

## EQUIPMENT LEASE PURCHASE AGREEMENT

This Equipment Lease Purchase Agreement (this "Lease") dated September 30, 2019 and entered into between **BANC OF AMERICA PUBLIC CAPITAL CORP** ("Lessor"), a Kansas corporation, as lessor, and the **CITY AND COUNTY OF DENVER** ("City"), a municipal corporation and political subdivision duly organized and existing as a home rule city under the provisions of Article XX of the Constitution and the laws of the State of Colorado, as lessee.

### WITNESSETH:

WHEREAS, upon Acceptance (as defined below), the City desires to lease from the Lessor certain equipment described on Exhibit A, subject to the terms and conditions of and for the purposes set forth in this Lease; and

WHEREAS, the City and the Lessor are each authorized to enter into this Lease for the purposes set forth herein;

NOW, THEREFORE, for and in consideration of the premises hereinafter contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Lessor and the City hereby agree as follows:

### ARTICLE I

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

"Acceptance" means that the City Representative has certified, pursuant to the Acceptance Certificate, that the Item is the Item specified in the Acceptance Certificate, that the Equipment or Item has been found acceptable for the purposes specified in the Acceptance Certificate, and that the Lessor is thereby directed to pay the Vendor pursuant to the Related Vendor's Contract, all as further set forth in Section 5.01.

"Acceptance Certificate" means a certificate in substantially the form set forth as Appendix A to the Escrow Agent which may be executed by the City Representative and delivered to the Lessor.

"Acceptance Date" means the date on which the Lessor receives the Acceptance Certificate and pays the Vendor as directed in the Acceptance Certificate.

"Agent" means any agent for the Registered Owners, if any, to which all or a portion of Lessor's right, title and interest in, to and under this Lease and the Equipment may be assigned for the benefit of such Registered Owners; *provided that* the Manager of Finance has received notice of such assignment, and such assignment has been granted, all in accordance with Section 11.01.

"Acquisition Fund" means the Acquisition Fund created under the Escrow Agreement.

"Appropriation" means the collective procedure by which the City Council specifically appropriates funds for a purpose and the City effects an Encumbrance for such purpose.

"Charter" means the home rule charter of the City.

"City" means the City and County of Denver, Colorado, only in its capacity as the lessee under this Lease and not in respect of its police powers or any other capacity, power or function of the City.

"City Attorney" means the City Attorney of the City duly appointed pursuant to the Charter or any assistant City Attorney designated by the City Attorney.

"City Council" means the City Council of the City.

"City Representative" means the Manager of Public Works or a designee of such officer.

"Code" means the Internal Revenue Code of 1986, as amended and rulings and regulations promulgated thereunder.

"Commencement Date" is the date on which the Lessor has deposited moneys into the Acquisition Fund created under the Escrow Agreement, as agreed in Section 5.01, for the acquisition, delivery, installation and testing of the Equipment pursuant to the Related Vendor Contract; provided however, that the City's obligation to pay rent hereunder shall not commence until the date on which at least Acceptance Certificate No. 1 and two additional Acceptance Certificates have been paid by the Escrow Agent under the terms of the Escrow Agreement ("Initial Equipment Acceptance Date") and any such obligation to pay rent under this Lease is subject to the termination of this Lease pursuant to Sections 3.03 or 5.01.

"Encumbrance" means (a) the act of submitting a written request of the City to the Manager of Finance of the City and (b) the certification in writing by the Manager of Finance for the applicable Fiscal Year that (1) there is an unencumbered balance in the appropriation and the appropriate fund chargeable therefor sufficient to provide for the Rental Payments and any other amounts to be paid hereunder, as the case may be, for this Lease and for the period specified in this Lease and (2) such amounts have been set aside for such purpose.

"Equipment" means the property as described on Exhibit A hereto and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article X. Whenever reference is made in this Lease to Equipment, such reference shall include all such replacements, repairs, restorations, modifications and improvements of or to such Equipment.

"Escrow Agent" means U.S. Bank, National Association.

"Escrow Agreement" means the Escrow Agreement set forth as Exhibit B hereto among the Lessor, the City and the Escrow Agent.

"Event of Default" means an Event of Default described in Section 12.01.

"Event of Nonappropriation" means an Event of Nonappropriation described in Section 3.03.

"Fiscal Year" means the City's fiscal year, which begins on January 1 and ends on December 31 of the same year.

"*Force Majeure*" means, without limitation, the following: acts of God; strikes, lockouts or other industrial disturbances; acts of public enemies; orders or restraints of any kind of the government of the United States of America or of the State or any of their departments, agencies or officials or any civil or military authority; insurrection; riots; landslides; earthquakes; fires; storms; droughts; floods; explosions; or any other cause or event not within the control of the Lessor or the City in the City's capacity as the lessee hereunder.

"Initial Equipment Acceptance Date" the date on which at least Acceptance Certificate No. 1 and two additional Acceptance Certificates have been paid by the Escrow Agent under the terms of the Escrow Agreement thereby meeting the condition precedent for payment by the City of the first Rental Payment.

"Lease" means this Equipment Lease Purchase Agreement, including all Exhibits hereto, together with all amendments and modifications to this Lease pursuant to Section 13.05.

"Lease Term" means the Original Term and any Renewal Terms as to which the City may exercise its option to renew this Lease by effecting Appropriations of funds for the Rental Payments and other obligations hereunder, as provided in and subject to the provisions of this Lease.

"Manager of General Services" means the Manager of General Services of the City duly appointed pursuant to the Charter or the designee of the Manager of General Services, including any designee set forth on Exhibit E hereof.

"Manager of Finance" means the Manager of Finance of the City duly appointed pursuant to the Charter or the designee of the Manager of Finance, including any designee set forth on Exhibit E hereof.

"Original Term" means the period that commences with the Commencement Date and terminates on December 31 of the Fiscal Year in which this Lease commenced.

"Purchase Price" means the amount that the City may pay to the Lessor to purchase such Equipment in accordance with Section 10.01 and as set forth on Exhibit C.

"Registered Owners" means the registered owners of certificates of participation that may be executed and delivered by an Agent in respect of this Lease.

"Related Vendor Contract" means either of the two contracts entered into with the related Vendor for the acquisition, delivery, installation and testing of the Equipment and related to this Lease.

"Renewal Terms" means the renewal terms of this Lease, each having a duration of one year and a term coextensive with the City's Fiscal Year.

"Rental Payments" means the basic rental payments payable by the City under this Lease pursuant to Section 4.01 and as set forth on Exhibit C hereto in respect of each Fiscal Year during the Lease Term.

"State" means the State of Colorado.

"Vendor" means any of the suppliers or manufacturers of the Equipment as set forth on Exhibit A as well as the agents or dealers of the manufacturers or suppliers from whom the Lessor purchased or is to purchase such Equipment as directed by the City Representative pursuant to the corresponding Acceptance Certificate.

## ARTICLE II

**Section 2.01. Representations and Agreements of the City.** The City represents and agrees, for the benefit of the Lessor and to the extent allowed by law and subject to renewal of this Lease and Appropriation as set forth herein, as follows:

(a) The City is a municipal corporation and political subdivision duly organized and existing as a home rule city under the provisions of Article XX of the constitution and laws of the State and the Charter with full power and authority to enter into this Lease and the transactions contemplated hereby and to perform all of its obligations hereunder.

(b) The City is authorized to enter into this Lease and to carry out its obligations hereunder. The City has duly authorized the execution and delivery of this Lease by proper action of its City Council or by other appropriate official approval. The City Council has authorized and directed, and hereby authorizes and directs, the Manager of Finance to execute and deliver the Escrow Agreement on behalf of the City.

(c) No event or condition that constitutes, or with the giving of notice or the lapse of time or both would constitute, an Event of Default exists at the date hereof.

(d) The City has complied with applicable procurement requirements, if any, related to this Lease and the acquisition of the Equipment pursuant to the terms of this Lease.

(e) During the Lease Term, the Equipment will be used by the City only for the purpose of performing essential governmental or proprietary functions of the City consistent with the permissible scope of the City's authority.

(f) The Manager of Finance will annually provide the Lessor with current financial statements, budgets and certificates in respect of Appropriation for the ensuing Fiscal Year as the same may be requested in writing by the Lessor to the Manager of Finance.

(g) The City has an immediate need for the Equipment and, after the City Representative has delivered the Acceptance Certificate to the Lessor, expects to make immediate use of the Equipment. The City's need for the Equipment is not temporary and the City does not expect the need for the Equipment to diminish in the foreseeable future including the maximum Lease Term. This statement is subject to and qualified by the provisions of this Lease, including but not limited to the provisions of Section 3.03.

(h) The City will comply with all applicable provisions of the Code, including without limitation Sections 103 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

Upon the Commencement Date, the City will use the proceeds of this Lease as soon as practicable and with all reasonable dispatch for the purpose set forth in this Lease. No part of the proceeds of this Lease shall be invested in any securities, obligations or other investments or used, at any time, directly or indirectly, in a manner which, if such use had been reasonably anticipated on the date of issuance of this Lease, would have caused any portion of this Lease to be or become "arbitrage bonds" within the meaning of Section 103(b)(2) or Section 148 of the Code and the Treasury Regulations promulgated thereunder.

**Section 2.02. Representations and Agreements of the Lessor.** The Lessor represents and agrees, for the benefit of the City, as follows:

(a) The Lessor is a Kansas corporation with full power and authority to enter into this Lease and the transactions contemplated hereby and to perform all of its obligations hereunder. The Lessor is authorized to enter into this Lease and to carry out its obligations hereunder. The Lessor has duly authorized the execution and delivery of this Lease by proper corporate action.

(b) So long as no Event of Default or Event of Nonappropriation has occurred and is then existing, the Lessor shall not pledge, assign, mortgage, encumber or grant a security interest in its right, title and interest in, to and under this Lease or the Equipment, except as may be permitted under Section 11.01.

(c) The Lessor agrees to deposit into the Acquisition Fund the amount set forth in Section 5.01, provided that the Lessor has received from the City, on or before the date of this Lease, the following:

- (1) An opinion of the City Attorney in respect of this Lease in substantially the form attached hereto as Exhibit G.
- (2) An opinion of outside expert tax counsel in respect of this Lease that the interest component of the Rental Payment is exempt from federal income taxation in substantially the form attached hereto as Exhibit H.
- (3) All other documentation relating directly to this Lease and the Equipment, as mutually agreed by the Lessor and the City and in form satisfactory to both the Lessor and the City.

In order to facilitate the Lessor's deposit into the Acquisition Fund, the Lessor has agreed in Section 5.01 hereof to receive executed documents by facsimile or electronic means.

**Section 2.03. Nature of this Lease.** The annually renewable obligations of the City under this Lease are payable solely from funds for which an Appropriation has been effected by the City and shall not constitute or give rise to a general obligation or other indebtedness of the City or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City, within the meaning of any constitutional, Charter or statutory provision or limitation nor a mandatory charge or requirement against the City in any ensuing Fiscal Year beyond the then current Fiscal Year. This Lease may not be renewed in the event that funds are not specifically budgeted and available from an Appropriation which has been effected by the City to continue making all Rental Payments and other amounts that may be due hereunder during the next occurring Fiscal Year, and that the act of effecting an Appropriation budgeting funds is a governmental act and, as such, is solely within the discretion of the City.

### ARTICLE III

**Section 3.01. Lease of Equipment.** The Lessor hereby demises, leases, transfers, and lets to the City, and the City acquires, rents, leases and hires from the Lessor, the Equipment in accordance with the terms hereof.

The Lease Term may be continued, solely at the option of the City, at the end of the Original Term or any Renewal Term for the next succeeding Renewal Term up to the maximum Lease Term set forth in greater detail in Exhibit C. At the end of the Original Term and at the end of each Renewal Term until the maximum Lease Term has been completed, the City shall be deemed to have exercised its option to continue this Lease for the next Renewal Term unless the City shall

have terminated this Lease pursuant to the provisions of this Lease, including but not limited to the provisions of Sections 3.03, 5.01 and 10.01.

The terms and conditions during any Renewal Term shall be the same as the terms and conditions during the Original Term, except that the Rental Payments in respect of each Fiscal Year shall be as provided in Exhibit C.

**Section 3.02. Continuation of Lease Term.** As of the date of this Lease, the City currently intends, subject to the provisions of this Lease, including but not limited to the provisions of Sections 3.03 and 5.01, to continue the Lease Term of this Lease through the Original Term and all Renewal Terms and to pay the Rental Payments hereunder during the Lease Term. The City Representative reasonably believes that legally available funds in an amount sufficient to make all Rental Payments during the maximum Lease Term can be obtained by Appropriation. Notwithstanding the foregoing, it is the intention of the City that any decision to effect an Appropriation for the Rental Payments shall be made solely by the City and the actions of the officials of the City as further provided in this Lease, including but not limited to the provisions of Sections 3.03 and 5.01.

**Section 3.03. Nonappropriation.** If sufficient funds are not appropriated by the City for Rental Payments due in any Fiscal Year, an Event of Nonappropriation shall be deemed to have occurred. The City Representative shall deliver notice thereof to the Lessor promptly, but not later than thirty (30) days after the occurrence of an Event of Nonappropriation. Failure to give such notice shall not prevent the Lessor from declaring an Event of Nonappropriation or from taking any remedial action otherwise available to the Lessor.

Upon the occurrence of an Event of Nonappropriation, the City agrees that the Lessor may reclaim possession of the Equipment and make demand upon the City for immediate payment of all other amounts (other than subsequent Rental Payments) then due and outstanding under this Lease, to the extent permitted by law and, if and only if an Appropriation for the payment of such amounts has been effected by the City for this purpose. The City agrees to peaceably deliver the Equipment in accordance with Section 12.02.

The making of Rental Payments and the payment of any other obligations of the City contained in this Lease are subject to annual Appropriation by the City. In the event that the City does not effect an Appropriation in respect of any Renewal Term, thereby renewing this Lease for the related Fiscal Year and allowing the City to continue paying the related Rental Payments, regardless of the reason therefore or the failure of the City to act, this Lease shall automatically terminate on the last day of the Fiscal Year in respect of which such an Appropriation to make Rental Payments had been effected, and the Equipment shall be returned to the Lessor without further obligation of the City for any amount, fee, penalty, interest or damage whatsoever.

The exercise of the City's annual option to appropriate Rental Payments shall be conclusively determined by whether or not the City has, on or before the last day of each Fiscal Year, effected an Appropriation to make Rental Payments for the ensuing Fiscal Year. In any Fiscal Year in which this Lease shall be in effect, the City Representative or other officer of the City then charged with the responsibility of formulating budget proposals in respect of this Lease is hereby directed to include or cause to be included in the annual budget proposals submitted to

the City Council items for all payments required for the next subsequent Renewal Term under this Lease. Notwithstanding this directive regarding the formulation of budget proposals, it is the intention of the City that any decision to effect an Appropriation for the Rental Payments shall be made solely by the City and the actions of the officials of the City as provided in this Section 3.03.

#### ARTICLE IV

**Section 4.01. Rental Payments.** If the City has effected an Appropriation to make Rental Payments in the Original Term and any Renewal Term as provided in Article III, the City shall promptly pay Rental Payments, exclusively from legally available funds, in lawful money of the United States of America to the Lessor on the dates and in such amounts as provided in this Lease, including but not limited to Exhibit C.

The City shall pay the Lessor a charge on any Rental Payment not paid within five (5) business days after the date the City Representative shall have received written notice from the Lessor that such Rental Payment is due during the related Renewal Term at the rate of 12% per annum or the maximum amount permitted by law, whichever is less, from such fifth (5<sup>th</sup>) business day, provided that such charge shall only be paid from funds for which an Appropriation has been effected by the City. Rental Payments consist of principal and interest components as more fully detailed on Exhibit C, the interest on which begins to accrue as of the Commencement Date.

**Section 4.02. Rental Payments to Constitute a Current Expense of the City.** The Lessor and the City acknowledge and agree that the Rental Payments shall constitute currently budgeted expenditures of the City, if an Appropriation has been effected for such purpose. The City's obligation to pay Rental Payments under this Lease shall be from Fiscal Year to Fiscal Year only (as further provided in Section 2.03 and Article III), shall extend only to moneys for which an Appropriation has been effected by the City and shall not constitute a mandatory charge, requirement or liability in any ensuing Fiscal Year beyond the then current Fiscal Year. No provision of this Lease shall be construed or interpreted as a delegation of governmental powers or as creating a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the City or a general obligation or other indebtedness of the City within the meaning of any constitutional, Charter or statutory debt limitation, including without limitation Article X, Section 20 or Article XI, Sections 1, 2 and 6 of the Constitution of the State. This Lease shall not directly or indirectly obligate the City to make any payments beyond those for which an Appropriation has been effected by the City for the City's then current Fiscal Year. The City shall be under no obligation whatsoever to exercise its option to purchase the Equipment. No provision of this Lease shall be construed to pledge or to create a lien on any City moneys, nor shall any provision of this Lease restrict the future issuance of any bonds or obligations of the City payable from any City moneys.

**Section 4.03. Rental Payments to be Unconditional.** The obligations of the City to make Rental Payments in any Fiscal Year for which an Appropriation has been effected by the City for the payment thereof and to perform and observe the other agreements contained in this Lease shall be absolute and unconditional without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any defects, malfunctions, breakdowns or infirmities in the Equipment after Acceptance thereof or any accident, condemnation or unforeseen circumstances.



## ARTICLE V

**Section 5.01. Acquisition Fund Deposit; Delivery, Installation and Testing of Equipment; Acceptance.** The Lessor agrees that if it has received executed documents (which may be by facsimile or electronic means) the Lessor will deposit \$3,541,105.20 into the Acquisition Fund created under the Escrow Agreement in order that such moneys may be used after Acceptance to pay for the acquisition, delivery, installation and testing of the Equipment.

The City agrees to order the Equipment and cause the Equipment to be delivered, installed and tested at the location specified on Exhibit A, all pursuant to the Related Vendor Contracts. After the Equipment has been delivered, installed and tested, the City agrees to accept the Equipment provided that the Equipment satisfies the requirements of the City as set forth in the Related Vendor Contract. If the Equipment satisfies the requirements of the City therefor, all as set forth in the Related Vendor Contract, the City Representative shall promptly notify the Lessor of Acceptance of the Equipment and direct the Escrow Agent to pay the Vendor pursuant to the Escrow Agreement by executing and delivering to the Lessor and the Escrow Agent the corresponding Acceptance Certificate for that Related Vendor.

Within three (3) days of the receipt of the Acceptance Certificate and pursuant to the terms of the Escrow Agreement, the Lessor shall approve the payment of the invoice of the Vendor for the delivery, installation and testing of the Equipment as such invoice shall be attached to and approved in the Acceptance Certificate.

In the event that the Equipment Acceptance Date has not occurred such that title to Equipment in Acceptance Certificate No. 1 and two additional Acceptance Certificates has not been provided to the Lessor by the first Rental Payment Date set forth on Exhibit C:

(a) the City and the Lessor may agree to amend this Agreement to revise Exhibit C as to the Rental Payment dates so that the first Rental Payment Date is after the then anticipated Equipment Acceptance Date and to provide for payment of additional interest required by such extension at the same interest rate set forth on Exhibit C; or

(b) the City may terminate this Lease in which event (i) the City and the Lessor shall direct the Escrow Agent to return to the Lessor the original amount (as set forth above) deposited by the Lessor to the Acquisition Fund and pay to the City any interest income earned on investments of the Acquisition Fund prior to the delivery of such direction, (ii) the City shall pay to the Lessor a final Rental Payment, subject to Appropriation as set forth in Section 4.01, determined by multiplying the original amount deposited by the Lessor to the Acquisition Fund by the per annum interest rate used to calculate the interest component of the Rental Payment by the number of days from the Commencement Date through the day prior to the designated termination date, computed on the basis of a 360-day year of twelve 30-day months, (iii) assign to the Lessor the rights to the Equipment in the Related Vendor Contract, deliver to the Lessor any Equipment received by the City, and direct undelivered Equipment be delivered to the Bank, and (iv) no other

amount, fee, penalty, interest or damages whatsoever shall be due hereunder and this Lease shall be deemed null and void from the designated termination date.

(c) Any such termination may be effected by the mailing of a notice of such termination, including the statement of the City's designated termination date, by the City Representative to the Lessor and the Escrow Agent.

In the event that less than all twelve (12) Acceptance Certificates have been delivered to the Lessor by the first Rental Payment Date set forth on Exhibit C, but the Initial Equipment Acceptance Date has occurred,

(a) the City Representative may negotiate with the Lessor and agree with the Lessor as to a later Acceptance Date for all undelivered Equipment; or

(b) the City may terminate the corresponding unaccepted Equipment portions of this Lease in which event (i) the City and the Lessor shall direct the Escrow Agent to return to the Lessor the unused portions of the original amount (as set forth above) deposited by the Lessor to the Acquisition Fund and pay to the City any interest income earned on investments of the Acquisition Fund prior to the delivery of such direction, (ii) the City shall pay to the Lessor a final Rental Payment for such terminated Equipment subject to Appropriation as set forth in Section 4.01, determined by multiplying the unused portions of the original amount deposited by the Lessor to the Acquisition Fund by the per annum interest rate used to calculate the interest component of the Rental Payment by the number of days from the Commencement Date through the day prior to the designated termination date, computed on the basis of a 360-day year of twelve 30-day months, and (iii) no other amount, fee, penalty, interest or damages whatsoever attributed to the unaccepted Equipment shall be due hereunder and this Lease shall be deemed null and void as to the unaccepted Equipment only from the designated termination date. Exhibit C may be amended to reflect the revised Rental Payments.

(c) Any such partial termination of Equipment may be effected by the mailing of a notice of such partial termination, including the statement of the City's designated partial termination date, by the City Representative to the Lessor and the Escrow Agent.

**UPON THE FINAL ACCEPTANCE OF ALL EQUIPMENT, IF LESS THAN ALL PROCEEDS ARE USED, THE CITY MAY REQUEST ESCROW AGENT REFUND THOSE PROCEEDS TO THE CITY FOR USE AS RENTAL PAYMENTS.**

**Section 5.02. Enjoyment of Equipment.** After Acceptance, the Lessor shall provide the City with quiet use and enjoyment of the Equipment during the Lease Term, and the City shall peaceably and quietly have, hold and enjoy the Equipment during the Lease Term, without suit, trouble or hindrance from the Lessor, except as otherwise expressly set forth in this Lease. No Registered Owner shall interfere with such quiet use and enjoyment during the Lease Term so long

as this Lease has not been terminated as a result of the occurrence of an Event of Nonappropriation or an Event of Default.

**Section 5.03. Location; Inspection.** Once installed, no item of the Equipment will be moved from the location specified for it on Exhibit A without the Lessor's consent, which consent shall not be unreasonably withheld. If the Lessor provides, on any business day, to the City's Representative at least 24 hours' written notice of intent to inspect, the Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the locations of the Equipment for the purpose of inspecting the Equipment.

**Section 5.04. Use and Maintenance of the Equipment.** After Acceptance, the City will not use, operate or maintain the Equipment carelessly, in violation of any applicable law or in a manner contrary to that contemplated by this Lease. The City shall provide all permits and licenses, if any, necessary for the installation and operation of the Equipment. In respect of the Equipment, the City agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; provided that the City may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not adversely affect the interest of the Lessor in and to the Equipment or its interest or rights under this Lease.

The City agrees that it will, at the City's own cost and expense, maintain, preserve and keep the Equipment in good repair and working order. The Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Equipment.

## ARTICLE VI

**Section 6.01. Title to the Equipment.** During the Lease Term, legal title to the Equipment and any and all repairs, replacements, substitutions and modifications to such Equipment shall be in the Lessor. Such title shall be held by the Lessor subject to this Lease. The City agrees that so long as legal title to the Equipment shall be in the Lessor and the City shall not be considered to hold legal title to the Equipment under Section 10.01, the Lessor shall be entitled to receive (a) any money attached or added to the Equipment at any time, (b) any money or property from the sale of the Equipment, and (c) any money from an insurance claim if the Equipment is lost or damaged. Unless an Event of Nonappropriation or an Event of Default has occurred and is continuing, upon acceptance thereof, the City shall have the right to peacefully possess and use the Equipment during the Lease Term. The City will at all times protect and defend, at its own cost and expense, the Lessor's title from and against all claims, liens, and legal processes of the City's creditors, and keep all Equipment free and clear of all such claims, liens and processes.

**Section 6.02. Financing Documents.** Neither the Lessor nor the City will execute, or cause to be filed, any financing or security documents in respect of this Lease or the Equipment unless such financing or security documents shall consist of financing statements filed by the Lessor reflecting (a) the Lessor's legal title to the Equipment and designated as "filed for notice purposes only" and with precautionary statement as to the interest of the Lessor as the title holder or (b) the Lessor's assignment of its interests in this Lease and the Equipment as provided in Section 11.01.

**Section 6.03. Personal Property.** The Equipment is and will remain personal property and will not be deemed to be affixed to or a part of the real estate on which it may be situated, notwithstanding that the Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Upon the request of the Lessor, the City will, at the City's expense, furnish a waiver of any interest in the Equipment from any party having an interest in any such real estate or building.

## ARTICLE VII

**Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges.** The City shall keep the Equipment free of all levies, liens and encumbrances except those created by this Lease. The Lessor and the City contemplate that the Equipment will be used and possessed by the City for a governmental or proprietary purpose of the City and that the Equipment will therefore be exempt from all property taxes. Because of such contemplation, the Lessor agrees that it will not declare the Equipment to the Assessor's office of the City, the State or any other taxing entity and will not take any other action that may cause an improper tax billing to be prepared in respect of the Equipment. If the use, possession or acquisition of the Equipment is nevertheless determined to be subject to taxation, the City shall pay when due (a) all taxes and governmental charges lawfully assessed or levied against or with respect to the Equipment and (b) all utility and other charges incurred in the use and maintenance of the Equipment, provided that the City shall have effected an Appropriation for the payment of any such taxes or charges. The City shall pay such taxes or charges as the same may become due; provided that, with respect to any such taxes or charges that may lawfully be paid in installments over a period of years, the City shall be obligated to pay only such installments as accrue during the Lease Term.

**Section 7.02. Insurance.** At its own expense, the City shall, during the Lease Term, either (a) maintain automobile liability insurance in respect of the Equipment in the amount of \$1,000,000.00 and shall name the Lessor as an additional insured under such policy or (b) self-insure against such risks evidencing such self-insurance by providing a statement of self-insurance coverage in an amount not less than the cost of the Equipment. Upon the Lessor's written request to the City Representative from time to time throughout the Lease Term, the City Representative shall furnish to the Lessor evidence of such insurance or self-insurance coverage. The City shall request its automobile liability insurer provide notice if the policy is materially modified or cancelled. The City shall not materially modify or cancel such insurance coverage without first giving written notice thereof to the Lessor at least 10 days in advance of such cancellation or modification. To the extent that the City is not self-insured in respect of the Equipment, the required casualty insurance shall contain a provision making any losses payable to the City and the Lessor as their respective interest may appear.

**Section 7.03. Advances.** In the event the City shall fail to keep the Equipment in good repair and working order, the Lessor may, but shall be under no obligation to, maintain and repair the Equipment and pay the cost thereof. All amounts so advanced by the Lessor shall constitute additional rent for the then current Original Term or Renewal Term and, only if an Appropriation has been effected by the City for this purpose, the City agrees to pay such amounts so advanced by the Lessor with interest thereon from the due date until paid at the rate of 12% per annum or the maximum amount permitted by law, whichever is less.

## ARTICLE VIII

**Section 8.01. Damage, Destruction and Condemnation.** If (a) the Equipment or any portion thereof is destroyed, in whole or in part, or is damaged by fire or other casualty or (b) title to, or the temporary use of, the Equipment or any part thereof shall be taken under the exercise or threat of the power of eminent domain by any governmental body or by any person, firm or corporation acting pursuant to governmental authority, the City and the Lessor will cause the Net Proceeds to be applied to the prompt replacement, repair, restoration, modification or improvement of the Equipment to substantially the same condition as existed prior to the event causing such damage, destruction, or condemnation unless the City shall have exercised its option to purchase the Equipment pursuant to Section 10.01. Any balance of the Net Proceeds remaining after such work has been completed shall be paid to the City.

For purposes of this Article, the term "Net Proceeds" shall mean (a) the amount of insurance proceeds received by the City for rebuilding, repairing, restoring, or replacing the damaged or destroyed Equipment or (b) the amount remaining from the gross proceeds of any condemnation award or sale under threat of condemnation after deducting all expenses, including attorneys' fees, incurred in the collection thereof.

**Section 8.02. Insufficiency of Net Proceeds.** If the Net Proceeds are insufficient to pay in full the cost of any repair, restoration, modification or improvement referred to in Section 8.01, City shall either (a) complete such replacement, repair, restoration, modification or improvement and pay any costs thereof in excess of the amount of the Net Proceeds, or (b) pursuant to Section 10.01 purchase the Lessor's interest in all of the Equipment. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing the Lessor's interest in all of the Equipment shall be retained by the City. If the City shall make any payments pursuant to this Section, the City shall not be entitled to any reimbursement therefor from the Lessor nor shall the City be entitled to any diminution of the amounts payable under Article IV. If the City does not timely budget and appropriate sufficient funds to proceed under either (a) or (b), an Event of Nonappropriation shall be deemed to have occurred and the Lessor may pursue remedies available to it following an Event of Nonappropriation.

## ARTICLE IX

**Section 9.01. Disclaimer of Warranties.** The Lessor makes no warranty or representation, either express or implied, as to the value, design, condition, merchantability or fitness for particular purpose or fitness for use of the Equipment. In no event shall the Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Lease or the existence, furnishing, functioning or the City's use of any item, product or service provided for in this Lease. The City may proceed to assert claims and rights relating to the Equipment as provided in Section 9.02 hereof.

**Section 9.02. Vendor's Warranties.** The Lessor hereby irrevocably appoints the City its agent and attorney-in-fact during the Lease Term, so long as the City shall not be in default under

this Lease, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Equipment that the Lessor may have against the Vendor or any person other than the Lessor. Any such matter shall not have any effect whatsoever on the rights or obligations of the Lessor with respect to this Lease, including the right to receive full and timely Rental Payments for which an Appropriation has been effected by the City for this purpose.

## ARTICLE X

**Section 10.01. Purchase Option.** The City shall have the option to purchase the Lessor's ownership interest in all of the Equipment, at the following times and upon the following terms:

(a) On the date of the last Rental Payment set forth in this Lease (assuming this Lease has been renewed at the end of the Original Term and each Renewal Term), if this Lease is still in effect on such day, upon payment in full of Rental Payments due on this Lease to the Lessor;

(b) Upon giving written notice to the Lessor at least sixty (60) days before the date of purchase, on the Rental Payment dates set forth on Exhibit C, upon payment in full of the Rental Payments then due plus the then applicable Purchase Price as set forth on Exhibit C to the Lessor; or

(c) In the event of substantial damage to or destruction or condemnation of substantially all of the Equipment, on the day specified in the City's notice to the Lessor of its exercise of the purchase option upon payment in full to the Lessor of the Rental Payments then due plus the then applicable Purchase Price shown on Exhibit C; provided that (1) such notice shall be given in writing at least sixty (60) days prior to the purchase date and (2) if the purchase date is not a Rental Payment date, the City shall also pay an amount equal to the portion of the interest component of the Rental Payment accrued from the immediately preceding Rental Payment date to such purchase date, computed on the basis of a 360-day year of twelve 30-day months.

**Section 10.02. Manner of Conveyance and Other Agreements Regarding Purchase.** At the closing of the purchase or other conveyance of the Equipment pursuant to Section 10.01, the Lessor shall release and terminate this Lease and deliver to the Manager of Finance a document in substantially the form set forth as Exhibit D releasing, assigning, transferring and conveying title to, and the Lessor's interest in, the Equipment and this Lease. The Lessor shall also cause a termination statement to be filed if the Lessor has filed any "notice" financing statement as permitted under Section 6.02.

## ARTICLE XI

**Section 11.01. Assignment by Lessor.** The Lessor's right, title and interest in, and to Rental Payments and any other amounts payable by the City under this Lease and its ownership in the Equipment and all proceeds there from, may be assigned and reassigned in whole or in part to

one or more assignees or subassignees by the Lessor and, to the extent of its interest, by any Registered Owner, without the necessity of obtaining the consent of the City; provided that (a) any such assignment, other than an assignment by a Registered Owner, shall not be effective until the Manager of Finance has received written notice, signed by the assignor, of the name and address of the assignee, and (b) any assignment to or by a Registered Owner shall not be effective until it is registered on the registration books kept by the Agent as agent for such. The City hereby agrees that the Lessor may, without notice to the City, sell, dispose of, or assign this Lease through a pool, trust, limited partnership, or other similar entity, whereby one or more interests are created in this Lease, the Equipment or the Rental Payments.

The Lessor and the City agree that any such assignment of this Lease is not intended as the offer or sale of a security, and the Lessor and all assignees hereof understand and agree that: (a) the City shall not be responsible for any information provided to any assignee or subassignee in connection with any such assignment and (b) if any such assignment constitutes the offering of a security under applicable securities laws, the City shall not be responsible for compliance with any such laws, and any offering or other disclosure document delivered by the Lessor in connection with such assignment shall include a statement to the effect that the City has assumed no responsibility for such document and has neither reviewed nor undertaken to verify any information contained therein.

Manager of Finance shall (a) retain all assignment notices as a register of all assignees (other than Registered Owners) and (b) shall be responsible for making all payments during the Lease Term, if an Appropriation has been effected by the City for such purpose, *only* to the Lessor at the address set forth in Section 13.01, notwithstanding any assignment by the Lessor pursuant to the terms of this section.

Provided that the City shall have accepted the Equipment, the City shall not have the right to and shall not assert against any assignee or Registered Owner any claim, counterclaim or other right the City may have against the Vendor.

The option granted in this Section does not permit the assignment of less than all of the Lessor's interests in all of the Equipment.

**Section 11.02. Assignment and Subleasing by the City.** None of the City's right, title and interest in, to and under this Lease or any portion of the Equipment may be assigned or encumbered by the City for any reason; except that the City may sublease all or part of such Equipment if (a) such sublease is to an agency or department of, or a political subdivision of, the State or (b) the City obtains the prior written consent of the Lessor and an opinion of nationally recognized counsel in the area of tax exempt municipal obligations satisfactory to the Lessor that such subleasing will not adversely affect the exclusion of the interest components of the Rental Payments from gross income for federal income purposes. Any such sublease of all or part of any Equipment shall be subject to this Lease and the rights of the Lessor in, to and under this Lease and with respect to the Equipment.

## ARTICLE XII

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

(a) Failure by the City to pay any Rental Payment or other payment, for which an Appropriation has been effected by the City for such purpose, during the Original Term or any Renewal Term, five (5) Business Days after the date the City Representative shall have received written notice from the Lessor that such payment is due:

(b) Failure by the City to observe and perform any agreement on its part to be performed, other than as provided in (a) above, for a period of 45 days after written notice specifying such failure and requesting that it be remedied is given to the City by the Lessor, unless the Lessor shall agree in writing to an extension of such time prior to its expiration; provided that, if the failure stated in the notice cannot be corrected within the applicable period, the Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by the City within the applicable period and diligently pursued until the default is corrected and provided further that, if, by reason of *Force Majeure*, the City shall be unable to carry out such agreement, the City shall not be deemed in default during the continuance of such inability:

(c) Any representation made by the City in this Lease or in any writing by any official of the City specifically related to this Lease or the execution, delivery or performance of this Lease shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made:

(d) The City shall (1) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of the City, or of all or a substantial part of the assets of the City, (2) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (3) make a general assignment for the benefit of creditors, (4) have an order for relief entered against it under applicable federal bankruptcy law, or (5) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or take advantage of any insolvency law or any answer admitting the material allegations of a petition filed against the City in any bankruptcy, reorganization or insolvency proceeding; or

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

**Section 12.02. Remedies on Default.** Whenever any Event of Default exists, the Lessor shall have the right, at its sole option without any further demand or notice, to take one or any combination of the following remedial steps:



(a) By written notice to the City, the Lessor may declare all Rental Payments and other amounts for which an Appropriation has been effected by the City, to the end of the then current Original Term or Renewal Term, to be immediately due and payable;

(b) With or without terminating the Lease Term, the Lessor (1)(A) at the Lessor's expense, may enter the premises where the Equipment is located and retake possession of the Equipment or (B) may require the City at the City's expense to promptly return any or all of such Equipment to the possession of the Lessor at such place within the United States as the Lessor shall specify and (2) may sell or lease the Equipment or, for the account of the City, sublease the Equipment, continuing to hold the City liable for the difference between (i) the Rental Payments and other amounts for which an Appropriation has been effected by the City to the end of the then current Original Term or Renewal Term, as the case may be, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of the Lessor in exercising its remedies under this Lease, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing the Equipment and all reasonable brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of this Lease, including but not limited to the provisions of Section 3.03 hereof; and provided that an Appropriation has been effected by the City for such purpose; and

(c) The Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Lease or as owner of all of the Equipment.

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

**Section 12.04. Application of Moneys.** Any net proceeds from the exercise of any remedy under this Lease (after deducting all expenses of the Lessor in exercising such remedies including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Equipment and all reasonable brokerage, auctioneer's and attorney's fees) shall be applied to the Rental Payments and other amounts due under this Lease to the end of the then current Original Term or Renewal Term.

## ARTICLE XIII

**Section 13.01. Notices; Payments to Lessor.** All notices or other communications under this Lease shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, to the Lessor and the City at the addresses listed below (or at such other address as either the Lessor or the City shall designate in writing to the other party hereto). Any payments that may be due to the Lessor during the Lease Term shall be mailed to the Lessor by the City with a City warrant therefor enclosed or shall be transferred by the City by electronic transfer, to the address or the account set forth below:

(a) Notice to Lessor:           Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

Instructions for Mailing of Rent Payments

Banc of America Public Capital  
P.O. Box 100918  
Atlanta, GA 30384-0918

Instructions for Electronic Transfer of Rent Payments

[to be provided separately for security purposes]  
ABA No. \_\_\_\_\_  
Acct. No. \_\_\_\_\_]  
Attn: Beneficiary Name: Banc of America  
Leasing & Capital, LLC

(b) Notice to the City:           Manager of Public Works  
City and County of Denver, Colorado  
201 West Colfax, Dept. 507  
Denver, Colorado 80202  
Attn: Finance and Administration  
Phone: 720-913-1772  
E-mail: [Barbara.puls@denvergov.org](mailto:Barbara.puls@denvergov.org)

and

Manager of Finance  
City and County of Denver, Colorado  
201 West Colfax, Dept. 1004  
Denver, Colorado 80202  
Phone: (720) 913-9370  
Fax: (720) 913-9784  
E-mail: [debtmanagement@denvergov.org](mailto:debtmanagement@denvergov.org)

and

Director of Budget and Management  
City and County of Denver, Colorado  
201 West Colfax, Department 1010  
Denver, Colorado 80202  
Phone: (720) 913-5500  
Fax: (720) 913-5599

and

City Attorney - Municipal Operations  
City and County of Denver, Colorado  
201 West Colfax, Department 1207  
Denver, Colorado 80202

**Section 13.02. Release and Indemnification.** Pursuant to Section 7.2.2 of the Charter and Article XI of the Constitution of the State, the City is prevented by law from indemnifying the Lessor.

**Section 13.03. Binding Effect.** This Lease shall inure to the benefit of and shall be binding upon the Lessor and the City and their respective successors and assigns. References herein to "Lessor" shall be deemed to include each of its assignees and subsequent assignees from and after the effective date of each assignment as permitted and limited by Section 11.01, provided that the Manager of Finance shall only be required to provide payment to the Lessor as described in Section 11.01.

**Section 13.04. Severability.** Except for the requirement of the City to make Rental Payments for which a specific Appropriation has been effected by the City for such purpose and the requirement of the Lessor to provide quiet enjoyment of the Equipment and to convey the Equipment to the City as set forth in Sections 6.01, 10.01 and 10.02 (which, if held invalid or unenforceable by any court of competent jurisdiction, may have the effect of invalidating or rendering unenforceable the other provisions of this Lease) in the event that any provision of this Lease shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision thereof.

**Section 13.05. Amendments.** This Lease may be amended by mutual written consent of the Lessor and the City.

**Section 13.06. Execution in Counterparts.** This Lease may be simultaneously executed in no more than two counterparts, each of which shall be an original and both of which shall constitute but one and the same instrument.

**Section 13.07. Applicable Law.** This Lease shall be governed by and construed in accordance with the laws of the State.

**Section 13.08. Captions.** The captions or headings in this Lease are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Lease.

**Section 13.09. No Discrimination in Employment.** In connection with the performance of the work under this Lease, the Lessor agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, gender identity or gender expression, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

**Section 13.10. Examination of Records.** Any authorized agent of the City, including the City Auditor or his or her representative, has the right to access and the right to examine any pertinent books, documents, papers and records of the Contractor, involving transactions related to the Agreement until the latter of three (3) years after the final payment under the Agreement or expiration of the applicable statute of limitations.

**Section 13.11. 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.

**Section 13.12. Signatures.** Lessor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original. By their respective signatures, the City and the Lessor agree to the terms and conditions of this Equipment Lease Purchase Agreement, including all Exhibits hereto.

*Remainder of page left intentionally blank. Signatures follow.*

**Contract Control Number:**  
**Contractor Name:**

FINAN-201951220-00  
BANC OF AMERICA PUBLIC CAPITAL CORP

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at  
Denver, Colorado as of:

**SEAL**

**CITY AND COUNTY OF DENVER:**

**ATTEST:**

By:

\_\_\_\_\_

\_\_\_\_\_

**APPROVED AS TO FORM:**

**REGISTERED AND COUNTERSIGNED:**

Attorney for the City and County of Denver

By:

By:

\_\_\_\_\_

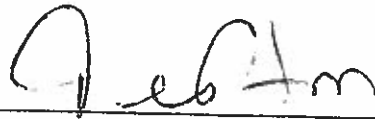
\_\_\_\_\_

By:

\_\_\_\_\_

Contract Control Number:  
Contractor Name:

FINAN-201951220-00  
BANC OF AMERICA PUBLIC CAPITAL CORP

By: 

Name: Terri J. Preston  
(please print) ~~Authorized Agent~~

Title: \_\_\_\_\_  
(please print)

ATTEST: [if required]

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**Contract Control Number:**  
**Contractor Name:**

FINAN-201951220-00  
BANC OF AMERICA PUBLIC CAPITAL CORP

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

ATTEST: [if required]

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

Name: \_\_\_\_\_  
(please print)

Title: \_\_\_\_\_  
(please print)

**EXHIBIT A**

**DESCRIPTION OF THE EQUIPMENT**

**Description of Equipment and Vendors:** See Attachment

**Location of Equipment:** Denver Fleet Maintenance Facility  
5440 Roslyn Street  
Denver, Colorado

**Representations Regarding the Equipment/Code Section 103 Arbitrage Limitations:** The City hereby represents as follows:

(a) The estimated total costs of the Equipment listed above is not less than the total Principal Portion of the Rental Payments set forth in the Rental Payment Schedule on Exhibit C.

(b) The Equipment has been ordered or is expected to be ordered within thirty (30) days of the Commencement Date. The initial delivery of more than 10% of the Equipment is expected to be delivered and tested and the Vendor paid, within six (6) months from the Commencement date and all of the Equipment is expected to be delivered and tested and the Vendors fully paid, within twelve (12) months from the Commencement date.

(c) The Equipment has not been and is not expected to be sold or otherwise disposed of by the City, either in whole or in part, prior to the last payment date for the principal component of the Rental Payments set forth in the Rental Payment Schedule on Exhibit C.

(d) To the best of the City Representative's knowledge, information and belief, the above expectations are reasonable.

By: \_\_\_\_\_  
Eulois Cleckley,  
Executive Director of Public Works  
City and County of Denver, Colorado  
(as City Representative under this Lease)



**Attachment to Exhibit A**

**Exhibit A - Equipment List**

*As of 8/8/19*

*Final vendor prices - valid through 9/15/19:*

DESCRIPTION	Dealer	Quantity	Total Price (unit)	Total Purchase Price	Useful Life
NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)	Rush Truck Center Address: 6955 E 50th Ave Commerce City, CO 80022	12	\$ 269,736.10	\$3,236,833.20	8 years
NEW MODEL YEAR CRANE CARRIER LET2 CC W/ HEIL DURAPACK 5000 REAR LOADER REFUSE BODY DIESEL (Rear-loader)	Kols Brothers Equipment Company Address: 5200 Colorado Blvd, Commerce City, CO 80022	1	\$ 304,272.00	\$ 304,272.00	10 years
<b>GRAND TOTAL</b>			<b>\$ 574,008.10</b>	<b>\$3,541,105.20</b>	

**Rush Truck Center**

**Item 1**

**2 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$539,472.20**

**Item 2**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 3**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 4**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 5**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 6**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 7**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

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**Item 8**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 9**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 10**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Item 11**

**1 NEW MODEL YEAR PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loader)  
\$269,736.10**

**Kois Brothers Equipment Company**

**Item 12**

**1 NEW MODEL YEAR CRANE CARRIER LET2 CC W/ HEIL DURAPACK 5000 REAR LOADER REFUSE BODY-  
DIESEL (Rear-loader)  
\$304,272.00**

## EXHIBIT B

### ESCROW AGREEMENT

**THIS ESCROW AGREEMENT**, dated as of September 30 2019 ("Escrow Agreement"), is by and among BANC OF AMERICA PUBLIC CAPITAL CORP ("Lessor"), a Kansas corporation ("Lessor"); CITY AND COUNTY OF DENVER, COLORADO, a home rule municipality ("City"); and U.S. BANK NATIONAL ASSOCIATION, a national banking association, as escrow agent hereunder ("Escrow Agent").

### BACKGROUND

A. Lessor and City have entered into an Equipment Lease Purchase Agreement (as amended, the "Lease"), dated the date hereof authorizing entrance into this Escrow Agreement, pursuant to which will be established a special trust fund designated "September 30, 2019 Equipment Lease Purchase Agreement Acquisition Fund" (the "Acquisition Fund") to be held and administered by the Escrow Agent in trust for the benefit of the Lessor and the City in accordance with this Escrow Agreement. The Lease provides that Lessor shall deposit the Acquisition Fund (defined below) in a segregated escrow account to be held by Escrow Agent for the purpose of payment to the Vendor(s) for acquisition of the Equipment as set forth on the attached Acceptance Certificates.

B. Escrow Agent has agreed to accept, hold, and disburse the funds deposited with it and the earnings thereon in accordance with the terms of this Escrow Agreement.

C. Lessor and City have appointed the Representatives (as defined below) to represent them for all purposes in connection with the funds to be deposited with Escrow Agent and this Escrow Agreement.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto, for themselves, their successors and assigns, hereby agree as follows:

1. Definitions. Terms not defined herein shall have the meanings defined in the Lease. The following terms shall have the following meanings when used herein:

"Acceptance Certificate(s)" shall mean a written direction executed by the Representatives and directing Escrow Agent to disburse all or a portion of the Acquisition Fund or to take or refrain from taking any other action pursuant to this Escrow Agreement. The Forms of Acceptance Certificate(s) are attached at Schedule C.

"Acquisition Fund" shall mean the funds deposited with Escrow Agent pursuant to Section 3 of this Agreement, together with any interest and other income thereon.

"City Representative" shall mean the person(s) so designated on the Acceptance Certificate

attached hereto or any other person designated, in a writing signed by City and delivered to Escrow Agent and the Lessor Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement.

"Escrow Period" shall mean the period commencing on the date hereof and ending at the close of Escrow Agent's business day on March 16, 2021 unless earlier terminated pursuant to this Escrow Agreement.

"Indemnified Party" shall have the meaning set forth in Section 11.

"Lessor Representative" shall mean the person(s) so designated on the Acceptance Certificate attached hereto or any other person designated in a writing signed by Lessor and delivered to Escrow Agent and the City Representative in accordance with the notice provisions of this Escrow Agreement, to act as its representative under this Escrow Agreement.

"Representatives" shall mean the Lessor Representative and the City Representative.

2. Appointment of and Acceptance by Escrow Agent. Lessor and City hereby appoint Escrow Agent to serve as escrow agent hereunder. There is hereby established in the custody of the Escrow Agent a special trust fund designated "September 30, 2019 Equipment Lease Purchase Agreement Acquisition Fund" (the "Acquisition Fund") to be held and administered by the Escrow Agent in trust for the benefit of the Lessor and the City in accordance with this Escrow Agreement. Escrow Agent hereby accepts such appointment and, upon receipt by wire transfer of the Acquisition Fund in accordance with Section 3 below, agrees to hold, invest and disburse the Acquisition Fund in accordance with this Escrow Agreement.

3. Deposit of Acquisition Fund. Simultaneously with the execution and delivery of this Escrow Agreement, Lessor, on behalf of the City, will transfer the Acquisition Fund in the amount \$3,541,105.20, by wire transfer of immediately available funds, to an account designated by Escrow Agent. The Lessor, the City and the Escrow Agent intend that the Acquisition Fund constitute an escrow account in which the City has no legal or equitable right, title or interest until satisfaction in full of all conditions contained herein for the disbursement therefrom of funds by the Escrow Agent. However, if the parties' intention that the City shall have no legal or equitable right, title or interest until all conditions for disbursement are satisfied in full is not respected in any legal proceeding, the parties hereto intend that the Lessor have a security interest in the Acquisition Fund, and such security interest is hereby granted. For such purpose, the Escrow Agent hereby agrees to act as agent for the Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to the Acquisition Fund, the Lessor's interest therein.

4. Disbursements of Acquisition Fund. Escrow Agent shall disburse amounts from the Acquisition Fund at any time and from time to time, upon receipt of, and in accordance with, a properly and fully executed and approved Acceptance Certificate. Each Acceptance Certificate shall contain complete payment instructions, including wiring instructions or an address to which a check shall be sent. Payments to the recipient Vendor corresponding to the Equipment as accepted shall be made from the Acquisition Fund for the cost of acquisition of the corresponding Equipment upon presentation of the Acceptance Certificate and Payment Request,

the forms of which are attached hereto as Appendix A. Under the terms of the Lease, the Lessor has agreed that the City may provide any Acceptance Certificate and Payment Request in any order and by facsimile transmission and that, within three days after such certificate and request has been received by the Lessor, the Lessor shall provide its approval thereof by facsimile transmission to the Escrow Agent. Within five business days of receipt by the Escrow Agent of the Acceptance Certificate and Payment Request, the Escrow Agent shall notify the Manager of Finance, in writing, that payment to the Vendor has been made from the Acquisition Fund. Such writing may be delivered to the Manager of Finance by mail, hand delivery or facsimile or electronic transmission.

Upon the occurrence of the earlier of (a) the presentation of all twelve (12) Acceptance Certificates and Payment Requests properly executed by the City and approved by the Lessor; (b) the delivery of a direction from the City and the Lessor to return to the Lessor all or the remaining portion of the original amount deposited by the Lessor to the Acquisition Fund and to pay to the City any interest income earned on investments of the Acquisition Fund prior to the delivery of such direction; or (c) the presentation of written notification by the Lessor that an Event of Default or Nonappropriation has occurred or that City has terminated the Agreement and receipt by Escrow Agent from City of complete payment instructions in writing, Escrow Agent shall distribute funds remaining in the Acquisition Fund, as promptly as practicable. Upon termination as described in clause (a) of this paragraph, any amount remaining in the Acquisition Fund, other than investment income, shall be used to prepay, in the sole discretion of the Lessor, principal components of Rental Payments thereafter payable under the Lease either (i) in the inverse order of the principal components of such Rental Payments or (ii) proportionately among all such principal components and any amount representing investment income on the Acquisition Fund shall be paid to the City. In the event that the Lessor elects to apply such amounts in accordance with clause (i) of the preceding sentence, the City shall continue to make Rental Payments as scheduled under the Lease. In the event that Lessor elects to apply such amounts in accordance with clause (ii) above the Lessor shall provide the City with a revised Rental Payment schedule as Exhibit C to the Lease which shall reflect the revised principal balance and reduced Rental Payments due under the Lease. Upon termination as described in clause (b) of this paragraph, the original amount deposited by the Lessor to the Acquisition Fund shall immediately be paid to the Lessor and any interest income earned on investments of the Acquisition Fund prior to the delivery of such direction shall immediately be paid to the City. Upon termination as described in clause (c) of this paragraph, any amount remaining in the Acquisition Fund shall immediately be paid to the Lessor and any amount representing investment income on the Acquisition Fund shall be paid to the City. Prior to any disbursement, Escrow Agent shall have received reasonable identifying information regarding the City and the Lessor that such that Escrow Agent may comply with the above direction and its regulatory obligations and reasonable business practices, including without limitation a completed United States Internal Revenue Service ("IRS") Form W-9 or original IRS Form W-8, as applicable. All disbursements of funds from the Acquisition Fund shall be subject to the fees and claims of Escrow Agent and the Indemnified Parties pursuant to Section 11 and Section 12 below.

5. Suspension of Performance; Disbursement into Court. If, at any time, (i) there shall exist any dispute between Lessor, City or the Representatives with respect to the holding or disposition of all or any portion of the Acquisition Fund or any other obligations of Escrow Agent hereunder, (ii) Escrow Agent is unable to determine, to Escrow Agent's sole satisfaction,

the proper disposition of all or any portion of the Acquisition Fund or Escrow Agent's proper actions with respect to its obligations hereunder, or (iii) Lessor and City have not, within sixty (60) calendar days of the furnishing by Escrow Agent of a notice of resignation pursuant to Section 8 hereof, appointed a successor Escrow Agent to act hereunder, then Escrow Agent may, in its sole discretion, take either or both of the following actions:

a. suspend the performance of any of its obligations (including without limitation any disbursement obligations) under this Escrow Agreement until such dispute or uncertainty shall be resolved to the sole satisfaction of Escrow Agent or until a successor Escrow Agent shall have been appointed.

b. petition (by means of an interpleader action or any other appropriate method) any court of competent jurisdiction, in any venue convenient to Escrow Agent, for instructions with respect to such dispute or uncertainty, and to the extent required or permitted by law, pay into such court, for holding and disposition in accordance with the instructions of such court, all Acquisition Fund, after deduction and payment to Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder.

Escrow Agent shall have no liability to Lessor, City or the Representatives, their respective owners, shareholders or members or any other person with respect to any such suspension of performance or disbursement into court, specifically including any liability or claimed liability that may arise, or be alleged to have arisen, out of or as a result of any delay in the disbursement of the Acquisition Fund or any delay in or with respect to any other action required or requested of Escrow Agent.

6. [reserved]

7. Investment of Funds. Based upon Lessor's and City's prior review of investment alternatives, in the absence of further specific written direction to the contrary, the Escrow Agent is directed to initially invest and reinvest the Acquisition Fund in the investment indicated on Schedule B hereto. City may provide written instructions changing the investment of the Acquisition Fund to the Escrow Agent; provided, however, that no investment or reinvestment may be made except in the following: (a) direct obligations of the United States of America or obligations the principal of and the interest on which are unconditionally guaranteed by the United State of America; (b) U.S. dollar denominated deposit accounts and certificates of deposits issued by any bank, bank and trust company, or national banking association (including Escrow Agent and its affiliates), which such deposits are either (i) insured by the Federal Deposit Insurance Corporation or a similar governmental agency, or (ii) with domestic commercial banks which have a rating on their short- term certificates of deposit on the date of purchase of "A-1" or "A-1+" by S&P or "P-1" by Moody's and maturing no more than 360 days after the date of purchase (ratings on holding companies are not considered as the rating of the bank); (c) repurchase agreements with any bank, trust company, or national banking association (including Escrow Agent and its affiliates); or (d) institutional money market funds, including funds managed by Escrow Agent or any of its affiliates; provided that the Escrow Agent will not be directed to invest in investments that the Escrow Agent in its sole discretion determines are not consistent with the Escrow Agent's policy or practices. Lessor and City acknowledge that the

Escrow Agent does not have a duty nor will it undertake any duty to provide investment advice.

If Escrow Agent has not received a written instruction from City at any time that an investment decision must be made, Escrow Agent is directed to invest the Acquisition Fund, or such portion thereof as to which no written investment instruction has been received, in the investment indicated on Schedule B hereto. All investments shall be made in the name of Escrow Agent. Notwithstanding anything to the contrary contained herein, Escrow Agent may, without notice to Lessor and City, sell or liquidate any of the foregoing investments at any time for any disbursement of Acquisition Fund permitted or required hereunder. All investment earnings shall become part of the Acquisition Fund and investment losses shall be charged against the Acquisition Fund. Escrow Agent shall not be liable or responsible for loss in the value of any investment made pursuant to this Escrow Agreement, or for any loss, cost or penalty resulting from any sale or liquidation of the Acquisition Fund. With respect to any Acquisition Fund investment instructions received by Escrow Agent after twelve o'clock, p.m., Central Standard Time, Escrow Agent shall not be required to invest such funds or to effect any investment instruction until the next day upon which banks in St. Paul, Minnesota and the New York Stock Exchange are open for business.

8. Resignation of Escrow Agent. Escrow Agent may resign and be discharged from the performance of its duties hereunder at any time by giving sixty (60) days prior written notice to the Lessor and City specifying a date when such resignation shall take effect. Upon any such notice of resignation, Lessor and City jointly shall appoint a successor Escrow Agent hereunder prior to the effective date of such resignation. If the Lessor and City fail to appoint a successor Escrow Agent within such time, the Escrow Agent shall have the right to petition a court of competent jurisdiction to appoint a successor Escrow Agent, and all costs and expenses (including without limitation attorneys' fees) related to such petition shall be paid out of and up to the amounts in the Acquisition Fund. The retiring Escrow Agent shall transmit all records pertaining to the Acquisition Fund and shall pay all Acquisition Fund to the successor Escrow Agent, after making copies of such records as the retiring Escrow Agent deems advisable and after deduction and payment to the retiring Escrow Agent of all fees and expenses (including court costs and attorneys' fees) payable to, incurred by, or expected to be incurred by the retiring Escrow Agent in connection with the performance of its duties and the exercise of its rights hereunder. After any retiring Escrow Agent's resignation, the provisions of this Escrow Agreement shall inure to its benefit as to any actions taken or omitted to be taken by it while it was Escrow Agent under this Escrow Agreement.

9. Binding Effect; Successors. This Escrow Agreement shall be binding upon the respective parties hereto and their heirs, executors, successors or assigns. If the Escrow Agent consolidates, merges or converts into, or transfers all or substantially all of its corporate trust business (including the escrow contemplated by this Escrow Agreement) to another corporation, the successor or transferee corporation without any further act shall be the successor Escrow Agent.

10. Liability of Escrow Agent. The Escrow Agent undertakes to perform only such duties as are expressly set forth herein and no duties shall be implied. The Escrow Agent has no fiduciary or discretionary duties of any kind. The Escrow Agent shall have no liability under and no duty to inquire as to the provisions of any agreement other than this Escrow Agreement, including without limitation any other agreement between any or all of the parties hereto or any

other persons even though reference thereto may be made herein. The Escrow Agent shall not be liable for any action taken or omitted by it in good faith without gross negligence or willful misconduct. Escrow Agent's sole responsibility shall be for the safekeeping and disbursement of the Acquisition Fund in accordance with the terms of this Escrow Agreement. Escrow Agent shall not be charged with knowledge or notice of any fact or circumstance not specifically set forth herein. Escrow Agent may rely upon any notice, instruction, request or other instrument, not only as to its due execution, validity and effectiveness, but also as to the truth and accuracy of any information contained therein, which Escrow Agent shall believe to be genuine and to have been signed or presented by the person or parties purporting to sign the same. In no event shall Escrow Agent be liable for incidental, indirect, special, consequential or punitive damages or penalties (including, but not limited to lost profits), even if the Escrow Agent has been advised of the likelihood of such damages or penalty and regardless of the form of action. Escrow Agent shall not be responsible for delays or failures in performance resulting from acts beyond its control, including without limitation acts of God, strikes, lockouts, riots, acts of war or terror, epidemics, governmental regulations, fire, communication line failures, computer viruses, power failures, earthquakes or other disasters. Escrow Agent shall not be obligated to take any legal action or commence any proceeding in connection with the Acquisition Fund, any account in which Acquisition Fund are deposited, this Escrow Agreement or the Lease, or to appear in, prosecute or defend any such legal action or proceeding. Escrow Agent may consult legal counsel selected by it in the event of any dispute or question as to the construction of any of the provisions hereof or of any other agreement or of its duties hereunder, or relating to any dispute involving any party hereto, and shall incur no liability and shall be fully indemnified by Lessor (but not the City) from any liability whatsoever in acting in accordance with the advice of such counsel. Lessor, shall promptly pay, upon demand, the reasonable fees and expenses of any such counsel. Lessor and City agree to perform or procure the performance of all further acts and things, and execute and deliver such further documents, as may be required by law or as Escrow Agent may reasonably request in connection with its duties hereunder.

The Escrow Agent is authorized, in its sole discretion, to comply with final orders issued or process entered by any court with respect to the Acquisition Fund, without determination by the Escrow Agent of such court's jurisdiction in the matter. If any portion of the Acquisition Fund is at any time attached, garnished or levied upon under any court order, or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case any order, judgment or decree shall be made or entered by any court affecting such property or any part thereof, then and in any such event, the Escrow Agent shall notify the City and the Lessor and upon providing such notice, is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel selected by it is binding upon it without the need for appeal or other action; and if the Escrow Agent complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person or entity by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

11. Indemnification of Escrow Agent. From and at all times after the date of this Escrow Agreement, Lessor (but not the City), shall, to the fullest extent permitted by law, indemnify and hold harmless Escrow Agent and each director, officer, employee, attorney, agent and affiliate of Escrow Agent (collectively, the "Indemnified Parties") against any and all actions, claims (whether or not valid), losses, damages, liabilities, penalties, costs and expenses



of any kind or nature (including without limitation reasonable attorneys' fees, costs and expenses) incurred by or asserted against any of the Indemnified Parties, whether direct, indirect or consequential, as a result of or arising from or in any way relating to any claim, demand, suit, action or proceeding (including any inquiry or investigation) by any person, including without limitation Lessor, City and the Representatives, whether threatened or initiated, asserting a claim for any legal or equitable remedy against any person under any statute or regulation, including, but not limited to, any federal or state securities laws, or under any common law or equitable cause or otherwise, arising from or in connection with the negotiation, preparation, execution, performance or failure of performance in connection with this Escrow Agreement or any transactions contemplated herein, whether or not any such Indemnified Party is a party to any such action, proceeding, suit or the target of any such inquiry or investigation; provided, however, that no Indemnified Party shall have the right to be indemnified hereunder for any liability which resulted from the gross negligence or willful misconduct of such Indemnified Party or the City. Lessor further agrees, to indemnify each Indemnified Party for all costs, including without limitation reasonable attorney's fees, incurred by such Indemnified Party in connection with the enforcement of Lessor's indemnification obligations hereunder. Each Indemnified Party shall, in its sole discretion, have the right to select and employ separate counsel with respect to any action or claim brought or asserted against it, and the reasonable fees of such counsel shall be paid upon demand by the Lessor. The obligations of Lessor under this Section 11 shall survive any termination of this Escrow Agreement and the resignation or removal of Escrow Agent.

The parties agree that neither the payment by Lessor of any claim by Escrow Agent for indemnification hereunder nor the disbursement of any amounts to Escrow Agent from the Acquisition Fund in respect of a claim by Escrow Agent for indemnification shall impair, limit, modify, or affect, as between Lessor and City, the respective rights and obligations of Lessor and City under the Lease.

## 12. Compensation of Escrow Agent

(a) Fees and Expenses. Lessor and City agree, jointly and severally, to compensate Escrow Agent on demand for its services hereunder in accordance with Schedule A attached hereto. (The obligations of Lessor and City under this Section 12 shall survive any termination of this Escrow Agreement and the resignation or removal of Escrow Agent.)

(b) Disbursements from Acquisition Fund to Pay Escrow Agent. Escrow Agent is authorized to, and may disburse to itself from the Acquisition Fund, from time to time, the amount of any compensation and reimbursement of out-of-pocket expenses due and payable hereunder (including any amount to which Escrow Agent or any Indemnified Party is entitled to seek indemnification hereunder). Escrow Agent shall notify Lessor and City of any disbursement from the Acquisition Fund to itself or any Indemnified Party in respect of any compensation or reimbursement hereunder and shall furnish Lessor and City copies of related invoices and other statements.

(c) Security and Offset. Lessor hereby grants to Escrow Agent and the Indemnified Parties a security interest in, lien upon and right of offset against the Acquisition Fund with respect to any compensation or reimbursement due any of them hereunder (including any claim for indemnification hereunder). Escrow Agent shall not be required by any provision of this

Escrow Agreement to expend or risk its own funds in the performance of its duties if it shall have reasonable grounds for believing that repayment of such funds is not reasonably assured to it.

13. Representations. Lessor and City each respectively make the following representations to Escrow Agent:

(a) it has full power and authority to execute and deliver this Escrow Agreement and to perform its obligations hereunder; and this Escrow Agreement has been duly approved by all necessary action and constitutes its valid and binding agreement enforceable in accordance with its terms; and

(b) each of the applicable persons designated on the Acceptance Certificates at Schedule C attached hereto have been duly appointed to act as authorized representatives hereunder and individually have full power and authority to execute and deliver any Acceptance Certificate(s), to amend, modify or waive any provision of this Escrow Agreement and to take any and all other actions as authorized representatives under this Escrow Agreement, all without further consent or direction from, or notice to, it or any other party, provided that any change in designation of such authorized representatives shall be provided by written notice delivered to each party to this Escrow Agreement.

14. Identifying Information. To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. For a non-individual person such as a business entity, a charity, a trust, or other legal entity, the Escrow Agent requires documentation to verify its formation and existence as a legal entity. The Escrow Agent may ask to see financial statements, licenses, identification and authorization documents from individuals claiming authority to represent the entity or other relevant documentation. The parties acknowledge that a portion of the identifying information set forth herein is being requested by the Escrow Agent in connection with the USA Patriot Act, Pub.L. 107-56 (the "Act"), and each agrees to provide any additional information requested by the Escrow Agent in connection with the Act or any other legislation or regulation to which Escrow Agent is subject, in a timely manner.

15. Consent to Jurisdiction and Venue. In the event that any party hereto commences a lawsuit or other proceeding relating to or arising from this Escrow Agreement, the parties hereto agree to the personal jurisdiction by and venue in the state and federal courts in the State of Colorado and waive any objection to such jurisdiction or venue. The parties hereto consent to and agree to submit to the jurisdiction of any of the courts specified herein and agree to accept service of process to vest personal jurisdiction over them in any of these courts.

16. Notices. All notices, approvals, consents, requests, and other communications hereunder shall be in writing and shall be delivered (i) by personal delivery, or (ii) by national overnight courier service, or (iii) by certified or registered mail, return receipt requested, or (iv) via facsimile transmission, with confirmed receipt or (v) via email by way of a PDF attachment thereto of a manually executed document. Notice shall be effective upon receipt except for notice via email, which shall be effective only when the City, by return email or notice delivered by other method provided for in this Section 16, acknowledges having received that email (with an automatic "read receipt" or similar notice not constituting an acknowledgement of an email

receipt for purposes of this Section 16.) Such notices shall be sent to the applicable party or parties at the address specified below:

If to Lessor or Lessor Representative at:

Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

If to City or City Representative at:

Manager of Finance  
City and County of Denver, Colorado  
201 West Colfax, Dept. 1004  
Denver, Colorado 80202

Telephone: (720) 913-9370  
Facsimile: (720) 913-9784  
E-mail: [debtmanagement@denvergov.org](mailto:debtmanagement@denvergov.org)  
Tax ID: 84-6000580

If to the Escrow Agent at:

U.S. Bank National Association, as Escrow Agent  
ATTN: Global Corporate Trust Services  
Address: 950 17<sup>th</sup> Street, 5<sup>th</sup> Floor  
Denver CO 80202  
Telephone: 303-585-4591  
Facsimile: 303-585-4530  
E-mail: [kathleen.connelly@usbank.com](mailto:kathleen.connelly@usbank.com)

and to:

U.S. Bank National Association  
ATTN: Kristie Thao-Pha  
Trust Finance Management  
60 Livingston Ave EP MN WS2N  
St. Paul MN 55107  
Telephone: 651-466-6095  
Facsimile: 866-691-4161  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

or to such other address as each party may designate for itself by like notice and unless otherwise provided herein shall be deemed to have been given on the date received.

17. Optional Security Procedures. In the event funds transfer instructions, address

changes or change in contact information are given (other than in writing at the time of execution of this Escrow Agreement), whether in writing, by facsimile or otherwise, the Escrow Agent is authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to the person or persons designated in Paragraph 16 hereto, and the Escrow Agent may rely upon the confirmation of anyone purporting to be the person or persons so designated. The persons and telephone numbers for call-backs may be changed only in writing actually received and acknowledged by Escrow Agent and shall be effective only after Escrow Agent has a reasonable opportunity to act on such changes. If the Escrow Agent is unable to contact any of the designated representatives identified in Paragraph 16, the Escrow Agent is hereby authorized but shall be under no duty to seek confirmation of such instructions by telephone call-back to any one or more of Lessor's or City's Representatives on the Acceptance Certificate. The Escrow Agent may rely upon the confirmation of anyone purporting to be any such Representative. Lessor and City agree that the Escrow Agent may at its option record any telephone calls made pursuant to this Section. The Escrow Agent in any funds transfer may rely solely upon any account numbers or similar identifying numbers provided by Lessor or City to identify (a) the recipient Vendor, (b) the recipient Vendor's bank, or (c) an intermediary bank. The Escrow Agent may apply any of the Acquisition Fund for any payment order it executes using any such identifying number, even when its use may result in a person other than the beneficiary being paid, or the transfer of funds to a bank other than the beneficiary's bank or an intermediary bank designated. Lessor and City acknowledge that these optional security procedures are commercially reasonable.

18. Amendment, Waiver and Assignment. None of the terms or conditions of this Escrow Agreement may be changed, waived, modified, discharged, terminated or varied in any manner whatsoever unless in writing duly signed by each party to this Escrow Agreement. No course of conduct shall constitute a waiver of any of the terms and conditions of this Escrow Agreement, unless such waiver is specified in writing, and then only to the extent so specified. A waiver of any of the terms and conditions of this Escrow Agreement on one occasion shall not constitute a waiver of the other terms of this Escrow Agreement, or of such terms and conditions on any other occasion. Except as provided in Section 9 hereof, this Escrow Agreement may not be assigned by any party without the written consent of the other parties.

19. Severability. To the extent any provision of this Escrow Agreement is prohibited by or invalid under applicable law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Escrow Agreement.

20. Governing Law. This Escrow Agreement shall be construed and interpreted in accordance with the internal laws of the State of Colorado without giving effect to the conflict of laws principles thereof.

21. Entire Agreement, No Third Party Beneficiaries. This Escrow Agreement constitutes the entire agreement between the parties relating to the holding, investment and disbursement of the Acquisition Fund and sets forth in their entirety the obligations and duties of Escrow Agent with respect to the Acquisition Fund. Nothing in this Escrow Agreement, express or implied, is intended to or shall confer upon any other person, other than recipient Vendors, any right, benefit or remedy of any nature whatsoever under or by reason of this Escrow Agreement.

22. Execution in Counterparts, Facsimiles. This Escrow Agreement and any Acceptance Certificate(s) may be executed in two or more counterparts, which when so executed shall constitute one and the same agreement or direction. The delivery of copies of this Escrow Agreement and any Joint Written Instruction and their respective signature pages by PDF or facsimile transmission shall constitute effective execution and delivery as to the parties and may be used in lieu of originals for all purposes.

23. Termination. This Escrow Agreement shall terminate upon the distribution of all the Acquisition Fund pursuant to any applicable provision of this Escrow Agreement, and Escrow Agent shall thereafter have no further obligation or liability whatsoever with respect to this Escrow Agreement or the Acquisition Fund.

24. Dealings. The Escrow Agent and any stockholder, director, officer or employee of the Escrow Agent may buy, sell, and deal in any of the securities of the Lessor or City and become pecuniarily interested in any transaction in which the Lessor or City may be interested, and contract and lend money to the Lessor or City and otherwise act as fully and freely as though it were not Escrow Agent under this Agreement. Nothing herein shall preclude the Escrow Agent from acting in any other capacity for the Lessor or City or for any other entity.

25. Brokerage Confirmation Waiver. Lessor and City acknowledge that to the extent regulations of the Comptroller of the Currency or other applicable regulatory entity grant either the right to receive brokerage confirmations for certain security transactions as they occur, Lessor and City specifically waive receipt of such confirmations to the extent permitted by law. The Escrow Agent will furnish the Lessor and City periodic cash transaction statements that include detail for all investment transactions made by the Escrow Agent.

26. Tax Reporting. Escrow Agent shall have no responsibility for the tax consequences of this Agreement and Lessor and City shall consult with independent counsel concerning any and all tax matters. Lessor and City shall provide Escrow Agent Form W-9 and an original Form W-8, as applicable, for each payee, together with any other documentation and information requested by Escrow Agent in connection with Escrow Agent's reporting obligations under applicable IRS regulations. If such tax documentation is not so provided, Escrow Agent may withhold taxes from the Acquisition Fund as required by the IRS. [Payment of Taxes: If it is determined that taxes are payable on income earned from the investment of sums held in the Acquisition Fund, such taxes shall be paid by the City] City and Lessor have determined that any interest or income on Acquisition Fund shall be reported on an accrual basis and deemed to be for the account of City. Lessor and City shall prepare and file all required tax filings with the IRS and any other applicable taxing authority; provided that the parties further agree that:

(a) Escrow Agent IRS Reporting. The Escrow Agent shall have no responsibility for the preparation or filing of any tax return with respect to any income earned by the Acquisition Fund. The parties shall provide information as reasonably necessary for Escrow Agent's reporting obligations under the Foreign Account Tax Compliance Act and Foreign Investment in Real Property Tax Act or other applicable law or regulation.

(b) Withholding Requests and Indemnification. Lessor and City jointly and severally agree to (i) assume all obligations imposed now or hereafter by any applicable tax law or regulation with respect to payments or performance under this Agreement, (ii) request the

Escrow Agent in writing with respect to withholding and other taxes, assessments or other governmental charges, and advise Escrow Agent in writing with respect to any certifications and governmental reporting that may be required under any applicable laws or regulations, and (iii) Lessor (but not the City) will indemnify and hold the Escrow Agent harmless pursuant to Section 11 hereof from any liability or obligation on account of taxes, assessments, additions for late payment, interest, penalties, expenses and other governmental charges that may be assessed or asserted against Escrow Agent.

(c) Imputed Interest. To the extent that IRS imputed interest regulations apply, Lessor and City shall so inform Escrow Agent, provide Escrow Agent with all imputed interest calculations and direct Escrow Agent to disburse imputed interest amounts as Lessor and City deem appropriate. Escrow Agent shall rely solely on such provided calculations and information and shall have no responsibility for the accuracy or completeness of any such calculations or information.

(d) Cost Basis Reporting. Lessor and City shall affirm in writing to Escrow Agent whether the securities being exchanged, redeemed, or sold pursuant to the Lease are classified as "Covered Securities" or "Non-Covered Securities" under IRS Cost Basis Reporting regulations not later than thirty (30) days after a distribution hereunder. If such securities are classified as "Covered Securities", then Lessor and City are jointly responsible for providing accurate and complete cost basis information to Escrow Agent for purposes of Form 1099-B preparation. The required information shall include date of acquisition and cost basis of the applicable security, and any other information that Escrow Agent may request to comply with IRS 1099-B reporting regulations. Lessor and City shall provide written direction to Escrow Agent on the allocation of the cost basis to each shareholder's distribution.

27. No Discrimination in Employment. In connection with the performance of the work under this Escrow, the Escrow Agent and Lessor agree not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, gender identity or gender expression, sexual orientation, marital status, or physical or mental disability; and further agrees to insert the foregoing provision in all subcontracts hereunder.

28. Publicity. No party will (a) use any other party's proprietary indicia, trademarks, service marks, trade names, logos, symbols, or brand names, or (b) otherwise refer to or identify any other party in advertising, publicity releases, or promotional or marketing publications, or correspondence to third parties without, in each case, securing the prior written consent of such other party.

*Remainder of page left intentionally blank.  
Signatures follow.*

**IN WITNESS WHEREOF**, the parties hereto have caused this Escrow Agreement to be executed under seal as of the date first above written.

**BANC OF AMERICA PUBLIC CAPITAL CORP  
as Lessor**

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

**CITY AND COUNTY OF DENVER  
as Lessee**

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

**U.S. BANK NATIONAL ASSOCIATION  
as Escrow Agent**

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

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**SCHEDULE A**

**Schedule of Fees for Services as Escrow Agent**

**SCHEDULE A**

**Schedule of Fees for Services as Escrow Agent**

**Escrow Agent, One Time**

Waived

One time fee paid solely by City for performance of the routine duties of the agent in administration of the escrow account. Administration fees are payable in advance

**Direct Out of Pocket Expenses**

At Cost

Reimbursement of expenses associated with the performance of our duties, including but not limited to publications, legal counsel after the initial close, travel expenses and filing fees

**Extraordinary Services**

Extraordinary services are duties or responsibilities of an unusual nature, including termination, but not provided for in the governing documents or otherwise set forth in this schedule. A reasonable charge will be assessed based on the nature of the service and the responsibility involved. At our option, these charges will be billed at a flat fee or at our hourly rate then in effect.

Account approval is subject to review and qualification. Fees paid in advance will not be prorated. The fees set forth above and any subsequent modifications thereof are part of your agreement. Finalization of the transaction constitutes agreement to the above fee schedule, including agreement to any subsequent changes upon proper written notice. In the event your transaction is not finalized, any related out-of-pocket expenses will be billed to you directly; however, the parties understand no funds will be paid by the City under any circumstances. Absent your written instructions to sweep or otherwise invest, all sums in your account will remain uninvested and no accrued interest or other compensation will be credited to the account. Payment of fees constitutes acceptance of the terms and conditions set forth.

**IMPORTANT INFORMATION ABOUT PROCEDURES FOR OPENING A NEW ACCOUNT:**

To help the government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify and record information that identifies each person who opens an account.



## SCHEDULE B

### U.S. BANK NATIONAL ASSOCIATION Investment Authorization Form

Based upon City's prior review of investment alternatives, in the absence of further specific written direction to the contrary, U.S. Bank National Association ("USBNA") or U.S. Bank Trust National Association ("USBTNA") is hereby directed to invest and reinvest proceeds and other available moneys in the following fund as permitted by the operative documents:

#### First American Government Obligations Fund Class D Shares

PLEASE REFER TO THE PROSPECTUS OF FIRST AMERICAN FUNDS, INC. WHICH YOU HEREBY ACKNOWLEDGE HAS PREVIOUSLY BEEN PROVIDED. NOTE THAT THE ABOVE FUNDS' INVESTMENT ADVISOR, CUSTODIAN, DISTRIBUTOR AND OTHER SERVICE PROVIDERS AS DISCLOSED IN THE FUNDS PROSPECTUS ARE U.S. BANK NATIONAL ASSOCIATION AND AFFILIATES THEREOF. U.S. BANK DOES NOT HAVE A DUTY NOR WILL IT UNDERTAKE ANY DUTY TO PROVIDE INVESTMENT ADVICE TO YOU. U.S. BANK, WHEN ACTING AS AN INDENTURE TRUSTEE OR IN A SIMILAR CAPACITY, IS NOT REQUIRED TO REGISTER AS A MUNICIPAL ADVISOR WITH THE SECURITIES AND EXCHANGE COMMISSION FOR PURPOSES OF COMPLYING WITH THE DODD-FRANK WALL STREET REFORM & CONSUMER PROTECTION ACT. INVESTMENT ADVICE, IF NEEDED, SHOULD BE OBTAINED FROM YOUR FINANCIAL ADVISOR. FOR INFORMATION ABOUT OTHER AVAILABLE SWEEP OPTIONS, CONTACT YOUR ACCOUNT MANAGER.

U.S. Bank National Association (or U.S. Bank Trust National Association) will not vote proxies for the First American Funds. Proxies will be mailed to you for voting.

#### SHAREHOLDER COMMUNICATIONS ACT AUTHORIZATION

The Shareholder Communications Act of 1985 and its regulation require that banks and trust companies make an effort to facilitate communication between registrants of U.S. securities and the parties who have the authority to vote or direct the voting of those securities regarding proxy dissemination and other corporate communications. Unless you indicate your objection below, we will provide the obligatory information to the registrant upon request. Your objection will apply to all securities held for you in the account now and in the future unless you notify us in writing.

\_\_\_\_\_ I object to US Bank providing my name, address, and securities positions to requesting issuers.  
(Initial, check, or place an X on the [blank] to indicate your objection)

#### Acknowledgments. City Acknowledges that:

1.1. Shares of Mutual Funds are not deposits or obligations of, or guaranteed by, any bank, including any bank affiliated with U.S. Bancorp. Nor does the Federal Deposit Insurance Corporation, the Federal Reserve Board, or any other government agency insure such products. An investment in such products involves investment risks, including the possible loss of principal, due to fluctuations in each product's net asset value.

1.2. Same-day Settlement. If USBNA (or USBTNA) receives a direction to purchase or redeem Sweep Vehicle shares by the fund's established U.S. Bank cut-off time (the "Internal Trading Cut-off"), then such entity will settle the purchase or redemption on the same business day, subject to the Sweep Vehicle's cut-off and policy for determining when a purchase or redemption order is considered to be received. Meeting the Internal Trading Cut-off does not guarantee same-business-day settlement.

1.3. Advance of Funds. If USBNA (or USBTNA) receives a direction to redeem Sweep Vehicle shares (the "Redemption Direction") and to disburse or invest the proceeds thereof before the redeemed shares settle (the

"Proceeds Direction"), then they have the power to (i) determine the dollar amount of anticipated proceeds based on the net asset value ("NAV") most recently determined (ii) advance funds in that dollar amount in furtherance of settling the redemption and, as applicable, the purchase; (iii) determine the number of shares redeemed based on the NAV at settlement; and (iv) as part of USBNA's (or USBTNA's) compensation for servicing the Account, retain the yield paid on Sweep Vehicle shares that were treated as redeemed. USBNA (or USBTNA) reserves the right not to advance funds, including where the Sweep Vehicle has a floating NAV and the dollar amount of the Proceeds Direction is at least 99% of the dollar value of all Sweep Vehicle shares in the Account based on the NAV most recently determined.

**1.4. Fund-level Fees.** USBNA (or USBTNA), U.S. Bancorp Asset Management, Inc. ("USBAM"), U.S. Bancorp Fund Services, LLC ("USBFS") and Quasar Distributors, LLC ("Quasar") are affiliates of U.S. Bancorp (collectively with U.S. Bancorp, "U.S. Bank"). USBAM is the investment advisor to the Mutual Funds in the First American Funds, Inc. family (the "First American Funds"). U.S. Bank may enter into agreements with First American Funds, other Mutual Funds, or any Mutual Funds' service providers (including investment advisers, administrators, transfer agents, or distributors) whereby U.S. Bank provides services to Mutual Funds, including, as applicable, services provided by USBAM (investment advisory, shareholder services), by USBNA (or USBTNA) (custody, securities-lending, shareholder services, National Securities Clearing Corporation (NSCC) networking), by USBFS (accounting, administration, transfer agency, sub-transfer agency), and by Quasar (distribution, principal underwriting) and receives fees for these services. The fees received by Quasar may include distribution and service fees paid under a plan of distribution adopted pursuant to Rule 12b-1 under the Investment Company Act of 1940. The fees may be received from the Mutual Fund or its investment advisor, administrator, transfer agent, distributor, or other agent; are based on investment in a Mutual Fund, may vary by Mutual Fund and by class of shares issued by the Mutual Fund, are charged against the Mutual Fund's assets, and reduce the Mutual Fund's average daily balance and investment yields. From time to time, a Mutual Fund's service provider may voluntarily waive a portion of the fees it is entitled to receive for serving the Mutual Fund. If a waiver is in effect, then the City's approval of the fees described herein includes approval up to the Sweep Vehicle's total annual operating expenses before waivers; if the service provider terminates the waiver as provided in the Sweep Vehicle's prospectus, the approval persists.

**1.5. Directed Account.** USBNA (or USBTNA) (i) has no discretion to invest Account assets (such as discretion to select the Sweep Vehicle; determine whether, or what amount of, Account assets will be used to purchase a position in the Sweep Vehicle; or redeem Sweep Vehicle shares) and (ii) does not render investment advice with respect to Account assets. Nor will USBNA's (or USBTNA's) power to advance funds in furtherance of settlement, whether exercised or not, be deemed to be such discretion or advice.

**1.6. Revocation.** The City may revoke the foregoing designation of the Sweep Vehicle at any time without penalty.

**2. Representations.** Represents to the extent permitted by law that (i) the City is independent of U.S. Bank; has discretionary authority to select the investments and approve the fees described herein for the Account; received, read, and understood the Sweep Vehicle's prospectus and fund fact-sheet, including the sections thereof describing fees, gates, expenses, cut-offs, and compensation, before Account assets were first invested in the Sweep Vehicle; and understands and approves the services and fees described herein; (ii) if the Account assets are subject to the Employee Retirement Income Security Act of 1974, as amended, ("ERISA"), then the City is a trustee under ERISA §403(a) with respect to the assets, a "named fiduciary" with respect to the plan within the meaning of ERISA §402(a), or an "investment manager" within the meaning of ERISA §3(38) with respect to the assets that has been delegated the authority to manage, acquire, and dispose of such assets pursuant to ERISA §402(c)(3); and (iii) the foregoing designation, direction, acknowledgments, representations are made according to the Account's governing service agreement and are not contrary to applicable law.

**SCHEDULE C**

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 1 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 1 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment Agreement described in the Lease at Exhibit A Item 1 has been executed on the date hereof.
- (2) The City has conducted such review of this Equipment Agreement as it deems necessary and appropriate and hereby acknowledges that it has executed this Equipment Agreement for all purposes described therein.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$539,472.20

in payment of all of the deposit for the Equipment listed on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition, delivery, installation and testing of the Equipment and has not formed the basis of any prior request for payment. The Equipment deposit for which this payment is to be made is listed at Item 1 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 2 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 2 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 2 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 2 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition and delivery of the Equipment and has not

formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 2 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 3 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 3 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 3 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 3 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached

hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 3 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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



**FORM OF ACCEPTANCE CERTIFICATE  
NO. 4 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 4 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 4 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 4 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition and delivery of the Equipment and has not

formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 4 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 5 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 5 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 5 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 5 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached

hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 5 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 6 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 6 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 6 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 6 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached

hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 6 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 7 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 7 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 7 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 7 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached

hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 7 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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



**FORM OF ACCEPTANCE CERTIFICATE  
NO. 8 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 8 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 8 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 8 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition and delivery of the Equipment and has not

formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 8 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 9 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 9 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 9 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 9 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to

be made is all of the "Equipment" listed at Item 9 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 10 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 10 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 10 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 10 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached

hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 10 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**FORM OF ACCEPTANCE CERTIFICATE  
NO. 11 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 11 of September 30, 2019 Equipment Lease Purchase Agreement**

**Re:** Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

**To:** Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 11 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$269,736.10 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 11 on Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached

hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 11 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Rush Truck Center  
6955 E 50th Ave,  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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



**FORM OF ACCEPTANCE CERTIFICATE  
NO. 12 of 12 FOR COMPOST VEHICLES**

**Appendix A Item 12 of September 30, 2019 Equipment Lease Purchase Agreement**

Re: Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019 between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado (the "City"), as Lessee.

To: Banc of America Public Capital Corp  
11333 McCormick Road  
M/C MD5-032-07-05  
Hunt Valley, MD 21031  
[augustine.reichenbach@baml.com](mailto:augustine.reichenbach@baml.com)  
443-541-2613 (phone)  
904-312-6101 (fax)

and

U.S. Bank National Association  
Attn: Kristie Thao-Pha  
60 Livingston Avenue, EP-MN-WS3T  
St. Paul, MN 55107-2292  
Phone Number: 651-466-7468  
Fax Number: 651-495-8087  
E-mail: [kristie.thaopha@usbank.com](mailto:kristie.thaopha@usbank.com)

In accordance with the Lease and a related Escrow Agreement, the undersigned City Representative hereby certifies and represents to, and agrees with the Lessor as follows:

- (1) The Equipment described in the Lease at Exhibit A Item 12 has been delivered on the date hereof.
- (2) The City has conducted such inspection of this Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts delivery of this Equipment for all purposes.
- (3) No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Lease) exists at the date hereof.
- (4) The Lessor is hereby requested to approve the payment of, and the Escrow Agent is hereby requested to pay, the Vendor designated below as Payee, the sum of \$304,272.00 in payment of all of the cost of the acquisition and delivery of the Equipment listed at Item 12 on

Exhibit A to the Lease. Such amount is due and payable under the invoice of the Payee attached hereto with respect to the cost of the acquisition and delivery of the Equipment and has not formed the basis of any prior request for payment. The Equipment for which this payment is to be made is all of the "Equipment" listed at Item 12 in Exhibit A to the Lease. Pursuant to paragraph 4 of the Escrow Agreement, the Escrow Agent is to notify the Manager of Finance that this payment has been made.

Payee: Kois Brothers Equipment Company  
5200 Colorado Blvd.  
Commerce City, CO 80022

Payee's Federal ID Number: \_\_\_\_\_

(5) If all Acceptance Certificates have been completed with the processing of this Acceptance Certificate, then coincident with the payment of the Vendor pursuant to (4) above, the Escrow Agent is hereby directed to pay all amounts remaining in the Acquisition Fund in accordance with paragraph 4 of the Escrow Agreement.

City and County of Denver, Colorado, as Lessee

By: \_\_\_\_\_  
Manager of Public Works  
(as City Representative under the Lease)

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

APPROVED:

Banc of America Public Capital Corp, as Lessor

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

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

**EXHIBIT C**

**LEASE TERM AND RENTAL PAYMENTS/PURCHASE PRICE SCHEDULE**

**Lease Term**

The term of this Lease shall begin on the Commencement Date and shall expire on August 15, 2020, subject to the unilateral option of the City to renew for up to four additional one year terms. The first Renewal Term shall be from August 16, 2020, to August 15, 2021; the second Renewal Term shall be from August 16, 2021, to August 15, 2022; the third Renewal Term shall be from August 16, 2022, to August 15, 2023; and the fourth Renewal Term shall be from August 16, 2023 to August 15, 2024. Such options shall be exercised by the action of the City Council in effecting Appropriations of funds for the Rental Payments due in the Original Term and subsequently, each Renewal Term. If such Appropriation of funds for any Renewal Term is not made for a future Fiscal Year, the City will be deemed to have thereby failed to exercise its option to renew this Lease for such Fiscal Year, and the Lessor's sole remedy shall be the return of the Equipment to the Lessor at the expiration of the then current term.

**Rental Payments/Purchase Price Schedule\***

<u>Payment No.</u>	<u>Payment Date</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Total Payment Amount</u>	<u>Purchase Price</u>
1	8/15/2020	\$688,355.36	\$59,248.89	\$747,604.25	
2	8/15/2021	\$693,053.96	\$54,550.29	\$747,604.25	\$2,159,695.88
3	8/15/2022	\$706,306.54	\$41,297.71	\$747,604.25	\$1,453,389.34
4	8/15/2023	\$719,812.54	\$27,791.71	\$747,604.25	\$733,576.80
5	8/15/2024	\$733,576.80	\$14,027.45	\$747,604.25	\$0
<b>Totals</b>		<b>\$3,541,105.20</b>	<b>\$196,916.05</b>	<b>\$3,738,021.25</b>	<b>\$3,541,105.20</b>

Rate: 1.9122% per annum

\*Upon payment of the final Rental Payment the City shall have purchased the Equipment and title shall be transferred to the City.



**APPENDIX I  
(TO RELEASE AND CONVEYANCE)**

**DESCRIPTION OF PROPERTY  
RELEASE AND CONVEYANCE**

12 PETERBILT 520 W/ AMREP AMHASLTPO-19- 37 YARD ASL-DIESEL (Side-loaders)

VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____
VIN: _____	Mileage: _____

1 CRANE CARRIER LET2 CC W/ HEIL DURAPACK 5000 REAR LOADER REFUSE BODY-DIESEL (Rear-loader)

VIN: \_\_\_\_\_ Mileage: \_\_\_\_\_

**EXHIBIT E**

**CERTIFICATES OF (1) MANAGER OF GENERAL SERVICES AND  
(2) MANAGER OF FINANCE**

(1) The Manager of General Services (or the designee of such Manager) of the City and County of Denver, Colorado (the "City") hereby certifies, in connection with this Lease and the Equipment, as follows:

(a) The City has complied with all applicable procurement requirements, if any, related to this Lease and the acquisition of the Equipment pursuant to the terms of this Lease and the Related Vendor Contract.

(b) Any of the following titled persons within the City's Department of General Services are designees of the Manager of General Services: Director of Purchasing. Other persons may be designated as designee in a separate writing executed by the Manager of General Services.

By: \_\_\_\_\_  
Manager of General Services or Designee  
City and County of Denver, Colorado

(2) The Manager of Finance (or the designee of such Manager) of the City and County of Denver, Colorado (the "City") hereby certifies, in connection with this Lease and the Equipment, as follows:

(a) The City has not created or established, and does not expect to create or establish, any sinking fund or similar fund (1) that is reasonably expected to be used to pay the Rental Payments set forth in the Rental Payment Schedule on Exhibit C, or (2) that may be used solely to prevent a default in the payment of the Rental Payments set forth in the Rental Payment Schedule on Exhibit C.

(b) The City has provided all information relating to the City needed to file the information report (Form 8038-G) attached to this Lease as Exhibit F. The information contained in such Form 8038-G is accurate as of the date hereof. The Manager of Finance will file or will cooperate with the Lessor to file such Form 8038-G with the Internal Revenue Service as required by the Code and related Treasury Regulations.

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(c) Any of the following titled persons within the City's Department of Finance are designees of the Manager of Finance: Treasury Division - Director of Financial Management, Debt Administrator and Fiscal Administrator. Other persons may be designated as designee in a separate writing executed by the Manager of Finance.

By: \_\_\_\_\_  
Manager of Finance or Designee  
City and County of Denver, Colorado

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**EXHIBIT F**  
**FORM OF IRS FORM 8038G**

[Insert PDF version]

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Form **8038-G**

**Information Return for Tax-Exempt Governmental Bonds**

(Rev. September 2018)

► Under Internal Revenue Code section 149(e)  
► See separate instructions.

OMB No. 1545-0720

Department of the Treasury  
Internal Revenue Service

Caution: If the issue price is under \$100,000, use Form 8038-GC.  
► Go to [www.irs.gov/F8038G](http://www.irs.gov/F8038G) for instructions and the latest information.

<b>Part I Reporting Authority</b>		If Amended Return, check here <input type="checkbox"/>
1 Issuer's name <b>City and County of Denver, Colorado</b>		2 Issuer's employer identification number (EIN) <b>84-6000580</b>
3a Name of person (other than issuer) with whom the IRS may communicate about this return (see instructions)		3b Telephone number of other person shown on 3a
4 Number and street (or P.O. box if mail is not delivered to street address) <b>201 W. Colfax Ave., Dept. 1010</b>	Room/suite	6 Report number (For IRS Use Only) <b>3</b>
5 City, town, or post office, state, and ZIP code <b>Denver, CO 80202</b>		7 Date of issue <b>09/16/2019</b>
8 Name of issue <b>Equipment Lease Purchase Agreement dated September 16, 2019</b>		9 CUSIP number <b>None</b>
10a Name and title of officer or other employee of the issuer whom the IRS may call for more information (see instructions) <b>Robert O. Gibson, Manager of Cash, Risk and Capital Funding</b>		10b Telephone number of officer or other employee shown on 10a <b>720-913-9383</b>

**Part II Type of Issue (enter the issue price). See the instructions and attach schedule.**

11 Education	11		
12 Health and hospital	12		
13 Transportation	13		
14 Public safety	14		
15 Environment (including sewage bonds)	15		
16 Housing	16		
17 Utilities	17		
18 Other. Describe ► <b>Governmental Waste Disposal Vehicles and Equipment</b>	18	<b>3,541,105</b>	<b>20</b>
19a If bonds are TANs or RANs, check only box 19a			<input type="checkbox"/>
19b If bonds are BANs, check only box 19b			<input type="checkbox"/>
20 If bonds are in the form of a lease or installment sale, check box			<input type="checkbox"/>

**Part III Description of Bonds. Complete for the entire issue for which this form is being filed.**

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	<b>08/01/2024</b>	<b>\$ 3,541,105.20</b>	<b>\$ 3,541,105.20</b>	<b>2.908</b> years	<b>1.9129</b> %

**Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)**

22 Proceeds used for accrued interest	22	<b>0</b>	<b>00</b>
23 Issue price of entire issue (enter amount from line 21, column (b))	23	<b>3,541,105</b>	<b>20</b>
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	<b>0</b>	<b>00</b>
25 Proceeds used for credit enhancement	25	<b>0</b>	<b>00</b>
26 Proceeds allocated to reasonably required reserve or replacement fund	26	<b>0</b>	<b>00</b>
27 Proceeds used to refund prior tax-exempt bonds. Complete Part V	27	<b>0</b>	<b>00</b>
28 Proceeds used to refund prior taxable bonds. Complete Part V	28	<b>0</b>	<b>00</b>
29 Total (add lines 24 through 28)	29	<b>0</b>	<b>00</b>
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	<b>3,541,105</b>	<b>20</b>

**Part V Description of Refunded Bonds. Complete this part only for refunding bonds.**

31 Enter the remaining weighted average maturity of the tax-exempt bonds to be refunded	<b>N/A</b>	<b>years</b>
32 Enter the remaining weighted average maturity of the taxable bonds to be refunded	<b>N/A</b>	<b>years</b>
33 Enter the last date on which the refunded tax-exempt bonds will be called (MM/DD/YYYY)	<b>N/A</b>	
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	<b>N/A</b>	

For Paperwork Reduction Act Notice, see separate instructions.

Cat. No. 63773S

Form **8038-G** (Rev. 9-2018)

**Part VI Miscellaneous**

<b>35</b>	Enter the amount of the state volume cap allocated to the issue under section 141(b)(5) . . . . .	<b>35</b>	0	00
<b>36a</b>	Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (GIC). See instructions . . . . .	<b>36a</b>	0	00
<b>b</b>	Enter the final maturity date of the GIC ▶ (MM/DD/YYYY) _____			
<b>c</b>	Enter the name of the GIC provider ▶ _____			
<b>37</b>	Pooled financings: Enter the amount of the proceeds of this issue that are to be used to make loans to other governmental units . . . . .	<b>37</b>	0	00
<b>38a</b>	If this issue is a loan made from the proceeds of another tax-exempt issue, check box <input type="checkbox"/> and enter the following information:			
<b>b</b>	Enter the date of the master pool bond ▶ (MM/DD/YYYY) _____			
<b>c</b>	Enter the EIN of the issuer of the master pool bond ▶ _____			
<b>d</b>	Enter the name of the issuer of the master pool bond ▶ _____			
<b>39</b>	If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box . . . . .			<input type="checkbox"/>
<b>40</b>	If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box . . . . .			<input type="checkbox"/>
<b>41a</b>	If the issuer has identified a hedge, check here <input type="checkbox"/> and enter the following information:			
<b>b</b>	Name of hedge provider ▶ _____			
<b>c</b>	Type of hedge ▶ _____			
<b>d</b>	Term of hedge ▶ _____			
<b>42</b>	If the issuer has superintegrated the hedge, check box . . . . .			<input type="checkbox"/>
<b>43</b>	If the issuer has established written procedures to ensure that all nonqualified bonds of this issue are remediated according to the requirements under the Code and Regulations (see instructions), check box . . . . .			<input checked="" type="checkbox"/>
<b>44</b>	If the issuer has established written procedures to monitor the requirements of section 148, check box . . . . .			<input checked="" type="checkbox"/>
<b>45a</b>	If some portion of the proceeds was used to reimburse expenditures, check here <input type="checkbox"/> and enter the amount of reimbursement . . . . . ▶ _____			
<b>b</b>	Enter the date the official intent was adopted ▶ (MM/DD/YYYY) _____			

<b>Signature and Consent</b>	Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	Signature of issuer's authorized representative ▶ _____		Date ▶ _____	
<b>Paid Preparer Use Only</b>	Print/Type preparer's name <b>Darren C. McHugh</b>		Preparer's signature <i>Darren C. McHugh</i>	
	Date <b>09/14/2019</b>		Check <input type="checkbox"/> if self-employed PTIN <b>P01296493</b>	
	Firm's name ▶ <b>Stradling Yocca Carlson &amp; Rauth, a Professional Corporation</b>		Firm's EIN ▶ <b>95-3347002</b>	
	Firm's address ▶ <b>1400 16th Street, Ste. 400, Denver, CO 80202</b>		Phone no. <b>(720) 616-6980</b>	

**EXHIBIT G**

**FORM OF OPINION OF CITY ATTORNEY**

(To be put on City Attorney's Letterhead)

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

Re: Equipment Lease Purchase Agreement dated September 30, 2019, between Banc of America Public Capital Corp, as Lessor, and the City and County of Denver, Colorado, as Lessee

Ladies and Gentlemen:

I am the City Attorney of the City and County of Denver, Colorado (the "City"). I have examined

(a) an executed counterpart of an Equipment Lease Purchase Agreement (the "Lease") dated September 30, 2019, including Exhibits thereto, by and between Banc of America Public Capital Corp (the "Lessor"), as lessor, and the City, as lessee, which, among other things, provides for the lease with option to purchase to the City of certain property described on Exhibit A of the Lease (the "Equipment"),

(b) Resolution No. 19-\_\_\_\_ Series of 2019 of the City Council of the City effective on August 27, 2019 (the "Authorizing Resolution"), which, among other things, authorizes the City to execute the Lease and

(c) such other certificates of officers of the City, opinions, documents and matters of law as I have deemed necessary in connection with the following opinion.

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

- (1) The City is duly organized and validly existing as a home rule city under the Constitution and the laws of the State of Colorado and its Home Rule Charter.
- (2) Pursuant to the Authorizing Resolution, the City has the requisite power and authority to lease with an option to purchase and thereby acquire the Equipment and to execute and deliver the Lease.

- (3) The Lease has been duly authorized, executed, and delivered by the City. Assuming due authorization, execution and delivery of the Lease by the Lessor, the Lease is a valid and legally binding obligation of the City, enforceable against the City in accordance with its terms, except to the extent such enforcement is limited by applicable bankruptcy, reorganization, insolvency, moratorium or other laws affecting the enforcement of creditors' rights generally and general equitable remedies such as specific performance or other injunctive relief.
- (4) To the best of my knowledge after reasonable investigation, the authorization, execution and delivery of the Lease and all other proceedings of the City relating to the transactions contemplated by the Lease have been performed in accordance with all open meeting laws, procurement laws and all other applicable state or federal laws, to the extent that any such laws apply to the City, the Lease or the Equipment.
- (5) There is no proceeding pending against the City in any court or before any public board that, if adversely determined, would adversely affect the transactions contemplated by the Lease.

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

Yours truly,

Kristin M. Bronson  
City Attorney

[Certificate of Manager of General Services (Exhibit E) to be  
provided to City Attorney in respect of opinion (4) above]

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**EXHIBIT H**

**(Outside Counsel reliance letter follows)**

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RENO  
WASHINGTON  
SEATTLE

September 16, 2019

Banc of America Public Capital Corp,  
a Kansas Corporation

*Re: An Annually Renewable Equipment Lease Purchase Agreement, dated September 16, 2019, between Banc of America Public Capital Corp, as lessor, and City and County of Denver, Colorado, as lessee*

Ladies and Gentlemen:

On the date hereof, we delivered to the City and County of Denver, Colorado (the "City") our approving opinion (the "Approving Opinion") with respect to the above-captioned Lease Purchase Agreement (the "Lease") executed and delivered pursuant to the constitution and laws of the State of Colorado, the City's home rule charter, and a resolution of the City Council of the City (the "City Council") adopted and approved by the City Council on August 27, 2019. You are authorized to rely on the Approving Opinion as if it were addressed to you.

This letter is being furnished to you solely for your benefit in connection with the execution and delivery of the Lease and is not to be used, circulated, quoted or otherwise referred to for any other purpose without our prior written consent. The Approving Opinion is limited to matters governed by the laws of the State of Colorado and federal securities laws, and we assume no responsibility with respect to the applicability or the effect of the laws of any other jurisdiction. No attorney-client relationship has existed or exists between our firm and you in connection with the Lease or by virtue of this letter and we are not assuming any professional responsibility to any other person whomsoever.

Respectfully submitted,

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[FORM OF SPECIAL COUNSEL OPINION]

September 16, 2019

City and County of Denver, Colorado,  
as Lessee

*Re: An Annually Renewable Equipment Lease Purchase Agreement, dated September 16, 2019, between Banc of America Public Capital Corp, as lessor, and City and County of Denver, Colorado, as lessee*

Ladies and Gentlemen:

We have acted as special tax counsel to the City and County of Denver, Colorado (the “City”) in connection with the execution and delivery by the City of the captioned annually renewable Equipment Lease Purchase Agreement dated September 16, 2019 (the “Lease”), between Banc of America Public Capital Corp, as lessor (the “Lessor”), and the City, as lessee. *Capitalized terms used herein have the same meanings as in the Lease.*

The Lease is not a mandatory payment obligation of the City in any ensuing fiscal year beyond a fiscal year for which the City has specifically appropriated amounts to make payments under the Lease, nor does the Lease directly or indirectly obligate the City beyond such fiscal year, nor does the Lease constitute or give rise to a general obligation or a multiple fiscal year direct or indirect indebtedness or other financial obligation whatsoever of the City within the meaning of any constitutional, home rule charter or statutory provision.

Under the Lease, the City has been granted an option to purchase the Lessor’s ownership interests in the Equipment and to terminate its obligations under the Lease upon payment of the then applicable Purchase Price. In addition, the City has been granted the option to otherwise not renew, and thereby terminate its obligations under, the Lease for any reason, without payment of the Purchase Price, upon the occurrence of an Event of Nonappropriation or an Event(s) of Lease Default as described in the Lease.

In our capacity as special tax counsel, we have examined the constitution and the laws of the State of Colorado, the City’s home rule charter, the Internal Revenue Code of 1986, as amended (the “Code”), the regulations, rulings and judicial decisions relevant to the opinions set forth in paragraphs 2 and 3 below and the legal opinion of the City Attorney, upon which we are relying in giving our opinions herein, and certain other documents and closing certificates executed and

delivered by the Lessor and the City as of the date of delivery of the Lease, as well as such other documents as we deemed necessary in order to render this opinion. As to questions of fact material to our opinion, we have relied upon the representations of the City contained in the Lease and other certifications of public officials furnished to us without undertaking to verify the same by independent investigation.

Based upon, subject to and limited by the foregoing, we are of the opinion, under existing law and as of the date hereof, that:

1. The Lease has been duly authorized, executed and delivered by the City and, assuming its due execution by the Lessor, constitutes the valid and legally binding obligation of the City, enforceable against the City in accordance with its terms.

2. Under the laws and regulations of the United States of America as presently enacted and construed, the interest components of Rental Payments made by the City and received by the Lessor or its assigns is excluded from gross income for federal income tax purposes and is not a specific preference item for purposes of the federal alternative minimum tax, except that we express no opinion herein with respect to the effect of nonrenewal or termination of the Lease upon the federal income tax treatment of moneys received under the Lease subsequent to such nonrenewal or termination. The opinions set forth in the preceding sentence assume the accuracy of certain representations and compliance by the City with covenants designed to satisfy the requirements of the Code that must be met subsequent to the execution and delivery of the Lease. Failure to comply with such requirements could cause the interest components of Rental Payments made by the City and received by the Lessor to be includable in gross income for federal income tax purposes or could otherwise adversely affect such opinions, retroactive to the date of execution and delivery of the Lease (the "*Execution and Delivery Date*"). The City has covenanted to comply with such requirements in the Lease and in tax compliance representations on Exhibit E of the Lease executed and delivered in connection with the execution and delivery of the Lease stating the reasonable expectations of the City as of the Execution and Delivery Date as to future events that are material for purposes of Sections 103 and 148 of the Code. We express no opinion regarding other federal tax consequences arising with respect to the Lease. We note, however, that the interest components of Rental Payments made by the City and received by the Lessor are taken into account in determining adjusted current earnings for purposes of the alternative minimum tax imposed on corporations (as defined for federal income tax purposes) for tax years beginning before January 1, 2018.

3. To the extent the interest components of Rental Payments made by the City and received by the Lessor are excludable from gross income for federal income tax purposes, such interest components of Rental Payments made by the City and received by the Lessor are not subject to income taxation by the State of Colorado, except that we express no opinion herein with respect to the effect of nonrenewal or termination of the Lease upon income tax treatment by the State of Colorado of any moneys received under the Lease subsequent to such nonrenewal or termination. We also express no opinion regarding other tax consequences arising with respect to the Lease under the laws of the State of Colorado or any other state or jurisdiction.

The rights of the Lessor and the enforceability of the Lease may be subject to and limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting



creditors' rights heretofore or hereafter enacted, and may also be subject to and limited by the exercise of judicial discretion, procedural and other defenses based on particular factual circumstances and equitable principles in appropriate cases, to the reasonable exercise by the State of Colorado and its governmental bodies of the police power inherent in the sovereignty of the State of Colorado and to the exercise by the United States of America of powers delegated to it by the United States Constitution.

As special tax counsel, we are passing only upon those matters set forth in this opinion. We express no opinion herein with respect to collateral issues or matters or with respect to the accuracy or completeness of any documents prepared or used or statements made in connection with the offering or sale of the Lease, or with respect to any federal or Colorado tax consequences arising from the receipt or accrual of the interest components of Rental Payments made by the City and received by the Lessor, except those specifically addressed herein.

This opinion is rendered as of the date hereof and we assume no obligation to update, revise or supplement this opinion to reflect any facts or circumstances that may hereafter come to our attention or any changes in law that may hereafter occur.

In performing our services as special tax counsel, the City is our sole client in this transaction and as special tax counsel we have not been engaged by, nor have we undertaken to advise, any other party or to opine as to matters not specifically covered herein.

Respectfully submitted,

[TO BE SIGNED]