

REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO	CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY) N/A
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TO: CITY COUNCIL	FROM (ORIGINATING DEPARTMENT): Debt Management	DATE: 3/19/2015
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SUBJECT: Master Lease Agreement to Fund Projects and Equipment

PRIMARY CONTACT (NAME, PHONE): Jyothi Pantulu,619-236-6917	SECONDARY CONTACT (NAME, PHONE): ,
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COMPLETE FOR ACCOUNTING PURPOSES

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

FUND					
FUNCTIONAL AREA					
COST CENTER					
GENERAL LEDGER ACCT					
WBS OR INTERNAL ORDER					
CAPITAL PROJECT No.					
AMOUNT	0.00	0.00	0.00	0.00	0.00

COST SUMMARY (IF APPLICABLE):

ROUTING AND APPROVALS

CONTRIBUTORS/REVIEWERS:	APPROVING AUTHORITY	APPROVAL SIGNATURE	DATE SIGNED
Environmental Analysis	ORIG DEPT.	Kommi, Lakshmi	03/19/2015
Financial Management	CFO		
Comptroller	DEPUTY CHIEF		
Equal Opportunity Contracting	COO		
Liaison Office	CITY ATTORNEY		
	COUNCIL PRESIDENTS OFFICE		

PREPARATION OF: RESOLUTIONS ORDINANCE(S) AGREEMENT(S) DEED(S)

- 1.) Approve the form of and execution of the Master Lease Agreement, in an amount not to exceed \$14.1 million, with Banc of America Public Capital Corp (“BAPCC”) to finance various essential projects and equipment needs.

- 2.) Declare the City’s intent to use funds made available from the lease-purchase agreement with BAPCC to reimburse itself for eligible project and equipment expenditures advanced by the City.

STAFF RECOMMENDATIONS: Approve the Requested Actions	
SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION)	
COUNCIL DISTRICT(S):	All Districts
COMMUNITY AREA(S):	City-wide
ENVIRONMENTAL IMPACT:	This activity is not a "project" as defined in CEQA Guidelines Section 15378(b) (5). Based on 15378(b) (5) the activity does not meet the definition of a project and would therefore not be subject to CEQA pursuant to Section 15060(c) (3) of the State CEQA Guidelines.
CITY CLERK INSTRUCTIONS:	This item is subject to Charter Section 99 (10 day published notice, approval by Ordinance and 6 votes required)

COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO

DATE: 3/19/2015

ORIGINATING DEPARTMENT: Debt Management

SUBJECT: Master Lease Agreement to Fund Projects and Equipment

COUNCIL DISTRICT(S): All Districts

CONTACT/PHONE NUMBER: Jyothi Pantulu/619-236-6917

DESCRIPTIVE SUMMARY OF ITEM:

Approve the form of and execution of the Master Lease Agreement, in an amount not to exceed \$14.1 million, with Banc of America Public Capital Corp (“BAPCC”) to finance various essential projects and equipment needs.

STAFF RECOMMENDATION:

Approve the Requested Actions

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

The City utilizes the lease purchase short-term financing option to fund as needed eligible essential equipment and fleet needs. The funding is facilitated under a Master Lease Agreement with a lender (the “Lessor”) by establishing an upfront tax-exempt line of credit over an agreed upon acquisition period. The security for this lending agreement is a pledge to annually appropriate funds to make timely lease payments.

The current equipment lease-purchase needs totaling \$14.1 million include up to \$900,000 for a Compressed Natural Gas Fueling Station, \$750,000 for a replacement of the Mission Bay Barge, \$6.0 million for the Computer Aided Dispatch System (CAD), and up to \$6.44 million for a Project Tracking System (PTS). Of the \$14.1 million, approximately \$6.44 million for the PTS funding will be repaid from the Development Services Division (Non-General) Fund and the remaining \$7.66 million will be repaid from the General Fund.

In September 2014, Debt Management established a Pool of Qualified Lessors through a Request for Statement of Qualifications and established a pool of Lessors. There are currently three (3) Lessors in the Pool, and new Lessors can also participate in Pool over the next four (4) years.

A Request for Lease Purchase Financing Services was provided to all the Lessors in the current pool to finance the equipment and project needs described above. Responses were received from all three firms, and staff is recommending the award of the contract to Banc of America Public Capital Corp (“BAPCC”). BAPCC offered the most competitive financing rates overall and accepted all key terms and conditions within the City’s Master Lease Agreement.

FISCAL CONSIDERATIONS:

The semi-annual lease payments for the CNG Refueling Station, Barge, CAD system, and PTS will be made from the respective departments' operating budgets.

Future lease payments will be included in future budgets and City Council approval will be obtained through the annual budget process. The actual fiscal impact will depend on the actual amounts and timing of the draws, fixed interest rate based on the index level at the time of funding of vendor payment, and the final repayment schedules.

The City would be under no obligation to draw down the full amount established under the line of credit. There is no commitment fee for establishing and maintaining the funding amount through the term of the Agreement. If alternate sources of funding are identified, or cash purchases (“pay go”) are an option, the City will still have that flexibility.

Reimbursement Resolution

Due to the logistics, timing of product delivery and nature of the projects and equipment listed above, the City may make vendor payments for some of the components expected to be financed. If City advances these payments, the City is still permitted to get reimbursed from the proceeds through the Master Lease Agreement. In order to do that, the City must adopt a reimbursement resolution in accordance with section 1.150-2 of Treasury Regulations (“Regulations”). By adopting a reimbursement resolution the City will satisfy the Official Intent Requirement under the Regulations and be able to reimburse project and equipment related expenses using funds available from the lease-purchase agreement with BAPCC. Adoption of the reimbursement resolution will not obligate the City to expend any funds; it merely enables the City to get reimbursed for all qualified project and equipment related expenses that the City fronted in implementing the projects and equipment listed above.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

This agreement is subject to the City’s Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee):

Budget and Government Efficiency Committee authorization to occur prior to City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Banc of America Public Capital Corp (BAPCC)

Kommi, Lakshmi

Originating Department

Deputy Chief/Chief Operating Officer

DOCKET SUPPORTING INFORMATION CITY OF SAN DIEGO EQUAL OPPORTUNITY CONTRACTING PROGRAM EVALUATION	DATE: April 2, 2015
SUBJECT: Master Lease Agreement to Fund Equipment	

GENERAL CONTRACT INFORMATION

Recommended Consultant: Banc of America Public Capital Corporation (Not Certified, M – Cauc.)

Amount of this Action: \$14,490,000.00 (Not to Exceed)

Funding Agency: City of San Diego

Goal: 20% Voluntary

SUBCONTRACTOR PARTICIPATION

There is no subcontractor activity associated with this action.

EQUAL EMPLOYMENT OPPORTUNITY COMPLIANCE

Equal Opportunity: Required

Banc of America Public Capital Corporation submitted a Work Force Report for their San Diego County employees dated, March 27, 2015 indicating 1,287 employees in their Administrative Work Force.

The Administrative Work Force indicates under representation in the following categories:

- Black and Filipino in Management & Financial, Professional, and Administrative Support
- Asian and Female in Professional
- American Indian in Administrative Support

Based on the under representations in the workforce noted above, staff has an approved Equal Employment Opportunity (EEO) Plan on file as of April 2, 2015. Staff will continue to monitor the firm’s efforts to implement their EEO plan.

This agreement is subject to the City’s Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

ADDITIONAL COMMENTS

This action is to authorize the Mayor to enter into a Master Lease Agreement with Banc of America Public Capital Corp (“BAPCC”) in an amount not to exceed \$14.49 million to fund the City’s current equipment needs.

KM

Equal Benefits Ordinance Certification of Compliance



For additional information, contact:
CITY OF SAN DIEGO
EQUAL BENEFITS PROGRAM
 202 C Street, MS 9A, San Diego, CA 92101
 Phone (619) 533-3948 Fax (619) 533-3220

COMPANY INFORMATION

Company Name: Banc of America Public Capital Corp	Contact Name: Jill M. Forsyth
Company Address: 14648 North Scottsdale Road, Suite 250, Scottsdale, AZ 85254	Contact Phone: 480-624-0369
	Contact Email: Jill.m.forsyth@baml.com

CONTRACT INFORMATION

Contract Title:	Start Date:
Contract Number (if no number, state location):	End Date:

SUMMARY OF EQUAL BENEFITS ORDINANCE REQUIREMENTS

The Equal Benefits Ordinance [EBO] requires the City to enter into contracts only with contractors who certify they will provide and maintain equal benefits as defined in San Diego Municipal Code §22.4302 for the duration of the contract. To comply:

- Contractor shall offer equal benefits to employees with spouses and employees with domestic partners.
 - Benefits include health, dental, vision insurance; pension/401(k) plans; bereavement, family, parental leave; discounts, child care; travel/relocation expenses; employee assistance programs; credit union membership; or any other benefit.
 - Any benefit not offered to an employee with a spouse, is not required to be offered to an employee with a domestic partner.
- Contractor shall post notice of firm's equal benefits policy in the workplace and notify employees at time of hire and during open enrollment periods.
- Contractor shall allow City access to records, when requested, to confirm compliance with EBO requirements.
- Contractor shall submit *EBO Certification of Compliance*, signed under penalty of perjury, prior to award of contract.

NOTE: This summary is provided for convenience. Full text of the EBO and its Rules are posted at www.sandiego.gov/administration.

CONTRACTOR EQUAL BENEFITS ORDINANCE CERTIFICATION

Please indicate your firm's compliance status with the EBO. The City may request supporting documentation.

- I affirm **compliance** with the EBO because my firm (*contractor must select one reason*):
 - Provides equal benefits to spouses and domestic partners.
 - Provides no benefits to spouses or domestic partners.
 - Has no employees.
 - Has collective bargaining agreement(s) in place prior to January 1, 2011, that has not been renewed or expired.
- I request the City's approval to pay affected employees a **cash equivalent** in lieu of equal benefits and verify my firm made a reasonable effort but is not able to provide equal benefits upon contract award. I agree to notify employees of the availability of a cash equivalent for benefits available to spouses but not domestic partners and to continue to make every reasonable effort to extend all available benefits to domestic partners.

It is unlawful for any contractor to knowingly submit any false information to the City regarding equal benefits or cash equivalent associated with the execution, award, amendment, or administration of any contract. [San Diego Municipal Code §22.4307(a)]

Under penalty of perjury under laws of the State of California, I certify the above information is true and correct. I further certify that my firm understands the requirements of the Equal Benefits Ordinance and will provide and maintain equal benefits for the duration of the contract or pay a cash equivalent if authorized by the City.

Jill M. Forsyth, Senior Vice President

9/18/14

Name/Title of Signatory

Signature

Date

FOR OFFICIAL CITY USE ONLY

Receipt Date:	EBO Analyst:	<input type="checkbox"/> Approved	<input type="checkbox"/> Not Approved – Reason:
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Bank of America Equal Benefits

Brief description of the benefits offered to spouses and domestic partners:

Health Care (includes medical, dental, and vision plans)

Bank of America's health care program (medical, dental, and vision care) is made available to domestic partners of eligible U.S. associates within the company in the same manner as it is made available to spouses of eligible U.S. associates within the company.

Pension Plan or 401 (k) Plan

As indicated in the *Associate Handbook*, Bank of America associates can name anyone they choose as their beneficiary.

Bereavement Leave

As indicated in the *Associate Handbook*, bereavement leave is granted to associates for the death of their spouse, domestic partner, child, parent, sibling, grandparent or the parents of a spouse or domestic partner, guardian, or other relative or person with whom the associate has a close relationship.

Family Leave

Associates can take family leave to care for certain family members, including a child, spouse, domestic partner, parent, sibling, parent of spouse or domestic partner, or grandparent, as indicated in the *Associate Handbook*.

Parental Leave

As described in the *Associate Handbook*, associates can take parental leave for the birth of a child and care for a newborn, adoption of a child, or placement of a foster child.

Employee Assistance Program

Bank of America's Employee Assistance Program offers this service to spouses and domestic partners.

Relocation and Travel

Bank of America's relocation program provides relocation assistance for spouses and domestic partners.

Company Discounts, Facilities, and Events

Bank of America associates and retirees are automatically members of Team Bank of America, which offers a variety of social, developmental, cultural, and recreational events.

Child Care

Bank of America's Child Care Plus Program reimburses associates for a portion of their child care expenses if they meet certain eligibility requirements. This benefit is offered to associates with spouses or domestic partners.

Dependent Life Insurance

As stated in the *Associate Handbook*, associates can select dependent life insurance for their spouse, domestic partner, and/or eligible dependent children.

Life Insurance

Bank of America's *Associate Handbook* indicates that associates may select the beneficiary of their choice for the life insurance plan.

Accidental Death and Dismemberment

As indicated in the *Associate Handbook*, Bank of America associates can get accidental death and dismemberment coverage for their eligible dependents, which includes domestic partners or spouses.



City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
 1200 Third Avenue • Suite 200 • San Diego, CA 92101
 Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: Banc of America Public Capital Corp.

AKA/DBA: Bank of America

Address (Corporate Headquarters, where applicable): 100 N. Tryon Street

City Charlotte County Mecklenburg State NC Zip 28255

Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578

Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B Street

City San Diego County San Diego State CA Zip 92101

Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005

Type of Business: Leasing Services Type of License: Corporate

The Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256

Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130

- One San Diego County (or Most Local County) Work Force - Mandatory
 Branch Work Force *
 Managing Office Work Force

Check the box above that applies to this WFR.

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Bank of America

(Firm Name)

Mecklenburg, North Carolina hereby certify that information provided

(County) (State)

herein is true and correct. This document was executed on this 15th day of September, 2014

Debra J Cyganek
 (Authorized Signature)

Debra J. Cyganek
 (Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Public Capital Corp

DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Branch

COUNTY: Maricopa (AZ)

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	--	--	--	--	--	--	--			--	--	--	--
Professional	--	--	--	--	--	--	--	--			--	1	--	--
A&E, Science, Computer														
Technical	--	--	--	--	--	--	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	--	--	--	--	--	--	--	--			--	--	--	--
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	--	--	--	--	--	--	--	--			--	1	--	--
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**Not Available

Grand Total All Employees

1

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
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Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
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Grand Total All Employees	<div style="border: 1px solid black; width: 100px; height: 20px; display: inline-block;"></div>													
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Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
 1200 Third Avenue • Suite 200 • San Diego, CA 92101
 Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: Bank of America Public Capital Corp.

AKA/DBA: Bank of America

Address (Corporate Headquarters, where applicable): 100 N. Tryon Street

City Charlotte County Mecklenburg State NC Zip 28255

Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578

Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B Street

City San Diego County San Diego State CA Zip 92101

Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005

Type of Business: Leasing Services Type of License: Corporate

The Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256

Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130

- One San Diego County (or Most Local County) Work Force - Mandatory
- Branch Work Force *
- Managing Office Work Force

Check the box above that applies to this WFR.

*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of Bank of America

(Firm Name)

Mecklenburg, North Carolina hereby certify that information provided

(County) (State)

herein is true and correct. This document was executed on this 15th day of September, 2014

Debra J Cyganek

(Authorized Signature)

Debra J Cyganek

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Leasing & Capital, LLC/Banc of America Public Capital Corp DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Branch COUNTY: San Francisco (CA)

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	1	--	--	--	--	--	--			--	1	--	--
Professional	--	--	--	--	--	1	--	--			1	--	--	--
A&E, Science, Computer														
Technical	--	--	--	--	--	--	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	--	--	--	--	--	--	--	--			--	--	--	--
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	--	1	--	--	--	1	--	--			1	1	--	--
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**Not Available

Grand Total All Employees	4
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Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
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Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
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Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
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City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
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Phone: (619) 236-6000 • Fax: (619) 236-5904

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NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION

Type of Contractor: [] Construction [] Vendor/Supplier [] Financial Institution [] Lessee/Lessor
[] Consultant [] Grant Recipient [] Insurance Company [] Other

Name of Company: Banc of America Public Capital Corp.

AKA/DBA: Bank of America

Address (Corporate Headquarters, where applicable): 100 N. Tryon Street

City Charlotte County Mecklenburg State NC Zip 28255

Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578

Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B Street

City San Diego County San Diego State CA Zip 92101

Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005

Type of Business: Leasing Services Type of License: Corporate

The Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256

Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130

- [] One San Diego County (or Most Local County) Work Force - Mandatory
[] Branch Work Force *
[] Managing Office Work Force

Check the box above that applies to this WFR.

*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of Bank of America (Firm Name)

Mecklenburg, North Carolina hereby certify that information provided (County) (State)

herein is true and correct. This document was executed on this 15th day of September, 2014

Debra J Cyganek (Authorized Signature)

Debra J. Cyganek (Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Public Capital Corp

DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Branch

COUNTY: St. Charles (MO)

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	--	--	--	--	--	--	--			--	--	--	--
Professional	--	--	--	--	--	--	--	--			--	1	--	--
A&E, Science, Computer														
Technical	--	--	--	--	--	--	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	--	--	--	--	--	--	--	--			--	--	--	--
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	--	--	--	--	--	--	--	--			--	1	--	--
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**Not Available

Grand Total All Employees	1
---------------------------	---

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
------------	----	----	----	----	----	----	----	----	--	--	----	----	----	----

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--



City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
 1200 Third Avenue • Suite 200 • San Diego, CA 92101
 Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: Banc of America Public Capital Corp.

AKA/DBA: Bank of America

Address (Corporate Headquarters, where applicable): 100 N. Tryon Street

City Charlotte County Mecklenburg State NC Zip 28255

Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578

Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B Street

City San Diego County San Diego State CA Zip 92101

Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005

Type of Business: Leasing Services Type of License: Corporate

The Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256

Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130

- One San Diego County (or Most Local County) Work Force - Mandatory
- Branch Work Force *
- Managing Office Work Force

Check the box above that applies to this WFR.

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Bank of America

(Firm Name)

Mecklenburg

(County)

North Carolina

(State)

hereby certify that information provided

herein is true and correct. This document was executed on this 15th day of September, 2014

Debra J Cyganek

(Authorized Signature)

Debra J. Cyganek

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Public Capital Corp

DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Branch

COUNTY: Providence (RI)

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	--	--	--	--	--	--	--			--	--	--	--
Professional	--	--	--	--	--	--	--	--			1	--	--	--
A&E, Science, Computer														
Technical	--	--	--	--	--	--	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	--	--	--	--	--	--	--	--			--	--	--	--
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	--	--	--	--	--	--	--	--			1	--	--	--
--------------------	----	----	----	----	----	----	----	----	--	--	---	----	----	----

**Not Available

Grand Total All Employees	1
---------------------------	---

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
------------	----	----	----	----	----	----	----	----	--	--	----	----	----	----

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--



City of San Diego
EQUAL OPPORTUNITY CONTRACTING (EOC)
1200 Third Avenue • Suite 200 • San Diego, CA 92101
Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

The objective of the Equal Employment Opportunity Outreach Program, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law.

NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION

Type of Contractor: [] Construction [] Vendor/Supplier [] Financial Institution [x] Lessee/Lessor
[] Consultant [] Grant Recipient [] Insurance Company [] Other

Name of Company: Banc of America Leasing & Capital, LLC/Banc of America Public Capital Corp.

AKA/DBA: Bank of America

Address (Corporate Headquarters, where applicable): 100 N. Tryon Street

City Charlotte County Mecklenburg State NC Zip 28255

Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578

Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B Street

City San Diego County San Diego State CA Zip 92101

Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005

Type of Business: Leasing Services Type of License: Corporate

The Company has appointed: Jodi Bryant

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Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130

- [] One San Diego County (or Most Local County) Work Force - Mandatory
[] Branch Work Force *
[x] Managing Office Work Force

Check the box above that applies to this WFR.

*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of Bank of America

(Firm Name)

Mecklenburg

North Carolina

hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 15th day of September, 2014

Debra J Cyganek

(Authorized Signature)

Debra J. Cyganek

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Leasing & Capital, LLC/Banc of America Public Capital Corp DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Office COUNTY: Cook (IL)

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	--	--	--	--	--	--	--			2	--	--	--
Professional	--	--	--	--	--	--	--	--			1	--	--	--
A&E, Science, Computer														
Technical	--	--	--	--	--	--	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	--	--	--	--	--	--	--	--			--	--	--	--
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	--	--	--	--	--	--	--	--			3	--	--	--
--------------------	----	----	----	----	----	----	----	----	--	--	---	----	----	----

**Not Available

Grand Total All Employees	3
---------------------------	---

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
------------	----	----	----	----	----	----	----	----	--	--	----	----	----	----

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT - Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--



City of San Diego

EQUAL OPPORTUNITY CONTRACTING (EOC)

1200 Third Avenue • Suite 200 • San Diego, CA 92101

Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

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NO OTHER FORMS WILL BE ACCEPTED

CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: Banc of America Leasing & Capital, LLC/Banc of America Public Capital Corp.AKA/DBA: Bank of AmericaAddress (Corporate Headquarters, where applicable): 100 N. Tryon StreetCity Charlotte County Mecklenburg State NC Zip 28255Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B StreetCity San Diego County San Diego State CA Zip 92101Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005Type of Business: Leasing Services Type of License: CorporateThe Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130 One San Diego County (or Most Local County) Work Force - Mandatory Branch Work Force * Managing Office Work Force

Check the box above that applies to this WFR.

*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of Bank of America

(Firm Name)

MecklenburgNorth Carolina

hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 15th day of September, 2014Debra J. Cyganek

(Authorized Signature)

Debra J. Cyganek

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Leasing & Capital, LLC/Banc of America Public Capital Corp DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Offices COUNTY: Nationwide

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
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- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities		
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	
Management & Financial	2	4	--	2	4	--	--	--	--			68	37	--	--
Professional	15	19	2	7	11	23	--	--				221	153	1	1
A&E, Science, Computer															
Technical	--	--	--	--	--	--	--	--				--	--	--	--
Sales	--	--	--	--	--	--	--	--				--	--	--	--
Administrative Support	1	26	1	7	--	2	--	--				12	56	--	2
Services															
Crafts															
Operative Workers															
Transportation															
Laborers*															

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	18	49	3	16	15	25	--	--				301	246	1	3
--------------------	----	----	---	----	----	----	----	----	--	--	--	-----	-----	---	---

**Not Available

Grand Total All Employees	677
---------------------------	-----

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--				--	--	--	--
------------	----	----	----	----	----	----	----	----	--	--	--	----	----	----	----

Non-Profit Organizations Only:

Board of Directors															
Volunteers															
Artists															

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (5) Filipino
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- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column															
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled															
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--	--



City of San Diego

EQUAL OPPORTUNITY CONTRACTING (EOC)

1200 Third Avenue • Suite 200 • San Diego, CA 92101

Phone: (619) 236-6000 • Fax: (619) 236-5904

BB. WORK FORCE REPORT

The objective of the *Equal Employment Opportunity Outreach Program*, San Diego Municipal Code Sections 22.3501 through 22.3517, is to ensure that contractors doing business with the City, or receiving funds from the City, do not engage in unlawful discriminatory employment practices prohibited by State and Federal law. Such employment practices include, but are not limited to unlawful discrimination in the following: employment, promotion or upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. Contractors are required to provide a completed *Work Force Report (WFR)*.

NO OTHER FORMS WILL BE ACCEPTED

CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: Banc of America Leasing & Capital, LLC.AKA/DBA: Bank of AmericaAddress (Corporate Headquarters, where applicable): 100 N. Tryon StreetCity Charlotte County Mecklenburg State NC Zip 28255Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B StreetCity San Diego County San Diego State CA Zip 92101Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005Type of Business: Leasing Services Type of License: CorporateThe Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256Telephone Number: (904) 987-3927 Fax Number: (904) 464-1130

- One San Diego County (or Most Local County) Work Force - Mandatory
 Branch Work Force *
 Managing Office Work Force

Check the box above that applies to this WFR.

*Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.

I, the undersigned representative of Bank of America

(Firm Name)

MecklenburgNorth Carolina

hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 15th day of September, 2014Debra J. Cyganek

(Authorized Signature)

Debra J. Cyganek

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Banc of America Leasing & Capital, LLC

DATE: 6/30/14

OFFICE(S) or BRANCH(ES): Office

COUNTY: San Diego County

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

- (1) Black, African-American
- (2) Hispanic, Latino, Mexican-American, Puerto Rican
- (3) Asian, Pacific Islander
- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	--	--	1	--	--	--	--			--	1	--	--
Professional	--	--	--	1	--	--	--	--			1	--	--	--
A&E, Science, Computer														
Technical	--	--	--	--	--	--	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	--	--	--	--	--	--	--	--			--	--	--	--
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	--	--	--	2	--	--	--	--			1	1	--	--
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**Not Available

Grand Total All Employees

4

Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
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Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (4) American Indian, Eskimo
- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians														
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--



City of San Diego

EQUAL OPPORTUNITY CONTRACTING (EOC)

1200 Third Avenue · Suite 200 · San Diego, CA 92101

Phone: (619) 236-6000 · Fax: (619) 236-5904

BB. WORK FORCE REPORT

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NO OTHER FORMS WILL BE ACCEPTED
CONTRACTOR IDENTIFICATION

Type of Contractor: Construction Vendor/Supplier Financial Institution Lessee/Lessor
 Consultant Grant Recipient Insurance Company Other

Name of Company: Bank of America Leasing & Capital, LLC.

AKA/DBA: Bank of America

Address (Corporate Headquarters, where applicable): 100 N. Tryon Street

City Charlotte County Mecklenburg State NC Zip 28255

Telephone Number: (704) 386-5687 Fax Number: (704) 386-4578

Name of Company CEO: Brian Moynihan

Address(es), phone and fax number(s) of company facilities located in San Diego County (if different from above):

Address: 450 B Street

City San Diego County San Diego State CA Zip 92101

Telephone Number: (619) 515-5550 Fax Number: (619) 515-7005

Type of Business: Leasing Services Type of License: Corporate

The Company has appointed: Jodi Bryant

As its Equal Employment Opportunity Officer (EEOO). The EEOO has been given authority to establish, disseminate and enforce equal employment and affirmative action policies of this company. The EEOO may be contacted at:

Address: 9000 Southside Blvd, Building 400, Jacksonville, FL 32256

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- One San Diego County (or Most Local County) Work Force - Mandatory
- Branch Work Force *
- Managing Office Work Force

Check the box above that applies to this WFR.

**Submit a separate Work Force Report for all participating branches. Combine WFRs if more than one branch per county.*

I, the undersigned representative of Bank of America

(Firm Name)

Mecklenburg, North Carolina hereby certify that information provided

(County)

(State)

herein is true and correct. This document was executed on this 27th day of March, 20 15

Debra J. Cyganek

(Authorized Signature)

Debra J. Cyganek

(Print Authorized Signature Name)

WORK FORCE REPORT – Page 2

NAME OF FIRM: Bank of America DATE: 12/31/14

OFFICE(S) or BRANCH(ES): Offices COUNTY: San Diego County

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

ADMINISTRATION OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicities	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Management & Financial	--	1	15	32	7	9	1	--			48	45	1	1
Professional	1	1	44	15	11	13	--	2			157	55	3	5
A&E, Science, Computer														
Technical	--	--	--	--	--	1	--	--			--	--	--	--
Sales	--	--	--	--	--	--	--	--			--	--	--	--
Administrative Support	7	17	125	304	24	67	--	1			54	198	6	16
Services														
Crafts														
Operative Workers														
Transportation														
Laborers*														

*Construction laborers and other field employees are not to be included on this page

Totals Each Column	8	19	184	351	42	90	1	3			259	298	10	22
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**Not Available

Grand Total All Employees	1,287
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Indicate by Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled**	--	--	--	--	--	--	--	--			--	--	--	--
------------	----	----	----	----	----	----	----	----	--	--	----	----	----	----

Non-Profit Organizations Only:

Board of Directors														
Volunteers														
Artists														

WORK FORCE REPORT – Page 3

NAME OF FIRM: _____ DATE: _____

OFFICE(S) or BRANCH(ES): _____ COUNTY: _____

INSTRUCTIONS: For each occupational category, indicate number of males and females in every ethnic group. Total columns in row provided. Sum of all totals should be equal to your total work force. Include all those employed by your company on either a full or part-time basis. The following groups are to be included in ethnic categories listed in columns below:

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- (5) Filipino
- (6) White, Caucasian
- (7) Other ethnicity; not falling into other groups

TRADE OCCUPATIONAL CATEGORY	(1) Black		(2) Hispanic		(3) Asian		(4) American Indian		(5) Filipino		(6) White		(7) Other Ethnicity	
	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)	(M)	(F)
Brick, Block or Stone Masons														
Carpenters														
Carpet, Floor & Tile Installers Finishers														
Cement Masons, Concrete Finishers														
Construction Laborers														
Drywall Installers, Ceiling Tile Inst														
Electricians			NOT		APPLICABLE									
Elevator Installers														
First-Line Supervisors/Managers														
Glaziers														
Helpers; Construction Trade														
Millwrights														
Misc. Const. Equipment Operators														
Painters, Const. & Maintenance														
Pipelayers, Plumbers, Pipe & Steam Fitters														
Plasterers & Stucco Masons														
Roofers														
Security Guards & Surveillance Officers														
Sheet Metal Workers														
Structural Metal Fabricators & Fitters														
Welding, Soldering & Brazing Workers														
Workers, Extractive Crafts, Miners														

Totals Each Column														
--------------------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

Grand Total All Employees

Indicate By Gender and Ethnicity the Number of Above Employees Who Are Disabled:

Disabled														
----------	--	--	--	--	--	--	--	--	--	--	--	--	--	--

**Identification of Opportunity Areas/
Corrective Actions
San Diego, CA**

ANALYSIS	OPPORTUNITY AREA	CORRECTIVE ACTION
<p>Composition of the workforce by minority group status and sex.</p>	<p>The city of San Diego, CA uses the whole person rule to identify underutilization. Based on their analysis, a shortfall appears in the following EEO categories:</p> <p><u>Females</u> Professional</p> <p><u>Black</u> Officials & Managers Professionals Administrative Support</p> <p><u>Asian</u> Administrative Support</p>	<p>We will continue to recruit and develop females and minorities into Officials & Manager, Professional, Sales, and Administrative Support positions through internal promotions and transfers, as well as external recruitment when jobs openings occur.</p> <p>A qualified pool of diverse candidates will be identified for open positions and efforts will continue to be made to attract and hire qualified individuals at a rate that meets or exceeds availability goals.</p> <p>Bank of America is committed to achieving and maintaining a diverse workforce that is representative of the market we serve</p>



**AFFIRMATIVE ACTION PLAN FOR
WOMEN AND MINORITIES**

SAN DIEGO, CA

JANUARY 1, 2014 – DECEMBER 31, 2014

**Distribution of this Affirmative Action Plan for Women and Minorities, dated
January 1, 2014, is limited to that expressly approved by the Workforce
Compliance & Diversity Department, Bank of America**

PREFACE

This Affirmative Action Plan (AAP) is designed to meet Bank of America's equal employment opportunity and affirmative action responsibilities under Executive Order 11246, as amended, and the implementing rules and regulations of the Secretary of Labor.

This AAP is utilized by Bank of America Corporation subsidiaries, which are referred to as Bank of America.

Confidentiality

This AAP contains confidential information which is subject to the provisions of 18 U.S.C. § 1905. Chrysler Corp. v. Brown, 441 U.S. 281, 19 FEP 475 (1979).

Bank of America (the "Company") is making available a copy of this AAP to this governmental entity on the condition that the governmental entity holds the Company totally confidential and does not release copies to any persons whatsoever. This AAP and its appendices and other supporting documents contain a large amount of confidential information that may reveal, directly or indirectly, the Company's plans for business or geographical expansion or contraction. The Company considers this AAP to be exempt from disclosure, reproduction, and distribution under the Freedom of Information Act upon the grounds, among others, that such material constitutes (1) personnel files, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, which are exempt from disclosure under 5 U.S.C. § 552(b) (6); (2) confidential commercial or financial information, which is exempt from disclosure under 5 U.S.C. § 552(b) (4); (3) investigatory records compiled for law enforcement purposes, the production of which would constitute an unwarranted invasion of personal privacy, which are exempt from disclosure under 5 U.S.C. § 552(b) (7) (C); and (4) matters specifically exempted from disclosure under 5 U.S.C. § 552(b) (3). Notice is hereby given of a request pursuant to 41 C.F.R. § 60-1.20 that this AAP be kept confidential.

Thus, the Company desires to make clear that it does not consent to the release of any information whatsoever contained in this AAP under the Freedom of Information Act or otherwise. If the governmental entity, or any agency or subdivision thereof, is considering breaching the conditions under which this AAP was provided, or is considering a request for release of this Plan, request is hereby made that the governmental entity immediately notify the Chairman and CEO of this company of any and all such requests received by the governmental entity or any other contemplated release of this Plan by the governmental entity which relates to information obtained by the governmental entity from this company.

The Company further requests that everyone who has any contact with this AAP, or its supporting appendices, documents, and other data, treat such information as totally confidential and that such information not be released to any person whatsoever. Retention or disclosure of information relating to identifiable individuals may also violate the Privacy Act of 1974.

By furnishing these materials and information, the Company does not waive the attorney/client privilege or any other privilege that it could assert.

TERMINOLOGY

The terms "utilization analysis," "underutilization," and "opportunity area," appearing in this AAP, are terms the Company is required to use herein by government regulations. The criteria used in relation to these terms are those specified by the government. These terms have no independent legal or factual significance whatsoever and do not designate or identify any deficiency in the Company's practices or policies. Although the Company will use the terms in total good faith in connection with its AAP, such usage does not necessarily signify that the Company agrees that these terms are properly applied to any particular factual situation. Furthermore, the use of these terms does not constitute an admission by Bank of America for any purpose.

The utilization analysis contained herein is required by government regulations to be based on certain statistical comparisons. Geographic areas and sources of statistics used herein for these comparisons were used in compliance with government regulations, as interpreted by government representatives. The use of certain geographic areas and sources of statistics does not indicate the Company's agreement that the geographic areas are the most appropriate or that the sources of statistics are the most relevant. The use of such geographic areas and statistics is intended to have no significance outside the context of this AAP. Such statistics and geographic areas will be used, however, in total good faith with respect to this AAP.

The grouping of job titles into a given job group does not suggest that the Company believes the jobs so grouped are of comparable worth.

Whenever the term "goal" is used, it is expressly intended that it "should not be used to discriminate against any applicant or associate because of race, color, religion, sex or national origin," as stated in 41 C.F.R. § 60-2.30.

This AAP is not intended to and does not create any contractual or other rights in or for any person or entity.

Reliance on EEOC Guidelines on Affirmative Action

Although the Company does not believe any violation of Title VII of the 1964 Civil Rights Act exists, it has developed this AAP in accordance with and in reliance upon EEOC Guidelines on Affirmative Action, 29 C.F.R. § 1608.

SECTION 1
INTRODUCTION TO BANK OF AMERICA

Bank of America is one of the world's largest financial institutions, serving individual consumers, small and middle market businesses and large corporations with a full range of banking, investing, asset management and other financial and risk-management products and services.

With its corporate headquarters in Charlotte, North Carolina, the Company employs over 240,000 employees who provide financial products, services, ideas and solutions to over 50 million consumer and small business relationships in all 50 states and the District of Columbia. The company serves clients through operations in more than 40 countries and has relationships with 98 percent of the U.S. Fortune 1,000 companies and 84 percent of the Global Fortune 500. Bank of America has an extensive network of approximately 5,100 retail banking centers and 16,300 ATMs nationwide and award-winning online banking with more than 30 million active users and more than 14 million mobile users.

At Bank of America, our commitment to our employees begins with providing a productive and professional working environment, respect for individual efforts, competitive salaries and benefits, and rewards for outstanding performance. Our goal is to attract, select, and retain individuals on the basis of skill, knowledge, ability, performance, and interest, and to foster an atmosphere in which employees are evaluated based on their performance, contributions, and teamwork. Our continuing commitment to affirmative action ensures that our workforce is enriched by the best talent available, including women, minorities, persons with disabilities, and veterans.

Bank of America recognizes that practicing equal employment opportunity makes good business sense and results in a diverse workforce that reflects the many backgrounds of the customers we serve as well as the varied communities in which we do business.

SECTION 2

EQUAL EMPLOYMENT OPPORTUNITY AND AFFIRMATIVE ACTION POLICIES

Bank of America's equal employment opportunity policy supports our tradition of valuing all employees by prohibiting discrimination and harassment on the basis of race, gender, gender identity, color, religion, sex, sexual orientation, national origin, age, disability, or veteran status. The Company also does not allow discrimination on other bases such as ancestry, medical condition, or marital status, where legally prohibited.

As it relates to employment, our policy means providing applicants and employees with equal opportunity under the Company's personnel practices, including, but not limited to, recruitment, hiring, training, compensation, and promotion. Managers are responsible for establishing an atmosphere within the workplace free from discrimination and harassment, including that which may be sexual, verbal, physical, or visual in nature.

The Company's affirmative action policy means eliminating inappropriate barriers to employment and advancement, and fostering a workforce that represents a diverse labor market, including women, minorities, individuals with disabilities, and covered veterans within the Company. Affirmative action also means taking positive steps to attract, select, promote, and retain women and minorities at levels where our analysis indicates they are underutilized in the workforce. Affirmative action goals are targets, not quotas, which guide the Company in these efforts.

SECTION 3

RESPONSIBILITY FOR IMPLEMENTING POLICY

At Bank of America, the design, implementation, and monitoring of our affirmative action programs are multifaceted. We delegate to our managers decision-making authority in most aspects of the personnel functions necessary to accomplish the mission of their organization, including the implementation of equal employment opportunity responsibilities and affirmative action. The Human Resources function provides ongoing guidance and technical assistance to managers in their equal employment opportunity and affirmative action efforts. It is clearly recognized, however, that all employees share a responsibility for the overall success of the Company's equal opportunity programs.

Responsibility of the Chairman and Chief Executive Officer

The Chairman and Chief Executive Officer of Bank of America Corporation are responsible for establishing the Company's overall equal employment opportunity and affirmative action policies and practices. The CEO reaffirms this commitment through an annual written communication to employees.

Responsibility of Line Management

Line management implements personnel decisions at Bank of America. These decisions include, but are not limited to, the establishment of individual positions, recruitment and placement, compensation, incentives and rewards, training, discipline, and separation.

Because of the importance and relationship of these activities to a successful affirmative action program, Bank of America managers are responsible for establishing, implementing, and monitoring affirmative action programs for their organizations. To meet these responsibilities, managers are expected to accomplish the following either by themselves or in conjunction with Human Resources:

- Assist in identifying opportunity areas and establish realistic and achievable affirmative action/diversity goals, objectives, and related support activities for their organizations, and monitor progress toward these goals.
- Hold meetings with their staff to ensure employees are aware of Bank of America's equal employment opportunity policy and to increase employees' understanding of Bank of America's commitment to diversity and inclusion. The meeting includes, but is not limited to, the following key points:
 - Reviewing the Company's equal employment opportunity policies, reiterating the organization's commitment to equal employment opportunity, and encouraging employees' participation in meeting the organization's equal employment opportunity and affirmative action objectives.
- Prominently display the Chief Executive Officer's letter on equal employment opportunity as well as other required posters in the area where employees can see them.
- Ensure that new managers are scheduled for training in their equal employment opportunity and affirmative action responsibilities.
- Assess the job contents and/or selection criteria of positions within the organization for job relatedness and freedom from bias against women, minorities, individuals with disabilities, or covered veteran applicants.
- Maintain a workplace that is free of verbal, physical, and visual/nonverbal harassment, including sexual harassment.
- Evaluate employee's effectiveness based on the individual's performance and contribution to the organization.
- Make reasonable accommodations for any known physical and mental limitations of qualified employees and applicants with disabilities.
- Provide information to resolve employee's equal employment opportunity concerns and assist in the resolution of such issues.
- Maintain records of outreach and community support activities with professional and community organizations representing women, minorities, individuals with disabilities, and covered veterans.

Responsibility of the Corporate Affirmative Action Officer

The Affirmative Action Officer is responsible for providing advice, guidance, and assistance to senior management in carrying out the Company's equal employment opportunity and affirmative action policies and programs. This responsibility includes, but is not limited to, the following:

- Develop the corporate wide equal employment opportunity policy and affirmative action programs.
- Assess the effectiveness of the Company's affirmative action progress and report these results to senior management.
- Ensure that recruitment and outreach efforts support the intent of the Company's equal employment opportunity policies and programs, and are in compliance with legal and regulatory requirements.
- Identify systemic impediments to equal employment opportunity, and provide corporate guidance and direction accordingly. Review of various personnel functions and activities may include:
 - job classification and grade/band assignments
 - position qualification determinations
 - recruitment and selection
 - compensation
 - promotion
 - employee training and development
 - discipline
 - separation
- Ensure that written assessments used in selection processes meet legal requirements.

Responsibility of the Affirmative Action Compliance Manager

The Affirmative Action Compliance Manager is responsible for guiding and assisting managers in implementing the Company's equal employment opportunity and affirmative action policies and programs. The Affirmative Action Compliance Manager develops methodologies and strategies to achieve corporate goals and enhance the quality of affirmative action efforts, as well as serving as liaison between the Company and government organizations concerned with equal employment opportunity and affirmative action matters. These responsibilities include, but are not limited to, the following:

- Design and implement management information systems for the collection of numerical, statistical, and other data necessary to successfully analyze and monitor affirmative action efforts throughout the Company. The analyzed information is provided to senior management for review and action.
- Conduct management briefings and training relating to the successful fulfillment of the Company's equal employment opportunity and affirmative action policies and the establishment of effective affirmative action programs.
- Provide advice, guidance, and assistance to the Corporate Affirmative Action Officer and Human Resources advisors related to equal employment opportunity and affirmative action.
- Provide advice, guidance, and assistance to managers and their representatives regarding effective outreach to community organizations designed to promote the employment of women, minorities, individuals with disabilities, and covered veterans.
- Serve as liaison between the Company and government agencies reviewing equal employment opportunity and affirmative action compliance with federal, state, and local laws and preparing reports required by these entities.

SECTION 4 PERSONNEL PROCESSES

At Bank of America, managers are responsible for conducting personnel activities in accordance with our equal employment opportunity and personnel policies. The Human Resources staff provides ongoing advice, guidance, assistance, and support to managers in this regard.

The Company seeks to ensure that all personnel actions are taken on the basis of relevant and job related factors. The following actions contribute to equity and representation in the workplace:

Establishment of Positions

The line of business managers determine when a new position needs to be established. They solicit input from key stakeholders in order to describe the work to be performed, identify job related qualifications/competencies for successful performance in the position, and set the initial salary for the position.

As a general rule, positions are only established for work requirements that are continuing in nature. Compensation for a position is determined through a comparison of the requirements of the job to like positions with similar scope of work as well as market data.

The business manager and Human Resources personnel review position classifications, qualification requirements, and the compensation structure to ensure that women and minorities are treated consistently with other similarly situated employees.

External Recruitment

When recruiting externally, managers and Staffing strive to design recruitment strategies to ensure a pool of applicants that will enable the Company to achieve and maintain a representative workforce. These recruitment plans may include, but are not limited to:

- Active recruitment programs with organizations and institutions with diverse representative student populations that provide educational and/or developmental experiences that enhance the employability of participants, including high schools, vocational schools, community colleges and colleges/universities. Bank of America communicates to the placement office that the Company is an equal opportunity employer and seeks referrals of well qualified women, minorities, and protected veterans.
- Participation in special institutional or community events such as job fairs, career days, youth motivation programs, and special employment programs, designed to bring together employers and applicants, so that diversified applicants can be sourced.
- Outreach to community organizations and technical/professional groups that promote the employment of women, minorities, individuals with disabilities, and protected veterans. Bank of America establishes and maintains relationships with organizations that have activities directed to reach or enhance the employability of diverse populations.
- Utilization of special employment programs, such as: co-operative educational programs; work-study programs; summer employment programs; and other efforts designed to enhance the individual's educational and experience base.
- All required job openings are posted with America's Job Exchange and with all of the respective state employment job boards, as well as to other parties who express an interest in receiving them.
- All externally posted positions are automatically posted to the following sites to assist job-seeking veterans and individuals with disabilities in obtaining our job openings:
 - Disability sites:
 - www.disABLEdperson.com
 - www.ABILITYJobs.com

- Veterans sites:
 - www.RecruitMilitary.com
 - www.Vetjobs.com
 - www.Hireahero.com
 - www.HireVeterans.com
- Advertising in a variety of media directed towards a cross section of the community, including listing job vacancies on the Company's Internet site as well as at various recruiting web sites.
- Utilizing specialized search organizations and other sources for unique, hard-to-fill or specialized roles.

The Staffing team reviews external recruitment efforts to assess the degree to which these efforts result in a representative pool of qualified applicants.

Campus Recruiting

The recruitment and selection of the right people is one of the most important decisions in our organization. Campus recruiting plays a key role in the recruitment and selection process by providing the opportunity to attract highly talented, diverse individuals nationwide.

The Campus Recruiting program is managed at the line management level nationwide. The program participates in the following: corporate information sessions, receptions, career fairs, diversity recruitment functions, student organizations, and interviewing on campus for full-time and internship positions.

Our nationwide goals are to:

- Identify and attract the best applicants possible who, in addition to matching our applicant profile, bring diversity of background and experience to the organization.
- Focus and develop strong, long-term relationships with targeted universities and colleges where we believe we can source diverse applicants for our opportunities.
- Value the importance of diversity in our campus recruitment efforts by participating in diversity recruiting events on-campus and through targeted organizations. Aggressively pursue and commit to hiring top applicants identified through these events.
- Develop applicant profiles to include core competencies that are critical for the success of our long-term business strategy.
- Develop a structured internship program to complement our campus recruiting efforts.
- Offer continued career development to students that we hire in order to maximize our university recruitment investment.

Bank of America pledges funds to historically black colleges and universities, sponsors the largest scholarship program for students with disabilities, and provides scholarship pledges to various minority college funds.

Diversity Partnerships and Recruiting

The Company continues to identify and develop relationships with organizations that can impact our efforts on a nationwide basis. The Bank participated in numerous diversity conferences during 2013 with the intent to recruit employees at all levels of the organization.

Internal Recruitment Activities

To the extent it is consistent with organizational needs, the Company prefers to fill positions through internal placement because it provides growth opportunities for current employees, reduces training and orientation time, and contributes to increased employee morale. The Company is committed to providing employees with information about positions available within the Company.

Bank of America employees can locate and apply for open positions within the company utilizing the Bank's online Internal Career Search Tool by which they can also prepare and submit their resumes online for positions they are interested in.

Selection

The line of business manager makes the selection of an applicant for a vacant position. The objective of the process is to select the most qualified applicant on the basis of job related criteria without regard to race, color, religion, sex, sexual orientation, gender, gender identity, national origin, age, disability, protected veteran status, or other non-relevant factors not properly considered under applicable law.

The Staffing team's selection process is regularly monitored to assess and ensure that the Staffing teams are meeting their objectives and that they are providing a representative pool of qualified applicants.

Bank of America Global Diversity & Inclusion

Promoting a diverse workplace starts at the top

With a global workforce in more than 40 countries, diversity and inclusion – in thought, style, experience, culture, ethnicity and sexual orientation – are good for business, help attract and retain talent and enable us to better serve employees, customers, clients and shareholders.

Our commitment to creating a diverse and inclusive environment starts at the top with our CEO Brian Moynihan, who chairs our Global Diversity & Inclusion Council. This group, composed of senior leaders from around the world, has created a culture that keeps diversity and inclusion at the forefront for managers throughout the company, our Global Diversity & Inclusion organization, which is led by Geri Thomas, our Chief Diversity Officer, partners with businesses across regions to develop strategy, recruit diverse talent, and manage our diversity sponsorships and strategic alliances.

Recruiting and retaining top talent

Every day, we're focused on creating not only a great place to work, but also an environment where our employees, our customers and our communities around the world can reach their goals and connect with each other.

Seeking out diverse talent

We seek to attract, recruit and retain top diverse talent from across the globe. To do so, we have increased our diversity hiring with a focus on early candidate identification and development through partnerships with approximately 200 schools and external diversity organizations. We partner with 12 diverse colleges and universities, including Historically Black Colleges and Universities, Hispanic Serving Institutions and Women's Colleges, and actively recruit at 200 schools globally with focused and targeted diversity efforts.

We are committed to hiring veterans, Guard and Reservists – a key component of an integrated strategy to help these heroes and their families with the return to civilian life. We've hired more than 4,000 veterans since 2011, providing meaningful career opportunities through a variety of roles with the team. Over the next several years, we'll maintain that pace and hire 10,000 veterans, Guard and Reservists into positions throughout Bank of America.

We also partner with Lesbian Gay Bisexual and Transgender (LGBT) organizations such as Out and Equal Workplace Advocates, Reaching Out MBA and Out on the Street, and our Disability Recruiting Ambassadors program pairs bank Ambassadors with local and national organizations like the Wounded Warrior Project and Goodwill Industries to recruit top talent.

Fostering a diverse employee network

At Bank of America, diversity is part of our DNA. Our Employee Networks are perfect examples of how the bank grows stronger through its commitment to diversity and inclusion. In 2013, through Employee Networks around the world, more than 65,000 employees connected and participated in networking opportunities, mentoring programs, information forums and various volunteer events. Many members also served in leadership roles and led initiatives for recruiting, client development and community partnerships.

Current groups include:

- Asian Leadership Network
- Black Professional Group
- Disability Advocacy Network
- Hispanic/Latino Organization for Leadership and Advancement
- Inter-Generational Employee Network
- Leadership, Education, Advocacy and Development for Women (LEAD)
- Lesbian, Gay, Bisexual and Transgender Pride
- Military Support & Assistance Group
- Multicultural Leadership Network (Europe and Emerging Markets)
- Native American Professional Network
- Parents and Caregivers Network
- Young Professionals Network

Maintaining supplier diversity

Our Supplier Diversity and Development program works to make sure that the goods and services we purchase in our communities come from a wide range of sources and our suppliers have a chance to become long-term partners. Our suppliers include minorities and people with disabilities, as well as businesses owned by veterans, women, and individuals in the LGBT community. In 2013, Bank of America spent \$2.2 billion with diverse businesses.

Partnerships

We partner with a variety of global and national organizations including the National Black MBA Association, Out and Equal, and the Employers Forum on Disability, to find the best talent for our company and educate our existing workforce.

Awards & Recognition

Diversity and inclusion are central to our company's [values](#), and we're honored to be recognized by various organizations and media around the world for our employment practices. Here are some of our most recent awards:

- **Freedom Award** - Bank of America winner of the 2013 Secretary of Defense Employer Support Freedom Award for support of employees who serve in the Guard and Reserve.
- **LatinaStyle** – Top 50 companies for Latinas.

- **Human Rights Campaign** - Bank of America named best place to work for LGBT Equality by the Human Rights Campaign for the eighth year in a row with a 100% Human Rights Campaign Corporate Equality Index score.
- **Working Mother** - We've been on the *Working Mother* 100 Best Companies for 25 years in a row, thanks to our commitment to progressive workplace programs and benefits like tuition assistance, maternity leave and flexible schedules.
- **Diversity MBA** - Bank of America recognized on list of "Top Ten Best in Class Companies for Representation" and third on DiversityMBA magazine's "Top 50 Companies for Diverse Managers to Work;" sixth year on the list.

Career Growth and Employee Development

At Bank of America, career planning is considered a shared responsibility between a manager and an employee. The Company encourages managers to help guide their employees' careers in directions consistent with the Company's needs, the business's goals, and the career aspirations.

One of the programs Bank of America has adopted involves setting performance goals, striving to achieve those goals, and understanding how employee compensation can be directly affected by job performance. During the process, managers and employees work to:

- Set measurable goals that support business objectives and address development needs
- Candidly discuss employee performance expectations and compensation opportunities
- Participate in ongoing reviews of progress against plan
- Recognize and reward performance throughout the year and at year-end

Managers are also expected to provide training and other developmental opportunities as appropriate and feasible.

The Company encourages employees to continue their education and develop their careers. Employees may apply for assistance through the Tuition Reimbursement Program. The Tuition Reimbursement Program helps employees pay for college tuition and tuition-related expenses to make it easier to pursue their educational goals. Employees do not have to take courses specifically to earn a degree to participate in the program, but the course and degree must be job related. Additionally, the Company offers many internal developmental opportunities through various training programs.

Talent Planning for Managers

At Bank of America, employees who have been selected for a supervisory position can participate in the Bank's Talent Planning for Managers program. Some of the material included is guidance on the manager's responsibility for managing diversity, equal employment opportunity, and affirmative action, maintaining an environment free from harassment, and making personnel decisions based on job related criteria.

Discipline

Bank of America is an "At Will" employer, which is included on the Applicant Acknowledgement Form. Bank of America managers and employees can get specific direction or company guidelines for termination and other disciplinary actions from the Employee Handbook as well as from a Personnel Advisor through the Personnel Center.

HR Service Center

The Bank of America Human Resources Service Center is a network that links employees to personnel products, services and information. This automated, self-service resource is accessed through dialing a toll-free number, and representatives are available Monday through Friday, 8:30 a.m. to 8:00 p.m. Eastern. Human Resource professionals are also available to provide confidential responses to questions on personnel policies and services. The Human Resources Service Center also provides a special phone number for employees and retirees with hearing impairments. Managers can contact experienced personnel advisors in Advice and Counsel, who are able to handle a broad range of personnel services relating to the management of their businesses, including conflict resolution, coaching managers on developing/leading employees, and termination advice.

Bank of America Community Volunteers

Bank of America Community Volunteers is the bank's primary grassroots volunteer organization of current and retired employees who work together to touch the lives of co-workers, customers, and the neighborhoods around us. Bank of America Community Volunteers is divided geographically into teams, which usually include one or more of the following focus areas spotlighted on personal development, community service, and social interaction: Arts, Diversity, Education/Youth Development, Environment, Health & Human Services, and Neighborhood/Community Development.

Currently, there are more than 200 teams operating worldwide that enhance employee development opportunities through networking, mentoring and information forums. In 2013, Bank of America celebrated an outstanding year of providing valuable support to the communities it serves through more than 2 million service hours. Volunteerism represents a key component of the bank's commitment to corporate social responsibility which supports the long-term health and success of the community.

SECTION 5

INTERNAL AUDIT AND REPORTING SYSTEM

It is recognized that if Bank of America's Affirmative Action Program is going to succeed, it is essential to have a meaningful audit system, which will successfully track performance. Bank of America has initiated regulatory reporting, as well as the following internal audit and reporting system.

- Workforce Compliance and Diversity Department - The Workforce Compliance and Diversity Department periodically monitors various personnel activities, such as hires, promotions, separations, and compensation, to ensure that the Company's policies are carried out in a non-discriminatory manner, as well as to assess the effectiveness of our affirmative action efforts.

The Workforce Compliance and Diversity Department also produces periodic reports to measure each line of business's progress toward achievement of affirmative action goal commitments.

The Employer Information Reports (EEO-1) are prepared by the Workforce Compliance and Diversity Department and submitted annually to the Joint Reporting Committee of the Equal Employment Opportunity Commission (EEOC) and the Office of Federal Contract Compliance Programs (OFCCP).

The Federal Contractor Veterans' Employment Reports (VETs-100) are also prepared by the Workforce Compliance and Diversity Department and submitted annually to the Office of Veterans' Employment and Training.

- Applicant Flow Log - This report identifies all applicants for employment by name, ethnic code, and gender, together with date of application, position applied for, disposition, hire date, etc.
- Promotion/Transfer Record - All employees who have been promoted or transferred during the AAP year are identified on this record.
- Termination Record - This record identifies all employees who have voluntarily terminated or have been involuntarily terminated during the AAP year.
- Report of Achievement of Prior Goals - At the end of the AAP year, an analysis of prior year's goals is conducted and reviewed with the appropriate management.

SECTION 6
UTILIZATION ANALYSIS AND AFFIRMATIVE ACTION GOALS

An availability analysis is conducted to assist the Company in determining if women and minorities are represented in these job groups as reasonably expected by their availability.

In developing availability estimates for these job groups, the Company has taken into consideration the factors delineated in *41 CFR 60-2.14*.

The utilization analysis is then conducted, comparing the workforce by job groups to availability estimates, in order to determine whether the organization has fewer women or minorities than would reasonably be expected.

Where underutilization of women or minorities in a job group is identified, the senior manager of the business establishes realistic affirmative action goals for the duration of the organization's affirmative action plan. Affirmative action goals are placement goals designed to assist the organization in addressing areas of underutilization. The Company does not consider affirmative action goals as quotas.

RECOGNITION

- 2013- Bank of America winner of the **2013 Secretary of Defense Employer Support Freedom Award** for support of employees who serve in the Guard and Reserve.
- 2013- Bank of America recognized on list of “*Top Ten Best in Class Companies for Representation*” and 3rd on *DiversityMBA* magazine's "Top 50 Companies for Diverse Managers to Work;" sixth year on the list.
- 2013- Bank of America was among the **National Association for Female Executives'** (NAFE) Top Companies for Executive Women for the 4th year in a row.
- 2013- *Hispanic Business* magazine recognized Bank of America as one of the “Top 50 Businesses for Diversity” which measures a company's diversity practices, including board and leadership, recruitment, retention and promotion, marketing and community outreach, and supplier diversity.
- 2013- Bank of America received Alliance Data Corporate Champion Award from **Alliance Data** for our commitment to employing adults with cognitive disabilities.
- 2013- *Black EOE Journal* named Bank of America as a 2013 Top Employer in the Financial Services Industry.
- 2013- *US Veterans Magazine* 2013 Best of the Best List: Top Veteran-Friendly Companies featured Bank of America.
- 2013- *Working Mother* magazine recognized Bank of America as one of its 2013 *Working Mother 100 Best Companies* for the 25th year in a row for our progressive workplace programs, including back-up childcare and paid family leave.
- 2013- A senior executive in Compliance & Regulatory Relations received the Diversity Leadership Award from the **Asian American Bar Association of New York**.
- 2013- Bank of America named best place to work for LGBT Equality by the **Human Rights Campaign** for the 8th year in a row with a 100% *Human Rights Campaign Corporate Equality Index*.
- 2013- **CivilianJobs.com** selected Bank of America as a 2013 Most Valuable Employer (MVE) for Military winner.
- 2013- A Global Diversity & Inclusion executive was honored by *The Network Journal* magazine's 25 Influential Black Women in Business Awards program.
- 2013- *Barrons'* named thirty-three Merrill Lynch Financial Advisors to its 2013 “Top 100 Women Financial Advisors” list, with four ranking in the top 10.
- 2013- *Diversity MBA's* recognized two Bank of America executives on its “Top 100 Under 50 Executive and Emerging Leaders” list.
- 2013- For the last eight years, the Bank has been included on *LATINA Style's* top 50 companies for Latinas list.
- 2013- A senior Bank executive received the Diversity Champion Award by the **Charlotte Chamber of Commerce**, which honors a leader who embodies the spirit of appreciation of diversity and is an example to others. Under his leadership as the chamber's chair in 2010, the chamber, in partnership with the Carolina's Minority Development Council, formed the Charlotte Minority Economic Development Initiative (CMEDI) to grow successful and competitive minority-owned businesses.
- 2013- *Professional Woman's Magazine* named Bank of America as a Top Financial Company on its “2013 Best of the Best Lists.”
- 2013- A senior Global Technology & Operations executive received the **Out & Equal Champion Award** for raising awareness around equal treatment of lesbian, gay, bisexual and transgender (LGBT) employees at

work. The Bank was also named as a finalist for the **Workplace Excellence Award**, which recognizes our company's commitment to workplace equality, leadership, and innovation.

- 2013- A Global Human Resources executive received the **2013 Ascend Inspiring Across Generations Inspirational Leader Award** for work in the Asian American community.
- 2013- Bank of America among companies to top the **Dave Thomas Foundation for Adoption's 2013 Best Adoption-Friendly Workplaces List**.
- 2013- The **Charlotte Business Journal** recognized one of the Bank's executives at its 17th annual Women in Business Achievement Awards.
- 2013- **US Black Engineer (USBE) & Information Technology** publication highlighted the career and accomplishments of a Senior Technology executive at Bank of America.
- 2013- **Universum** named Bank of America one of the *World's Most Attractive Employers for 2013* based on nominations from business and engineering students from the world's 12 leading economies.
- 2012- Bank of America was named one of *DiversityInc* magazine's "Top 50 Companies for Diversity," for the past 12 years.
- 2012- Bank of America was ranked as one of the Top 10 company on the *2012 Working Mother 100 Best Companies* list for a 23rd year. In addition, the Bank was among the top 10 companies for women's advancement and best companies for kids.
- 2012- For the last eight years, the Bank has been included on *LATINA Style's* top company for Latinas list.
- 2012- Bank of America was No. 2 on *DiversityMBA* magazine's "Top 50 Companies for Diverse Managers to Work" and has remained on the list for five years.
- 2012- Bank of America was among the National Association for Female Executives' (NAFE) Top Companies for Executive Women for the third year in a row.
- 2012- For the past three years, the Bank has been named one of *Military Times EDGE* magazine's "Best for Vets 2012: Employers".
- 2012- Diversitybusiness.com ranked Bank of America on its "Top 50 Organizations for Multicultural Business Opportunities" for the third year in a row.
- 2012- Merrill Lynch Wealth Management led all financial services firms on Barron's "America's Top 100 Women Financial Advisors" list again this year with 34 in the rankings.
- 2012- *Black Enterprise* recognized Bank of America as one of the best companies for diversity for our supplier diversity program.
- 2012- Bank of America received the Pro Patria Award from the North Carolina Employer Support of the Guard and Reserve for outstanding service to the National Defense through continuing support of the National Guard and Reserve.
- 2012- For the seventh year in a row, Bank of America was named best place to work for LGBT Equality by the Human Rights Campaign.
- 2012- Three Bank of America executives ranked as No.'s 7-9 on Barron's "America's Top 100 Women Financial Advisors."
- 2012- The Bank was ranked among *Computerworld's* "Best Places to Work in IT" list.
- 2012- The Dave Thomas Foundation for Adoption named Bank of America as one of the Best Adoption-Friendly Workplaces for the fifth year in a row.
- 2012- *Diversity MBA's* recognized two Bank of America executives on its "Top 100 Under 50 Executive and Emerging Leaders" list.

- 2012- Universum recognized Bank of America Merrill Lynch on its “World’s Most Attractive Employers 2012” list and ranked the company as No.22 on the list of “Global Top 50 Business”.
- 2012- Two Bank of America female executives were featured in the December 2012/January 2013 issue of *Diversity/Careers in Engineering & Information Technology* magazine.
- 2012- *The Dallas Voice*, a publication dedicated to issues pertinent to the Lesbian Gay Bisexual and Transgender community, named Bank of America the best financial institution for 2012.
- 2012- The Hispanic Association on Corporate Responsibility selected one of the Bank’s executives for the 2012 HACR Young Hispanic Corporate Achievers™ program that recognizes Hispanics in Corporate America who have shown leadership qualities within their corporations and have demonstrated a proven commitment to the community.
- 2012- The *Charlotte Business Journal* recognized one of the Bank’s executives at its 16th annual Women in Business Achievement Awards.

EDUCATION

- 2013- Bank of America Charitable Foundation provided more than \$22 million in grants to more than 1,000 nonprofit organizations in 34 states focused on workforce development and education in the U.S. The funding will enable these organizations to reach more than six million people, match over 100,000 youth with mentors, and help 29,000 individuals graduate with a degree or certification. From programs that help at-risk youth access post-secondary opportunities to those that train people with barriers to employment for specific job opportunities, the Bank’s support is helping individuals in need access resources and opportunities that will help them gain employment. In many cases, job training and workforce development programs already exist in their communities; the goal is to connect individuals to those resources.
- 2013- For the second year, in partnership with mayors’ offices in 28 communities across the country, our Summer Youth Employment Initiative helped place young people in summer jobs in the private, public, and nonprofit sectors. Many of these positions help sustain community needs that might not otherwise be met.
- 2013- Since 1999, Bank of America has provided nearly \$30 million in Joe Martin scholarships to more than 4,800 students pursuing college or vocational post-secondary education. This program offers financial assistance for college or vocational schools to dependents of associates and retirees who have been employed by Bank of America for at least one year.
- 2013- Bank of America launched a new program that showcases our commitment to volunteerism called: “2 Million Connections for Better.” These efforts will build on the 1.5 million volunteer hours employees generously recorded last year, as the company pushes toward a new goal of two million volunteer hours. This initiative focuses on two forms of “strategic volunteering” to increase the impact of our service:
 - Skills-based volunteering, which makes use of employees’ professional experience and personal abilities,
- Charitable volunteering, from hunger to financial education, affordable housing, mentoring, and employment training, as well as help for veterans and military families.
- 2013- Since 2011, Bank of America has worked with the Wounded Warrior Project® (WWP) to support warriors and their caregivers at critical moments of transition with a combination of timely and relevant financial education and coaching tied to all of the economic empowerment programs but particularly with the Warriors to Work™ program. Through individual counseling, warriors’ skills and experience are matched to employers’ needs; they gain critical career advancement skills, such as networking and salary negotiation, to ensure they are prepared to embark on a civilian employment opportunity.
- 2013- Bank of America asked SER Jobs for Progress, an community organization that offers a variety of workforce development programs—from assessment to placement—for diverse communities in need, to help launch a summer jobs program for low-income youth in Houston. In two short weeks, the program placed 26 students in summer jobs. The organization’s relationship with the Bank has expanded since then and has named SER Jobs for Progress a Neighborhood Builder, providing grant funding and leadership development.

- 2013- Bank of America's Student Leaders program, an eight-week summer experience for high school juniors and seniors, connects young leaders with employment that helps give them the necessary tools and resources they need to advance. Student Leaders are awarded paid summer internships with local nonprofit organizations.
- 2013- Bank of America held its annual Student Leaders Summit where more than 220 students, from 40 communities across the U.S., came together in Washington, D.C. Through our Student Leaders[®] program and our Summer Youth Employment Initiative, we provided summer jobs to nearly 1,300 young people—offering not only a paycheck, but also financial education and mentoring.
- 2013- Bank of America continued its commitment to help everyone develop better money habits by partnering with Khan Academy, a not-for-profit that focuses on enabling people to learn what they want to know - in their own way and at their own pace. They teamed up to develop BetterMoneyHabits.com.
- 2013- The Bank sponsored the *New York Times* "Schools for Tomorrow Conference" where top influencers in education gathered to discuss solutions to the gap that exists between information and knowledge. The founder of the Khan Academy Sal Khan delivered a keynote address and discussed his innovative approach to online education.
- 2013- Since 2007, Bank of America supported 172 summer employment opportunities by investing in WorkReady Philadelphia. This organization is a cross-sector partnership that provides thousands of young people with career exposure and preparation opportunities each year. In 2013 alone, the bank provided funding for 41 work experiences for youth.
- 2012 – Bank of America was recognized by the **White House** for its support of mentoring programs that help youth attain academic and career success leading to long-term financial stability. The event, attended by President Barack Obama, Secretary of Labor Hilda Solis, and Secretary of Education Arnie Duncan, gathered government, non-profit, and business leaders to discuss opportunities to provide pathways to employment for low-income and at-risk youth in the summer of 2012.
- 2012 – As part of the company's commitment to youth employment, Bank of America's Student Leader[®] program has awarded paid nonprofit internships to high school students committed to improving their communities, and has more than 1,600 student alumni.
- 2012- Bank of America supports local leaders, students and organizations in 45 U.S. markets and in London as they work to improve their own communities through its Neighborhood Excellence Initiative (NEI), which has existed since 2004. Through 2011, the Company's total commitment exceeded \$150 million, and nearly 700 nonprofits organizations and nearly 3,400 community leaders and high school students were recognized for their service, achievements and leadership. The four components of the NEI are:
 - Neighborhood Builders – Bank of America's Neighborhood Builders award strengthens the capacity and infrastructure of nonprofit organizations and promotes the leadership development of their executives. Awardees are provided with \$200,000 in core operating support over two years. In addition, the executive director and an emerging leader from each nonprofit participate in a leadership development program during the first year of funding.
 - Local Heroes – The Local Heroes award seeks to recognize community role models and their efforts to improve their communities. Each Local Hero is able to direct a \$5,000 grant donation from the Bank of America Charitable Foundation to an eligible nonprofit of their choice and is recognized at a public ceremony celebrating their achievements.
 - Student Leaders – The Bank of America Student Leaders award offers high school juniors and seniors firsthand opportunities to discover how they can help shape their communities now and in the future. Student Leaders participate in a paid summer internship with a local nonprofit organization and engage in a Student Leadership Summit held in Washington, D.C. These activities provide students with valuable civic, business and private sector perspectives.
 - Volunteer Service Award – Every day, Bank of America employees donate their time, talent and passion to the communities in which they live and work as demonstrated by the more than 1.5 million volunteer hours

donated in 2012. The company introduced the Volunteer Service Award in 2010 to recognize employees' outstanding efforts and impact within participating Neighborhood Excellence Initiatives (NEI) markets.

- 2012 - Bank of America volunteers gave nearly 23,000 hours to more than 200 nonprofits serving military needs in 2012.
- 2012 – Bank of America has a long history of helping blacks open the doors of opportunity through its support for education, advocacy groups, local nonprofit organizations, arts and heritage, and community development. As part of its neighborhood excellence strategy, the bank works closely with national and neighborhood leaders to identify the most pressing needs of the black community and to address these challenges. Examples of Bank of America's commitment include:
 - Investing more than \$16 million in Historically Black Colleges and Universities, including support for the United Negro College Fund, the Thurgood Marshall College Fund and the Central Intercollegiate Athletic Association.
 - Building the leadership and capacity of local nonprofit organizations serving the direct needs of a diverse range of communities, including blacks through the Neighborhood Excellence Initiative™, which recognizes nonprofit organizations, individuals and students. Recent awardees include the Urban League of Broward County, Florida and Harlem RBI in New York in recognition of their innovative education and leadership programs serving youth and adults.
 - Expanding access to the arts: Bank of America's exhibit featuring black art, Celebration and Vision: The Hewitt Collection of African-American Art has toured more than 25 museums across the United States and will be donated to the Afro-American Cultural Center in Charlotte. In 2007, Bank of America provided \$1 million to support the revitalization of the Apollo Theater and invested \$1 million in the Robert Woodruff Library in Atlanta to help renovate the institution's facilities, which will house the books and writings of the Morehouse College Martin Luther King, Jr. Collection.

FORM OF MASTER LEASE AGREEMENT

CITY OF SAN DIEGO

(AS LESSEE)

AND

Banc of America Public Capital Corp

(AS LESSOR)

DATED AS OF July [DD], 2015

MASTER LEASE AGREEMENT

This MASTER LEASE AGREEMENT (this "Agreement" or this "Lease") dated as of _____ is between BANC OF AMERICA PUBLIC CAPITAL CORP, (the "Lessor"), and the City of San Diego (the "City" or the "Lessee"), a political subdivision of the State of California (the "State").

RECITALS

The City desires to enter into arrangements for the lease purchase of certain Equipment, hereinafter defined.

The Lessor desires to provide for the financing of all such Equipment under the terms of this Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

ARTICLE 1: DEFINITIONS

For purposes of this Agreement, the following terms have the meanings given below unless the context clearly requires otherwise:

- 1.1 Acceptance Certificate: means the certificate substantially in the form of Schedule 1 of the Appendix.
- 1.2 Acceptance Date: means the date on which the City notifies the Lessor to establish and agree on a Vendor Payment Date. The Acceptance Date shall be no later than seven (7) business days in advance of the Vendor Payment Date.
- 1.3 Acquisition Period: means the period commencing on the execution of this Agreement and ending on the earlier of twenty-four (24) months, or the date on which \$[14,500,000] of new Equipment has been financed as New Lease(s) under the Agreement. The City reserves the right to (i) request to increase the limits upon exhausting the initial limits for and of the terms upon mutual agreement and pre-approval by Lessor, and (ii) request to extend the Acquisition Period for a period upon terms acceptable to Lessor.
- 1.4 Additional Lease Payment(s): means the amounts specified as such in Section 4.5(b).
- 1.5 Agreement: means this Master Lease Agreement as the same may be amended and supplemented from time to time in accordance with its terms.
- 1.6 Appendix: means Attachment A of this Agreement, substantially in the form annexed hereto, which includes the Acceptance Certificate, the Disbursement Authorization Certificate, the City Representation Certificate, the Payment Schedule Certificate, and all exhibits, attachments and schedules thereto.

- 1.7 Business Day: means any day other than a City holiday, a Saturday, Sunday or day upon which banks in the state or in the state in which the principal office of the Lessor is located are authorized or required to be closed.
- 1.8 Certificate of Counsel: means the certificate substantially in the form of Attachment B of this Agreement.
- 1.9 City Representative: means the Purchasing Agent, Chief Operating Officer, Chief Financial Officer, Director of Debt Management, or such other person at the time designated to act on behalf of the Lessee for the purpose of performing any act under this Agreement by a written certificate furnished to the Lessor.
- 1.10 City Representation Certificate: means the certificate substantially in the form of Schedule 3 of the Appendix.
- 1.11 Contract Administrator: the Director of Debt Management or Designee shall be the Contract Administrator.
- 1.12 Agreement Term: means the period commencing upon execution of this Agreement and ending on the date the final payment is made under all Appendices entered into during the Acquisition Period.
- 1.13 Agreement Year: means individually each year of the Agreement Term. The initial Agreement Year shall begin on [____ xx, 20xx], and end on June 30, [____], and thereafter each Agreement Year shall begin July 1 and end on the following June 30.
- 1.14 Disbursement Authorization Certificate: means the certificate substantially in the form of Schedule 2 of the Appendix.
- 1.15 Equipment: means the items of personal property and services leased to Lessee for a term not exceeding the useful life of the item pursuant to this Agreement and listed on each Appendix.
- 1.16 Equipment Lease Rate: means for each lease term, applying the applicable Percentage of Index Rate to the applicable Index Rate plus any applicable Spread. The tables below details the Percentage of Index Rate, and Spreads for each lease term based on the Vendor Payment Date:

Leases executed with a Vendor Payment Date on or before [July x, 2016]			
Lease Category	Lease Term	Percentage of Index	Spread
New Leases	5 years	64.10%	0.6065%
	7 years	64.10%	0.7155%
	10 Years	64.10%	0.8674%

Leases executed with a Vendor Payment Date after [July x, 2016] and before or on [July y, 2017]			
Lease Category	Lease Term	Percentage of Index	Spread
New Leases	5 years	64.10%	0.7372%
	7 years	64.10%	0.8464%
	10 Years	64.10%	1.0002%

- 1.17 Equipment Purchase Amount: means the amount defined as such on Schedule 2 to the Attachment 'A' Disbursement Authorization Certificate.
- 1.18 Equipment Vendor: means the manufacturer or the distributor, including consultants and City staff, who deliver the items of Equipment to Lessee.
- 1.19 Event of Default: has the meaning set forth in Section 4.10 herein.
- 1.20 Fiscal Year: means the City's Fiscal Year which begins on July 1 of a calendar year and ends on June 30 of the following calendar year.
- 1.21 Index: means the applicable LIBOR Swap Index as further described below.
- 1.22 Index Rate: means the Interest Rate Swap Index rate for each lease term as published by Federal Reserve "Selected Interest Rates H.15"
[\(http://www.federalreserve.gov/releases/h15/update/\)](http://www.federalreserve.gov/releases/h15/update/) as defined in the following table:

Lease Category	Lease Term	Index Term
New Leases	5 years	3-Year
	7 years	4-Year
	10 years	5-Year

- 1.23 Lease Payment(s): means the amount(s) specified in Section 4.5 hereof, as adjusted from time to time in accordance with the terms hereof, but does not include Additional Lease Payments.
- 1.24 Lease Payment Date: means the date on which the Lessee is required to make a Lease Payment, as specified in an Appendix.
- 1.25 Lessee: means the City of San Diego.
- 1.26 Lessor: means BANC OF AMERICA PUBLIC CAPITAL CORP, acting as Lessor under this Agreement, and any successor thereto or any assignee thereof.
- 1.27 Lessor Representative: means the President or any Vice President of the Lessor, or any person or persons at the time designated to act on behalf of the Lessor for purposes of

performing any act or obligation on behalf of the Lessor under this Agreement by a written certificate furnished to the Lessee.

- 1.28 LIBOR: means the London Interbank Offered Rate.
- 1.29 Payment Schedule Certificate: means the certificate substantially in the form of Schedule 4 of the Appendix annexed hereto.
- 1.30 Percentage of the Index Rate: means the percentage proposed by the Lessor for the lease term(s) awarded to the Lessor which is to be multiplied by the Index Rate in the calculation of the Equipment Lease Rate in an Appendix, for all Equipment purchased during the term of this Agreement.
- 1.31 Pre-approval Request: means the form attached hereto, fully executed by the Lessor in conformance with the procedure contained therein.
- 1.32 Pre-payment Date: has the meaning contained in Section 7.2(a) herein.
- 1.33 Request for Statement of Qualifications or RSFQ: means City of San Diego Request for Statement of Qualifications No.: 10053250-15A.
- 1.34 Transaction Documents: means the Agreement, the Appendices, and all attachments, exhibits and schedules thereto.
- 1.35 Vendor Payment Date: means the date on which the Equipment Vendor or Lessee (in the case of reimbursement) receives funds from the Lessor, as specified in an Appendix.
- 1.36 This section intentionally omitted.
- 1.37 New Lease(s): includes financing of new Equipment, as defined in 1.15.

ARTICLE 2: PURPOSE

- 2.1 The Lessor agrees to lease Equipment to Lessee subject to the terms hereof, upon the provision by Lessee of an Appendix, and the Lessee agrees to lease Equipment from the Lessor for the consideration indicated in an Appendix at the Equipment Lease Rate, provided, however, that the Lessee is not permitted, and the Lessor is not required, to lease any Equipment where the Equipment Lease Rate exceeds [6.0%.]
- 2.2 No payments will be due under this Agreement by the Lessor until the Lessor has determined that no material adverse change in the Lessee's financial condition has occurred prior to the Lessor's execution of a Pre-approval Request, that insurance required under the Agreement will be in place as of the Vendor Payment Date, and the Lessor has been provided an Appendix and all attachments, exhibits and schedules thereto (in form and substance, acceptable to Lessor) signed by authorized City Representative(s). No payments will be due from the City to the Lessor until the Lessor has made payment to the Equipment Vendor or to the City as provided in Section 4.3.

ARTICLE 3: TERM

- 3.1 The term of this Agreement during which Equipment can be ordered, upon receiving pre-approval from the Lessor, and funded shall be the Acquisition Period. The Acquisition Period of this Agreement may be extended by mutual consent of both the Lessee and the Lessor.
- 3.2 The payment term of each Appendix entered into pursuant to this Agreement shall be for a period of five (5), seven (7) years, or ten (10) for New Lease(s) subject to a Pre-approval Request by the Lessor at the time the equipment is ordered by the City, and further subject to earlier termination as provided herein.
- 3.3 The Agreement Term of this Agreement shall be from the execution of this Agreement until all obligations under this Agreement are extinguished pursuant to this Agreement.

ARTICLE 4: PAYMENT

- 4.1 Amount and Times of Payment to the Lessor: The total purchase price plus accrued interest indicated in each Appendix shall be paid by the City in equal semi-annual installment payments as indicated in an Appendix. The initial Lease Payment by the City, unless otherwise specified in an Appendix, shall be due on the first day of the month after six (6) full months have elapsed from the Vendor Payment Date as shown on an Appendix. The initial Lease Payment shall include accrued interest from the Vendor Payment Date to the first Lease Payment date. Each successive Lease Payment during the term of the Appendix will continue semi-annually on the first day of the calendar month. Payments for partial months and accrued interest shall be calculated on a 30/360 basis. Lessee shall receive invoices from Lessor to Lessee no less than 30 days prior to each Lease Payment date.
 - 4.1.1 The Equipment Lease Rate will be established on the Acceptance Date through execution of an Appendix by multiplying the Percentage of the Index Rate by the Index Rate as defined in Section 1.20 herein, published as of the Acceptance Date for the lease term.
- 4.2 For federal income tax purposes only, a portion of each Lease Payment is paid as, and represents payment of, interest, as set forth in each Payment Schedule Certificate.
 - 4.2.1 The Lease Payments shall be paid by check in lawful monies of the United States and mailed to the Lessor at its principal corporate office or such other place as may be designated by the Lessor in writing; or, at the Lessee's preference, sent via Automatic Clearing House ("ACH") payment or wire payment to the Lessor in accordance with ACH and wire payment instructions provided in writing on the Lessor's letterhead.
- 4.3 Amount and Times of Payment by Lessor: Subject to a Pre-approval Request by the Lessor in accordance with Sections 1.2 and 3.2 of the Agreement, payment by the Lessor must be made to Lessee's Equipment Vendor, on or before the Vendor Payment Date given in an Appendix. The amount of payment will be stated in an Appendix.

- 4.3.1 Should the Lessor fail to pay the entire principal payment to the Vendor by the Vendor Payment Date specified in any Appendix after receiving all documents identified in Section 5.5 in a timely manner, and such late payment is attributable solely to the failure of Lessor to fund in a timely manner (and not due to any deficiency in the documentation provided pursuant to Section 5.5 or any failure of Lessee to provide all necessary information for Lessor to process such payment), within three (3) business days after the Lessor's receipt of all documentation, or failure of the Lessor to perform any of the obligations, covenants, terms and provisions contained or referred to in this Agreement, which nonpayment or failure to perform is not cured within fifteen (15) calendar days of the receipt of written notice (certified mail, return receipt requested) thereoffrom the Lessee to the Lessor, shall be subject to the Remedies of the Lessor set forth in Section 4.12 herein; provided, however, such Vendor Payment Date shall not be more than three (3) Business Days after receipt of Schedules 1 through 4, IRS Form 8038-G/GC (Information Return for Tax-Exempt Governmental Obligations), UCC financing statements and any other items deemed necessary by the Lessor as established prior to the Vendor Payment Date, pursuant to Section 5.5b.
- 4.3.2 As evidence of payment by Lessor to Lessee's Equipment Vendor, Lessor shall return to Lessee a signed copy of the Disbursement Authorization Certificate and a signed copy of the Payment Schedule Certificate, initially executed by Lessee.
- 4.4 Maximum Payment: Except in the event of Pre-payment by the Lessee as hereinafter provided, and except for Additional Lease Payments and other amounts due hereunder, the total charges paid by the Lessee shall not exceed the amount calculated on the Payment Schedule Certificates.
- 4.5 Lease Payments: Subject to the terms hereof, the Lessee hereby agrees to pay to the Lessor the Lease Payments and to the appropriate parties the Additional Lease Payments in the amounts, at the times and in the manner hereinafter set forth, such amounts constituting in the aggregate the rent payable under this Lease.
- a. The Lease Payments payable by the Lessee shall be due on each Lease Payment Date during the term of this Lease. The Lease Payment payable on a particular Lease Payment Date shall be for the period from the immediately preceding Lease Payment Date to such particular Lease Payment Date.
- b. In addition to the Lease Payments set forth herein, the Lessee agrees to pay as Additional Lease Payment(s) all of the following:
1. All taxes and assessments of any nature whatsoever, including but not limited to excise taxes, ad valorem taxes including sales taxes, ad valorem and specific lien special assessments and gross receipts taxes, if any, levied upon the Equipment, or upon any interest of the Lessor; and
 2. Any late Lease Payment penalty shall be determined in accordance with this subparagraph, for the late payment of scheduled Lease Payments. A scheduled Lease Payment not made by the sixth calendar day succeeding the scheduled Lease Payment Date shall, upon written notice from the

Lessor, begin accruing a late Lease Payment penalty, calculated at the applicable lease interest rate, on a pro-rata basis, against the scheduled Lease Payment due. In no event shall the late Lease Payment penalty begin accruing before the sixth day succeeding the scheduled Lease Payment Date or before the date written the Lessee receives notice from the Lessor, and in no event shall any late Lease Payment penalty continue to accrue past the twentieth day succeeding the scheduled Lease Payment Date, except as provided in Section 4.11 (b)

3. [Upon mutual agreement of the Lessor and Lessee, any fees for the retention of, and services provided by, a special counsel for an opinion of the tax-exempt status of an Appendix, or for the perfection of a lien, registration, or documentation of a vessel, aircraft or other specialized Equipment]

- 4.5.1 Amounts constituting Additional Lease Payments hereunder shall be paid by the Lessee directly to the person(s) to whom such amounts shall be payable. The Lessee shall pay all such amounts when due or at such later time as such amounts may be paid without penalty or, in any other case, within thirty (30) calendar days after notice in writing from the Lessor to the City stating the amount of Additional Lease Payments then due and payable and the purpose thereof.
- 4.5.2 The obligation of the Lessee to make Lease Payments, Additional Lease Payments, or any other payments required hereunder, shall be absolute and unconditional) except as otherwise specifically provided in this Agreement. This is a net lease. All costs, expenses and other liabilities associated with the Equipment shall be borne solely by the Lessee. Except as expressly provided herein, the Lessee's obligation to pay rent and all other obligations under this Agreement are absolute and unconditional and not subject to any deferment, reduction, setoff, defense, counterclaim or recoupment for any reason whatsoever.
- 4.6 Consideration: For each Fiscal Year or portion thereof during the term of this Agreement, Lease Payments and Additional Lease Payments shall constitute the total Lease Payments for such Fiscal Year or portion thereof and shall be paid by the Lessee for and in consideration of the right of use and possession, and the continued quiet use and enjoyment, of the Equipment by the Lessee for and during such Fiscal Year or portion thereof. The parties hereto have agreed and determined that such Lease Payments are not in excess of the total fair rental value of the Equipment. In making such determination, consideration has been given to the costs of acquiring and financing the Equipment, the uses and purposes served by the Equipment, and the benefits there from that will accrue to the parties by reason of this Agreement and to the general public by reason of the Lessee's use of the Equipment.
- 4.7 Budget: The Lessee hereby covenants to take such action as may be necessary to include all Lease Payments and Additional Lease Payments due hereunder in its annual budget and to make the necessary annual appropriations for all such Lease Payments and Additional Lease Payments, subject to Section 4.8 hereof. The covenants on the part of the Lessee herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the ministerial duty of each and every public

official of the Lessee to take such action and do such things as are required by law in the performance of such official duty of such officials to enable the Lessee to carry out and perform the covenants and agreements on the part of the Lessee contained in this Agreement. The obligation of the Lessee to make Lease Payments or Additional Lease Payments does not constitute an obligation of the Lessee for which the Lessee is obligated to levy or pledge any form of taxation or for which the Lessee has levied or pledged any form of taxation. The obligation of the Lessee to make Lease Payments or Additional Lease Payments does not constitute an indebtedness of the Lessee, the State or any of its political subdivisions within the meaning of any constitutional or statutory debt limitation or restriction

4.8 Abatement: The Lessee's obligations to make payments under this Agreement shall be subject to abatement in accordance with this Section 4.8 during any period in which, by reason of material damage, destruction, or condemnation, there is substantial interference with the use and right of possession by the Lessee of such item of Equipment. The amount of Lease Payment abatement shall be such that the resulting Lease Payments in any Fiscal Year during which such interference continues do not exceed the fair rental value of the portions of the Equipment as to which such damage, destruction, or condemnation does not substantially interfere with the use and right of possession of the Lessee, as evidenced by a certificate of a City Representative. Such abatement shall continue for the period commencing with the date of such damage, destruction, or condemnation and ending with the restoration of such item of Equipment to useable condition. In the event of such damage, destruction, or condemnation, this Agreement shall continue in full force and effect.

4.9 Intentionally Omitted

4.10 Events of Default by Lessee: Any of the following events which shall occur shall constitute an Event of Default by the Lessee under this Agreement:

- a. Subject to the provisions of Section 4.8 hereof, the nonpayment by the Lessee of any payment required hereunder, or failure of the Lessee to perform any of the obligations, covenants, terms and provisions contained or referred to in this Agreement, which nonpayment or failure to perform is not cured within fifteen (15) calendar days of the receipt of written notice (certified mail, return receipt requested) thereoffrom the Lessor to the Lessee; provided, however, that the termination as described in Article 7 shall not constitute an Event of Default hereunder and shall not give rise to any of the remedies hereinafter authorized.
- b. Any warranty, representation, or statement of the Lessee contained in this Agreement which proves to have been false in any material respect when made or furnished.
- c. Dissolution, termination of existence, discontinuance of its business, insolvency, business failure, or appointment of a receiver of any part of the property of or assignment for the benefit of creditors by Lessee or the commencement of any proceedings under any bankruptcy whether voluntary or involuntary, reorganization or arrangement laws by or against Lessee.

- d. Failure by Lessee to maintain insurance as required by Section 5.6.
- e. Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all out-of-pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this section, including, without limitation, any attorney fees, and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment.
- f. Failure by Lessee to comply with Section 5.9 of this Agreement.

4.11 Remedies of the Lessor: Upon the occurrence of an Event of Default by the Lessee, the Lessor may, at its option, take any one or more of the following actions:

- a. Collect each installment of Lease Payments and Additional Lease Payments as it becomes due and payable hereunder.
- b. Collect on a pro-rata basis from the Lessee payment of late charges accrued at the rate of one percent (1%) per month on the outstanding principal balance, in the event of a default by the Lessee as provided in Section 4.10.
- c. Repossess the Equipment without being subject to any action for trespass, conversion, or the recovery from the Lessor of any sums previously received in this Agreement.
- d. Retain prior payments and sell or lease the Equipment through public or private transaction after giving the Lessee reasonable notice with or without having the Equipment at any such sale or leasing. The Lessor may purchase all or part of the Equipment as a result of such transactions. The proceeds of any sale or leasing will be applied to the payment of the unpaid balance of the Lessee's obligations under this Agreement. The Lessee shall remain liable for any deficiency of unpaid payment for the current Agreement Year. Any excess obtained by the Lessor at any sale or leasing of the Equipment over the amounts owed by the Lessee for the remainder of the Agreement shall be paid to the Lessee or to such other persons as is prescribed by law.
- e. By action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, for the issuance of writ of mandamus enforcing, for the entire balance of the term hereof, the duty of the Lessee to appropriate and take all other administrative steps necessary for the making of Lease Payments, Additional Lease Payments and other amounts due hereunder.
- f. Take any other remedy available at law or in equity.
- g. Terminate the Agreement with respect to future financing.

4.11.1 Lessor's attempt to exercise any of the remedies herein entitles the Lessee to prepay, without notice, as provided in Section 7.2 herein, notwithstanding any provision to the contrary.

- 4.12 Late Payment by Lessor; Breach of Warranty: If the Lessor fails to timely pay the Vendor as set forth in Section 4.3 hereof, or any representation, warranty or statement made by the Lessor herein shall prove false in any material respect when made or furnished, the Lessee may, at its option, take any one or more of the following actions:
- a. Lessor agrees that it shall reimburse Lessee for any late charges associated with such late payment upon presentation by Lessee of satisfactory evidence of payment of such late charge.
 - b. Institute all remedies available to the Lessee as available at law or in equity.
 - c. Terminate this Agreement with respect to future financings provided that all existing Appendices shall remain in effect.
 - d. Upon the Lessee's exercise of any of the remedies herein, the Lessee shall not exercise any further remedy against the Lessor.

ARTICLE 5: RESPONSIBILITIES OF LESSEE

- 5.1 Care and Use of Equipment: At its own expense, the Lessee shall obtain remedial and preventive maintenance, in accordance with the Lessee's maintenance policies and procedures, to keep the Equipment in good operating condition.
- 5.2 Inspection: Subject to security regulations and upon not less than two (2) Business Days prior notice, the Lessee will allow the Lessor to enter the premises where the Equipment is located during normal business hours for the purposes of inspecting the Equipment and observing whether the Lessee is in compliance with its responsibilities.
- 5.3 Taxes: In the event that the Equipment or any portion thereof shall, for any reason, be deemed subject to taxation, assessments, or charges lawfully made by any governmental body, the Lessee shall, during the term of this Agreement, pay the amount of all such taxes, assessments, and governmental charges then due, as Additional Lease Payments, as described in Section 4.5 (b) (i) herein. At the expense and in the name of the Lessee, the Lessee may in good faith contest any such taxes, assessments, and other charges in any reasonable manner which does not, in the opinion of independent counsel, adversely affect the right, title, and interest of the Lessor in and to any item of the Equipment or its rights or interest under this Lease or subject any portion of any item of Equipment to loss or forfeiture, and, in the event of any such contest, may permit the taxes, assessments or other charges so contested to remain unpaid during the period of such contest or any appeal therefrom.
- 5.4 Permits and Licenses: The Lessee shall provide all permits and licenses necessary for use of the Equipment. Registration and titling of all vehicles shall be at the Lessee's expense. The Lessee shall comply with all laws, rules, regulations, and ordinances applicable to the use of the Equipment. If compliance with any law, rule, regulation, ordinance, permit,

or license requires changes or additions to be made to the Equipment, such changes or additions shall be made by the Lessee at its own expense.

5.5 Delivery of Related Documents:

- a. For each item of Equipment, the Lessee shall provide the Lessor with a completed Pre-approval Request, substantially in the form attached hereto. Prior to the date the Equipment is ordered by the Lessee from the Equipment Vendor, the Lessor has the right to approve or disapprove the Pre-approval Request based only on the nature of the acquisition. Provided, however, if the nature of the acquisition indicated in the Pre-approval Request changes materially after the Lessor has agreed to provide financing, the Lessor is not bound by the Pre-approval Request.
- b. For each item of Equipment the Lessee shall provide an Appendix at least two (2) Business Days prior to the Vendor Payment Date, in substantially the form shown in Attachment A, attached hereto and by this reference incorporated herein, including:
 - 1) A copy of the Equipment Vendor invoice.
 - 2) Evidence of the Lessor's security interest (completed Form UCC-1) as of the Vendor Payment Date, provided that such statements shall not impose liabilities and/or responsibilities inconsistent with this Agreement.
 - 3) Original IRS Form 8038-G or 8038-GC; original to be filed by the Lessee with the Internal Revenue Service.
 - 4) A copy of the Manufacturer's Certificate of Origin, if applicable.
 - 5) A copy of the Application for Vehicle Registration, if applicable, stating the Lessor as lien holder. For transactions involving titled vehicles, Lessor will be listed as First Lien-holder on each original Title and LESSOR will hold the original title(s) for the term of the related Appendix.
 - 6) Certificate of Counsel.
 - 7) A copy of the Lessee's resolution or ordinance, where applicable and when specifically requested by the Lessor.
 - 8) Insurance certificates as referenced in Section 5.6
- d. For each item of Equipment, the Lessee shall provide upon written request of the Lessor:
 - 1) The Lessee's maintenance agreement on the Equipment, if applicable.
 - 2) Such other documents at the time of execution as the parties reasonably believe necessary to protect their interests in this Agreement and in the Equipment, provided that no such document may impose liabilities and/or

responsibilities on the Lessor or the Lessee inconsistent with this Agreement and no such document is deemed to be incorporated into, nor to amend nor to alter the terms of this Agreement.

- e. Upon each draw, the Lessee shall provide a Certificate of Counsel substantially in the form of Attachment B, attached hereto and by this reference incorporated herein.
- f. Upon settlement of the Agreement and thereafter as changes occur, the Lessee will provide a listing of authorized City Representatives to the Lessor.

5.6 [Risk of Loss]: The Lessee shall obtain and maintain for the Agreement Term, at the expense of the Lessee and from reputable commercial insurers, rental interruption insurance, property damage and liability insurance (excess of the City's self-insured retention of [five million dollars (\$5,000,000)] for Public Liability), and insurance against loss or damage to the Equipment, including loss by fire, theft, collision and such other risks of loss as are customarily insured against on the type of Equipment purchased hereunder and by the business in which the Lessee is engaged. Provided, however, that the amount of insurance against loss or damage to the Equipment shall not be less than the lesser of the full replacement value of the Equipment or the sum of the Lease Payments then remaining unpaid under the Agreement and the amount of rental interruption insurance shall cover lease payments for not less than twelve (12) months. [The City may provide a letter of self insurance.]

At the Lessor's request, the Lessee shall furnish to the Lessor a certificate of insurance or other evidence satisfactory to the Lessor that such insurance is in effect and Lessor will require the following:

- a. that the insurer give Lessor at least thirty (30) days prior written notice of any cancellation of its policy;
- b. that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of the City; and
- c. that the insurance maintained by the City shall be primary without any right of contribution from insurance which may be maintained by Lessor. The Lessee further agrees to give the Lessor prompt notice of any substantial damage to, or loss of, the Equipment or any part thereof.

5.6.1 The Lessee shall repair, replace, or make the applicable Pre-payment for, within twelve (12) months any item of Equipment which is destroyed or damaged to such an extent that there is substantial interference with the use and right of possession by the Lessee of that item which would result in an abatement of Lease Payments or any item thereof pursuant to Section 4.8 hereof, whether or not there are sufficient insurance proceeds to pay for such repair or replacement. However, the Lessee shall not be required to repair or replace any such item of Equipment pursuant to this Section 5.6 if there shall be applied to the Pre-payment of Lease Payments insurance proceeds or other legally available funds sufficient to prepay all of the principal portion of the remaining Lease Payments for such item of

Equipment as set forth in Section 7.2 hereof. The Lessee shall name the Lessor, its successors and assigns, as additional insured and loss payee under any policy obtained pursuant to this Section 5.6.]

- 5.7 Application of Funds: All funds authorized or appropriated for payments under this Agreement shall be applied by the Lessee to such payment requirements.
- 5.8 Tax Matters: In order to maintain the exclusion from gross income for Federal income tax purposes of the interest component of each Lease Payment due under this Agreement, the Lessee covenants to comply with each applicable requirement of Section 103 and Sections 141 through 150 of the Internal Revenue Code of 1986, as amended. This covenant shall survive the payment or Pre-payment of all Lease Payments hereunder.
- 5.8.1 If the Lessor either (i) receives notice, in any form, from the Internal Revenue Service; or (ii) reasonably determines, based on an opinion of independent tax counsel that the Lessor may not exclude all interest from Federal gross income as the result of any act or omission by the Lessee or a breach of any representation or covenant contained in this Agreement or any schedule, then the Lessee shall pay to the Lessor within thirty (30) days after the Lessor notifies the Lessee of such determination, an amount which after deduction of all taxes required to be paid by the Lessor in respect of the receipt of any amount pursuant to this sentence under the laws of any federal, state or local government or taxing authority of the United States (i.e. on an after tax basis), shall be equal to the sum of all penalties, fines, interest, and additions to tax (including taxes imposed on the interest component of all Lease Payments due through the date of such event) that are imposed on the Lessor as a result of the loss of the exclusion. Additionally, the Lessee agrees that upon the occurrence of such an event, the Lessee shall pay Additional Lease Payments to the Lessor on each succeeding Lease Payment Date in such amount(s) as will maintain the Lessor's after-tax yield(s) and after tax cash flows for the transaction(s) evidenced by the schedules attached to this Agreement as determined by the Lessor based on an applicable tax-equivalent conversion rate.
- 5.8.2 This Agreement and the rights of the Lessee in the Equipment may not be sold, leased, pledged, assigned or otherwise encumbered by the Lessee for any reason. Such restriction shall not preclude the Lessee from permitting the use of the Equipment by others for public purposes or in furtherance of any governmental or proprietary functions of the Lessee, provided such use does not impair the exclusion of the interest component from gross income for federal income tax purposes.
- 5.8.3 Taxable Appendix: The City and Lessor understand that in certain circumstances the intended use of Equipment under an Appendix by the City may be such that the interest component of Lease Payments under said Appendix does not qualify for exemption from federal income tax. In such an event the Equipment Lease Rate for said Appendix shall be multiplied by 1.56 in computing the Lease Payments for said Appendix and Sections 5.8.1 and 5.8.2 of the Lease shall not be applicable with respect to said Appendix. In addition, Schedule 4 to said Appendix shall have the following language inserted at the end of the second

paragraph of said Schedule: “**This Appendix is a taxable Appendix.** The Equipment Lease Rate shall be further adjusted by multiplying said Equipment Lease Rate by 1.56. Sections 5.8.1 and 5.8.2 of the Lease shall not be applicable with respect to this Appendix.”

- 5.9 Record Keeping: Lessee has kept, and throughout the Agreement Term of any Appendix shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied as such principles are required to be applied to government agencies by government accounting standards applicable to the Lessee, and shall deliver to the Lessor audited financial statements for the City’s Fiscal Year not more than 285 days after the end of each of the City’s Fiscal Years which currently ends June 30th.

ARTICLE 6: EQUIPMENT

- 6.1 Title: Except as otherwise provided in Section 7.3 hereof, title to Equipment in an Appendix shall pass to the Lessee at the time the Equipment is deemed acceptable by City staff for payment following inspection, installation, and /or testing of the Equipment. Title will, at the Lessor’s option, revert to the Lessor upon termination as the result of the occurrence of Event of Default by the Lessee pursuant to Sections 4.10(a), 4.10(b), or 4.10(c), and to the extent permitted by applicable law, the Lessee will indemnify the Lessor from and against any liability arising out of retaining the title to the equipment.
- 6.2 Security Interest: The Lessee grants to the Lessor and the Lessor retains a security interest in the Equipment. The Lessee will not change or remove any insignia or lettering which the Lessor may place on the Equipment to indicate its interest therein until all Lease Payments are made. Until all Lease Payments are made or Pre-payment is complete, the Lessee shall keep the Equipment and any additions, attachments or alterations thereto, free from any lien, encumbrance or legal process which would conflict with this security interest created pursuant to this Agreement. The Lessor shall release its security interest when all Lease Payments are made or Pre-payment is completed.
- 6.3 Filing: Subject to the provisions of Section 5.5 (b) (ii) hereof, the Lessee authorizes the Lessor to make the Lessor's security interest a matter of public record by filings of any standard documents necessary for that purpose. The Lessee agrees to sign or execute such documents to evidence its consent to the filing. The Lessee will provide sixty (60) calendar days written notice to the Lessor that Equipment is being relocated to insure that the Lessor may perfect additional filings as necessary.

When all payments are made or Pre-payment is complete, the Lessor shall make the release of its security interest a matter of public record by filing a UCC, signed release of title where applicable, and/or any and all documents necessary.

- 6.4 Personal Property: The Equipment shall remain personal property of the Lessee and shall not be deemed to have become real property regardless of the manner in which it is affixed to real property.
- 6.5 Alterations, Additions & Attachments: The Lessor hereby agrees to allow the Lessee to add and attach to the Equipment such additional equipment, facilities or fixtures as the

Lessee may subsequently acquire (exclusive of repair, service or replacement parts, which do not constitute new equipment, etc.), notwithstanding the form of financing that the Lessee might use. Such additional equipment facilities or fixtures shall not be a part of or subject to this Agreement, unless by express written amendment. No alterations, additions and attachments will cause irreparable damage to the Equipment and will not impair the value, utility or useful life of the Equipment.

- 6.6 Removal of Alterations, Additions & Attachments: In the event title to the Equipment reverts to the Lessor, the Lessee, at its own expense, will remove all alterations, additions, and attachments and repair the Equipment as necessary so as to return the Equipment to the condition in which it was furnished, reasonable wear and tear excepted. The removal of all alterations, additions and attachments and any resultant repair will not impair the value, utility or useful life of the Equipment.
- 6.7 Return of Equipment: Upon rightful demand of the Lessor, as specified herein, for the Equipment listed in any attached Appendix, the Lessee shall use its best efforts to immediately return upon demand, but in no event later than forty five (45) days from such demand, deliver possession of the Equipment to the Lessor in good operating condition, in compliance with the Lessee's maintenance policies and procedures, normal wear and tear excepted. In such event, the Lessee will, at its own expense, deliver the Equipment to the Lessor at a location designated by the Lessor. Such location, however, shall not be more than one hundred (100) miles from the Lessee's business location. The Lessee will not be responsible for any shipment charges beyond the one hundred (100) mile limit.
- 6.8 Quiet Enjoyment: Provided that the Lessee has duly performed its obligations under this Agreement, the Lessee shall be entitled to possess and use the Equipment during the term of this Agreement without interruption by the Lessor. Any Equipment acquired under terms of this Agreement may be operated at any time at the convenience of the Lessee (exclusive of time required for preventive maintenance, remedial maintenance, and/or approved engineering changes). There shall be no restrictions as to the consecutive hours, length of personnel shifts, etc., unless such restrictions are specifically incorporated in an Appendix. The Lessee may make Equipment available to any other users under conditions where such use is supervised by the Lessee and such Equipment is used for governmental purposes. The Lessee will be responsible for the payments of the equipment and responsible if such sublease caused the transaction to be taxable.

ARTICLE 7: TERMINATION

- 7.1 Termination: The Lessor and the Lessee agree that this Agreement shall remain in full force and effect for the periods set forth in each Appendix.
- 7.2 Pre-payment Provisions: The Lessee shall have the right to prepay without penalty the amounts due under an Appendix, exercisable following twenty-four (24) months from the Vendor Payment Date related to such Appendix.

The Lessee's right hereunder shall be exercised by:

- a. The Lessee advising the Lessor, in writing, in advance of Pre-payment, of its intention to prepay its obligations hereunder and the effective date of that payment ("Pre-payment Date"); and
- b. The Lessee paying the Lessor the outstanding principal balance Pre-payment Date together with interest from the most recent Payment Date up to and including the Pre-payment Date.

Upon Pre-payment, the Lessee will pay any sums in arrears.

The Lessee may not exercise its option to prepay an amount less than required for all Equipment under an Appendix without the written consent of the Lessor. Prepayments will be executed only in the amount of \$5,000 or more of outstanding principal.

- 7.3 Lessee's Rights on Pre-payment or Payment in Full: Except as otherwise provided in Section 6.1 hereof, upon (i) the Lessee's exercise of the right of Pre-payment in accordance with the preceding subsection, or (ii) the Lessee's having satisfied all of its monetary and other obligations hereunder, the Lessor shall deliver to the Lessee all documents necessary to transfer or confirm, as the case may be, legal and beneficial title, and possession free of all liens and encumbrances created by, through, or under Lessor, to the Lessee and to evidence the termination of the Lessor's interest therein. The Equipment will be accepted by the Lessee at that time on an AS IS, WHERE IS basis and the Lessor makes no warranties or representations of any type as to the Equipment.

ARTICLE 8: ASSIGNMENT BY LESSOR

- 8.1 Right of Assignment: This Agreement shall be binding upon and inure to the benefit of the Lessor and the Lessee. The Lessor may assign its rights, duties and obligations under this Agreement to the permitted assignee(s). Additionally, with the prior written consent of the Lessee, not to be unreasonably withheld, the Lessor may assign its rights, duties and obligations under this Agreement to a qualified third party. This Agreement, the Lessor's rights hereunder, or the obligations hereby described are not assignable by the Lessor except as provided in Section 8.2, or transferable except by written mutual agreement of the parties hereto.
- 8.2 Assignment by Lessor: The Lessor or any subsequent assignee shall not sell certificates of participation or other publicly offered securities based on Lease Payments by the Lessee. However, for the purpose of providing funds for financing the purchase of the Equipment, or for any other purpose, the Lessee agrees (i) that the Lessor may assign,

sell, transfer or encumber all or any part of this Agreement, the Equipment and the Lease Payments hereunder, and (ii) in the event of any such assignment of Lease Payments hereunder and written notice thereof to the Lessee, to unconditionally pay directly to any such assignee all Lease Payments and other sums due or to become due under this Agreement.

THE RIGHTS OF ANY SUCH ASSIGNEE SHALL NOT BE SUBJECT TO ANY DEFENSE, COUNTERCLAIM OR SET OFF WHICH LESSEE MAY HAVE AGAINST THE LESSOR. BUT THE LESSEE SHALL NOT BE PRECLUDED FROM ASSERTING AGAINST ANY ASSIGNEE ANY CLAIM IT MAY HAVE AS A RESULT OF ASSIGNEE'S BREACH OF ANY OF THE OBLIGATIONS OF THE LESSOR HEREUNDER OCCURRING AFTER ANY SUCH ASSIGNMENT.

Notwithstanding any of the foregoing, any such assignment (A) shall be subject to the Lessee's right to possess and use the Equipment so long as the Lessee is not in default under this Agreement, and (B) shall not release any of the Lessor's obligations hereunder to the extent not assumed by the Assignee.

ARTICLE 9: WARRANTIES AND REPRESENTATIONS

- 9.1 Warranties and Representations of the Lessee: The Lessee represents and warrants to the Lessor and, so long as this Agreement is in effect or any part of the Lessee's obligations to the Lessor remain unfulfilled, shall continue to warrant at all times, that:
- a. The Lessee is duly organized and validly existing and has the power and authority to enter into the Transaction Documents to which it is a party and to carry out the terms thereof.
 - b. This Agreement and all other Transaction Documents and the performance of the Lessee's obligations thereunder have been duly and validly authorized and approved under all laws and regulations and procedures applicable to the Lessee, the consent of all necessary persons or bodies has been obtained and all of the Transaction Documents executed by the Lessee have been duly and validly executed and delivered by authorized City Representative(s) and constitute absolute and unconditional legal, valid and binding obligations of the Lessee enforceable against the Lessee in accordance with their respective terms.
 - c. The leasing of the Equipment will serve a function which presently is, and is anticipated to continue to be, essential to the proper, efficient and economic operation of the Lessee.
 - d. During the term of this Agreement, the Equipment will at all times be used by the Lessee and its agents, and will not be used by a nongovernmental person or entity other than the general public on an equal basis.
 - e. There is no litigation or proceeding pending or threatened against the Lessee or any other person affecting the right of the Lessee to execute this Agreement or the ability of the Lessee to make the Lease Payments required hereunder or to otherwise comply with the obligations contained herein.

- 9.2 Warranties and Representations of the Lessor: The Lessor represents and warrants to the Lessee and, so long as this Agreement is in effect or any part of the Lessor's obligations to the Lessee remain unfulfilled, shall continue to warrant at all times that:
- a. The Lessor is a National Banking Association, corporation or other entity in good standing and has the power and authority to enter into the Transaction Documents to which it is a party and to carry out the terms thereof.
 - b. The Transaction Documents executed by the Lessor have been duly authorized, approved, executed and delivered by its authorized representatives and constitute legal, valid and binding obligations of the Lessor enforceable against the Lessor in accordance with their respective terms.
 - c. The Lessor shall not pledge or assign the revenues or any of its other rights under this Agreement except for any assignment pursuant to this Agreement as stated under Section 8.2; and the Lessor shall not mortgage or otherwise encumber the Equipment.
 - d. To the knowledge of the Lessor, there is no litigation or proceeding pending or threatened against the Lessor or any other person affecting the right of the Lessor to execute or deliver this Agreement or to comply with its obligations under this Agreement. The execution and delivery of this Agreement by the Lessor, and compliance by the Lessor with its obligations under this Agreement, will not require the approval of any regulatory body, any parent company, or any other entity, from which approval has not yet been obtained.

ARTICLE 10: GENERAL

- 10.1 Conflict of Interest: Lessor is subject to all federal, state and local conflict of interest laws, regulations and policies applicable to public agreements and procurement practices, including but not limited to California Government Code sections 1090, et. seq. and 81000, et. seq., the City of San Diego Ethics Ordinance, codified in the San Diego Municipal Code at Section 27.3501 to 27.3595. The City may determine that a conflict of interest code requires the Lessor to complete one or more statements of economic interest disclosing relevant financial interests. Upon City's request, Lessor shall submit the necessary documents to the City.
- 10.2 Governing Law: This Agreement and all Transaction Documents shall be deemed to be made under, and shall be construed in accordance with and governed by the laws of the State of California without regard to the conflicts or choice of law provisions thereof.
- 10.3 Legal Requirements: Federal, state, county and local laws, ordinance, rules and regulations that in any manner affect the goods or services covered herein apply. Lack of knowledge by the Lessor will in no way be a cause for relief from responsibility. Any acts or omissions of Lessor in violation of federal, state, or municipal law, City Charter, City Policies or regulations (regarding anti-competitive practices, unfair trade practices, collusion, gratuities, kickbacks, contingent fees, contemporaneous employment, or

similar violations creating an unfair influence on the public solicitation and award process pertaining to this Agreement) shall void this Agreement. In addition to all other remedies or damages allowed by law, Lessor is liable to City for all damages arising out of the violation of any applicable law, including costs for substitute performance, and is subject to Suspension and Debarment as defined in the RSFQ.

- 10.4 Drug-Free Workplace: The Lessor agrees to comply with the City's Drug-Free Workplace requirements set forth in Council Policy 100-17, adopted by San Diego Resolution R-277952 and incorporated into this Agreement by this reference. The City expressly waives the posting requirement specified in subdivision (3) of Council Policy 100-17.
- 10.5 Notices: Notices under this Agreement shall be in writing, shall reference the Contract Number, and shall be considered effective upon personal delivery to the individuals listed below or five (5) calendar days after deposit in any U.S. mailbox, first class and addressed to the other party as follows:

Notices to the Lessor:

BANC OF AMERICA PUBLIC CAPITAL CORP
Address
Attn:
City, State, Zip

Notices to the Lessee:

The City of San Diego
Attn.: EVFP Coordinator
Debt Management Department
202 C Street, MS 7B
San Diego, CA 92101-4195

With a Copy To:

The City of San Diego:
Purchasing Agent
Purchasing & Accounting Department
1200 Third Avenue, Suite 200

- 10.6 Federal, State and Local Reporting Compliance: The Lessor shall provide such financial and program information as required by the City of San Diego to comply with all Federal, State and local law reporting requirements.

10.7 Nondiscrimination

10.7.1 Nondiscrimination in Employment: The Lessor shall comply with the City's Equal Opportunity Contracting Program. The Lessor shall not discriminate against any employee or applicant for employment on any basis prohibited by law. The Lessor shall provide equal opportunity in all employment practices. The

Lessor shall ensure that its Subcontractors comply with the City's Equal Opportunity Contracting Program Contractor Requirements. Nothing in this Section shall be interpreted to hold the Lessor liable for any discriminatory practice of its Subcontractors

- 10.7.2 Nondiscrimination in Contracting: The Lessor shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring or treatment of Subcontractors, Contractors or suppliers. The Lessor shall provide equal opportunity for Subcontractors to participate in sub contracting opportunities. The Lessor understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in contract termination, debarment, and other sanctions. This language shall be in contracts between the Lessor and any Subcontractors, Lessors and suppliers.
- 10.7.3 Contract Disclosure Requirements: Upon the City's request, the Lessor agrees to provide to the City, within sixty (60) calendar days, a truthful and complete list of the names of all Subcontractors, Contractors, and suppliers that the Lessor has used in the past five (5) years on any of its agreements that were undertaken within San Diego County, including the total dollar amount paid by the Lessor for each sub contract or supply agreement. The Lessor further agrees to fully cooperate in any investigation conducted by the City pursuant to the City's Nondiscrimination in Contracting Ordinance San Diego Municipal Code sections 22.3501-22.3517. The Lessor understands and agrees that violation of this clause shall be considered a material breach of this Agreement and may result in remedies being ordered against the Lessor up to and including agreement termination, debarment, and other sanctions.
- 10.7.4 Substantial Compliance: Notwithstanding the specific requirements under section 10.7 of this Agreement, the City acknowledges that Lessor's nondiscrimination policies substantially comply with the City's requirements and are in conformance therewith.
- 10.8 Project Personnel: Key personnel identified in Lessor's response to the Request For Proposal shall be the individuals who will actually complete the work, at the proposed levels of effort. If a key team member needs to be changed for any reason, the Lessor shall find a suitable replacement and notify Lessee of such change.
- 10.9 Gratuities. This Agreement may be terminated by written notice if the Purchasing Agent determines that the Lessor, its agent, or another representative:
- a. Offered or gave a gratuity (e.g. an entertainment or gift) to an officer, or employee of the City of San Diego; and
 - b. Intended, by the gratuity, to obtain an agreement or favorable treatment under an agreement.

If this Agreement is terminated under the first paragraph above, The City is entitled to pursue breach of contract remedies and all other remedies available at law .

- 10.10 Insolvency: In the event the Lessor enters into proceedings relating to bankruptcy, whether voluntary or involuntary, the Lessor agrees to furnish, by certified mail or electronic commerce method authorized by this Agreement, written notification of the bankruptcy to the Purchasing Agent responsible for administering the Agreement. This notification shall be furnished within five (5) days of the initiation of the proceedings relating to bankruptcy filing. This notification shall include the date on which the bankruptcy petition was filed, the identity of the court in which the bankruptcy petition was filed, and a listing of the City of San Diego contract numbers and Agreement offices for all the City of San Diego agreements against which final payment has not been made. This obligation remains in effect until final payment under this Agreement.
- 10.11 Dispute Resolution: If a dispute arises out of or relates to this Agreement and if said dispute cannot be settled through normal contract negotiations, the Lessor and the City must first endeavor to settle the dispute in an amicable manner, using mandatory non-binding mediation under the rules of the American Arbitration Association or any other neutral organization agreed upon before having recourse in a court of law.
- 10.11.1 Selection of Mediator. A single mediator that is acceptable to both parties shall be used to mediate the claim. The mediator will be knowledgeable in the subject matter of this Agreement, if possible, and chosen from lists furnished by the American Arbitration Association or any other agreed upon mediator.
- 10.11.2 Expenses. The expenses of witnesses for either side shall be paid by the party producing such witnesses. All other expenses of the mediation, including required traveling and other expenses of the mediator, and the cost of any proofs or expert advice produced at the direct request of the mediator, shall be borne equally by the parties, unless they agree otherwise.
- 10.11.3 Conduct of Mediation Sessions. Mediation hearings will be conducted in an informal manner and discovery will not be allowed. The discussions, statements, writings and admissions will be confidential to the proceedings (pursuant to California Evidence Code Sections 1115 through 1128) and will not be used for any other purpose unless otherwise agreed by the parties in writing. The parties may agree to exchange any information they deem necessary. Both parties shall have a representative attend the mediation who is authorized to settle the dispute, though the City's recommendation of settlement may be subject to the approval of the Mayor and City Council. Either party may have attorneys, witnesses or experts present.
- 10.11.4 Mediation Results. Any resultant agreements from mediation shall be documented in writing. The results of the mediation shall not be final or binding unless otherwise agreed to in writing by the parties. Mediators shall not be subject to any subpoena or liability and their actions shall not be subject to discovery.
- 10.12 Licenses and Permits: Lessor shall, without additional expense to the City of San Diego, be responsible for obtaining any necessary licenses, permits, certifications, accreditations, fees and approvals for complying with any federal, state, county, municipal, and other laws, codes, and regulations applicable to the performance of the work or to the products

or services to be provided under this Agreement including, but not limited to, any laws or regulations requiring the use of licensed contractors to perform parts of the work.

- 10.13 Taxes: The City will furnish Exemption Certificates for Federal Excise Tax. The City is liable for State, City, and County Sales Taxes. Do not include this tax in the Amount proposed in the RSFQ; it will be added to the net amount invoiced. All or any portion of the City Sales Tax returned to the City will be considered in the evaluation of Proposals defined in the RSFQ.

I.R.S. regulations require the City to have the correct name, address, and Taxpayer Identification Number (TIN) or Social Security Number (SSN) on file for businesses or persons who provide services or products to the City. This information is necessary to complete Form 1099 at the end of each tax year.

In order to comply with I.R.S. regulations, the City requires each Lessor to provide a Form W-9 prior to Award of Agreement as defined in the RSFQ. Failure to provide a completed Form W-9 within ten (10) business days of the City's request may result in a Proposal being declared non-responsive and rejected.

- 10.14 Publicity Releases: All publicity releases or releases of reports, papers, articles, maps, or other documents in any way concerning this Agreement or the work, hereunder, which the Lessor or any of its subcontractors desires to make for purposes of publication in whole or in part, shall be subject to approval by the Purchasing Agent prior to release.
- 10.15 Pending Legal Dispute: If the Lessor is currently involved in litigation with the City or any of the Agencies identified in the RSFQ, the Lessor must identify the title of the litigation, the Court(s) where the litigation is pending, and the case number(s), along with a brief description(s) of the nature of the dispute(s).
- 10.16 Time of Essence: Time is of the essence for each provision of this Agreement unless specified otherwise.
- 10.17 Americans with Disabilities Act Certification: The Lessor hereby certifies that it agrees to comply with the City's Americans with Disabilities Act Compliance/City Contracts requirements set forth in Council Policy 100-04, adopted by San Diego Resolution R-282153 and incorporated into this Agreement by this reference. The City expressly waives the posting requirement specified in subdivision 3 of Section 2.A. of Council Policy 100-04.
- 10.18 Debarment Proceedings: Lessor misconduct may be punishable by suspension or debarment in accordance with San Diego Municipal Code Sections 22.0801, *et seq.*
- 10.19 Product Endorsements: Lessor is prohibited from indicating, either directly or by implication, that the City has endorsed its goods or services without prior written authorization by the City.
- 10.20 Severability: The unenforceability, invalidity, or illegality of any provision of the Transaction Documents shall not render any other provision unenforceable, invalid, or illegal.

- 10.21 No Waiver: No failure of either the City or the Lessor to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this Agreement, shall constitute a waiver of any such breach of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect without regard to any existing or subsequent breach.
- 10.22 Covenants and Conditions: All provisions in this Agreement expressed as either covenants or conditions on the part of the City or Lessor, shall be deemed to be both covenants and conditions.
- 10.23 Headings: All article headings are for convenience only and shall not affect the interpretation of the Agreement.
- 10.24 Independent Contractors: The Lessor and any subcontractors employed by the Lessor shall be independent contractors and not agents of the City. Any provisions in this Agreement that may appear to give the City any right to direct the Lessor concerning the details of performance, or to exercise any control over such performance, shall mean only that the Lessor shall follow the direction of the City concerning the end results of the performance.
- 10.25 Successors in Interest: This Agreement and all rights and obligations created by this Agreement shall be in force and effect whether or not any parties to this Agreement have been succeeded by another entity, and all rights and obligations created by this Agreement shall be vested and binding on any party's successor in interest.
- 10.26 Business Tax License: Any company doing business with the City of San Diego is required to comply with Section 31.0301 of the San Diego Municipal Code regarding Business Tax.
- 10.27 Compliance with Controlling Law: The Lessor shall comply with all laws, ordinances, regulations, and policies of the federal, state, and local governments applicable to this Agreement. In addition, the Lessor shall comply immediately with all directives issued by the City or its authorized representatives under authority of any laws, statutes, ordinances, rules, or regulations.
- 10.28 Equal Benefits: Effective January 1, 2011, any agreement awarded from the RSFQ is subject to the City of San Diego's Equal Benefits Ordinance (the "EBO"), Chapter 2, Article 2, Division 43 of the San Diego Municipal Code.

In accordance with the EBO, Lessor must certify they will provide and maintain equal benefits as defined in SDMC §22.4302 for the duration of this Agreement. Failure to maintain equal benefits is a material breach of this Agreement. The City expressly waives the posting requirement specified in section 22.4304(b) of the EBO.

Lessor also must give the City access to documents and records sufficient for the City to verify the Lessor and any contractors are providing equal benefits and otherwise complying with EBO requirements.

- 10.29 Implementation: This Agreement shall be implemented by its execution or execution of Appendices hereto. Each Appendix incorporates all terms and conditions of this Agreement. For purposes of construing a transaction an integrated agreement the following shall be considered a single transaction or legal binding agreement:
- a. The Agreement, which provide basic terms and conditions.
 - b. An executed Appendix, which provides for the description of the Equipment to be purchased, the payments from the Lessee to the Lessor for the purchase of such equipment, and the Pre-payment amounts.
- 10.30 Amendment: Neither this Agreement nor any of the Transaction Documents may be amended unless the same be in writing and signed by the parties hereto.
- 10.31 Contractual Records: All contractual books, records, and other documents related to matters under this Agreement shall be made available by the Lessor to the Lessee and its designated agents for a period of five (5) years after final payment for purposes of audit and examination.
- 10.32 Entire Agreement: This Agreement, the Appendices, the Attachments, and Exhibits as may be hereafter executed constitute the entire agreement between the parties hereto. All prior negotiations, representations and additional or inconsistent oral or written statements are superseded, null and void.
- 10.33 Indemnification: Unless expressly set forth herein, the Lessor and Lessee agree that neither party indemnifies the other.
- 10.34 Tax Opinion: The Lessee will receive a tax opinion from a qualified tax counsel regarding the tax exempt status of an Appendix funding amount greater than \$10,000,000.

ARTICLE 11: DISCLAIMER OF WARRANTIES

- 11.1 THE LESSOR MAKES NO WARRANTIES OR REPRESENTATIONS, EXPRESSED OR IMPLIED, RELATING TO THE EQUIPMENT; AND THE LESSOR HAS EXPRESSLY MADE NO WARRANTY AS TO THE VALUE, DESIGN, CONDITION, MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OF THE EQUIPMENT.
- 11.2 Lessor shall not be liable to the Lessee or any other person for any liability, loss or damage caused or alleged to be caused, directly or indirectly, by the Equipment or by any inadequacies therefor deficiency or defect therein, by any incident whatsoever in connection therewith or in any way related to or arising out of this Agreement. The Lessee shall be entitled to the benefit of any applicable manufacturer's warranties. The Lessor agrees to execute and deliver such further instruments as may be necessary, in the reasonable opinion of the Lessee, to enable it to enforce such warranties and obtain the warranties and service furnished for the Equipment by the manufacturer.

ARTICLE 12: LOCAL BUSINESS AND EMPLOYMENT

- 12.1 The Lessor acknowledges that the Lessee seeks to promote employment and business opportunities for local residents and firms on all Lessee agreements. The Lessor will, to the extent legally possible, solicit applications for employment, and bids and proposals for subcontractors, for work associated with this Agreement from local residents and firms as opportunities occur. The Lessor agrees to hire qualified local residents and firms whenever feasible.
- 12.2 The Lessor understands that failure to comply with the above requirements, and/or submitting false information in response to these requirements, may result in termination of this Agreement, and/or suspension from participating in future City agreements as a Lessor for a period of not less than one (1) year. For additional or subsequent violation, the period of suspension may be extended for a period of up to three (3) years. Failure to satisfy penalties imposed pursuant to this section shall prohibit the Lessor from participating in future City agreements until all penalties have been satisfied.

ARTICLE 13: SAN DIEGO SPECIFIC COMMUNITY

REINVESTMENT PROGRAMS

- 13.1 It is the policy of the City to encourage financial institutions doing business within its boundaries to develop and implement San Diego-specific community reinvestment programs consistent with the spirit of the Community Reinvestment Act of 1977 (“CRA”), programs that promote the economic stability and growth of the City of San Diego and meet the financial needs of all of its neighborhoods and residents.

Firms projecting total annual compensation in excess of \$100,000 and whose total assets exceed \$250 million will be responsible for providing the City with information regarding any San Diego-specific reinvestment program currently in place, as well as information regarding any reinvestment activities undertaken by the firm in San Diego consistent with the spirit of the CRA. The City will make this information available to the San Diego City-County Reinvestment Task Force for compilation and analysis.

ARTICLE 14: SIGNATURES

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

LESSEE: CITY OF SAN DIEGO

By: _____

(Name)

Chief Financial Officer

(Title)

Date: _____

LESSOR: BANC OF AMERICA PUBLIC CAPITAL CORP

By: _____

(Name)

(Title)

Date: _____

APPROVED AS TO FORM AND LEGALITY this ____ day of _____ 20__.

By: _____

(Name)

Deputy City Attorney

APPENDIX NO.
SCHEDULE 1
ACCEPTANCE CERTIFICATE

[Contract No. SD-____]

The City of San Diego hereby accepts for purposes of the Master Lease Agreement dated as of _____(the "Agreement") by and between BANC OF AMERICA PUBLIC CAPITAL CORP and the City of San Diego, the Equipment described below, evidencing acceptance pursuant to the Agreement. Pursuant to the Agreement, the undersigned City Representative certifies that the Equipment described below (i) has been delivered to the City and installed at ____; (ii) has been fully and finally accepted by the City; (iii) has been found by the City to be in good working order and (iv) has insurance coverage required by Section 5.6 of the Agreement. (All capitalized terms in this Appendix have the meanings set forth in the Agreement.)

	Manufacturer/ Seller	Identification or Serial No.	Cost
<u>Quantity</u>	<u>Seller</u>	<u>Description</u>	<u>Cost</u>

CITY OF SAN DIEGO

By: _____

(Name)

(Title)

Dated: _____

APPENDIX NO.

SCHEDULE 2

DISBURSEMENT AUTHORIZATION CERTIFICATE

[Contract No. SD-___]

In accordance with the terms of the Agreement dated as of _____ by and between BANC OF AMERICA PUBLIC CAPITAL CORP and the City of San Diego, the City hereby submits this Disbursement Authorization Certificate to request a disbursement under the Agreement for certain Equipment shown on Schedule 1 of this Appendix. The City represents and warrants for all purposes of this Certificate that:

1. The amount of the disbursement pursuant to this Certificate is \$ _____ (the "Equipment Purchase Amount" less any portion cash funded by the City). Such disbursement is to be made on or before _____ (the "Vendor Payment Date "). The sales tax will be paid by the City directly to the Equipment Vendor, at the prevailing rate, for all equipment acquired from California Equipment Vendors. The sales tax will be paid by the City directly to the State of California, at the prevailing rate, for new equipment acquired from out-of-state Equipment Vendors.
2. Payment of the disbursement requested hereby is to be made to _____ (the City or "Equipment Vendor") at the following address, pursuant to the attached vendor invoice:

_____ (tel. no.)

_____ (FAX)

3. Attached hereto is a copy of an executed UCC-1 form and Exhibit or other appropriate financing statement, in proper form for filing, evidencing the Lessor's security interest in the Equipment with respect to the disbursement under this Certificate.

CITY OF SAN DIEGO

By: _____
(Name)

(Title)

Dated: _____

EXHIBIT

All goods, equipment, general intangibles and other property described in Attachment A, Schedule 1 attached hereto and made a part hereof, and subject to the Master Lease Agreement Dated as of _____ between Lessee and Lessor, wherever located, together with (i) all substitutions for, and products and proceeds of any of the foregoing property, (ii) all accessions thereto, (iii) all accessories, attachments, parts, and repairs now or hereafter attached or affixed to any of the foregoing property, and (iv) if any escrow account is implemented with respect to such Master Lease Agreement, all securities, funds, moneys, deposits and other property at any time held in or subject to such escrow account.

APPENDIX NO.

SCHEDULE 2 CONTINUED

DISBURSEMENT AUTHORIZATION CERTIFICATE

[Contract No. SD-____]

4. Lessor hereby certifies that payment in the amount of _____ was made to _____ the "Equipment Vendor" (or the City of San Diego in the case of reimbursement), on _____. Payments shall be made semi-annually to the Lessor commencing on _____ pursuant to Schedule 4 of this Appendix. Payments shall be remitted to the following address:

CAPITAL CORP

BANC OF AMERICA PUBLIC

By: _____
(Signature)

(Name - Type or Print)

(Title)

Dated: _____

APPENDIX NO.

SCHEDULE 3

CITY REPRESENTATION CERTIFICATE

[Resolution or Ordinance No. ____]

The City of San Diego (the "City") represents and warrants to the Lessor that:

1. The City is a duly organized and validly existing political subdivision of the State of California.
2. The Equipment is of a size, design, capacity and manufacture selected by the City and the City has selected the Equipment of a design, type and size for the purposes for which the Equipment is intended.
3. The City's participation in the Agreement and the performance of the City's obligations thereunder have been duly authorized, approved and executed under all laws, rules, regulations, and procedures applicable to the City.
4. The City has obtained the consent of all necessary bodies and the City has the power to enter into and carry out its obligations under the Agreement.
5. The City has complied with all statutory requirements pertaining to the acquisition of the Equipment.
6. Funds have been specifically provided for Lease Payments in the City's current appropriations for the Equipment and said funds are sufficient to make the payments contemplated under the Agreement through the end of the Contract Year and future lease payments will be appropriated in accordance with Section 4.7 of the Agreement.
7. The Equipment is personal property, has a useful life greater than or equal to the term on an Appendix and will be used for essential governmental purposes.

CITY OF SAN DIEGO

By: _____

(Name)

(Title)

Dated: _____

APPENDIX NO.

SCHEDULE 4

PAYMENT SCHEDULE CERTIFICATE

[Contract No. SD-_____]

All terms and conditions of the Master Lease Agreement dated as of _____ by and between BANC OF AMERICA PUBLIC CAPITAL CORP, as lessor hereunder (“the Lessor”), and the City of San Diego (the “Lessee”) as lessee, are hereby incorporated herein by reference as if such were fully set forth herein and Lessee reaffirms all of its representations and warranties contained in the Agreement. Lessee warrants that no Event of Default or any event which, with the passage of time or the giving of notice would constitute a default, has occurred under the Agreement.

Pursuant to the terms of the Agreement, the City requests that the lease purchase of the Equipment with respect to this Appendix in the amount of \$_____ be financed over a [year][month] period. Based on the Acceptance Date, the Index Rate for this financing is ___% and the Percentage of Index Rate is ___ %. Based on the Index Rate, the Equipment Lease Rate for this financing is ___%.

[Placeholder]- Any provisions of the Agreement to the contrary notwithstanding, Lessee hereby grants to Lessor a security interest in the Equipment (now existing or hereafter acquired) as collateral security for Lessee’s obligations under this Appendix and Appendix No. _____ (collectively, the “Obligations”). Lessor will not release its security interest in the Equipment until the Obligations are indefeasibly paid in full.

[Placeholder]- Any provisions of the Agreement to the contrary notwithstanding, prepayment of this Appendix by the Lessee shall be permitted throughout the lease term (as calculated from the lease commencement date) and the Prepayment price payable pursuant to the terms of Section 7.2 of the Agreement will be ___% of the principal amount outstanding, in addition to accrued interest and amount then due and owing.

The initial payment for this financing is \$_____, and will be due on _____, thereafter, the semi-annual payment will be \$_____. The schedule of lease payments for the Equipment with respect to this Appendix is as follows: [See attached Debt Service Schedule]

CITY OF SAN DIEGO

By:_____

(Name)

(Title)

Dated:_____

CERTIFICATE OF COUNSEL

This office is counsel to the Lessee and in that capacity we have examined Contract No. SD _____ between the City of San Diego (“Lessee”) and BANC OF AMERICA PUBLIC CAPITAL CORP (“Lessor”).

As a result of our examination of the Agreement and such other examinations as we deemed appropriate, we have advised the Lessee and hereby indicate to BANC OF AMERICA PUBLIC CAPITAL CORP (“Lessor”) that, in our view :

1. The Lessee is a political subdivision of the State of California, duly organized, existing and operating under the Constitution and laws of the State of California and the City's home rule charter;
2. The Lessee is authorized by the Constitution and the laws of the State of California to enter into the transactions contemplated by the Agreement and to carry out its obligations thereunder;
3. The Lessee's participation in the Agreement and the performance of the Lessee's obligations thereunder have been duly authorized, approved and executed under all laws, regulations and procedures applicable to the Lessee;
4. The Agreement and all Appendices thereto have been duly authorized, approved, executed and delivered by and on behalf of the Lessee, and are legal, valid and binding contracts of the Lessee enforceable in accordance with their respective terms, except to the extent limited by state and federal laws affecting remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights;
5. No approval, consent, or withholding of objection is required from any governmental authority with respect to the entering into or performance by the Lessee of the Agreement or the transaction contemplated thereby; or if any such approval is required, it has been obtained;
6. The entering into and the performance of the Agreement will not violate any judgment, or order, applicable to the Lessee or result in any breach of, or constitute a default under, or result in the creation of any lien, charge, security interest, or other encumbrance upon any assets of the Lessee other than the Equipment subject to the Agreement pursuant to any instrument to which the Lessee is a party or by which it or its assets may be bound;

7. This Certificate shall not be deemed to confer any authority or obligation upon the Lessee to the Lessor or Lessor's assignees other than exist under the laws of the State of California in the absence of this Certificate; and
8. To the knowledge of the Lessee, there is no litigation or proceeding pending or threatened against the Lessee or any other person affecting the right of the Lessee to execute this Agreement or the ability of the Lessee to make the Lease Payments required hereunder or to otherwise comply with the obligations contained herein.
9. Resolution/Ordinance Number _____ of the governing body of Lessee was duly and validly adopted, modified or supplemented and remains in full force and effect.
10. The Lessor, its assignees or assigns may rely on this opinion.

CITY OF SAN DIEGO

I hereby approve the form and legality of the foregoing Agreement this _____ day of _____, 20__.

City Attorney

By: _____

**SAN DIEGO EQUIPMENT AND VEHICLE FINANCING PROGRAM
DEBT MANAGEMENT PRE-APPROVAL**

Date:

Debt Management:

Telephone:

FAX:

Department:

Contact:

Telephone:

Equipment Costs:

Total Costs:

Financing Term:

Est. Delivery Date:

Delivery in Installments?

Yes/No

Amount Financed:

Useful Life:

Est. Financing Date:

Equipment Description:

Manufacturer:

Vendor:

Terms:

General Description:

Bid No./Quantity to be Ordered:

Reference Bid:

Quantity:

Unit Price:

Ref: Equipment No(s):

**For additional information, please see attached spreadsheet*

Ref. City Ordinance#

Essential Use:

Is this additional or replacement Equipment?

Additional _____

Replacement _____

If replacement, what is the age of the equipment being replaced?

See attached spreadsheet

Why is the equipment needed?

Equipment will be used to replace overage motive equipment and to reduce operating & maintenance costs

What function does the equipment perform?
(essential use)

Used by General Fund departments to transport personnel and materials

Is/Are the next payment(s) included in the fiscal year budget?

([LESSOR]) agrees to provide financing for equipment as noted.

By:

Title:

Name:

Date:

PRE-APPROVAL PROCEDURE*

1. The Lessee to provide the Lessor a completed “PRE-APPROVAL FORM” as represented as Attachment C of the Agreement, along with any attachments, as necessary, to further describe any Equipment in the PRE-APPROVAL FORM. Descriptions of the Equipment shall contain:
 - a. Make/Manufacturer/Model/Year/ Vendor/Provider of service
 - b. Term of the useful life
 - c. Cost of each piece of Equipment/Service
 - d. Vendor Contact Information
 - e. Expected Delivery Date
 - f. Bid/Contract Number for the Equipment
2. The Lessor shall confirm, via email, within one (1) business day, receipt of such Pre-approval Request and diligently review and provide, via email, approval/rejection of the Pre-approval Request within three (3) business days.
3. Approval shall be indicated by signature of an authorized signatory of the Lessor at the bottom of the PRE-APPROVAL FORM, indicating their printed name, title and the effective date of the Pre-Approval Request. If additional pages are attached to the PRE-APPROVAL FORM, those pages shall also bear a similar signature, title, and date.
4. Shall the Lessor reject a Pre-approval Request; the Lessor shall indicate, by drawing two diagonal red lines across the PRE-APPROVAL FORM and strike-through the word “agrees” and add the word “REJECTED” on the bottom of the PRE-APPROVAL FORM, as well as a signature of an authorized signatory of the Lessor at the bottom of the PRE-APPROVAL FORM, indicating their printed name, title and the effective date of the rejection, via email (or 1st class USPS mail). The Lessor shall include a detailed description of the Lessor’s rationale for rejecting the Pre-Approval Request.
5. The acceptance of Pre-Approval Request by the Lessor shall not bind the Lessee to execute an Appendix for any of the Equipment/Services listed in any Pre-Approval Request.

*Capitalized terms in this Procedure shall be those terms as defined in the Agreement.



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 3, 2015

REPORT NO: 15-041

ATTENTION: Honorable Council President Lightner and Members of the City Council

SUBJECT: Master Lease Agreement to Fund Projects and Equipment

REQUESTED ACTION(S):

1. Approve the form of and execution of the Master Lease Agreement, in an amount not to exceed \$14.1 million, with Banc of America Public Capital Corp (“BAPCC”) to finance various essential projects and equipment needs.
2. Declare the City’s intent to use funds made available from the lease-purchase agreement with BAPCC to reimburse itself for eligible project and equipment expenditures advanced by the City.

STAFF RECOMMENDATION:

Approve the requested actions.

SUMMARY:

I. Background

The City utilizes the lease purchase short-term financing option to fund as needed eligible essential equipment and fleet needs. The funding is facilitated under a Master Lease Agreement with a lender (the “Lessor”) by establishing an upfront tax-exempt line of credit over an agreed upon acquisition period. The security for this lending agreement is a pledge to annually appropriate funds to make timely lease payments.

Using this funding mechanism, the City has previously funded its annual fleet replacement including vehicles for safety services such as fire engines and police vehicles, and motive equipment for service maintenance (non-safety). In addition to annual fleet replacement, other vehicles and projects funded include refuse containers, refuse packers for the implementation of the Automated Refuse Collection Program, helicopters for the Fire and Police Departments, a firefighting rescue vessel, public safety communications system, and the City Enterprise Resource Planning system.

As of February 2015, the City had approximately 83 outstanding capital leases, totaling approximately \$54.6 million in outstanding principal.

II. Proposed Master Lease Agreement

A. Funding Needs in an amount up to \$14.1 million:

The proposed Master Lease Agreement in an amount not to exceed \$14.1 million will allow the City to lease purchase needs the described below.

1. Compressed Natural Gas (“CNG”) Refueling Station up to \$900,000 – Environmental Services Department (General Fund)

The City is transitioning its refuse and recycling collection fleet from low sulfur diesel to compressed natural gas. In order to facilitate this, the process to install a Compressed Natural Gas Fueling Station at the City of San Diego’s Environmental Services Operation Station has commenced. The total project cost is estimated at \$3 million. Of this, approximately \$1.2 million has been appropriated for this project from the Recycling Fund (Non-General Fund). The remaining \$1.8 million, the General Fund portion, is expected to be appropriated over Fiscal Years 2016 – 2018.

This project is expected to be executed in phases. Phase I will provide fueling capacity of up to 50 CNG vehicles and infrastructure to accommodate future phases for up to 90 additional fueling ports. The expected life of the equipment is anticipated to be in excess of 20 years and will be financed on a 10-year term.

The proposed Master Lease Agreement will utilize an amount up to \$900,000 in Fiscal Year 2016 (July 2015 – June 2016) to finance and reimburse the General Fund for its portion of necessary equipment associated with Phase 1 of this project (natural gas compressors, driers and other appurtenant equipment and infrastructure).

2. Mission Bay Barge (“Barge”) up to \$750,000 – Parks and Recreation Department (General Fund)

The City’s Lifeguards and Parks and Recreation Department currently operate a Vulcan II Barge, which is to be replaced as it is nearing its end-of-life. The new Barge will be a powered vessel approximately 40 feet in length and 16 feet in width, and is estimated to cost \$750,000. Its primary purpose is conducting weekly inspections by the Lifeguards of the Mission Bay navigational, directional, and regulatory buoys. Other duties include annual mooring inspections, Mission Bay Park equipment replacement, maintenance and repairs. The expected useful life of the barge is 20-25 years, and will be financed on a 7-year term.

3. Computer Aided Dispatch System (“CAD System”) up to \$6,000,000 – Police Department (General Fund)

The Police Department’s current Computer Aided Dispatch System, which supports the City’s 911 emergency call services and is used to dispatch and monitor the status of police resources in the field, has reached its end-of-life. The City has begun replacing this system; approximately \$3.4 million in cash contribution is expected to be utilized. The proposed Master Lease Agreement is expected to provide funding in an amount up to \$6.0 million to fund various functionalities of the CAD system in fiscal years 2016 and 2017.

The overall expected life of the system is anticipated to be 10-15 years, with computer and networking equipment life cycles to be five (5) years. The project will be financed on a 7-year term.

4. Project Tracking System (“PTS”) up to \$6,440,000 – Development Services Department (Non-General Fund)

The Development Services Department is replacing its in-house developed computer system, with a new Project Tracking System software provided by Accela. The new system will track and manage all events, entities, and commitments for the City’s land development process and code enforcement, and provide additional functionality and integration with the City’s SAP Enterprise Resources Program, GIS system, web resources and other systems. The expected useful life of the system is 10 years. The total project costs are estimated at approximately \$9.44 million, of which \$3 million will be cash funded and the remaining \$6.44 million will be financed. The project will be financed on a 5-year term.

B. Selection of Lender

In September 2014, Debt Management established a Pool of Qualified Lessors through a Request for Statement of Qualifications and established a pool of Lessors. There are currently three (3) Lessors in the Pool, and new Lessors can also participate in Pool over the next four (4) years.

A Request for Lease Purchase Financing Services was provided to all the Lessors in the current pool to finance the equipment and project needs described above. Responses were received from all three firms, and staff is recommending the award of the contract to Banc of America Public Capital Corp (“BAPCC”). BAPCC offered the most competitive financing rates overall and accepted all key terms and conditions within the City’s Master Lease Agreement.

C. Master Lease Agreement with BAPCC (the “Agreement”)

The Agreement requires City Council approval via ordinance. Subsequent to Council approval and the following 30-day referendum period, the Agreement would be executed. The line of credit is expected to be available as of July 2015. The ordinance authorizes the

Chief Operating Officer or the Chief Financial Officer to enter into the Agreement with such additions and changes therein, in consultation with the City Attorney, shall approve as being in the best interest of the City. See Attachment – Form of the Master Lease Agreement.

Upon execution of the Agreement, departments will be able to place orders for their respective projects/equipment. On receipt, inspection, and acceptance by the respective departments, necessary funds will be drawn from the line of credit. The funding draws typically occur in batches as the projects and equipment are received. The Lessor could make direct payments to vendors or in the event the City fronts the costs, the Lessor could reimburse the City. Corresponding amortization schedules will be established with the City to make semi-annual payments to the Lessor on a fixed rate basis over the lease term. At the end of the term, the projects and/or equipment are owned by the City.

Key terms under the lease purchase agreement between the City (Lessee) and BAPCC (Lessor) include:

- Acquisition Amount: Not-to-exceed \$14.1 million
- Lease Term: Projects and equipment will be funded under a 5, 7, and 10-year lease terms.
- Interest Rate: Fixed rate basis. Established at the time the equipment is funded based on the lease term and locked for the term of the lease, provided no equipment will be funded if the interest rate exceeds 6%.
- Acquisition Period: Up to 24 months
 - o The estimated lease rates are expected to be approximately 0.13% higher for acquisitions funded after the first 12-month period

Lease Term	Est. Lease Rate July 2015 – June 2016 *	Est. Lease Rate July 2016 – June 2017 *
5	1.41%	1.55%
7	1.69%	1.82%
10	1.96%	2.10%

*Based on an index formula as defined in the Master Lease Agreement Section 1.16

- The City is required to budget and make lease payments from legally available funds. The requirement to make lease payments is not one for which the City is obligated to levy or pledge any form of taxation.
- The City has the ability to pre-pay on both new equipment leases at no penalty following the initial 24 months of the lease term.

FISCAL CONSIDERATIONS:

The semi-annual lease payments for the CNG Refueling Station, Barge, CAD system, and PTS will be made from the respective departments' operating budgets.

Future lease payments will be included in future budgets and City Council approval will be obtained through the annual budget process. *The actual fiscal impact will depend on the actual amounts and timing of the draws, fixed interest rate based on the index level at the time of funding of vendor payment, and the final repayment schedules.*

The City would be under no obligation to draw down the full amount established under the line of credit. There is no commitment fee for establishing and maintaining the funding amount through the term of the Agreement. If alternate sources of funding are identified, or cash purchases ("pay go") are an option, the City will still have that flexibility.

Below is a summary of projected lease payments for the identified funding needs based on current interest rates. Sales tax will be cash funded from the respective department at the time of acceptance.

1. CNG Refueling Station \$900,000 (10-year term General Fund):

Based on interest rates as of February 23, 2015, the effective interest rate is estimated to be 1.96% on a 10-year term. The estimated lease payments are as follows:

Fiscal Year	2017-2026	Total
Estimated Lease Payments	\$100,000	\$1,000,000

2. Barge \$750,000 (7-year term General Fund):

Based on interest rates as of February 23, 2015, the effective interest rate is estimated to be 1.69% on a 7-year term. The estimated lease payments are as follows:

Fiscal Year	2017-2023	Total
Estimated Lease Payments	\$114,000	\$800,000

3. CAD System \$6.0 million (7-year term General Fund):

Based on interest rates as of February 23, 2015, the effective interest rate is estimated to be 1.71% (blended rate over 2 years) on a 7-year term. The estimated lease payments are as follows:

Fiscal Year	2016	2017	2018-2022	2023	2024	Total
Estimated Lease Payments	372,600	829,200	913,300	540,700	84,000	\$6,393,000

4. PTS \$6.44 million (5-year term Non-General Fund):

Based on interest rates as of February 23, 2015, the effective interest rate is estimated to be 1.41% on a 5-year term. The estimated lease payments are as follows:

<u>Fiscal Year</u>	<u>2016</u>	<u>2017-2020</u>	<u>2021</u>	<u>Total</u>
Estimated Lease Payments	\$670,000	\$1,340,000	\$670,000	\$6,700,000

Reimbursement Resolution

Due to the logistics, timing of product delivery and nature of the projects and equipment listed above, the City may make vendor payments for some of the components expected to be financed. If City advances these payments, the City is still permitted to get reimbursed from the proceeds through the Master Lease Agreement. In order to do that, the City must adopt a reimbursement resolution in accordance with section 1.150-2 of Treasury Regulations (“Regulations”). By adopting a reimbursement resolution the City will satisfy the Official Intent Requirement under the Regulations and be able to reimburse project and equipment related expenses using funds available from the lease-purchase agreement with BAPCC. Adoption of the reimbursement resolution will not obligate the City to expend any funds; it merely enables the City to get reimbursed for all qualified project and equipment related expenses that the City fronted in implementing the projects and equipment listed above.

PREVIOUS COUNCIL MEETING and/or COMMITTEE ACTION:

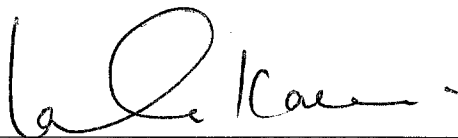
Budget and Government Efficiency Committee authorization to occur prior to City Council.

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:


N/A

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Banc of America Public Capital Corp (BAPCC)



Lakshmi Kommi
Debt Management Director



Mary Lewis
Chief Financial Officer

Attachment: Form of the Master Lease Agreement