

**CITY OF HOLLYWOOD
INTEROFFICE MEMORANDUM**

TO: Mayor and Commissioners **DATE:** 6/9/25

FROM: Damaris Henlon, Interim City Attorney

SUBJECT: Proposed Master Equipment Lease-Purchase Agreement with Banc of America Public Capital Corp and Separate Equipment Schedules for the Acquisition, Financing and Leasing of Certain Energy Services Equipment in an Aggregate Principal Amount up to \$6,600,00.00; Authorizing the Execution and Delivery of an Escrow Agreement and Related Documents.

I have reviewed the above referenced Agreement with the participating Department/Office(s), and the proposed general business terms and other significant provisions are as follows:

- 1) Department/Division involved – Finance
- 2) Type of Agreement – Master Equipment Lease Purchase Agreement and Escrow Agreement
- 3) Method of Procurement (RFP, bid, etc.) – Pursuant to Section 38.40(C)(9) of the City's Code of Ordinances, the City Commission may, when in the best interests of the City, by a 5/7 vote, waive competitive bidding and competitive proposal requirements for the purchase of, and contracts for, supplies, materials, equipment or services.
- 4) Term of Contract:
 - a) initial – 6/26/26-6/26/45
 - b) renewals (if any) – n/a
 - c) who exercises option to renew – n/a
- 5) Contract Amount – up to \$6,600,000.00
- 6) Termination Rights –Bond Counsel was consulted and the department was advised that a termination clause is usually not included in this type of financing agreement.

Bond Counsel states: "THE MELPA IS NOTHING MORE THAN A FINANCING VEHICLE – A WAY TO FINANCE THE CITY'S ACQUISITION OF THE EQUIPMENT BEING ACQUIRED UNDER THE NORESKO AGREEMENT. ONCE THE CITY OBTAINS THE FUNDING FROM BAPCC UNDER THE MELPA, THE CITY'S OBLIGATIONS ARE TO REPAY THE AMOUNTS LOANED TO THE CITY. AS SUCH, THERE IS REALLY NOTHING FOR THE CITY TO TERMINATE UNDER THE MELPA."

- 7) Indemnity/Insurance Requirements – Lessee's/City's sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendor of the Equipment and not against Lessor.

Section 7.02 – Lessee/City shall, during the Lease Term under each Lease, maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and insuring the Equipment against loss or damage by fire and all other risks covered by the standard extended coverage endorsement then in use in the State, and any other risks reasonably required by Lessor, in an amount at least equal to the greater of (i) the then applicable Casualty Value of the Equipment under such Lease or (ii) the replacement cost of such Equipment; (b) liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability for bodily injury and property damage coverage (i) in such coverage amounts as may be required by Lessor for the applicable Equipment or (ii) in such minimum coverage amounts as may be agreed upon between Lessor and Lessee in connection with the execution and delivery of a Lease, and in all events under clauses (a) and (b) issued in form and amount satisfactory to Lessor and by an insurance company that is authorized to do business in the State and having a financial strength rating by A.M. Best Company of "A-" or better; and (c) worker's compensation coverage as required by the laws of the State. Notwithstanding the foregoing, Lessee may self-insure against the risks described in clauses (a) and/or (b) through a government pooling arrangement, self-funded loss reserves, risk retention program or other self-insurance program, in each case with Lessor's prior consent (which Lessor may grant, withhold or deny in its sole discretion) and *provided* that Lessee has delivered to Lessor such information as Lessor may request with respect to the adequacy of such self-insurance to cover the risks proposed to be self-insured and otherwise in form and substance acceptable to Lessor. In the event Lessee is permitted, at Lessor's sole discretion, to self-insure as provided in this Section 7.02, Lessee shall provide to Lessor a self-insurance letter in substantially the form attached hereto as *Exhibit F*. Lessee shall furnish to Lessor evidence of such insurance or self-insurance coverage throughout the Lease Term under each Lease. Lessee shall not cancel or modify such insurance or self-insurance coverage in any way that would affect the interests of Lessor without first giving written notice thereof to Lessor at least thirty (30) days in advance of such cancellation or modification.

- 8) Scope of Services – Lessee/City desires to lease and acquire from Lessor certain Equipment described in each Equipment Schedule (as each such term is defined herein), subject to the terms and conditions of and for the purposes set forth in each Lease.

Lessor agrees to provide the funds specified in each Lease to be provided by it for Lessee to acquire the Equipment described in the related Equipment Schedule. Upon the execution and delivery of each Lease, Lessor thereby demises, leases and transfers to Lessee, and Lessee

thereby acquires, rents and leases from Lessor, the Equipment as set forth in such Lease and in accordance with the terms thereof. Each Equipment Schedule signed and delivered by Lessor and Lessee pursuant to this Agreement shall constitute a separate and independent lease and installment purchase of the Equipment therein described.

9) Other Significant Provisions: n/a

cc: George R. Keller, Jr. CPPT, City Manager