

ORIGINAL  
STAMPED IN RED

**ORDINANCE NO.: 2021-080**

AUTHORIZING THE CITY OF COLUMBIA, SOUTH CAROLINA TO EXECUTE AND DELIVER AN EQUIPMENT LEASE PURCHASE AGREEMENT IN THE AMOUNT OF NOT EXCEEDING \$9,000,000 BETWEEN THE CITY AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING CERTAIN EQUIPMENT; AND OTHER MATTERS RELATING THERETO

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLUMBIA, SOUTH CAROLINA, AS FOLLOWS:

Section 1. Findings and Determinations. The City Council (the “Council”) of the City of Columbia, South Carolina (the “City”), hereby finds and determines:

(a) The City is an incorporated municipality located in Lexington County and Richland County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and laws of this State.

(b) Section 5-7-40 of the Code of Laws of South Carolina 1976, as amended (the “S.C. Code”), empowers all municipalities to own and possess real and personal property and such municipalities may lease any such property.

(c) The City desires to enter into a lease purchase agreement (the “Lease Agreement”) with a bank or other financial institution selected by the City Manager and Assistant City Manager for Finance and Economic Services for the purpose of financing the acquisition of the equipment set forth on Exhibit A hereto (the “Equipment”).

(d) The Lease Agreement will not constitute a “financing agreement” and the Equipment will not constitute an “asset” as such terms are defined in Section 11-27-110 of the S.C. Code. Thus, the amount of the Lease Agreement will not be included when calculating the City’s constitutional debt limit under Article X, Section 14 of the Constitution of the State of South Carolina.

(e) The Lease Agreement will be subject to annual appropriation by the Council.

(f) It is in the best interest of the City to acquire the Equipment by entering into the Lease Agreement. The Lease Agreement will enable the City to purchase the Equipment which will provide service necessary and useful to the operations of the City government.

Section 2. Approval of Lease/Purchase Financing; Delegation of Authority to Determine Certain Matters Relating to the Lease/Purchase Financing. The Equipment described in Exhibit A shall be acquired pursuant to a lease purchase financing which is hereby approved in a principal amount of not exceeding \$9,000,000. The Request for Proposals in the form set forth as Exhibit B hereto and the distribution thereof to various banks and other financial institutions in the City and other locations as the City Manager and Assistant City Manager for Finance and Economic Services determined, is hereby ratified and approved. Without further authorization, the Council hereby delegates to the Mayor and the City Manager and the Assistant City Manager for Finance and Economic Services, or any two of them acting together, the authority to: (a) determine the principal amount of the Lease Agreement, if less than authorized by this Ordinance; (b) determine the payment schedule under the Lease Agreement; (c) determine the final payment date under the Lease Agreement; (d) determine the terms relating to any prepayment of the Lease Agreement; (e) determine the date and time for receipt of bids under the Request for Proposals; (f) accept, as well as negotiate, with any responsible bidder under the terms of the Request for Proposals and award the sale of the lease purchase financing to the bidder (the "Bidder") submitting the proposal determined to be the most advantageous to the City in accordance with the terms of the Request for Proposals; and (g) make changes to the quantity, cost or description of the Equipment set forth in Exhibit A attached hereto.

Section 3. Approval of Lease Agreement. Without further authorization, the Mayor, the City Manager and the Assistant City Manager for Finance and Economic Services, or any of them acting alone (each, an "Authorized Person"), is authorized to approve the form, terms and provisions of the Lease Agreement proposed by the Bidder, and to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the City. The Lease Agreement is to be in the form as shall be approved by any Authorized Person, the Authorized Person's execution thereof to constitute conclusive evidence of such approval.

Section 4. Execution of Documents; Ratification of Certain Actions. The Mayor, City Manager, Assistant City Manager for Finance and Economic Services, City Clerk and City Attorney are fully empowered and authorized to take such further actions and to execute and deliver such additional documents as may be reasonably requested by the Bidder to effect the delivery of the Lease Agreement, including any project fund or acquisition fund agreement, in accordance with the terms and conditions therein set forth and the transactions contemplated hereby and thereby, and the actions of such officers in executing and delivering any of such documents, in such form as any Authorized Person shall approve, is hereby fully authorized.

Section 5. Federal Tax Covenant. The City, as lessee under the Lease Agreement, agrees and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest components of the payments to be made under the Lease Agreement to become includable in the gross income of the Bidder or its successors or assignees for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended ("Code") and regulations promulgated thereunder in effect on the date of the execution and delivery of the Lease Agreement, and that it will comply with all applicable provisions of Section 103 and Sections 141 through 150 of the Code, and any regulations promulgated thereunder, to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the payments to be made under the Lease Agreement; and to that end the City shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Lease Agreement is outstanding;
- (b) establish such funds, make such calculations and pay such amounts in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the times and places required by the Code.

The City will timely file Form 8038-G in accordance with the applicable regulations of the Internal Revenue Service.

The City Manager and Assistant City Manager for Finance and Economic Services of the City, or any one of them acting alone, are hereby authorized to adopt or modify written procedures for and on behalf of the City to ensure the City's compliance with federal tax matters relating to the Lease Agreement.

This Ordinance shall constitute the City's declaration of official intent pursuant to Regulation §1.150-2 of the Code to reimburse the City from a portion of the proceeds of the Lease Agreement or other tax-exempt bonds issued by the City for such purposes (the "Reimbursement Bonds") for expenditures it anticipates incurring (the "Expenditures") with respect to the Equipment prior to the issuance of the Reimbursement Bonds. The Expenditures which are reimbursed are limited to Expenditures which are: (a) properly chargeable to a capital account (or would be so chargeable with a proper

election or with the application of the definition of placed in service under Regulation §1.150-2 of the Code) under general federal income tax principles; or (2) certain *de minimis* or preliminary expenditures satisfying the requirements of Regulation §1.150-2(f) of the Code. The source of funds for the Expenditures with respect to the acquisition of the Equipment will be the City's general fund. To be eligible for reimbursement of the Expenditures, the reimbursement allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid; or (b) the date such project was placed in service, but in no event more than three (3) years after the original Expenditures.

Section 6.            Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the City covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested; (a) a copy of the annual audit of the City within thirty (30) days of the City's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the City, adversely affects more than five percent (5%) of the City's revenue or its tax base.

Section 7.            Severability. All ordinances, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the execution of the Lease Agreement are, to the extent of such conflict, hereby repealed.

Section 8.            Effective Date. This Ordinance shall be effective upon its enactment by the Council.

[Execution page follows]

This Ordinance shall be forthwith codified in the Code of City Ordinances in the manner required by law.

Requested by:

Assistant City Manager Gentry



\_\_\_\_\_  
Mayor

Approved by:



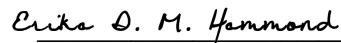
\_\_\_\_\_  
City Manager

Approved as to form:

ATTEST:



\_\_\_\_\_  
City Attorney



\_\_\_\_\_  
City Clerk

Introduced: 10/5/2021

Final Reading: 10/19/2021

## EXHIBIT A

### Equipment

Acquisition, replacement and installation of certain rolling stock and other equipment, including but not limited to the following: purchase of new cars, trucks and other vehicles and equipment for various departments of the City, including but not limited to the police, fire, public works and parks departments of the City, and purchase and installation of computers, software, equipment and systems for various departments of the City.

EXHIBIT B

Form of Request for Proposals

## **REQUEST FOR PROPOSALS**

### **City of Columbia, South Carolina Equipment Lease Purchase Financing, 2021**

Response Due: \_\_\_\_\_, 2021  
12:00 Noon, South Carolina Time

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### **NOT BANK QUALIFIED**

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The City of Columbia, South Carolina (the “City”), is requesting proposals from various banks and financial institutions for a not exceeding \$9,000,000 tax-exempt lease purchase financing to defray the costs of acquiring certain equipment as described herein. The City invites interested parties to submit a proposal to finance the equipment by specifying a rate of interest and other conditions for such financing.

Mailed or Hand Delivered Proposals: Each mailed or hand delivered proposal shall be enclosed in a sealed envelope marked “Proposal for 2021 Equipment Lease Purchase” and should be mailed or delivered to:

Janice L. Alonso  
Finance Director  
City of Columbia  
1136 Washington Street  
Columbia, SC 29201

E-Mail Proposals: Electronic proposals may be e-mailed to the attention of Ms. Janice L. Alonso, Finance Director, at [Janice.Alonso@columbiasc.gov](mailto:Janice.Alonso@columbiasc.gov), with a copy to Burr & Forman LLP d/b/a Burr Forman McNair (“Burr Forman McNair”), Special Counsel to the City, to the attention of Michael J. Seezen, Esq. at [mseezen@burr.com](mailto:mseezen@burr.com).

**PROPOSALS MAY BE DELIVERED BY HAND, BY MAIL, OR BY E-MAIL, BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BY THE CITY AT THE PLACE, DATE AND TIME APPOINTED. THE CITY SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERROR RESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF PROPOSALS.**

Please note that this Request for Proposals is also being sent to a number of other institutions as well and that the City, in its sole discretion, reserves the right to select the proposal determined to be the most advantageous to the City. The selection process will be heavily weighted toward lowest financing costs; however, lowest financing cost is not the only factor that may be considered by the City. The City reserves the right to reject any or all bid proposals as well as negotiate with the lowest responsible bidder.

I. Terms and Conditions

- (a) Amount to be Financed: Not exceeding \$9,000,000. The City retains the option to reduce the total amount to be financed by up to 10%. A bid for less than the total principal amount contemplated by this Request for Proposals will not be considered.
- (b) Funding Options. Bidders may submit proposals on either or both of the following two basis:
1. Fully-Funded. Proceeds of the financing will be fully funded at closing, and deposited to an account held for the benefit of the City (the "Acquisition Account"). Interest will accrue on the full principal amount of the financing from the date of closing. If a bidder requires that the Acquisition Account be held by the bidder or its designee, the bidder must so indicate on its proposal (including any fees required thereunder). Otherwise, the City retains the right to designate a bank to act as custodian of the Acquisition Account. Interest earnings in the Acquisition Account must accrue to the City.
  2. Draw-Down. Proceeds of the financing will be advanced to the City on an as-needed basis, during the first twenty-four (24) months after the execution of the financing. Interest will accrue from the respective dates of each advance.
- (c) Payments/Interest Rate: The final payment of principal and interest shall be due on or before \_\_\_\_\_. Payments of principal and interest shall be made monthly, commencing on the later of \_\_\_\_\_, 2021, or the first day of the month following the first advance (if applicable), in approximately equal amounts until maturity (in either case, payments of principal and interest may be made without penalty or interest on the first business day following the day such payments are actually due).

Bidders shall submit a bid consisting of a single fixed rate of interest per annum for the total principal amount of the Lease Agreement (as defined herein) which is to bear until maturity or prior redemption and should be expressed as a percentage interest rate of one one-hundredth (1/100<sup>th</sup>) of a percent. Unless otherwise designated by a bidder, interest will be calculated based on a 360-day year comprised of twelve 30-day months.

**Bids containing rates of interest which may adjust upon the occurrence of specified events, including changes in the Code (as defined herein), changes in the bidder's capital requirements or cost of capital, or for any other reason (other than the loss of tax exemption due solely to the**



**actions or inactions of the City), will be rejected.**

- (d) Guarantee of Interest Rate: The interest rate, costs and other terms of the bid submitted must be guaranteed from the date of your proposal to the closing date (expected to be on or about \_\_\_\_\_, 2021).
- (e) Equipment/Form of Lease Agreement: See attached Exhibit A for a description of the general categories and types of equipment proposed to be financed. At the request of a bidder, the City agrees to provide more detailed information regarding the equipment proposed to be financed to such bidder prior to the date and time that responses are due; however, the City reserves the right to add, delete or modify equipment from such list any time prior to the purchase thereof from the proceeds of the Lease Agreement, as may be necessary or desirable to suit the City's capital needs, for so long as such equipment continues to be described within the categories set forth in Exhibit A hereto.

The successful bidder's proposed form of equipment lease purchase agreement ("Lease Agreement") should be provided to the City's Special Counsel within three (3) business days of the award of the successful proposal.

- (f) Non-appropriation: A non-appropriation provision acceptable to the City must be included in the Lease Agreement. Any and all amounts due including, but not limited to, scheduled lease payments, reimbursements, penalties or fees under the Lease Agreement or any Acquisition Account (as defined below) must be subject to annual appropriation by the City.
- (g) Non-substitution: A non-substitution provision is not permitted to be included in the Lease Agreement.
- (h) Deficiency Judgment: No deficiency judgment can be assessed or imposed against the City nor will the full faith, credit and taxing power of the City be pledged to the payment of the Lease Agreement.
- (i) Title: Title to the equipment will be in the name of the City subject to the bidder's rights under the Lease Agreement. The successful bidder shall be responsible for taking all actions it deems necessary to impose its lien upon or perfect any security interest in the equipment.

Unencumbered title to the equipment must be provided to the City, and the bidder's lien on the equipment must be released, on the date of final payment, whether upon maturity or prior redemption of the Lease Agreement. The Lease Agreement must allow the City to dispose of certain of the equipment in its sole discretion prior to the termination of the Lease

Agreement provided the value of the remaining items of equipment is not less than the outstanding principal balance of the Lease Agreement at the time of such disposition.

- (j) Payments for Equipment; Investments: Payments from the Acquisition Account or amounts advanced by the successful bidder, as applicable, may be made either to the City as reimbursement for prior expenditures or directly to the equipment vendor for payment of the equipment as directed by the City, up to twenty-four (24) months following the execution of the financing. Without limitation of the foregoing, payments therefrom must be made available upon request of the City for periodic partial payments to equipment vendors for the manufacture and/or assembly of equipment prior to delivery and acceptance of such equipment by the City. All funds invested or deposited in the Acquisition Account shall at all times be invested or deposited, as applicable, in a manner which satisfied the requirements of the laws of the State of South Carolina relating to investment or deposit of public funds, including, without limitation, Section 6-5-10 or Section 6-5-15 of the Code of Laws of South Carolina 1976, as amended, as applicable.
- (k) Costs of Issuance: All costs relating to the preparation of the Lease Agreement and fees of Special Counsel will be paid by the City. Any fees and costs of the bidder (including its legal expenses) to be paid by the City must be stated in the response to this Request for Proposals and will be treated as additional interest for purposes of evaluating bids. The Lease Agreement must allow the City to pay its legal fees and costs related to execution and delivery of the Lease Agreement out of the proceeds of the Lease Agreement.
- (l) Insurance: The City is self-insured for property, casualty and general liability risks. The equipment will be insured in a similar manner.
- (m) Closing: The City expects to accept the successful proposal on \_\_\_\_\_, 2021, and close the transaction on \_\_\_\_\_, 2021.
- (n) Prepayment: Unless otherwise specifically provided in a bidder's proposal and agreed to by the City, the Lease Agreement will be subject to prepayment at the option of the City in whole or in part at any time without any prepayment penalty.
- (o) Lease Agreement Not Designated as Qualified Tax-Exempt Obligation: The City has **not** designated the Lease Agreement as a "qualified tax-exempt obligation" for purposes of Section 265 of the Internal Revenue Code, as amended (the "Code"), relating to the ability of financial

institutions to deduct from income for federal income tax purposes interest expense that is allocable to carrying and acquiring tax-exempt obligations.

II. Proposal Requirements

- (a) The proposal must be in writing. It is preferred that a bidder's proposal not be subject to further credit or underwriting approval.
- (b) No proposal may be modified by a bidder after it has been submitted.
- (c) Proposals should include: the name, address, telephone number of your institution; the primary contact; and identity of legal counsel, if any.
- (d) Proposals must be accompanied with a list of all requirements and conditions associated with the proposal.
- (e) Proposals must indicate a single interest rate for the lease term and it is requested that proposals include an amortization schedule showing annual payment amounts for the term of the financing.
- (f) Proposals must provide full disclosure of all financing costs, including any closing, legal, and tax opinion charges.
- (g) Any prepayment penalty or other fee requirements should be detailed in the proposal.

III. Evaluation of Proposals and Award

The Lease Agreement will be awarded to the bidder that provides the most advantageous proposal as determined by the City in its sole and absolute discretion. After the proposals are received, they will be evaluated by the officials of the City based on various factors, including, but not limited to, the interest rate, proposed form of Lease Agreement, redemption terms, prepayment penalties or limitations, additional credit or underwriting approval, legal or other additional costs of the proposer to be paid by the City or factored into the interest rate, additional covenants and terms, if any, and other conditions set forth therein. The City reserves the right to reject any and all proposals or to waive irregularities in any proposal. The City expects to accept the successful proposal by the close of business on \_\_\_\_\_, 2021.

IV. Legal Opinion. The execution and delivery of the Lease Agreement is subject to the approving opinion of the Burr & Forman LLP d/b/a Burr Forman McNair ("Burr Forman McNair"), Special Counsel, and the City's attorney, Teresa A. Knox, Esq.

V. Tax Exemption and Other Tax Matters. The Code, and the Treasury Regulations promulgated thereunder, include provisions that relate to tax exempt obligations, such as the Lease Agreement, including, among other things, permitted uses and investment of the proceeds of the Lease

Agreement and the rebate of certain net arbitrage earnings from the investment of such proceeds to the United States Treasury. Noncompliance with these requirements may result in interest paid under the Lease Agreement becoming subject to federal income taxation retroactive to the date of issuance of the Lease Agreement. The City has covenanted to comply with the requirements of the Code to the extent required to maintain the exclusion of interest on the Lease Agreement from gross income for federal tax purposes. Failure of the City to comply with these covenants could cause the interest on the Lease Agreement to be taxable retroactively to its date of issuance.

The Code imposes an alternative minimum tax on a taxpayer's alternative minimum taxable income. Interest on the Lease Agreement is not an item of tax preference for purposes of the federal alternative minimum tax.

The accrual or receipt of interest on the Lease Agreement may affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status or other items of income or deduction. Prospective purchasers of the Lease Agreement should be aware that ownership of the Lease Agreement may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies and taxpayers otherwise entitled to claim the earned income credit and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Lease Agreement. Special Counsel will not express any opinion as to such collateral tax consequences. Prospective purchasers of the Lease Agreement should consult their tax advisors as to collateral federal income tax consequences.

Special Counsel has not undertaken to determine (or to inform any person) whether any action taken (or not taken) or event occurring (or not occurring) after the date of issuance of the Lease Agreement may affect the tax status of interest on the Lease Agreement. In rendering its opinion, Special Counsel will rely upon certificates and representations of the City with respect to certain material facts solely within the knowledge of the City relating to the application of the proceeds of the Lease Agreement.

VI. Investment Letter. The lessor will be required to execute an Investment Letter to the City in substantially the form attached hereto as Exhibit B and incorporated herein by reference.

VII. Additional Information. If you should have any questions regarding the Request for Proposals, you should contact:

Janice L. Alonso  
Finance Director  
Phone: 803.545.3409  
E-Mail: [Janice.Alonso@columbiasc.gov](mailto:Janice.Alonso@columbiasc.gov)

Michael J. Seezen, Esq.  
Burr Forman McNair  
Phone: 803.753.3257  
E-Mail: [mseezen@burr.com](mailto:mseezen@burr.com)

Bidders are encouraged to submit any questions or requests for further information to the

City at least two days prior to the date proposals are due (\_\_\_\_\_ \_\_\_\_, 2021), in order to ensure sufficient time for the City to review and respond to such questions or requests.

**No questions may be directed to or contacts made with the Mayor, other members of City Council or any City staff not identified in this Request for Proposals as points of contacts during the period of time that this Request for Proposals is made public until the final selection is made, except as otherwise provided for herein. Violation of this prohibition may disqualify the bidder from further consideration.**

\_\_\_\_\_  
/s/ Jeffery M. Palen

City of Columbia, South Carolina  
Assistant City Manager for Finance and  
Economic Services

\_\_\_\_\_, 2021

## EXHIBIT A

### Equipment

Acquisition, replacement and installation of certain rolling stock and other equipment, including but not limited to the following: purchase of new cars, trucks and other vehicles and equipment for various departments of the City, including but not limited to the police, fire, public works and parks departments of the City, and purchase and installation of computers, software, equipment and systems for various departments of the City.

EXHIBIT A

Form of Investment Letter

\_\_\_\_\_, 2021

City of Columbia, South Carolina  
Columbia, South Carolina

Teresa A. Knox, Esq.  
City Attorney, City of Columbia  
Columbia, South Carolina

Burr & Forman LLP d/b/a Burr Forman McNair  
Columbia, South Carolina

RE: City of Columbia, South Carolina  
[Lease Agreement], 2021, \$\_\_\_\_\_

This letter is provided by \_\_\_\_\_ (the “Lessor”) in connection with the execution and delivery of a [Lease Agreement] dated as of \_\_\_\_\_, 2021 (the “Agreement”) between the Lessor and City of Columbia, South Carolina (the “City”). All capitalized terms used herein, but not defined herein, shall have the respective meanings set forth in the Agreement. The undersigned, an authorized representative of the Lessor, hereby represents to you that:

1. The Lessor has sufficient knowledge and experience in financial and business matters, including purchase and ownership of municipal and other obligations, to be able to evaluate the risks and merits of the investment represented by the Agreement.
2. The Lessor has authority to enter into the Agreement and to execute this letter and any other instruments and documents required to be executed by the Lessor in connection with the Agreement.
3. The undersigned is a duly appointed, qualified and acting representative of the Lessor and is authorized to cause the Lessor to make the certifications, representations and warranties contained herein by execution of this letter on behalf of the Lessor.
4. The Lessor understands that no official statement, prospectus, offering circular, or other comprehensive offering statement containing material information with respect to the City and the Agreement is being provided with respect to the Agreement. In due diligence, the Lessor has made its own inquiry and analysis with respect to the City, the Agreement, the [Lease Payments] and the security therefor, and other material factors affecting the security for and payments to be made under the Agreement.



5. The Lessor acknowledges that it (a) has either been supplied with or has access to information, including financial statements and other financial information, regarding the City, to which a reasonable investor would attach significance in making investment decisions; and (b) has had the opportunity to ask questions and receive answers from knowledgeable individuals concerning the City, the Agreement, the Acquisition Payments and the security therefor, so that as a reasonable investor, it has been able to make its decision to enter into the Agreement.

6. The Lessor is primarily entering into the Agreement for its own account (or for that of its consolidated taxpayer group) and not with a current view to resale or other distribution thereof, and the Lessor does not currently contemplate the division of the Agreement nor the resale or other disposition of the Agreement, or any part thereof, except as permitted by law and subject to applicable securities laws and regulations thereunder.

7. The undersigned acknowledges that the Lessor will file any UCC financing statements or otherwise take any actions necessary in order to perfect the Lessor's security interest in any collateral in connection with the Agreement.

8. Lessor understands that the scope of engagement of Teresa A. Knox, Esq., as City Attorney, with respect to the Agreement has been limited to the matters set forth in his opinion.

9. The undersigned understands that the scope of engagement of Burr & Forman LLP d/b/a Burr Forman McNair, as Special Counsel for the City with respect to the Agreement, has been limited to matters set forth in their opinion.

[LESSOR]

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

Its: \_\_\_\_\_