

DIRECT PURCHASE AGREEMENT**concerning**

**\$4,100,000 Equipment Lease/Purchase Agreement
(Taxable Direct Pay New Clean Renewable Energy Bond)
tentatively dated as of October 1, 2015
between Banc of America Leasing & Capital, LLC and
Public Utilities Commission of the City and County of San Francisco,
Acting on behalf of the City and County of San Francisco**

Dated as of October __, 2015

Public Utilities Commission
of the City and County of San Francisco,
acting on behalf of the City and County of
San Francisco
525 Golden Gate Ave
San Francisco, California 94102

Ladies and Gentlemen,

Banc of America Leasing & Capital, LLC, as Lessor (the "Lessor"), offers to enter into this Direct Purchase Agreement (this "Agreement") with the Public Utilities Commission of the City and County of San Francisco, acting on behalf of the City and County of San Francisco (the "Commission"), which, upon acceptance of this offer by the Commission, will be binding upon the Commission and the Lessor. This offer is made subject to written acceptance by the Commission on or before 5:00 p.m., Eastern time, on October __, 2015, the date hereof and, if not so accepted, will be subject to withdrawal by the Lessor upon written notice delivered to the Commission at any time prior to such acceptance.

Unless otherwise specified herein, any capitalized term used but not defined in this Agreement will have the meaning given such term in the NCREB Lease (as defined herein).

1. Execution and Delivery of NCREB Lease; Purchase and Sale of NCREB Lease. Upon the terms and conditions hereof and upon the basis of the representations, warranties and covenants set forth in this Agreement, the Lessor and the Commission each hereby agrees to enter into an Equipment Lease/ Purchase Agreement (Taxable Direct Pay New Clean Renewable Energy Bond), tentatively dated as of October 1, 2015 (the "NCREB Lease"). The Lessor hereby agrees to purchase from the Commission its lease payment obligation arising under the NCREB Lease, and the Commission hereby agrees to sell to the Lessor all (but not less than all) of such obligation at a purchase price of \$4,100,000. For purposes of this Agreement, the lease payments payable by the Commission under the NCREB Lease are sometimes referred to herein as the "Rental

Payments," and the instrument evidencing such obligations is the NCREB Lease. The Rental Payments will possess principal and interest components and mature, will be eligible for the applicable Federal Subsidy Payments under Section 6431 of the Code (the "Federal Subsidy Payments") and will be purchased at the price, all as set forth in Exhibit A attached hereto. The NCREB Lease will otherwise be as described in the resolution of the Commission authorizing its execution and delivery (the "Resolution"), and will be issued pursuant to the Constitution and laws of the State of California (the "State") and the Resolution.

The delivery and payment of the NCREB Lease and other actions contemplated hereby, to take place at the time thereof, are sometimes referred to herein as the "Closing."

The proceeds of the NCREB Lease will be used to pay all or a portion of the cost of acquiring the Equipment, as described in the NCREB Lease (the "Project").

The NCREB Lease is being entered into in accordance with the applicable provisions of California law including Section 9.107(8) of the Charter of the City and County of San Francisco (the "Act") and the Resolution. All amounts due under the NCREB Lease are to be paid in accordance with the terms of the NCREB Lease.

2. Representations and Warranties of the Lessor. The Lessor is purchasing the NCREB Lease for its own account and not with a present view to distribute or participate the NCREB Lease, provided that in the course of managing its portfolio of municipal bonds and notes, the Lessor may resell the NCREB Lease, or an interest or participation therein, at any time on a private placement basis to a Lessor who (i) represents that such Lessor has sufficient knowledge and experience in financial and business matters and it is capable of evaluating the merits and risks of the prospective investment, (ii) understands that the NCREB Lease is not registered under the Securities Act of 1933, as amended (the "Securities Act"), (iii) is either an "accredited investor" within the meaning of Regulation D under the Securities Act or a "qualified institutional buyer" within the meaning of Rule 144A of the Securities Act, and (iv) intends to acquire the NCREB Lease for either investment for its own account or resale in a transaction exempt from registration under the Securities Act.

3. Representations and Warranties of the Commission. The Commission will make the following representations and warranties to the Lessor, all of which will survive the delivery of the NCREB Lease:

(a) The Commission is and will be at the date of Closing duly organized and validly existing, with the powers and authority set forth in the Act;

(b) The Commission has, and will have at the date of Closing, full legal right, power and authority to: (i) execute and deliver this Agreement, the NCREB Lease, and the Filing Agent Agreement (the "Filing Agent Agreement"), tentatively dated as of October 1, 2015 (collectively, the "Commission Documents"); and (ii) carry out and consummate the transactions contemplated by the Resolution and the Commission Documents;

(c) By all necessary official action, the Commission has duly authorized the execution and delivery of the NCREB Lease pursuant to the Resolution and the City Charter, and approved the adoption or execution and delivery of the Commission Documents, and the performance by the Commission of the obligations on its part contained therein, and, as of the date hereof, such authorizations and approvals are in full force and effect and have not been amended, modified or rescinded. When executed and delivered by the parties thereto, the Commission Documents will constitute the legally valid and binding obligations of the Commission enforceable upon the Commission in accordance with their respective terms, except insofar as enforcement may be limited by bankruptcy, insolvency, reorganization, moratorium and other similar laws affecting the rights and remedies of creditors and to the extent enforcement may also be subject to the exercise of judicial discretion and the laws of equity in appropriate cases;

(d) The Commission has complied, and will at the Closing be in compliance in all respects, with the obligations on its part to be performed on or prior to the Closing under the Commission Documents, the Resolution and the City Charter;

(e) The Commission is not in breach of or default (nor is it aware of any breach or default) under any applicable constitutional provision, law, or administrative regulation of the State or the United States or any applicable judgment or decree, or any loan agreement, indenture, bond, note, resolution, agreement, or other instrument to which the Commission is a party, or which relates to the pledge of (or lien on) the NCREB Lease, or to which any of the Commission's properties or assets are otherwise subject, and no event has occurred and is continuing that with the passage of time or the giving of notice, or both, would constitute a default or event of default under any such instrument; and the execution and delivery of the Commission Documents, and compliance with the provisions on the Commission's part contained therein, will not conflict with or constitute a breach of or default under the Commission's by-laws or any constitutional provision, law, administrative regulation, judgment, decree, loan agreement, indenture, bond, note, resolution, agreement, or other instrument to which the Commission, or which relates to the pledge of (or lien on) the NCREB Lease or to which any of the Commission's properties or assets are otherwise subject, nor will any such execution, delivery, adoption, or compliance result in the creation or imposition of any lien, charge, or other security interest or encumbrance of any nature whatsoever upon any of the property or assets of the Commission or the NCREB Lease or under the terms of any such law, regulation or instrument, except as provided by the NCREB Lease and the Resolution;

(f) All authorizations, approvals, licenses, permits, consents and orders of any governmental authority, legislative body, board, agency or commission having jurisdiction of the matter have been duly obtained that are required for the due authorization by or that would constitute a condition precedent to, or the absence of which would materially adversely affect the due performance by the Commission of, its obligations in connection with the execution and delivery of the NCREB Lease and the sale thereof pursuant to this Agreement, except for purposes of the NCREB Lease, the filing of Form 8038-TC with the Internal Revenue Service (or the filing of such other forms as may be prescribed by the Internal Revenue Service); provided, however, any such form will be filed (or caused to be filed) by the Commission promptly after Closing as to ensure the qualification of the NCREB Lease as a "new clean renewable energy bond" within the meaning of Section 54C of the Code;

(g) To the best knowledge of the undersigned officer of the Commission, as of the date hereof, there is no action, suit, proceeding, inquiry or investigation, at law or in equity, before or by any court, government agency, public board or body, pending or threatened against the Commission, affecting or seeking to prohibit, restrain or enjoin the sale, execution or delivery of the NCREB Lease, or contesting or affecting as to the Commission the validity or enforceability of the Commission Documents or the Resolution in any respect relating to authorization of the Commission Documents, or contesting the powers of the Commission or any authority for the execution or delivery of the NCREB Lease, or in any way questions the formation or existence of the Commission, or in any manner contesting the qualification of the NCREB Lease as a "new clean renewable energy bond" within the meaning of Section 54C of the Code;

(h) That (i) neither the Commission nor any person under its control or direction will make any use of the proceeds of the NCREB Lease (or amounts deemed to be proceeds under the Code) in any manner that would cause the NCREB Lease to (1) be an "arbitrage bond" within the meaning of Section 148 of the Code or (2) not be a "new clean renewable energy bond" within the meaning of Section 54C of the Code; (ii) the Commission will cause the calculation and payment of any amount required to be rebated to the United States Treasury pursuant to the Code; and (iii) the Commission will file (or cause to be filed) such documents and forms prescribed by the Internal Revenue Service to claim the Federal Subsidy Payments made available pursuant to Section 6431 of the Code.

(i) Between the date of this Agreement and the date of Closing, the Commission will not have issued any bonds or notes or incurred (or consented to the issuance of) any other obligations for borrowed money payable from the Net Revenues (as defined in the NCREB Lease);

(j) With respect to the Project, the Commission has complied and will continue to comply with the provisions of the Davis-Bacon Act, which is codified at Subchapter IV of Chapter 31 of Title 40 of the United States Code, and the regulations and guidance promulgated thereunder; and

(k) The Commission acknowledges that its payment obligations under the NCREB Lease will not be affected by the federal government's payment of the Federal Subsidy Payments made available to the Commission under Section 6431 of the Code, and that the Commission does not currently owe or have any liability to the federal government which could offset the Commission's claim to the Federal Subsidy Payments under Section 6431 of the Code.

4. Payment and Delivery. On October 16, 2015, or on such other date as the parties mutually agree upon in writing, but in no event later than October 16, 2015, the NCREB Lease will be delivered by the Commission to the Lessor. On or before the date of Closing, such other documents as mentioned herein, will be delivered at the offices of Jones Hall, A Professional Law Corporation ("Bond Counsel"), in San Francisco, California, and to the Lessor at its address in Section 11 hereof. Upon delivery of the NCREB Lease, the Lessor will deposit \$_____ of the purchase price thereof in the Acquisition Fund pursuant to the NCREB Lease, and will pay, on behalf of the Commission, those costs of issuance listed on Exhibit C ("Costs of Issuance"), directly to

the parties listed on Exhibit C, in the aggregate amount of \$_____. To the extent that the total amount of \$_____ is not needed to pay Costs of Issuance, Lessor shall remit the difference to the Commission for deposit to the Acquisition Fund, and in any event not later than [January 1, 2016].

5. Conditions of Closing for the Lessor. The Lessor has entered into this Agreement in reliance upon the representations and warranties of the Commission contained herein and to be contained in the documents and instruments to be delivered at Closing, and upon the performance by the Commission of its obligations hereunder, both as of the date hereof and as of the date of Closing. Accordingly, the Lessor's obligation under this Agreement to purchase and pay for the NCREB Lease will be subject to the performance by the Commission of its obligations to be performed hereunder at or prior to the date of Closing, and will also be subject to the following conditions:

(a) At the time of Closing (i) the representations and warranties of the Commission contained herein will be true, complete and correct with the same effect as if made on the date of Closing, (ii) the Commission Documents will be in full force and effect and will not have been amended, modified or supplemented except as may have been agreed to by the Lessor and (iii) the Commission will have duly adopted and there will be in full force and effect such resolutions as in the opinion of Bond Counsel will be necessary in connection with the transactions contemplated hereby, and such resolutions will not have been amended, modified or supplemented.

(b) The Lessor will have the right to terminate its obligations under this Agreement to execute and deliver the NCREB Lease and pay for the NCREB Lease by notifying the Commission of its election to do so if, after the execution hereof and on or prior to the date of Closing:

(i) legislation will have been introduced in, proposed, actively considered or enacted by the Congress of the United States or the State's legislature, legislation will have been adopted by, or favorably reported for passage by committee to either House of the United States Congress or of the State's legislature or legislation pending in the Congress of the United States or the State's legislature will have been amended, or a decision will have been rendered by a court of the United States or the State, including the Tax Court of the United States, or a ruling will have been made or a regulation will have been proposed or made or a press release, official statement or other form of notice will have been issued by the Treasury Department of the United States or the Internal Revenue Service or other federal or state authority, with respect to interest or Federal Subsidy Payments on obligations of the general character of the NCREB Lease, which may have the purpose or effect, directly or indirectly, of affecting the tax status of the Commission, its property or income, any of its securities or, in the reasonable opinion of the Lessor, affects materially and adversely the market price generally of obligations of the general character of the NCREB Lease or the ability of the Commission to be eligible for the Federal Subsidy Payments therefor;

(ii) any legislation, resolution, rule or regulation will have been enacted or proposed or actively considered for enactment by any government body, department or agency of the State, or any decision by any court of competent

jurisdiction within the State will have been rendered that in the reasonable opinion of the Lessor affects materially and adversely the market price generally of obligations of the general character of the NCREB Lease or the ability of the Commission to be eligible for the Federal Subsidy Payments therefor;

(iii) the United States will have become engaged in hostilities which have resulted in a declaration of war or a national emergency or other unforeseen national or international calamity or any conflict involving the armed forces of the United States will have occurred, escalated or accelerated to such an extent as, in the reasonable opinion of the Lessor, affects materially and adversely the market price generally of obligations of the general character of the NCREB Lease or the ability of the Commission to be eligible for the Federal Subsidy Payments therefor;

(iv) there will have occurred and be in force a general suspension of trading on the New York Stock Exchange or the declaration of a general banking moratorium by authorities of the United States, the State or New York State, or any devaluation of the dollar will have been proposed or effected by any governmental authority of the United States;

(v) there will have occurred any material adverse change in the affairs of the Commission that, in the reasonable judgment of the Lessor, materially and adversely affects the price for the NCREB Lease, the market price generally of obligations of the general character of the NCREB Lease, or the ability of the Commission to be eligible for the Federal Subsidy Payments therefor;

(vi) a decision of any federal or state court or a ruling or regulation (final, temporary or proposed) of the Securities and Exchange Commission or other governmental agency will have been made or issued that would make the NCREB Lease or any securities of the Commission or any similar body of the type contemplated herein subject to the registration requirements of the Securities Act; or

(vii) the withdrawal or downgrading of any rating of the Commission's outstanding indebtedness or of the Commission by a national rating agency.

(c) Prior to the date of Closing, the Lessor will have received fully-executed originals of the following documents in form and substance satisfactory to the Lessor and McGuireWoods LLP, counsel to the Lessor (the "Lessor's Counsel"):

(i) An approving opinion of Bond Counsel with respect to the NCREB Lease, dated as of the date of Closing and addressed to the Lessor, in form and substance acceptable to the Lessor;

(ii) a certificate, dated the date of Closing, signed by an authorized officer of the Commission to the effect that: (A) the representations of the Commission contained in the Commission Documents are true as of the date of Closing; (B) the Commission has performed all obligations to be performed under the Resolution and the Commission Documents as of the date of Closing; and (C)

no material liabilities have been incurred by the Commission other than in the ordinary course of business that have not been disclosed to the Lessor;

(iii) a copy of the Resolution, certified by the Secretary or other appropriate official, authorizing the Commission to execute and deliver the NCREB Lease and the other Commission Documents;

(iv) incumbency certificates of the members of the governing body of the Commission with respect to the Resolution, in substantially the form attached to the NCREB Lease as Exhibit B, with such changes as are acceptable to the Lessor;

(v) the NCREB Lease, this Agreement and any other Commission Documents;

(vi) Internal Revenue Service Form 8038-TC for the NCREB Lease;

(vii) a non-arbitrage and tax law compliance certificate in form satisfactory to Bond Counsel, dated the date of Closing;

(viii) a certificate of the Commission containing a statement that the Commission has made an irrevocable election to have Section 6431(f) of the Code apply to the NCREB Lease; and

(ix) such additional certificates, legal opinions, proceedings, instruments or other documents as the Lessor or Lessor's Counsel may reasonably request.

All representations, warranties and agreements of the Commission set forth in this Agreement will remain operative and in full force and effect regardless of (i) any investigation made by or on behalf of the Lessor or any person controlling the Lessor and (ii) acceptance of and payment for the NCREB Lease by the Lessor. For all purposes of this Agreement, a default will not be deemed to be continuing if it has been cured, waived or otherwise remedied.

6. Payment of Fees and Expenses.

(a) The Lessor agrees to pay, on behalf of the Commission, but solely from the portion of the purchase price of the NCREB Lease specified in Section 4 (\$____), all expenses incident to the performance of the Commission's obligations hereunder including, but not limited to: (i) the cost of preparation of the NCREB Lease; (ii) the fees and disbursements of Bond Counsel, Lessor's Counsel (not to exceed \$15,000) and Counsel to the Commission; and (iii) the fees and disbursements of any other engineers, accountants, and other experts, consultants or advisors retained by the Commission. The Lessor is under no obligation to pay other costs and expenses incurred by the Commission or others in connection with the execution and delivery of the NCREB Lease.

(b) The fees and expenses described in paragraph (a) above will be paid by the Commission whether or not the NCREB Lease is executed and delivered, unless the

Lessor is in default in its obligation to purchase hereunder. All fees and expenses described in this Section 6, to the extent they are identifiable and billed, will be paid on the date of Closing, and the remainder will be paid promptly upon receipt of statements therefor. The obligations of the Commission under this Section 6 will survive the issuance and final scheduled Rental Payment of the NCREB Lease and any termination of this Agreement.

(c) Whether or not the NCREB Lease is executed and delivered by the Commission to the Lessor, the Lessor will be under no obligation to pay any costs or expenses incident to the performance of the obligations of the Commission hereunder.

7. Qualification Under State Securities Laws. Because the NCREB Lease will not be offered for sale under the Blue Sky or other securities laws and regulations, the Commission is not required to furnish such information, execute such instruments and take such other action in cooperation with the Lessor to qualify the NCREB Lease for offer and sale under the Blue Sky or other securities laws and regulations or provide for the continuance of such qualification. In addition, the Commission will not be required to qualify as a foreign corporation or to file any general or special consents to service of process under the laws of any state.

8. Parties in Interest. This Agreement is made solely for the benefit of the Lessor and its subsidiaries and affiliates, the Commission, and their respective successors and assigns, and no other person, partnership or corporation will acquire or have any right under or by virtue of this Agreement.

9. Absence of Liability. No recourse will be had by the Lessor for any claims based on this Agreement or otherwise against any member, officer or agent of the Commission in his or her individual capacity, all claims, if any, being waived and released by the Lessor.

10. Counterparts. This Agreement may be executed in several counterparts, each of which will be an original and all of which will constitute but one and the same instrument.

11. Notices. Any notice or other communication to be given under this Agreement may be given by delivering the same in writing by registered or certified mail to the following addresses:

If to the Commission: Public Utilities Commission
 of the City and County of San Francisco
 525 Golden Gate Ave
 San Francisco, California 94102
 Attention: Debt Manager

If to the Lessor: Banc of America Leasing & Capital, LLC
11333 McCormick Road
Hunt Valley II
Mail Code MD5-03-07-05
Hunt Valley, Maryland 21031
Attention: Contracts Administration

12. Miscellaneous Terms and Conditions. The terms and conditions set forth in Exhibit B hereto are hereby incorporated into this Agreement and made a part hereof in full as though fully set forth herein.

13. Governing Law. This Agreement will be governed by, and construed in accordance with, the laws of the State of California.

[THE REMAINDER OF THIS PAGE INTENTIONALLY LEFT BLANK.]

This Agreement will become effective upon the execution of the acceptance and approval hereof as of the date first written above by a duly authorized representative of the Commission and will be valid and enforceable as of the time of such acceptance.

Very truly yours,

BANC OF AMERICA LEASING & CAPITAL,
LLC

By: _____
Name: _____
Title: _____
Time of Execution: _____

Accepted:

Public Utilities Commission
of the City and County of San Francisco,
Acting on behalf of the City and County of
San Francisco

By: _____
Name: _____
Title: _____
Time of Execution: _____

EXHIBIT A

1. Date of the NCREB Lease – October 1, 2015
2. Date of Rental Payments –April 25, October 25
3. Prepayment Provisions are set forth in Section 4.08 of the NCREB Lease.
4. Scheduled Rental Payments, including principal and interest components, and related payment dates:

NCREB LEASE	
Par Amount of NCREBs	\$4,100,000
Purchase Price	\$4,100,000
Interest Rate	%
Tax Credit Rate*	%
Final Maturity (yrs.)	October 25, 2032 (17 yrs)
Funding/Closing Date	October 16, 2015

Pmt. No.	Payment Date	Taxable Outstanding Balance	Taxable Principal Portion	Taxable Interest Portion	Taxable Payment Amount	US Treasury Subsidy Amount	Net Payment After Subsidy
1							
2							
3							
4							
5							
6							
7							
8							
9							
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11							
12							
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20							
21							
22							
23							

Pmt. No.	Payment Date	Taxable Outstanding Balance	Taxable Principal Portion	Taxable Interest Portion	Taxable Payment Amount	US Treasury Subsidy Amount	Net Payment After Subsidy
24							
25							
26							
27							
28							
29							
30							
31							

* Equal to 70% of the published tax credit rate on the date hereof. For purposes of determining the subsidy payment under Section 6431(f) of the Code, this tax credit rate will be used. Does not include any reductions in subsidy payments that may result from sequestration by the United States government.

EXHIBIT B

MISCELLANEOUS TERMS AND CONDITIONS

1. Submitting False Claims; Monetary Penalties

Pursuant to San Francisco Administrative Code §21.35, any contractor, subcontractor or consultant who submits a false claim will be liable to Commission (referred to hereinafter as the "City") for three times the amount of damages which the City sustains because of the false claim. A contractor, subcontractor or consultant who submits a false claim will also be liable to the City for the costs, including attorneys' fees, of a civil action brought to recover any of those penalties or damages, and may be liable to the City for a civil penalty of up to \$10,000 for each false claim. A contractor, subcontractor or consultant will be deemed to have submitted a false claim to the City if the contractor, subcontractor or consultant: (a) knowingly presents or causes to be presented to an officer or employee of the City a false claim or request for payment or approval; (b) knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the City; (c) conspires to defraud the City by getting a false claim allowed or paid by the City; (d) knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the City; or (e) is a beneficiary of an inadvertent submission of a false claim to the City, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the City within a reasonable time after discovery of the false claim..

2. Conflict of Interest

Through its execution of this Agreement, Lessor acknowledges that it is familiar with the provision of Section 15.103 of the City's Charter, Article III, Chapter 2 of City's Campaign and Governmental Conduct Code, and Section 87100 et seq. and Section 1090 et seq. of the Government Code of the State of California, and certifies that it does not know of any facts which constitutes a violation of said provisions and agrees that it will immediately notify the City if it becomes aware of any such fact during the term of this Agreement.

3. Proprietary or Confidential Information of City

Lessor understands and agrees that, in the performance of the work or services under this Agreement or in contemplation thereof, Lessor may have access to private or confidential information which may be owned or controlled by City and that such information may contain proprietary or confidential details, the disclosure of which to third parties may be damaging to City. Lessor agrees that all information disclosed by City to Lessor will be held in confidence and used only in performance of the Agreement. Lessor will exercise the same standard of care to protect such information as a reasonably prudent contractor would use to protect its own proprietary data.

4. Ownership of Results

Any interest of Lessor in drawings, plans, specifications, blueprints, studies, reports, memoranda, computation sheets, computer files and media or other documents prepared by Lessor in connection with services to be performed under this Agreement, will become the property of and will be transmitted to City. However, Lessor may retain and use copies for reference and as documentation of its experience and capabilities.

5. Works for Hire

If, in connection with services performed under this Agreement, Lessor create artwork, copy, posters, billboards, photographs, videotapes, audiotapes, systems designs, software, reports, diagrams, surveys, blueprints, source codes or any other original works of authorship, such works of authorship will be works for hire as defined under Title 17 of the United States Code, and all copyrights in such works are the property of the City. If it is ever determined that any works created by Lessor under this Agreement are not works for hire under U.S. law, Lessor hereby assigns all copyrights to such works to the City, and agrees to provide any material and execute any documents necessary to effectuate such assignment. With the approval of the City, Lessor may retain and use copies of such works for reference and as documentation of its experience and capabilities.

6. Audit and Inspection of Records

Lessor agrees to maintain and make available to the City, during regular business hours, accurate books and accounting records relating to its work under this Agreement. Lessor will permit City to audit, examine and make excerpts and transcripts from such books and records, and to make audits of all invoices, materials, payrolls, records or personnel and other data related to all other matters covered by this Agreement, whether funded in whole or in part under this Agreement. Lessor will maintain such data and records in an accessible location and condition for a period of not less than five years after final payment under this Agreement or until after final audit has been resolved, whichever is later. The State of California or any federal agency having an interest in the subject matter of this Agreement will have the same rights conferred upon City by this Section.

7. Subcontracting

Lessor is prohibited from subcontracting this Agreement or any part of it unless such subcontracting is first approved by City in writing. Neither party will, on the basis of this Agreement, contract on behalf of or in the name of the other party. An agreement made in violation of this provision will confer no rights on any party and will be null and void.

8. Assignment

The services to be performed by Lessor are personal in character and neither this Agreement nor any duties or obligations hereunder may be assigned or delegated by the Lessor unless first approved by City by written instrument executed and approved in the same manner as this Agreement.

9. Non-Waiver of Rights

The omission by either party at any time to enforce any default or right reserved to it, or to require performance of any of the terms, covenants, or provisions hereof by the other party at the time designated, will not be a waiver of any such default or right to which the party is entitled, nor will it in any way affect the right of the party to enforce such provisions thereafter.

10. Reserved

11. Reserved

12. Nondiscrimination; Penalties

a. Lessor Will Not Discriminate

In the performance of this Agreement, Lessor agrees not to discriminate against any employee, City and County employee working with such Lessor, applicant for employment with such Lessor, or against any person seeking accommodations, advantages, facilities, privileges, services, or membership in all business, social, or other establishments or organizations, on the basis of the fact or perception of a person's race, color, creed, religion, national origin, ancestry, age, height, weight, sex, sexual orientation, gender identity, domestic partner status, marital status, disability or Acquired Immune Deficiency Syndrome or HIV status (AIDS/HIV status), or association with members of such protected classes, or in retaliation for opposition to discrimination against such classes.

b. Subcontracts

Lessor will incorporate by reference in all subcontracts the provisions of §§12B.2(a), 12B.2(c)-(k), and 12C.3 of the San Francisco Administrative Code (copies of which are available from Purchasing) and will require all subcontractors to comply with such provisions. Lessor's failure to comply with the obligations in this subsection will constitute a material breach of this Agreement.

c. Nondiscrimination in Benefits

Lessor does not as of the date of this Agreement and will not during the term of this Agreement, in any of its operations in San Francisco, on real property owned by San Francisco, or where work is being performed for the City elsewhere in the United States, discriminate in the provision of bereavement leave, family medical leave, health benefits, membership or membership discounts, moving expenses, pension and retirement benefits or travel benefits, as well as any benefits other than the benefits specified above, between employees with domestic partners and employees with spouses, and/or between the domestic partners and spouses of such employees, where the domestic partnership has been registered with a governmental entity pursuant to state or local law authorizing such registration, subject to the conditions set forth in §12B.2(b) of the San Francisco Administrative Code.

d. Condition to Contract

As a condition to this Agreement, Lessor will execute the "Chapter 12B Declaration: Nondiscrimination in Contracts and Benefits" form (form HRC-12B-101) with supporting documentation and secure the approval of the form by the San Francisco Human Rights Commission.

e. Incorporation of Administrative Code Provisions by Reference

The provisions of Chapters 12B and 12C of the San Francisco Administrative Code are incorporated in this Section by reference and made a part of this Agreement as though fully set forth herein. Lessor will comply fully with and be bound by all of the provisions that apply to this Agreement under such Chapters, including but not limited to the remedies provided in such Chapters. Without limiting the foregoing, Lessor understands that pursuant to

§§12B.2(h) and 12C.3(g) of the San Francisco Administrative Code, a penalty of \$50 for each person for each calendar day during which such person was discriminated against in violation of the provisions of this Agreement may be assessed against Lessor and/or deducted from any payments due Lessor.

13. MacBride Principles—Northern Ireland

Pursuant to San Francisco Administrative Code §12F.5, the City and County of San Francisco urges companies doing business in Northern Ireland to move towards resolving employment inequities, and encourages such companies to abide by the MacBride Principles. The City and County of San Francisco urges San Francisco companies to do business with corporations that abide by the MacBride Principles. By signing below, the person executing this agreement on behalf of Lessor acknowledges and agrees that he or she has read and understood this section.

14. Tropical Hardwood and Virgin Redwood Ban

Pursuant to §804(b) of the San Francisco Environment Code, the City and County of San Francisco urges contractors not to import, purchase, obtain, or use for any purpose, any tropical hardwood, tropical hardwood wood product, virgin redwood or virgin redwood wood product.

15. Drug-Free Workplace Policy

Lessor acknowledges that pursuant to the Federal Drug-Free Workplace Act of 1989, the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited on City premises. Lessor agrees that any violation of this prohibition by Lessor, its employees, agents or assigns will be deemed a material breach of this Agreement.

16. Resource Conservation

Chapter 5 of the San Francisco Environment Code (“Resource Conservation”) is incorporated herein by reference. Failure by Lessor to comply with any of the applicable requirements of Chapter 5 will be deemed a material breach of contract.

17. Compliance with Americans with Disabilities Act

Lessor acknowledges that, pursuant to the Americans with Disabilities Act (ADA), programs, services and other activities provided by a public entity to the public, whether directly or through a contractor, must be accessible to the disabled public. Lessor will provide the services specified in this Agreement in a manner that complies with the ADA and any and all other applicable federal, state and local disability rights legislation. Lessor agrees not to discriminate against disabled persons in the provision of services, benefits or activities provided under this Agreement and further agrees that any violation of this prohibition on the part of Lessor, its employees, agents or assigns will constitute a material breach of this Agreement.

18. Sunshine Ordinance

In accordance with San Francisco Administrative Code §67.24(e), contracts, contractors’ bids, responses to solicitations and all other records of communications between City and persons or firms seeking contracts, will be open to inspection immediately after a contract has

been awarded. Nothing in this provision requires the disclosure of a private person or organization's net worth or other proprietary financial data submitted for qualification for a contract or other benefit until and unless that person or organization is awarded the contract or benefit. Information provided which is covered by this paragraph will be made available to the public upon request.

19. Public Access to Meetings and Records

If the Lessor receives a cumulative total per year of at least \$250,000 in City funds or City-administered funds and is a non-profit organization as defined in Chapter 12L of the San Francisco Administrative Code, Lessor will comply with and be bound by all the applicable provisions of that Chapter. By executing this Agreement, the Lessor agrees to open its meetings and records to the public in the manner set forth in §§12L.4 and 12L.5 of the Administrative Code. Lessor further agrees to make-good faith efforts to promote community membership on its Board of Directors in the manner set forth in §12L.6 of the Administrative Code. The Lessor acknowledges that its material failure to comply with any of the provisions of this paragraph will constitute a material breach of this Agreement. The Lessor further acknowledges that such material breach of the Agreement will be grounds for the City to terminate and/or not renew the Agreement, partially or in its entirety.

20. Limitations on Contributions

Through execution of this Agreement, Lessor acknowledges that it is familiar with section 1.126 of the City's Campaign and Governmental Conduct Code, which prohibits any person who contracts with the City for the rendition of personal services, for the furnishing of any material, supplies or equipment, for the sale or lease of any land or building, or for a grant, loan or loan guarantee, from making any campaign contribution to (1) an individual holding a City elective office if the contract must be approved by the individual, a board on which that individual serves, or a board on which an appointee of that individual serves, (2) a candidate for the office held by such individual, or (3) a committee controlled by such individual, at any time from the commencement of negotiations for the contract until the later of either the termination of negotiations for such contract or six months after the date the contract is approved. Lessor acknowledges that the foregoing restriction applies only if the contract or a combination or series of contracts approved by the same individual or board in a fiscal year have a total anticipated or actual value of \$50,000 or more. Lessor further acknowledges that the prohibition on contributions applies to each prospective party to the contract; each member of Lessor's board of directors; Lessor's chairperson, chief executive officer, chief financial officer and chief operating officer; any person with an ownership interest of more than 20 percent in Lessor; any subcontractor listed in the bid or contract; and any committee that is sponsored or controlled by Lessor. Additionally, Lessor acknowledges that Lessor must inform each of the persons described in the preceding sentence of the prohibitions contained in Section 1.126.

21. Requiring Minimum Compensation for Covered Employees

a. Lessor agrees to comply fully with and be bound by all of the provisions of the Minimum Compensation Ordinance (MCO), as set forth in San Francisco Administrative Code Chapter 12P (Chapter 12P), including the remedies provided, and implementing guidelines and rules. The provisions of Chapter 12P are incorporated herein by reference and made a part of this Agreement as though fully set forth. The text of the MCO is available on the web at www.sfgov.org/olse/mco. A partial listing of some of Lessor's obligations under the MCO is set

forth in this Section. Lessor is required to comply with all the provisions of the MCO, irrespective of the listing of obligations in this Section.

b. The MCO requires Lessor to pay Lessor's employees a minimum hourly gross compensation wage rate and to provide minimum compensated and uncompensated time off. The minimum wage rate may change from year to year and Lessor is obligated to keep informed of the then-current requirements. Any subcontract entered into by Lessor will require the subcontractor to comply with the requirements of the MCO and will contain contractual obligations substantially the same as those set forth in this Section. It is Lessor's obligation to ensure that any subcontractors of any tier under this Agreement comply with the requirements of the MCO. If any subcontractor under this Agreement fails to comply, City may pursue any of the remedies set forth in this Section against Lessor.

c. Lessor will not take adverse action or otherwise discriminate against an employee or other person for the exercise or attempted exercise of rights under the MCO. Such actions, if taken within 90 days of the exercise or attempted exercise of such rights, will be rebuttably presumed to be retaliation prohibited by the MCO.

d. Lessor will maintain employee and payroll records as required by the MCO. If Lessor fails to do so, it will be presumed that the Lessor paid no more than the minimum wage required under State law.

e. The City is authorized to inspect Lessor's job sites and conduct interviews with employees and conduct audits of Lessor

f. Lessor's commitment to provide the Minimum Compensation is a material element of the City's consideration for this Agreement. The City in its sole discretion will determine whether such a breach has occurred. The City and the public will suffer actual damage that will be impractical or extremely difficult to determine if the Lessor fails to comply with these requirements. Lessor agrees that the sums set forth in Section 12P.6.1 of the MCO as liquidated damages are not a penalty, but are reasonable estimates of the loss that the City and the public will incur for Lessor's noncompliance. The procedures governing the assessment of liquidated damages will be those set forth in Section 12P.6.2 of Chapter 12P.

g. Lessor understands and agrees that if it fails to comply with the requirements of the MCO, the City will have the right to pursue any rights or remedies available under Chapter 12P (including liquidated damages), under the terms of the contract, and under applicable law. If, within 30 days after receiving written notice of a breach of this Agreement for violating the MCO, Lessor fails to cure such breach or, if such breach cannot reasonably be cured within such period of 30 days, Lessor fails to commence efforts to cure within such period, or thereafter fails diligently to pursue such cure to completion, the City will have the right to pursue any rights or remedies available under applicable law, including those set forth in Section 12P.6(c) of Chapter 12P. Each of these remedies will be exercisable individually or in combination with any other rights or remedies available to the City.

h. Lessor represents and warrants that it is not an entity that was set up, or is being used, for the purpose of evading the intent of the MCO.

i. If Lessor is exempt from the MCO when this Agreement is executed because the cumulative amount of agreements with this department for the fiscal year is less than \$25,000, but Lessor later enters into an agreement or agreements that cause Lessor to exceed that

amount in a fiscal year, Lessor will thereafter be required to comply with the MCO under this Agreement. This obligation arises on the effective date of the agreement that causes the cumulative amount of agreements between the Lessor and this department to exceed \$25,000 in the fiscal year

22. Reserved 23. Reserved

24. Preservative-treated Wood Containing Arsenic

Lessor may not purchase preservative-treated wood products containing arsenic in the performance of this Agreement unless an exemption from the requirements of Chapter 13 of the San Francisco Environment Code is obtained from the Department of the Environment under Section 1304 of the Code. The term “preservative-treated wood containing arsenic” will mean wood treated with a preservative that contains arsenic, elemental arsenic, or an arsenic copper combination, including, but not limited to, chromated copper arsenate preservative, ammoniacal copper zinc arsenate preservative, or ammoniacal copper arsenate preservative. Lessor may purchase preservative-treated wood products on the list of environmentally preferable alternatives prepared and adopted by the Department of the Environment. This provision does not preclude Lessor from purchasing preservative-treated wood containing arsenic for saltwater immersion. The term “saltwater immersion” will mean a pressure-treated wood that is used for construction purposes or facilities that are partially or totally immersed in saltwater.

25. Agreement Made in California; Venue

The formation, interpretation and performance of this Agreement will be governed by the laws of the State of California. Venue for all litigation relative to the formation, interpretation and performance of this Agreement will be in San Francisco.

26. Compliance with Laws

Lessor will keep itself fully informed of the City’s Charter, codes, ordinances and regulations of the City and of all state, and federal laws in any manner affecting the performance of this Agreement, and must at all times comply with such local codes, ordinances, and regulations and all applicable laws as they may be amended from time to time.

27. Protection of Private Information

Lessor has read and agrees to the terms set forth in San Francisco Administrative Code Sections 12M.2, “Nondisclosure of Private Information,” and 12M.3, “Enforcement” of Administrative Code Chapter 12M, “Protection of Private Information,” which are incorporated herein as if fully set forth. Lessor agrees that any failure of Contactor to comply with the requirements of Section 12M.2 of this Chapter will be a material breach of the Contract. In such an event, in addition to any other remedies available to it under equity or law, the City may terminate the Contract, bring a false claim action against the Lessor pursuant to Chapter 6 or Chapter 21 of the Administrative Code, or debar the Lessor.

EXHIBIT C

NCREB LEASE COSTS OF ISSUANCE

Costs of Issuance

\$	Bond counsel fee; Jones Hall (includes \$2,006 of reimbursable expenses)
	City Attorney's office fee
	Revenue Bond Oversight Committee fee (1/20 of 1% gross proceeds)
	Financial advisory fee; Kitahata & Company
	Lessor counsel fee; McGuire Woods
	Filing agent fee; U.S. Bank (1 st year fee upfront)
\$	Total

Approved:

Public Utilities Commission
of the City and County of San Francisco,
Acting on behalf of the City and County of
San Francisco

By: _____
Name:
Title: