

## RESOLUTION 24-108

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP, AS LESSOR, AND THE CITY, AS LESSEE, AND SEPARATE SCHEDULES THERETO, FOR THE ACQUISITION, PURCHASE, FINANCING AND LEASING OF CERTAIN EQUIPMENT AS DESCRIBED HEREIN IN AN AMOUNT NOT TO EXCEED \$2,600,000; AUTHORIZING ONE OR MORE ESCROW AGREEMENTS AND CERTAIN OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AUTHORIZING ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION; AND PROVIDING FOR AN EFFECTIVE DATE FOR THIS RESOLUTION.

**WHEREAS**, the City Council (the "City Council") of the City of Cocoa, Florida (the "City"), a body corporate and politic duly organized and existing under the laws of the State of Florida (the "State"), is authorized by the laws of the State to purchase, acquire and lease personal property (tangible and intangible) for the benefit of the City and its inhabitants and to enter into contracts with respect thereto; and

**WHEREAS**, the City Council has determined that a need exists for the acquisition, financing, purchasing and leasing of certain equipment, with a cost not to exceed \$2,600,000, consisting of certain fire vehicles and other equipment as described in the Equipment Schedule attached to the hereinafter defined and described Agreement, the form of which is attached hereto as Exhibit A (collectively, the "Equipment"); and

**WHEREAS**, in order to finance the acquisition of the Equipment and to pay the related issuance costs, the City proposes to enter into that certain Master Equipment Lease/Purchase Agreement (the "Agreement") with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the "Bank"), substantially in the proposed form attached hereto as Exhibit A, including but not limited to separate schedules thereto and one or more escrow agreements (collectively, the "Escrow Agreement") among the Bank, in its capacity as lessor, Argent Institutional Trust Company, in its capacity as escrow agent, and the City, each substantially in the form attached to the Agreement; and

**WHEREAS**, the City Council deems it for the benefit of the City and for the efficient and effective administration thereof to enter into the Agreement and separate Schedules relating thereto from time to time as provided in the Agreement for the purchase, acquisition, financing

and leasing of the Equipment and related issuance costs to be therein described on the terms and conditions therein and herein provided;

**NOW BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COCOA, FLORIDA:**

**SECTION 1. AUTHORITY FOR RESOLUTION.** This Resolution is adopted pursuant to the provisions of the Constitution of the State of Florida, the Charter of the City, Chapter 166, Part II, Florida Statutes, as amended, and other applicable provisions of law.

**SECTION 2. FINDINGS.** It is hereby ascertained, determined and declared that:

A. The WHEREAS clauses recited above are hereby incorporated herein as a part of this Resolution.

B. The City solicited interest rate quotes from qualified financial institutions and received at least three (3) quotes.

C. The Bank's offer at the terms set forth in its proposal dated October 24, 2024 is the most favorable to the City.

D. The terms of the Agreement (including the form of Schedule of Property, the form of Payment Schedule and the form of the Escrow Agreement, each attached thereto), are in the best interests of the City for the acquisition, purchase, financing and leasing of the Equipment and payment of the related costs of issuance.

**SECTION 3. APPROVAL OF AGREEMENT.** The form, terms and provisions of the Agreement (including the form of Equipment Schedule, the form of Payment Schedule, and the form of Escrow Agreement each attached thereto) are hereby approved in substantially the forms attached hereto as Exhibit A, respectively, with such insertions, omissions and changes as shall be approved by the Mayor, Vice Mayor, City Manager or the City's Finance Director (the "Authorized Officials") executing the same, the execution of such documents being conclusive evidence of such approval. The Authorized Officials are each hereby authorized, collectively or individually, to sign and deliver on behalf of the City the Agreement, each Schedule thereto under which a separate Lease (as hereinafter described, and as defined in the Agreement) is created, each Payment Schedule attached thereto, the Escrow Agreement and any related exhibits attached thereto if and when required; provided, however, that, without further authorization from the City, (a) the aggregate principal component of Rental Payments under the Lease related to the Equipment (the "Lease") entered into pursuant to the Agreement shall not exceed \$2,600,000; (b) the maximum term under the Lease shall not exceed ten (10) years with the final Renewal Term (as such term is defined in the Agreement) ending no later than on December 31, 2034, subject to earlier termination pursuant to the Agreement; and (c) the maximum interest rate used to determine the interest component of Rental Payments under the Lease shall not exceed 4.00% per annum. The Authorized Officials may sign and deliver the Lease and the Escrow Agreement to the Bank on behalf of the City pursuant to the Agreement on such terms and

conditions as they shall determine are in the best interests of the City up to the maximum aggregate principal component, maximum term and maximum interest rate provided above. The foregoing authorization shall remain in effect for a period of five years from the date hereof during which the Authorized Officials are authorized to sign and deliver the Lease pursuant to the Agreement on the terms and conditions herein provided and to be provided in the Lease. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in the Agreement.

**SECTION 4. MEMBERS OF THE CITY COUNCIL EXEMPT FROM PERSONAL LIABILITY.** No recourse under or upon any obligation, covenant or agreement of this Resolution or the Agreement or for any claim based thereon or otherwise in respect thereof, shall be had against any member of the City Council, the City Manager, the City Attorney or the Finance Director of the City, as such, of the City, past, present or future, either directly or through the City it being expressly understood (a) that no personal liability whatsoever shall attach to, or is or shall be incurred by, the members of the City Council, the City Manager, the City Attorney or the Finance Director of the City, as such, under or by reason of the obligations, covenants or agreements contained in this Resolution or implied therefrom, and (b) that any and all such personal liability, either at common law or in equity or by constitution or statute, of, and any and all such rights and claims against, every such member of the City Council, the City Manager, the City Attorney or the Finance Director of the City, as such, are waived and released as a condition of, and as a consideration for, the execution of this Resolution, the Agreement, the related schedules thereto and the Escrow Agreement, on the part of the City.

**SECTION 5. AUTHORIZATIONS.** The Mayor, Vice Mayor and any member of the City Council, the City Manager, the City Attorney, the Finance Director and the City Clerk of the City, and such other officials and employees of the City as may be designated by the City are each designated as agents of the City in connection with the issuance and delivery of Agreement and the related schedules thereto and are authorized and empowered, collectively or individually, to take all actions and steps and to execute all instruments, documents, and contracts on behalf of the City that are necessary or desirable in connection with the execution and delivery of the Agreement and the related schedules thereto, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 6. APPLICABLE PROVISIONS OF LAW.** This Resolution shall be governed by and construed in accordance with the laws of the State.

**SECTION 7. RULES OF INTERPRETATION.** Unless expressly indicated otherwise, references to sections or articles are to be construed as references to sections or articles of this instrument as originally executed. Use of the words "herein," "hereby," "hereunder," "hereof," "hereinbefore," "hereinafter" and other equivalent words refer to this Resolution and not solely to the particular portion in which any such word is used.

**SECTION 8. CAPTIONS.** The captions and headings in this Resolution are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Resolution.

**SECTION 9. REPEALER.** All ordinances, resolutions or parts thereof in conflict herewith are hereby repealed.

**SECTION 10. NO THIRD PARTY BENEFICIARIES.** Except such other persons as may be expressly described in this Resolution or in the Agreement and the related schedules thereto, nothing in this Resolution or in the Agreement and the related schedules thereto, expressed or implied, is intended or shall be construed to confer upon any person, other than the City and the Bank (in its capacity as lessor and escrow agent), any right, remedy or claim, legal or equitable, under and by reason of this Resolution, or any provision thereof, or of the Agreement and the related schedules thereto, all provisions thereof being intended to be and being for the sole and exclusive benefit of the City and the Bank.

**SECTION 11. EFFECTIVE DATE.** This Resolution shall be in full force and take effect immediately upon its adoption.

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DULY ADOPTED in Regular Session, this 10<sup>th</sup> day of December, 2024.

**CITY OF COCOA, FLORIDA**

(SEAL)

ATTEST:

By: \_\_\_\_\_  
Michael C. Blake, Mayor

By: \_\_\_\_\_  
Monica Arsenault  
City Clerk

**EXHIBIT A**

**FORM OF MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**

## MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

This Master Equipment Lease/Purchase Agreement (this “*Agreement*”) dated as of December 12, 2024, and entered into by and between Banc of America Public Capital Corp, a Kansas corporation (together with its successors, assigns and transferees, and as more particularly defined herein, “*Lessor*”), and the City of Cocoa, Florida, a municipal corporation existing under the laws of the State of Florida (“*Lessee*”).

### WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Equipment described in each Equipment Schedule (as each such term is defined herein), subject to the terms and conditions of and for the purposes set forth in each Lease; and

WHEREAS, the relationship between the parties shall be a continuing one and items of equipment and other personal property may be financed pursuant to one or more Leases entered into from time to time in accordance with this Agreement by execution and delivery of additional Equipment Schedules by the parties hereto, subject to the terms and conditions provided herein; and

WHEREAS, Lessee is authorized under the Constitution and laws of the State (as such term is defined herein) to enter into this Agreement and each Equipment Schedule for the purposes set forth herein and therein;

NOW, THEREFORE, for good and valuable consideration, receipt and sufficiency of which are hereby acknowledged, and in consideration of the premises hereinafter contained, the parties hereby agree as follows:

### ARTICLE I

*Section 1.01. Definitions.* The following terms will have the meanings indicated below unless the context clearly requires otherwise:

“*Acquisition Amount*” means, with respect to each Lease, the amount specified in the related Equipment Schedule and represented by Lessee to be sufficient for the purpose of acquiring and installing the Equipment listed in such Lease.

“*Acquisition Period*” means, with respect to each Lease for which an Escrow Account is established, that period identified in the related Equipment Schedule during which the Acquisition Amount attributable to such Lease may be expended on Equipment Costs pursuant to the related Escrow Agreement.

“*Agreement*” means this Master Equipment Lease/Purchase Agreement, including the exhibits hereto, together with any amendments and modifications to this Agreement pursuant to Section 13.04.

“*Casualty Value*” means, with respect to each Lease, the amount that is shown for each Rental Payment Date under the column titled “Casualty Value” on the Payment Schedule.

“*Code*” means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code in this Agreement and a Lease shall be deemed to include the relevant United States Treasury Regulations proposed or in effect thereunder.

“*Commencement Date*” means, for each Lease, the date when Lessee’s obligation to pay rent commences under such Lease, which date shall be the earlier of (a) the date on which the Equipment listed in such Lease is accepted by Lessee in the manner described in Section 5.01, or (b) the date on which the Acquisition Amount is deposited in an Escrow Account for the purpose of acquiring and installing the Equipment listed in such Lease.

“*Contract Rate*” means, with respect to each Lease, the rate identified as such in the related Payment Schedule.

“*Disbursement Request*” means, with respect to each Lease for which an Escrow Account is established, the disbursement request attached to the applicable Escrow Agreement as Schedule 1 and made a part thereof.

“*Equipment*” means, with respect to each Lease, the equipment, fixtures and other goods and property listed in the related Equipment Schedule, together with all replacements, repairs, restorations, modifications and improvements thereof or thereto and all accessories, equipment, parts and appurtenances appertaining or attached to any of the Equipment, and all substitutions, renewals, or replacements of and additions, improvements, accessions and accumulations to any and all of such Equipment, together with all the rents, issues, income, profits, proceeds and avails therefrom made pursuant to Article V or Section 8.01. Whenever reference is made in this Agreement to Equipment listed in a Lease, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements thereof or thereto and all accessories, equipment, parts and appurtenances appertaining or attached to any of the Equipment, and all substitutions, renewals, or replacements of and additions, improvements, accessions and accumulations to any and all of such Equipment, together with all the rents, issues, income, profits, proceeds and avails therefrom.

“*Equipment Costs*” means, with respect to each Lease, the total cost of the Equipment listed in the related Equipment Schedule, including related soft costs such as freight, installation and taxes and other capitalizable costs, legal fees, financing costs and other costs necessary to vest full, clear legal title to the Equipment in Lessee, and other costs incurred in connection with the acquisition, installation and/or financing of the Equipment as provided in the related Lease; *provided* that (a) any such soft costs on a cumulative basis shall not exceed a percentage approved by Lessor of the total cost of the Equipment subject to such Lease and (b) in no event shall capitalizable delivery costs, installation charges, taxes and similar capitalizable soft costs relating to such Equipment be included without Lessor’s prior consent.



*“Equipment Schedule”* means each separately numbered Equipment Schedule, substantially in the form of either *Exhibit A-1* (general Equipment) or *Exhibit A-2* (energy services Equipment) hereto, together with the related Payment Schedule.

*“Escrow Account”* means, with respect to any Lease, the account established and held by the Escrow Agent pursuant to the related Escrow Agreement.

*“Escrow Agent”* means, with respect to each Lease for which an Escrow Account is established, the Escrow Agent identified in the related Escrow Agreement, and its successors and assigns.

*“Escrow Agreement”* means, with respect to each Lease for which an Escrow Account is established, an Escrow Agreement in form and substance acceptable to and executed by Lessee, Lessor and the Escrow Agent, pursuant to which an Escrow Account is established and administered.

*“Event of Default”* means an Event of Default described in Section 12.01.

*“Event of Non-appropriation”* means, with respect to a Lease, the failure of Lessee’s governing body to appropriate or otherwise make available funds to pay Rental Payments under such Lease following the Original Term or then current Renewal Term sufficient for the continued performance of such Lease by Lessee.

*“Lease”* means an Equipment Schedule and the terms and provisions of this Agreement which are incorporated by reference into such Equipment Schedule.

*“Lease Term”* means, with respect to each Lease, the Original Term and all Renewal Terms provided in the related Equipment Schedule.

*“Lessee”* means the entity referred to as Lessee in the first paragraph of this Agreement.

*“Lessor”* means (a) the entity referred to as Lessor in the first paragraph of this Agreement and its successors or (b) any assignee or transferee pursuant to Section 11.01 of any right, title or interest of Lessor in and to the Equipment under the applicable Lease (including the Rental Payments and other amounts due thereunder), any related Escrow Agreement and Escrow Account, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder or under such Lease.

*“Material Adverse Change”* means (a) any change in Lessee’s creditworthiness that could have a material adverse effect on (i) the financial condition or operations of Lessee, or (ii) Lessee’s ability to perform its obligations under this Agreement or any Lease or (b) a downgrade in Lessee’s external debt rating from the date of this Agreement of two or more subgrades by either Moody’s Investors Service, Inc. or S&P Global Ratings or any equivalent successor credit rating agency, or any downgrade by either such agency that would cause Lessee’s credit rating to be below investment grade, or, if any such rating agency no longer publishes such ratings at the date of determination, any other nationally recognized statistical rating organization that is selected by

Lessee for purposes of such long-term general obligation bond ratings and long-term general fund related bond ratings.

*“Original Term”* means, with respect to each Lease, the period from the Commencement Date identified in the related Equipment Schedule until the end of the fiscal year of Lessee in effect at such Commencement Date.

*“Outstanding Balance”* means, with respect to each Lease, the amount that is shown for each Rental Payment Date under the column titled “Outstanding Balance” on the Payment Schedule.

*“Payment Schedule”* means, with respect to each Lease, the Payment Schedule attached to and made a part of the related Equipment Schedule and substantially in the form of *Exhibit B* attached to this Agreement.

*“Prepayment Price”* means, with respect to each Lease, the amount that is shown for each Rental Payment Date under the column titled “Prepayment Price” on the Payment Schedule.

*“Principal Portion”* means, with respect to each Lease, the amount that is shown for each Rental Payment Date under the column titled “Principal Portion” on the Payment Schedule.

*“Related Documents”* means, with respect to each Lease, the Lease, this Agreement and, if applicable, the related Escrow Agreement, each as may be amended and supplemented.

*“Renewal Terms”* means, with respect to each Lease, the consecutive renewal terms of such Lease as specified in the related Equipment Schedule, the first of which commences immediately after the end of the Original Term and each having a duration and a term coextensive with each successive fiscal year of Lessee; *provided* that the final such Renewal Term shall commence on the first day of the last such fiscal year and end on the first business day after the last scheduled Rental Payment Date.

*“Rental Payment Date”* means, with respect to each Lease, each date on which Lessee is required to make a Rental Payment under such Lease as specified in the related Payment Schedule.

*“Rental Payments”* means, with respect to each Lease, the basic rental payments payable by Lessee on the Rental Payment Dates and in the amounts as specified in the related Payment Schedule, consisting of a principal component and an interest component, and in all cases sufficient to repay the principal component under such Lease and interest thereon at the applicable Contract Rate (or Taxable Rate if then in effect).

*“SEC”* means the U.S. Securities and Exchange Commission.

*“State”* means the State of Florida.

*“Taxable Rate”* means, with respect to each Lease, for each day that the interest component of Rental Payments is taxable for Federal income tax purposes, an interest rate equal to the

Contract Rate plus a rate sufficient such that the total interest to be paid on any Rental Payment Date would, after such interest was reduced by the amount of any Federal, state or local income tax (including any interest, penalties or additions to tax) actually imposed thereon, equal the amount of interest otherwise due to Lessor.

“*Vendor*” means the manufacturer, installer or supplier of the Equipment listed in an Equipment Schedule or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom Lessee arranged Lessee’s acquisition, installation, maintenance and/or servicing of the Equipment pursuant to the applicable Lease.

“*Vendor Agreement*” means any contract entered into by Lessee and any Vendor for the acquisition, installation, maintenance and/or servicing of the Equipment under a Lease.

## ARTICLE II

*Section 2.01. Representations and Covenants of Lessee.* Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof and as of the Commencement Date of each Lease as follows:

(a) Lessee is a political subdivision of the State within the meaning of Section 103(c) of the Code, duly organized and existing under the constitution and laws of the State, with full power and authority to enter into the Related Documents and the transactions contemplated thereby and to perform all of its obligations thereunder.

(b) Lessee has duly authorized the execution and delivery of the Related Documents by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of the Related Documents.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to any Lease.

(d) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a municipal corporation of the State.

(e) Lessee has complied with such procurement and public bidding requirements as may be applicable to the Related Documents and the acquisition and installation by Lessee of the Equipment as provided in each Lease.

(f) During the Lease Term under each Lease, the Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee’s authority. Lessee does not intend to sell or otherwise dispose of the Equipment or any interest therein prior to the last

Rental Payment (including all Renewal Terms) scheduled to be paid under the related Lease.

(g) Lessee has kept, and throughout the Lease Term of each Lease shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within two hundred seventy (270) days after the end of its fiscal year, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) upon Lessor's request, its annual budget for any prior or current fiscal year or for the following fiscal year when approved but not later than thirty (30) days prior to the end of its current fiscal year. The financial statements described in this subsection (g)(i) shall be accompanied by an unqualified opinion of Lessee's independent auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has an immediate need for the Equipment listed on each Equipment Schedule and expects to make immediate use of the Equipment listed on each Equipment Schedule. Lessee's need for the Equipment is not temporary and Lessee does not expect the need for any item of the Equipment to diminish during the related Lease Term.

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

(j) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations under the Related Documents. Lessee will, at its expense, maintain its legal existence and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's first priority security interest in the Equipment and the Escrow Account and Lessor's rights and benefits under each Lease and related Escrow Agreement.

(k) Lessee is the fee owner of the real estate where the Equipment under each Lease is and will be located (the "*Real Property*") and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other

encumbrance of any nature whatsoever on or with respect to such Real Property.

(l) No lease, rental agreement, lease-purchase agreement, payment agreement or contract for purchase to which Lessee has been a party at any time has been terminated by Lessee as a result of insufficient funds being appropriated in any fiscal year. No event has occurred which would constitute an event of default under any debt, revenue bond or obligation which Lessee has issued during the past ten (10) years.

(m) Lessee has complied and will comply with Section 218.38, Florida Statutes, with respect to each Lease.

(n) The interest rate for the interest portion of the Rental Payments on the first date that interest begins to accrue with respect to each Lease, does not exceed a rate of interest permitted by Section 215.84, Florida Statutes.

(o) In connection with the Lessee's compliance with any continuing disclosure undertakings (each, a "*Continuing Disclosure Agreement*") entered into by the Lessee pursuant to SEC Rule 15c2-12 promulgated pursuant to the Securities and Exchange Act of 1934, as amended (the "*Rule*"), the Lessee may be required to file with the Municipal Securities Rulemaking Board's Electronic Municipal Market Access system, or its successor ("*EMMA*"), notice of its incurrence of its obligations under the Related Documents and notice of any accommodation, waiver, amendment, modification of terms or other similar events reflecting financial difficulties in connection with the Related Documents, in each case including posting a full copy thereof or a description of the material terms thereof (each such posting, an "*EMMA Posting*"). Except to the extent required by applicable law, including the Rule, and subject in all respects to applicable state public records laws, the Lessee shall not file or submit or permit the filing or submission of any EMMA Posting that includes the following unredacted confidential information about the Lessor or its affiliates and any Escrow Agent in any portion of such EMMA Posting: address, account information and logos of the Lessor or its affiliates and any Escrow Agent; e-mail addresses telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lessor or its affiliates and any Escrow Agent; and the form of Disbursement Request that is attached to the Escrow Agreement.

The Lessee acknowledges and agrees that the Lessor and its affiliates are not responsible for the Lessee's or any other entity's (including, but not limited to, any broker-dealer's) compliance or noncompliance (or any claims, losses or liabilities arising therefrom) with the Rule, any Continuing Disclosure Agreement or any applicable securities or other laws, including but not limited to those relating to the Rule.

*Section 2.02. Representations and Covenants of Lessor.* Lessor represents, covenants and warrants for the benefit of Lessee on the date hereof and as of the Commencement Date of each Lease that it has and will comply with Section 218.385(2) and Section 218.385(3), Florida Statutes, with respect to each Lease, as applicable.

### ARTICLE III

*Section 3.01. Lease of Equipment.* Subject to the terms and conditions of this Agreement, Lessor agrees to provide the funds specified in each Lease to be provided by it for Lessee to acquire and install the Equipment described in the related Equipment Schedule. Upon the execution and delivery of each Lease, Lessor thereby demises, leases and transfers to Lessee, and Lessee thereby acquires, rents and leases from Lessor, the Equipment as set forth in such Lease and in accordance with the terms thereof. The Lease Term for each Lease may be continued, solely at the option of Lessee, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Lease Term set forth in such Lease. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, Lessee shall be deemed to have exercised its option to continue each Lease for the next Renewal Term unless Lessee shall have terminated such Lease pursuant to Section 3.03 or Section 10.01 of this Agreement. The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments shall be as provided in the applicable Lease. Each Equipment Schedule signed and delivered by Lessor and Lessee pursuant to this Agreement shall constitute a separate and independent lease and installment purchase of the Equipment therein described.

*Section 3.02. Continuation of Lease Term.* Lessee intends, subject to Section 3.03 hereof, to continue the Lease Term of each Lease through the Original Term and all Renewal Terms and to pay the Rental Payments due thereunder. Lessee affirms that sufficient funds are legally available to pay all Rental Payments when due during the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments during the entire Lease Term of each Lease can be obtained from legally available funds of Lessee. Lessee further intends to do all things lawfully within its power to obtain and maintain funds sufficient and available to discharge its obligation to make Rental Payments due under each Lease, including making provision for such payments to the extent necessary in each budget or appropriation request submitted and adopted in accordance with applicable provisions of law. Notwithstanding the foregoing, the decision whether or not to budget and appropriate funds or to extend the Lease Term for any Renewal Term for each Lease is within the sole discretion of the governing body of Lessee.

*Section 3.03. Non-appropriation.* Lessee is obligated only to pay such Rental Payments under each Lease as may lawfully be made during Lessee's then current fiscal year from funds budgeted and appropriated for that purpose. Should Lessee fail to budget, appropriate or otherwise make available funds to pay Rental Payments under any Lease following the then current Original Term or Renewal Term, such Lease or Leases shall be deemed terminated at the end of the then current Original Term or Renewal Term thereunder. Lessee agrees to deliver notice to Lessor of such termination promptly after any decision to non-appropriate is made, but failure to give such notice shall not extend the term beyond such Original Term or Renewal Term. If any Lease is terminated in accordance with this Section 3.03, Lessee agrees to cease use of the Equipment thereunder and peaceably remove and deliver to Lessor, at Lessee's sole expense (from legally available funds), such Equipment to Lessor at the location(s) to be specified by Lessor on or before the end of the applicable Original Term or Renewal Term for which Rental Payments have been appropriated for the applicable Lease (each, a "*Non-Appropriation Return Date*"). Lessor may take whatever action at law or in equity as may be necessary or desirable to enforce Lessee's

obligations in the immediately preceding sentence. Without limiting or reducing in any way Lessee's obligations in the second preceding sentence or Lessor's rights in the immediately preceding sentence, if the Lessee fails to return the Equipment to Lessor on or before the applicable Non-Appropriation Return Date pursuant to this Section 3.03, Lessee shall pay month-to-month rent at the Contract Rate (or the Taxable Rate if then in effect) set forth in the affected Lease for each month or part thereof that Lessee fails to return the Equipment thereunder pursuant to this Section 3.03.

*Section 3.04. Conditions to Lessor's Performance.* (a) As a prerequisite to the performance by Lessor of any of its obligations pursuant to any Lease, Lessee shall deliver to Lessor, in form and substance satisfactory to Lessor, the following:

- (i) A fully completed Equipment Schedule, executed by Lessee;
- (ii) If an Escrow Account is to be established with respect to such Lease, an Escrow Agreement substantially in the form attached hereto as *Exhibit H*, satisfactory to Lessor and executed by Lessee and the Escrow Agent;
- (iii) A certified copy of a resolution, ordinance or other official action of Lessee's governing body, substantially in the form attached hereto as *Exhibit C-1A* or *Exhibit C-1B*, as applicable, or in such other form satisfactory to Lessor, authorizing the execution and delivery of this Agreement and the applicable Lease and related Escrow Agreement, if any, entered into pursuant hereto and performance by Lessee of its obligations under this Agreement and the applicable Lease and related Escrow Agreement, if any, entered into pursuant hereto;
- (iv) A Certificate completed and executed by the Clerk or Secretary of the Lessee or other comparable officer of Lessee, substantially in the form attached hereto as *Exhibit C-2A* or *Exhibit C-2B*, as applicable, completed to the satisfaction of Lessor;
- (v) An opinion of counsel to Lessee, substantially in the form attached hereto as *Exhibit D*, or such other form satisfactory to Lessor;
- (vi) Evidence of insurance as required by Section 7.02 hereof;
- (vii) All documents, including affidavits, notices and similar instruments, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02 hereof;
- (viii) A waiver or waivers of interest in the Equipment from any mortgagee or any other party having an interest in the Real Property on which the Equipment will be located and/or landlord of the real estate on which the Equipment will be located and amendments and agreements releasing liens and encumbrances, if any, on the Real Property where the Equipment is and will be located;
- (ix) Reserved;

(x) A copy of the Form 8038-G with respect to the Lease then being entered into, fully completed and executed by Lessee;

(xi) In the event that Lessee is to be reimbursed for expenditures that it has paid more than sixty (60) days prior to the Commencement Date for the Lease then being entered into, evidence of the adoption of a reimbursement resolution or other official action covering the reimbursement from tax exempt proceeds of expenditures incurred not more than sixty (60) days prior to the date of such resolution;

(xii) If any items of Equipment are motor vehicles, properly completed certificates of title or certificates of origin (or applications therefor) for such vehicles;

(xiii) Copies of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to Equipment has passed to Lessee), to the extent required by Section 5.01(b) hereof;

(xiv) Wire instructions for payments to be made to Vendors and Form W-9 from each such Vendor; and

(xv) Such other items as are set forth in the related Equipment Schedule or are reasonably required by Lessor.

(b) In addition to satisfaction of the conditions set forth in subsection (a) of this Section 3.04, the performance by Lessor of any of its obligations under the Related Documents shall be subject to: (i) no Material Adverse Change having occurred since the date of this Agreement, (ii) no Event of Default having occurred and then be continuing under any Lease then in effect, (iii) no Event of Non-appropriation under any Lease then in effect having occurred or being threatened, and (iv) no Lease having been terminated as the result of the occurrence of an Event of Default or an Event of Non-appropriation.

(c) Subject to satisfaction of the foregoing, (i) Lessor will pay the Acquisition Amount for Equipment described in an Equipment Schedule to the Vendor or reimburse Lessee for its prior expenditures with respect to such Equipment (subject to satisfaction of Section 3.04(a)(xi) hereof), upon receipt of the documents described in Sections 5.01(a) and (b) hereof; or (ii) if an Escrow Account is being established with respect to the related Lease, Lessor will deposit the Acquisition Amount for Equipment described in the applicable Equipment Schedule with the Escrow Agent to be held and disbursed pursuant to the related Escrow Agreement.

(d) This Agreement is not a commitment by Lessor or Lessee to enter into any Lease not currently in existence, and nothing in this Agreement shall be construed to impose any obligation upon Lessor or Lessee to enter into any proposed Lease, it being understood that whether Lessor or Lessee enters into any proposed Lease shall be a decision solely within their respective discretion.

(e) Lessee will cooperate with Lessor in Lessor's review of any proposed Lease. Without limiting the foregoing, Lessee will provide Lessor with any documentation or information Lessor



may request in connection with Lessor's review of any proposed Lease. Such documentation may include, without limitation, documentation concerning the Equipment and its contemplated use and location and documentation or information concerning the financial status of Lessee and other matters related to Lessee.

(f) In the event of any conflict in terms between an Equipment Schedule and this Agreement, the terms of the Equipment Schedule shall control in the interpretation of the Lease created thereby.

*Section 3.05 Evidence of Filing Form 8038-G.* As soon as it is available, with respect to each Lease under this Agreement, Lessee shall provide to Lessor evidence that it, or its paid preparer, has filed the Form 8038-G for the applicable Lease with the Internal Revenue Service by delivering to Lessor proof of mailing such Form 8038-G. Notwithstanding anything to the contrary in this Agreement or the applicable Lease, it shall not be an Event of Default hereunder or thereunder if Lessee does not provide to Lessor evidence that it (or its paid preparer) filed the Form 8038-G for the applicable Lease with the Internal Revenue Service.

#### **ARTICLE IV**

*Section 4.01. Rental Payments.* Subject to Section 3.03 of this Agreement, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the Rental Payment Dates and in such amounts as provided in each Lease. If any Rental Payment or other amount payable hereunder is not paid within ten (10) days of its due date, Lessee shall pay an administrative late charge of five percent (5%) of the amount not timely paid or the maximum amount permitted by law, whichever is less. Lessee shall not permit the Federal Government to guarantee any Rental Payments under any Lease. Rental Payments consist of principal and interest components as more fully detailed on the Payment Schedule for each Lease, the interest on which begins to accrue as of the Commencement Date for each such Lease.

*Section 4.02. Interest and Principal Components.* A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal. Each Lease shall set forth the principal and interest components of each Rental Payment payable thereunder during the applicable Lease Term.

*Section 4.03. Rental Payments to Constitute a Current Expense of Lessee.* Lessor and Lessee understand and intend that the obligation of Lessee to pay Rental Payments under each Lease shall constitute a current expense of Lessee payable solely from its general fund or other funds that are legally available for that purpose and shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained in this Agreement or in any Lease constitute a pledge of the general tax revenues, funds or moneys of Lessee. THE RENTAL PAYMENTS ARE TO BE MADE ONLY FROM LESSEE'S LEGALLY AVAILABLE REVENUES APPROPRIATED ON AN ANNUAL BASIS, AND NEITHER LESSEE, THE STATE NOR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF SHALL BE OBLIGATED TO PAY ANY SUMS DUE UNDER A LEASE FROM THE COMPELLED LEVY OF AD VALOREM OR OTHER TAXES EXCEPT FROM THOSE

LEGALLY AVAILABLE REVENUES APPROPRIATED BY LESSEE ON AN ANNUAL BASIS, AND NEITHER THE FULL FAITH AND CREDIT NOR THE TAXING POWER OF LESSEE, THE STATE OR ANY POLITICAL SUBDIVISION OR AGENCY THEREOF ARE PLEDGED FOR PAYMENT OF SUCH SUMS DUE UNDER LEASE.

*Section 4.04. Rental Payments to be Unconditional.* Except as provided in Section 3.03 of this Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in each Lease shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Equipment, disputes with the Lessor or the Vendor of any Equipment, any defects, malfunctions, breakdowns or infirmities in the Equipment or any accident, condemnation or unforeseen circumstances or failure of any Vendor to deliver any Equipment or otherwise perform any of its obligations for whatever reason, including bankruptcy, insolvency, reorganization or any similar event with respect to any Vendor or under any Vendor Agreement, or the failure or inability (for whatever reason) of Lessee to receive (or delay in receipt of) all or any portion of any refundable tax credit under Section 6417 of the Internal Revenue Code of 1986, as amended by the Inflation Reduction Act of 2022 (Pub. L. No. 117-169), or any substantially similar provision of federal, state, local or foreign tax law (including regulations or other guidance from any taxing authority).

*Section 4.05 Tax Covenants.* Lessee agrees that it will not take any action that would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for Federal income tax purposes, nor will it omit to take or cause to be taken, in a timely manner, any action, which omission would cause the interest component of Rental Payments to be or to become ineligible for the exclusion from gross income of the owner or owners thereof for Federal income tax purposes. In connection with the foregoing, Lessee hereby agrees that (a) so long as any Rental Payments under a Lease remain unpaid, moneys on deposit in the Escrow Account under any Escrow Agreement related to such Lease shall not be used in a manner that will cause such Lease to be classified as an “arbitrage bond” within the meaning of Section 148(a) of the Code; and (b) Lessee shall rebate, from funds legally available for the purpose, an amount equal to excess earnings on the Escrow Account under any Escrow Agreement to the Federal Government if required by, and in accordance with, Section 148(f) of the Code, and make the determinations and maintain the records required by the Code.

*Section 4.06. Event of Taxability.* Upon the occurrence of an Event of Taxability with respect to a Lease, the interest component of Rental Payments under such Lease and any charge on Rental Payments or other amounts payable based on the Contract Rate shall have accrued and be payable at the Taxable Rate applicable to such Lease retroactive to the date as of which the interest component is determined by the Internal Revenue Service to be includable in the gross income of the owner or owners thereof for Federal income tax purposes (which retroactive date for such Lease shall be the earliest date as of which the interest component of any Rental Payment for such Lease is deemed includable in the gross income of the owner or owners thereof for Federal income tax purposes, which may be earlier than the date of delivery of such determination by the Internal Revenue Service), and Lessee will pay such additional amount as will result in the owner receiving the interest component at the Taxable Rate identified in the related Lease.

For purposes of this Section, “*Event of Taxability*” means the circumstance of the interest component of any Rental Payment paid or payable pursuant to a Lease becoming includable for Federal income tax purposes in an owner’s gross income as a consequence of any act, omission or event whatsoever, including but not limited to the matters described in the immediately succeeding sentence, and regardless of whether the same was within or beyond the control of Lessee. An Event of Taxability shall be presumed to have occurred upon (a) the receipt by Lessor or Lessee of an original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency or other written correspondence which legally holds that the interest component of any Rental Payment under such Lease is includable in the gross income of the owner thereof; (b) the issuance of any public or private ruling of the Internal Revenue Service that the interest component of any Rental Payment under such Lease is includable in the gross income of the owner thereof; or (c) receipt by Lessor or Lessee of a written opinion of a nationally recognized firm of attorneys experienced in matters pertaining to the tax-exempt status of interest on obligations issued by states and their political subdivisions, selected by Lessor and acceptable to Lessee, to the effect that the interest component of any Rental Payment under a Lease has become includable in the gross income of the owner thereof for Federal income tax purposes. For all purposes of this definition, an Event of Taxability shall be deemed to occur on the date as of which the interest component of any Rental Payment is deemed includable in the gross income of the owner thereof for Federal income tax purposes.

*Section 4.07. Mandatory Prepayment.* (a) If the Acquisition Amount for a Lease is deposited into an Escrow Account, any funds not applied to Equipment Costs and remaining in such Escrow Account on the earliest of (i) the expiration of the applicable Acquisition Period, (ii) the date on which Lessee delivers to the Lessor the executed Disbursement Request to effect the final disbursement to pay (or reimburse) Equipment Costs from such Escrow Account or (iii) a termination of the Escrow Account as provided in the Escrow Agreement shall be applied by Lessor on each successive Rental Payment Date thereafter to pay all or a portion of the Rental Payment due and owing in the succeeding twelve (12) months and any remaining amounts shall be applied by Lessor as prepayment to the applicable unpaid Principal Portion of Rental Payments owing under the related Lease in the inverse order of the Rental Payment Dates at a price of one hundred (100%) of such prepaid Principal Portion plus accrued interest thereon to the prepayment date.

(b) In connection with any partial prepayment of Rental Payments for a Lease, Lessor shall prepare a new Payment Schedule for such Lease and deliver the same to the Lessee, which shall be binding, absent manifest error.

## **ARTICLE V**

*Section 5.01. Acquisition, Delivery Installation and Acceptance of Equipment.* (a) With respect to each Lease, Lessee shall order the Equipment to be acquired and financed thereunder, cause the Equipment to be delivered and installed at the location specified in such Lease and pay any and all delivery and installation costs and other Equipment Costs in connection therewith. Lessee shall conduct such inspection and testing of the Equipment listed in a Lease as it deems appropriate in order to unconditionally accept such Equipment. When the Equipment listed in a Lease has been delivered and installed, including any component of the Equipment, Lessee shall

promptly accept such Equipment and evidence said acceptance by executing and delivering to Lessor a Final Acceptance Certificate in the form attached hereto as *Exhibit E*; *provided, however*, that if an Escrow Account has been established with respect to such Lease as provided in Section 3.04 hereof, Lessee shall execute and deliver Disbursement Requests to the Lessor pursuant to the related Escrow Agreement for the purpose of effecting disbursements from the Escrow Account to pay (or reimburse) Equipment Costs for the Equipment so acquired and installed pursuant to such Lease. In connection with the execution and delivery by Lessee to Lessor of the final Disbursement Request under the applicable Escrow Agreement for a Lease, Lessee shall deliver to Lessor a “Final Acceptance Certificate” in the form attached hereto as *Exhibit E*.

(b) (i) With respect to a Lease entered into without an Escrow Agreement, Lessee shall deliver to Lessor copies of invoices (and proof of payment of such invoices if Lessee seeks reimbursement for prior expenditures) and bills of sale (if title to such Equipment has passed to Lessee) relating to each item of Equipment accepted by Lessee. Lessee shall execute and deliver to Lessor an Equipment Schedule pursuant to Section 3.04(a)(i) within five (5) business days of receipt from Lessor, subject to satisfaction of the conditions set forth in Section 3.04.

(ii) With respect to a Lease entered into with an Escrow Agreement, Lessor shall prepare an Equipment Schedule. In connection with the execution and delivery of the related Escrow Agreement, Lessee shall execute and deliver to Lessor such Equipment Schedule pursuant to Section 3.04(a)(i) within five (5) business days of receipt, subject to satisfaction of the conditions set forth in Section 3.04. Lessee shall deliver to Lessor together with each Disbursement Request invoices (and proof of payment of such invoices if Lessee seeks reimbursement for prior expenditures) and bills of sale or other evidence of title transfer to Lessee relating to each item of Equipment accepted by Lessee as evidenced by such Disbursement Request. Once approved, Lessor shall deliver such Disbursement Request to the Escrow Agent for disbursement from the Escrow Account in accordance with the Escrow Agreement.

*Section 5.02. Quiet Enjoyment of Equipment.* So long as no Event of Default and no Event of Non-appropriation exists under the related Lease, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee’s quiet use and enjoyment of the Equipment during the Lease Term under such Lease.

*Section 5.03. Location; Inspection.* Once installed, no item of the Equipment will be moved or relocated from the location (or the base location with respect to motor vehicles) specified for it in the related Lease without Lessor’s prior written consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property where the Equipment is located for the purpose of inspecting the Equipment.

*Section 5.04. Use and Maintenance of the Equipment.* Lessee shall not install, use, operate or maintain the Equipment (or cause the Equipment to be installed, used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated by the related Lease. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive,

administrative or judicial body, including, without limitation, all anti-money laundering laws and regulations; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Equipment or its interest or rights under the related Lease.

Lessee agrees that it shall maintain, preserve and keep the Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment. In all cases, Lessee agrees to pay any costs necessary for the manufacturer to re-certify the Equipment as eligible for manufacturer's maintenance upon the return of the Equipment to Lessor as provided for in Sections 3.03 and 12.02(b) of this Agreement.

Lessee shall not alter any item of Equipment or install any accessory, equipment or device on an item of Equipment if that would impair any applicable warranty, the originally intended function or the value of that Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Equipment, excluding temporary replacements, shall thereupon become subject to the Lease.

## ARTICLE VI

*Section 6.01. Title to the Equipment.* During the Lease Term under each Lease, so long as Lessee is not in default under Article XII hereof and an Event of Non-appropriation has not occurred, all right, title and interest in and to each item of the Equipment under the related Lease shall be vested in Lessee immediately upon its acceptance of each item of Equipment, subject to the terms and conditions hereof and under the applicable Lease. Lessee shall at all times protect and defend, at its own cost and expense, its title, in and to the Equipment from and against all claims, liens and legal processes of its creditors, and keep all Equipment, investments held from time to time in any related Escrow Account and any and all proceeds of any of the foregoing, including, without limitation, insurance proceeds, free and clear of all such claims, liens and processes. Upon the occurrence of an Event of Default under a Lease or upon termination of a Lease pursuant to Section 3.03 hereof, full and unencumbered legal title to the Equipment shall, at Lessor's option, pass to Lessor, and Lessee shall have no further interest therein. In addition, upon the occurrence of such an Event of Default or such termination, Lessee shall execute and deliver to Lessor such documents as Lessor may request to evidence the transfer and conveyance of such legal title to Lessor and the termination of Lessee's interest therein, and upon request by Lessor shall deliver possession of the Equipment to Lessor in accordance with Section 3.03 or 12.02 of this Agreement, as applicable. Upon payment of all amounts due and owing under a Lease by Lessee in accordance with Section 10.01 hereof (including upon payment of all Rental Payments and other amounts payable under such Lease), Lessor's rights relating to the Equipment under such Lease shall terminate. Notwithstanding anything herein to the contrary, under no circumstance shall the Lessor have a right to forcible repossession of the Equipment.

*Section 6.02. Lessor's Interest in the Equipment.* For each Lease under this Agreement, Lessor shall only have the remedies described in Section 12.02 and shall not have a general foreclosure right that entitles Lessor to a deficiency judgment or retain Lessee's equity in the Equipment, if any.

*Section 6.03. Personal Property; No Encumbrances.* Lessee agrees that the Equipment is deemed to be and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, lien, charge or other encumbrance of any nature whatsoever on any of the real estate where the Equipment under a Lease is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; *provided*, that if Lessor or its assigns is furnished with a waiver of interest in the Equipment under such Lease acceptable to Lessor or its assigns in their respective discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

## ARTICLE VII

*Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges.* Lessee shall keep the Equipment under each Lease free of all levies, liens, and encumbrances except those created by such Lease. The parties to this Agreement contemplate that the Equipment under each Lease will be used for a governmental or proprietary purpose of Lessee and that the Equipment will therefore be exempt from all property taxes. If the lease, sale, purchase, operation, use, possession or acquisition of any Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all sales and other taxes, special assessments, governmental and other charges of any kind that are at any time lawfully assessed or levied against or with respect to the Equipment, the Rental Payments or any part of either thereof, or which become due during the Lease Term under the affected Lease, whether assessed against Lessee or Lessor. Lessee shall pay all utility and other charges incurred in the operation, use and maintenance of the Equipment. Lessee shall pay such taxes, assessments or charges as the same may become due; *provided* that, with respect to any such taxes, assessments or charges that may lawfully be paid in installments over a period of years, Lessee shall be obligated to pay only such installments as accrue during the Lease Term under the affected Lease. During the Lease Term under each Lease, Lessor will not claim ownership of the Equipment thereunder for the purposes of any tax credits, benefits or deductions with respect to such Equipment. In the event that the installation of any component of any item of Equipment could be deemed to require a payment and performance bond under Section 255.05, Florida Statutes, or be deemed subject to the mechanic's lien provision of Chapter 713, Florida Statutes, or any successor statute to each, as they may be amended from time to time, Lessee shall require such bonds, post such notices and do all other things provided for under such laws in order to keep the Equipment free of and exempt from all liens.

*Section 7.02. Insurance.* Lessee shall, during the Lease Term under each Lease, maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the greater of (i) the then applicable Outstanding Balance of the Equipment under such Lease or (ii) the replacement cost of such Equipment; (b) liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability for bodily injury and property damage coverage (i) in such coverage amounts as may be required

by Lessor for the applicable Equipment or (ii) in such minimum coverage amounts as may be agreed upon between Lessor and Lessee in connection with the execution and delivery of a Lease, and in all events under clauses (a) and (b) above issued in form and amount satisfactory to Lessor and by an insurance company that is authorized to do business in the State and having a financial strength rating by A.M. Best Company of "A-" or better; and (c) worker's compensation coverage as required by the laws of the State. Notwithstanding the foregoing, Lessee may self-insure against the risks described in clauses (a) and/or (b) through a government pooling arrangement, self-funded loss reserves, risk retention program or other self-insurance program, in each case with Lessor's prior consent (which Lessor may grant, withhold or deny in its sole discretion) and *provided* that Lessee has delivered to Lessor such information as Lessor may request with respect to the adequacy of such self-insurance to cover the risks proposed to be self-insured and otherwise in form and substance acceptable to Lessor. In the event Lessee is permitted, at Lessor's sole discretion, to self-insure as provided in this Section 7.02, Lessee shall provide to Lessor a self-insurance letter in form and substance satisfactory to Lessor, in Lessor's sole discretion. Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout the Lease Term under each Lease. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least thirty (30) days in advance of such cancellation or modification.

*Section 7.03. Risk of Loss.* Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Equipment under any Lease from any cause whatsoever, and no such loss of or damage to or liability arising from the Equipment under any Lease shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under any Lease, subject in all respects to the Lessee's right to non-appropriate. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the fullest extent permitted by applicable law, but only from legally available funds budgeted and appropriated for such purpose) for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into this Agreement or any Lease or any of the transactions contemplated hereby or thereby, (b) the ordering, acquisition, ownership, use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item of the Equipment under any Lease, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Equipment under any Lease resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this Agreement or any Lease or any material misrepresentation provided by Lessee under or in connection with this Agreement or any Lease. The provisions of this Section 7.03 shall continue in full force and effect notwithstanding the full payment of all obligations under any or all Leases or the termination of the Lease Term under any or all Leases for any reason.

*Section 7.04. Advances.* In the event Lessee shall fail to keep the Equipment in good repair and working order or shall fail to maintain any insurance required by Section 7.02 hereof, Lessor may, but shall be under no obligation to, maintain and repair the Equipment or obtain and maintain

any such insurance coverages, as the case may be, and pay the cost thereof. All amounts so advanced by Lessor shall constitute additional rent for the then current Original Term or Renewal Term under the affected Lease, and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date advanced until paid at a rate equal to the Contract Rate (or the Taxable Rate if then in effect) *plus* five percent (5%) per annum or the maximum amount permitted by law, whichever is less.

## ARTICLE VIII

*Section 8.01. Damage, Destruction and Condemnation.* If, prior to the termination of the Lease Term under the related Lease, (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment or such part thereof and any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to prepay the obligations under the affected Lease in accordance with Section 10.01(a)(ii) hereof.

If Lessee elects to replace any item of the Equipment (the “*Replaced Equipment*”) pursuant to this Section 8.01, the replacement equipment (the “*Replacement Equipment*”) shall be new or of a quality type, utility and condition at least as good as the Replaced Equipment and shall be of equal or greater value than the Replaced Equipment as determined and approved by Lessor in its sole discretion. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute “Equipment” for purposes of this Agreement and the related Lease. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment Date after the occurrence of a casualty event, or be required to prepay the obligations under the related Lease with respect to the damaged Equipment in accordance with Section 10.01(a)(ii) hereof.

For purposes of this Article VIII, the term “*Net Proceeds*” shall mean the amount remaining from the gross proceeds of any insurance claim or condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys’ fees, incurred in the collection thereof.

*Section 8.02. Insufficiency of Net Proceeds.* If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, Lessee shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pay or cause to be paid to Lessor the amount of the then applicable Casualty Value under the related



Lease *plus* all other amounts then owing thereunder, and, upon such payment, the applicable Lease Term shall terminate and Lessor's rights in the Equipment shall terminate as provided in Section 6.01 hereof. The amount of the Net Proceeds remaining, if any, after completing such repair, restoration, modification or improvement or after paying such Casualty Value for such Lease *plus* all other amounts then owing thereunder shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section 8.02, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

## ARTICLE IX

*Section 9.01. Disclaimer of Warranties.* Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of any of the Equipment under each Lease, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Equipment under each Lease shall be on an "as is" basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, any Lease, any Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Agreement or any Lease.

*Section 9.02. Vendor Agreements; Warranties.* Lessee covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement for any Lease without the prior written consent of Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term under each Lease, so long as Lessee shall not be in default under such Lease and so long as no Event of Non-appropriation has occurred, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that Lessor may have against a Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendor of the Equipment and not against Lessor. Any such matter shall not have any effect whatsoever on the rights and obligations of Lessor with respect to any Lease, including the right to receive full and timely Rental Payments and other payments under each Lease. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to any of the Equipment under each Lease.

## ARTICLE X

*Section 10.01. Prepayment; Payment in Full.*

(a) *Prepayment.* Lessee shall have the option to prepay or satisfy all, but not less than all, of its obligations under a Lease, at the following times and upon the following terms:

(i) *Optional Prepayment.* From and after the date specified (if any) in the applicable Payment Schedule (the "*Prepayment Option Commencement Date*"), on the Rental Payment Dates specified in such Payment Schedule, upon not less than thirty (30) days prior written notice, and upon payment in full of the sum of all Rental Payments

then due under the related Lease *plus* the then applicable Prepayment Price, which may include a prepayment premium on the unpaid Outstanding Balance as set forth in such Payment Schedule *plus* all other amounts then owing thereunder; or

(ii) *Casualty or Condemnation Prepayment.* In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment listed in a Lease, on the day specified in Lessee's notice to Lessor of its exercise of the prepayment option (which shall be the earlier of the next Rental Payment Date or sixty (60) days after the casualty event) upon payment in full to Lessor of (A) in the event such prepayment occurs on a Rental Payment Date, the sum of (i) all Rental Payments then due under such Lease *plus* (ii) the then applicable Casualty Value for such Lease *plus* (iii) all other amounts then owing thereunder or, (B) in the event such prepayment for such Lease occurs on a date other than a Rental Payment Date, the sum of (i) the applicable Casualty Value shown on the Payment Schedule for such Lease for the Rental Payment Date immediately preceding the applicable date of such prepayment (or if the date of such prepayment occurs prior to the first Rental Payment Date for such Lease, the earliest Casualty Value shown on the related Payment Schedule) *plus* (ii) accrued interest at the Contract Rate (or the Taxable Rate if then in effect) on the Outstanding Balance as of the Rental Payment Date immediately preceding the applicable date of such prepayment from such Rental Payment Date (or if the date of such prepayment occurs prior to the first Rental Payment Date, the Commencement Date for such Lease) to the date of such prepayment *plus* (iii) all other amounts then owing thereunder.

(b) *Payment in Full.* Upon the expiration of the Lease Term under a Lease, the payment in full of all Rental Payments then due and all other amounts then owing under such Lease by Lessee to Lessor.

(c) Lessor's interests in and to the related Equipment under such Lease will be terminated and Lessee will own such Equipment free and clear of Lessor's interest in such Equipment after either (i) payment of either (A) the applicable Prepayment Price and all other amounts then owing under a Lease in accordance with Section 10.01(a)(i) of this Agreement or (B) the applicable Casualty Value and all other amounts then owing under a Lease in accordance with Section 10.01(a)(ii) of this Agreement or (ii) upon the expiration of the Lease Term of a Lease and payment in full of all Rental Payments then due and all other amounts then owing thereunder in accordance with Section 10.01(b) of this Agreement.

## ARTICLE XI

*Section 11.01. Assignment by Lessor.* (a) Lessor's right, title and interest in and to the Rental Payments and any other amounts payable by Lessee under any and all of the Leases and the Escrow Agreement relating to any Lease, and all proceeds therefrom (collectively, with respect to each Lease and related Escrow Agreement, the "*Related Assigned Rights*"), may be assigned and reassigned by Lessor at any time, in whole or in part, to one or more assignees or sub-assignees without the necessity of obtaining the consent of Lessee; *provided*, that any such assignment, transfer or conveyance (i) shall be made only to investors each of whom Lessor reasonably believes is a "*qualified institutional buyer*" as defined in Rule 144A(a)(1) promulgated under the

Securities Act of 1933, as amended, or an “*accredited investor*” as defined in Section 501(a)(1), (2), (3) or (7) of Regulation D promulgated under the Securities Act of 1933, as amended, and in either case is purchasing the Related Assigned Rights (or any interest therein) for its own account with no present intention to resell or distribute such Related Assigned Rights (or interest therein), subject to each investor’s right at any time to dispose of the Related Assigned Rights (or any interest therein) as it determines to be in its best interests, (ii) shall not result in more than 35 owners of the Related Assigned Rights with respect to a Lease or the creation of any interest in the Related Assigned Rights with respect to a Lease in an aggregate principal component that is less than \$100,000 and (iii) shall not require Lessee to make Rental Payments, to send notices or otherwise to deal with respect to matters arising under the Related Assigned Rights with respect to a Lease with or to more than one Lease Servicer (as such term is defined below), and any trust agreement, participation agreement or custodial agreement under which multiple ownership interests in the Related Assigned Rights with respect to a Lease are created shall provide the method by which the owners of such interests shall establish the rights and duties of a single entity, trustee, owner, servicer or other fiduciary or agent acting on behalf of all of the assignees (herein referred to as the “*Lease Servicer*”) to act on their behalf with respect to the Related Assigned Rights with respect to a Lease, including with respect to the exercise of rights and remedies of Lessor on behalf of such owners upon the occurrence of an Event of Default or an Event of Non-appropriation under the related Lease. Lessor and Lessee hereby acknowledge and agree that the restrictions and limitations on transfer as provided in this Section 11.01 shall apply to the first and subsequent assignees and sub-assignees of any of the Related Assigned Rights with respect to a Lease (or any interest therein).

(b) Unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective as against Lessee until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, participation interests, trust certificates or partnership interests with respect to the Rental Payments payable under a Lease, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank, trust company or other entity that acts as the Lease Servicer for such Lease. Notices of assignment provided pursuant to this Section 11.01(b) shall contain a confirmation of compliance with the transfer requirements imposed by Section 11.01(a) hereof. During the Lease Term under each Lease, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees or Lease Servicer last designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or any Vendor. Assignments in part may include, without limitation, assignment of all of Lessor’s rights in and to the Equipment listed in a particular Lease and all rights in, to and under the Lease related to such Equipment and all rights in, to and under the related Escrow Agreement.

(c) If Lessor notifies Lessee of its intent to assign a Lease, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment with respect to such Lease, substantially in the form of *Exhibit G* attached hereto, within five (5) business days after its receipt of such request.

*Section 11.02. Assignment and Subleasing by Lessee.* **None of Lessee's right, title and interest in, to and under this Agreement, any Lease or any portion of the Equipment, any Escrow Agreement or the Escrow Account related thereto may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor's prior written consent shall be null and void.**

## ARTICLE XII

*Section 12.01. Events of Default Defined.* Any of the following events shall constitute an "Event of Default" under a Lease:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under any Lease within ten (10) days after the date when due as specified therein, (ii) maintain insurance as required under such Lease (including Section 7.02 of this Agreement, which is incorporated therein), or (iii) observe and perform any covenant, condition or agreement on its part to be observed or performed under Section 6.01 or 6.02 hereof for any Lease;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement contained in this Agreement or any Lease on its part to be observed or performed, other than as referred to in subsection (a) above, for a period of thirty (30) days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless Lessor shall agree in writing to an extension of such time prior to its expiration; *provided* that, if the failure stated in the notice cannot be corrected within the applicable period, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or any Lease or its execution, delivery or performance shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor (including, without limitation, the occurrence of any Event of Default under any other Lease), or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregated amount in excess of \$100,000.00;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors, (iv) have an order for relief entered against it under applicable Federal bankruptcy law, or (v) file a voluntary petition

in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, liquidation, readjustment, reorganization, moratorium or insolvency proceeding; or

(f) An order, judgment or decree shall be entered by any court of competent jurisdiction, approving a petition or appointing a receiver, trustee, custodian or liquidator for Lessee or of all or a substantial part of the assets of Lessee, in each case without its application, approval or consent, and such order, judgment or decree shall continue unstayed and in effect for any period of thirty (30) consecutive days.

*Section 12.02. Remedies on Default.* Whenever any Event of Default exists under any Lease, Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps with respect to any or all Leases with an Event of Default under this Agreement, including those with an Event of Default pursuant to Section 12.01(d) (each a “Defaulted Lease”):

(a) By written notice to Lessee, Lessor may declare all Rental Payments payable by Lessee pursuant to one or more Defaulted Leases and other amounts payable by Lessee under each such Defaulted Lease to the end of the then current Original Term or Renewal Term to be immediately due and payable;

(b) With or without terminating the Lease Term under any one or more Defaulted Leases, Lessor may request that Lessee, at Lessee’s expense, promptly return any or all of such Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Equipment or, for the account of Lessee, sublease such Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee pursuant to each such Defaulted Lease and other amounts related to each such Defaulted Lease that are payable by Lessee to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies under each such Defaulted Lease, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all brokerage, auctioneer’s and attorney’s fees), subject, however, to the provisions of Section 3.03 of this Agreement. The exercise of any such remedies respecting any such Event of Default under any such Defaulted Lease shall not relieve Lessee of any other liabilities under each such Defaulted Lease or any other Lease that Lessor determines not to treat as a Defaulted Lease or with respect to the Equipment listed therein;

(c) Lessor may terminate the Escrow Agreement relating to any one or more of such Defaulted Leases and apply any proceeds in each such applicable Escrow Account thereunder to the Rental Payments scheduled to be paid under any one or more of such Defaulted Leases as Lessor shall determine; and/or

(d) Subject to the next sentence, Lessor may take whatever action at law or in equity as may appear necessary or desirable to enforce its rights under each such Defaulted Lease or related Escrow Agreement or to any or all of the Equipment or the Escrow Account. The parties to this Agreement acknowledge that: (i) this Agreement is not intended to create a mortgage of or a security interest in the Equipment as proscribed by *Nohrr v. Brevard County Educational Facilities Authority*, 247 So. 2d 304 (Fla. 1971), and (ii) Lessor may not exercise any foreclosure-type remedies if an Event of Default occurs, *State v. Brevard County*, 539 So. 2d 461 (Fla. 1989), notwithstanding any provisions to the contrary in the Agreement.

*Section 12.03. No Remedy Exclusive.* No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder and/or under any Lease now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right or power may be exercised from time to time and as often as may be deemed expedient. In order to entitle Lessor to exercise any remedy reserved to it in this Article XII it shall not be necessary to give any notice other than such notice as may be required in this Article XII.

*Section 12.04. Application of Moneys.* Any net proceeds from the exercise of any remedy under this Agreement, including the application specified in Section 12.02(b)(ii) (after deducting all expenses of Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing Equipment and all brokerage, auctioneer's or attorney's fees), shall be applied as follows:

(a) If such remedy is exercised solely with respect to a single Defaulted Lease, Equipment listed in such Defaulted Lease or rights thereunder, then to amounts due pursuant to such Defaulted Lease and to other amounts related to such Defaulted Lease or such Equipment.

(b) If such remedy is exercised with respect to more than one Defaulted Lease, Equipment listed in more than one Defaulted Lease or rights under more than one Defaulted Lease, then to amounts due pursuant to one or more of such Defaulted Leases as Lessor shall determine and distribute on a pro rata basis or on such other basis as Lessor shall determine.

### **ARTICLE XIII**

*Section 13.01. Notices.* All notices, certificates or other communications under this Agreement or any Lease shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately above the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

*Section 13.02. Binding Effect.* This Agreement and each Lease shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

*Section 13.03. Severability.* In the event any provision of this Agreement or any Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof or thereof.

*Section 13.04. Amendments, Changes and Modifications.* This Agreement and each Lease may only be amended by Lessor and Lessee in writing.

*Section 13.05. Execution in Counterparts.* This Agreement and each Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument; *provided* that only Counterpart No. 1 of each Lease (including the terms and provisions of this Agreement incorporated therein by reference) shall constitute chattel paper for purposes of the applicable Uniform Commercial Code.

*Section 13.06. Applicable Law; Venue; Waiver of Jury Trial.* This Agreement and each Lease shall be governed by and construed in accordance with the laws of the State. The parties hereto consent and submit to the jurisdiction of the State and venue in any state or Federal court of such State for the purposes of any suit, action or other proceeding arising in connection with this Agreement or any Lease, and each party expressly waives any objections that it may have to the venue of such courts. The parties hereto expressly waive any right to trial by jury in any action brought on or with respect to this Agreement or any Lease.

*Section 13.07. Captions.* The captions or headings in this Agreement and in each Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement or any Lease.

*Section 13.08. No Advisory or Fiduciary Relationship.* In connection with all aspects of each transaction contemplated by this Agreement and each Lease thereunder (including in connection with any amendment, waiver or other modification hereof or of any other related document), the Lessee acknowledges and agrees that: (a) (i) the transactions regarding this Agreement and each Lease thereunder provided by the Lessor and any affiliate thereof are arm's-length commercial transactions between the Lessee, on the one hand, and the Lessor and its affiliates, on the other hand, (ii) the Lessee has consulted its own legal, accounting, regulatory and tax advisors to the extent it has deemed appropriate, and (iii) the Lessee is capable of evaluating, and understands and accepts, the terms, risks and conditions of the transactions contemplated by this Agreement and each Lease thereunder and by the other related documents; (b) (i) the Lessor and its affiliates each is and has been acting solely as a principal and, except as expressly agreed in writing by the relevant parties, has not been, is not, and will not be acting as an advisor, agent or fiduciary, for the Lessee, or any other person and (ii) neither the Lessor nor any of its affiliates has any obligation to the Lessee with respect to the transactions contemplated by this Agreement and each Lease thereunder except those obligations expressly set forth herein and in the other related documents; and (c) the Lessor and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Lessee, and neither the Lessor nor any of its affiliates has any obligation to disclose any of such interests to the Lessee. To the fullest

extent permitted by law, the Lessee, hereby waives and releases any claims that it may have against the Lessor or any of its affiliates with respect to any breach or alleged breach of agency or fiduciary duty in connection with any aspect of any transactions contemplated by this Agreement and each Lease thereunder.

*Section 13.09. Entire Agreement.* The parties agree that this Agreement and each Lease hereunder constitutes the final and entire agreement between the parties superseding all conflicting terms or provisions of any prior proposals, term sheets, solicitation documents, requests for proposals, award notices, approval letters or any other agreements or understandings between the parties.

*Section 13.10. Electronic Signatures.* The Related Documents may be executed and delivered by facsimile signature or other electronic or digital means (including, without limitation, Adobe's Portable Document Format ("PDF")). Any such signature shall be of the same force and effect as an original signature, it being the express intent of the parties to create a valid and legally enforceable contract between them. The exchange and delivery of the Related Documents and the related signature pages via facsimile or as an attachment to electronic mail (including in PDF) shall constitute effective execution and delivery by the parties and may be used by the parties for all purposes. Notwithstanding the foregoing, at the request of either party, the parties hereto agree to exchange inked original replacement signature pages as soon thereafter as reasonably practicable.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

[SIGNATURE PAGE FOLLOWS]



IN WITNESS WHEREOF, Lessor and Lessee have caused this Master Equipment Lease/Purchase Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:

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

LESSEE:

City of Cocoa, Florida  
65 Stone Street  
Cocoa, Florida 32922

Attention: \_\_\_\_\_

Fax No.: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## LIST OF EXHIBITS

Exhibit A-1	Form of Equipment Schedule – General Equipment
Exhibit A-2	Form of Equipment Schedule – Energy Services Equipment
Exhibit B	Form of Payment Schedule
Exhibit C-1A	Form of Authorizing Resolution (Agreement)
Exhibit C-1B	Form of Authorizing Resolution (Lease)
Exhibit C-2A	Form of Incumbency and Authorization Certificate (Agreement)
Exhibit C-2B	Form of Incumbency and Authorization Certificate (Lease)
Exhibit D	Form of Opinion of Counsel to Lessee
Exhibit E	Form of Final Acceptance Certificate
Exhibit F	Reserved
Exhibit G	Form of Notice and Acknowledgement of Assignment
Exhibit H	Form of Escrow Agreement

## EXHIBIT A-1

### FORM OF EQUIPMENT SCHEDULE NO. \_\_\_\_\_ - GENERAL EQUIPMENT

Re: Master Equipment Lease/Purchase Agreement, dated as of December 12, 2024, between Banc of America Public Capital Corp, a Kansas corporation, as Lessor, and the City of Cocoa, Florida, as Lessee

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

2. *Equipment.* For purposes of the Lease created hereby, the following items of Equipment are hereby included under this Equipment Schedule together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto as provided in the Agreement.

QUANTITY	DESCRIPTION	SERIAL NO.	MODEL NO.	LOCATION
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3. *Payment Schedule.*

(a) *Rental Payments; Commencement Date.* The Rental Payments shall be in such amounts and payable on such Rental Payment Dates as set forth in the Payment Schedule attached to this Equipment Schedule and incorporated herein by this reference, subject to adjustment upon the occurrence of an Event of Taxability as provided in Section 4.06 of the Agreement. Lessee’s obligation to pay Rental Payments under the Lease created hereby shall commence on the earlier of (i) the date on which the Equipment listed in this Equipment Schedule is accepted by Lessee in the manner described in Section 5.01 of the Agreement, as evidenced by the Final Acceptance Certificate executed by Lessee and substantially in the form of *Exhibit E* attached to the Agreement, or (ii) the date on which the Acquisition Amount is deposited in an Escrow Account for the purpose of acquiring and installing the Equipment listed in this Equipment Schedule pursuant to Section 3.04(c) of the Agreement (the earlier of such two dates being herein referred to as the “*Commencement Date*”).

(b) *Prepayment Price Schedule.* The Prepayment Price on each Rental Payment Date shall be the amount set forth for such Rental Payment Date in the “Prepayment Price” column of the Payment Schedule attached to this Equipment Schedule *plus* all Rental Payments then due (including the Rental Payment due on such Rental Payment Date) *plus* all other amounts then owing under this Equipment Schedule.

4. *Representations, Warranties and Covenants.* Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement (particularly Section 2.01 thereof) are true and correct as though made on the Commencement Date. Lessee further represents and warrants that (a) no Material Adverse Change has occurred since the dated date of the Agreement; (b) no Event of Default has occurred and is continuing under any Lease currently in effect; (c) no Event of Non-appropriation under any Lease currently in effect has occurred or is threatened; (d) no Lease has been terminated as the result of the occurrence of an Event of Default or an Event of Non-appropriation; (e) the governing body of Lessee has authorized the execution and delivery of the Agreement and this Equipment Schedule; (f) the Equipment listed in this Equipment Schedule is essential to the functions of Lessee or to the services Lessee provides its citizens; (g) Lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority; and (h) Lessee expects and anticipates adequate funds to be available for all future payments or rent due after the current budgetary period.

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

[OPTION: IF ESCROW AGREEMENT IS USED:

6. *Acquisition Amount.* The Acquisition Amount that Lessor shall pay to the Escrow Agent for deposit into the Escrow Account in connection with this Equipment Schedule is \$\_\_\_\_\_. It is expected that by [six (6)] [twelve (12)] [eighteen (18)] months from the date of this Equipment Schedule No. \_\_\_\_\_, Lessee will have taken possession of all items of Equipment shown above and that the Lessee's final Disbursement Request pursuant to the Escrow Agreement will be signed by Lessee, approved by Lessor and delivered to the Escrow Agent on or before [six (6)] [twelve (12)] [eighteen (18)] months from the date of this Equipment Schedule.

OR IF VENDOR PAID DIRECTLY USE:

6. *Acquisition Amount.* The Acquisition Amount for the Equipment listed in this Equipment Schedule to be paid to the Vendor (or reimbursed to Lessee) is \$\_\_\_\_\_.]

[OPTION: IF ESCROW AGREEMENT IS USED:

7. *Acquisition Period.* The Acquisition Period applicable to this Equipment Schedule shall end at the conclusion of the \_\_\_\_\_ month following the date hereof.]

[OPTION: IF ESCROW AGREEMENT IS USED AND A SURETY BOND IS REQUIRED:

[8.] *Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties.* Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Equipment listed in this Equipment Schedule, a payment and performance bond (“*Surety Bond*”) executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of “A-” or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Equipment listed in this Equipment Schedule and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied in accordance with such Surety Bond to the payment and performance of the Vendor’s obligations in accordance with the related Vendor Agreement and, if for whatever reason such proceeds are not so applied, first to amounts due Lessor under this Equipment Schedule, and any remaining amounts shall be payable to Lessee.

In the event of a material default by any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Equipment listed in this Equipment Schedule or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to such Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee in respect of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee’s obligations under this Equipment Schedule.

As a prerequisite to the performance by Lessor of any of its obligations under this Equipment Schedule, Lessee shall deliver to Lessor, in form and substance satisfactory to Lessor, a certified copy of each Surety Bond satisfying the conditions set forth in this Section \_\_\_\_, or, at Lessor’s sole discretion, such Surety Bonds may be provided after the Commencement Date of this Equipment Schedule, provided however, that no “Disbursement Request” pursuant to the Escrow Agreement for this Equipment Schedule (other than for costs of issuance) shall be authorized by Lessor until such Surety Bonds satisfying the conditions set forth in this Section \_\_\_\_\_ have been delivered to Lessor.

[7][8][9]. *Lease Term.* The Lease Term shall consist of the Original Term and consecutive Renewal Terms, with the final Renewal Term ending on \_\_\_\_\_, subject to earlier termination pursuant to the Agreement.

[OPTION: IF MOTOR VEHICLES ARE BEING FINANCED:

[8][9][10]. *Registration.* Any Equipment that is a motor vehicle is to be registered and titled in the name of Lessee as registered owner. Lessee shall be responsible for the correct titling of all Equipment leased hereunder. Lessee will cause the original Certificates of Title to be delivered to Lessor for retention in Lessor’s files throughout the Lease Term of the Lease created hereby.

Dated: \_\_\_\_\_

LESSOR:

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

LESSEE:

City of Cocoa, Florida  
65 Stone Street  
Cocoa, Florida 32922  
Attention: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Counterpart No. \_\_\_\_\_ of \_\_\_\_\_ manually executed and serially numbered counterparts. To the extent that the Lease created hereby constitutes chattel paper (as defined in the applicable Uniform Commercial Code), no security or ownership interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

## EXHIBIT A-2

### FORM OF EQUIPMENT SCHEDULE NO. \_\_\_\_\_ - ENERGY SERVICES EQUIPMENT

Re: Master Equipment Lease/Purchase Agreement, dated as of December 12, 2024, between Banc of America Public Capital Corp, a Kansas corporation, as Lessor, and the City of Cocoa, Florida, as Lessee

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

2. *Equipment.*

(a) Location of Equipment: For purposes of the Lease created hereby, the location of Equipment is set forth below:

(b) Equipment Description (Scope of Work): For purposes of the Lease created hereby, the description of the Equipment and the scope of work is set forth below:

3. *Payment Schedule.*

(a) *Rental Payments; Commencement Date.* The Rental Payments shall be in such amounts and payable on such Rental Payment Dates as set forth in the Payment Schedule attached to this Equipment Schedule and incorporated herein by this reference, subject to adjustment upon the occurrence of an Event of Taxability as provided in Section 4.06 of the Agreement. Lessee’s obligation to pay Rental Payments under the Lease created hereby shall commence on the earlier of (i) the date on which the Equipment listed in this Equipment Schedule is accepted by Lessee in the manner described in Section 5.01 of the Agreement, as evidenced by the Final Acceptance Certificate executed by Lessee and substantially in the form of *Exhibit E* attached to the Agreement, or (ii) the date on which the Acquisition Amount is deposited in an Escrow Account for the purpose of acquiring and installing the Equipment listed in this Equipment Schedule pursuant to Section 3.04(c) of the Agreement (the earlier of such two dates being herein referred to as the “*Commencement Date*”).

(b) *Prepayment Price Schedule.* The Prepayment Price on each Rental Payment Date shall be the amount set forth for such Rental Payment Date in the “Prepayment Price” column of the Payment Schedule attached to this Equipment Schedule *plus* all Rental Payments then due (including the Rental Payment due on such Rental Payment Date) *plus* all other amounts then owing under this Equipment Schedule.

4. *Representations, Warranties and Covenants.* Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement (particularly Section 2.01 thereof) are true and correct as though made on the Commencement Date. Lessee further represents and warrants that (a) no Material Adverse Change has occurred since the dated date of the Agreement; (b) no Event of Default has occurred and is continuing under any Lease currently in effect; (c) no Event of Non-appropriation under any Lease currently in effect has occurred or is threatened; (d) no Lease has been terminated as the result of the occurrence of an Event of Default or an Event of Non-appropriation; (e) the governing body of Lessee has authorized the execution and delivery of the Agreement and this Equipment Schedule; (f) the Equipment listed in this Equipment Schedule is essential to the functions of Lessee or to the services Lessee provides its citizens; (g) Lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority; and (h) Lessee expects and anticipates adequate funds to be available for all future payments or rent due after the current budgetary period. 5. *The Lease.* The terms and provisions of the Agreement (other than to the extent that they relate solely to other Equipment Schedules or Equipment listed on other Equipment Schedules) are hereby incorporated into this Equipment Schedule by reference and made a part hereof.

6. *Acquisition Amount.* The Acquisition Amount that Lessor shall pay to the Escrow Agent for deposit into the Escrow Account in connection with this Equipment Schedule is \$\_\_\_\_\_. It is expected that by [six (6)] [twelve (12)] [eighteen (18)] months from the date of this Equipment Schedule No. \_\_\_\_\_, Lessee will have taken possession of all items of Equipment shown above and that the Lessee's final Disbursement Request pursuant to the Escrow Agreement will be signed by Lessee, approved by Lessor and delivered to the Escrow Agent on or before [six (6)] [twelve (12)] [eighteen (18)] months from the date of this Equipment Schedule.

7. *Acquisition Period.* The Acquisition Period applicable to this Equipment Schedule shall end at the conclusion of the \_\_\_\_ month following the date hereof.

8. *Additional Representation Regarding the Use and Maintenance of the Equipment; Additional Representation Regarding Damage, Destruction and Condemnation.*

(a) Lessee agrees that it shall (i) proceed promptly, at its expense, to protect its rights and exercise its remedies under any warranty then in effect with respect to the Equipment under this Equipment Schedule; and (ii) replace or rebuild any component of the Equipment under this Equipment Schedule that becomes permanently unfit for normal use or inoperable during the Lease Term of this Equipment Schedule (herein, the "*Inoperable Component*") in order to keep the Equipment as a whole in good repair and working order during the Lease Term of this Equipment Schedule. Lessee shall promptly notify Lessor in writing when any component of the Equipment under this Equipment Schedule is reasonably expected within forty-five (45) days to become an Inoperable Component. Lessee shall promptly replace or rebuild the Inoperable Component under this Equipment Schedule with a similar component of comparable or improved make and model that has at least the equivalent value and utility of the applicable Inoperable Component, a



remaining useful life of no less than the remaining Lease Term under this Equipment Schedule and such replacement or rebuilt component shall be in good operating condition.

(b) If Lessee elects to replace any item of the Equipment with Replacement Equipment pursuant to Section 8.01 of the Agreement, in addition to the other requirements set forth in Section 8.01, the Replacement Equipment shall also provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation and shall have an expected remaining useful life at least through the Lease Term.

9. *Liability Insurance.* Lessee shall, during the Lease Term under this Equipment Schedule, maintain or cause to be maintained liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability with limits of at least \$5,000,000 per occurrence for bodily injury and property damage coverage (such liability insurance coverage may be in a combination of primary general liability and/or excess liability umbrella coverage).

10. *Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties.* Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Equipment listed in this Equipment Schedule, a payment and performance bond ("*Surety Bond*") executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of "A-" or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Equipment listed in this Equipment Schedule and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied in accordance with such Surety Bond to the payment and performance of the Vendor's obligations in accordance with the related Vendor Agreement and, if for whatever reason such proceeds are not so applied, first to amounts due Lessor under this Equipment Schedule, and any remaining amounts shall be payable to Lessee.

In the event of a material default by any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Equipment listed in this Equipment Schedule or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to such Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with any such default. Any amounts received by Lessee in respect of damages, refunds, adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee's obligations under this Equipment Schedule.

As a prerequisite to the performance by Lessor of any of its obligations under this Equipment Schedule, Lessee shall deliver to Lessor, in form and substance satisfactory to Lessor, a certified copy of each Surety Bond satisfying the conditions set forth in this Section \_\_\_, or, at Lessor's sole discretion, such Surety Bonds may be provided after the Commencement Date of

this Equipment Schedule, provided however, that no "Disbursement Request" pursuant to the Escrow Agreement (other than for costs of issuance) for this Equipment Schedule shall be authorized by Lessor until such Surety Bonds satisfying the conditions set forth in this Section \_\_\_\_\_ have been delivered to Lessor.

11. *Lease Term.* The Lease Term shall consist of the Original Term and consecutive Renewal Terms, with the final Renewal Term ending on \_\_\_\_\_, subject to earlier termination pursuant to the Agreement.

Dated: \_\_\_\_\_

LESSOR:  
Banc of America Public Capital Corp  
11333 McCormick Road  
Hunt Valley II  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
Attention: Contract Administration

LESSEE:  
City of Cocoa, Florida  
65 Stone Street  
Cocoa, Florida 32922  
Attention: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Counterpart No. \_\_\_\_\_ of \_\_\_\_\_ manually executed and serially numbered counterparts. To the extent that the Lease created hereby constitutes chattel paper (as defined in the applicable Uniform Commercial Code), no security or ownership interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

**EXHIBIT B**

**FORM OF PAYMENT SCHEDULE**

RENTAL PAYMENT DATE	RENTAL PAYMENT AMOUNT	INTEREST PORTION	PRINCIPAL PORTION	OUTSTANDING BALANCE	PREPAYMENT PRICE [including prepayment premium, if applicable]	CASUALTY VALUE [including casualty premium, if applicable]
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*Contract Rate; Taxable Rate.* The Contract Rate for this Equipment Schedule is \_\_\_\_\_% per annum. The Taxable Rate for this Equipment Schedule is \_\_\_\_\_% per annum.

*Prepayment Option Commencement Date.* For purposes of Section 10.01 of the Agreement, the Prepayment Option Commencement Date for this Equipment Schedule is \_\_\_\_\_.

LESSOR:  
Banc of America Public Capital Corp

LESSEE:  
City of Cocoa, Florida

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT C-1A

### FORM OF AUTHORIZING RESOLUTION (AGREEMENT)

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF COCOA, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT AND SEPARATE EQUIPMENT SCHEDULES THERETO FOR THE ACQUISITION, FINANCING AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT WITHIN THE TERMS HEREIN PROVIDED; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the City of Cocoa, Florida (the “*Lessee*”), a municipal corporation duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of Florida, is authorized by the laws of the State of Florida to acquire, finance and lease personal property (tangible and intangible) for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the governing body of the Lessee (the “*Board*”) has determined that a need exists for the acquisition, financing and leasing of certain equipment consisting of \_\_\_\_\_, which constitutes personal property necessary for the Lessee to perform essential governmental functions (collectively, the “*Equipment*”) on the terms herein provided; and

WHEREAS, in order to acquire such Equipment, the Lessee proposes to enter into that certain Master Equipment Lease/Purchase Agreement (the “*Agreement*”) with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the “*Lessor*”), substantially in the proposed form presented to the Board at this meeting, and separate Equipment Schedules thereto substantially in the form attached to the Agreement; and

WHEREAS, the Board deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Agreement and separate Equipment Schedules thereunder and the other documentation relating thereto from time to time as provided in the Agreement for the acquisition, financing and leasing of the Equipment to be therein described on the terms and conditions therein and herein provided;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the governing body of the Lessee as follows:

*Section I. Findings and Determinations.* It is hereby found and determined that the terms of the Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto), in the form presented to the Board at this meeting, are in the best interests of the Lessee for the acquisition financing and leasing of the Equipment.

*Section 2. Approval of Documents.* The form, terms and provisions of the Agreement (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto) are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by \_\_\_\_\_ [insert title of officials] of the Lessee or other members of the governing body of the Lessee (the “*Authorized Officials*”) executing (in writing or electronically) the same, the execution of such documents being conclusive evidence of such approval; and the \_\_\_\_\_ of the Lessee is hereby authorized and directed to execute (in writing or electronically), and the \_\_\_\_\_ of the Lessee is hereby authorized and directed to attest, the Agreement and any related Exhibits attached thereto and to deliver the Agreement (including such Exhibits) to the respective parties thereto, and the \_\_\_\_\_ of the Lessee is hereby authorized to affix the seal of the Lessee to such documents. The Authorized Officials are each hereby authorized and directed to sign and deliver on behalf of the Lessee the Agreement, each Equipment Schedule thereto under which a separate Lease (as defined in the Agreement) is created, each Payment Schedule attached thereto, any related Escrow Agreement and any related exhibits attached thereto if and when required; *provided, however*, that, without further authorization from the governing body of the Lessee, (a) the aggregate principal component of Rental Payments under all Leases entered into pursuant to the Agreement shall not exceed \$\_\_\_\_\_; (b) the maximum term under any Lease entered into pursuant to the Agreement shall not exceed [\_\_\_\_\_] years; and (c) the maximum interest rate used to determine the interest component of Rental Payments under each Lease shall not exceed the lesser of the maximum rate permitted by law or [\_\_\_\_\_] percent (\_\_\_\_%) per annum. The Authorized Officials may execute (in writing or electronically) and deliver Leases to the Lessor on behalf of the Lessee pursuant to the Agreement on such terms and conditions as they shall determine are in the best interests of the Lessee up to the maximum aggregate principal component, maximum term and maximum interest rate provided above. The foregoing authorization shall remain in effect for a period of [two] years from the date hereof during which the Authorized Officials are authorized to execute (in writing or electronically) and deliver Leases pursuant to the Agreement on the terms and conditions herein provided and to be provided in each such Lease.

*Section 3. Other Actions Authorized.* The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution (in writing or electronically) and delivery of Final Acceptance Certificates, Escrow Agreements, Disbursement Requests and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution (in writing or electronically) and delivery of any closing and other documents required to be delivered in connection with the Agreement and each Lease.

*Section 4. No General Liability.* Nothing contained in this Resolution, the Agreement, any Lease, any Escrow Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement, any Lease, any Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under each

Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

*Section 5. Appointment of Authorized Lessee Representatives.* The \_\_\_\_\_ and \_\_\_\_\_ of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of each Lease and related Escrow Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Agreement and any Lease or Escrow Agreement.

*Section 6. Severability.* If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

*Section 7. Repealer.* All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency with respect to this Resolution. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

*Section 8. Effective Date.* This Resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the governing body of the Lessee this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

City of Cocoa, Florida,  
as lessee

[SEAL]

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned, a duly elected or appointed and acting \_\_\_\_\_ [Secretary] [City Clerk] [County Clerk] of the Lessee identified in the above Resolution No. \_\_\_\_ (the "*Resolution*"), hereby certifies that the Resolution is a full, true and correct copy of such Resolution as adopted by the governing body of the Lessee on \_\_\_\_\_, 20\_\_\_. The Resolution is in full force and effect on the date hereof and has not been amended, modified or otherwise changed by the governing body of the Lessee since the date of adoption of the Resolution.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

## EXHIBIT C-1B

### FORM OF AUTHORIZING RESOLUTION (LEASE)

A RESOLUTION OF THE GOVERNING BODY OF THE CITY OF COCOA, FLORIDA, AUTHORIZING THE EXECUTION AND DELIVERY OF AN EQUIPMENT SCHEDULE TO THE MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT FOR THE ACQUISITION, FINANCING AND LEASING OF CERTAIN EQUIPMENT FOR THE PUBLIC BENEFIT WITHIN THE TERMS PROVIDED HEREIN; AUTHORIZING THE EXECUTION AND DELIVERY OF OTHER DOCUMENTS REQUIRED IN CONNECTION THEREWITH; AND AUTHORIZING THE TAKING OF ALL OTHER ACTIONS NECESSARY TO THE CONSUMMATION OF THE TRANSACTIONS CONTEMPLATED BY THIS RESOLUTION.

WHEREAS, the City of Cocoa, Florida (the “*Lessee*”), a municipal corporation duly organized and existing as a political subdivision, municipal corporation or similar public entity of the State of Florida, is authorized by the laws of the State of Florida to acquire, finance and lease personal property (tangible and intangible) for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, the governing body of the Lessee (the “*Board*”) has determined that a need exists for the acquisition, financing and leasing of certain equipment with a cost not to exceed \$\_\_\_\_\_ and consisting of \_\_\_\_\_, which constitutes personal property necessary for the Lessee to perform essential governmental functions (collectively, the “*Equipment*”) on the terms herein provided; and

WHEREAS, in order to acquire such Equipment, the Lessee proposes to enter into that certain Equipment Schedule (the “*Equipment Schedule*”) with Banc of America Public Capital Corp (or one of its affiliates), as lessor (the “*Lessor*”), substantially in the proposed form presented to the Board at this meeting, which Equipment Schedule incorporates by reference the terms and provisions of that certain Master Equipment Lease/Purchase Agreement dated as of December 12, 2024 by and between Lessor and Lessee (the “*Agreement*”); and

WHEREAS, the Board deems it for the benefit of the Lessee and for the efficient and effective administration thereof to enter into the Equipment Schedule and the other documentation relating to the acquisition, financing and leasing of the Equipment to be therein described on the terms and conditions therein and herein provided;

NOW, THEREFORE, BE IT AND IT IS HEREBY RESOLVED by the governing body of the Lessee as follows:

*Section I. Findings and Determinations.* It is hereby found and determined that the terms of the Equipment Schedule and the form of Payment Schedule, in the form presented to the Board at this meeting, are in the best interests of the Lessee for the acquisition financing and leasing of the Equipment.



*Section 2. Approval of Documents.* The form, terms and provisions of the Equipment Schedule and Payment Schedule are hereby approved in substantially the forms presented at this meeting, with such insertions, omissions and changes as shall be approved by \_\_\_\_\_ [insert title of officials] of the Lessee or other members of the governing body of the Lessee (the “*Authorized Officials*”) executing (in writing or electronically) the same, the execution of such documents being conclusive evidence of such approval. The Authorized Officials are each hereby authorized and directed to execute (in writing or electronically) and deliver on behalf of the Lessee the Equipment Schedule under which a separate Lease (as defined in the Agreement) is created, the Payment Schedule attached thereto, the Escrow Agreement and any related exhibits attached thereto.

*Section 3. Other Actions Authorized.* The officers and employees of the Lessee shall take all action necessary or reasonably required by the parties to the Lease to carry out, give effect to and consummate the transactions contemplated thereby (including the execution (in writing or electronically) and delivery of a Final Acceptance Certificate, the Escrow Agreement, Disbursement Requests and any tax certificate and agreement, as contemplated in the Agreement) and to take all action necessary in conformity therewith, including, without limitation, the execution (in writing or electronically) and delivery of any closing and other documents required to be delivered in connection with the Lease.

*Section 4. No General Liability.* Nothing contained in this Resolution, the Lease, the Escrow Agreement nor any other instrument shall be construed with respect to the Lessee as incurring a pecuniary liability or charge upon the general credit of the Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Lease, the Escrow Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon the Lessee or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Lease entered into pursuant to the Agreement are limited obligations of the Lessee, subject to annual appropriation, as provided in the Agreement.

*Section 5. Appointment of Authorized Lessee Representatives.* The \_\_\_\_\_ and \_\_\_\_\_ of the Lessee are each hereby designated to act as authorized representatives of the Lessee for purposes of the Lease and the Escrow Agreement until such time as the governing body of the Lessee shall designate any other or different authorized representative for purposes of the Lease or the Escrow Agreement.

*Section 6. Severability.* If any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

*Section 7. Repealer.* All bylaws, orders and resolutions or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency with respect to this Resolution. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

*Section 8. Effective Date.* This Resolution shall be effective immediately upon its approval and adoption.

ADOPTED AND APPROVED by the governing body of the Lessee this \_\_\_\_ day of \_\_\_\_\_,  
20\_\_.

City of Cocoa, Florida,  
as lessee

[SEAL]

By: \_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Printed: Name: \_\_\_\_\_  
Title: \_\_\_\_\_

The undersigned, a duly elected or appointed and acting \_\_\_\_\_ [Secretary] [City Clerk] [County Clerk] of the Lessee identified in the above Resolution No. \_\_\_\_ (the "*Resolution*"), hereby certifies that the Resolution is a full, true and correct copy of such Resolution as adopted by the governing body of the Lessee on \_\_\_\_\_, 20\_\_\_. The Resolution is in full force and effect on the date hereof and has not been amended, modified or otherwise changed by the governing body of the Lessee since the date of adoption of the Resolution.

DATED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**EXHIBIT C-2A**

**FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE (AGREEMENT)**

The undersigned, a duly elected or appointed and acting \_\_\_\_\_ [Secretary]  
[City Clerk] [County Clerk] of the City of Cocoa, Florida (“*Lessee*”) certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the “*Officials*”) in the capacity set forth opposite their respective names below and the facsimile signatures below are true and correct as of the date hereof; and

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute (in writing or electronically) and deliver the Master Equipment Lease/Purchase Agreement dated as of December 12, 2024 (the “*Agreement*”) and separate Equipment Schedules relating thereto from time to time as provided in the Agreement (collectively, the “*Equipment Schedules*”), each by and between Lessee and Banc of America Public Capital Corp (“*Lessor*”), [the Escrow Agreement dated as of \_\_\_\_\_, 20\_\_ by and among Lessor, Lessee and \_\_\_\_\_ as Escrow Agent,] all documents related thereto and delivered in connection therewith, and any future modification(s) or amendments thereof (collectively, the “*Operative Agreements*”), and the Operative Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

(THE SIGNER OF THIS CERTIFICATE CANNOT BE LISTED ABOVE AS AUTHORIZED TO EXECUTE THE  
OPERATIVE AGREEMENTS.)

**EXHIBIT C-2B**

**FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE (LEASE)**

The undersigned, a duly elected or appointed and acting \_\_\_\_\_ [Secretary]  
[City Clerk] [County Clerk] of the City of Cocoa, Florida (“*Lessee*”) certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the “*Officials*”) in the capacity set forth opposite their respective names below and the facsimile signatures below are true and correct as of the date hereof; and

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute (in writing or electronically) and deliver the Equipment Schedule No. \_\_\_\_ dated as of \_\_\_\_\_, 20\_\_ (the “*Equipment Schedule*”), which incorporates by reference the terms and provisions of the Master Equipment Lease/Purchase Agreement dated as of December 12, 2024 (the “*Agreement*”), each by and between Lessee and Banc of America Public Capital Corp (“*Lessor*”), [the Escrow Agreement dated as of \_\_\_\_\_ by and among Lessor, Lessee \_\_\_\_\_ as Escrow Agent,] and all documents related thereto and delivered in connection therewith, and any future modification(s) or amendments thereof (collectively, the “*Operative Agreements*”), and the Operative Agreements each are the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(THE SIGNER OF THIS CERTIFICATE CANNOT BE LISTED ABOVE AS AUTHORIZED TO EXECUTE THE  
OPERATIVE AGREEMENTS.)

## EXHIBIT D

### FORM OF OPINION OF COUNSEL TO LESSEE

(to be typed on letterhead of counsel)

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

Re: Equipment Schedule No. \_\_\_\_\_, dated \_\_\_\_\_. 20\_\_, to Master Equipment Lease/Purchase Agreement, dated as of December 12, 2024, by and between Banc of America Public Capital Corp, as Lessor, and the city of Cocoa, Florida, as Lessee

Ladies and Gentlemen:

As legal counsel to the City of Cocoa, Florida ("*Lessee*"), I have examined (a) an executed counterpart of that certain Master Equipment Lease/Purchase Agreement, dated as of December 12, 2024 (the "*Agreement*") and Exhibits thereto, by and between Banc of America Public Capital Corp, as lessor ("*Lessor*"), and Lessee; (b) an executed counterpart of Equipment Schedule No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_, by and between Lessor and Lessee, which incorporates by reference the terms and provisions of the Agreement (such Equipment Schedule No. \_\_\_\_\_ together with such incorporated terms and provisions are herein referred to collectively as the "*Equipment Schedule*"), has attached the Payment Schedule with respect thereto (the "*Payment Schedule*") executed by Lessee, and provides for the lease of certain property listed in the Equipment Schedule (the "*Equipment*"); (c) an executed counterpart of that certain Escrow Agreement dated as of \_\_\_\_\_, 20\_\_ (the "*Escrow Agreement*"), by and among Lessor, Lessee and [\_\_\_\_\_] as Escrow Agent; (d) an executed counterpart of the ordinances or resolutions of Lessee with respect to authorization of the transaction contemplated by the Agreement, the Equipment Schedule, the Escrow Agreement and documents related thereto; and (e) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. The Agreement, the Equipment Schedule, including the terms and provisions of the Agreement incorporated therein by reference, the related Payment Schedule, the Escrow Agreement and the documents relating thereto are herein collectively referred to as the "*Transaction Documents*".

Based on the foregoing, I am of the following opinions:

1. Lessee is a municipal corporation, duly organized and existing under the laws of the State, and is a political subdivision of the State within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "*Code*") and the obligations of Lessee under the Lease will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code.

2. Lessee has the requisite power and authority to lease and acquire the Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Transaction Documents.

3. The Transaction Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents are legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with their respective terms, except to the extent limited by State and Federal law affecting creditor's remedies and by bankruptcy, reorganization, moratorium or other laws of general application relating to or affecting the enforcement of creditors' rights.

4. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, procurement and public bidding laws and all other applicable State or Federal laws.

5. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Equipment under the Lease and the Escrow Account.

6. The portion of Rental Payments designated as interest is excluded from gross income for Federal income tax purposes under Section 103 of the Code and is exempt from State of Florida personal income taxes; and such interest is not a specific item of tax preference for purposes of the Federal alternative minimum tax.

All capitalized terms herein shall have the same meanings as in the Transaction Documents, unless otherwise provided herein. Lessor and its successors and assigns, and any counsel rendering an opinion on the tax-exempt status of the Rental Payments, are entitled to rely on this opinion.

Printed Name: \_\_\_\_\_

Firm: \_\_\_\_\_

Address: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

Signature: \_\_\_\_\_

Dated: \_\_\_\_\_

## EXHIBIT E

### FORM OF FINAL ACCEPTANCE CERTIFICATE

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

Re: Equipment Schedule No. \_\_\_\_\_, dated \_\_\_\_\_, to Master Equipment Lease/Purchase Agreement, dated as of December 12, 2024, by and between Banc of America Public Capital Corp, as Lessor, and the City of Cocoa, Florida, as Lessee

Ladies and Gentlemen:

In accordance with the above-referenced Master Equipment Lease/Purchase Agreement (the “*Agreement*”), the undersigned Lessee hereby certifies and represents to, and agrees with, Lessor as follows:

1. Lessee has conducted such inspection and testing of the Equipment listed in the Equipment Schedule as it deems appropriate, and all of the Equipment has been delivered, installed and is unconditionally accepted for all purposes by Lessee, and title to the Equipment has transferred to Lessee and any security interest of Vendor therein has been released.
2. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.
3. Lessee hereby reaffirms that the representations, warranties and covenants contained in the Agreement and incorporated into the Equipment Schedule by reference are true and correct as of the date hereof.
4. (a) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default exists at the date hereof under any Lease currently in effect; (b) no Material Adverse Change has occurred since the date of the execution and delivery of the Agreement; (c) no Event of Non-appropriation under any Lease currently in effect has occurred or been threatened; and (d) no Lease has been terminated as the result of the occurrence of an Event of Default or an Event of Non-appropriation.

Capitalized terms used, but not defined, in this Final Acceptance Certificate shall have the same meanings as when such terms are used in the Agreement.



Date: \_\_\_\_\_

LESSEE:

City of Cocoa, Florida

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**EXHIBIT F**

**RESERVED**

## EXHIBIT G

### FORM OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT

Dated \_\_\_\_\_

BANC OF AMERICA PUBLIC CAPITAL CORP (“Assignor”) hereby gives notice that, as of \_\_\_\_\_, 20\_\_, it has assigned and sold to [\_\_\_\_\_] (“Assignee”) all of Assignor’s right, title and interest in, to and under Equipment Schedule No. \_\_\_\_\_, dated \_\_\_\_\_, 20\_\_ (including the Payment Schedule attached thereto, the “*Equipment Schedule*”), which incorporates by reference the terms and provisions of that certain Master Equipment Lease/Purchase Agreement dated as of December 12, 2024 (the “*Agreement*”), each by and between Assignor and the City of Cocoa, Florida (“*Lessee*”), together with all exhibits, schedules, riders, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Lease (as such term is hereinafter defined), all of Assignor’s right, title and interest in the Equipment listed in the Equipment Schedule and all of Assignor’s right, title and interest in, to and under the Escrow Agreement dated as of \_\_\_\_\_, 20\_\_ (the “*Escrow Agreement*”) by and among Lessee, Assignor and [\_\_\_\_\_] as Escrow Agent, together with the Escrow Account (collectively, the “*Assigned Property*”).

For purposes of this Notice and Acknowledgment of Assignment (the “*Acknowledgment*”), “*Lease*” means collectively the Equipment Schedule and the terms and provisions of the Agreement incorporated therein by reference, together with all exhibits, schedules, riders, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith. The term “*Lease*” specifically excludes all other Equipment Schedules entered into under the Agreement and Rental Payments other than with respect to the Equipment Schedule. Each capitalized term used but not defined herein has the meaning set forth in the Agreement.

1. Lessee hereby acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignee all Rental Payments and other amounts coming due under the Lease in accordance with the terms thereof on and after the date of this Acknowledgment.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Lease and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the Equipment in accordance with the terms of the Lease, to declare a default and to exercise all rights and remedies thereunder in connection with the occurrence of an Event of Non-appropriation or an Event of Default; and (ii) [except as provided in Section 3.03 of the Agreement,] the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Lease shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Notice and Acknowledgment of Assignment (this “*Acknowledgement*”), the following information about the Lease is true, accurate and complete:

Number of Rental Payments Remaining	_____
Amount of Each Rental Payment	\$ _____
Total Amount of Rental Payments Remaining	\$ _____
Frequency of Rental Payments	_____
Next Rental Payment Due	_____
Funds Remaining in Escrow Account	\$ _____

4. The Lease remains in full force and effect, has not been amended, no Event of Default (or event which with the passage of time or the giving of notice or both would constitute an Event of Default) has occurred thereunder and no Event of Non-appropriation has occurred or is threatened with respect thereto.

5. Assignor hereby acknowledges the transfer restrictions imposed by Section 11.01 of the Agreement and confirms that the assignment to Assignee has been made in accordance with the provisions of that Section.

6. Any inquiries of Lessee related to the Lease and any requests for disbursements from the Escrow Account, if applicable, and all Rental Payments and other amounts coming due pursuant to the Lease on and after the date of this Acknowledgment should be remitted to Assignee at the following address (or such other address as provided to Lessee in writing from time to time by Assignee):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

ACKNOWLEDGED AND AGREED:

LESSEE: \_\_\_\_\_

[FOR EXHIBIT PURPOSES ONLY]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

ASSIGNOR: BANC OF AMERICA PUBLIC CAPITAL CORP

[FOR EXHIBIT PURPOSES ONLY]

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

## EXHIBIT H

### FORM OF ESCROW AGREEMENT

This ESCROW AGREEMENT (this “*Agreement*”), dated as of \_\_\_\_\_, 20\_\_, by and among Banc of America Public Capital Corp, a Kansas corporation (together with its successors and assigns, hereinafter referred to as “*Lessor*”), the City of Cocoa, Florida, a municipal corporation existing under the laws of the State of Florida (hereinafter referred to as “*Lessee*”), and Argent Institutional Trust Company, a Florida trust company (hereinafter referred to as “*Escrow Agent*”).

Reference is made to that certain Equipment Schedule No. \_\_, dated \_\_\_\_\_, 20\_\_ to Master Equipment Lease/Purchase Agreement dated as of December 12, 2024, between Lessor and Lessee (hereinafter referred to as the “*Lease*”), covering the acquisition and lease of certain Equipment described therein (the “*Equipment*”). It is a requirement of the Lease that the Acquisition Amount of \$\_\_\_\_\_ be deposited into a segregated escrow account under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the purchase of and payment for the Equipment.

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

1. Creation of Escrow Account.

(a) There is hereby created an escrow fund to be known as the “City of Cocoa, Florida Equipment Schedule No. \_\_ Escrow Account” (the “*Escrow Account*”) to be held by the Escrow Agent for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) Lessee may, from time to time, provide written instructions for Escrow Agent to use any available cash in the Escrow Account to purchase any money market fund or liquid deposit investment vehicle that Escrow Agent from time to time makes available to the parties hereto. Such written instructions shall be provided via delivery to Escrow Agent of a signed and completed Escrow Account Investment Selection Form (such form available from Escrow Agent upon request). All funds invested by Escrow Agent at the direction of Lessee in such short-term investments (as more particularly described in Escrow Agent’s Escrow Account Investment Selection Form) shall be deemed to be part of the Escrow Account and subject to all the terms and conditions of this Agreement. If any cash is received for the Escrow Account after the cut-off time for the designated short-term investment vehicle, the Escrow Agent shall hold such cash uninvested until the next Business Day. In the absence of written instructions from Lessee (on Escrow Agent’s Escrow Account Investment Selection Form) designating a short-term investment of cash in the Escrow Account, cash in the Escrow Account shall remain uninvested and it shall not be collateralized. Escrow Agent shall have no obligation to pay interest on cash in respect of any period during which it remains uninvested. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, state and local laws, regulations and ordinances governing investment of such funds

and for providing appropriate notice to the Escrow Agent for the reinvestment of any maturing investment. Accordingly, neither the Escrow Agent nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Escrow Account, and Lessee agrees to and does hereby release the Escrow Agent and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Escrow Account shall become part of the Escrow Account, and gains and losses on the investment of the moneys on deposit in the Escrow Account shall be borne by the Lessee. The Escrow Agent shall have no discretion whatsoever with respect to the management, disposition or investment of the Escrow Account. The Escrow Agent shall not be responsible for any market decline in the value of the Escrow Account and has no obligation to notify Lessor and Lessee of any such decline or take any action with respect to the Escrow Account, except upon specific written instructions stated herein. For purposes of this Agreement, "Qualified Investments" means any investments which meet the requirements of Section 1010.53(2) and Section 218.415, Florida Statutes.

(c) Unless the Escrow Account is earlier terminated in accordance with the provisions of paragraph (d) below, amounts in the Escrow Account shall be disbursed by the Escrow Agent in payment of amounts described in Section 2 hereof upon receipt of written instruction(s) from Lessor, as is more fully described in Section 2 hereof. If the amounts in the Escrow Account are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition of the Equipment. Any moneys remaining in the Escrow Account on or after the earlier of (i) the expiration of the Acquisition Period or (ii) the date on which Lessee executes an Acceptance Certificate shall be applied as provided in Section 4 hereof.

(d) The Escrow Account shall be terminated at the earliest of (i) the final distribution of amounts in the Escrow Account, (ii) the date on which Lessee executes a Final Acceptance Certificate or (iii) written notice given by Lessor of the occurrence of an Event of Default under the Lease or termination of the Lease due to an Event of Non-appropriation. Notwithstanding the foregoing, this Agreement shall not terminate nor shall the Escrow Account be closed until all funds deposited hereunder have been disbursed.

(e) The Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Escrow Agent, and for the disposition of the same in accordance herewith. Notwithstanding and without limiting the generality of the foregoing, concurrent with the execution of this Agreement, Lessee and Lessor, respectively, shall deliver to the Escrow Agent an authorized signers form in the form of Exhibit A-1 (Lessee) and Exhibit A-2 (Lessor) attached hereto. Notwithstanding the foregoing sentence, the Escrow Agent is authorized to comply with and rely upon any notices, instructions or other communications believed by it to have been sent or given by the parties or by a person or persons authorized by the parties. The Escrow Agent specifically allows for receiving direction by written or electronic transmission from an authorized representative with the following caveat, Lessee and Lessor agree to indemnify and hold harmless the Escrow Agent against any and all claims, losses, damages, liabilities, judgments, costs and

expenses (including reasonable attorneys' fees) (collectively, "*Losses*") incurred or sustained by the Escrow Agent as a result of or in connection with the Escrow Agent's reliance upon and compliance with instructions or directions given by written or electronic transmission given by each, respectively, provided, however, that such Losses have not arisen from the gross negligence or willful misconduct of the Escrow Agent, it being understood that forbearance on the part of the Escrow Agent to verify or confirm that the person giving the instructions or directions, is, in fact, an authorized person shall not be deemed to constitute gross negligence or willful misconduct.

In the event conflicting instructions as to the disposition of all or any portion of the Escrow Account are at any time given by Lessor and Lessee, the Escrow Agent shall abide by the instructions or entitlement orders given by Lessor without consent of the Lessee.

(f) Unless the Escrow Agent is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify the Escrow Agent and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expenses, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Escrow Agent under this Agreement; and in connection therewith, does to the extent permitted by law, indemnify the Escrow Agent against any and all expenses, including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(g) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by the Escrow Agent hereunder, the Escrow Agent may, but shall not be required to, file an appropriate civil action including an interpleader action to resolve the disagreement. The Escrow Agent shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(h) The Escrow Agent may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. The Escrow Agent shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(i) Lessee shall reimburse the Escrow Agent for all reasonable costs and expenses, including those of the Escrow Agent's attorneys, agents and employees incurred for non-routine administration of the Escrow Account and the performance of the Escrow Agent's powers and duties hereunder in connection with any Event of Default under the Lease, any termination of the Lease due to an Event of Non-appropriation or in connection with any dispute between Lessor and Lessee concerning the Escrow Account.

(j) The Escrow Agent or any successor may at any time resign by giving mailed notice to Lessee and Lessor of its intention to resign and of the proposed date of resignation (the "*Effective Date*"), which shall be a date not less than 60 days after such notice is delivered to an express carrier, charges prepaid, unless an earlier resignation date and the appointment of a successor shall have been approved by the Lessee and Lessor. After the Effective Date, the Escrow Agent shall be under no further obligation except to hold the Escrow Account in accordance with



the terms of this Agreement, pending receipt of written instructions from Lessor regarding further disposition of the Escrow Account.

(k) The Escrow Agent shall have no responsibilities, obligations or duties other than those expressly set forth in this Agreement and no implied duties, responsibilities or obligations shall be read into this Agreement.

2. Acquisition of Property.

(a) Acquisition Contracts. Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition of the Equipment, with moneys available in the Escrow Account. Lessee represents the estimated costs of the Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Equipment, and the operation and maintenance thereof. Escrow Agent shall have no duty to monitor or enforce Lessee's compliance with the foregoing covenant.

(b) Authorized Escrow Account Disbursements. It is agreed as between Lessee and Lessor that disbursements from the Escrow Account shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described) the cost of acquiring the Equipment.

(c) Requisition Procedure. No disbursement from the Escrow Account shall be made unless and until Lessor has approved such requisition. Prior to disbursement from the Escrow Account there shall be filed with the Escrow Agent a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due. All disbursements shall be made by wire transfer. The Escrow Agent is authorized to obtain and rely on confirmation of such Disbursement Request and payment instructions by telephone call-back to the person or persons designated for verifying such requests on Exhibit A-2 (such person verifying the request shall be different than the person initiating the request). The Lessor and Lessee hereby confirm that any call-back performed by Escrow Agent to verify a disbursement instruction pursuant to a Disbursement Request submitted pursuant to this Section 2(c) before release, shall be made to Lessor only and Escrow Agent shall have no obligation to call-back Lessee.

Each such Disbursement Request shall be signed by an authorized representative of Lessee (an "*Authorized Representative*") and by Lessor, and shall be subject to the following conditions, which Escrow Agent shall conclusively presume have been satisfied at such time as a requisition executed by Lessee and Lessor is delivered to it:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1; and
2. Delivery to Lessor of copies of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such Equipment has passed to Lessee) therefor as required by Section 3.04 of the Lease and any additional documentation reasonably requested by Lessor.

Lessee and Lessor agree that their execution of the form attached hereto as Schedule 1 and delivery of the executed form to Escrow Agent confirms that all of the requirements and conditions with respect to disbursements set forth in this Section 2 have been satisfied.

3. Deposit to Escrow Account. Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount to be deposited in the Escrow Account. Lessee agrees to pay any costs with respect to the Equipment in excess of amounts available therefor in the Escrow Account.

4. Excessive Escrow Account. Upon receipt of written instructions from Lessor including a representation that one of the following conditions has been satisfied (upon which representation Escrow Agent shall conclusively rely), any funds remaining in the Escrow Account on or after the earlier of (a) the expiration of the Acquisition Period or (b) the date on which Lessee executes an Acceptance Certificate, or upon a termination of the Escrow Account as otherwise provided herein, shall be distributed by the Escrow Agent to the Lessor in order for the Lessor to apply such funds to amounts owed by Lessee under the Lease in accordance with Section 4.07 of the Lease.

5. Information Required Under USA PATRIOT ACT. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

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

Notices and other communications hereunder may be delivered or furnished by electronic mail provided that any formal notice be attached to an email message in PDF format and provided further that any notice or other communication sent to an e-mail address shall be deemed received upon and only upon the sender's receipt of affirmative acknowledgement or receipt from the intended recipient. For purposes hereof no acknowledgement of receipt generated on an automated basis shall be deemed sufficient for any purpose hereunder or admissible as evidence of receipt. **It is understood and agreed that for no purpose shall notice to [\_\_\_\_\_] in**

**its capacity hereunder constitute notice to Banc of America Public Capital Corp in its capacity hereunder.**

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

If to Lessee:                      City of Cocoa, Florida  
   65 Stone Street  
   Cocoa, Florida 32922  
   Telephone: \_\_\_\_\_  
   E-Mail: \_\_\_\_\_

If to Escrow Agent:              Argent Institutional Trust Company  
   \_\_\_\_\_  
   \_\_\_\_\_  
   Telephone: \_\_\_\_\_  
   E-Mail: \_\_\_\_\_

7.        Lessee and Lessor understand and agree that they are required to provide the Escrow Agent with a properly completed and signed Tax Certification (as defined below) and that the Escrow Agent may not perform its duties hereunder without having been provided with such Tax Certification. As used herein "Tax Certification" shall mean an IRS form W-9 or W-8 as described above. The Escrow Agent will comply with any U.S. tax withholding or backup withholding and reporting requirements that are required by law. With respect to earnings allocable to a foreign person, the Escrow Agent will withhold U.S. tax as required by law and report such earnings and taxes withheld, if any, for the benefit of such foreign person on IRS Form 1042-S (or any other required form), unless such earnings and withheld taxes are exempt from reporting under Treasury Regulation Section 1.1461-1(c)(2)(ii) or under other applicable law. With respect to earnings allocable to a United States person, the Escrow Agent will report such income, if required, on IRS Form 1099 or any other form required by law. The IRS Forms 1099 and/or 1042-S shall show the Escrow Agent as payor and Lessee as payee. Escrow Agent shall recognize Lessee as the designated party for regulatory reporting purposes.

Lessee and Lessor agree that they are not relieved of their respective obligations, if any, to prepare and file information reports under Code Section 6041, and the Treasury regulations thereunder, with respect to amounts of imputed interest income, as determined pursuant to Code Sections 483 or 1272. The Escrow Agent shall not be responsible for determining or reporting such imputed interest.

8.        This Agreement shall be governed by and construed in accordance with the laws of the State of Florida and the parties hereto consent to jurisdiction in any state court located in

Brevard County, Florida and any Federal court with proper jurisdiction located in the United States District Court for the Middle District of Florida.

9. Any bank or corporation into which the Escrow Agent may be merged or with which it may be consolidated, or any bank or corporation to whom the Escrow Agent may transfer a substantial amount of its escrow business, shall be the successor to the Escrow Agent without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding. Any bank or corporation into which the Lessor may be merged or with which it may be consolidated, or any bank or corporation to whom the Lessor may transfer a substantial amount of its business, shall be the successor to the Lessor without the execution or filing of any paper or any further act on the part of any of the parties, anything herein to the contrary notwithstanding.

10. This Agreement may be amended, modified, and/or supplemented only by an instrument in writing executed by all parties hereto.

11. No party hereto shall assign its rights hereunder until its assignee has submitted to the Escrow Agent (i) Patriot Act disclosure materials and the Escrow Agent has determined that on the basis of such materials it may accept such assignee as a customer and (ii) assignee has delivered an IRS Form W-8 or W-9, as appropriate, to the Escrow Agent which the Escrow Agent has determined to have been properly signed and completed.

12. Escrow Agent will treat information related to this Agreement as confidential but, unless prohibited by law, Lessee and Lessor authorize the transfer or disclosure of any information relating to this Agreement to and between the subsidiaries, officers, affiliates and other representatives and advisors of Escrow Agent and third parties selected by any of them, wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Escrow Agent and any such subsidiary, officer, affiliate or third party may transfer or disclose any such information as required by any law, court, regulator or legal process.

Lessor will treat information related to this Agreement as confidential but, unless prohibited by law, Escrow Agent and Lessee authorize the transfer or disclosure of any information relating to this Agreement to and between the subsidiaries, officers, affiliates, other representatives and advisors of Lessor and debt and equity sources and third parties selected by any of them, and to their prospective assignees wherever situated, for confidential use in the ordinary course of business, and further acknowledge that Lessor and any such subsidiary, officer, affiliate, debt and equity source or third party or prospective assignee may transfer or disclose any such information as required by any law, court, regulator or legal process.

Lessee will treat the terms of this Agreement as confidential except on a “need to know” basis to persons within or outside Lessee’s organization (including affiliates of such party), such as attorneys, accountants, bankers, financial advisors, auditors and other consultants of such party and its affiliates, except as required by any law, court, regulator or legal process and except pursuant to the express prior written consent of the other parties, which consent shall not be unreasonably withheld.

IN WITNESS WHEREOF, the parties have executed this Escrow Agreement as of the date first above written.

BANC OF AMERICA PUBLIC CAPITAL CORP,  
as Lessor

CITY OF COCOA, FLORIDA,  
as Lessee

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

ARGENT INSTITUTIONAL TRUST COMPANY,  
as Escrow Agent

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**SCHEDULE 1**  
**to the Escrow Agreement**

**FORM OF DISBURSEMENT REQUEST**

Re: Equipment Schedule No. \_\_ dated \_\_\_\_\_, 20\_\_ to Master Equipment Lease/Purchase Agreement dated as of December 12, 2024, by and between Banc of America Public Capital Corp, as Lessor, and the City of Cocoa, Florida, as Lessee (the “*Lease*”) (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Escrow Agreement, dated as of \_\_\_\_\_, 20\_\_ (the “*Escrow Agreement*”) by and among Banc of America Public Capital Corp (“*Lessor*”), the City of Cocoa, Florida (“*Lessee*”) and Argent Institutional Trust Company, as escrow agent (the “*Escrow Agent*”), the undersigned hereby requests the Escrow Agent pay the following persons the following amounts from the Escrow Account created under the Escrow Agreement for the following purposes:

Disbursement Amounts:

Payee’s Name and Address	Invoice Number	Dollar Amount	Purpose
<Payee’s Name> <Payee Address 1> <Payee Address 2> <Payee Address 3>  <Payee Bank Name*> <Payee Bank ABA/Routing*> <Payee Bank Account No*> <Payee Account Name*>  <*Payee Address and Payee Bank information is required.>	<invoice list OR “see attached” with a spreadsheet>	< invoice amount>	<general description of equipment; ex “police cruiser”>
<Payee’s Name> <Payee Address 1> <Payee Address 2> <Payee Address 3>  <Payee Bank Name*> <Payee Bank ABA/Routing*> <Payee Bank Account No*> <Payee Account Name*>  <*Payee Address and Payee Bank information is required.>	<invoice list OR “see attached” with a spreadsheet>	<invoice amount>	<general description of equipment; ex “police cruiser”>

Lessee hereby represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(i) (a) Each obligation specified in the table herein titled as “Disbursement Amounts” has been incurred by Lessee in the stated amount, (b) the same is a proper charge against the Escrow Account for costs relating to the Equipment identified in the Lease, and (c) has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof).

(ii) Each item of Equipment relating to an obligation specified in the table herein titled as “Disbursement Amounts” has been delivered, installed and accepted by Lessee. Attached hereto is a copy of the invoice with respect to such obligation.

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

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

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

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof. No Event of Non-appropriation has occurred or is threatened with respect to the Lease.

(vii) The disbursement shall occur during the Acquisition Period.

(viii) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

(ix) No Material Adverse Change has occurred since the date of the execution and delivery of the Lease.

(x) The information in this Disbursement Request regarding each Payee, including their respective name, address and wiring instructions, (collectively, the “*Payee Information*”) is true and correct, such Payee Information has been verified and confirmed by Lessee and the Lessor can rely on Lessee’s verification and confirmation of the accuracy of such Payee Information. Lessee hereby acknowledges and agrees that any call-back performed by Lessor to verify the disbursement instructions pursuant to this Disbursement Request shall be made to Lessee only and Lessor shall have no obligation to call-back any Payee listed above.

*[Remainder of page intentionally left blank]*

Dated: \_\_\_\_\_

CITY OF COCOA, FLORIDA

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Disbursement of funds from the Escrow Account in accordance with the foregoing Disbursement Request hereby is authorized.

BANC OF AMERICA PUBLIC CAPITAL CORP

as Lessor under the Lease

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_



**EXHIBIT A-1**

**FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE**

The undersigned, a duly elected or appointed and acting [Secretary][Clerk] of the City of Cocoa, Florida ("*Lessee*") certifies as follows:

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

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver Equipment Schedule No. \_\_\_\_ dated \_\_\_\_\_, 2024 (the "*Schedule*") to that certain Master Equipment Lease/Purchase Agreement, dated as of December 12, 2024 (the "*Agreement*") and separate Schedules relating thereto from time to time as provided in the Agreement (collectively, the "*Schedules*"), each by and between Lessee and Banc of America Public Capital Corp ("*Lessor*"), the Escrow Agreement dated as of \_\_\_\_\_, 20\_\_\_\_, by and among Lessor, Lessee and Argent Institutional Trust Company, as Escrow Agent, all documents related thereto and delivered in connection therewith, and any future modification(s) or amendments thereof (collectively, the "*Operative Agreements*"), and the Operative Agreements are binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

Name of Official	Title	Signature
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: \_\_\_\_\_

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(The signer of this Certificate cannot be listed above as authorized to execute the Operative Agreements.)

[AN "EXHIBIT A-2" MUST BE COMPLETED AND EXECUTED AT TIME OF EXECUTION OF THE AGREEMENT]

**EXHIBIT A-2**

**TO BE PROVIDED**