

**Charles T. Maguire**  
Senior Vice President  
Government Equipment Finance

Bank of America Public Capital Corp  
VA2-300-18-02  
1111 E. Main Street, 18th Floor  
Richmond, VA 23219

Email: [charles.maguire@bankofamerica.com](mailto:charles.maguire@bankofamerica.com)  
Tel: (804) 788-3345  
Fax: (804) 788-3432

October 24, 2016

Linda Harper  
Department of Administration  
Purchasing Division  
2019 Washington Street East  
WV 25305-0130

Dear Ms. Harper,

Bank of America Public Capital Corp ("BAPCC") is pleased to submit to you ("Lessee") the lease financing proposal (the "Proposed Transaction") described in the attached Summary of Terms and Conditions (the "Term Sheet").

Since we already have the master lease in place with the State, we are prepared to close quickly. We have compared the RFP's master lease with our existing master lease and provided comments on our Clarification to Documents attachment, our clarifications and comments are same as were incorporated into recent master lease.

This letter and the Term Sheet (collectively, the "Proposal" or "Proposal Letter") include only a brief description of the principal terms of the Proposed Transaction, and are intended for discussion purposes only. This Proposal Letter is not intended to and does not create any binding legal obligation on the part of either party. **THIS PROPOSAL LETTER IS NOT, AND IS NOT TO BE CONSTRUED AS, A COMMITMENT OR OFFER BY BAPCC OR ANY RELATED ENTITY TO ENTER INTO THE PROPOSED TRANSACTION.** BAPCC will not be obligated to provide any financing until the satisfactory completion of its credit, legal and investment approval process. The terms and conditions of this Proposal Letter shall be superseded by and shall no longer be effective upon the execution and delivery of final legal documentation with respect to this Proposed Transaction.

This Proposal must be accepted on or before **November 30, 2016** in order for BAPCC to proceed with its consideration of the Proposed Transaction. To accept this proposal, please sign the enclosed copy of this letter and return it, by no later than November 30, 2016 to:

**Bank of America Public Capital Corp**  
**1111 E. Main Street, 18<sup>th</sup> Floor**  
**Richmond, VA 23832**  
**P - 804-788-3345**  
**F - 804-788-3432**

10/25/16 09:35:55  
WV Purchasing Division

## SUMMARY OF TERMS AND CONDITIONS

**Date:** October 24, 2016

**Lessee:** State of West Virginia – Purchasing Division of the Department of Administration

**Lessor:** Banc of America Public Capital Corp or its designee ("Lessor")

**Equipment:** Essential-use assets subject to BAPCC approval.

### **Lease**

**Structure:** This Lease is a lease intended as a **NON-BANK QUALIFIED** secured transaction; all tax benefits will remain with Lessee; the lease will be a net financial lease, and all expenses, including (but not limited to) insurance, maintenance, and taxes, will be for the account of Lessee.

**Availability:** The proposed line of credit will be in place for one (1) year, but may be extended for three (3) one (1) year extensions subject to mutual agreement.

### **Maximum**

**Funding:** Over the last seven years, the State has averaged about \$9.3mm annually in equipment leases, to keep costs down we are proposing commitment of **\$25,000,000** with an initial amount of financing of \$12,000,000 each year, subject to satisfactory completion of our credit and pricing review and approval process on an annual basis. Based on the needs of the State, the \$12,000,000 in annual financing can be increased upon mutual agreement of the parties.

**Index:** Any funding will be based on the formula in the attached pricing page which will be good for one year from date of proposal, after which time it will be adjusted subject to the mutual agreement of both parties:

### **Governmental**

**Entity Lease:** The Base Rent installments are calculated on the assumptions, and Lessee will represent, that Lessee is a state or political subdivision of a state within the meaning of Section 103(c) of the Internal Revenue Code (the "Code"), that this transaction will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code. Lessee shall provide Lessor with such evidence as Lessor may request to substantiate and maintain such tax status.

Lessee will indemnify Lessor only as to the actions or omissions of the lessee, on an after-tax basis, against any loss of Federal income tax exemption of the interest portion of the rentals and against any penalties and interest imposed by the Internal Revenue Service on Lessor in connection therewith on a lump-sum basis.

### **Non-Appropriation**

**Termination:** Lessee affirms that funds are available for the current fiscal year and reasonably believes that sufficient funds can be obtained to make all rental payments during each subsequent fiscal year. Lessee will regularly budget for and otherwise use its best efforts to obtain funds for the continuation of the rentals in this transaction.

*The transaction described in this document is an arm's length, commercial transaction between you and Banc of America Public Capital Corp or one of its subsidiaries or affiliates (collectively, "BAPCC") in which: (i) BAPCC is acting solely as a principal (i.e., as a lender or lessor) and for its own interest; (ii) BAPCC is not acting as a municipal advisor or financial advisor to you; (iii) BAPCC has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to you with respect to this transaction and the discussions, undertakings and procedures leading thereto (irrespective of whether BAPCC or any of its affiliates has provided other services or is currently providing other services to you on other matters); (iv) the only obligations BAPCC has to you with respect to this transaction are set forth in the definitive transaction agreements between us; and (v) BAPCC is not recommending that you take an action with respect to the transaction described in this document, and before taking any action with respect to the this transaction, you should discuss the information contained herein with your own legal, accounting, tax, financial and other advisors, as you deem appropriate. If you would like a municipal advisor in this transaction that has legal fiduciary duties to you, you are free to engage a municipal advisor to serve in that capacity.*

## CLARIFICATIONS/COMMENTS TO RFP MASTER LEASE

Section 12: Reinstate Lessor's security interest in the Acquisition Agreement.

Section 21: The last sentence of the Definition of Qualified Investment will read "...provided that such is insured to the maximum amount allowed by the Federal Deposit Insurance Corporation."

In order to comply with Federal Law, we ask the following be included:

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.

Validity Opinion: Validity Opinion will be required on the Master Lease and each Appendix, this was incorporated in most recent master lease.

*The transaction described in this document is an arm's length, commercial transaction between you and Banc of America Public Capital Corp or one of its subsidiaries or affiliates (collectively, "BAPCC") in which: (i) BAPCC is acting solely as a principal (i.e., as a lender or lessor) and for its own interest; (ii) BAPCC is not acting as a municipal advisor or financial advisor to you; (iii) BAPCC has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to you with respect to this transaction and the discussions, undertakings and procedures leading thereto (irrespective of whether BAPCC or any of its affiliates has provided other services or is currently providing other services to you on other matters); (iv) the only obligations BAPCC has to you with respect to this transaction are set forth in the definitive transaction agreements between us; and (v) BAPCC is not recommending that you take an action with respect to the transaction described in this document, and before taking any action with respect to the this transaction, you should discuss the information contained herein with your own legal, accounting, tax, financial and other advisors, as you deem appropriate. If you would like a municipal advisor in this transaction that has legal fiduciary duties to you, you are free to engage a municipal advisor to serve in that capacity.*

**EXHIBIT A**

**PRICING PAGE  
Vendor Bid Evaluation Only**

**NO ALTERATIONS TO THIS SPREADSHEET WILL BE ACCPTED**

**VENDOR NAME:** Banc of America Public Capital Corp

Vendor must insert values for all four terms in Columns D and E even if that value is zero.

Spreadsheet is set to perform calculations automatically, but vendor must ensure that spreadsheet accurately calculates desired interest rate in column F prior to bid submission.

A	B	C	D	E	F	G	H
Term (YRS)	H.15 Swap Index Years	H.15 Swap Rate (From Attachment L Week Ending 9/16/2016)	Less Discount Premium (Expressed as Percentage)	Plus Fixed Spread/Basc Points (Expressed as Percentage Point Increase)	Interest Rate (Percent Per Year)	Estimated Principal (for Evaluation Only)	Annual Interest Charges
3	2	1.0200	0.6500	0.3526	1.2156	\$2,679,118.52	\$32,567.36
4	2	1.0200	0.6500	0.6233	1.2863	\$16,672,670.00	\$214,460.55
5	3	1.0800	0.6500	0.6142	1.3162	\$733,291.00	\$9,651.58
7	4	1.1500	0.6500	0.6091	1.3566	\$1,780,846.00	\$24,158.96
						<b>Total Annual Interest</b>	<b>\$280,838.45</b>

## REQUEST FOR QUOTATION

Financing Services for equipment and other capital  
financing needs of various State agencies in the form of a Master Lease Purchase Agreement

---

8.1.4. Failure to remedy deficient performance upon request.

8.2. The following remedies shall be available to Agency upon default.

8.2.1. Immediate cancellation of the Contract.

8.2.2. Immediate cancellation of one or more release orders issued under this Contract.

8.2.3. Any other remedies available in law or equity.

### 9. MISCELLANEOUS:

9.1. **Contract Manager:** During its performance of this Contract, Vendor must designate and maintain a primary contract manager responsible for overseeing Vendor's responsibilities under this Contract. The Contract manager must be available during normal business hours to address any customer service or other issues related to this Contract. Vendor should list its Contract manager and his or her contact information below.

Contract Manager: Charles T. Maguire  
Telephone Number: 804 489 5044  
Fax Number: 804 262 8344  
Email Address: Charles.Maguire@baml.com



Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

State of West Virginia  
 Request for Quotation  
 14 - Financial

Proc Folder: 257810

Doc Description: Statewide Contract for Financing Services

Proc Type: Statewide MA (Open End)

Date Issued	Solicitation Closes	Solicitation No	Version
2016-09-28	2016-10-26 13:30:00	CRFQ 0209 FAR1700000001	1

**BID RECEIVING LOCATION**

BID CLERK  
 DEPARTMENT OF ADMINISTRATION  
 PURCHASING DIVISION  
 2019 WASHINGTON ST E  
 CHARLESTON WV 25305  
 US

**VENDOR**

Vendor Name, Address and Telephone Number:

**FOR INFORMATION CONTACT THE BUYER**

Linda Harper  
 (304) 558-0468  
 linda.b.harper@wv.gov

Signature X

FEIN #

48-1173664

DATE

10/24/16

All offers subject to all terms and conditions contained in this solicitation



Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

State of West Virginia  
 Request for Quotation  
 14 - Financial

Proc Folder: 257810

Doc Description: Addendum # 1 - Statewide Contract for Financing Services

Proc Type: Statewide MA (Open End)

Date Issued	Solicitation Closes	Solicitation No	Version
2016-09-30	2016-10-26 13:30:00	CRFQ 0209 FAR1700000001	2

**BID RECEIVING LOCATION**

BID CLERK  
 DEPARTMENT OF ADMINISTRATION  
 PURCHASING DIVISION  
 2019 WASHINGTON ST E  
 CHARLESTON WV 25305  
 US

**VENDOR**

Vendor Name, Address and Telephone Number:

**FOR INFORMATION CONTACT THE BUYER**

Linda Harper  
 (304) 558-0468  
 linda.b.harper@wv.gov

Signature X

FEIN #

48-1173664

DATE

10/24/16

All offers subject to all terms and conditions contained in this solicitation



Purchasing Division  
 2019 Washington Street East  
 Post Office Box 50130  
 Charleston, WV 25305-0130

State of West Virginia  
 Request for Quotation  
 14 - Financial

Proc Folder: 257810

Doc Description: Addendum # 2 - Statewide Contract for Financing Services

Proc Type: Statewide MA (Open End)

Date Issued	Solicitation Closes	Solicitation No	Version
2016-10-13	2016-10-26 13:30:00	CRFQ 0209 FAR1700000001	3

**BID RECEIVING LOCATION**

BID CLERK  
 DEPARTMENT OF ADMINISTRATION  
 PURCHASING DIVISION  
 2019 WASHINGTON ST E  
 CHARLESTON WV 25305  
 US

**VENDOR**

Vendor Name, Address and Telephone Number:

**FOR INFORMATION CONTACT THE BUYER**

Linda Harper  
 (304) 558-0468  
 linda.b.harper@wv.gov

Signature X

FEIN #

48-117 3664

DATE

10/24/16

All offers subject to all terms and conditions contained in this solicitation



**ADDENDUM ACKNOWLEDGEMENT FORM**  
**SOLICITATION NO.: FAR1700000001**

**Instructions:** Please acknowledge receipt of all addenda issued with this solicitation by completing this addendum acknowledgment form. Check the box next to each addendum received and sign below. Failure to acknowledge addenda may result in bid disqualification.

**Acknowledgment:** I hereby acknowledge receipt of the following addenda and have made the necessary revisions to my proposal, plans and/or specification, etc.

**Addendum Numbers Received:**

(Check the box next to each addendum received)

- |  |  |
|--|--|
| <input checked="" type="checkbox"/> Addendum No. 1 | <input type="checkbox"/> Addendum No. 6  |
| <input checked="" type="checkbox"/> Addendum No. 2 | <input type="checkbox"/> Addendum No. 7  |
| <input type="checkbox"/> Addendum No. 3            | <input type="checkbox"/> Addendum No. 8  |
| <input type="checkbox"/> Addendum No. 4            | <input type="checkbox"/> Addendum No. 9  |
| <input type="checkbox"/> Addendum No. 5            | <input type="checkbox"/> Addendum No. 10 |

I understand that failure to confirm the receipt of addenda may be cause for rejection of this bid. I further understand that any verbal representation made or assumed to be made during any oral discussion held between Vendor's representatives and any state personnel is not binding. Only the information issued in writing and added to the specifications by an official addendum is binding.

Banc of America Public Capital Corp  
Company  
Philip J. Maguire  
Authorized Signature  
10/24/16  
Date

NOTE: This addendum acknowledgment should be submitted with the bid to expedite document processing.  
Revised 6/2012

State of West Virginia  
**VENDOR PREFERENCE CERTIFICATE**

Certification and application is hereby made for Preference in accordance with *West Virginia Code*, §5A-3-37. (Does not apply to construction contracts). *West Virginia Code*, §5A-3-37, provides an opportunity for qualifying vendors to request (at the time of bid) preference for their residency status. Such preference is an evaluation method only and will be applied only to the cost bid in accordance with the *West Virginia Code*. This certificate for application is to be used to request such preference. The Purchasing Division will make the determination of the Vendor Preference, if applicable.

1.  **Application is made for 2.5% vendor preference for the reason checked:**  
 Bidder is an individual resident vendor and has resided continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,  
 Bidder is a partnership, association or corporation resident vendor and has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or 80% of the ownership interest of Bidder is held by another individual, partnership, association or corporation resident vendor who has maintained its headquarters or principal place of business continuously in West Virginia for four (4) years immediately preceding the date of this certification; or,  
 Bidder is a nonresident vendor which has an affiliate or subsidiary which employs a minimum of one hundred state residents and which has maintained its headquarters or principal place of business within West Virginia continuously for the four (4) years immediately preceding the date of this certification; or,
2.  **Application is made for 2.5% vendor preference for the reason checked:**  
 Bidder is a resident vendor who certifies that, during the life of the contract, on average at least 75% of the employees working on the project being bid are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
3.  **Application is made for 2.5% vendor preference for the reason checked:**  
 Bidder is a nonresident vendor employing a minimum of one hundred state residents or is a nonresident vendor with an affiliate or subsidiary which maintains its headquarters or principal place of business within West Virginia employing a minimum of one hundred state residents who certifies that, during the life of the contract, on average at least 75% of the employees or Bidder's affiliate's or subsidiary's employees are residents of West Virginia who have resided in the state continuously for the two years immediately preceding submission of this bid; or,
4.  **Application is made for 5% vendor preference for the reason checked:**  
 Bidder meets either the requirement of both subdivisions (1) and (2) or subdivision (1) and (3) as stated above; or,
5.  **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**  
 Bidder is an individual resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard and has resided in West Virginia continuously for the four years immediately preceding the date on which the bid is submitted; or,
6.  **Application is made for 3.5% vendor preference who is a veteran for the reason checked:**  
 Bidder is a resident vendor who is a veteran of the United States armed forces, the reserves or the National Guard, if, for purposes of producing or distributing the commodities or completing the project which is the subject of the vendor's bid and continuously over the entire term of the project, on average at least seventy-five percent of the vendor's employees are residents of West Virginia who have resided in the state continuously for the two immediately preceding years.
7.  **Application is made for preference as a non-resident small, women- and minority-owned business, in accordance with *West Virginia Code* §5A-3-59 and *West Virginia Code of State Rules*.**  
 Bidder has been or expects to be approved prior to contract award by the Purchasing Division as a certified small, women- and minority-owned business.

Bidder understands if the Secretary of Revenue determines that a Bidder receiving preference has failed to continue to meet the requirements for such preference, the Secretary may order the Director of Purchasing to: (a) reject the bid; or (b) assess a penalty against such Bidder in an amount not to exceed 5% of the bid amount and that such penalty will be paid to the contracting agency or deducted from any unpaid balance on the contract or purchase order.

By submission of this certificate, Bidder agrees to disclose any reasonably requested information to the Purchasing Division and authorizes the Department of Revenue to disclose to the Director of Purchasing appropriate information verifying that Bidder has paid the required business taxes, provided that such information does not contain the amounts of taxes paid nor any other information deemed by the Tax Commissioner to be confidential.

Under penalty of law for false swearing (*West Virginia Code*, §61-5-3), Bidder hereby certifies that this certificate is true and accurate in all respects; and that if a contract is issued to Bidder and if anything contained within this certificate changes during the term of the contract, Bidder will notify the Purchasing Division in writing immediately.

Bidder: Bank of America Public Capital Corp Signed: Charl McJames  
Date: 10/24/16 Title: Senior V.P.

STATE OF WEST VIRGINIA  
Purchasing Division

# PURCHASING AFFIDAVIT

**MANDATE:** Under W. Va. Code §5A-3-10a, no contract or renewal of any contract may be awarded by the state or any of its political subdivisions to any vendor or prospective vendor when the vendor or prospective vendor or a related party to the vendor or prospective vendor is a debtor and: (1) the debt owed is an amount greater than one thousand dollars in the aggregate; or (2) the debtor is in employer default.

**EXCEPTION:** The prohibition listed above does not apply where a vendor has contested any tax administered pursuant to chapter eleven of the W. Va. Code, workers' compensation premium, permit fee or environmental fee or assessment and the matter has not become final or where the vendor has entered into a payment plan or agreement and the vendor is not in default of any of the provisions of such plan or agreement.

**DEFINITIONS:**

"Debt" means any assessment, premium, penalty, fine, tax or other amount of money owed to the state or any of its political subdivisions because of a judgment, fine, permit violation, license assessment, defaulted workers' compensation premium, penalty or other assessment presently delinquent or due and required to be paid to the state or any of its political subdivisions, including any interest or additional penalties accrued thereon.

"Employer default" means having an outstanding balance or liability to the old fund or to the uninsured employers' fund or being in policy default, as defined in W. Va. Code § 23-2c-2, failure to maintain mandatory workers' compensation coverage, or failure to fully meet its obligations as a workers' compensation self-insured employer. An employer is not in employer default if it has entered into a repayment agreement with the Insurance Commissioner and remains in compliance with the obligations under the repayment agreement.

"Related party" means a party, whether an individual, corporation, partnership, association, limited liability company or any other form or business association or other entity whatsoever, related to any vendor by blood, marriage, ownership or contract through which the party has a relationship of ownership or other interest with the vendor so that the party will actually or by effect receive or control a portion of the benefit, profit or other consideration from performance of a vendor contract with the party receiving an amount that meets or exceeds five percent of the total contract amount.

**AFFIRMATION:** By signing this form, the vendor's authorized signer affirms and acknowledges under penalty of law for false swearing (W. Va. Code §61-5-3) that neither vendor nor any related party owe a debt as defined above and that neither vendor nor any related party are in employer default as defined above, unless the debt or employer default is permitted under the exception above.

**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Bank of America Public Capital Corp

Authorized Signature: [Signature] Date: 10/6/16

State of Virginia

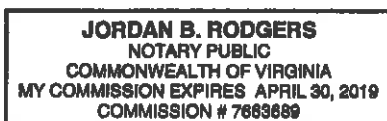
County of Richmond, to-wit:

Taken, subscribed, and sworn to before me this 6<sup>th</sup> day of October, 2016.

My Commission expires 4-30-2019, 20    .

AFFIX SEAL HERE

NOTARY PUBLIC [Signature]



Purchasing Affidavit (Revised 08/01/2015)

10-6-2016

WV Oasis

pd 9-6-16

Transaction Number: 20160708104657

Status: CompletedOk

Amount: \$125.00

Company Name: Banc of America Public Capital Corp

Name: Charles Maguire

Address: 1111 E. Main Street, 18th fl

Richmond VA 23219

Phone: 8044895044

e-Mail: 804-489-5044

Card Holder: Charles T Maguire

Card Type: Visa

Card: xxxxxxxxxxxx7410

\*Your bank statement will show WV Treasury for this transaction