



The following documentation is an electronically-submitted vendor response to an advertised solicitation from the *West Virginia Purchasing Bulletin* within the Vendor Self-Service portal at [wvOASIS.gov](http://wvOASIS.gov). As part of the State of West Virginia's procurement process, and to maintain the transparency of the bid-opening process, this documentation submitted online is publicly posted by the West Virginia Purchasing Division at [WVPurchasing.gov](http://WVPurchasing.gov) with any other vendor responses to this solicitation submitted to the Purchasing Division in hard copy format.

## Header 2

[List View](#)

## General Information | Contact | Default Values | Discount | Document Information | Clarification Request

Procurement Folder: 791475

Procurement Type: Statewide MA (Open End)

Vendor ID: 000000191232

Legal Name: BANC OF AMERICA PUBLIC CAPITAL CORP

Alias/DBA:

Total Bid: \$12,000,000.00

Response Date: 10/21/2020

Response Time: 11:08

Responded By User ID: bankofamerica

First Name: Charles

SO Doc Code: CRFQ

SO Dept: 0212

SO Doc ID: SWC2100000005

Published Date: 10/6/20

Close Date: 10/22/20

Close Time: 13:30

Status: Closed

Solicitation Description: (FINANCE21) - Statewide Contract for Financing Services

Total of Header Attachments: 2

Total of All Attachments: 2



Line	Comm Ln Desc	Qty	Unit Issue	Unit Price	Ln Total Or Contract Amount
1	Financing Agreement				12000000.00

Comm Code	Manufacturer	Specification	Model #
84120000			

**Commodity Line Comments:** Please note per the Helpdesk, there is no "Oasis commodity line", but I did include the RFQ's highest first year contract estimate of RFP is \$8 - \$12 million

**Extended Description:**

Note: Vendor shall complete the Exhibit\_A Pricing Page for bid pricing and must attach with bid.  
 If submitting a bid online, Vendor should enter \$0.00 in the Oasis commodity line.  
 See section 18 of Instructions to Bidders for additional information.

Charles T. Maguire  
Senior Vice President

Government Finance Group  
1111 E. Main Street, 18<sup>th</sup> FL. VA2-300-18-02  
Richmond, VA 23219  
T 804.489.5044 F 804.262.8344 M 804.432.9572  
Charles.maguire@BofA.com

October 21, 2020

Mark A. Atkins  
Department of Administration  
Purchasing Division  
2019 Washington Street East  
WV 25305

Dear Mr. Atkins,

Banc of America Public Capital Corp ("BAPCC") is pleased to submit to you the Master Lease proposal (the "Proposed Transaction") described in the attached Summary of Terms and Conditions (the "Term Sheet"). Please note: the language contained in this Proposal/Response to Request for Proposal supplements, rather than amends, the terms of the RFP, contract and the financing agreements.

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.

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 22, 2020 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 22, 2020 to:

**Banc of America Public Capital Corp**  
**1111 E. Main Street, 18<sup>th</sup> Floor**  
**Richmond, VA 23832**  
**P - 804-489-5044**  
**F - 804-262-8344**

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We appreciate this opportunity to present Bank of America.

Very truly yours,

**BANC OF AMERICA PUBLIC CAPITAL CORP**

*Charles T. Maguire*

Charles T. Maguire  
Senior Vice President

The undersigned, by its authorized representative below, accepts the above proposal, agrees to furnish BAPCC, its successors and assigns, any information relating to the business or financial condition of VPA or its affiliates, and authorizes BAPCC, Bank of America, N.A. and their affiliates to disclose to, discuss with and distribute such information (and any information they may already have) to any other affiliates or proposed assignees or successors of BAPCC.

**State of West Virginia**

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

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

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

*This proposal is submitted in response to your Request for Proposal for Financing under a Master Equipment Lease Agreement, dated October 6, 2020. The contents of this proposal and any subsequent discussions between us, including any and all information, recommendations, opinions, indicative pricing, quotations and analysis with respect to any municipal financial product or issuance of municipal securities, are provided to you in reliance upon the exemption provided for responses to requests for proposals or qualifications under the municipal advisor rules (the "Rules") of the Securities and Exchange Commission (240 CFR 15Ba1-1 et seq.).*

*The Staff of the SEC's Office of Municipal Securities has issued guidance which provides that, in order for a request for proposals to be consistent with this exemption, it must (a) identify a particular objective, (b) be open for not more than a reasonable period of time (up to six months being generally considered as reasonable), and (c) involve a competitive process (such as by being provided to at least three reasonably competitive market participants) or by being publicly posted to your official website. In submitting this proposal, we have relied upon your compliance with this guidance.*

*In submitting this proposal, we are not undertaking to act as a "municipal advisor" to you or any other person within the meaning of the Rules. In connection with this proposal and the transactions described herein, we are not subject to, and we hereby disclaim, any fiduciary duty to you or to any other person. We understand that you will consult with and rely on the advice of your own municipal, financial, tax, legal and other advisors as and to the extent you deem necessary in connection with your evaluation of this proposal and the transactions described herein.*

*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 affiliates, ("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.*

## SUMMARY OF TERMS AND CONDITIONS

- Date:** November 21, 2020
- Lessee:** State of West Virginia – Purchasing Division of the Department of Administration
- Lessor:** Banc of America Public Capital Corp (“BAPCC”) or its designee/assignee (“Lessor”)
- Equipment:** Essential use assets as outlined in RFP
- Structure:** This Master Lease will be intended as a **NON BANK QUALIFIED** secured transaction; all tax benefits will remain with Lessee; all expenses, including (but not limited to) insurance, maintenance, and taxes, will be for the account of Lessee.
- Term:** 3, 4, 5 and 7 years.
- Maximum Funding:** Initial annual funding is expected to be up to \$12 million per section 1.1 of the Specifications section.
- 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 may be adjusted subject to the mutual agreement of both parties
- Utilization:** Lease approval is valid for one-year from commencement with optional one-year extensions at commencement anniversary subject to credit and pricing review. The extension will be mutually agreeable to Lessee and Lessor.
- 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.
- Expenses:** Lessee and Lessor will each be responsible for its own expenses incurred in connection with the preparation, negotiation and closing of the lease documentation. There are no other fees or costs associated with this transaction.

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**Escrow****Account:**

*Lessee may direct that proceeds be deposited*, subject to compliance with applicable regulations under the Internal Revenue Code, including, but not limited to arbitrage regulations, the proceeds of the Lease in an escrow acceptable to Lessor, and disbursements made therefrom to pay for the Project upon the execution and delivery of an acceptance certificate (and related documents) by Lessee and approved by Lessor.

- There will be no fees associated with escrow account as long as monies are held in a Bank of America proprietary investment vehicle.

**Documents:**

Lease documents in form and substance satisfactory to Lessor and its local counsel must be executed and delivered. If Lessor requests, Lessee will also furnish duly executed landlord and mortgage waivers and supporting information. Lessee will also provide board resolutions, incumbency certificates and other documentation required by Lessor. Validity Opinion will be required on the Master Lease and each Appendix.

*Please see additional comments on our Clarification to Documents attachment.*

**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.

**General****Disclaimer:**

Many of the terms and conditions contained in the RFP and its attachments are not applicable to a financing transaction such as is contemplated by the RFP and this proposal response. Consequently, the terms and conditions contained in the final lease agreement negotiated and executed by and between the parties shall govern the relationship. Unless a provision is expressly included in that final lease agreement or its related documentation, said provision will not apply.

**Private****Placement:**

The proposed transaction is a private placement that will not require (i) any additional public ongoing disclosure requirements, (ii) any additional public offering document generation requirements, or (iii) any underwriting or related fees.

**Market****Disruption:**

Notwithstanding anything contained herein to the contrary, in the event any material change shall occur in the financial markets after the date of this Proposal Letter, including but not limited to any governmental action or other event which materially adversely affects the extension of credit by banks, leasing companies or other lending institutions, the Lessor may modify the indicative pricing described above.

**SEC****Disclosure:**

Lessee acknowledges and agrees that, if, in connection with its efforts to comply with the requirements of SEC Rule 15c2-12(b)(5) of the Securities and Exchange Act of 1934, Lessee decides to file any documentation related to the proposed transaction to EMMA (the “*Disclosed Documents*”), such Disclosed Documents shall be filed with redactions that will be mutually agreed upon by the parties to ensure that there is no confidential information of Lessor included in the posted documents (i.e. account information, names of signatories).

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## **USA Patriot Act**

### **Compliance:**

The Lessee acknowledges that pursuant to the requirements of the USA Patriot Act, as amended from time to time (including as amended by the USA Freedom Act of 2015) (the "Patriot Act"), the Lessor is required to obtain, verify and record information that identifies the Lessee, which information includes the name and address of the Lessee and other information that will allow the Lessor to identify the Lessee in accordance with the Patriot Act.

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## CLARIFICATIONS/COMMENTS TO RFP MASTER LEASE

We recommend starting with the most recent version of the form as executed between the parties in 2016. Examples of updates that need to be made:

- Section 9, Lease Payments, references the Federal Reserve H.15 report which no longer includes swap rates. This should be updated to reflect ICE and/or Bloomberg.
- Section 12, Title to Leased Equipment, should be updated to include a security interest grant in the acquisition/escrow fund along with any proceeds therefrom.
- Due to the fact that the current escrow provider is no longer willing to provide escrow services under the construct and provisions in the Master, we are suggesting removing the escrow language from the Master and entering into a separate Escrow Agreement for each funding. This approach is much more in line with current market practices.
- Requested Additions:

### EMMA Disclosure:

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, 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 in any portion of such EMMA Posting: address and account information of the Lessor or its affiliates; and e-mail addresses telephone numbers, fax numbers, names and signatures of officers, employees and signatories of the Lessor or its affiliates

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.

### Electronic Signatures

*Electronic Signatures.* This Agreement, any Schedule, and any other documents or instruments executed by either party in connection herewith and therewith (collectively 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.

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Specification, Section E. Escrow of Funds – Bank of America, National Association’s (an affiliate of BAPCC) standard escrow agreement is included with our proposal. We are happy to review for application with the State and BANA in context of the Master contract to be executed with the State. A restricted account funding mechanism with funds held by the State may be another option.

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

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

State of West Virginia  
 Centralized Request for Quote  
 Financial

Proc Folder: 791475			Reason for Modification:
Doc Description: (FINANCE21) - Statewide Contract for Financing Services			
Proc Type: Statewide MA (Open End)			
Date Issued	Solicitation Closes	Solicitation No	Version
2020-10-06	2020-10-22 13:30	CRFQ 0212 SWC2100000005	1


**BID RECEIVING LOCATION**

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

**VENDOR**

Vendor Customer Code:  
 Vendor Name :  
 Address :  
 Street :  
 City :  
 State : Country : Zip :  
 Principal Contact :  
 Vendor Contact Phone: Extension:

**FOR INFORMATION CONTACT THE BUYER**  
 Mark A Atkins  
 (304) 558-2307  
 mark.a.atkins@wv.gov

Vendor Signature X  FEIN# 48-1173664 DATE 10/20/20

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

**DESIGNATED CONTACT:** Vendor appoints the individual identified in this Section as the Contract Administrator and the initial point of contact for matters relating to this Contract.

Charles T. Maguire, Snr. v.P.  
(Name, Title)

Charles T Maguire Snr vP  
(Printed Name and Title)

111 E. Main St, 18<sup>th</sup> Fl Richmond VA 23219  
(Address)

804 489 5044 / 803 262 8344  
(Phone Number) / (Fax Number)

charles.maguire@bafa.com  
(email address)

\* **CERTIFICATION AND SIGNATURE:** By signing below, or submitting documentation through wvOASIS, I certify that I have reviewed this Solicitation in its entirety; that I understand the requirements, terms and conditions, and other information contained herein; that this bid, offer or proposal constitutes an offer to the State that cannot be unilaterally withdrawn; that the product or service proposed meets the mandatory requirements contained in the Solicitation for that product or service, unless otherwise stated herein; that the Vendor accepts the terms and conditions contained in the Solicitation, unless otherwise stated herein; that I am submitting this bid, offer or proposal for review and consideration; that I am authorized by the vendor to execute and submit this bid, offer, or proposal, or any documents related thereto on vendor's behalf; that I am authorized to bind the vendor in a contractual relationship; and that to the best of my knowledge, the vendor has properly registered with any State agency that may require registration.

Bank of America Public Capital Corp  
(Company)

Charles T Maguire Snr vP  
(Authorized Signature) (Representative Name, Title)

Charles T Maguire Snr v.P.  
(Printed Name and Title of Authorized Representative)

10/20/20  
(Date)

804 489 5044 804 262 8344  
(Phone Number) (Fax Number)

\* Subject to terms and conditions of the proposal.

REQUEST FOR QUOTATION  
CRFQ 0212 SWC2100000005  
(FINANCE21)

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

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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: Lisa Coggi

Telephone Number: 312 537 6773

Fax Number: 312 453 - 6781

Email Address: Lisa.a.coggi@bofa.com

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)	Average Life Swap Rate	ICE SWAP RATE (from Attachment L, Report Date 9/10/2020)	Less Discount Premium to Convert Rate for Tax Exemption (Express as Percentage)	Plus Fixed Spread/Base Points (Expressed as Percentage Point Increase)	Interest Rate (Percent Per Year)	Estimated Principal (for Evaluation Only)	Annual Interest Charges
3	2	0.2280	.79	.7204	.9005% 0.0000	\$2,679,118.52	\$ 24,126. <sup>00</sup> \$0.00
4	2	0.2280	.79	.7660	.9461% 0.0000	\$16,672,670.00	\$ 157,743. <sup>47</sup> \$0.00
5	3	0.2390	.79	.8087	.9975% 0.0000	\$733,291.00	\$ 7,314. <sup>65</sup> \$0.00
7	4	0.2770	.79	.8758	1.0946% 0.0000	\$1,780,846.00	\$ 19,493. <sup>67</sup> \$0.00
						Total Annual Interest	\$ 208,677. <sup>79</sup> \$0.00



STATE OF WEST VIRGINIA  
Purchasing Division

# PURCHASING AFFIDAVIT

**CONSTRUCTION CONTRACTS:** Under W. Va. Code § 5-22-1(i), the contracting public entity shall not award a construction contract to any bidder that is known to be in default on any monetary obligation owed to the state or a political subdivision of the state, including, but not limited to, obligations related to payroll taxes, property taxes, sales and use taxes, fire service fees, or other fines or fees.

**ALL CONTRACTS:** 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: (1) for construction contracts, the vendor is not in default on any monetary obligation owed to the state or a political subdivision of the state, and (2) for all other contracts, 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.

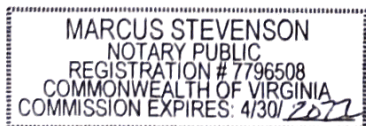
**WITNESS THE FOLLOWING SIGNATURE:**

Vendor's Name: Banc of America Public Capital Corp  
Authorized Signature: [Signature] Date: 10/20/20  
State of Virginia  
County of Chesterfield, to-wit:

Taken, subscribed, and sworn to before me this 20 day of October, 2020

My Commission expires April 30, 2022

AFFIX SEAL HERE



NOTARY PUBLIC

[Signature]



West Virginia Ethics Commission  
**Disclosure of Interested Parties to Contracts**

(Required by W. Va. Code § 6D-1-2)

Name of Contracting Business Entity: Banc of America Public Capital Corp Address: 1111 E. Main St 18th Fl

Name of Authorized Agent: Charles T. Maguire Address: Richmond, VA 23219

Contract Number: CRFG 0212 SWC 2100000005 Contract Description: Lease financing

Governmental agency awarding contract: Dept of Administration

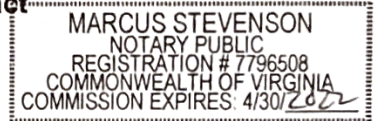
Check here if this is a Supplemental Disclosure

List the Names of Interested Parties to the contract which are known or reasonably anticipated by the contracting business entity for each category below (attach additional pages if necessary):

**1. Subcontractors or other entities performing work or service under the Contract**

Check here if none, otherwise list entity/individual names below.

Banc of America Leasing and Capital, LLC, an affiliate of BAPCC.



**2. Any person or entity who owns 25% or more of contracting entity (not applicable to publicly traded entities)**

Check here if none, otherwise list entity/individual names below.

**3. Any person or entity that facilitated, or negotiated the terms of, the applicable contract (excluding legal services related to the negotiation or drafting of the applicable contract)**

Check here if none, otherwise list entity/individual names below.

Signature: [Signature] Date Signed: 10/20/20

**Notary Verification**

State of Virginia, County of Chesterfield:

I, Charles T. Maguire, the authorized agent of the contracting business entity listed above, being duly sworn, acknowledge that the Disclosure herein is being made under oath and under the penalty of perjury.

Taken, sworn to and subscribed before me this 20 day of October, 2020.

[Signature]  
Notary Public's Signature

**To be completed by State Agency:**  
Date Received by State Agency: \_\_\_\_\_  
Date submitted to Ethics Commission: \_\_\_\_\_  
Governmental agency submitting Disclosure: Purchasing Division

## EXHIBIT I

### [Form of] Escrow and Account Control Agreement

This Escrow and Account Control Agreement (this "Agreement"), dated as of \_\_\_\_\_, by and among Banc of America Public Capital Corp, a Kansas corporation (together with its successors and assigns, hereinafter referred to as "Lessor"), \_\_\_\_\_, a [city] [county] [special district] [body corporate and politic] existing under the laws of the State of \_\_\_\_\_ (hereinafter referred to as "Lessee") and Bank of America, National Association, a national banking association organized under the laws of the United States of America (hereinafter referred to as "Escrow Agent").

Reference is made to that certain Schedule of Property No. \_\_\_\_ dated as of \_\_\_\_\_ to Master Equipment Lease/Purchase Agreement dated as of \_\_\_\_\_ 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 (\$\_\_\_\_\_) 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 "\_\_\_\_\_ 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 [*state law citation*].

(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 expense, 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. Security Interest. The Escrow Agent and Lessee acknowledge and agree that the Escrow Account and all proceeds thereof are being held by Escrow Agent for disbursement or return as set forth herein. Lessee hereby grants to Lessor a first priority perfected security interest in the Escrow Account, and all proceeds thereof, and all investments made with any amounts in the Escrow Account. If the Escrow Account, or any part thereof, is converted to investments as set forth in this Agreement, such investments shall be made in the name of Escrow Agent and the Escrow Agent hereby agrees to hold such investments as bailee for Lessor so that Lessor is deemed to have possession of such investments for the purpose of perfecting its security interest.

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

(a) All terms used in this Section 6 which are defined in the Commercial Code of the state of \_\_\_\_\_<sup>1</sup> (“Commercial Code”) but are not otherwise defined herein shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

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

(c) Provided that account investments shall be held in the name of the Escrow Agent, Escrow Agent hereby represents and warrants (a) that the records of Escrow Agent show that Lessee is the sole owner of the Collateral, (b) that Escrow Agent has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor’s claim pursuant to this Agreement, and (c) that Escrow Agent is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Escrow Agent is obligated to accept from Lessor under this Agreement and entitlement orders that Escrow Agent, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

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

(e) Except as otherwise provided in this paragraph (e) and subject to Section 1(b) hereof, Lessee may effect sales, trades, transfers and exchanges of Collateral within the Escrow Account, but will not, without the prior written consent of Lessor, withdraw any Collateral from the Escrow Account. Escrow Agent acknowledges that Lessor reserves the right, by delivery of written notice to Escrow Agent, to prohibit Lessee from effecting any withdrawals (including withdrawals of ordinary cash dividends and interest income), sales, trades, transfers or exchanges of any Collateral held in the Escrow Account. Further, Escrow Agent hereby agrees to comply with any and all written instructions delivered by Lessor to Escrow Agent (once it has had a reasonable opportunity to comply therewith) and has no obligation to, and will not, investigate the reason for any action taken by Lessor, the amount of any obligations of Lessee to Lessor, the validity of any of Lessor’s claims against or agreements with Lessee, the existence of any defaults under such agreements, or any other matter.

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

(g) Escrow Agent will not attempt to assert control, and does not claim and will not accept any security or other interest in, any part of the Collateral, and Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Collateral, or otherwise charge or deduct from the Collateral any amount whatsoever.

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<sup>1</sup> State where lessee is located.

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

(i) Escrow Agent is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 8 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Escrow Account statements or reports issued or sent to Lessee with respect to the Escrow Account.

7. 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.

8. 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.



If to Lessor: Banc of America Public Capital Corp  
11333 McCormick Road  
Mail Code: MD5-032-07-05  
Hunt Valley, MD 21031  
Attn: Contract Administration  
Fax: (443) 541-3057

If to Lessee: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: \_\_\_\_\_  
Fax: \_\_\_\_\_

If to Escrow Agent  
Bank of America, National Association  
Global Custody and Agency Services  
540 W. Madison Street  
Mail Code: IL4-540-21-03  
Chicago, Illinois 60661  
Attention: GCAS AMRS Escrow Service  
Telephone: (312) 992-3272  
Fax: (312) 453-4443  
Email: [gcas\\_amrs\\_escrow\\_client\\_service@bofa.com](mailto:gcas_amrs_escrow_client_service@bofa.com)

9. 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.

10. This Agreement shall be governed by and construed in accordance with the laws of the State of [ ] and the parties hereto consent to jurisdiction in the State of [ ] and venue in any state or Federal court located in the City of [ ].

11. 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.

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

13. 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.

14. 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 the 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 the 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 and Account Control Agreement as of the date first above written.

Banc of America Public Capital Corp  
as Lessor

\_\_\_\_\_  
as Lessee

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

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

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

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

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

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

Bank of America, National Association  
As Escrow Agent

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

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

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

**SCHEDULE 1**  
**to the Escrow and Account Control Agreement**

**FORM OF DISBURSEMENT REQUEST**

Re: Schedule of Property No. \_\_\_ dated as of \_\_\_\_\_ to Master Equipment Lease/Purchase Agreement dated as of \_\_\_\_\_ by and between Banc of America Public Capital Corp, as Lessor, and \_\_\_\_\_, 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 and Account Control Agreement, dated as of \_\_\_\_\_ (the "Escrow and Account Control Agreement") by and among Banc of America Public Capital Corp ("Lessor"), \_\_\_\_\_ ("Lessee") and Bank of America, National Association, (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 and Account Control Agreement for the following purposes:

Disbursement Amounts:

<b>Payee's Name and Address</b>	<b>Invoice Number</b>	<b>Dollar Amount</b>	<b>Purpose</b>
<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.

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

\_\_\_\_\_  
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: \_\_\_\_\_

[AN "EXHIBIT A-1" MUST BE COMPLETED AND EXECUTED AT TIME OF EXECUTION OF THE AGREEMENT]

**EXHIBIT A-1**

**FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE**

The undersigned, a duly elected or appointed and acting \_\_\_\_\_  
[Secretary] [City Clerk] [County Clerk] of \_\_\_\_\_ ("*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;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver the Schedule of Property No. \_\_\_ dated as of \_\_\_\_\_ to Master Equipment Lease/Purchase Agreement dated as of \_\_\_\_\_ by and between Lessee and Banc of America Public Capital Corp ("*Lessor*"), the Escrow and Account Control Agreement dated as of \_\_\_\_\_ by and among Lessor, Lessee and Bank of America, National Association, 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 Agreements.)

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

**EXHIBIT A-2**

**Escrow and Account Control Agreement dated as of \_\_\_\_\_ by and among Banc of America Public Capital Corp, as Lessor, \_\_\_\_\_, as Lessee and Bank of America, National Association, as Escrow Agent**

**Certificate of Authorized Representatives – [Lessor]**

**Name:** Augustine Reichenbach

**Name:** Jennifer Schlosser

**Title:** Authorized Agent

**Title:** Authorized Agent

**Phone:** 443-541-2613

**Phone:** 443-541-3685

**Facsimile:** 904-312-6101

**Facsimile:** 804-662-1781

**E-mail:** [Augustine.reichenbach@baml.com](mailto:Augustine.reichenbach@baml.com)

**E-mail:** Jennifer.schlosser@baml.com

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

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

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

**Name:** Bridgett Arnold

**Name:** Yvette Montalvo-Baron

**Title:** Authorized Agent

**Title:** Authorized Agent

**Phone:** 415-765-1867

**Phone:** 443-765-7371

**Facsimile:** 415-765-7373

**Facsimile:** 415-765-7373

**E-mail:** Bridgett.arnold@baml.com

**E-mail:** Yvette.m.montalvo\_baron@baml.com

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

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

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

**Name:** Eileen Harwell

**Title:** Authorized Agent

**Phone:** 415-765-1897

**Facsimile:** 415-343-0531

**E-mail:** Eileen.harwell@baml.com

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

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

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

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

**Phone:** \_\_\_\_\_

**Facsimile:** \_\_\_\_\_

**E-mail:** \_\_\_\_\_

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

Fund Transfer / Disbursement Authority Level:

- Initiate
- Verify transactions initiated by others

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 person or persons identified above including without limitation, to initiate and verify funds transfers as indicated.

Banc of America Public Capital Corp

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

Name:

Title:

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



**EXHIBIT A**

**PRICING PAGE  
Vendor Bid Evaluation Only**

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

**VENDOR NAME:** \_\_\_\_\_

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.

<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>	<b>E</b>	<b>F</b>	<b>G</b>	<b>H</b>
Term (YRS)	Average Life Swap Rate	ICE SWAP RATE (from Attachment L, Report Date 9/10/2020)	Less Discount Premium to Convert Rate for Tax Exemption (Express as Percentage)	Plus Fixed Spread/Base Points (Expressed as Percentage Point Increase)	Interest Rate (Percent Per Year)	Estimated Principal (for Evaluation Only)	Annual Interest Charges
3	2	0.2280	0.7900	0.7204	0.9005	\$2,679,118.52	\$24,126.00
4	2	0.2280	0.7900	0.7660	0.9461	\$16,672,670.00	\$157,743.47
5	3	0.2390	0.7900	0.8087	0.9975	\$733,291.00	\$7,314.65
7	4	0.2770	0.7900	0.8758	1.0946	\$1,780,846.00	\$19,493.67
						<b>Total Annual Interest</b>	<b>\$208,677.79</b>