related to, bankruptcy-related laws. On such date, Lessor shall deliver to Lessee such deeds, termination statements, bills of sale and other documents and instruments as Lessee shall reasonably require to evidence the transfer of all right, title and interest of Lessor in such Equipment to Lessee free and clear of all liens and encumbrances created by or arising, directly or indirectly, through Lessor.

5.4. Mandatory Prepayment. Subject to Section 13.1, all or substantially all of the assets of Lessee, including Lessee's interest in this Agreement and the Equipment, may be acquired in any manner by another entity, subject to the opinion of counsel acceptable to Lessor as to the continued exclusion from gross income of the interest component of the Lease Payments. However, if all or substantially all of the assets of Lessee, including Lessee's interest in this Agreement and the Equipment, are acquired in any manner by another entity, Lessee may be required, at the direction of Lessor to prepay in whole the Prepayment Price, plus any other amounts then due from Lessee hereunder.

5.5. Eminent Domain by Lessee. Lessee expressly agrees that in connection with any exercise of its eminent domain powers, the fair market value of the Equipment shall be the Prepayment Price plus any Lease Payment then due.

SECTION 6. RESPONSIBILITIES OF LESSEE.

6.1. Care and Use of Equipment. Lessee shall use the Equipment in a careful and proper manner, in compliance with all applicable laws and regulations, and at its sole cost and expense, service, repair and maintain the Equipment so as to keep the Equipment in good condition, repair, appearance and working order for the purposes intended, ordinary wear and tear excepted, and shall replace any part of the Equipment as may from time to time become worn out, lost, stolen, destroyed or damaged or is unfit for use. Subject to the terms of Section 6.5 hereof, any and all such additions to or replacements of the Equipment and all parts thereof shall constitute accessions to the Equipment and shall be subject to all the terms and conditions of this Agreement and included in the term "Equipment" as used in this Agreement or in Schedule A hereunder. Upon the early termination of this Agreement pursuant to Section 12.2, Lessee shall return the Equipment at Lessee's sole expense to Lessor within a 300 mile radius of the City of San Antonio, Texas and within the State, AS DESIGNATED BY LESSOR, or such other location as the parties may from time to time reasonably agree or specify to the contrary in any Lease hereunder, with Lessee bearing such costs and expenses up to the point of redelivery, and thereupon, any and all interest Lessee may have in the Equipment shall immediately revert to Lessor, without any further act of conveyance and such Equipment shall be transferred to Lessor with full and unencumbered legal title and ownership. Lessee shall have no further interest therein, and shall execute any and all reasonable documents, if commercially reasonable, as to evidence the passage of legal title and ownership in Lessor.

6.2. Inspection. Lessor shall have the right upon reasonable prior notice to Lessee to enter onto and upon the premises where the Equipment is located to inspect the Equipment and observe its use during normal business hours.

6.3. Utilities. Lessee shall pay all charges for gas, water, steam, electricity, light, heat or power, telephone or other utility service furnished to or used on or connection with the Equipment during the Lease Term. There shall be no abatement of Lease Payments on account of interruption of any such services.

6.4. Taxes. Lessee agrees to pay when due any and all taxes relating to the Equipment and Lessee's obligations hereunder, including but not limited to, all license or registration fees, gross receipts tax, sales and use tax, if applicable, license fees, documentary stamp taxes, rental taxes, assessments, charges, ad valorem taxes, if applicable, excise taxes, and all other taxes licenses and charges imposed on the ownership, possession or use of the Equipment by any governmental body or agency, together with any interest and penalties, whether the taxes assessed are assessed against Lessor or Lessee, other than taxes on or measured by the net income of Lessor.

6.5. Alterations. Without the prior written consent of Lessor, which consent shall not be unreasonably withheld or delayed, Lessee shall not make any alterations, modifications or attachments to the Equipment which cannot be removed without materially damaging the functional capabilities or economic value of the Equipment. Upon return of the Equipment and at Lessor's request, Lessee at its sole cost and expense, will remove all alterations, additions and attachments and repair the Equipment as necessary to return the Equipment to the condition in which it was furnished, ordinary wear and tear excepted.

6.6. Transportation and Installation Charges. Lessee shall be responsible for all charges relating to the transportation of the Equipment to Lessee's location and the installation at such location. Lessor may at its option either prepay such charges and invoice Lessee or forward invoices to Lessee as they are received and Lessee shall remit payment within ten (10) days upon Lessee's receipt of same.

6.7. Insurance. Lessee shall during each Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the Prepayment Price of the Equipment; (b) liability insurance that names as an additional insured and protects Lessor from liability in all events in form and amount satisfactory to Lessor; and (c) worker's compensation coverage as required by the laws of the State; *provided* that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a), (b), and (c). Execution of this Agreement on behalf of Lessor evidences its prior written consent to Lessee's self-insurance against such risks. Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout each Lease Term. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least thirty (30) days in advance of such cancellation or modification.

6.8. Risk of Loss. Lessee shall bear all risk of loss to the Equipment, after delivery of the Equipment to Lessee, and in the event of loss or damage thereto, Lessee shall as its option either (i) continue to make the Lease Payments due hereunder and repair or replace the

Equipment as mutually agreed between Lessee and Lessor, or (ii) purchase the Equipment for the Prepayment Price plus any other amounts then owed by Lessee hereunder.

6.9. Performance by Lessor of Lessee's Responsibilities. Any performance required of Lessee or any payments required to be made by Lessee may, if not timely performed or paid, be performed or paid by Lessor, and in that event, Lessor shall be immediately reimbursed by Lessee for such payments.

6.10. Financial Statements. Lessee shall keep its books and records in accordance with generally accepted accounting principles. Lessee agrees that it will furnish Lessor: (a) Lessee's current audited financial statements within one hundred eighty (180) days of each fiscal year end including (i) a balance sheet, (ii) statement of revenues, expenses and changes in fund balances, (iii) statement of cash flows, (iv) operating fund budget analysis, and (v) appropriate notes, schedules and attachments to the financial statements; (b) within ninety (90) days of each fiscal year end a copy of the adopted proposed annual budget for the then current fiscal year and within one hundred twenty (120) days of each fiscal year end a copy of the final budget; and (c) such other financial information relating to the ability of Lessee to continue performing hereunder (as submitted or approved) and permit Lessor or its agents and representatives to inspect Lessee's books and records and make extracts therefrom. Lessee represents and warrants to Lessor that all financial statements which have been delivered to Lessor fairly and accurately reflect Lessee's financial condition and there has been no material adverse change in Lessee's financial condition as reflected in the statements since the date thereof.

6.11. Purchase Agreement; Installation Contract. Lessee shall provide to Lessor a copy of any invoice, Purchase Agreement, installation contract, or other similar document and the projected installation schedule and any amendments thereto entered into for the Equipment being financed pursuant to this Agreement.

6.12. Advances. In the event Lessee shall fail to keep the Equipment in good repair and working order, Lessor may, but shall be under no obligation to, maintain and repair the Equipment and pay the costs thereof. Lessee agrees to repay such amounts so advanced by Lessor with interest thereon from the date of the advance until paid at the applicable Schedule Rate.

6.13. Rates and Charges. Lessee will, at all times while this Agreement and Schedule A issued hereunder are outstanding, establish, fix, prescribe and collect revenues and charges for the services produced or furnished by Lessee which are reasonably expected to yield income sufficient to satisfy the Lease Payments due thereunder.

SECTION 7. DAMAGE, DESTRUCTION AND CONDEMNATION.

7.1. Damage, Destruction and Condemnation. Unless Lessee shall have exercised its option to purchase the Equipment by making payment of the Prepayment Price and other amounts owed by Lessee hereunder, as provided in this Agreement and the applicable Schedule A, if, prior to the termination of the applicable Lease Term, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or

threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, Lessee and Lessor will cause the Net Proceeds (as hereinafter defined) of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee.

Notwithstanding the foregoing, Lessee may elect to replace the Equipment. If Lessee elects to replace any item of the Equipment (the "*Replaced Equipment*") pursuant to this Section, the replacement equipment (the "*Replacement Equipment*") shall be of similar type, utility and condition to the Replaced Equipment and shall be of equal or greater value than the Replaced Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's security interest in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Equipment" for purposes of this Agreement and Schedule A. Lessee shall notify Lessor as soon as possible of its election to replace Equipment in accordance with the foregoing, and in any event, Lessee shall complete the documentation of Replacement Equipment on or before the next Lease Payment date after the occurrence of a casualty event, or be required to exercise the purchase option with respect to the damaged Equipment.

For purposes of this Section, the term "Net Proceeds" shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation.

7.2. Insufficiency of Net Proceeds. If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 7.1, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the Prepayment Price for the Equipment and any other amounts then due from Lessee hereunder, and, upon such payment, the applicable Lease Term shall terminate and Lessor's security interest in the Equipment shall terminate as provided in Section 3 hereof. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing such Equipment and such other Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Section 4 hereof.

SECTION 8. TITLE TO EQUIPMENT; SECURITY INTEREST.

8.1. Title. During the Lease Term, legal title to the Equipment governed by Schedule A shall, so long as Lessee is not in default under Schedule A and hereunder, be in Lessee. The Equipment shall be registered in the name of Lessee and, if applicable, title thereto shall be evidenced by a certificate of title, or such other instrument as may be required by or utilized by

the laws of the State to demonstrate ownership. Such certificate shall be held at all times during the term of this Agreement by Lessor and shall expressly state thereon that (a) Lessor holds a lien on the Equipment (Lessor's name and address shall appear on such certificate as "Banc of America Public Capital Corp, NE Center Building, 2059 Northlake Parkway, 4th Floor, Tucker, GA 30084-5399"), (b) Lessee's possession of the Equipment is subject to this Agreement, and (c) any other information required by applicable law and that may be necessary or convenient, as determined by Lessor, to establish Lessor's rights, title and interest as the first secured lienholder of the Equipment. Lessee shall at all times protect and defend, at its own cost and expense, its title to the Equipment from and against all claims, liens and legal processes of creditors of Lessee, and keep all Equipment free and clear of all such claims, liens and processes. The Equipment is and shall remain personal property. Upon the occurrence of an Event of Default under this Agreement or upon the termination of this Agreement, other than pursuant to Sections 3.3(b), 3.3(d) or 6.8 hereof, and Lessor's termination thereof (i) full and unencumbered legal title to the Equipment shall pass and revert to Lessor and Lessee shall have no further interest therein; (ii) Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the passage of Lessee's title and interest therein; and (iii) upon request by Lessor, Lessee shall deliver possession of the Equipment to Lessor. Upon termination pursuant to Sections 3.3(b), 3.3(d) or 6.8 hereof, full and unconditional title to the applicable Equipment shall pass to Lessee, and Lessor's security interest in the applicable Equipment shall terminate, and Lessor shall execute and deliver to Lessee such documents as Lessee may request to evidence the termination of Lessor's security or other interest in such Equipment.

8.2. Security Agreement. Notwithstanding anything in Section 8.1 hereof to the contrary, Lessee hereby grants to Lessor, as security for all of the obligations of Lessee hereunder, a security interest in any and all of Lessee's right, title and interests in and to this Agreement, the Equipment, all additions, attachments, accessions, substitutions and replacements thereto, and Lease Payments due or to become due hereunder, and any and all proceeds thereof, including without limitation, the proceeds of insurance thereon and any amounts of Lease Proceeds on deposit in the Equipment Acquisition Account, and all investments and proceeds thereof. Lessee agrees to execute and deliver all documents, instruments and financing statements necessary or appropriate to perfect or maintain the security interest granted hereby. It is the intention of the parties hereto that the relationship between such parties created herein is that Lessor be the equivalent of a secured party under (the "UCC") as in effect from time to time and that Lessee be the equivalent of a debtor under such Article 9. To that end, the parties hereto agree that this Agreement shall be governed by Article 9 as if such Article 9 were applicable hereto and that Lessor and Lessee have the rights and obligations of a secured party and debtor, respectively, under such Article 9, all as provided by the provisions of Chapter 1208, Texas Government Code, as in effect from time to time.

8.3. Personal Property. The Equipment is, and shall at all times be and remain, personal property notwithstanding that the Equipment or any part thereof may now be, or hereafter become, in any manner affixed or attached to, or embedded in, or permanently resting upon, real property or any building thereon or any fixtures, or attached in any manner to what is permanent by any means of cement, plaster, nails, bolts, screws or otherwise. Upon request of Lessor, Lessee shall obtain, as to any place where the Equipment is located, a waiver from the landlord and mortgagee thereof with respect to any rights they may have in and to the Equipment of the rights of levy or distraint thereon.

8.4. Liens. Lessee shall not directly create, incur, assume or suffer to exist any mortgage, pledge, lien, charge, security interest, encumbrance or claim on or with respect to the Equipment or any interest therein, except for the lien and security interest of Lessor therein. Lessee shall promptly, at its own expense, take such action as may be necessary to duly discharge any such mortgage, pledge, lien, security interest, charge, encumbrance or claim if the same shall arise at any time.

8.5. Inspection, Acceptance and Written Notice of Defects. Immediately, or as soon as practicable to provide time for testing, upon receipt and installation of the Equipment, Lessee shall inspect the Equipment. Unless Lessee gives Lessor written notice of each defect or other proper objection to the Equipment before the execution of the Acceptance Certificate, it shall be conclusively presumed, as between Lessor and Lessee, that Lessee has fully inspected and acknowledged that the Equipment is in good condition and repair, has been properly installed and is performing satisfactorily, and that Lessee is satisfied with and has accepted the Equipment in such good condition and repair. Lessor shall not make or provide payment to any Vendor (or reimbursement to Lessee pursuant to the requirements of Section 9.2(e) hereof) of the Total Contract Price, or any portion thereof, for the Equipment, or any portion thereof, until Lessor shall have received a duly executed Acceptance Certificate of Lessee in accordance with Section 14 hereof.

8.6. Change in Name, Corporate Structure or Principal Place of Business. Lessee shall maintain its existence as a political subdivision of the State and Lessee shall provide to Lessor written notice of any change in its name, structure, or principal place of business thirty (30) days in advance of the date that such change is planned to take effect. This Section shall also apply to any of Lessee's assignees or subassignees permitted under Section 13.1 hereof.

8.7. Location. The Equipment shall be located in the place(s) designated in Schedule A.

SECTION 9. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSEE.

9.1. Lessee's Representations, Warranties and Covenants. Lessee warrants and represents to Lessor (all such representations and warranties being continuing), as follows:

(a) Lessee has or will budget and appropriate for the initial fiscal year during the Lease Term of this Agreement unobligated funds in an amount equal to the sum of the Lease Payments due during such initial fiscal year and any other amounts due under this Agreement;

(b) Lessee is a state or a duly organized and validly existing body corporate and politic and a political subdivision or agency thereof within the meaning of section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder (the "Code");

(c) Lessee will exercise its best efforts to preserve and keep in full force and effect its existence as a body corporate and politic;

(d) Lessee is authorized under the Act and laws of the State to enter into this Agreement and the transactions described herein and to perform all of its obligations hereunder;

(e) Lessee has duly authorized the execution and delivery of this Agreement under the terms and provisions of the ordinance of its City Council or by other appropriate official approval, and further represents, covenants and warrants that all requirements have been met and procedures have occurred in order to ensure the enforceability of this Agreement against Lessee, and that this Agreement is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms, except to the extent limited by bankruptcy, reorganization or other laws of general application relating to effecting the enforcement of creditors' rights, and acknowledges that Lessee has granted to Lessor a security interest in the Equipment; and that Lessee has complied with any applicable public bidding/proposal requirements with respect to this Agreement and the Equipment;

(f) Lessee is not in material breach of or in default under any constitutional provision, applicable law or administrative rule or regulation of the State, the United States, or of any department, division, agency or instrumentality of either thereof or any applicable court or administrative decree or order, or in material breach of or in default under any loan agreement, note, ordinance, resolution, indenture, contract, agreement or other instrument to which Lessee is a party or to which Lessee or any property or assets of Lessee is otherwise subject or bound which in any material way, directly or indirectly, affects Lessee's entering into this Agreement, or the validity thereof, the validity or adoption of the ordinance authorizing Lessee to enter into this Agreement, the execution and delivery of this Agreement or other instruments contemplated thereby to which Lessee is a party, and compliance with the provisions of each thereof will not conflict with or constitute a material breach of or default under any constitutional provision, applicable law or administrative rule or regulation of the State, the United States, or of any department, division, agency or instrumentality of either thereof, or any applicable court or administrative decree or order, or a material breach of or default under any loan agreement, note, ordinance, resolution, indenture, contract, agreement or other instrument to which Lessee is a party or to which Lessee or any of the property or assets of Lessee is otherwise subject or bound;

(g) Lessee shall cause to be executed and delivered in connection with Schedule A issued hereunder an opinion of its counsel and an applicable IRS Form 8038-G (or, if the Total Contract Price of the Equipment is less than one hundred thousand (\$100,000) dollars an IRS Form 8038-GC) in form and substance reasonably satisfactory to Lessor and its counsel; and shall cause such Form 8038-G to be filed with the Internal Revenue Service not later than the fifteenth (15th) day of the second month following the end of the calendar quarter during which Schedule A was issued;

(h) Lessee has been fully authorized to execute and deliver this Agreement pursuant to an ordinance of its City Council, and by any other appropriate official approval, and further represents, warrants and covenants that all requirements have been met, and all procedures have taken place, in order to ensure the enforceability of this Agreement, has complied with all applicable public bidding/proposal requirements, if any, with respect to this Agreement, including the lease and the acquisition by Lessee of the Equipment hereunder;

(i) The Equipment is, and during the period this Agreement is in force will remain, personal property and, when subjected to use by Lessee hereunder, will not be or become fixtures under State law;

(j) During the Lease Term, except as otherwise permitted by this Agreement, the Equipment shall be used by Lessee only for the purpose of performing services related to its status as a political subdivision of the State, and consistent with the permissible scope of Lessee's authority and will not be used in an unrelated trade or business of Lessee or in the trade or business of any person or entity other than Lessee;

(k) Lessee assumes full responsibility for the safety and any consequences of lack of safety with respect to the operation and maintenance of the Equipment while Lessee has the right to possession or control of the Equipment;

(l) Lessee acknowledges that Lessor is acting as a financing source only with respect to the Equipment which has been selected, and the related specifications developed, by Lessee;

(m) Lessee shall promptly and duly execute and deliver to Lessor such further documents, instruments and assurances and take such further action as Lessor may from time to time reasonably request in order to carry out the intent and purpose of this Agreement and Schedule A hereunder and to establish and protect the rights and remedies created or intended to be created in favor of Lessor hereunder. Lessor will prepare at Lessee's expense such documents or instruments for execution by Lessee;

(n) Subject to Lessee's right not to appropriate, Lessee will use its best efforts to budget and appropriate for each fiscal year during the Lease Term of this Agreement unobligated funds in an amount equal to the sum of the Lease Payments due during such fiscal year and any other amounts due under this Agreement;

(o) Lessee's obligations under this Agreement are obligations payable from Lessee's budget and are obligations of the general fund;

(p) The payment of the Lease Payments or any portion thereof is not (under the terms of any lease or any underlying arrangement) directly or indirectly (i) secured by any interest in property used or to be used in any activity carried on by any person other than a state or local government unit or payments in respect of such property; or (ii) on a present value basis, derived from payments (whether or not to Lessee) in respect of property, or borrowed money, used or to be used in any activity carried on by any person other than a state or local governmental unit. The Equipment will not be used, directly or indirectly, in any activity carried on by any person other than a state or local government unit. No portion of the Total Contract Price for the Equipment will be used, directly or indirectly, to make or finance loans to any person other than Lessee. Lessee has not entered into any management or other service contract with respect to the use and operation of the Equipment, other than maintenance agreements; and

(q) The representations above shall be deemed to be made on and as of the beginning date of the Lease Term of Schedule A hereunder.

9.2. Federal Income Tax Exclusion.

(a) General. Lessee intends that the interest on the Lease be excludable from gross income for federal income tax purposes pursuant to Sections 103 and 141 through 150 of the Code and the applicable Treasury Regulations (the "Regulations"). Lessee covenants and agrees not to take any action, or omit to take any action within its control, that if taken or omitted, respectively, would (i) cause the interest on the Lease to be includable in gross income, as defined in Section 61 of the Code, for federal income tax purposes or (ii) result in the violation of or failure to satisfy any provision of Section 103 and 141 through 150 of the Code and the applicable Regulations. In particular, Lessee covenants and agrees to comply with each requirement of this Section 9.2; provided, however, that Lessee will not be required to comply with any particular requirement of this Section 9.2 if Lessee has received an opinion of nationally recognized bond counsel ("*Counsel's Opinion*") that (i) such noncompliance will not adversely affect the exclusion from gross income for federal income tax purposes of interest on the Lease or (ii) compliance with some other requirement set forth in this Section 9.2 will satisfy the applicable requirements of the Code and the Regulations, in which case compliance with such other requirement specified in such Counsel's Opinion will constitute compliance with the corresponding requirement specified in this Section 9.2.

(b) No Private Activity Bond. Lessee covenants and agrees that it will make such use of the proceeds of the Lease, including interest or other investment income derived from the Lease proceeds, regulate the use of property financed, directly or indirectly, with such proceeds, and take such other and further action as may be required so that the Lease will not be a "private activity bond" within the meaning of Section 141 of the Code and the Regulations promulgated thereunder. Moreover, Lessee will certify, through an authorized officer, employee or agent, based upon all facts and estimates known or reasonably expected to be in existence on the date the Lease is delivered, that the proceeds of the Lease will not be used in a manner that would cause the Lease to be a "private activity bond" within the meaning of Section 141 of the Code and the Regulations promulgated thereunder.

(c) No Federal Guarantee. Lessee covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the Lease to be "federally guaranteed" within the meaning of Section 149(b) of the Code and the applicable Regulations thereunder, except as permitted by Section 149(b)(3) of the Code and such Regulations.

(d) No Hedge Bond. Lessee covenants and agrees not to take any action, or knowingly omit to take any action within its control, that if taken or omitted, respectively, would cause the Lease to be a "hedge bond" within the meaning of Section 149(g) of the Code and the applicable Regulations thereunder.

(e) No Arbitrage. Lessee covenants and agrees that it will make such use of the proceeds of the Lease, including interest or other investment income derived from the Lease, regulate investments of proceeds of the Lease, and take such other and further action as may be required so that the Lease will not be an "arbitrage bond" within the meaning of Section 148(a) of the Code and the applicable Regulations promulgated thereunder. Moreover, Lessee will certify, through an authorized officer, employee or agent, based upon all facts and estimates

known or reasonably expected to be in existence on the date the Lease is delivered, that proceeds of the Lease will not be used in a manner that would cause the Lease to be "arbitrage bonds" within the meaning of Section 148(a) of the Code and the applicable Regulations promulgated thereunder.

(f) **Arbitrage Rebate.** If Lessee does not qualify for an exception to the requirements of Section 148(f) of the Code relating to the required rebate to the United States, Lessee will take all necessary steps to comply with the requirement that certain amounts earned by Lessee on the investment of the "gross proceeds" of the Lease (within the meaning of Section 148(f)(6)(B) of the Code), be rebated to the federal government. Specifically, Lessee will (i) maintain records regarding the investment of the gross proceeds of the Lease as may be required to calculate the amount earned on the investment of the gross proceeds of the Lease separately from records of amounts on deposit in the funds and accounts of Lessee allocable to other bond issues of Lessee or moneys that do not represent gross proceeds of any bonds of Lessee, (ii) determine at such times as are required by applicable Regulations, the amount earned from the investment of the gross proceeds of the Lease that is required to be rebated to the federal government, and (iii) pay, not less often than every fifth anniversary date of the delivery of the Lease, or on such other dates as may be permitted under applicable Regulations, all amounts required to be rebated to the federal government. Further, Lessee will not indirectly pay any amount otherwise payable to the federal government pursuant to the foregoing requirements to any person other than the federal government by entering into any investment arrangement with respect to the gross proceeds of the Lease that might result in a reduction in the amount required to be paid to the federal government because such arrangement results in a smaller profit or a larger loss than would have resulted if the arrangement had been at arm's length and had the yield on the issue not been relevant to either party.

(g) **Information Reporting.** Lessee covenants and agrees to file or cause to be filed with the Secretary of the Treasury, not later than the 15th day of the second calendar month after the close of the calendar quarter in which the Lease is issued, an information statement concerning the Lease, all under and in accordance with Section 149(e) of the Code and the applicable Regulations promulgated thereunder.

(h) **Record Retention.** Lessee will retain all pertinent and material records relating to the use and expenditure of the proceeds of the Lease until three years after the final payment of the Lease Payments is made, or such shorter period as authorized by subsequent guidance issued by the Department of the Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of Lessee to retrieve and reproduce such books and records in the event of an examination of the Lease by the Internal Revenue Service.

(i) **Deliberate Actions.** Lessee will not take a deliberate action (as defined in Section 1.141-2(d)(3) of the Regulations) that causes the Lease to fail to meet any requirement of Section 141 of the Code after the issue date of the Finance Contract unless an appropriate remedial action is permitted by Section 1.141-12 of the Regulations, Lessee takes such remedial

action and a Counsel's Opinion is obtained that such remedial action cures any failure to meet the requirements of Section 141 of the Code.

(j) Continuing Obligation. Notwithstanding any other provision of this Agreement, Lessee's obligations under the covenants and provisions of this Section 9.2 will survive the defeasance and discharge of the Lease for as long as such matters are relevant to the exclusion from gross income of interest on the Lease for federal income tax purposes.

SECTION 10. REPRESENTATIONS, WARRANTIES AND COVENANTS OF LESSOR.

10.1. Lessor's Representations, Warranties and Covenants. Lessor warrants and represents that it has the power and authority to enter into and perform this Agreement; this Agreement, when executed and delivered, will be a valid and binding obligation of Lessor, enforceable in accordance with its terms, subject to applicable laws.

SECTION 11. DISCLAIMER OF WARRANTIES.

11.1. Disclaimer of Warranties. LESSOR MAKES NO WARRANTY OR REPRESENTATION, EITHER EXPRESS OR IMPLIED, AS TO THE VALUE, DESIGN, COMPLIANCE WITH SPECIFICATIONS, QUALITY OF MATERIALS OR WORKMANSHIP, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, USE OR OPERATION, SAFETY, PATENT, TRADEMARK OR COPYRIGHT INFRINGEMENT, TITLE OR FITNESS FOR USE OF THE EQUIPMENT, OR ANY COMPONENT THEREOF OR ANY OTHER WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT THERETO AND, AS TO LESSOR, LESSEE'S LEASE AND PURCHASE OF THE EQUIPMENT SHALL BE ON AN "AS IS" BASIS. All such risks, as between Lessor and Lessee, are to be borne by Lessee. Without limiting the foregoing Lessor shall have no responsibility or liability to Lessee or any other person with respect to any of the following: (i) any liability, loss or damage caused or alleged to be caused directly or indirectly by the Equipment, any inadequacy thereof, any deficiency or defect (latent or otherwise) therein, or any other circumstances in connection therewith; (ii) the use, operation or performance of the Equipment or any risks relating thereto; (iii) any interruption of service, loss of business or anticipated profits or consequential damages; or (iv) the delivery, operation, servicing, maintenance, repair, improvement or replacement of the Equipment. If, and so long as, no default exists under this Agreement and Schedule A, Lessee shall be, and hereby is, authorized during the term of Schedule A to assert and enforce, at Lessee's sole cost and expense, from time to time, in the name of and for the account of Lessor and/or Lessee, as their interests may appear, whatever claims and rights Lessee or Lessor may have against the Vendor or any prior title holder or possessor of the Equipment. In no event shall Lessor be liable for any loss or damage in connection with or arising out of this Agreement, Schedule A, the Equipment, or the existence, furnishing, functioning or Lessee's use of any item or products or services provided for in this Agreement.

11.2. Vendor's Warranties. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default hereunder, to assert from time to time whatever claims and rights including warranties of the Equipment which

Lessor may have against the Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the Vendor of the Equipment and any other entities involved in the chain of production and distribution of the Equipment, and not against Lessor, nor shall such matter have any effect whatsoever on the rights and obligations of Lessor with respect to this Agreement, including the right to receive full and timely payments under this Agreement. **LESSEE EXPRESSLY ACKNOWLEDGES THAT IN LESSOR'S CAPACITY AS LESSOR HEREUNDER, LESSOR MAKES, AND HAS MADE HEREUNDER, NO REPRESENTATION OR WARRANTY WHATSOEVER AS TO THE EXISTENCE OR AVAILABILITY OF SUCH WARRANTIES OF THE VENDOR OF THE EQUIPMENT.**

SECTION 12. DEFAULT AND REMEDIES.

12.1. Definition of Default. Lessee shall be deemed to be in default hereunder upon the happening of any of the following events of default ("Events of Default"):

(a) Lessee shall fail to make any Lease Payment or any other sum when due or within ten (10) days thereafter or shall fail to perform or observe any term or condition or covenant of this Agreement or Schedule A hereto; or

(b) Proceedings under any bankruptcy, insolvency, reorganization or similar legislation shall be instituted by or against Lessee, or a receiver, custodian or similar officer shall be appointed for Lessee or any of its property, and such proceedings or appointments shall not be vacated, or fully stayed, within twenty (20) days after the institution or occurrence thereof; or

(c) Any representation, warranty or covenant made by Lessee is found to be incorrect or misleading in any material respect on the date made; or

(d) An attachment, levy or execution is levied upon or against the Equipment;
or

(e) Any insurance carrier cancels any insurance on the Equipment without Lessee first providing replacement coverage; or

(f) The Equipment or any part thereof is abused, illegally used, misused, lost, destroyed or damaged beyond repair; or

(g) Lessee sells, assigns, subleases, or otherwise transfers or encumbers all or any part of its interest in this Agreement or the Equipment without Lessor's prior written consent.

12.2. Remedies on Default. Upon the occurrence of any Event of Default, Lessor may exercise any one or more of the following remedies as Lessor in its sole discretion shall elect:

(a) To declare the entire amount of Lease Payments hereunder immediately past due and payable as to any or all items of Equipment without any further notice or demand to Lessee;

(b) Proceed by appropriate court action to enforce performance by Lessee of the applicable covenants of this Agreement or to recover for the breach thereof including the payment of Lease Payments due or to become due hereunder or any deficiency thereof following disposition of the Equipment;

(c) With or without terminating this Agreement, enter and take possession of the Equipment wherever situated, without any court order or other process of law and without liability for entering the premises, and sell, lease, sublease or make other disposition of the same in a commercially reasonable manner for the account of Lessee, and apply the proceeds of any such sale, lease, sublease, or other disposition, after deducting all costs and expenses, excluding court costs and reasonable attorney's fees, incurred with the recovery, repair, storage and other sale, lease, sublease or other disposition costs, toward the balance due under this Agreement;

(d) Terminate this Agreement as to all or any part of the Equipment and use, operate, lease or hold the Equipment as Lessor in its sole discretion may decide;

(e) Require Lessee to use or operate the Equipment for the purpose of preserving it;

(f) Proceed by appropriate court action to enforce performance by Lessee of the applicable covenants of this Agreement or to recover for the breach thereof, including the payment of all amounts due from Lessee; and/or

(g) Take whatever action at law or in equity may appear necessary or desirable to enforce its rights with respect to the Equipment.

12.3. Further Remedies; No Remedy Exclusive. A termination under Section 12.2 shall occur only upon notice by Lessor to Lessee and only with respect to such part of the Equipment as Lessor specifically elects to terminate in such notice. Except as to those parts of the Equipment with respect to which there is a termination, this Agreement shall remain in full force and effect and Lessee shall be and remain liable for the full performance of all its obligations hereunder. All remedies of Lessor are cumulative and may be exercised concurrently or separately and shall survive the termination of this Agreement. The exercise of any one remedy shall not be deemed an election of such remedy or preclude the exercise of any other remedy.

12.4. Return of Equipment: Release of Lessee's Interest. Upon termination of any Lease prior to the payment of all related Lease Payments or the applicable Prepayment Price (whether as result of Non-Appropriation or Event of Default), Lessee shall, voluntarily return the Equipment to Lessor within a 300 mile radius of the City of San Antonio, Texas and within the State, AS DESIGNATED BY LESSOR, or such other location as the parties may from time to time reasonably agree or specify to the contrary in any Lease hereunder, with Lessee bearing such costs and expenses up to the point of redelivery, and thereupon, any and all interest Lessee may have in the Equipment shall immediately revert to Lessor, without any further act of conveyance and such Equipment shall be transferred to Lessor with full and unencumbered legal title and ownership. Lessee shall have no further interest therein, and shall execute any and all reasonable documents, if commercially reasonable, as to evidence the passage of legal title and

ownership in Lessor. However and if the Lessee refuses to voluntarily return such Equipment in the manner so designated in this Section the Lessor may repossess the Equipment without demand, notice, legal order, or court process, but in accordance with all applicable laws of the State, and charge the Lessee for all such costs associated with involuntary repossession. Following reasonable prior notice to the Lessee, Lessor reserves the right to require testing and repair to the related Equipment in the event the Equipment does not meet the condition required by Section 6.1 herein.

SECTION 13. ASSIGNMENT, SUBLEASING AND SELLING.

13.1. No Sale, Assignment or Subleasing by Lessee. Lessee agrees not to sell, assign, lease, sublease, pledge or otherwise encumber or suffer a lien or encumbrance upon or against any interest in this Agreement or the Equipment (except for the lien and security interest of Lessor therein) or to remove the Equipment from its place of installation without Lessor's prior written consent which shall not be unreasonably withheld.

13.2. Assignment by Lessor. Lessor's right, title and interest in the Agreement, Schedule A, and to Lease Payments and any other amounts payable by Lessee under this Agreement and Schedule A, its security interest in the Equipment subject to Schedule A, the Equipment Acquisition Account and all proceeds therefrom may be assigned and reassigned in whole or in part to one or more assignees by Lessor, without the necessity of obtaining the consent of Lessee; provided, however, that any such assignment, transfer or conveyance to a trustee for the benefit of owners of certificates of participation shall be made with notice to Lessee and in a manner that conforms to any applicable State law. Lessor, including any subsequent assignee, will maintain the exemption from the approval of the Texas Attorney General described herein in Section 16.11 and hereby covenants not to take any action which will convert the Agreement into a public security pursuant to the provisions of Chapter 1201, as amended, Texas Government Code, and require the approval of the Texas Attorney General, including any action to "participate" or issue certificates of participation in the Lessee's Lease Payment rental stream. Nothing in this Section shall be construed, however, to prevent Lessor from executing any such assignment, transfer, or conveyance that does not involve funding through the use of certificates of participation within the meaning of applicable State law, including any such assignment, transfer or conveyance as part of a multiple asset pool to a partnership or trust, interests in which are offered and sold in a private placement or limited offering only to investors whom Lessor reasonably believes are qualified institutional buyers or accredited investors within the meaning of the applicable federal securities law; provided further, however, that in any event, Lessee shall not be required to make Lease Payments, to send notices or to otherwise deal with respect to matters arising under a Lease with or to more than one individual or entity. No assignment, transfer or conveyance permitted by this Section shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; provided, however, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Lease Payments payable under this Agreement and Schedule A, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with section 149 of the Code. Lessee shall retain all

such notices as a register of all assignees and shall make all payments to the assignee designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. The option granted in this Section does not permit the assignment of less than all of Lessor's interests in the Equipment listed in Schedule A.

SECTION 14. APPLICATION OF LEASE PROCEEDS; ACCEPTANCE.

14.1. Application of Lease Proceeds. At the Closing of Schedule A hereunder, Lessor shall pay or provide the Lease Proceeds in the amount and to Lessee for deposit into the Equipment Acquisition Account.

14.2. Equipment Acquisition Account. Lessor and Lessee agree that in order to ensure that money sufficient to pay the Total Contract Price of the Equipment under Schedule A hereto will be available for the purpose of acquiring such Equipment when required, on or before the Lease Term Commencement Date, Lessor shall, subject to Section 2.1 hereof, deposit or cause to be deposited into the Equipment Acquisition Account established pursuant to the Acquisition Fund Agreement executed in connection herewith the sum set forth on Schedule A. The money on hand from time to time in the Equipment Acquisition Account shall be held in trust for the benefit of Lessee and Lessor. Pending payment of the Total Contract Price or any portion thereof, such money held in the Equipment Acquisition Account may be invested by Lessee in Authorized Investments. Any balance remaining in the Equipment Acquisition Account after disbursement of the Total Contract Price or after an Event of Default has occurred, or this Agreement is terminated for non-appropriation of funds in accordance with Section 15 hereof, shall be applied as a prepayment to the Lease Payments, provided that no premium shall be due from Lessee as a result of such prepayment under this Section.

14.3. Completion of Acquisition of the Equipment. Lessee shall cause the Equipment to be acquired and installed free of any liens or claims of others except for this Agreement. Completion of the acquisition and installation of the Equipment identified by Schedule A shall be evidenced by Lessee's filing with Lessor a final Acceptance Certificate. Lessor shall and is hereby directed by Lessee to disburse Lease Proceeds from the Equipment Acquisition Account to pay the Vendor the purchase price, or any portion thereof, for the Equipment, or any portion thereof, only upon the receipt by Lessor of a fully executed Acceptance Certificate of Lessee and the satisfaction of other conditions in the Acquisition Fund Agreement. At such time, Lessee and Lessor shall execute and deliver such documents or assurances, including UCC filings or amendments thereto, as may be necessary to reflect accurately the items of Equipment financed by the Lease Proceeds derived from such Schedule A.

SECTION 15. TERMINATION ON ACCOUNT OF NON-APPROPRIATION OF FUNDS.

15.1. Lessee's Termination. Notwithstanding any contrary provision in this Agreement, Lessee shall be deemed to have elected not to renew Schedule A hereunder as to all (but not less than all) of the Equipment that is the subject of Schedule A, pursuant to Schedule A,

and Schedule A shall terminate as of the end of the then current fiscal year, if all the following events shall have occurred:

(a) Funds were not appropriated for the next succeeding fiscal year during the term of Schedule A in an amount equal to the sum of the Lease Payments due during such fiscal year for the acquisition of services and functions which in whole or in part are essentially the same services and functions for the performance of which the Equipment was leased;

(b) Written notice thereof was given to Lessor in accordance with Section 3.4;
and

(c) Lessee has paid all Lease Payments due during the fiscal year immediately preceding the fiscal year of which sufficient funds were not appropriated, and an amount equal to the daily equivalent of the Lease Payments for each day during the period from the day after the due date of the last Lease Payment during such fiscal year to the end of such fiscal year.

15.2. Return of Equipment Upon Termination. If this Agreement or Schedule A is terminated because of non-appropriation of funds in accordance with the provisions of this Section, Lessee shall return the Equipment to Lessor within a 300 mile radius of the City of San Antonio, Texas and within the State, AS DESIGNATED BY LESSOR, or such other location as the parties may from time to time reasonably agree or specify to the contrary in any Lease hereunder, with Lessee bearing such costs and expenses up to the point of redelivery, and thereupon, any and all interest Lessee may have in the Equipment shall immediately revert to Lessor, without any further act of conveyance and such Equipment shall be transferred to Lessor with full and unencumbered legal title and ownership. Lessee shall have no further interest therein, and shall execute any and all reasonable documents, if commercially reasonable, as to evidence the passage of legal title and ownership in Lessor.

SECTION 16. MISCELLANEOUS.

16.1. Waiver. No covenant or condition of this Agreement can be waived except by the written consent of the parties. Any failure of a party to require strict performance by the other party or any waiver by a party of any terms, covenants or agreements herein shall not be construed as a waiver of any other breach of the same or of any other term, covenant or agreement herein.

16.2. Severability. In the event any portion of this Agreement shall be determined to be invalid under any applicable law, such provision shall be deemed void and the remainder of this Agreement shall continue in full force and effect.

16.3. Governing Law and Venue. This Agreement shall be construed, interpreted and enforced in accordance with the laws of the State. Venue for any legal proceeding relating to this Agreement shall lie in Bexar County, Texas.

16.4. Notice. All notices made or required to be given pursuant to this Agreement shall be in writing and shall be deemed duly served if and when mailed, certified or registered mail, postage prepaid, return receipt requested, to the other party at its address set forth in Schedule A hereunder or at such other address as such party shall hereafter designate in writing.

16.5. Section Headings. All section headings contained herein are for convenience of reference only and are not intended to define or limit the scope of any provision of this Agreement.

16.6. Entire Agreement. This Agreement, together with the schedules hereto, constitutes the entire agreement between the parties and this Agreement shall not be modified, amended, altered or changed except by written agreement signed by the parties.

16.7. Binding Effect. Subject to the specific provisions of this Agreement, this Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and assigns.

16.8. Time. Time is of the essence of this Agreement, Schedule A, and the provisions therein.

16.9. Notice of Final Agreement. **THIS WRITTEN AGREEMENT AND ANY OTHER DOCUMENTS EXECUTED IN CONNECTION HERewith REPRESENT THE FINAL AGREEMENT BETWEEN THE PARTIES AND MAY NOT BE CONTRADICTED BY EVIDENCE OF PRIOR, CONTEMPORANEOUS OR SUBSEQUENT ORAL AGREEMENTS OF THE PARTIES. THERE ARE NOT UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.**

16.10. Not Bank Qualified. Lessor acknowledges and recognizes that Lessee will issue more than \$10,000,000.00 in tax-exempt debt in 2018. Accordingly, the Agreement will not be designated as a "qualified tax-exempt obligation" pursuant to Section 265 of the Internal Revenue Code of 1986, as amended.

16.11. No Texas Attorney General Approval. The Agreement is exempt from review by the Texas Attorney General pursuant to the provisions of Section 1202.007, Texas Government Code, as amended.

16.12. Boycott Israel. **Texas Government Code §2270.002 provides that a governmental entity may not enter into a contract with a company for goods or services, unless the contract contains a written verification from the company that it:**

- (1) does not boycott Israel; and
- (2) will not boycott Israel during the term of the contract.

"Boycott Israel" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

"Company" means a for-profit sole proprietorship, organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability

company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations that exists to make a profit. Lessor hereby acknowledges that it falls within the definition of "Company" as set forth above.

Lessor hereby verifies that, except to the extent required or otherwise permitted by applicable federal law, it does not boycott Israel, and will not boycott Israel during the term of the contract. Lessee hereby relies on Lessor's verification. If found to be false, Lessee may terminate the contract for material breach.

16.13. Business with Iran, Sudan, or foreign terrorist organization. Texas Government Code §2252.152 provides that a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Texas Government Code §§ 806.051, 807.051, or 2252.153.

Lessor hereby verifies that it does not currently have a contract with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization; and will not during the term of the contract with Lessee enter into a contract with or provide supplies or services to Iran, Sudan, or a foreign terrorist organization. Lessee hereby relies on Lessor's verification. If found to be false, Lessee may terminate the contract for material breach.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed as of the day and year first above written.

BANC OF AMERICA PUBLIC CAPITAL CORP,
as Lessor

By: _____

Name: _____

Title: _____

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

SIGNATURE PAGE TO MASTER EQUIPMENT LEASEE/PURCHASE AGREEMENT

(POLICE DEPARTMENT)

**FORM OF
SCHEDULE A
TO MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**

by and between

BANC OF AMERICA PUBLIC CAPITAL CORP,

as Lessor

and

CITY OF SAN ANTONIO, TEXAS,

as Lessee

Dated as of

February 21, 2018

THIS SCHEDULE A, to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT** identified above (the "*Master Lease*") is entered into as of February 21, 2018, by and between **BANC OF AMERICA PUBLIC CAPITAL CORP**, as lessor ("*Lessor*") and the **CITY OF SAN ANTONIO, TEXAS**, as lessee ("*Lessee*"). All of the provisions of the Master Lease are incorporated herein by reference and capitalized terms used herein and not defined shall have the meanings assigned them in the Master Lease.

1. The Master Lease and this Schedule A, together with the Aircraft Addendum, dated as of February 21, 2018, between the Lessor and Lessee (the "*Aircraft Addendum*") incorporated herein by reference, jointly constitute an Agreement (this "*Agreement*"). Lessor hereby leases and lets to Lessee, Lessee leases from Lessor, subject to the provisions of the Agreement, the Equipment identified below and as further set forth in the Aircraft Addendum:

| <u>Item</u> <u>(Quantity)</u> | <u>Description</u> | <u>Total Contract Price</u> |
|--|---------------------------|------------------------------------|
| 1 | Police Helicopter | \$4,963,223 |

The Total Contract Price for this Schedule A is \$4,963,223.00.

As of the date of this Schedule A, Lessee has not taken possession of the Equipment shown above. It is expected that by one (1) year from the date of this Schedule A, Lessee will have taken possession of all items shown above and that the Lessee's Acceptance Certificate, or Acceptance Certificates in the form attached hereto as Attachment A, will be signed by Lessee and delivered to Lessor on or before one (1) year from the date of this Schedule A.

2. Lessee hereby certifies that the description of the Equipment set forth above is accurate and reasonably identifies it for UCC purposes. The Equipment identified in item one (1)

above shall be located at various locations in the City of San Antonio, Texas, County of Bexar.

3. The following terms are applicable to the lease/purchase of the Equipment set forth in this Schedule A:

(a) Lease Term Commencement Date: The date of execution and delivery of this Schedule A, including Attachments B through M thereto, and the satisfaction of all conditions of the Master Lease.

(b) Lease Term: The period beginning with the Lease Term Commencement Date and shall terminate in accordance with section 3.3 of the Master Lease Agreement.

(c) Taxable Rate. The Taxable Rate of interest is 3.3723%.

(d) Acquisition Period: The period beginning with the Lease Term Commencement Date and continuing through and including December 31, 2018.

4. The Lease Proceeds which Lessor shall pay or provide to Lessee in connection with this Schedule A, is \$4,963,223.00 of which \$22,500.00 is for payment of the costs of issuance incurred by Lessee. Lessor has no issuance costs. Such Lease Proceeds shall be deposited into the Equipment Acquisition Account and disbursed for payments of the Total Contract Price of the Equipment, or portions thereof, upon receipt by Lessor of an Acceptance Certificate, or Acceptance Certificates, executed by Lessee.
5. Interest on the Lease Proceeds shall accrue from the date hereof and the payment dates and Lease Payment amounts (including the principal and interest components thereof, calculated at the Interest Rate of 2.6422% per annum are as follows:

See Attachment L to Schedule A

6. Until Lessee receives written notification to the contrary, all payments due under the Master Lease and this Schedule A, including but not limited to Lease Payments, are to be paid to and all notices are to be sent to the following respective addresses:

The address for notices is: Banc of America Public Capital Corp
11333 McCormick Road
M/C MD5-032-07-05
Hunt Valley, MD 21031
Attention: Contract Administration

City of San Antonio, Texas
Finance Department
111 Soledad, 5th Floor
San Antonio, TX 78205
Attention: Division of Financial Management

The address for payments is: Banc of America Public Capital Corp
P.O. Box 100918
Atlanta, Georgia 30384-0918

7. Lessee further represents, covenants and warrants that it will not take, cause to be taken or fail to take any action which will cause the interest component of any Lease Payments to be or become subject to federal income taxation under the Code and that all of its representations, covenants and warranties of Lessee contained in the Master Lease were true and accurate as of the date made, remain true and accurate as of the date of this Schedule A and are hereby reaffirmed.
8. Lessee shall deliver or cause to be delivered an opinion of counsel concurrently with the execution and delivery of this Schedule A in the form of Attachment G to Exhibit A of the Agreement and execute an IRS Form 8038-G (or, IRS Form 8038-GC if the Total Contract Price of the Equipment is less than one hundred thousand (\$100,000) dollars substantially in the form of Attachment H to Exhibit A of the Master Lease.
9. Lessee shall deliver or cause to be delivered concurrently with the execution and delivery of Schedule A, documents in the respective forms of Attachments B through M hereto. Lessee shall deliver its Acceptance Certificate, or Acceptance Certificates, in the form of Attachment A hereto in accordance with the terms of Section 14 of the Master Lease.
10. Attached hereto as Attachment B and incorporated herein by reference is an original Essential Use Certificate executed by an Authorized Officer of Lessee.
11. Attached hereto as Attachment C and incorporated herein by reference is an original Certificate of Appropriation executed by an Authorized Officer of Lessee.
12. Attached hereto as Attachment D and incorporated herein by reference is an original General Certificate, executed by Authorized Officers of Lessee.
13. Attached hereto as Attachment E and incorporated herein by reference is an original Certificate of City Clerk, executed by Authorized Officers of Lessee.
14. Attached hereto as Attachment F and incorporated herein by reference is an original Signature and No-Litigation Certificate, executed by Authorized Officers of Lessee.
15. Attached hereto as Attachment G and incorporated herein by reference is an original opinion of legal counsel to Lessee relating to the Agreement and this Schedule A. Lessor may, in its sole discretion, waive this requirement.
16. Attached hereto as Attachment H is an IRS Form 8038-G (or IRS Form 8038-GC if the Total Contract Price of the Equipment is less than one hundred thousand (\$100,000) dollars of Lessee.
17. Attached hereto as Attachment I is an original Cross-Receipt executed by an Authorized Officer of Lessee and Lessor.

18. Attached hereto as Attachment J is an original Federal Tax Certificate executed by an Authorized Officer of Lessee.
19. Attached hereto as Attachment K are copies of executed and filed financing statement(s) evidencing Lessor's security interest in the Equipment. Provided, however, Lessee may deliver one or more financing statement(s), or amended financing statement(s) evidencing Lessor's security interest in the Equipment as reflected on each Acceptance Certificate.
20. Attached hereto as Attachment L is a copy of the eighty-four (84) month amortization schedule for this Schedule A.
21. Attached hereto as Attachment M is a copy of the Aircraft Addendum, dated as of February 21, 2018, between the Lessor and Lessee, with form of Aircraft Security Agreement.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereunto affix their signatures to this Schedule A as of the day and year first written above.

BANC OF AMERICA PUBLIC CAPITAL CORP,
as Lessor

By: _____

Name: _____

Title: _____

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

ATTACHMENT A TO SCHEDULE A
FORM OF
LESSEE'S ACCEPTANCE CERTIFICATE

Part I:

The **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*"), as lessee under that certain **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT** dated as of February 21, 2018, and under Schedule A, attached thereto dated as of February 21, 2018 (collectively, the "*Agreement*"), with **BANC OF AMERICA PUBLIC CAPITAL CORP**, as lessor ("*Lessor*") hereby acknowledges receipt in good condition of all of the Equipment described in Part II below (the "*Equipment*"), hereby accepts such Equipment and hereby certifies:

(a) That Lessee has fully and satisfactorily performed all covenants and conditions to be performed by it under the Agreement with regard to such Equipment; provided, however, that this certification does not constitute a waiver by Lessee of any rights against third parties, including the Vendor(s) under the Purchase Agreement(s) (as such terms are defined in the Agreement) with respect to such Equipment, which exist at the date hereof or which may subsequently come into being; and

(b) That such Equipment is fully insured in accordance with Section 6.7 of the Agreement and the Aircraft Addendum (as such term is defined in the Agreement).

Part II:

The Equipment which is governed by the Agreement identified in Part I above is as follows:

| <u>Item (Quantity)</u> | <u>Description, Make, Model</u> | <u>Total Contract Price</u> |
|-------------------------------|--|------------------------------------|
| 1 | Police Helicopter | \$4,963,223 |

DATED: _____, 20____.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

ATTACHMENT B TO SCHEDULE A

**FORM OF
ESSENTIAL USE CERTIFICATE**

I, the undersigned Authorized Officer of the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*") acting in my capacity as such, hereby certify with respect to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 21, 2018 by and between Lessee, as lessee, and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as lessor ("*Lessor*") and Schedule A, dated as of February 21, 2018, issued thereunder, that the Equipment referenced in Schedule A shall be used for the following purpose:

In connection with the operation of the Lessee's traffic control and other actions and operations within its Police Department, at various locations within and without the boundaries of Lessee.

The undersigned hereby further certify and represent that the use of the Equipment is essential to the proper, efficient and economic operation of Lessee.

DATED: February 21, 2018.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

ATTACHMENT C TO SCHEDULE A, NO. ____

**FORM OF
CERTIFICATE OF APPROPRIATION**

I, the undersigned Authorized Officer of the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*"), hereby certify that all Lease Payments (as defined in the Agreement) presently due under that certain **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT** ("*Master Lease*") dated as of February 21, 2018, between Lessee and **BANC OF AMERICA PUBLIC CAPITAL CORP** ("*Lessor*"), and Schedule A, dated as of February 21, 2018 thereunder ("*Schedule A*" and with the *Master Lease, the "Agreement"*) for the fiscal year ending September 30, 2018 are available, unexhausted, unencumbered appropriation of unobligated funds for Lessee, representing the sum of its Lease Payment obligations owing under the Agreement during such fiscal year.

IN WITNESS WHEREOF, I have set my hand this ____ day of February, 2018, to be effective from and after February 21, 2018.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

ATTACHMENT D TO SCHEDULE A

**FORM OF
GENERAL CERTIFICATE
OF
CITY OF SAN ANTONIO, TEXAS**

I, the undersigned Authorized Officer of the **CITY OF SAN ANTONIO, TEXAS**, (“*Lessee*”) acting in my official capacity as such, hereby certify with respect to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 21, 2018, (the “*Master Lease*”) by and between Lessee, as lessee, and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as lessor (“*Lessor*”) and Schedule A issued thereunder (the Master Lease and Schedule A collectively referred to as the “*Agreement*”), as follows:

1. That Lessee is a body corporate and politic and a Texas home rule municipality, and was validly created and exists under the laws and the Constitution of the State of Texas and is a political subdivision or governmental agency thereof.

2. That as of the date of approval of the Master Lease and Schedule A, the following named persons constitute the members of the City Council of Lessee:

| | |
|---------------------|----------------------------|
| Ron Nirenberg | Mayor |
| Greg Brockhouse | Mayor Pro Tem, District 6 |
| Roberto C. Trevino | Councilmember, District 1 |
| William “Cruz” Shaw | Councilmember, District 2 |
| Rebecca J. Viagran | Councilmember, District 3 |
| Rey Saldana | Councilmember, District 4 |
| Shirley Gonzales | Councilmember, District 5 |
| Ana E. Sandoval | Councilmember, District 7 |
| Manny Pelaez | Councilmember, District 8 |
| John Courage | Councilmember, District 9 |
| Clayton H. Perry | Councilmember, District 10 |

3. The City Council of Lessee duly adopted by a majority vote the Ordinance Regarding Leasing Certain Equipment (the “*Ordinance*”) authorizing and approving the entering into the Master Lease and Schedule A to the Master Lease, at a duly called public meeting, at which a quorum was present and acting throughout; the Ordinance is in full force and effect and has not been altered, amended or repealed as of the date hereof; that said meeting was duly called and open to the public in accordance with the laws of the State of Texas.

4. The following described instruments (collectively, the “*Instruments*”), as executed and delivered or authorized by Lessee, are in substantially the same form and text as copies of such Instruments which were before and were approved or ratified by the City Council of Lessee, and which the officers of Lessee were authorized to execute and deliver for and on behalf of Lessee:

- (a) Master Lease; and
- (b) Schedule A (including Attachments A through M thereto).

5. To the best knowledge of the undersigned, on the date hereof, Lessee is not in default in the performance or observance of any of the covenants, conditions, agreements or provisions of the Instruments.

6. The representations and warranties of Lessee contained in the Instruments are correct on and as of the date hereof as though made on and as of such date.

IN WITNESS WHEREOF, I have set my hand this ____ day of February, 2018, to be effective from and after February 21, 2018.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

ATTACHMENT E TO SCHEDULE A

FORM OF

CERTIFICATE OF CITY CLERK
OF
CITY OF SAN ANTONIO, TEXAS

THE UNDERSIGNED HEREBY CERTIFIES that:

1. The City of San Antonio, Texas (the "City") is a body corporate and politic and a Texas home rule municipality, and was validly created and exists under the laws and the Constitution of the State of Texas and is a political subdivision or governmental agency thereof.

2. On the 15th day of February, 2018 the City Council (the "Council") of the City convened in regular session at its regular meeting place in the Municipal Plaza Building of the City (the "Meeting"), the duly constituted members of the Council being as follows:

| | |
|---------------------|----------------------------|
| Ron Nirenberg | Mayor |
| Greg Brockhouse | Mayor Pro Tem, District 6 |
| Roberto C. Trevino | Councilmember, District 1 |
| William "Cruz" Shaw | Councilmember, District 2 |
| Rebecca J. Viagran | Councilmember, District 3 |
| Rey Saldana | Councilmember, District 4 |
| Shirley Gonzales | Councilmember, District 5 |
| Ana E. Sandoval | Councilmember, District 7 |
| Manny Pelaez | Councilmember, District 8 |
| John Courage | Councilmember, District 9 |
| Clayton H. Perry | Councilmember, District 10 |

and all of such persons were present at the Meeting, except the following: _____, thus constituting a quorum. Among other business considered at the Meeting, the attached Ordinance (the "Ordinance") entitled:

AUTHORIZING THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP AND AN ESCROW AND ACCOUNT CONTROL AGREEMENT WITH BANK OF AMERICA PUBLIC CAPITAL CORP AND FROST BANK FOR THE ACQUISITION OF ONE (1) HELICOPTER FOR THE POLICE DEPARTMENT; AUTHORIZING SCHEDULE A TO THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT IN THE TOTAL AMOUNT OF \$4,963,223.00, AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE.

was introduced and submitted to the Council for passage and adoption. After presentation and due consideration of the Ordinance, a motion was made by Councilmember _____ that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by Councilmember _____ and carried by the following vote:

_____ voted "For" _____ voted Against" _____ abstained

all as shown in the official Minutes of the Council for the Meeting.

3. The attached Ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the Council of the City on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Council was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Ordinance would be considered; and the Meeting and deliberation of the aforesaid public business, including the subject of the Ordinance, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this ___ day of February, 2018.

City Clerk, City of San Antonio, Texas

(SEAL)

**CERTIFIED COPY OF ORDINANCE ADOPTED
BY LESSEE'S CITY COUNCIL**

[see attached]

ATTACHMENT F TO SCHEDULE A

**FORM OF
SIGNATURE AND NO-LITIGATION CERTIFICATE**

We, the undersigned Authorized Officers of the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*"), acting in our official capacities as such, hereby certify with respect to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 21, 2018 (the "*Master Lease*") by and between Lessee, as lessee, and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as lessor ("*Lessor*") and Schedule A, dated as of February 21, 2018 issued thereunder (the Master Lease and Schedule A, collectively referred to as the "*Agreement*") as follows:

1. The Master Lease and Schedule A, have been duly and officially executed by the undersigned with their manual or facsimile signatures in the same manner appearing thereon, and the undersigned hereby adopt and ratify their respective signatures in the manner appearing on each side of the Master Lease and Schedule A, whether in manual or facsimile form, as the case may be, as their true, genuine, and official signature.

2. That on the date of Schedule A and on the date hereof, we were and are the duly qualified and acting officers indicated therein and authorized to execute the same.

3. The legally adopted proper and official corporate seal of Lessee is impressed or imprinted on the Master Lease and Schedule A, and impressed on this certificate.

4. No litigation of any nature is now pending before any federal or state court in Bexar County, Texas, or administrative body, or to our knowledge threatened, seeking to restrain or enjoin the issuance or delivery of the Master Lease or Schedule A, the authority or action of the City Council of Lessee relating to the issuance or delivery of the Master Lease or Schedule A, the collection of the revenues of Lessee or the imposition of rates and charges with respect to Lessee, pledged to pay the Lease Payments on Schedule A, or that would otherwise adversely affect in a material manner the financial condition of Lessee to pay the Lease Payments on Schedule A, and that neither the corporate existence or boundaries of Lessee nor the right to hold office of any member of the City Council of Lessee or any other elected or appointed official of Lessee is being contested or otherwise questioned.

5. That no petition or other request has been filed with or presented to any official of Lessee requesting any proceeding authorizing the issuance of the Master Lease or Schedule A, adopted by the City Council of Lessee be submitted to a referendum or other election; no authority or proceeding for the issuance, sale, or delivery of the Master Lease or Schedule A, passed and adopted by the City Council of Lessee, has been amended, repealed, revoked, rescinded, or otherwise modified since the date of passage thereof, and all such proceedings and authority relating to the issuance and delivery of the Master Lease or Schedule A, remain in full force and effect as of the date of this certificate.

EXECUTED AND DELIVERED as of the 21st day of February, 2018.

(SEAL)

SIGNATURE

OFFICIAL TITLE

| | |
|-------|---|
| _____ | _____ Mayor |
| _____ | _____ City Manager |
| _____ | _____ City Clerk |
| _____ | _____ Deputy Chief Financial Officer |

BEFORE ME, on this day personally appeared the foregoing individuals, known to me to be the persons whose names are subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this ____ day of February, 2018.

(NOTARY SEAL)

Notary Public, State of Texas

ATTACHMENT G TO SCHEDULE A
FORM OF
OPINION OF COUNSEL TO LESSEE

[see attached]

ATTACHMENT H TO SCHEDULE A

IRS Form 8038-G

[see attached]

ATTACHMENT I TO SCHEDULE A

FORM OF

CROSS-RECEIPT

With respect to the MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT, dated as of February 21, 2018 (the "*Master Lease*") by and between BANC OF AMERICA PUBLIC CAPITAL CORP, as lessor ("*Lessor*") and the CITY OF SAN ANTONIO TEXAS, as lessee ("*Lessee*") and Schedule A, dated as of February 21, 2018 to the Master Lease:

Lessor hereby acknowledges the lease to Lessee of the Equipment listed on Schedule A, to the Master Lease and receipt from Lessee of Schedule A to the Master Lease dated as of the date hereof.

Lessee hereby acknowledges the lease of the Equipment pursuant to the Master Lease and Schedule A to the Master Lease.

DATED: As of February 21, 2018

BANC OF AMERICA PUBLIC CAPITAL CORP,
as Lessor

By: _____

Name: _____

Title: _____

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Troy Elliott

Title: Deputy Chief Financial Officer

ATTACHMENT J TO SCHEDULE A
FORM OF
FEDERAL TAX CERTIFICATE

**NOTE: BOND COUNSEL WILL PROVIDE ITS VERSION
OF THIS DOCUMENT.**

FEDERAL TAX CERTIFICATE

I, Troy Elliott, Deputy Chief Financial Officer of the City of San Antonio, Texas (the "City") hereby certify that I am the duly qualified and authorized representative of the City; that the City, as lessee (the "Lessee"), executed and delivered (i) the Master Equipment Lease/Purchase Agreement between the City and Banc of America Public Capital Corp (the "Lessor") on February 21, 2018 (the "BoA Lease"), including Schedule A thereto (the "Schedule"); (the BoA Lease and the Schedule shall be referred to collectively as the "Lease"); that Lessee is a political subdivision of the State; and that in my official capacity as such officer of the City, I am responsible for executing and delivering the Lease, on behalf of the Lessee. Concurrently with the Lease, the City has executed and delivered a Tax-Exempt Equipment Lease-Purchase Agreement between the City and Signature Public Funding Corp. dated February 21, 2018 including the schedule thereto (the "Signature Lease") and a certain Public Property Finance Contract (Non-Appropriation) including the schedule thereto dated February 21, 2018 (the "Finance Contract").

This Certificate is being issued pursuant to sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations, Sections 1.141, 1.148, and 1.150 (the "Regulations"). All terms not otherwise defined herein shall have the same meaning as those terms have in the Regulations or the Lease.

In addition to the covenants and representations made in the Lease, I represent that the following facts, estimates, and circumstances are in existence on the date of this Certificate or are reasonably expected to occur hereafter. To the best of the knowledge and belief of the undersigned, the expectations of Lessee, as set forth herein, are reasonable; and there are no present facts, estimates, and circumstances which would change such expectations.

1. The Lease provides for the lease of personal property by the Lessor to Lessee. Under the Lease, the Lessor will provide funds to acquire property designated by Lessee from time to time pursuant to the terms and subject to the conditions of the Lease and the Lessor thereafter will lease such property to Lessee in accordance with the Lease. The Lessee will authorize the lease of property pursuant to the Lease by separate ordinance and related official action. Under the Lease, the Lessee is required to make lease payments (the "Lease Payments") with respect to the property, comprising separately stated components of principal and interest, on the dates and in the amounts stated in the Schedule.

2. Contracts or purchase orders providing for the acquisition of the equipment identified in the Lease (the "Equipment") will be acquired with due diligence. The Equipment is identified with specificity in the Schedule. Based upon the provisions of the contracts or purchase orders, the Equipment is expected to be acquired on or before the following date (the "Expected Purchase Date"):

Expected Purchase Date: May, 2018 – December, 2018

The Equipment will be purchased by, and delivered to, and title will be held in the name of, the Lessee.

3. The Lease provides that the Lessor shall deposit the amount stated below into escrow to be credited to the Equipment Acquisition Account (the "Fund") created by the Lease and utilized to pay for the Equipment as provided therein, and for costs of issuance related to the Lease and the lease of the Equipment.

Lessor's Deposit into the Fund: \$4,963,223

Of the proceeds of the Lease, \$22,500 is allocated hereby to costs of issuance and \$4,940,723 to the purchase of the Equipment.

It is presently expected that all such funds initially credited to the Fund shall be disbursed to pay for the Equipment and costs of issuance related thereto, and the proceeds of the Lease are allocated hereby to pay such costs of issuance and to purchase the Equipment, but any such amounts ultimately determined not to be needed for such purposes and the interest earnings on the amounts held in the Fund shall be utilized on or after the Expected Purchase Date to pay part of the principal or interest due under the Lease, as provided in the Lease.

4. The original proceeds of the Lease, and interest to be earned thereon, do not exceed the amount necessary for the governmental purpose for which the Lease is entered into.

5. The interest of Lessee in the Equipment has not been and is not expected during the term of the Lease to be sold, transferred, or disposed of by Lessee.

6. No sinking fund, debt service fund, reserve fund, or similar fund is expected to be created by Lessee with respect to the Lease and Lease Payments thereunder.

7. In the event that the Gross Proceeds (as defined in the Code section 148(f)) of the Lease are not expended on the Equipment on or before the day which is six (6) months after the date of issuance of the Lease and the Lease or the Lessee do not otherwise qualify for an exception to the rebate requirements, then Lessee shall comply with, the requirements of the Code section 148(f) and will rebate to the United States of America all arbitrage "profit" required thereby. Lessee hereby covenants to comply with all requirements of the Code and Regulations relating to the rebate of arbitrage "profit" to the United States of America.

8. The Lessee will, at all times prior to the termination of the Lease,

a. exclusively own, operate, and possess all property acquired with Gross Proceeds and not use or permit the use of any property acquired with Gross Proceeds in any activity carried on by any person or entity (other than a state or local government), *unless* such use is merely as a member of the general public, or

b. not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds or any property acquired with Gross Proceeds, other than a charge or other payment merely as a member of the general public or interest earned on Investments acquired with Gross Proceeds pending application for their intended purposes, either or both.

9. The Lessee will not use Gross Proceeds to make, finance, or refinance loans to any person or entity other than a state or local government.

10. The amounts received from the Lease, when added to available funds on hand and amounts expected to be received from the investment of such proceeds, do not exceed the amounts required to acquire the Equipment and the costs of offering and issuing the Lease.

11. No receipts from the Lease or amounts received from the investment thereof will be used to pay the principal of or interest on any currently outstanding issue of bonds or other obligations of the Lessee.

12. The Lessee reasonably expects to spend at least 85% of the spendable proceeds of the Lease with regard to the Equipment within three years. Not more than 50% of the proceeds of the Lease with regard to the Equipment will be invested in Investments having a substantially guaranteed Yield for a period of four (4) years or more.

13. Other than the Signature Lease and the Finance Contract there are no other obligations that (a) are sold at substantially the same time as the Lease (i.e., less than 15 days apart), (b) are sold pursuant to the same plan of financing with the Lease, and (c) will be paid out of substantially the same source of funds as the Lease. Pursuant to section 1.150-1(c)(2) of the Regulations, the Lease, the Finance Contract, and the Signature Lease will be treated as a single issue (the "Finance Issue") for federal tax purposes.

For the purposes of this Federal Tax Certificate, the Yield on the Finance Issue is the discount rate that, when used in computing the present value as of the Issue Date of the Finance Issue, of all unconditionally payable payments of principal and interest on the Finance Issue, produces an amount equal to the present value, using the same discount rate, of the aggregate Issue Price of the Finance Issue as of the Issue Date.

The Issue Price of the Finance Issue is the first price at which the Lease, the BoA Lease, and the Finance Contract were sold to the respective lenders. The City has been informed by such lenders that each intends to hold such instruments for its own account and neither is being offered to the public or issued in exchange for property.

The combined Yield on the Lease, Signature Lease, and the Finance Contract is calculated by treating the outstanding stated principal amounts as payable on the dates set forth in the respective schedules attached to the Lease, Signature Lease, and the Finance Contract. The City has no present intention of exercising the purchase option under the Lease, Finance Contract, or the Signature Lease prior to its maturity.

The Yield on the Finance Issue, calculated in the manner set forth above, is 2.58 percent.

The City has not entered into and will not enter into a hedging transaction with respect to the Lease.

14. The weighted average maturity of the Lease is less than 120% of the average reasonably expected economic life of the Equipment financed by the Lease.

15. The combined Weighted Average Maturity of the Finance Issue is 3.5347 years and is the sum of the products of the Issue Price of the Finance Issue and the number of years to maturity (taking into account mandatory payments), divided by the aggregate Sale Proceeds of the Finance Issue.

16. In connection with the Lease with regard to the Equipment, the Lessee has not

- a. employed any abusive arbitrage device, or
- b. overburdened the market for tax-exempt obligations.

17. In connection with the Lease, the Lessee has not employed any device to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.

18. The Lessee has covenanted to account for the proceeds related to the Lease separately and apart from all other funds of the Lessee from the date hereof.

19. The Lessee does not expect that the Lease will be used in a manner that would cause the Lease to be arbitrage bonds within the meaning of Code.

20. The Lease will state the separate interest and principal components of the amounts designated as Lease Payments under the Lease.

21. The City will retain all pertinent and material records relating to the use and expenditure of the Gross Proceeds of the Lease and the calculation or exemption from rebate until three years after the Lease is paid, or such shorter period as authorized by subsequent guidance issued by the Department of Treasury, if applicable. All records will be kept in a manner that ensures their complete access throughout the retention period. For this purpose, it is acceptable that such records are kept either as hardcopy books and records or in an electronic storage and retrieval system, provided that such electronic system includes reasonable controls and quality assurance programs that assure the ability of the City to retrieve and reproduce such books and records in the event of an examination of the Lease by the Internal Revenue Service.

22. Not more than 50 percent of the Proceeds of the Lease will be invested in nonpurpose investments (as defined in section 148(f)(6)(A) of the Code) have a substantially guaranteed Yield for four years or more within the meaning of section 149(g)(3)(A)(ii) of the Code. Further, the City reasonably expects that at least 95 percent of the spendable Proceeds of the Lease will be used to carry out the governmental purposes of the Lease within the three-year period beginning on the date the Lease is issued.

23. The City has implemented written post-issuance compliance procedures regarding federal tax compliance that include provisions to ensure that all nonqualified bonds of the Lease are remediated according to the requirements under the Code and Regulations and to monitor the requirements of section 148 of the Code.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this Federal Tax Certificate as of February 21, 2018.

CITY OF SAN ANTONIO, TEXAS

By: _____
Name: Troy Elliott
Title: Deputy Chief Financial Officer

EXHIBIT A

CERTIFICATE OF LESSOR

This Certificate is furnished by Banc of America Public Capital Corp (the "Lessor"), regarding the Master Equipment Lease/Purchase Agreement (the "Obligation"), dated as of February 21, 2018 by and between the Lessor and the City of San Antonio, Texas (the "City"). Each capitalized term used herein has the meaning or is the amount, as the case may be, specified for such term in the Federal Tax Certificate to which this Exhibit A is attached (the "Federal Tax Certificate"). I hereby certify as follows in good faith as of the Issue Date of the Obligation.

I am the duly chosen, qualified and acting officer of the Lessor for the office shown below my signature; as such, I am familiar with the facts herein certified and I am duly authorized to execute and deliver this certificate on behalf of the Lessor. I am the officer of the Lessor charged, along with other officers of the Lessor, with responsibility for the Obligation.

We hereby certify that the Lessor purchased the Obligation for delivery on the date hereof at a price of \$4,963,223, which is the stated original face amount of the principal component of the Obligation. The Lessor intends to hold the Obligation for its own account and not in the capacity of bondhouse, broker, dealer, or similar person or organization acting in the capacity of underwriter or wholesaler. The Obligation is not being offered to the public and is not being issued in exchange for property.

We understand that Bond Counsel may rely on this Certificate, among other things, in providing an opinion with respect to the exclusion from gross income of interest on the Obligation for federal income tax purposes and in preparing the Internal Revenue Service Form 8038-G. The Lessor makes no representation as to the legal sufficiency of the factual matters set forth herein.

EXECUTED as of this 21st day of February, 2018.

BANC OF AMERICA PUBLIC CAPITAL CORP

By: _____

Name: _____

Title: _____

**ATTACHMENT K TO SCHEDULE A
UCC-1 FINANCING STATEMENT**

[see attached]

ATTACHMENT L TO SCHEDULE A
AMORTIZATION SCHEDULE

[SEE ATTACHED]

**ATTACHMENT M TO SCHEDULE A
AIRCRAFT ADDENDUM**

[SEE ATTACHED]

ATTACHMENT M

ADDENDUM RELATING TO AIRCRAFT

THIS ADDENDUM RELATING TO AIRCRAFT (this "**Addendum**") is dated as of February 21, 2018 among **Banc of America Public Capital Corp** ("**Lessor**"), and **City of San Antonio, Texas** ("**Lessee**") pursuant to and as a part of that certain Master Equipment Lease/Purchase Agreement, dated as of February 21, 2018 (the "**Master Lease**"), and Schedule A, thereto, dated as of February 21, 2018 (the "**Schedule**" and, together with the Master Lease, and including all related attachments, supplements and amendments, the "**Agreement**"). For the consideration described in the Agreement, and subject to the terms and conditions of the Agreement, as supplemented and amended by this Addendum, Lessor and Lessee hereby agree as follows:

A. Generally. This Addendum shall constitute a part of the Agreement, and supplements and amends the Agreement, as and to the extent provided below, for the purpose of modifying the terms of the Agreement in a manner consistent with Lessor's lease financing of Lessee's acquisition of the "Aircraft" described herein. In the event any provisions of the Agreement are inconsistent with the provisions or purposes of this Addendum, the provisions of this Addendum shall prevail. All other terms and conditions of the Agreement not specifically amended by this Addendum shall remain unchanged and in full force and effect and are hereby ratified and confirmed by Lessee. Certain of the terms used in this Addendum are defined in Section 8 herein, and any capitalized terms not defined in this Addendum are as defined in the Agreement.

B. Supplemental or Amending Provisions. The Agreement is hereby supplemented and amended, as follows:

1. Description of "Equipment" (Financing of Aircraft). All references to "**Equipment**" in the Agreement shall include the Aircraft (including, the Airframe, and whether or not then attached, the Engine, Rotor Blade and Rotor Components, and Parts) financed under, and described in the Schedule and in Annex A to this Addendum, or unless otherwise provided in this Addendum. The Airframe is of a type certified by the FAA to transport at least five (5) persons including crew; or goods in excess of 450 kilograms (6050 pounds). The Engine has at least 550 rated takeoff shaft horsepower or the equivalent of such horsepower.

2. Supplemental Conditions Precedent. In addition to the conditions provided in the Agreement, Lessor's willingness to fund the Aircraft shall be subject to the following supplemental conditions, all of which must be to Lessor's, and, as applicable, Aviation's Counsel's, reasonable satisfaction: (a) on or prior to the date Lease Proceeds to fund the Aircraft are released from the Equipment Acquisition Account held by the Escrow Agent, and; (b) Lessor, and/or (if so delivered by Lessor) Aviation Counsel, shall have received all of the following in form and substance satisfactory to Lessor and/or Aviation Counsel with respect to the Aircraft: (i) evidence of Lessee's reservation of an "N" number, together with an assignment of the rights thereto to Lessor, (ii) evidence that it has been duly certified as to type and airworthiness by the FAA, (iii) chattel paper or other counterpart originals of the Schedule as well as a Certificate of Acceptance executed by Lessee confirming, among other things, delivery to and acceptance by Lessee of the Aircraft, (iv) evidence of the Required Coverages (as defined in Section 4(f) hereof), (v) a Certificate of Aircraft Registration (AC Form 8050-3), or, if

the Certificate of Aircraft Registration has not been issued, an Aircraft Registration Application (AC Form 8050-1), (vi) an Aircraft Bill of Sale (AC Form 8050-2), (vii) a Standard Airworthiness Certificate (AC Form 8100-2), and (iii) the executed Security Agreement, attached hereto as Annex C; (c) on the date Lease Proceeds are released from the Equipment Acquisition Account for purchase of the Aircraft (all as confirmed to Lessor by Aviation Counsel), (i) the Aircraft, the Engine, the Rotor Blade, and Rotor Components and the other property, rights and Collateral that are subject to the Lessor's interest, shall be free and clear of all other Liens, including any Liens recorded or registered with the FAA, (ii) the Bill of Sale shall be in the name of the Lessee, (iii) upon making all of the filings and registrations required, Lessor shall have a security interest consistent with the terms of the Agreement in, and with respect to, the Lessee's rights and interests in and to the Airframe, the Engine, the Rotor Blade and Rotor Components and the associated rights, and other related property; (d) concurrently with Lessor's funding the Aircraft (all as confirmed to Lessor by Aviation Counsel), (i) any and all documents, instruments and funds then held in escrow to fund the acquisition of the Aircraft shall be released from escrow, and (ii) all of the filings and registrations referenced above have been made (and the related filing and registration information is reported to the Lessor telephonically or electronically); and (e) such other documents, filings, certificates, opinions, assurances and evidence of such other matters, as Lessor, Lessor's counsel or Aviation Counsel, may reasonably request.

3. Supplemental Representations, Warranties and Covenants. In addition to its representations, warranties and covenants in the Agreement, Lessee, on the date the Schedule is funded, further represents, warrants and covenants as follows:

(a) The Aircraft. The Aircraft is currently certified under existing FAA rules and regulations, has been delivered to Lessee, is in its possession, completely inspected by Lessee to its satisfaction, and unconditionally, irrevocably and fully accepted by Lessee; and without limiting the foregoing, (i) the information contained in the Schedule and this Addendum (including the registration number of the Aircraft, the serial numbers of the Airframe and the Engine the Rotor Blade and Rotor Components and manufacturer and model numbers of the Airframe, Engine and Rotor Blade and Rotor Components) is true and accurate in all respects, and (ii) the Aircraft is airworthy in all respects and otherwise in good working order, repair and condition and fully equipped to operate for its purpose, and in conformity with Applicable Standards.

4. Obligations. Without limiting its other obligations under the Agreement, Lessee hereby agrees to the following:

(a) Notices. Lessee will promptly give written notice to Lessor of (i) any accident or similar event involving the Aircraft with respect to which there may be a risk of civil or criminal liability, or resulting in any material damage to the Aircraft, (ii) the commencement or threat of any material litigation or proceedings affecting the Aircraft, (iii) any dispute between Lessor, Lessee or any other person or entity and any governmental regulatory body or other party that involves the Aircraft, and (iv) each scheduled and unscheduled maintenance, service, overhaul, repair or other event pursuant to which the Engine is to be removed from the Aircraft, at least 30 days' prior to any such scheduled removal, and as soon as practicable prior to any such unscheduled removal. In addition, in the event that the Lessee intends to swap out the Engine, Lessee will provide at least five (5) business days' prior written notice. In addition, to the extent that the Lessee changes the use such that the Aircraft will not be used exclusively for law enforcement purposes, the Lessee shall provide at least five (5) business days' prior written notice of such change in use.

(b) Compliance With Law. Lessee will (i) duly observe and conform to all requirements of Applicable Law relating to the conduct of its business and/or the Aircraft, (ii) remain a "citizen of the United States" within the meaning of the Transportation Code, (iii) obtain and keep in full force and effect (A) all rights, franchises, licenses and permits that are necessary to the proper conduct of its business, and (B) all governmental, administrative or agency approvals required with respect to the performance of its obligations under the Agreement and the operation of the Aircraft (including for emergency medical services and any other purposes for which it may be operated), and its business generally, (iv) cause the Aircraft to remain duly registered, in its name, under the Transportation Code (including, by making all necessary reports, re-registering its ownership of the Aircraft, and taking all other actions required by Applicable Law).

(c) Hangaring and Operating Location. Lessee will neither permit the Aircraft to be operated outside the continental United States nor change its principal base from that specified as the Primary Hangar Location in Annex A, hereto, without the prior written consent of Lessor, which consent shall not be unreasonably withheld. Lessee further agrees not to operate the Aircraft in any area, at any time or in any manner (i) excluded from or otherwise not covered by any of the Required Coverage, or with respect to which claims might be prohibited, or in which such operation creates any unreasonable risks to the Aircraft or any person or entity, or (iii) if prohibited by Applicable Law or any of the other provisions of the Agreement.

(d) Operations. Lessee will use, operate, load, hangar and store the Aircraft in a careful and proper manner under and in compliance with all applicable provisions of the FARs and with all other Applicable Standards, including, any of the same applicable to airworthiness, security, or operation within any then applicable jurisdiction for the purposes contemplated in the Agreement. Lessee shall have "operational control" of the Aircraft (as determined in accordance with the FARs and any other Applicable Laws) and operate the Aircraft pursuant to Part 91, and neither operate nor permit the Aircraft to be operated for air taxi operations or otherwise under Part 135 of the FARs.

(e) Maintenance. Lessee will, at its own expense, (i) maintain, inspect, service, repair, overhaul and test the Aircraft, make any alterations or modifications to the Aircraft, and furnish all parts, replacements, avionics, equipment, mechanisms and devices, and otherwise conform its physical attributes, cause the Aircraft to have communications capabilities, and maintain (in English) all Records for or with respect to the Aircraft (all of which shall immediately, without further act, become part of the Aircraft and subject to Lessor's interest), utilizing properly trained, licensed, and certified maintenance sources and personnel utilizing replacement parts approved by the FAA and the applicable manufacturer, in each case, (A) as and to the extent the same may at any time be required to comply with Applicable Standards and (B) so that its value, condition and operating efficiency will at all times be no less than was the case when delivered to Lessee, ordinary wear and tear from proper use alone excepted (including, by (1) enrolling and maintaining the Airframe in a Maintenance Program, and/or the Engine in the Engine Maintenance Program and (2) complying with all mandatory service bulletins and airworthiness directives by completing the same through corrective modification in lieu of operating manual restrictions); (ii) adopt, implement and comply with all security measures required by any Applicable Standards, or that are necessary or appropriate for the proper protection of the Aircraft (whether on the ground or in flight) against theft, vandalism, hijacking, destruction, bombing, terrorism or similar acts; (iii) not make or authorize any improvement, change, addition or alteration to the Aircraft if it will impair the originally intended function or use of the Aircraft, impair the value of the Aircraft as it existed immediately prior

thereto, or violate any Applicable Standard; and (iv) if requested by Lessor, attach to the Aircraft a notice disclosing Lessor's Interest in the Aircraft.

(f) **Insurance.** Lessee agrees to maintain at all times, at its own cost and expense, with insurers of recognized responsibility reasonably satisfactory to Lessor (but in no event having an A.M. Best or comparable agency rating of less than "A-") unless otherwise provided below: (i) comprehensive Aircraft and general liability insurance, including personal injury liability, against bodily injury or property damage claims including contractual liability, premises damage, public liability, death and property damage liability, public and passenger legal liability coverage, and sudden accident pollution coverage, in an amount not less than the maximum limits for claims under the Texas Tort Claims Act, § 101.23, currently at \$250,000 per claimant and \$500,000 per occurrence, such coverage may be addressed through self-insurance pursuant to the Lessee's Defined Self-Insurance and Risk Management Program pursuant to the Lessee's Ordinance No. 83926, (ii) "all-risk" ground, taxiing, and flight hull insurance on an agreed-value basis, covering the Aircraft, provided that such insurance shall at all times be in an amount not less than the Prepayment Price, which shall not be pursuant to self-insurance and will be subject to a nil deductible, (iii) war risk and allied perils (including confiscation, appropriation, expropriation, terrorism and hijacking insurance) in the amounts required above, which shall not be subject to self-insurance. Any policies of insurance carried in accordance with this Section and any policies taken out in substitution or replacement or any such policies shall (i) be amended to name each of Lessor and Lessee as an additional insured under any liability policies, (ii) provide that any amount(s) payable thereunder shall be paid directly to Lessor, as loss payee, (iii) provide that any cancellation, lapse or substantial change of any of the required coverages shall not be effective until the thirtieth (30th) day following Lessor's receipt of written notice by such insurer thereof, (iv) provide that the insurance shall not be invalidated as to Lessor or Lessee by any action or inaction of Lessee or any other person or entity (other than Lessor) as it relates to physical damage coverage, and regardless of any breach or violation of any warranties, declarations or conditions contained in such policies by or binding upon Lessee or any other person or entity (other than Lessor), (v) be primary insurance, not subject to any co-insurance clause and without right of contribution from any other insurance, (vi) provide that all of the provisions thereof, except the limits of liability, shall operate in the same manner as if there were a separate policy covering each insured or loss payee, (vii) contain a severability of interest clause, (viii) contain a waiver of right to set-off and waiver of subrogation rights, and (ix) waive any right of such insurer to any setoff, counterclaim or other deduction, by attachment or otherwise, in respect of Lessor or Lessee. All of the coverage required herein (the "Required Coverage") shall be in full force and effect worldwide throughout any geographical areas to, in or over which the Aircraft is operated. Annually on the anniversary of the date the Schedule is funded, Lessee shall furnish to Lessor an insurance certificate evidencing that Lessee has obtained the Required Coverage and for self-insurance, Lessee shall provide a self-insurance letter. Lessee will also advise Lessor in writing at least thirty (30) days prior to the expiration or termination date of any of the Required Coverage.

(g) **Event of Loss.** Upon the occurrence of any Event of Loss with respect to the Airframe Lessee shall notify Lessor within five (5) days of the date thereof. Upon an Event of Loss with respect to any Engine, Rotor Blade, or Rotor Components (a "**Lost Item**"), but not the Airframe, Lessee shall give Lessor prompt written notice thereof and shall within thirty (30) days after the occurrence of such Event of Loss, duly convey to Lessor a security interest consistent with the terms of the Agreement in a similar or better engine, or rotor blade, or rotor components (a "**Replacement Item**") of the same make and model number as the Lost Item. Such Replacement Item shall be free and clear of all liens, have a value, utility, and useful life at least equal to, and be in as good an operating condition as, the Lost Item, assuming such Lost Item

was of the value and utility and in the condition and repair required by the terms hereof immediately prior to the occurrence of such Event of Loss. Lessee, at its own cost and expense, shall furnish Lessor with such documents to evidence such conveyance as Lessor shall reasonably request. Each such Replacement Item shall, after such conveyance be deemed an "**Engine**", "**Rotor Blade**", or "**Rotor Components**", as defined herein, and shall be deemed part of the Aircraft and subject to Lessor's interest. No Event of Loss with respect to any Lost Item shall result in any reduction or delay in the payment of payments due under the Schedule or relieve Lessee of any obligation hereunder.

(h) Redelivery. At any time when Lessee is required by the terms of the Agreement to deliver the Aircraft to Lessor, Lessee shall, at Lessee's expense, deliver the Aircraft to a location within a 300 mile radius of the City of San Antonio, Texas and within the State, as designated by Lessor, or such other location as the parties may from time to time reasonably agree or specify to the contrary and otherwise in strict compliance with the conditions set forth in Annex B to this Addendum.

(i) Further Assurances. Lessee agrees that it shall promptly execute and deliver to Lessor and any assignee such further instruments, UCC and FAA filings and other documents, and take such further action, as Lessor may from time to time reasonably request in order to further carry out the intent and purpose of the Agreement and to establish, enforce, protect and/or effectuate an assignment of the rights, interests and remedies created, or intended to be created, in favor of Lessor thereby.

(j) Aircraft Registration. Lessee shall remain solely responsible to cause the Aircraft to be effectively and otherwise validly registered in Lessee's name on the Registry, and without limiting the foregoing, or any other provision of this Lease, Lessee shall:

(i) cause the Registration Certificate to be maintained within the Aircraft and cause the then currently assigned U.S. registration number to remain on the Aircraft; including by (A) notifying Lessor immediately of any event or circumstance with respect to which the Registration Requirements require further action by Lessee, Lessor, the Registry or any other governmental authority or other person, (B) immediately upon receipt, placing the original, replacement or renewal Registration Certificate on the Aircraft prior to the expiration or other invalidation of any previously issued Registration Certificate (whether the certificate or any other document constituting the Registration Certificate as defined herein) under the Registration Requirements, and (C) complying with any and all of the other Registration Requirements relating to such Registration Certificate, and to the Registration Certificate replaced thereby (including any of the same relating to the destruction or return thereof, as the case may be);

(ii) with respect to any Defective Registration (and without waiving Lessee's responsibility to avoid such circumstance), at all times upon and after the operation of the Aircraft shall no longer be authorized by the Registration Requirements, Lessee shall (A) neither operate nor permit or suffer the operation of the Aircraft without a currently effective and otherwise valid Registration Certificate (and shall cause the pilots to be made aware of the Defective Registration), and otherwise comply with the FARs and other Applicable Laws relating to such Defective Registration, (B) ground and store the Aircraft, and (C) inform the insurer or insurers, and obtain and maintain adjustments to the insurance coverage required pursuant to

this Addendum which may be necessary or desirable to Lessor so as to reflect any changes in the insurable risks relating to any Defective Registration; and

(iii) reimburse Lessor upon its demand for all fees, charges, impositions, penalties, fines or other similar amounts incurred in connection with any of the foregoing (whether related to the compliance or failure to comply with any of the same); and fully and timely cooperate with Lessor so as to enable Lessor to complete and file the registration, renewal and replacement applications, and any other filings, fees or other payments or undertakings as and when required by the Registration Requirements, and to take any and all of the other actions contemplated herein, as and when required by the Registration Requirements or as otherwise reasonably requested by Lessor, including with respect to any Assignment or any other disposition contemplated in the Agreement.

With respect to any such Defective Registration, in no event will Lessor be deemed liable to Lessee or any other person as a result of any Defective Registration, whether by reason of Lessor's failure to accurately complete or effectively file any such registration filing or otherwise, and without limiting the foregoing, (i) Lessee shall remain obligated to pay and perform all of its obligations to Lessor and (ii) Lessee agrees that it shall pay, make Lessor whole on an after-tax basis from and against any and all claims in any way relating to or arising out of any Defective Registration.

5. Supplemental Obligations

(a) Taxes. In addition to those taxes and other charges noted in the Master Lease, Lessee shall also be responsible for taxes, imposts, assessments, duties and charges (together with any penalties, fines or interest thereon) payable with respect to manufacturing, ordering, shipment, purchase, ownership, delivery, installation, hangaring, leasing, use, operation, or return thereof, any Third Party Agreement, or other disposition of the Aircraft, or services provided in connection therewith; including, for example, any custom duties, landing fees, airport charges, navigation service charges, and route navigation charges.

(b) Expenses. In addition to any other costs and expenses for which Lessee may be responsible under the Agreement, Lessee agrees that it shall pay to Lessor upon demand all fees, costs and expenses incurred by or on behalf of Lessor at any time in connection with the enforcement or other exercise of any of Lessor's rights and remedies under or with respect to this Addendum such as, without limitation, appraisal and inspection fees, the reasonable fees and expenses of Aviation Counsel, consultants and brokers, UCC, FAA, and other applicable title and Lien searches, and costs and expenses relating to recovery, repossession, hangaring, storage, insurance, transportation, repair, refurbishment, advertising, sale and other dispositions of the Aircraft.

6. Supplemental Restrictions.

(a) No Dispositions. In supplement to the Agreement, Lessee shall not install the Engine, Rotor Blade, Rotor Components, or Part, or permit the same to be installed, on any aircraft other than the Aircraft; provided that Lessee may swap out the Engine and replace it with a replacement engine, which will be deemed the Engine thereafter pursuant to the following conditions:

(i) The replacement Engine must be the same or better utility and be in the same or better condition as the replaced Engine:

(ii) The Lessee must provide five (5) business days' prior written notice of such replacement; and

(iii) The Lessee shall be responsible for all costs for taking such action, including costs of releasing the lien on the replaced Engine, the cost of securing the replacement Engine, including costs of amending and refileing the Security Agreement with the FAA, including any filings with International Registry Interests if applicable, including legal fees and costs of Lessor's Aviation Counsel and outside legal counsel.

7. Supplemental Defaults and Remedies.

(a) Events of Default. In addition to Events of Default listed in Section 12.1 of the Master Lease, the occurrence of any of the following shall constitute an immediate Event of Default: (i) the Aircraft is operated in a manner, at a time or in or over or located at a place with respect to which Required Coverage shall not be in effect; or (ii) Lessee shall breach any representation, warranty or agreement in this Addendum requiring compliance with Applicable Law.

(b) Additional Remedies. If an Event of Default occurs, in addition to all other rights and remedies granted to it in the Agreement, Lessor may exercise any one or more of the following remedies with respect to the Aircraft (including, the Airframe and any or all of the Engine, Rotor Blade and Rotor Components, Parts, Records or other property constituting the Aircraft, whether or not then attached to or on board the Airframe) in addition to the remedies listed in Section 12.2 of the Master Lease:

(i) Terminate the right of any third party to use, possess or control the Aircraft, including under any Third Party Agreement, without regard as to the existence of any event of default thereunder, (A) recover from, and/or cause Lessee and any such third party, to relinquish possession and return the Aircraft and/or (B) exercise any and all other remedies in Lessee's stead, to the extent provided for under, or otherwise available to Lessee in connection with the related Third Party Agreement;

(ii) Demand from any court speedy relief pending final determination available at law (including, possession, control, custody or immobilization of the Aircraft, or preservation of the Aircraft and its respective value), and/or (A) procure the deregistration and/or export and physical transfer of the Aircraft from the territory in which it is then situated.

8. Definitions. Any terms defined elsewhere in this Addendum, together with the following defined terms, shall pertain to this Addendum (and as incorporated therein, the Agreement):

Aircraft shall mean (i) the Airframe, (ii) the Engines, (iii) the Rotor Blade, and Rotor Components and (iv) the Records, and all accessories, additions, accessions, alterations, modifications, Parts, repairs and attachments now or hereafter affixed thereto or used in connection therewith, and all Permitted Replacements and all other replacements, substitutions and exchanges (including trade-ins) for any of the foregoing.

Airframe shall mean (i) the Aircraft described in Annex A hereto, but solely for the purposes of this definition, shall not include the Engine, Rotor Blade, and Rotor Components, and (ii) any and all related Parts.

Applicable Law shall mean (in addition to any of the same contemplated in the Agreement) all applicable laws, statutes, treaties, conventions, judgments, decrees, injunctions, writs and orders of any court, governmental agency or authority and rules, regulations, orders, directives, licenses and permits of any governmental body, instrumentality, agency or authority as amended and revised, and any judicial or administrative interpretation of any of the same, including (a) any of the same whether domestic, foreign, national, local or international, relating to, among other things, (i) Lessor, Lessee, or any other pertinent person or entity, (ii) the Aircraft (including the Engine, Rotor Blade, Rotor Components or Part), including as to its use, operation, piloting, outfitting, service, maintenance or repair, or any transportation or other services provided in connection therewith, or (iv) without limiting any of the foregoing, relating to (a) taxes or other impositions, noise, the environment (including any substances in, on or emitted from any of the same), national security, public safety, insurance, exports or imports or contraband, and/or (b) without limiting the foregoing, the UCC, the Transportation Code, all FARs, the airworthiness certificate issued with respect to the Aircraft, all applicable airworthiness directives issued by the FAA or similar regulatory agency having jurisdictional authority.

Applicable Standards shall mean (i) Applicable Law, (ii) the requirements of the insurance policies required hereunder, (iii) any mandatory accreditation requirements pertinent to the operation of the Aircraft, and (iv), with respect to the Aircraft (including, by way of example, the Airframe or the Engine, Rotor Blade, Rotor Components, Component or Part), all compliance requirements set forth in or under (A) all maintenance manuals initially furnished with respect thereto, including any subsequent amendments or supplements to such manuals issued by the manufacturer or supplier thereof from time to time, (B) all mandatory service bulletins issued, supplied, or available by or through the applicable manufacturer with respect thereto, (C) all conditions to the enforcement of any warranties pertaining thereto, (D) Lessee's FAA approved maintenance program with respect thereto, if any.

Aviation Counsel shall mean Daugherty Fowler Peregrin Haught & Jenson of Oklahoma City, OK or such counsel as Lessor may designate from time to time.

Defective Registration shall mean any failure to cause the Aircraft to be effectively registered with the Registry in the name of Lessee in accordance with the applicable Registration Requirements, for any reason whatsoever, including should such registration be revoked, canceled or expired or otherwise deemed to have ended or been invalidated pursuant to the Registration Requirements.

Engine shall mean (i) the engine described in Annex A hereto, whether or not hereafter installed on the Aircraft or any other aircraft from time to time; (ii) any engine that may from time to time be substituted for the Engine constituting a Replacement Item; and (iii) any and all related Parts.

Engine Maintenance Program shall mean the Engine manufacturer's Engine maintenance program to the extent covered by any applicable warranty, and thereafter, either the Engine manufacturer's service program or an agreement, in form and substance reasonably satisfactory to Lessor entered into from time to time between Lessee and such vendor as Lessee may designate and as may be reasonably satisfactory to Lessor, which provides for the

maintenance and/or overhaul of the Engine consistent with the Engine manufacturer's service program.

Event of Loss shall mean (in addition to any of the same contemplated in the Agreement) any of the following events with respect to the Aircraft (or, by way of example, the Airframe, the Engine, Rotor Blade, or Rotor Components): (a) loss of such property or the use thereof due to theft, disappearance, destruction, damage beyond repair or resulting in an insurance settlement on the basis of a total or constructive total loss; (b) any taking of title to or use or possession of, such property by the act of any governmental authority (foreign or domestic); (c) as a result of any Applicable Law or other action by any governmental authority (foreign or domestic), including the FAA, the use of such property shall have been prohibited, or such property shall have been declared unfit for use, for a period of six (6) consecutive months; (d) with respect to the Engine, Rotor Blade or Rotor Components, the removal thereof from the Airframe for a period of six (6) months or longer; or (e) such property shall be returned to the manufacturer other than for repair, replacement or maintenance. An Event of Loss with respect to the Aircraft shall be deemed to have occurred if an Event of Loss occurs with respect to the Airframe. An Event of Loss with respect to the Engine, Rotor Blade, or Rotor Components shall not, without loss of the Airframe, be deemed an Event of Loss with respect to the Aircraft.

FAA shall mean the United States Federal Aviation Administration and/or the Administrator of the Federal Aviation Administration and the Department of Transportation, or any person or entity, governmental department, bureau, authority, commission or agency succeeding the functions of any of the foregoing, including, where applicable, the TSA.

FARs shall mean the Federal Aviation Regulations and any Special Federal Aviation Regulations (Title 14 C.F.R. Part 1 et seq.), together with all successor regulations thereto.

Liens shall mean (in addition to any of the same contemplated in the Agreement) all liens, charges, security interests, leaseholds, and encumbrances of every nature and description whatever, including any rights of third parties under Third Party Agreements.

Maintenance Program shall mean the manufacturer's Airframe maintenance program to the extent covered by any applicable warranty, and thereafter, either the manufacturer's service program or an agreement, in form and substance reasonably satisfactory to Lessor entered into from time to time between Lessee and such vendor as Lessee may designate and as may be reasonably satisfactory to Lessor, which provides for the maintenance and/or overhaul of the Airframe consistent with the manufacturer's service program.

Parts shall mean all appliances, avionics, parts, instruments, appurtenances, accessories, furnishings and other equipment of whatever nature (other than the complete Engine, Rotor Blade, or Rotor Components) that may from time to time be incorporated or installed in or attached to the Airframe, the Engine Rotor Blade, or Rotor Components, and any and all such appliances, avionics, parts, rotor components, instruments, appurtenances, accessories, furnishings and other equipment removed therefrom so long as the same have not been released from the Lessor's lien pursuant to the applicable terms of the Agreement, and all Replacement Items or any of the same.

Primary Hangar Location shall mean the location identified as such on Annex A hereto.

Proceeds shall mean (in addition to any of the same contemplated in the Agreement) all of Lessee's rights in and to any of the foregoing, and any and all rents, payments, charter hire

and other amounts of any kind whatsoever due or payable under or in connection with the Aircraft, including, (a) any and all proceeds of any insurance, indemnity, warranty or guaranty payable to Lessee from time to time, (b) any and all payments (in any form whatsoever) made or due and payable to Lessee from time to time in connection with any requisition, confiscation, condemnation, seizure or forfeiture by any governmental body, authority, bureau or agency or any other person or entity (whether or not acting under color of governmental authority), and (c) any and all other rents or profits or other amounts from time to time paid or payable.

Records shall mean any and all logs, manuals, certificates and data and inspection, modification, maintenance, engineering, technical, and overhaul records (whether in written or electronic form) with respect to the Aircraft (including, by way of example, the Airframe, the Engine, Rotor Blade, Rotor Components, or Part), including any and all of the same (a) required to be maintained by the FAA or any other governmental agency or authority having jurisdiction, or by any manufacturer or supplier with respect to the enforcement of warranties or otherwise, (b) evidencing Lessee's compliance with Applicable Standards, and (c) with respect to any maintenance service program.

Registration Certificate shall mean a currently effective Certificate of Aircraft Registration, AC Form 8050-3, or any other certificate issued to Lessor evidencing the currently effective registration of the Aircraft in its name, in connection with the operation of the Aircraft in the United States pursuant to the Registration Requirements, or any other document as may then be required to be maintained within the Aircraft by such Registration Requirements, either together with or in lieu of such certificate.

Registration Requirements shall mean the requirements for registering aircraft with the Registry under 49 U.S.C. 44101-44104, and 14 C.F.R. § 47 as then in effect, any successor laws, rules or regulations pertaining to applicants for and holders of a Registration Certificate, the U.S. registration number for the Aircraft, and any such other FARs and other Applicable Laws, in each case as and to the extent pertaining to the registration of Lessor's ownership of the Aircraft with the Registry, including any renewal of such registration, or replacement of any such Registration Certificate. To the extent that the use of the Aircraft changes such that such use shall not be exclusively law enforcement, then Lessee agrees and understands that the Registration Requirements shall include to the extent that the Airframe and/or Engine qualify as international interest or registerable interest with the International Registry pursuant to the Cape Town Convention, the registration of such interest with the International Registry. Lessee shall be responsible for the costs of such registration and agrees to assist with the requirements of the Cape Town Convention to affect such registration.

Registry shall mean the FAA Civil Aviation Registry, Aircraft Registration Branch, or any successor registry having an essentially similar purpose pertinent to the ownership registration of the Aircraft pursuant to the Registration Requirements.

Rotor Blade shall mean (i) each of the rotor blades described and listed by manufacturer's serial numbers in Annex A hereto, whether or not hereafter installed on the Aircraft or any other aircraft from time to time; (ii) any rotor blade that may from time to time be substituted for the Rotor Blade constituting a Replacement item; and (iii) any and all related Parts.

Rotor Component shall mean (i) each of the rotor gear boxes, tail rotor gear boxes, combined gearboxes, transmissions, servos, main and tail rotor head components and other rotor components described and listed by manufacturer's serial numbers in Annex A hereto,

whether or not hereafter installed on the Aircraft or any other aircraft from time to time; (ii) any rotor blade that may from time to time be substituted for the Rotor Component constituting a Replacement item; and (iii) any and all related Parts.

Third Party Agreements shall mean (other than the financing documents) any and all leases, subleases, interchange agreements, charter agreements, pooling agreements, timeshare agreements and any other similar agreements or arrangements of any kind whatsoever relating to the Aircraft (or by way of example, the Airframe or Engine).

Transportation Code shall mean Subtitle VII of Title 49 of the United States Code, as amended and recodified.

TSA shall mean the Transportation Security Administration and/or the Administrator of the TSA, or any person or entity, governmental department, bureau, authority, commission or agency succeeding the functions of any of the foregoing.

9. Truth in Leasing. TO THE BEST OF ITS KNOWLEDGE, LESSEE HEREBY CERTIFIES AS FOLLOWS:

(A) DURING THE TWELVE MONTHS (OR PORTION THEREOF DURING WHICH THE AIRCRAFT HAS BEEN SUBJECT TO UNITED STATES REGISTRATION) PRECEDING THE EXECUTION OF THE AGREEMENT THE AIRCRAFT HAS BEEN MAINTAINED AND INSPECTED UNDER PART 91 OR PART 135 (AS APPLICABLE) OF THE FEDERAL AVIATION REGULATIONS. THE AIRCRAFT IS IN COMPLIANCE WITH APPLICABLE MAINTENANCE AND INSPECTION REQUIREMENTS UNDER THE FEDERAL AVIATION REGULATIONS FOR THE OPERATION OF THE AIRCRAFT TO BE CONDUCTED UNDER THE ADDENDUM.

(B) THE NAME AND ADDRESS OF THE PERSON RESPONSIBLE FOR OPERATION AND CONTROL OF THE AIRCRAFT UNDER THE AGREEMENT IS:

NAME: William P. McManus
ADDRESS: 315 S. Santa Rosa
San Antonio, TX 78207

BY SIGNATURE BELOW, LESSEE CERTIFIES THAT IT UNDERSTANDS ITS RESPONSIBILITIES FOR COMPLIANCE WITH ALL OF THE APPLICABLE FEDERAL AVIATION REGULATIONS.

AN EXPLANATION OF FACTORS BEARING ON OPERATIONAL CONTROL AND PERTINENT FEDERAL AVIATION REGULATIONS CAN BE OBTAINED FROM THE NEAREST FAA FLIGHT STANDARDS DISTRICT OFFICE, GENERAL AVIATION DISTRICT OFFICE, OR AIR CARRIER DISTRICT OFFICE.

[Signatures On Next Page]

IN WITNESS WHEREOF, the parties by their duly authorized officers have executed this **ADDENDUM RELATING TO AIRCRAFT** as of the date and year first above written.

City of San Antonio, Texas
as Lessee

By:

Name: Troy Elliott

Title: Deputy Chief Financial Officer

Banc of America Public Capital Corp,
as Lessor

By:

Name:

Title:

ANNEX A

AIRCRAFT DESCRIPTION and PRIMARY HANGAR LOCATION

This Annex A is attached to and a part of the **ADDENDUM RELATING TO AIRCRAFT** (the "**Addendum**") dated as of February 21, 2018 among **Banc of America Public Capital Corp** ("**Lessor**") and City of San Antonio, Texas ("**Lessee**") for the purposes contemplated therein.

1. **AIRCRAFT DESCRIPTION:** The Aircraft is consists of the following components: *[TO BE COMPLETED WHEN AVAILABLE AND PRIOR TO FILING THE SECURITY AGREEMENT WITH THE FAA.]*

| | |
|--------------------------|---|
| Airframe Make/Model: | AIRBUS HELICOPTERS, INC. Model H125 |
| Year: | 201__ |
| Airframe Serial No.: | _____ |
| U.S. Identification No.: | N_____ |
| Engine: | TURBOMECA S.A. Model Arriel 2D - Serial No. _____ |
| Main Rotor Assembly: | Manufacturer: AIRBUS HELICOPTERS, INC. |
| Main Rotor Gear Box: | Serial No.: _____ |
| Main Rotor Blades: | AIRBUS HELICOPTERS, INC. |
| Part Number: | _____ |
| Three total: | 1. Serial No.: _____ |
| | 2. Serial No.: _____ |
| | 3. Serial No.: _____ |
| Tail Rotor Assembly: | Manufacturer: AIRBUS HELICOPTERS, INC. |
| Tail Rotor Gear Box: | Serial No.: _____ |
| Tail Rotor Blade: | AIRBUS HELICOPTERS, INC. |
| Part Number: | _____ |
| One total: | 1. Serial No.: _____ |

2. Standard avionics and equipment, all other accessories, additions, modifications and attachments to, and all replacements and substitutions for, any of the foregoing, all as more particularly described below (and if purchased pursuant to the related purchase documents, are on board the Aircraft and are in proper working condition):

[TO BE COMPLETED WHEN AVAILABLE AND PRIOR TO FILING THE SECURITY AGREEMENT WITH THE FAA.]

ENGINE – FACET OIL FILTER – PUROLATOR FACET

BARRIER FILTER – B3, STANDARD PEDESTAL DUAL HYD – FDC

BATTERY RELOCATION – RG390E LEAD ACID – TO TAILBOOM – (LARGE DOOR) – ECL

COLLECTIVE BARRIER – AFT PEDESTAL – NON EMS (excludes customization) – AHI

DOOR – LH FWD TOUR – SHORT – CLEAR (DOOR ONLY) – AHCA

DOOR – RH FWD TOUR – SHORT – CLEAR (DOOR ONLY) – AHCA

POP OUT VENTS IN LH FWD DOOR WINDOW

POP OUT VENTS IN RH FWD DOOR WINDOW

DUAL CONTROLS W/TWIST GRIP – B3e ONLY – ECF

ENGINE WASH KIT W/BOTTLE B2/B3 – AHI

HEAVY DUTY CARGO TIE DOWN RINGS – AHI

HYDRAULIC GROUND POWER RECEPTACLE KIT – ECF

INSTRUMENT FULL WIDTH PANEL – (excludes customization) – AHI

LIGHT – BELLY MOUNTED STROBE LED, RED/WHITE – AHI/WHELEN

LIGHT – CONTROLLABLE LANDING – 450W / B3 – AHI

RADAR ALTIMETER – GARMIN GRA 5500, DISPLAYED ON G500H, W/ S67-2002 ANT.

SKID SHOES – CARBIDE FULL LENGTH – DART

CABLE CUTTER W/O WIPER DEFLECTOR, REMOVABLE PARTS – AHF

TRACK AND BALANCE PROVISIONS

EFIS – FLIGHT DISPLAY – G500H VIDEO DISPLAY OPTION

PAINT – ADDITIONAL CHARGE FOR EXTERIOR PAINT – EAGLE

AVIONICS DESCRIPTION:

AUDIO PANEL / G13115 / GENEVA, (2) EA

AUDIO PANEL / G13116 / GENEVA

AUDIO ROUTER / G13000 / GENEVA

FOOTSWITCH / L-2-S / LINEMASTER

COIL CORD / CIX414HK36P / COMM INNOVATIONS, (4) EA

4 STATION REAR ICS / - / AHI

4 BAND FM TRANSCEIVER / TDFM-9100 NV / TECHNISONIC

REAR XMIT SWITCH / RS24-020 / NAT

FM VHF ANTENNA / CI 292-3 / COMANT

UHF LO ANTENNA / CI 275 / COMANT

UHF HI ANTENNA / CI 285 / COMANT

800MHZ ANTENNA / CI 306 / COMANT

TRANSCEIVER, 800 MHZ / XG-100/HARRIS

28-14VDC CONVERTER / UC28-14 / KGS

AUX HANDHELD INTERFACE / AA34-300 / NAT

HEADSET JACK / TJ-120 / NEXUS, (2) EA

MAINTENANCE COIL CORD / CIX211L/50-74M / COMM INNOVATIONS, (2) EA
SAR DIRECTION FINDER / DR-517 / RHOTHETA
MONITOR, 18", NVG, MOUNTED IN FULL PANEL / MB18W / MACRO BLUE
MOVING MAP / ARS-700 / CHURCHILL NAVIGATION
LOJACK ON OFF / LED-42-15-ND-39609 / AEROSPACE OPTICS
LOJACK ANTENNAE / EXB164BNX / CENTURION, (4) EA
ELECTRONIC TRACKING SYSTEM / PRONET
DUAL USB CHARGING PORT / TA102 / MID-CONTINENT, (4) EA
TRANSPONDER / GTX 345R / GARMIN
KEYLOADER CABLE FOR TDFM9000 / KVL9000 / TECHNISONIC
PC CABLE FOR TDFM9000 / PC9000 / TECHNISONIC
BULLET CAMERA / D1-CAM-E600 / DATA TOYS
PA AMPLIFIER / PSAMP600 / POWER SONIX
PA CONTROLLER / A790 / TECHNISONIC
ANNUNCIATOR "NSUN ON" / LED-40-17-KB-EO3FB / APPLIED AVIONICS

ENGINEERING & SYSTEM INTERGRATION

together with all additions, accessions, modifications, improvements, replacements, substitutions, and accessories thereto and therefore, all avionics, onboard equipment, loose equipment, manuals, documentation and technical publications, now owned or hereafter acquired, and all records and logbooks (in written form or as computer data, discs or tapes, whether now existing or hereafter acquired or created, and whether in the possession of Lessee or held on behalf of Lessee by others). None of the same were furnished by Lessee, unless expressly disclosed to Lessor.

3. **PRIMARY HANGER LOCATION:** The Primary Hangar Location of the Aircraft is and shall be as follows:

Stinson Airport
1223 99th St.
San Antonio, TX 78214

ANNEX B

Banc of America Public Capital Corp Aircraft Addendum Ancillary Provisions

Return. In addition to any return conditions contained in the Master Lease, Lessee agrees that it shall further meet the following conditions with respect to the Aircraft:

1. **General:** Upon an Event of Default and Lessor's demand that Lessee return the Aircraft in accordance with the Agreement, Lessee shall deliver possession and return the Aircraft to Lessor with (i) the Records and other documentation listed on Exhibit A hereto and (ii) all inspections, modifications and overhaul records applicable to the Aircraft. Until the Aircraft is returned to Lessor, all of the provisions of the Agreement shall remain in full force and effect. Lessee shall pay all the cost and expenses in connection with or incidental to the return of the Aircraft, including, without limitation, the cost of preparing, insuring and transporting the Aircraft.

2. Return Conditions and TBO:

a. Return Condition. The Aircraft shall be clean by prudent operating standards followed by other similarly situated operators, all decals, numbers and other Lessee identification shall be removed from the Aircraft by Lessee in a good and workmanlike manner without damage to the Aircraft at Lessee's expense, and the Aircraft shall meet the conditions set forth in Section 4 herein. Lessee shall, upon request, assign to Lessor its rights under any manufacturer's maintenance service contract or extended warranty for the Aircraft (including, by way of example, the Airframe, the Engine, Rotor Blade, Rotor Components or Part thereof).

b. Time Between Overhauls ("TBO"). Upon return, the Aircraft (including, by way of example, the Airframe, the Engine, Rotor Blade, Rotor Components, or other Part thereof), shall have one half (50%) or more of the available operating hours before overhaul, as applicable, and/or one half or more of the stated calendar time and cycles remaining before overhaul as stated in the applicable FARs. In the event that the Aircraft does not meet the above conditions with respect to the Airframe, the Engine, Rotor Blade, Rotor Components, or other Part thereof, then Lessee shall pay the dollar amount per hour for each hour by which the time relating to such non-complying item shall exceed one half (50%) of allowable time between overhaul. This dollar amount will be an amount equal to the pro rata share of overhaul or replacement by which the use exceeds one half (50%) of the TBO for that item and based on the then anticipated cost of overhaul or replacement as determined by an estimate from an FAA authorized repair facility which is mutually acceptable to both Lessor and Lessee.

c. Servicing and Repair: If, upon return, the Aircraft requires repair work which could not reasonably be deemed to have resulted from ordinary wear and tear, or if the Aircraft shall not have been serviced in accordance with manufacturer's specifications, then Lessee shall reimburse Lessor for the cost of such repairs and servicing. The determination and cost of such repair and servicing shall be made by a mutually acceptable FAA certified mechanic and/or repair facility. In the event of a difference of opinion between Lessor and Lessee, the manufacturer's judgment shall be binding.

d. Inspection Costs: Lessor shall arrange for the inspection of the Aircraft when returned to determine if the Aircraft has been maintained and returned in accordance with the provisions of the Agreement (including as modified by the Addendum and this Annex). Lessee shall be responsible for the cost of such inspection and shall pay Lessor such amount within ten (10) days of demand. Lessee shall also pay Lessor a pro rata cost of the next regularly

scheduled Aircraft inspection which shall be determined by dividing the number of hours since the last inspection by the total hours between inspections times the cost of the inspection.

3. **Return Location:** Lessee at its expense will return the Aircraft to Lessor to such airport within a 300 mile radius of the City of San Antonio, Texas and within the State, as designated by Lessor, or such other location as the parties may from time to time reasonably agree or specify to the contrary.

4. **General Condition of Aircraft at Return:**

- a. The Aircraft will possess a valid current FAA -Certificate of Airworthiness.
- b. The Aircraft (including, by way of example, the Records) will have been maintained and repaired in accordance with Lessee's Maintenance Program, all Applicable Laws and any other requirements of the Agreement.
- c. The Aircraft will be airworthy and ready for flight.
- d. The Aircraft will be in the same working order and condition as at delivery (reasonable wear and tear from normal flight operations excepted), with all pilot discrepancies and deferred maintenance items cleared on a terminating action basis. All equipment, components and systems will be operating in accordance with their intended use and within limits approved by each manufacturer and all Applicable Laws.
- e. The Aircraft will be returned with the Engine, Rotor Blade, Rotor Components, and Parts installed and with the same equipment as at delivery, subject only to those replacements, additions and modifications permitted hereunder.
- f. All airworthiness directives and other instructions of the FAA requiring compliance prior to return of the Aircraft to Lessor will have been performed on the Aircraft on a terminating action basis. Any airworthiness directives of the FAA which must be completed within one hundred eighty (180) days after the return date must also be performed on a terminating action basis by Lessee at Lessee's cost unless, after using best efforts, Lessee is unable to acquire the material, parts or components necessary to accomplish such airworthiness directive or such compliance is waived by Lessor in writing.
- g. If any waivers, dispensations or extensions are granted by the FAA with respect to any airworthiness directives or operating or maintenance requirements or the maintenance program permits the carryover or deferral of such items, Lessee at its sole cost and expense will nonetheless perform such airworthiness directives and other operating or maintenance requirements prior to the Aircraft's return, on a terminating action basis as if such waivers, dispensations or extensions did not exist.
- h. The Aircraft will be free from any liens except those created by or through Lessor and no circumstances will have so arisen whereby the Aircraft is or could become subject to any lien or right of detention or sale in favor of any airport or any other authority whatsoever.
- i. All vendors and manufacturer's service bulletin kits received by Lessee for the Aircraft but not installed thereon will be on board the Aircraft as cargo.
- j. The fuel tank and oil tank will be at least 50% full.

5. Indemnities and Insurance: The indemnities and insurance requirements set forth in the Agreement (including as modified by this Addendum) will apply during return of the Aircraft, including the ground inspection.

6. Airport and Navigation Charges: Lessee will ensure that at return of the Aircraft any and all airport, navigation and other charges which will give rise or may if unpaid give rise to any lien, right of detention, right of sale or other lien in relation to the Aircraft, whether incurred in respect of the Aircraft or any other Aircraft or aircraft operated by Lessee, have been paid and discharged in full (whether or not due) and will at Lessor's request produce evidence thereof satisfactory to Lessor.

EXHIBIT A TO ANNEX B

Aircraft Documentation and Other Records

The following Records are to be returned with the Aircraft in a current up-to-date and correct status:

MANUALS:

AIRCRAFT RECORDS AND HISTORICAL DOCUMENTS

1. Aircraft log book (current and file copies).
2. Aircraft readiness log.
3. Maintenance Time Control Report (components, maintenance visit, special item next due Airframe hours and cycles).
4. Aircraft previous maintenance visit record including the last inspection performed.
5. Airworthiness Directive Compliance Summary.
6. Rigging Document.
7. Serviceable Tags for all ratable components installed (Airframe and Engines).
8. Airworthiness Directives requiring continuous surveillance.
9. Service Bulletins terminated accomplishment status.
10. Service Bulletins requiring continuous surveillance summary and maintenance control action.
11. Airframe, Component and Engine history records.
12. FAA Form 337 for Airframe, repair/overhaul certification of last major visit.
13. FAA Form 337 for Engine, repair/overhaul certification of last shop visit.
14. Engine readiness Log for the Engine.
15. Engine readiness Log for the Engine (components installed).
16. Summary of Service Bulletin's accomplished for the Engine.
17. Summary of Airworthiness Directives accomplished for the Engine.
18. Service Bulletins and Airworthiness directives status requiring continuous surveillance with maintenance, control action for the Engine.

19. Engine Time summary sheet including life limited items for the Engine.
20. Engine Log Books for the Engine (current and file copies).

ANNEX C
FORM OF SECURITY AGREEMENT

[See attached.]

E X H I B I T B

ESCROW AND ACCOUNT CONTROL AGREEMENT

THIS ESCROW AND ACCOUNT CONTROL AGREEMENT ("*Escrow Agreement*") is made as of February 21, 2018 by and among Banc of America Public Capital Corp, a corporation chartered under the laws of the State of Kansas ("*Lessor*"), City of San Antonio, Texas, a political subdivision of the State of Texas ("*Lessee*"), and Frost Bank, San Antonio, Texas, a state banking association organized under the laws of the State of Texas, as escrow agent ("*Escrow Agent*").

Lessor and Lessee have heretofore entered into that certain Master Equipment Lease Purchase Agreement dated as of February 21, 2018 (the "*Agreement*") and Schedule A also dated as of February 21, 2018 (the "*Schedule*" and, together with the terms and conditions of the Agreement incorporated therein, the "*Lease*"). The Lease contemplates that certain equipment described therein (the "*Equipment*") is to be acquired from the vendor(s) or manufacturer(s) thereof. After acceptance of the Equipment by Lessee, the Equipment is to be leased by Lessor to Lessee pursuant to the terms of the Lease.

The Lease further contemplates that Lessor will deposit an amount equal to the anticipated aggregate acquisition cost of the Equipment and Lessee's costs of issuance (the "*Purchase Price*"), being \$4,963,223.00 with Escrow Agent to be held in escrow and applied on the express terms set forth herein. The Purchase Price shall be held in the Equipment Acquisition Account (defined herein), together with all interest and other additions received with respect thereto, is to be applied to pay the vendor(s) or manufacturer(s) of the Equipment (the "*Vendor*") its invoice cost, and to the reimbursement of Lessee for its costs of issuance. Lessor and Lessee acknowledge to Escrow Agent that the Lease does not contain any provision that expands the liabilities or duties of the Escrow Agent beyond those set forth in this instrument, or as otherwise required by law.

The parties desire to set forth the terms on which the Equipment Acquisition Account is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, the parties agree as follows:

1 (a) There is hereby created a special escrow account to be known as the "City of San Antonio Tax-Exempt Equipment Lease/Purchase for Banc of America (2018)" (the "Equipment Acquisition Account") to be held by the Escrow Agent for the purposes stated herein.

(b) Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein.

(c) The moneys and investments held in the Equipment Acquisition Account are irrevocably held in escrow for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and Lessor and Lessee acknowledge, and declare that the same shall not, to the extent permitted by applicable law, be subject to levy or

attachment or lien by or for the benefit of any creditor of either Lessee or Lessor, Lessee and Escrow Agent intend that the Equipment Acquisition Account constitute an escrow account in which Lessee has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement of funds by the Escrow Agent therefrom. However, if the parties' intention that Lessee shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that Lessor shall have a security interest in the Equipment Acquisition Account, and such security interest is hereby granted by Lessee to secure payment of all sums due to Lessor under the Lease. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Equipment Acquisition Account, the Lessor's interest therein.

(d) The Escrow Agent shall invest and reinvest moneys on deposit in the Equipment Acquisition Account in Authorized Investments (as defined herein) in accordance with written instructions received from Lessee. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Authorized Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to the Acquisition Fund Custodian for the reinvestment of any maturing investment. Accordingly, Lessor shall not be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Equipment Acquisition Account, and Lessee agrees to and does hereby release Lessor from any such liability, cost, expenses, loss or claim. Interest on the Equipment Acquisition Account shall become part of the Equipment Acquisition Account, and gains and losses on the investment of the moneys on deposit in the Equipment Acquisition Account shall be borne by the Equipment Acquisition Account. For purposes of this agreement, "Authorized Investments" means any investments which meet the requirements of Chapter 2256, as amended, Texas Government Code, and are permitted by the Lessee's current Investment Policy.

(e) If the amounts in the Equipment Acquisition Account are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment.

2. On such day as is determined to the mutual satisfaction of the parties (the "*Closing Date*"), Lessor shall deposit with Escrow Agent cash in the amount of the Purchase Price, to be held in escrow by Escrow Agent on the express terms and conditions set forth herein.

On the Closing Date, Escrow Agent agrees to accept the deposit of the Purchase Price by Lessor, and further agrees to hold the amount so deposited together with all interest and other cash additions received with respect thereto, as the Equipment Acquisition Account hereunder, in escrow on the express terms and conditions set forth herein.

3. Escrow Agent shall at all times segregate the Equipment Acquisition Account into an account maintained for that express purpose, which shall be clearly identified on the books and records of Escrow Agent as being held in its capacity as Escrow Agent. Securities and other negotiable instruments comprising the Equipment Acquisition Account from time to time shall be held or registered in the name of "City of San Antonio Tax-Exempt Equipment Lease/Purchase for Banc of America (2018)". The Equipment Acquisition Account shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

4. In order to perfect Lessor's security interest by means of control in (i) the Equipment Acquisition Account established hereunder, (ii) all securities entitlements, investment property and other financial assets now or hereafter credited to the Equipment Acquisition Account, (iii) all of Lessee's rights in respect of the Equipment Acquisition Account, such securities entitlements, investment property and other financial assets, and (iv) all products, proceeds and revenues of and from any of the foregoing personal property (collectively, the "Collateral"), Lessor, Lessee and Escrow Agent further agree as follows:

(a) All terms used in this Section 4 which are defined in the Commercial Code of the State of Texas ("Commercial Code") but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Escrow Agreement.

(b) Escrow Agent will comply with all entitlement orders originated by Lessor with respect to the Collateral, or any portion of the Collateral, without further consent by Lessee.

(c) Escrow Agent hereby represents and warrants (a) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (b) that Escrow Agent 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 Escrow Agreement, and (c) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Escrow Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (d) below, is obligated to accept from Lessee.

(d) Without the prior written consent of Lessor, Escrow Agent will not enter into any agreement by which Escrow Agent agrees to comply with any entitlement order of any person other than Lessor or, subject to the provisions of paragraph (e) below, Lessee, with respect to any portion or all of the Collateral. Escrow Agent shall promptly notify Lessor in writing if any person requests Escrow Agent 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.

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Escrow Agent may allow Lessee to effect sales, trades, transfers and exchanges of Collateral within the Equipment Acquisition Account, but will not, without the prior written consent of Lessor, allow Lessee to withdraw any Collateral from the Equipment Acquisition Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, 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 Equipment Acquisition Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (no later than two (2) business days of its receipt thereof) 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.

(f) Lessee hereby irrevocably authorizes Escrow Agent to comply with all instructions and entitlement orders delivered by Lessor to Escrow Agent.

(g) Escrow Agent 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 Escrow Agent 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.

(h) Escrow Agent and Lessee hereby agree that any property held in the Equipment Acquisition Account shall be treated as a financial asset under such section of the Commercial Code as corresponds with Section 8-102 of the Uniform Commercial Code, notwithstanding any contrary provision of any other agreement to which Escrow Agent may be a party.

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth on the execution page hereof, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Equipment Acquisition Account statements or reports issued or sent to Lessee with respect to the Equipment Acquisition Account.

5. As directed by the Lessee, the cash comprising the Equipment Acquisition Account from time to time shall be invested and reinvested by Escrow Agent in any investment authorized pursuant to the Public Funds Investment Act V.T.C.A. Government Code §2256.001 et seq., as amended from time to time, and the written investment policy of Lessee most recently approved by the City Council of the Lessee. Escrow Agent will use due diligence to collect amounts payable under a check or other instrument for the payment of money comprising the Equipment Acquisition Account and shall promptly notify Lessee and Lessor in the event of dishonor of payment under any such check or other instruments. Interest or other amounts earned and received by Escrow Agent with respect to the Equipment Acquisition Account shall be deposited in and comprise a part of the Equipment Acquisition Account.

6. Escrow Agent shall send monthly statements of account to Lessee and Lessor, which statements shall set forth all withdrawals from and interest earnings on the Equipment Acquisition Account as well as the investments in which the Equipment Acquisition Account is invested.

7. Escrow Agent shall take the following actions with respect to the Equipment Acquisition Account:

(a) From time to time, Escrow Agent shall disburse funds from the Equipment Acquisition Account that are then due and payable to the Vendor of the Equipment and/or other named party, upon Escrow Agent's receipt of a duly and fully executed Requisition Request and Certificate of Acceptance that authorizes the payment, describes it with specificity, and is signed by an authorized representative of each of Lessee and Lessor who is also an authorized signer on the Equipment Acquisition Account. The form of the Requisition Request and Certificate of Acceptance is set forth in Exhibit I hereto.

(b) If an Event of Default or Nonappropriation Event occurs under the Lease prior to the Lessee's acceptance of all the Equipment, or to the extent that funds have not been disbursed from the Equipment Acquisition Account within the eighteen month period identified in the Lease, Escrow Agent shall, upon receipt of written notice from Lessor, disburse by wire transfer to Lessor in accordance with Lessor's wiring instructions all funds then on deposit in the Equipment Acquisition Account, and all such funds shall be applied by Lessor to the prepayment of Lease Payments under the Lease.

(c) Upon receipt by Escrow Agent of written notice from Lessor that the purchase price of the Equipment has been paid in full, Escrow Agent shall disburse to Lessor by wire transfer in accordance with Lessor's wiring instructions all funds (if any) then remaining in the Equipment Acquisition Account, to be applied by Lessor against any current interest component of Lease Payments due under the Lease as provided therein, then to remaining outstanding principal in reverse order.

8. Lessee shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for extraordinary administration of the Escrow Account and the performance of the Escrow Agent'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 Escrow Account. The Escrow Agent has advised Lessor and Lessee that (except as set forth below) it will not charge any fees or costs for providing its services hereunder to Lessee. Escrow Agent waives any claim against Lessor with respect to compensation hereunder.

9. Escrow Agent shall have no liability for acting upon any written instruction presented by Lessor in connection with this Escrow Agreement, which Escrow Agent in good faith believes to be genuine. Furthermore, Escrow Agent shall not be liable for any act or omission in connection with this Escrow Agreement except for its own negligence, willful

misconduct or bad faith. Escrow Agent shall not be liable for any loss or diminution in value of the Equipment Acquisition Account as a result of the investments made by Escrow Agent.

10. Lessor, Lessee, and Escrow Agent acknowledge that Escrow Agent presently serves as Lessee's depository financial institution. All of the above named parties agree that in the event that at any time during the term of this Agreement and the Lease, Escrow Agent ceases to be Lessee's depository financial institution, Escrow Agent shall deliver its written resignation as Escrow Agent to Lessee and Lessor in the manner specified in Section 13 of this Agreement for notices. Such resignation shall be effective as of the end of business on the last day on which Escrow Agent is Lessee's depository financial institution, and shall be delivered to Lessee and Lessor not later than thirty (30) days prior thereto. Lessee's new depository financial institution shall be substituted as the Escrow Agent under this Agreement and the Lease ("Substitute Escrow Agent"), effective on the first day on which it is Lessee's new depository financial institution. Escrow Agent shall take any and all actions necessary to effect the complete and immediate transition of all of its rights, obligations and duties under this Agreement and the Lease to the Substitute Escrow Agent. Escrow Agent shall not be responsible for any actions of the Substitute Escrow Agent after the effective date of the Substitute Escrow Agent's substitution under this Agreement and the Lease, but shall remain responsible (but only if and to the extent provided in this Agreement) to Lessor and Lessee for its actions during the entire time it served as Escrow Agent.

11. This Escrow Agreement and the escrow established hereunder shall terminate upon receipt by Escrow Agent of the written notice from Lessor specified in Section 7(b) or Section 7(c) hereof or upon disbursement of all funds or mutual agreement of Lessor and Lessee.

12. In the event of any disagreement between the undersigned or any of them, and/or any other person, resulting in adverse claims and demands being made in connection with or for any moneys involved herein or affected hereby, Escrow Agent shall be entitled at its option to refuse to comply with any such claim or demand, so long as such disagreement shall continue, and in so refusing Escrow Agent may refrain from making any delivery or other disposition of any moneys involved herein or affected hereby and in so doing Escrow Agent shall not be or become liable to the undersigned or any of them or to any person or party for its failure or refusal to comply with such conflicting or adverse demands, and Escrow Agent shall be entitled to continue so to refrain and refuse so to act until:

(a) the rights of the adverse claimants have been finally adjudicated in a court assuming and having jurisdiction of the parties and the moneys involved herein or affected hereby; or

(b) all differences shall have been adjusted by agreement and Escrow Agent shall have been notified thereof in writing signed by all of the persons interested.

13. All notices (excluding billings and communications in the ordinary course of business) hereunder shall be in writing, and shall be sufficiently given and served upon the other party if delivered (a) personally, (b) by United States registered or certified mail, return receipt requested, postage prepaid, (c) by an overnight delivery by a service such as Federal Express or

Express Mail from which written confirmation of overnight delivery is available, or (d) by facsimile with a confirmation copy by regular United States mail, postage prepaid, addressed to the other party at its respective address stated below the signature of such party or at such other address as such party shall from time to time designate in writing to the other party, and shall be effective from the date of receipt.

If to Lessor: Banc of America Public Capital Corp
11333 McCormick Road
M/C MD5-032-07-05
Hunt Valley, MD 21031
Attention: Contract Administrator

If to Lessee: City of San Antonio, Texas
Finance Department
111 Soledad, 5th Floor
San Antonio, Texas 78205
Attn: Division of Financial Management
Phone: (210) 207-8637
Fax: (210) 207-7774

If to Escrow Agent: Frost Bank
P.O. Box 1600
San Antonio, Texas 78296-1600
Attn: Anthony White
Phone: (210) 220-6996
Fax: (210) 220-6273

14. This Escrow Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor.

15. This Escrow Agreement shall be governed by and construed in accordance with the laws in the state of Texas. This Escrow Agreement constitutes the entire agreement between the parties hereto with respect to the subject matter hereof, and no waiver, consent, modification or change of terms hereof shall bind any party unless in writing signed by all parties.

IN WITNESS WHEREOF, the parties hereto have caused this Escrow Agreement to be duly executed as of the day and year first above set forth.

Banc of America Public Capital Corp, as Lessor

By: _____
Name:
Title:

City of San Antonio, Texas, as Lessee

By: _____
Name: Troy Elliott
Title: Deputy Chief Financial Officer

Frost Bank, as Escrow Agent

By: _____
Name: Anthony White
Title: Senior Vice President

EXHIBIT 1

**REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE NO. _____
(to be submitted with each requisition request for payment to the vendor)**

-or-

**____ () FINAL REQUISITION REQUEST AND CERTIFICATE OF ACCEPTANCE
(to be submitted with the final requisition request upon acceptance of the Equipment)**

The Escrow Agent is hereby requested to pay from the Equipment Acquisition Account established and maintained under that certain Escrow Agreement dated as of February 21, 2018 (the "*Escrow Agreement*") by and among Banc of America Public Capital Corp (the "*Lessor*"), City of San Antonio, Texas (the "*Lessee*"), and Frost Bank (the "*Escrow Agent*"), the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee) with respect to Equipment being leased under that certain Master Equipment Lease Purchase Agreement dated as of February 21, 2018 (the "*Master Lease*") and Schedule A dated February 21, 2018 (collectively, the "*Schedule*" and, together with the terms and conditions of the Master Lease incorporated therein, the "*Lease*"), by and between the Lessor and the Lessee, and has not formed the basis of any prior requisition request.

| PAYEE'S FUNDING INSTRUCTIONS | INVOICE NUMBER | AMOUNT | PURPOSE |
|------------------------------|----------------|--------|---------|
| | | | |
| | | | |
| | | | |

Total requisition amount \$ _____

The undersigned, as Lessee under the Lease hereby certifies:

1. The items of the Equipment, as such term is defined in the Lease, fully and accurately described on the Equipment Schedule attached hereto have been delivered and installed at the location(s) set forth therein.

2. A present need exists for the Equipment which need is not temporary or expected to diminish in the near future. The Equipment is essential to and will be used by the Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee's authority.

3. The estimated useful life of the Equipment based upon the manufacturer's representations and the Lessee's projected needs is not less than the Lease Term of lease with respect to the Equipment.

4. The Lessee has conducted such inspection and/or testing of the Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes as of the date of this Certificate.

5. The Equipment is covered by insurance in the types and amounts required by the Lease.

6. No Event of Default or Nonappropriation Event, as each such term is defined in the Lease, and no event which with the giving of notice or lapse of time, or both, would become such an Event of Default or Non-Appropriation Event has occurred and is continuing on the date hereof.

7. Sufficient funds have been appropriated by the Lessee for the payment of all Lease Payments due under the Lease during Lessee's current fiscal year.

8. Based on the foregoing, Lessor is hereby authorized and directed to fund the acquisition of the Equipment set forth on the Equipment Schedule by paying, or causing to be paid, the manufacturer(s)/vendor(s) the amounts set forth on the attached invoices.

9. The following documents are attached hereto and made a part hereof:

(a) Original Invoice(s);

(b) Copies of Certificate(s) of Origin designating Lessor as lienholder if any part of the Equipment consists of motor vehicles, and evidence of filing; and

(c) Requisition for Payment.

10. If this is the final acceptance of Equipment, then as of the Acceptance Date stated below and as between the Lessee and the Lessor, the Lessee hereby agrees that: (a) the Lessee has received and inspected all of the Equipment described in the Lease; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specification; (c) the Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) the Lessee waives any right to revoke such acceptance.

If Lessee paid an invoice prior to the commencement date of the Lease and is requesting reimbursement for such payment, also attach a copy of evidence of such payment and other evidence that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. §1.150-2.

[Remainder of page intentionally left blank.]

Acceptance Date: _____

City of San Antonio, Texas
as Lessee

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

Banc of America Public Capital Corp,
as Lessor

By: _____

Title: _____

Date: _____