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**TAXABLE QECB
EQUIPMENT LEASE/PURCHASE AGREEMENT (DIRECT SUBSIDY)**

This Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of December 22, 2010 (the "*Agreement*"), entered into by and between Banc of America Leasing & Capital, LLC, a Delaware limited liability company ("*Lessor*"), and City of Richmond, a charter city and municipal corporation duly organized and existing under the laws of the State of California ("*Lessee*"),

WITNESSETH:

WHEREAS, Lessee desires to lease and acquire from Lessor certain Energy Conservation Equipment (as such term is defined herein), subject to the terms and conditions hereof; and

WHEREAS, Lessee is authorized under the constitution and laws of the State to enter into this Agreement for the purposes set forth herein;

NOW, THEREFORE, for good and valuable consideration, receipt of which is hereby acknowledged, and in consideration of the premises hereinafter contained, the parties 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:

"*Acquisition Amount*" means \$1,052,526.16. The Acquisition Amount is the amount represented by Lessee to be sufficient, together with other funds of Lessee (if any) that are legally available for the purpose, to acquire and install the Energy Conservation Equipment and to pay Delivery Costs.

"*Acquisition Fund*" means the fund established and held by the Acquisition Fund Custodian pursuant to the Acquisition Fund Agreement.

"*Acquisition Fund Agreement*" means the Acquisition Fund and Account Control Agreement in form and substance acceptable to and executed by Lessee, Lessor and the Acquisition Fund Custodian, pursuant to which an Acquisition Fund and a Delivery Costs Fund are established and administered.

"*Acquisition Fund Custodian*" means the Acquisition Fund Custodian identified in the Acquisition Fund Agreement, and its successors and assigns.

"*Acquisition Period*" means the period ending five (5) business days prior to June 22, 2012.

“Additional Rental Payments” means any and all amounts payable by Lessee hereunder (other than Rental Payments), including rebate payments to the federal government.

“Agreement” means this Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy), including the exhibits hereto, together with any amendments and modifications to the Agreement pursuant to Section 13.04.

“Available Project Proceeds” means (a) the proceeds from the sale of the Agreement, less (b) Delivery Costs (not exceeding 2% of the proceeds of such sale) plus (c) investment earnings on the amount representing the difference between (a) minus (b).

“Code” means the Internal Revenue Code of 1986, as amended. Each reference to a Section of the Code herein shall be deemed to include the United States Treasury Regulations and Internal Revenue Service Notices dealing with Sections 54A, 54D and 6431 of the Code, including Internal Revenue Service Notice 2010-35.

“Commencement Date” means the date when Lessee’s obligation to pay rent commences hereunder, which shall be the date on which the Acquisition Amount is deposited with the Acquisition Fund Custodian.

“Contract Rate” means the rate identified as such in the Payment Schedule.

“Delivery Costs” means the costs incurred in connection with the execution and delivery of the Agreement, including counsel fees, fees and expenses of the Acquisition Fund Custodian and similar costs, fees and expenses.

“Energy Conservation Equipment” means the property listed in the Equipment Schedule and all replacements, repairs, restorations, modifications and improvements thereof or thereto made pursuant to Section 8.01 or Article V. Whenever reference is made in this Agreement to Energy Conservation Equipment, such reference shall be deemed to include all such replacements, repairs, restorations, modifications and improvements of or to such Energy Conservation Equipment.

“Equipment Acceptance” means, with respect to each portion of the Energy Conservation Equipment that may operate for its intended purpose as a separate and independent functional unit, that the Energy Conservation Equipment constituting such portion has been acquired and installed by the Vendor, is operating in a manner consistent with the manufacturer’s intended use and has been inspected and finally accepted by Lessee for all purposes of this Agreement.

“Equipment Costs” means the total cost of the Energy Conservation Equipment, including related costs such as freight, installation and taxes and other capitalizable costs incurred in connection with the acquisition, installation and/or financing of the Energy Conservation Equipment.

“Equipment Schedule” means the equipment schedule attached hereto as Exhibit A and made a part hereof.

“*Event of Default*” means an Event of Default described in Section 12.01.

“*Expenditure Period*” means the “expenditure period” defined in Section 54A(d)(2)(B)(ii) of the Code and consists of the period beginning on the Commencement Date and ending on the later of the date 3 years after the Commencement Date or such later date, if any, as permitted by the Secretary of the Treasury in response to a request to extend the Expenditure Period.

“*Lease Term*” shall begin on the Commencement Date and end on June 15, 2026, subject to extension as provided in Section 3.03; *provided* that in no event shall the term of the Lease exceed the maximum term established by the Secretary of the Treasury that is applicable to the Agreement.

“*Lessee*” means the entity referred to as Lessee in the first paragraph of this Agreement.

“*Lessor*” means (a) the entity referred to as Lessor in the first paragraph of this Agreement or (b) any assignee or transferee of any right, title or interest of Lessor in and to this Agreement pursuant to Section 11.01 hereof, including the right, title and interest of Lessor in and to the Energy Conservation Equipment, the Rental Payments and other amounts due hereunder and the Acquisition Fund and the Delivery Costs Fund, but does not include any entity solely by reason of that entity retaining or assuming any obligation of Lessor to perform hereunder.

“*Material Adverse Change*” means any change in Lessee’s creditworthiness that could have a material adverse effect on (a) the financial condition or operations of Lessee, or (b) Lessee’s ability to perform its obligations under this Agreement.

“*Payment Schedule*” means the Rental Payments Schedule attached hereto as Exhibit B and made a part hereof.

“*Principal Component*” means the aggregate principal amount of the Rental Payments equal to \$1,052,526.16 on the Commencement Date.

“*Purchase Price*” means the amount that Lessee shall pay to Lessor to purchase the Energy Conservation Equipment as provided in the Payment Schedule.

“*Qualified Energy Conservation Project*” means the cost of acquiring and installing the qualified energy conservation project that qualifies as a “*qualified conservation purpose*” under Section 54D(f) of the Code, and has been approved for financing pursuant to notifications to Lessee from the California Debt Limit Allocation Committee dated August 31, 2010.

“*Rental Payments*” means the basic rental payments payable by Lessee hereunder pursuant to Section 4.01, consisting of a principal component and an interest component, sufficient to repay the Principal Component and interest thereon at the Contract Rate, on the dates and in the amounts set forth in Exhibit B hereto.

“State” means the State of California.

“Vendor” means the manufacturer, installer or supplier of the Energy Conservation Equipment or any other person as well as the agents or dealers of the manufacturer, installer or supplier with whom Lessor arranged Lessee’s acquisition, installation, maintenance and/or servicing of the Energy Conservation Equipment.

“Vendor Agreement” means any contract entered into by Lessee and any Vendor for the acquisition, installation, maintenance and/or servicing of the Energy Conservation Equipment.

ARTICLE II

Section 2.01. Representations and Covenants of Lessee. Lessee represents, covenants and warrants for the benefit of Lessor on the date hereof as follows:

(a) Lessee is a charter city and municipal corporation duly organized and existing under the constitution and laws of the State, with full power and authority to enter into this Agreement and the Acquisition Fund Agreement and the transactions contemplated hereby and thereby and to perform all of its obligations hereunder and thereunder.

(b) Lessee has duly authorized the execution and delivery of this Agreement and the Acquisition Fund Agreement by proper action of its governing body at a meeting duly called, regularly convened and attended throughout by the requisite quorum of the members thereof, or by other appropriate official approval, and all requirements have been met and procedures have occurred in order to ensure the validity and enforceability of this Agreement and the Acquisition Fund Agreement.

(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) Lessee will do or cause to be done all things necessary to preserve and keep in full force and effect its existence as a charter city and municipal corporation.

(e) Lessee has complied with such public bidding requirements as may be applicable to this Agreement and the acquisition by Lessee of the Energy Conservation Equipment.

(f) During the Lease Term, the Energy Conservation Equipment will be used by Lessee only for the purpose of performing essential governmental or proprietary functions of Lessee consistent with the permissible scope of Lessee’s authority.

(g) Lessee has kept, and throughout the Lease Term shall keep, its books and records in accordance with generally accepted accounting principles and practices consistently applied, and shall deliver to Lessor (i) annual audited financial statements (including (1) a balance sheet, (2) statement of revenues, expenses and changes in fund

balances for budget and actual, (3) statement of cash flows, and (4) footnotes, schedules and attachments to the financial statements) within 210 days of its fiscal year end, (ii) such other financial statements and information as Lessor may reasonably request, and (iii) its annual budget for the following fiscal year when approved but not later than 30 days prior to its current fiscal year end. The financial statements described in subsection (g) shall be accompanied by an unqualified opinion of Lessee's auditor. Credit information relating to Lessee may be disseminated among Lessor and any of its affiliates and any of their respective successors and assigns.

(h) Lessee has an immediate need for the Energy Conservation Equipment and expects to make immediate use of the Energy Conservation Equipment. Lessee's need for the Energy Conservation Equipment is not temporary and Lessee does not expect the need for any item of the Energy Conservation Equipment to diminish during the Lease Term.

(i) There is no pending litigation, tax claim, proceeding or dispute that may adversely affect Lessee's financial condition or impairs its ability to perform its obligations under this Agreement or the Acquisition Fund Agreement. Lessee will, at its expense, maintain its legal existence and do any further act and execute, acknowledge, deliver, file, register and record any further documents Lessor may reasonably request in order to protect Lessor's first priority security interest in the Energy Conservation Equipment, the Acquisition Fund and the Delivery Costs Fund and Lessor's rights and benefits under this Agreement and the Acquisition Fund Agreement.

(j) Lessee is the fee owner of the real estate where the Energy Conservation Equipment is and will be located and has good and marketable title thereto, and there exists no mortgage, pledge, lien, security interest, charge or other encumbrance of any nature whatsoever on or with respect to such real estate.

(k) Lessee has received allocation of a portion of the national qualified energy conservation bond limitation in the aggregate amount of \$1,052,526.16. and documentation with respect to such allocation has been provided for inclusion in the transcript for this Agreement. Lessee represents that the Energy Conservation Equipment qualifies as a Qualified Energy Conservation Project.

ARTICLE III

Section 3.01. Lease of Energy Conservation Equipment. Subject to the terms of this Agreement, Lessor agrees to provide the Acquisition Amount to acquire and install the Energy Conservation Equipment and pay the Delivery Costs. Lessor hereby demises, leases, transfers and lets to Lessee, and Lessee hereby acquires, rents and leases from Lessor, the Energy Conservation Equipment for the Lease Term.

Section 3.02. Continuation of Lease Term. Lessee intends, subject to Section 3.03, to continue the Lease Term and to pay the Rental Payments and the Additional Rental Payments under this Agreement. Lessee affirms that sufficient funds are available for its current fiscal year

to pay any Rental Payments and Additional Rental Payments when due during the current fiscal year, and Lessee reasonably believes that an amount sufficient to make all Rental Payments and Additional Rental Payments during the entire Lease Term can be obtained from legally available funds of Lessee.

Section 3.03. Abatement. During any period in which, by reason of material damage or destruction or taking under the power of eminent domain (or sale to any entity threatening the use of such power) or material title defect with respect to any Energy Conservation Equipment, there is substantial interference with the beneficial use and enjoyment by Lessee of such Energy Conservation Equipment, the Rental Payments due under this Agreement shall be abated in the same proportion (including in whole) that the portion of such Energy Conservation Equipment that is unavailable for Lessee's beneficial use and enjoyment bears to all of the Energy Conservation Equipment. Lessee shall immediately notify Lessor upon the occurrence of any event causing substantial interference with Lessee's beneficial use and enjoyment of any Energy Conservation Equipment, and such notice shall be provided prior to the abatement of any Rental Payments under this Agreement. The amount of Rental Payments abated under this Agreement shall be such that the remaining Rental Payment obligation for each rental period represents fair consideration for the beneficial use and enjoyment of the portions of the Energy Conservation Equipment that are not affected by such interference. Such abatement shall commence on the date that Lessee's beneficial use and enjoyment of the affected Energy Conservation Equipment is restricted because of such interference and end on the earlier of (i) the date on which the beneficial use and enjoyment thereof are restored to Lessee, or (ii) the date on which Lessee either (x) replaces the affected Energy Conservation Equipment, (y) uses the proceeds of insurance or condemnation award to pay the applicable Purchase Price therefor or (z) uses legally available funds as provided in Section 7.03 to pay the applicable Purchase Price therefor if no insurance proceeds or condemnation award are available for purposes of the foregoing clause (y); *provided, however*, that the provisions of this Agreement, including (but not limited to) dates on which Rental Payments are due, shall be extended for a period equal to the period the obligation to make Rental Payments was abated; and *provided further, however*, that in no event shall any such extension result in the Lease Term exceeding the maximum term established by the Secretary of the Treasury that is applicable to this Agreement. Notwithstanding any such interference with Lessee's beneficial use and enjoyment of a portion of the Energy Conservation Equipment, this Agreement shall continue in full force and effect with respect to any remaining Energy Conservation Equipment. Lessee hereby waives the benefits of California Civil Code Sections 1932(1), 1932(2) and 1933(4) and any and all other rights to terminate this Agreement by virtue of any interference with the use and possession of the Energy Conservation Equipment.

Section 3.04. Conditions to Lessor's Performance. (a) As a prerequisite to the performance by Lessor of any of its obligations under this Agreement, Lessee shall deliver to Lessor the following:

- (i) An Acquisition Fund Agreement in the form set forth in Exhibit H hereto, satisfactory to Lessor and executed by Lessee and the Acquisition Fund Custodian;
- (ii) A certified copy of a resolution, ordinance or other official action of Lessee's governing body, in form and substance satisfactory to the Lessor, authorizing

the execution and delivery of this Agreement and the Acquisition Fund Agreement and performance by Lessee of its obligations under this Agreement and the Acquisition Fund Agreement;

(iii) A Certificate executed by the Finance Director (or authorized designee) of Lessee, in substantially the form attached hereto as Exhibit C, completed to the satisfaction of Lessor;

(iv) An opinion of counsel to Lessee in substantially the form attached hereto as Exhibit D and otherwise satisfactory to Lessor;

(v) Evidence of insurance as required by Section 7.02 hereof;

(vi) All documents, including financing statements, affidavits, notices and similar instruments, in form satisfactory to Lessor, which Lessor deems necessary or appropriate at that time pursuant to Section 6.02;

(vii) A waiver or waivers of interest in the Energy Conservation Equipment, satisfactory to Lessor, from any mortgagee or any other party having an interest in the real estate on which the Energy Conservation Equipment will be located and/or landlord of the real estate on which the Energy Conservation Equipment will be located;

(viii) A copy of a fully completed and executed Form 8038-TC with respect to the Agreement in accordance with Section 4.05(g) hereof;

(ix) A certified copy of any Surety Bond satisfying the conditions set forth in Section 7.04, or, at Lessor's sole discretion, such Surety Bonds may be provided after the Commencement Date, *provided, however*, that no "Disbursement Request" pursuant to the Acquisition Fund Agreement shall be authorized by Lessor until such Surety Bonds satisfying the conditions set forth in Section 7.04 have been delivered to Lessor; and

(x) Such other items reasonably required by Lessor.

(b) In addition, the performance by Lessor of any of its obligations under this Agreement and the Acquisition Fund Agreement shall be subject to: (i) no Material Adverse Change in the financial condition of Lessee since the date of this Agreement, and (ii) no Event of Default having occurred and continuing.

(c) Subject to satisfaction of the foregoing, Lessor will deposit the Acquisition Amount with the Acquisition Fund Custodian for deposit into the Acquisition Fund and the Delivery Costs Fund as provided in the Acquisition Fund Agreement.

ARTICLE IV

Section 4.01. Rental Payments. Subject to Section 3.03, Lessee shall promptly pay Rental Payments, in lawful money of the United States of America, to Lessor on the dates and in

such amounts as provided in the Payment Schedule. Interest on the Acquisition Amount shall begin to accrue as of the Commencement Date. Lessee shall pay Lessor a charge on any Rental Payment not paid on the date such payment is due at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less, from such date.

Section 4.02. Interest and Principal Components. A portion of each Rental Payment is paid as, and represents payment of, interest, and the balance of each Rental Payment is paid as, and represents payment of, principal as more fully detailed on the Payment Schedule.

Section 4.03. Rental Payments and Additional Rental Payments to Constitute Current Expenses of Lessee. Lessor and Lessee understand and intend that the obligations of Lessee to pay Rental Payments and Additional Rental Payments shall constitute current expenses of Lessee payable solely from its general fund or other funds that are legally available for such purposes and shall not in any way be construed to be debts of Lessee in contravention of any applicable constitutional or statutory limitation or requirement concerning the creation of indebtedness by Lessee, nor shall anything contained herein constitute a pledge of the general tax revenues, funds or moneys of Lessee.

Section 4.04. Rental Payments and Additional Rental Payments to be Unconditional. Except as provided in Section 3.03, the obligations of Lessee to make Rental Payments and Additional Rental Payments and to perform and observe the other covenants and agreements contained in this Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense, for any reason, including without limitation any failure of the Energy Conservation Equipment, any defects, malfunctions, breakdowns or infirmities in the Energy Conservation Equipment, disputes with the Vendor of any Energy Conservation Equipment or Lessor, failure of the Vendor under any Vendor Agreement to perform any of its obligations thereunder for whatever reason, including bankruptcy, insolvency, reorganization or any similar event with respect to the Vendor under any Vendor Agreement, the failure or inability (for whatever reason) of Lessee to receive (or delay in receipt of) all or any portion of the direct cash subsidy payment with respect to the Agreement as provided in Sections 4.05(f) and 4.05(i) hereof or any accident, condemnation or unforeseen circumstances.

Section 4.05. Tax Covenants . At all times during the Lease Term, Lessee shall comply with the following covenants as required to ensure that the Agreement constitutes a “*qualified energy conservation bond*” under and as defined in Sections 54A(d)(1)(C) and 54D of the Code:

(a) *Status as Local Government.* Lessee shall maintain its status as a local government as required by Section 54D(a)(2) of the Code.

(b) *Qualified Energy Conservation Project Requirement; Capital Expenditures.* One hundred percent (100%) of the Available Project Proceeds will be used for a Qualified Energy Conservation Project, as required by Section 54D(f) of the Code. Lessee shall design, acquire, install and operate the Energy Conservation Equipment in such a manner that the Energy Conservation Equipment will be a Qualified Energy Conservation Project.

(c) *Three Year Expenditure of Available Project Proceeds.* Lessee reasonably expects to expend 100% of the Available Project Proceeds on a Qualified Energy Conservation Project within the Expenditure Period. To the extent that less than 100% of the Available Project Proceeds are expended for a Qualified Energy Conservation Project by the end of the Expenditure Period, all nonqualified bonds (as determined under Section 142 of the Code) shall be prepaid within 90 days after the end of the Expenditure Period, all in accordance with the requirements of Section 54A(d)(2)(B) of the Code in the time and manner prescribed by the Code and as provided in Section 4.06 hereof.

(d) *Arbitrage Rebate.* Lessee will take any and all actions necessary to assure compliance with Section 148(f) of the Code, as modified by Section 54A(d)(4) of the Code, relating to the rebate of excess investment earnings, if any, to the federal government, to the extent that such Section is applicable to the Agreement. Any such amounts due to the federal government shall constitute Additional Rental Payments hereunder.

(e) *No Arbitrage.* Lessee will not take, or permit or suffer to be taken, any action with respect to the proceeds of the Agreement which, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the Commencement Date would have caused the Agreement to be an “arbitrage bond” within the meaning of Section 148(a) of the Code, as modified by Section 54A(d)(4) of the Code.

(f) *I.R.S. Form 8038-CP.* Lessee acknowledges that, to receive certain payments with respect to the Agreement under Section 6431 of the Code, it must, among other requirements, periodically file appropriate returns, now designated Form 8038-CP, *Return for Credit Payments to Issuers of Qualified Bonds*, in accordance with the instructions to such return.

(g) *I.R.S. Information Reporting Return Form 8038-TC.* Lessee shall file or cause to be filed I.R.S. Form 8038-TC (and all other required information reporting returns) in a timely manner.

(h) *Designation.* Lessee designates the Agreement for purposes of Section 54D(a)(3) of the Code as a “*qualified energy conservation bond*” within the meaning of Section 54D(a) of the Code.

(i) *“Qualified Bond” Election with respect to the Agreement.* Lessee hereby irrevocably elects to have Section 6431(f) of the Code apply to the Agreement. Lessee hereby acknowledges that as a consequence of this election, Lessor (including its successors and assigns) will not be entitled to a tax credit as a result of ownership of the Agreement.

(j) *Binding Commitment to Spend Available Project Proceeds.* Lessee reasonably expects to enter into a binding commitment with a third party to spend at least 10% of the Available Project Proceeds with respect to “*qualified conservation purposes*”

within the meaning of Section 54D(a)(1) of the Code within the six month period beginning on the Commencement Date.

(k) *Limitation on Delivery Costs.* No proceeds of the Agreement and investment earnings thereon, in an amount in excess of 2% of the proceeds of the sale of the Agreement, will be used to pay Delivery Costs. If the fees of Lessor are retained upon origination of this Agreement as a discount on the purchase of the Agreement, such retention shall be deemed to be an expenditure of proceeds for said fees.

(l) *Allocation of Qualified Energy Conservation Bond Limitation.* Lessee has received an allocation of a portion of the national qualified energy conservation bond limitation in the aggregate amount of \$1,052,526.16, included in the transcript for the Agreement. The maximum aggregate Principal Component of the Agreement designated as a “qualified energy conservation bond” under subsection (h) of this Section 4.05 for purposes of Section 54D(a)(3) of the Code does not exceed the amount of the national qualified school construction bond limitation allocated to Lessee under Section 54D(e) of the Code for calendar year 2010.

(m) *Limitation on Replacement Funds.* No fund or moneys are pledged to, or are reasonably expected to be used directly or indirectly to pay, Rental Payments or Additional Rental Payments or are reserved or otherwise set aside such that there is a reasonable assurance that such amounts will be available to pay Rental Payments or Additional Rental Payments will be funded with respect to the Agreement.

(n) *Davis-Bacon Act Compliance.* Lessee shall comply with the requirements of Title 40, Subtitle II, Part A, Chapter 31, Subchapter IV of the United States Code in connection with the acquisition and installation of the Energy Conservation Equipment.

(o) *No Private Activity.* Lessee shall assure that the Acquisition Amount and the Energy Conservation Equipment are not used in a manner that would cause this Agreement to satisfy the private business tests of Section 141(b) of the Code or the private loan financing test of Section 141(c) of the Code.

(p) *Compliance with Conflicts of Interest Laws.* Lessee shall comply with all State and local law requirements governing conflicts of interest as such requirements may relate, directly or indirectly, to this Agreement. Lessee hereby covenants and agrees to comply with any conflict of interest rules prescribed by the Internal Revenue Service or United States Department of Treasury governing the appropriate Member of Congress and federal, State and local officials and their spouses as such rules may apply to this Agreement.

Section 4.06. Payment of Equipment Costs from Acquisition Fund; Mandatory Prepayment from Unspent Acquisition Fund Moneys. (a) Amounts on deposit in the Acquisition Fund may be expended for the payment of Equipment Costs for the Qualified Energy Conservation Project in accordance with the Acquisition Fund Agreement to and including the earlier of (i) the expiration of the Acquisition Period, (ii) the date on which Lessee executes an

Acceptance Certificate (in the form attached hereto as Exhibit E) or (iii) the 90th day following the later of December 22, 2013 or, if Lessee has obtained an extension for the expenditure of amounts in such Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period. All amounts remaining on deposit in the Acquisition Fund as of the earlier of such dates shall be applied by the Acquisition Fund Custodian as provided in the Acquisition Fund Agreement to prepay Rental Payments in whole or in part in inverse order of Rental Payment dates. The prepayment price with respect to any such prepayment shall be equal to 103% of the principal portion of the Rental Payments to be prepaid (which includes a prepayment premium), plus accrued interest on such prepaid principal portion to the prepayment date.

Lessee hereby acknowledges and agrees that prior to Equipment Acceptance any demands for payment of related Equipment Costs or any other amounts due to the Vendors shall be paid by Lessee from its own funds that are legally available for the purpose and not from funds held in the Acquisition Fund. Such funds so paid by the Lessee may be reimbursed as provided in this Agreement, subject to any limitations on any such reimbursement as otherwise provided in this Agreement.

(b) In connection with any prepayment pursuant to subsection (a) of this Section 4.06, Lessee shall pay the prepayment premium and interest portion of Rental Payments accrued to the prepayment date on such principal portion to be prepaid from funds legally available to Lessee for that purpose, but not from Available Project Proceeds. Such prepayment shall constitute Additional Rental Payments hereunder. Notwithstanding anything to the contrary hereunder, the prepayment pursuant to subsection (a) of this Section 4.06 shall occur irrespective of whether Lessee has legally funds available to pay the 3% premium.

(c) Lessee will give Lessor notice of any such prepayment in accordance with this Section 4.06 not less than 60 days in advance of the prepayment date.

Section 4.07. Covenant to Budget and Appropriate. Lessee hereby covenants to take such action as is necessary under the laws applicable to Lessee to budget for and include and maintain funds sufficient and available to discharge its obligation to meet all Rental Payments in each of its fiscal years during the Lease Term.

The covenants on the part of Lessee herein contained shall be deemed to be and shall be construed to be ministerial duties imposed by law and it shall be the duty of each and every public official of Lessee to take such action and do such things as are required by law in the performance of the official duty of such officials to enable Lessee to carry out and perform the covenants and agreements in this Agreement agreed to be carried out and performed by Lessee.

Section 4.08. Substitution of Energy Conservation Equipment under Certain Circumstances. In the event of damage to or destruction of all or a portion of the Energy Conservation Equipment due to earthquake or other uninsured casualty for which the proceeds of rental interruption insurance are not available, Lessee shall promptly after the occurrence of such event and without any further authorization substitute and add as Energy Conservation Equipment under this Agreement other real or personal property of Lessee that is unimpaired and

unencumbered, the fair rental value of which shall be at least equal to the Rental Payments due during each fiscal year for the remainder of the term of this Agreement.

ARTICLE V

Section 5.01. Delivery, Installation and Acceptance of Energy Conservation Equipment.

(a) Lessee shall order the Energy Conservation Equipment, cause the Energy Conservation Equipment to be delivered and installed at the location specified in the Equipment Schedule and pay any and all Equipment Costs and other delivery and installation costs in connection therewith. When the Energy Conservation Equipment has been delivered and installed, Lessee shall promptly accept such Energy Conservation Equipment and evidence said acceptance by executing and delivering to Lessor an Acceptance Certificate in the form attached hereto as Exhibit E.

(b) Lessee shall deliver to Lessor original invoices (and proof of payment of such invoices) and bills of sale (if title to such Energy Conservation Equipment has passed to Lessee) relating to each item of Energy Conservation Equipment accepted by Lessee.

Section 5.02. Quiet Enjoyment of Energy Conservation Equipment. So long as Lessee is not in default hereunder, neither Lessor nor any entity claiming by, through or under Lessor, shall interfere with Lessee's quiet use and enjoyment of the Energy Conservation Equipment during the Lease Term.

Section 5.03. Location; Inspection. Once installed, no item of the Energy Conservation Equipment will be moved or relocated from the location specified for it in the Equipment Schedule without Lessor's prior written consent, which consent shall not be unreasonably withheld. Lessor shall have the right at all reasonable times during regular business hours to enter into and upon the property where the Energy Conservation Equipment is located for the purpose of inspecting the Energy Conservation Equipment.

Section 5.04. Use and Maintenance of the Energy Conservation Equipment. Lessee shall not install, use, operate or maintain the Energy Conservation Equipment (or cause the Energy Conservation Equipment to be installed, used, operated or maintained) improperly, carelessly, in violation of any applicable law or in a manner contrary to that contemplated hereby. Lessee shall provide all permits and licenses, if any, necessary for the installation and operation of the Energy Conservation Equipment. In addition, Lessee agrees to comply in all respects with all applicable laws, regulations and rulings of any legislative, executive, administrative or judicial body; *provided* that Lessee may contest in good faith the validity or application of any such law, regulation or ruling in any reasonable manner that does not, in the opinion of Lessor, adversely affect the interest of Lessor in and to the Energy Conservation Equipment or its interest or rights hereunder.

Lessee agrees that it will maintain, preserve and keep the Energy Conservation Equipment in good repair and working order, in a condition comparable to that recommended by the manufacturer. Lessor shall have no responsibility to maintain, repair or make improvements or additions to the Energy Conservation Equipment. In all cases, Lessee agrees to pay any costs

necessary for the manufacturer to re-certify the Energy Conservation Equipment as eligible for manufacturer's maintenance upon the return of the Energy Conservation Equipment to Lessor as provided for herein.

Lessee shall not alter any item of Energy Conservation Equipment or install any accessory, equipment or device on an item of Energy Conservation Equipment if that would impair any applicable warranty, the originally intended function or the value of that Energy Conservation Equipment. All repairs, parts, accessories, equipment and devices furnished, affixed to or installed on any Energy Conservation Equipment, excluding temporary replacements, shall thereupon become subject to the security interest of Lessor.

ARTICLE VI

Section 6.01. Title to the Energy Conservation Equipment. During the Lease Term, and so long as Lessee is not in default under Article XII hereof, all right, title and interest in and to each item of the Energy Conservation Equipment shall be vested in Lessee immediately upon its acceptance of each item of Energy Conservation Equipment, subject to the terms and conditions of this Agreement. Lessee shall at all times protect and defend, at its own cost and expense, its title in and to the Energy Conservation Equipment from and against all claims, liens and legal processes of its creditors, and keep all Energy Conservation Equipment free and clear of all such claims, liens and processes. Upon purchase of the Energy Conservation Equipment under this Agreement by Lessee pursuant to Section 10.01, Lessor shall release its security interest in and to the Energy Conservation Equipment under the Agreement, as is and where is, without warranty of any kind other than as to the absence of liens created by or through Lessor, and shall execute and deliver to Lessee such documents as Lessee may reasonably request to evidence the release of Lessor's security interest in the Energy Conservation Equipment subject to this Agreement.

Section 6.02. Security Interest. As additional security for the payment and performance of all of Lessee's obligations hereunder, Lessee hereby grants to Lessor a first priority security interest constituting a first lien on (a) the Energy Conservation Equipment, (b) moneys and investments held from time to time in the Acquisition Fund and the Delivery Costs Fund and (c) any and all proceeds of any of the foregoing. Lessee authorizes Lessor to file (and Lessee agrees to execute, if applicable) such notices of assignment, chattel mortgages, financing statements and other documents, in form satisfactory to Lessor, which Lessor deems necessary or appropriate to establish and maintain Lessor's security interest in the Energy Conservation Equipment, the Acquisition Fund, the Delivery Costs Fund and the proceeds thereof, including such financing statements with respect to personal property and fixtures under Article 9 of the California Commercial Code and treating such Article 9 as applicable to entities such as Lessee.

Section 6.03. Personal Property, No Encumbrances. Lessee agrees that the Energy Conservation Equipment is deemed to be 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 Energy Conservation Equipment or any part thereof may be or hereafter become in any manner physically affixed or attached to real estate or any building thereon. Lessee shall not create, incur, assume or permit to exist any mortgage, pledge, lien, security interest, charge or

other encumbrance of any nature whatsoever on any of the real estate where the Energy Conservation Equipment is or will be located or enter into any agreement to sell or assign or enter into any sale/leaseback arrangement of such real estate without the prior written consent of Lessor; *provided*, that if Lessor or its assigns is furnished with a waiver of interest in the Energy Conservation Equipment acceptable to Lessor or its assigns in its discretion from any party taking an interest in any such real estate prior to such interest taking effect, such consent shall not be unreasonably withheld.

ARTICLE VII

Section 7.01. Liens, Taxes, Other Governmental Charges and Utility Charges. Lessee shall keep the Energy Conservation Equipment free of all levies, liens, and encumbrances except those created by this Agreement. The parties to this Agreement contemplate that the Energy Conservation Equipment will be used for a governmental or proprietary purpose of Lessee and that the Energy Conservation Equipment will therefore be exempt from all property taxes. If the use, possession or acquisition of any Energy Conservation Equipment is nevertheless determined to be subject to taxation, Lessee shall pay when due all taxes and governmental charges lawfully assessed or levied against or with respect to such Energy Conservation Equipment. Lessee shall pay all utility and other charges incurred in the use and maintenance of the Energy Conservation Equipment. Such taxes or charges shall constitute Additional Rental Payments hereunder, and Lessee shall pay the same as they 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, Lessee shall be obligated to pay only such installments as accrue during the Lease Term.

Section 7.02. Insurance. Lessee shall during the Lease Term maintain or cause to be maintained (a) casualty insurance naming Lessor and its assigns as loss payee and additional insured and insuring the Energy Conservation 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 Purchase Price of the Energy Conservation Equipment or (ii) the replacement cost of the Energy Conservation Equipment; (b) liability insurance naming Lessor and its assigns as additional insured that protects Lessor from liability with limits of at least \$1,000,000 per occurrence \$3,000,000 in the aggregate for bodily injury and property damage coverage, and excess liability umbrella coverage of at least \$5,000,000, and in all events in form and amount satisfactory to Lessor; (c) worker's compensation coverage as required by the laws of the State and (d) rental interruption insurance naming Lessor as loss payee, with coverage equal to the maximum total Rental Payments payable by Lessee under the Lease for any consecutive 24-month period and insuring against abatement of Rental Payments payable by Lessee resulting from Lessee's loss of beneficial use or enjoyment of the Energy Conservation Equipment or any substantial portion thereof and caused by any and all other perils either insured or uninsured; *provided* that, with Lessor's prior written consent, Lessee may self-insure against the risks described in clauses (a) and/or (b). In the event Lessee is permitted, at Lessor's sole discretion, to self-insure as provided in this Section, 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. 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 30 days in advance of such cancellation or modification.

Section 7.03. Risk of Loss. Whether or not covered by insurance or self-insurance, Lessee hereby assumes all risk of loss of, or damage to and liability related to injury or damage to any persons or property arising from the Energy Conservation Equipment from any cause whatsoever, and no such loss of or damage to or liability arising from the Energy Conservation Equipment shall relieve Lessee of the obligation to make the Rental Payments or to perform any other obligation under this Agreement. Whether or not covered by insurance or self-insurance, Lessee hereby agrees to reimburse Lessor (to the fullest extent permitted by applicable law, but only from legally available funds) for any and all liabilities, obligations, losses, costs, claims, taxes or damages suffered or incurred by Lessor, regardless of the cause thereof and all expenses incurred in connection therewith (including, without limitation, counsel fees and expenses, and penalties connected therewith imposed on interest received) arising out of or as a result of (a) entering into of this Agreement or any of the transactions contemplated hereby, (b) the ordering, acquisition, ownership use, operation, condition, purchase, delivery, acceptance, rejection, storage or return of any item of the Energy Conservation Equipment, (c) any accident in connection with the operation, use, condition, possession, storage or return of any item of the Energy Conservation Equipment resulting in damage to property or injury to or death to any person, and/or (d) the breach of any covenant of Lessee under or in connection with this Agreement or any material misrepresentation provided by Lessee under or in connection with this Agreement. The provisions of this paragraph shall continue in full force and effect notwithstanding the full payment of all obligations under this Agreement or the termination of the Lease Term for any reason.

Section 7.04. Surety Bonds; Lessee to Pursue Remedies Against Contractors and Sub-Contractors and Their Sureties. Lessee shall secure from each Vendor directly employed by Lessee in connection with the acquisition, construction, installation, improvement or equipping of the Energy Conservation Equipment, a payment and performance bond ("*Surety Bond*") executed by a surety company authorized to do business in the State, having a financial strength rating by A.M. Best Company of "A-" or better, and otherwise satisfactory to Lessor and naming Lessor as a co-obligee in a sum equal to the entire amount to become payable under each Vendor Agreement. Each bond shall be conditioned on the completion of the work in accordance with the plans and specifications for the Energy Conservation Equipment and upon payment of all claims of subcontractors and suppliers. Lessee shall cause the surety company to add Lessor as a co-obligee on each Surety Bond, and shall deliver a certified copy of each Surety Bond to Lessor promptly upon receipt thereof by Lessee. Any proceeds from a Surety Bond shall be applied first to amounts due Lessor under this Agreement, and any remaining amounts shall be payable to Lessee.

In the event of a material default of any Vendor under any Vendor Agreement in connection with the acquisition, construction, maintenance and/or servicing of the Energy Conservation Equipment or in the event of a material breach of warranty with respect to any material workmanship or performance guaranty with respect to the Energy Conservation Energy Conservation Equipment, Lessee will promptly proceed to exhaust its remedies against the Vendor in default. Lessee shall advise Lessor of the steps it intends to take in connection with

any such default. Any amounts received by Lessee in respect of damages, refunds and adjustments or otherwise in connection with the foregoing shall be paid to Lessor and applied against Lessee's obligations hereunder.

Section 7.05. Advances. In the event Lessee shall fail to keep the Energy Conservation Equipment in good repair and working order or shall fail to maintain any insurance required by Section 7.02 hereof, Lessor may, but shall be under no obligation to, maintain and repair the Energy Conservation Equipment or obtain and maintain any such insurance coverages, as the case may be, and pay the cost thereof. All amounts so advanced by Lessor shall constitute Additional Rent for the Lease Term, and Lessee covenants and agrees to pay such amounts so advanced by Lessor with interest thereon from the date advanced until paid at a rate equal to the Contract Rate plus 5% per annum or the maximum amount permitted by law, whichever is less.

Section 7.06. Rebate Obligation Lessee agrees to make rebate payments to the federal government at the times and in the manner set forth in Section 3 of the Acquisition Fund Agreement, and in accordance with that certain Nonarbitrage Certificate dated as of December 22, 2010, incorporated therein and herein by reference. Such rebate payments shall constitute Additional Rental Payments hereunder.

ARTICLE VIII

Section 8.01. Damage, Destruction and Condemnation. If, prior to the termination of the Lease Term, (a) the Energy Conservation 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 Energy Conservation 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, (i) Lessee and Lessor will cause the Net Proceeds of any insurance claim or condemnation award or sale under threat of condemnation to be applied to the prompt replacement, repair, restoration, modification or improvement of the Energy Conservation Equipment or such part thereof and any balance of the Net Proceeds remaining after such work has been completed shall be paid to Lessee or (ii) Lessee shall exercise its option to purchase the Energy Conservation Equipment in accordance with Section 10.01(b).

If Lessee elects to replace any item of the Energy Conservation Equipment (the "*Replaced Equipment*") pursuant to this Section, the replacement equipment (the "*Replacement Equipment*") shall be new or of a quality, type, utility and condition at least as good as the Replaced Equipment, shall be of equal or greater value than the Replaced Equipment and shall provide at least the same level of energy and/or operational savings expected in the aggregate from the Replaced Equipment prior to such casualty, destruction or condemnation. Lessee shall grant to Lessor a first priority security interest in any such Replacement Equipment. Lessee shall represent, warrant and covenant to Lessor that each item of Replacement Equipment is free and clear of all claims, liens, security interests and encumbrances, excepting only those liens created by or through Lessor, and shall provide to Lessor any and all documents as Lessor may reasonably request in connection with the replacement, including, but not limited to, documentation in form and substance satisfactory to Lessor evidencing Lessor's security interest

in the Replacement Equipment. Lessor and Lessee hereby acknowledge and agree that any Replacement Equipment acquired pursuant to this paragraph shall constitute "Energy Conservation Equipment" for purposes of this Agreement. Lessee shall complete the documentation of Replacement Equipment on or before the next Rental Payment date after the occurrence of a casualty event, or be required to exercise its option to purchase the damaged equipment in accordance with Section 10.01(b).

For purposes of this Article, the term "*Net Proceeds*" shall mean the amount remaining from the gross proceeds of any insurance claim or 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, Lessee 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 (to the fullest extent permitted by applicable law, but only from legally available funds), or (b) pay or cause to be paid to Lessor the amount of the then applicable Purchase Price for the Energy Conservation Equipment, and, upon such payment, the Lease Term shall terminate and Lessor's security interest in the Energy Conservation Equipment shall terminate as provided in Section 6.01 hereof. The amount of the Net Proceeds, if any, remaining after completing such repair, restoration, modification or improvement or after purchasing such Energy Conservation Equipment shall be retained by Lessee. If Lessee shall make any payments pursuant to this Section, Lessee shall not be entitled to any reimbursement therefor from Lessor nor shall Lessee be entitled to any diminution of the amounts payable under Article IV.

ARTICLE IX

Section 9.01. Disclaimer of Warranties. 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 Energy Conservation Equipment, or any other warranty or representation, express or implied, with respect thereto and, as to Lessor, Lessee's acquisition of the Energy Conservation Equipment shall be on an "as is" basis. In no event shall Lessor be liable for any incidental, indirect, special or consequential damage in connection with or arising out of this Agreement, the Energy Conservation Equipment or the existence, furnishing, functioning or Lessee's use of any item, product or service provided for in this Agreement.

Section 9.02. Vendor's Agreements; Warranties. Lessee covenants that it shall not in any material respect amend, modify, rescind or alter any Vendor Agreement without the prior written consent of Lessor. Lessor hereby irrevocably appoints Lessee its agent and attorney-in-fact during the Lease Term, so long as Lessee shall not be in default under this Agreement, to assert from time to time whatever claims and rights (including without limitation warranties) relating to the Energy Conservation Equipment that Lessor may have against Vendor. Lessee's sole remedy for the breach of such warranty, indemnification or representation shall be against the applicable Vendors of the Energy Conservation Equipment, and not against Lessor. Any such matter shall

not have any effect whatsoever on the rights and obligations of Lessor hereunder, including the right to receive full and timely Rental Payments. Lessee expressly acknowledges that Lessor makes, and has made, no representations or warranties whatsoever as to the existence or the availability of such warranties relating to the Energy Conservation Equipment.

ARTICLE X

Section 10.01. Purchase Option. Lessee shall have the option to purchase all, but not less than all, of the Energy Conservation Equipment, at the following times and upon the following terms:

(a) From and after the date specified (if any) in the Payment Schedule (the “*Purchase Option Commencement Date*”), on the Rental Payment dates specified in the Payment Schedule, upon not less than 30 days’ prior written notice, and upon payment in full of the Rental Payments then due and all other amounts then owing under this Agreement plus the then applicable Purchase Price, which may include a prepayment premium on the unpaid balance as set forth in the Payment Schedule; or

(b) In the event of substantial damage to or destruction or condemnation of substantially all of the Energy Conservation Equipment, on the day specified in Lessee’s notice to Lessor of its exercise of the purchase option (which shall be the earlier of the next Rental Payment date or 60 days after the casualty event) upon payment in full to Lessor of the sum of (i) any Rental Payment then due plus (ii) an amount equal to the lesser of the then applicable Purchase Price or the Redemption Price (expressed as a percentage of the aggregate unpaid portion of Rental Payments) shown in the table below (or, in the event such purchase occurs on a date other than a Rental Payment date, the sum of such amount determined as of the next preceding Rental Payment date plus accrued interest to such purchase date) plus (iii) all other amounts then owing hereunder; or

<u>Prepayment Date</u>	<u>Redemption Price</u>
Prior to June 15, 2016	103%
June 15, 2016 through June 15, 2021	102%
June 16, 2021 and thereafter	101%

(c) Upon the expiration of the Lease Term, upon payment in full of all Rental Payments then due and all other amounts then owing hereunder, and the payment of \$1.00 to Lessor; or

(d) In the event that a Change in Law (as hereafter defined) occurs, on the day specified in Lessee’s notice to Lessor of its exercise of the purchase option provided under this subsection (d), Lessee shall have the option to purchase all, but not less than all, of the Energy Conservation Equipment from and after any Change in Law upon

payment in full to Lessor of the sum of (i) any Rental Payment then due plus (ii) an amount equal to the lesser of the then applicable Purchase Price or the Redemption Price (expressed as a percentage of the aggregate unpaid portion of Rental Payments) shown in the table below (or, in the event such purchase occurs on a date other than a Rental Payment date, the sum of such lesser amount determined as of the next preceding Rental Payment date plus accrued interest to such purchase date), plus (iii) all other amounts then owing under the Agreement.

<u>Prepayment Date</u>	<u>Redemption Price</u>
Prior to June 15, 2016	103%
June 15, 2016 through June 15, 2021	102%
June 16, 2021 and thereafter	101%

“*Change in Law*” means legislation enacted by the Congress of the United States of America or a ruling, regulation or statement issued by the Treasury Department or the Internal Revenue Service, the effect of which (A) repeals, revokes or reduces Lessee’s applicable cash subsidy payments from the United States Treasury under Section 54A or 6431 of the Code (as currently in effect) with respect to this Agreement or (B) imposes one or more new substantive conditions on the receipt by Lessee of such applicable cash subsidy payments under such Sections (as currently in effect) and such conditions are unacceptable to Lessee.

After payment of the applicable Purchase Price and all other amounts owing hereunder, Lessor’s security interests in and to such Energy Conservation Equipment will be terminated and Lessee will own the Energy Conservation Equipment free and clear of Lessor’s security interest in the Energy Conservation Equipment.

ARTICLE XI

Section 11.01. Assignment by Lessor. (a) Lessor’s right, title and interest in and to this Agreement, the Rental Payments and any other amounts payable by Lessee hereunder, the Acquisition Fund Agreement, its security interest in the Energy Conservation Equipment, the Acquisition Fund and the Delivery Costs Fund, and all proceeds therefrom may be assigned and reassigned in whole or in part to one or more assignees or subassignees by Lessor, without the necessity of obtaining the consent of Lessee; *provided*, that any such assignment, transfer or conveyance to a trustee for the benefit of owners of certificates of participation shall be made in a manner that conforms to applicable State law. Nothing in this Section 11.01 shall be construed, however, to prevent Lessor from executing any such assignment, transfer or conveyance that does not involve funding through the use of certificates of participation within the meaning of applicable State law, including any such assignment, transfer or conveyance as part of a multiple asset pool to a partnership or trust; *provided* such certificates are sold only on a private placement basis (and not pursuant to any “public offering”) to a purchaser(s) who

represents that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment, (ii) such purchaser understands that neither this Agreement nor certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an “accredited investor” within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933; *provided further*, that in any event, Lessee shall not be required to make Rental Payments, to send notices or to otherwise deal with respect to matters arising under this Agreement with or to more than one individual or entity.

(b) Unless to an affiliate controlling, controlled by or under common control with Lessor, no assignment, transfer or conveyance permitted by this Section 11.01 shall be effective until Lessee shall have received a written notice of assignment that discloses the name and address of each such assignee; *provided*, that if such assignment is made to a bank or trust company as trustee or paying agent for owners of certificates of participation, trust certificates or partnership interests with respect to the Rental Payments payable under this Agreement, it shall thereafter be sufficient that Lessee receives notice of the name and address of the bank or trust company as trustee or paying agent. During the Lease Term, Lessee shall keep, or cause to be kept, a complete and accurate record of all such assignments in form necessary to comply with Section 149 of the Code. Lessee shall retain all such notices as a register of all assignees and shall make all payments to the assignee or assignees designated in such register. Lessee shall not have the right to and shall not assert against any assignee any claim, counterclaim or other right Lessee may have against Lessor or the Vendor. Assignments in part may include without limitation assignment of all of Lessor’s security interest in and to the Energy Conservation Equipment and all rights in, to and under this Agreement related to such Energy Conservation Equipment, and all of Lessor’s security interest in and to the Acquisition Fund and the Delivery Costs Fund, or all rights in, to and under the Acquisition Fund Agreement.

(c) If Lessor notifies Lessee of its intent to assign this Agreement, Lessee agrees that it shall execute and deliver to Lessor a Notice and Acknowledgement of Assignment substantially in the form of Exhibit G attached hereto within five (5) business days after its receipt of such request.

Section 11.02. Assignment and Subleasing by Lessee. None of Lessee’s right, title, and interest in, to and under this Agreement or any portion of the Energy Conservation Equipment or the Acquisition Fund Agreement, the Acquisition Fund or the Delivery Costs Fund may be assigned, encumbered or subleased by Lessee for any reason, and any purported assignment, encumbrance or sublease without Lessor’s prior written consent shall be null and void.

ARTICLE XII

Section 12.01. Events of Default Defined. Any of the following events shall constitute an “Event of Default” under this Agreement:

(a) Failure by Lessee to (i) pay any Rental Payment or other payment required to be paid under this Agreement within 10 days after the date when due as specified herein or (ii) maintain insurance as required herein;

(b) Failure by Lessee to observe and perform any covenant, condition or agreement contained in this Agreement on its part to be observed or performed, other than as referred to in subparagraph (a) above and other than a failure by Lessee to perform any covenant contained in Section 4.05 hereof that does not materially adversely affect Lessor and its interests, for a period of 30 days after written notice specifying such failure and requesting that it be remedied is given to Lessee by Lessor, unless 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, Lessor will not unreasonably withhold its consent to an extension of such time if corrective action is instituted by Lessee within the applicable period and diligently pursued until the default is corrected;

(c) Any statement, representation or warranty made by Lessee in or pursuant to this Agreement or its execution, delivery or performance shall prove to have been false, incorrect, misleading, or breached in any material respect on the date when made;

(d) Any default occurs under any other agreement for borrowing money, lease financing of property or otherwise receiving credit under which Lessee is an obligor, if such default (i) arises under any other agreement for borrowing money, lease financing of property or provision of credit provided by Lessor or any affiliate of Lessor, or (ii) arises under any obligation under which there is outstanding, owing or committed an aggregate amount in excess of \$100,000;

(e) Lessee shall (i) apply for or consent to the appointment of a receiver, trustee, custodian or liquidator of Lessee, or of all or a substantial part of the assets of Lessee, (ii) be unable, fail or admit in writing its inability generally to pay its debts as they become due, (iii) make a general assignment for the benefit of creditors or (iv) file a voluntary petition in bankruptcy or a petition or an answer seeking reorganization or an arrangement with creditors or taking advantage of any insolvency law or any answer admitting the material allegations of a petition filed against Lessee in any bankruptcy, reorganization, moratorium or insolvency proceeding; or

(f) 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 for the Lessee or of all or a substantial part of the assets of Lessee, 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 30 consecutive days.

Section 12.02. Remedies on Default. Whenever any Event of Default exists, 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 Lessee, Lessor may without terminating this Agreement, take whatever action at law or in equity may appear necessary or desirable to collect each Rental Payment payable by Lessee and other amounts payable by Lessee hereunder as they become due and payable;

(b) With or without terminating the Lease Term, Lessor may enter the premises where the Energy Conservation Equipment is located and retake possession of such Energy Conservation Equipment or require Lessee at Lessee's expense to promptly return any or all of such Energy Conservation Equipment to the possession of Lessor at such place within the United States as Lessor shall specify, and sell or lease such Energy Conservation Equipment or, for the account of Lessee, sublease such Energy Conservation Equipment, continuing to hold Lessee liable, but solely from legally available funds, for the difference between (i) the Rental Payments payable by Lessee and other amounts hereunder or the Energy Conservation Equipment that are payable by Lessee to the end of the Lease Term, and (ii) the net proceeds of any such sale, leasing or subleasing (after deducting all expenses of Lessor in exercising its remedies hereunder, including without limitation all expenses of taking possession, storing, reconditioning and selling or leasing such Energy Conservation Equipment and all brokerage, auctioneer's and attorney's fees), subject, however, to the provisions of Section 3.03; *provided*, that in no event shall Lessee be liable in any fiscal year for any amount in excess of the Rental Payments shown for such year in the Payment Schedule. The exercise of any such remedies respecting any such Event of Default shall not relieve Lessee of any other liabilities hereunder or the Energy Conservation Equipment;

(c) Lessor may terminate the Acquisition Fund Agreement and apply any proceeds in the Acquisition Fund and the Delivery Costs Fund to the Rental Payments due hereunder;

(d) Lessor may take whatever action at law or in equity may appear necessary or desirable to enforce its rights under this Agreement or the Acquisition Fund Agreement or as a secured party in any or all of the Energy Conservation Equipment or the Acquisition Fund or the Delivery Costs Fund; and

(e) By action pursuant to the California Code of Civil Procedure, or as otherwise provided by law, obtain the issuance of a writ of mandamus enforcing, for each fiscal year *seriatim* during the entire balance of the remaining Lease Term, subject to Section 3.03, the duty of Lessee to appropriate and take all other administrative steps necessary for the payment of Rental Payments and other amounts due hereunder.

Section 12.03. No Remedy Exclusive; No Acceleration. No remedy herein conferred upon or reserved to Lessor is intended to be exclusive and every such remedy shall be cumulative and shall be in addition to every other remedy given hereunder now or hereafter existing at law or in

equity; *provided* that Lessor shall have no right to accelerate any Rental Payment or otherwise declare any Rental Payment or other amount payable not then in default to be immediately due and payable. 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 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.

ARTICLE XIII

Section 13.01. Notices. All notices, certificates or other communications under this Agreement shall be sufficiently given and shall be deemed given when delivered or mailed by registered mail, postage prepaid, or delivered by overnight courier, or sent by facsimile transmission (with electronic confirmation) to the parties hereto at the addresses immediately after the signatures to this Agreement (or at such other address as either party hereto shall designate in writing to the other for notices to such party) and to any assignee at its address as it appears on the registration books maintained by Lessee.

Section 13.02. Binding Effect. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns.

Section 13.03. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

Section 13.04. Amendments, Changes and Modifications. This Agreement may only be amended by Lessor and Lessee in writing, *provided, however,* that Lessee may modify or amend any of its covenants set forth in Section 4.05 in such manner as Lessee shall determine without prior notice to, or consent or approval of, Lessor.

Section 13.05. Execution in Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

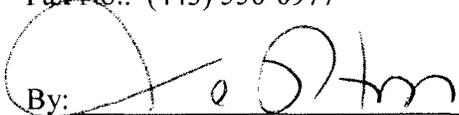
Section 13.06. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State.

Section 13.07. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:
Banc of America Leasing & Capital, LLC
11333 McCormick Road
Hunt Valley II
M/C MD5-032-07-05
Hunt Valley, MD 21031
Attention: Contract Administration
Fax No.: (443) 556-6977

By: 

Name: Terri J. Preston
Title: Vice President

LESSEE:
City of Richmond, California
450 Civic Center Plaza
Richmond, CA 94804
Attention: James Goins, Finance Director
Fax No.: (510) 620-6522

By: _____

Name: James Goins
Title: Finance Director

Attest:

By: _____

Name: Diane Holmes
Title: City Clerk

Counterpart No. 1 of 2 manually executed and serially numbered counterparts. To the extent that this Agreement constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

IN WITNESS WHEREOF, Lessor and Lessee have caused this Agreement to be executed in their names by their duly authorized representatives as of the date first above written.

LESSOR:
Banc of America Leasing & Capital, LLC
11333 McCormick Road
Hunt Valley II
M/C MD5-032-07-05
Hunt Valley, MD 21031
Attention: Contract Administration
Fax No.: (443) 556-6977

LESSEE:
City of Richmond, California
450 Civic Center Plaza
Richmond, CA 94804
Attention: James Goins, Finance Director
Fax No.: (510) 620-6522

By: _____
Name: _____
Title: _____

By:  _____
Name: James Goins
Title: Finance Director

Attest:

By:  _____
Name: Diane Holmes
Title: City Clerk

Counterpart No. 2 of 2 manually executed and serially numbered counterparts. To the extent that this Agreement constitutes chattel paper (as defined in the Uniform Commercial Code), no security interest herein may be created through the transfer or possession of any Counterpart other than Counterpart No. 1.

LIST OF EXHIBITS

- Exhibit A — Equipment Schedule
- Exhibit B — Rental Payments Schedule
- Exhibit C — Form of Incumbency and Authorization Certificate
- Exhibit D — Form of Opinion of Counsel Form
- Exhibit E — Form of Acceptance Certificate
- Exhibit F — Form of Self-Insurance Certificate
- Exhibit G — Form of Notice and Acknowledgement of Assignment
- Exhibit H — Form of Acquisition Fund and Account Control Agreement

EXHIBIT A

EQUIPMENT SCHEDULE

Location of Energy Conservation Equipment:

Site Name	Location
Annex Senior Center	5801 Huntington Avenue, Richmond, CA 94804-5509
Bayview Branch Library	5100 Hartnett Avenue, Richmond, CA 94804-4700
Booker T Anderson Community Center	960 S. 47th Street, Richmond, CA 94804-4400
Community Services Center	2525 Macdonald Avenue, Richmond, CA 94804-1824
Corp Yard	6 13th Street, Richmond, CA 94801-3530
Disabled People's Recreation Center	1900 Barrett Avenue, Richmond, CA 94801-2830
East Bay Center for Performing Arts- Winter's Building	333 11th Street, Richmond, CA 94801
Fire Station 62	1065 7th Street, Richmond, CA 94801-2159
Fire Station 64	4801 Bayview Avenue, Richmond, CA 94804-4967
Fire Station 66	4100 Clinton Avenue, Richmond, CA 94805-1840
Fire Station 67	1131 Cutting Boulevard, Richmond, CA 94804-2454
May Valley Community Center	3530 Morningside Drive, Richmond, CA 94803
Memorial Youth Recreation Center	3230 MacDonald Avenue, Richmond, CA 94804-3012
Office Bldg-Vacant-Old Eng Svc	2566 MacDonald Avenue, Richmond, CA 94804-1832
Richmond Plunge	1 East Richmond Avenue, Richmond, CA 94801-4032
Shields/Reid Community Center	1410 Kelsey Street, Richmond, CA 94801-1984
W Side Branch Library & Point Richmond Community Center	135 - 139 Washington Avenue, Richmond, CA 94801- 3946
Washington Field house Community Center	110 East Richmond Avenue, Richmond, CA 94801- 4035

Energy Conservation Equipment Description (Scope of Work):

1. City Facility Energy Efficiency and Renewable Energy Projects

The City will upgrade and repair existing lighting and HVAC systems with more energy efficient technology in all municipal facilities. The upgrades include replacement of fixtures with more efficient technology and installation of wireless lighting and HVAC controls. The City will also evaluate and install renewable energy projects in facilities. The energy efficiency and renewable energy projects will reduce costs and energy consumption by at least 20% on each municipal building receiving improvements.

2. City Street Light Projects

The City Street Light Project will upgrade existing incandescent street lighting in two neighborhoods – the Park View and May Valley neighborhoods – with more efficient LED lighting technology. The Project will also include the conversion of outdated lighting systems along main city arteries with energy efficient LED fixtures. The technology will have an average energy savings of 45%, significantly reduce maintenance costs and provide better lighting for these high-crime neighborhoods.

3. Solar Richmond Energy Efficiency Improvements

The City will lend the non-profit Solar Richmond \$75,000 to finance energy efficiency improvements for a training facility used to train participants in the City's Employment and Training program Richmond BUILD.

EXHIBIT B

RENTAL PAYMENTS SCHEDULE

RENTAL PAYMENT DATE	RENTAL PAYMENT AMOUNT	INTEREST PORTION	PRINCIPAL PORTION	OUTSTANDING BALANCE	PURCHASE PRICE (including prepayment premium, if applicable)
12/15/2011	\$85,450.30	\$70,076.90	\$15,373.40	\$1,037,152.76	N/A
6/15/2012	64,602.85	35,211.34	29,391.52	1,007,761.24	N/A
12/15/2012	64,006.21	34,213.49	29,792.71	977,968.53	N/A
6/15/2013	63,401.41	33,202.03	30,199.38	947,769.15	N/A
12/15/2013	62,788.37	32,176.76	30,611.60	917,157.54	N/A
6/15/2014	62,166.95	31,137.50	31,029.45	886,128.09	N/A
12/15/2014	61,537.05	30,084.05	31,453.00	854,675.09	N/A
6/15/2015	60,898.56	29,016.22	31,882.34	822,792.75	N/A
12/15/2015	60,251.34	27,933.81	32,317.53	790,475.22	N/A
6/15/2016	59,595.30	26,836.63	32,758.67	757,716.56	\$772,870.89
12/15/2016	58,930.30	25,724.48	33,205.82	724,510.74	739,000.95
6/15/2017	58,256.22	24,597.14	33,659.08	690,851.66	704,668.69
12/15/2017	57,572.94	23,454.41	34,118.53	656,733.13	669,867.79
6/15/2018	56,880.33	22,296.09	34,584.24	622,148.88	634,591.86
12/15/2018	56,178.27	21,121.95	35,056.32	587,092.56	598,834.42
6/15/2019	55,466.63	19,931.79	35,534.84	551,557.73	562,588.88
12/15/2019	54,745.27	18,725.38	36,019.89	515,537.84	525,848.59
6/15/2020	54,014.07	17,502.51	36,511.56	479,026.28	488,606.80
12/15/2020	53,272.89	16,262.94	37,009.94	442,016.33	450,856.66
6/15/2021	52,521.58	15,006.45	37,515.13	404,501.20	412,591.23
12/15/2021	51,760.03	13,732.82	38,027.21	366,473.99	370,138.73
6/15/2022	50,988.07	12,441.79	38,546.28	327,927.71	331,206.99
12/15/2022	50,205.58	11,133.15	39,072.44	288,855.27	291,743.83
6/15/2023	49,412.41	9,806.64	39,605.78	249,249.50	251,741.99
12/15/2023	48,608.42	8,462.02	40,146.40	209,103.10	211,194.13
6/15/2024	47,793.44	7,099.05	40,694.39	168,408.70	170,092.79
12/15/2024	46,967.35	5,717.48	41,249.87	127,158.83	128,430.42
6/15/2025	46,129.98	4,317.04	41,812.93	85,345.90	86,199.36
12/15/2025	45,281.17	2,897.49	42,383.68	42,962.22	43,391.84
6/15/2026	44,420.78	1,458.57	42,962.22	0.00	0.00

Contract Rate. The Contract Rate is 6.79% per annum.

Purchase Option Commencement Date. For purposes of Section 10.01 of the Agreement, the Purchase Option Commencement Date is June 15, 2016.

LESSOR:
Banc of America Leasing & Capital, LLC

By:  _____

Name: Terri J. Preston

Title: Vice President

LESSEE:
City of Richmond, California

By: _____

Name: James Goins

Title: Finance Director

Purchase Option Commencement Date. For purposes of Section 10.01 of the Agreement, the Purchase Option Commencement Date is June 15, 2016

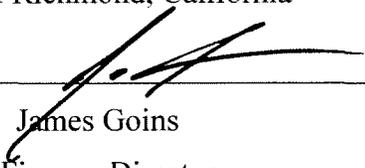
LESSOR:
Banc of America Leasing & Capital, LLC

By: _____

Name: _____

Title: _____

LESSEE:
City of Richmond, California

By: _____ 

Name: James Goins

Title: Finance Director

EXHIBIT C

FORM OF INCUMBENCY AND AUTHORIZATION CERTIFICATE

The undersigned, the duly elected or appointed and acting _____
of the City of Richmond, California ("*Lessee*"), certifies as follows:

A. The following listed persons are duly elected or appointed and acting officials of Lessee (the "*Officials*") in the capacity set forth opposite their respective names below and that the facsimile signatures are true and correct as of the date hereof;

B. The Officials are duly authorized, on behalf of Lessee, to negotiate, execute and deliver that certain purchase offer letter from Banc of America Leasing & Capital, LLC dated December 15, 2010, the Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of December 22, 2010, between Lessee and Banc of America Leasing & Capital, LLC ("*Lessor*"), the Acquisition Fund and Account Control Agreement dated as of December 22, 2010, among Lessor, Lessee and Deutsche Bank National Trust Company, as Acquisition Fund Custodian, and all documents related thereto and delivered in connection therewith (collectively, the "*Agreements*"), and the Agreements are each the binding and authorized agreements of Lessee, enforceable in all respects in accordance with their respective terms.

NAME OF OFFICIAL	TITLE	SIGNATURE
_____	_____	_____
_____	_____	_____
_____	_____	_____

Dated: _____

By: _____

Name: _____

Title: _____

(The signer of this Certificate cannot be listed above as authorized to execute the Agreements.)

EXHIBIT D

FORM OF OPINION OF COUNSEL TO LESSEE
(to be typed on letterhead of counsel)

December __, 2010

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy)
dated as of December 22, 2010, between
Banc of America Leasing & Capital, LLC, as Lessor, and
City of Richmond, California, as Lessee

Ladies and Gentlemen:

As legal counsel to the City of Richmond, California ("*Lessee*"), I have examined (a) an executed counterpart of that certain offer letter dated December 15, 2010 from Banc of America Leasing & Capital, LLC and accepted by Lessee on December 15, 2010 (the "*Purchase Contract*"), (b) an executed counterpart of that certain Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy), dated as of December 22, 2010 (the "*Agreement*"), and Exhibits thereto, between Banc of America Leasing & Capital, LLC ("*Lessor*") and Lessee, which, among other things, provides for the lease of certain property (the "*Energy Conservation Equipment*"), (c) an executed counterpart of that certain Acquisition Fund and Account Control Agreement dated as of December 22, 2010 (the "*Acquisition Fund Agreement*") among Lessor, Lessee, and Deutsche Bank National Trust Company, as Acquisition Fund Custodian, (d) a certified copy of the ordinances or resolutions of Lessee with respect to the transaction contemplated by the Purchase Contract, the Agreement, the Acquisition Fund Agreement and documents related thereto and (e) such other opinions, documents and matters of law as I have deemed necessary in connection with the following opinions. The Purchase Contract, the Agreement, the Acquisition Fund Agreement and the documents relating thereto are referred to collectively as the "Transaction Documents."

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

1. Lessee is a charter city and municipal corporation duly organized and existing under the laws of the State of California.

2. Lessee has the requisite power and authority to lease and acquire the Energy Conservation Equipment and to execute and deliver the Transaction Documents and to perform its obligations under the Transaction Documents.

3. The Transaction Documents have been duly authorized, approved, executed and delivered by and on behalf of Lessee and the Transaction Documents are legal, valid and binding obligations of Lessee enforceable in accordance with their respective terms.

4. The Purchase Contract created on its date of acceptance, execution and delivery by Lessee a binding, written contract under applicable California law (assuming due authorization, execution and delivery thereof by Banc of America Leasing & Capital, LLC).

5. The authorization, approval, execution and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all open meeting laws, public bidding laws and all other applicable state or federal laws.

6. There is no proceeding pending or threatened in any court or before any governmental authority or arbitration board or tribunal that, if adversely determined, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or its assigns, as the case may be, in the Energy Conservation Equipment, the Acquisition Fund, the Delivery Costs Fund or other collateral thereunder.

All capitalized terms herein shall have the same meanings as in the Transaction Documents unless otherwise provided herein. Lessor and its successors and assigns are entitled to rely on this opinion.

Sincerely,

EXHIBIT E

FORM OF ACCEPTANCE CERTIFICATE

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy)
between Banc of America Leasing & Capital, LLC, as Lessor, and
City of Richmond, California, as Lessee

Ladies and Gentlemen:

In accordance with the Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) (the "*Agreement*"), the undersigned Lessee hereby certifies and represents to, and agrees with Lessor as follows:

1. All of the Energy Conservation Equipment (as such term is defined in the Agreement) has been delivered, installed and accepted on the date hereof.
2. Lessee has conducted such inspection and/or testing of the Energy Conservation Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts the Energy Conservation Equipment for all purposes.
3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.
4. Lessee hereby reaffirms that the representations, warranties and covenants contained in the Agreement are true and correct as of the date hereof.
5. 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 Agreement) exists at the date hereof.

Date: _____

LESSEE: CITY OF RICHMOND, CALIFORNIA

By: _____

Name: _____

Title: _____

EXHIBIT F

FORM OF SELF-INSURANCE CERTIFICATE

Banc of America Leasing & Capital, LLC
11333 McCormick Road
Mail Code: MD5-032-07-05
Hunt Valley, MD 21031
Attn: Contract Administration

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy)
dated as of December 22, 2010 (the "Agreement")
between Banc of America Leasing & Capital, LLC, as Lessor,
and City of Richmond, California, as Lessee

In connection with the above-referenced Agreement, City of Richmond, California (the "Lessee"), the Lessee warrants and represents to Banc of America Leasing & Capital, LLC the following information. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

1. The Lessee is self-insured for damage or destruction to the Energy Conservation Equipment. The dollar amount limit for property damage to the Energy Conservation Equipment under such self-insurance program is \$_____. [The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for property damage to the Energy Conservation Equipment which policy has a dollar limit for property damage to the Energy Conservation Equipment under such policy of \$_____.]

2. The Lessee is self-insured for liability for injury or death of any person or damage or loss of property arising out of or relating to the condition or operation of the Energy Conservation Equipment. The dollar limit for such liability claims under the Lessee's self-insurance program is \$_____. [The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for liability which policy has a dollar limit for liabilities for injury and death to persons as well as damage or loss of property arising out of or relating to the condition or operation of the Energy Conservation Equipment in the amount of \$_____.]

[3]. The Lessee maintains a self-insurance fund. Monies in the self-insurance fund [are/are not] subject to annual appropriation. The total amount maintained in the self-insurance fund to cover Lessee's self-insurance liabilities is \$_____. [Amounts paid from the Lessee's self-insurance fund are subject to a dollar per claim of \$_____.]

[3]. The Lessee does not maintain a self-insurance fund. The Lessee obtains funds to pay claims for which it has self-insured from the following sources: _____
_____. Amounts payable for claims from the such sources are limited as follows:

4. Attached hereto are copies of certificates of insurance with respect to policies maintained by Lessee.

LESSEE:
CITY OF RICHMOND, CALIFORNIA

By: _____
Name: _____
Title: _____

EXHIBIT G

FORM OF NOTICE AND ACKNOWLEDGEMENT OF ASSIGNMENT

DATED _____

BANC OF AMERICA LEASING & CAPITAL, LLC ("*Assignor*") hereby gives notice that it has assigned and sold to _____ ("*Assignee*") all of Assignor's right, title and interest in, to and under the Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of December 22, 2010 (the "*Agreement*"), between Assignor and City of Richmond, California ("*Lessee*"), together with all exhibits, schedules, addenda and attachments related thereto, and all certifications and other documents delivered in connection therewith, the Rental Payments and other amounts due under the Agreement, all of Assignor's right, title and interest in the Energy Conservation Equipment (as defined in the Agreement), and all of Assignor's right, title and interest in, to and under the Acquisition Fund and Account Control Agreement dated as of December 22, 2010 (the "*Acquisition Fund Agreement*") by and among Lessee, Assignor and Deutsche Bank National Trust Company, as Acquisition Fund Custodian, together with the Acquisition Fund and the Delivery Costs Fund related thereto (collectively, the "*Assigned Property*").

1. In accordance with the terms of the Agreement, Lessee hereby acknowledges the effect of the assignment of the Assigned Property and absolutely and unconditionally agrees to deliver to Assignee all Rental Payments and other amounts coming due under the Agreement in accordance with the terms thereof on and after the date of this Acknowledgment.

2. Lessee hereby agrees that: (i) Assignee shall have all the rights of Lessor under the Agreement and all related documents, including, but not limited to, the rights to issue or receive all notices and reports, to give all consents or agreements to modifications thereto, to receive title to the Energy Conservation Equipment in accordance with the terms of the Agreement, to declare a default and to exercise all remedies thereunder; and (ii) except as provided in Section 3.03 of the Agreement, the obligations of Lessee to make Rental Payments and to perform and observe the other covenants and agreements contained in the Agreement shall be absolute and unconditional in all events without abatement, diminution, deduction, set-off or defense.

3. Lessee agrees that, as of the date of this Notice and Acknowledgment of Assignment (this "Acknowledgement"), the following information about the Agreement is true, accurate and complete:

Number of Rental Payments Remaining	-	_____
Amount of Each Rental Payment	-	\$ _____
Total Amount of Rents Remaining	-	\$ _____
Frequency of Rental Payments	-	_____
Next Rental Payment Due	-	_____
Funds Remaining in Acquisition Fund and the Delivery Costs Fund	-	\$ _____

4. The Agreement remains in full force and effect, has not been amended and no Event of Default (or event which with the passage of time or the giving of notice or both would constitute a default) has occurred thereunder.

5. Any inquiries of Lessee related to the Agreement and any requests for disbursements from the Acquisition Fund, if applicable, and all Rental Payments and other amounts coming due pursuant to the Agreement on and after the date of this Acknowledgment should be remitted to Assignee at the following address (or such other address as provided to Lessee in writing from time to time by Assignee):

ACKNOWLEDGED AND AGREED:

LESSEE: CITY OF RICHMOND, CALIFORNIA

By: _____

Name: _____

Title: _____

ASSIGNOR: BANC OF AMERICA LEASING & CAPITAL, LLC

By: _____

Name: _____

Title: _____

EXHIBIT H

FORM OF ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

This Acquisition Fund and Account Control Agreement (this "*Agreement*"), dated as of December 22, 2010, by and among Banc of America Leasing & Capital, LLC (hereinafter referred to as "*Lessor*"), City of Richmond, a charter city and municipal corporation duly organized and existing under the laws of the State of California (hereinafter referred to as "*Lessee*") and Deutsche Bank National Trust Company (hereinafter referred to as "*Acquisition Fund Custodian*").

Reference is made to that certain Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of December 22, 2010, between Lessor and Lessee (hereinafter referred to as the "*Lease*"), covering the acquisition, construction, installation and lease of certain Energy Conservation Equipment described therein (the "*Energy Conservation Equipment*"). It is a requirement of the Lease that the Acquisition Amount (\$1,052,526.16) be deposited into an escrow under terms satisfactory to Lessor, for the purpose of fully funding the Lease, and providing a mechanism for the application of such amounts to the acquisition and installation of and payment for the Equipment and payment of the Delivery Costs.

The parties agree as follows:

1. *Creation of Acquisition Fund and Delivery Costs Fund.*

(a) There is hereby created a special trust fund to be known as the "City of Richmond, California, Energy Conservation Equipment Acquisition Fund" (the "*Acquisition Fund*") to be held in trust by Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(b) There is hereby created a special trust fund to be known as the "City of Richmond, California, Energy Conservation Equipment Delivery Costs Fund" (the "*Delivery Costs Fund*") to be held in trust by Acquisition Fund Custodian for the purposes stated herein, for the benefit of Lessor and Lessee, to be held, disbursed and returned in accordance with the terms hereof.

(c) Acquisition Fund Custodian shall invest and reinvest moneys on deposit in the Acquisition Fund and the Delivery Costs Fund in Qualified Investments (as hereinafter defined in this subsection) in accordance with written instructions received from Lessee. Lessee shall be solely responsible for ascertaining that all proposed investments and reinvestments are Qualified Investments and that they comply with federal, State and local laws, regulations and ordinances governing investment of such funds and for providing appropriate notice to Acquisition Fund Custodian for the reinvestment of any maturing investment. Accordingly, neither Acquisition Fund Custodian nor Lessor shall be responsible for any liability, cost, expense, loss or claim of any kind, directly or

indirectly arising out of or related to the investment or reinvestment of all or any portion of the moneys on deposit in the Acquisition Fund or the Delivery Costs Fund, and Lessee agrees to and does hereby release Acquisition Fund Custodian and Lessor from any such liability, cost, expenses, loss or claim. Interest on the Acquisition Fund and the Delivery Costs Fund shall become part of the respective Funds, and gains and losses on the investment of the moneys on deposit in the Acquisition Fund and the Delivery Costs Fund shall be borne by the respective Funds. For purposes of this agreement, "Qualified Investments" means any investments which meet the requirements of California Government Code Section 53600 *et seq.*

(d) Unless the Acquisition Fund is earlier terminated in accordance with the provisions of paragraph (f) below, amounts in the Acquisition Fund shall be disbursed by the Acquisition Fund Custodian in payment of amounts described in Section 3 hereof upon receipt of written authorization(s) from Lessor, as is more fully described in Section 3 hereof. If the amounts in the Acquisition Fund are insufficient to pay such amounts, Lessee shall provide any balance of the funds needed to complete the acquisition and installation of the Energy Conservation Equipment. Any moneys remaining in the Acquisition Fund on or after the earlier of (i) the expiration of the Acquisition Period, (ii) the date on which Lessee executes an Acceptance Certificate or (iii) the 90th day following the later of December 22, 2013 or, if Lessee has obtained an extension for the expenditure of amounts in such Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period, shall be applied as provided in Section 4 hereof in accordance with Section 4.06 of the Lease.

(e) Unless the Delivery Costs Fund is earlier terminated in accordance with the provisions of paragraph (f) below, amounts in the Delivery Costs Fund shall be applied to pay Delivery Costs upon receipt by Acquisition Fund Custodian of written directions from Lessee, which are approved in writing by Lessor, that identifies the payees and the amounts to be paid for Delivery Costs. Upon the earlier of March 22, 2011 or payment of all Delivery Costs, amounts in the Delivery Costs Fund shall be transferred to, and used for the purposes of, the Acquisition Fund.

(f) The Acquisition Fund and the Delivery Costs Fund shall be terminated at the earliest of (i) the final distribution of amounts in the Acquisition Fund and the Delivery Costs Fund or (ii) written notice given by Lessor of the occurrence of a default under the Lease.

(g) The Acquisition Fund Custodian may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine and may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument. The Acquisition Fund Custodian shall not be liable in any manner for the sufficiency or correctness as to form, manner of execution, or validity of any instrument nor as to the identity, authority, or right of

any person executing the same; and its duties hereunder shall be limited to the receipt of such moneys, instruments or other documents received by it as the Acquisition Fund Custodian, and for the disposition of the same in accordance herewith.

(h) Unless Acquisition Fund Custodian is guilty of gross negligence or willful misconduct with regard to its duties hereunder, Lessee agrees to and does hereby release and indemnify Acquisition Fund Custodian and hold it harmless from any and all claims, liabilities, losses, actions, suits or proceedings at law or in equity, or any other expense, fees or charges of any character or nature, which it may incur or with which it may be threatened by reason of its acting as Acquisition Fund Custodian under this Agreement; and in connection therewith, does to the extent permitted by law and from funds legally available for such purpose indemnify Acquisition Fund Custodian against any and all expenses; including reasonable attorneys' fees and the cost of defending any action, suit or proceeding or resisting any claim.

(i) If Lessee and Lessor shall be in disagreement about the interpretation of the Lease, or about the rights and obligations, or the propriety of any action contemplated by Acquisition Fund Custodian hereunder, Acquisition Fund Custodian may, but shall not be required to, file an appropriate civil action to resolve the disagreement. Acquisition Fund Custodian shall be reimbursed by Lessee for all costs, including reasonable attorneys' fees, in connection with such civil action, and shall be fully protected in suspending all or part of its activities under the Lease until a final judgment in such action is received.

(j) Acquisition Fund Custodian may consult with counsel of its own choice and shall have full and complete authorization and protection with the opinion of such counsel. Acquisition Fund Custodian shall otherwise not be liable for any mistakes of fact or errors of judgment, or for any acts or omissions of any kind unless caused by its willful misconduct.

(k) Lessee shall reimburse Acquisition Fund Custodian for all reasonable costs and expenses, including those of Acquisition Fund Custodian's attorneys, agents and employees incurred for extraordinary administration of the Acquisition Fund, the Delivery Costs Fund, the Rebate Fund (as defined below) and the performance of Acquisition Fund Custodian's powers and duties hereunder in connection with any Event of Default under the Lease, or in connection with any dispute between Lessor and Lessee concerning the Acquisition Fund or the Delivery Costs Fund.

2. *Creation of Rebate Fund.*

(a) There is hereby created a special trust fund to be known as the "City of Richmond, California, Energy Conservation Equipment Rebate Fund" (the "*Rebate Fund*") to be held in trust by Acquisition Fund Custodian for the

purposes stated herein, to be held, disbursed and returned in accordance with the terms hereof.

(b) Within the Rebate Fund, Acquisition Fund Custodian shall maintain such accounts or subaccounts as are specified in a written request of Lessee to Acquisition Fund Custodian pursuant to that certain Nonarbitrage Certificate, dated as of December 22, 2010, relating to the Lease (the "Nonarbitrage Certificate"). Acquisition Fund Custodian shall deposit moneys in the Rebate Fund pursuant to a written request of Lessee. Subject to the transfer provisions provided in paragraph (f) below, all money at any time deposited in the Rebate Fund shall be held by Acquisition Fund Custodian in trust, to the extent required to satisfy the Rebate Requirement (as defined in the Nonarbitrage Certificate), for payment to the federal government of the United States of America, and none of the Lessee, Lessor or Acquisition Fund Custodian shall have any right in or claim to such money. All amounts deposited into or on deposit in the Rebate Fund shall be governed by this Section 2 and by the Nonarbitrage Certificate (which is incorporated herein by reference). Acquisition Fund Custodian shall be deemed conclusively to have complied with the provisions of this Section 2 and the Nonarbitrage Certificate if it follows the written request of Lessee, including supplying all necessary information in the manner provided in the Nonarbitrage Certificate, and except as otherwise expressly provided herein, shall not be required to take any actions hereunder in the absence of written directions by Lessee, and shall have no liability or responsibility to enforce compliance by Lessee with the terms of the Nonarbitrage Certificate or this Section 2. Acquisition Fund Custodian agrees to comply with all written requests of Lessee given pursuant to the Nonarbitrage Certificate.

(c) Upon a written request of Lessee, an amount shall be deposited into the Rebate Fund by Acquisition Fund Custodian from deposits by Lessee, if and to the extent required, so that the balance of the amount on deposit thereto shall be equal to the Rebate Requirement. Computations of the Rebate Requirement shall be furnished by or on behalf of Lessee in accordance with the Nonarbitrage Certificate. Lessee shall provide Acquisition Fund Custodian with written evidence that the computation of the Rebate Requirement has been made.

(d) Acquisition Fund Custodian shall have no obligation to rebate any amounts required to be rebated pursuant to this Section 2, other than from moneys held in the funds and accounts created hereunder or from other moneys provided to it by Lessee.

(e) Acquisition Fund Custodian shall invest all amounts held in the Rebate Fund in Qualified Investments as directed by a written request of Lessee. Money, including investment earnings, shall not be transferred from the Rebate Fund except as provided in paragraph (f) below.

(f) Upon receipt of a written request of Lessee, Acquisition Fund Custodian shall remit part or all of the amounts in the Rebate Fund to the United States of America, as so directed. In addition, if Lessee so directs, Acquisition Fund Custodian will deposit moneys into or transfer moneys out of the Rebate Fund from or into such accounts or fund as directed by the written request of Lessee. Any funds remaining in the Rebate Fund in excess of the Rebate Requirement as of the end of any Bond Year (as defined in the Nonarbitrage Certificate) shall be transferred to the Acquisition Fund.

(g) Notwithstanding any other provision hereof or any provision of the Nonarbitrage Certificate or the Lease, the obligation to remit the Rebate Amount to the United States Department of the Treasury and to comply with all other requirements contained in the Nonarbitrage Certificate shall survive the termination of the Lease.

3. *Acquisition and Installation of Energy Conservation Equipment.*

(a) *Acquisition Contracts.* Lessee will arrange for, supervise and provide for, or cause to be supervised and provided for, the acquisition and installation of the Energy Conservation Equipment with moneys from the Acquisition Fund. Lessee represents that the estimated costs of the Energy Conservation Equipment are within the funds estimated to be available therefor, and Lessor makes no warranty or representation with respect thereto. Lessor shall have no liability under any of the acquisition or construction contracts. Lessee shall obtain all necessary permits and approvals, if any, for the acquisition, equipping and installation of the Energy Conservation Equipment and the operation and maintenance thereof.

(b) *Authorized Acquisition Fund Disbursements.* Disbursements from the Acquisition Fund shall be made for the purpose of paying (including the reimbursement to Lessee for advances from its own funds to accomplish the purposes hereinafter described the cost of acquiring the Energy Conservation Equipment. **Lessee and Acquisition Fund Custodian hereby acknowledge and agree that prior to Equipment Acceptance any demands for payment of related Equipment Costs or any other amounts due to the Vendors shall be paid by Lessee from its own funds that are legally available for the purpose and not from funds held in the Acquisition Fund. Such funds so paid by Lessee may be reimbursed as provided in the Lease, subject to any limitations on any such reimbursement as otherwise provided in the Lease.**

(c) *Requisition Procedure.* Prior to disbursement from the Acquisition Fund, there shall be filed with Acquisition Fund Custodian a requisition for such payment in the form of Disbursement Request attached hereto as Schedule 1, stating each amount to be paid and the name of the person, firm or corporation to whom payment thereof is due and certifying the date of Equipment Acceptance for the portion of Energy Conservation Equipment for which disbursement is

requested. Each such requisition shall be signed by an authorized representative of Lessee (an “*Authorized Representative*”) and by Lessor, and shall be subject to the following:

1. Delivery to Lessor of an executed Disbursement Request in the form attached hereto as Schedule 1 certifying that:

(i) Equipment Acceptance has occurred as of the date identified therein with respect to the portion of Energy Conservation Equipment for which disbursement is requested; (ii) an obligation in the stated amount has been incurred by Lessee, and that the same is a proper charge against the Acquisition Fund for costs relating to the Energy Conservation Equipment identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof); (iii) the Authorized Representative has no notice of any vendor’s, mechanic’s or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made; (iv) such requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date of such certificate, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee); (iv) the Energy Conservation Equipment is insured in accordance with the Lease; (vi) no Event of Default (nor any event which, with notice or lapse of time or both, would become an Event of Default) has occurred and is continuing; and (vii) the representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date thereof .

2. Delivery to Lessor of invoices (and proofs of payment of such invoices, if Lessee seeks reimbursement) and bills of sale (if title to such Equipment has passed to Lessee) therefor as required by Section 3.04 of the Lease and any additional documentation reasonably requested by Lessor; and

3. The obligation shall have been incurred during the Acquisition Period.

Notwithstanding anything in this Agreement to the contrary, an amount may not be disbursed from the Acquisition Fund to pay Equipment Costs relating to a portion of the Energy Conservation Equipment prior to the date on which Lessee has certified to Acquisition Fund Custodian in the related disbursement request that Equipment Acceptance has occurred with respect to such portion of Energy Conservation Equipment for which funds are requested for disbursement from the Acquisition Fund.

3. *Deposit to Acquisition Fund and Delivery Costs Fund.* Upon satisfaction of the conditions specified in Section 3.04 of the Lease, Lessor will cause the Acquisition Amount to be deposited as follows: (a) \$ _____ into the Acquisition Fund, and (b) \$ _____ into the Delivery Costs Fund. Lessee agrees to pay any costs with respect to the Energy Conservation Equipment in excess of amounts available therefor in the Acquisition Fund and to pay Delivery Costs in excess of amounts available therefor in the Delivery Costs Fund.

4. *Excessive Acquisition Fund.* Any funds remaining in the Acquisition Fund (including any funds transferred from the Delivery Costs Fund pursuant to Section 1(e) hereof) on or after the earlier of (a) the expiration of the Acquisition Period, (b) the date on which Lessee executes an Acceptance Certificate or (c) the 90th day following the later of December 22, 2013 or, if Lessee has obtained an extension for the expenditure of amounts in the Acquisition Fund in accordance with Section 54A(d)(2) of the Code, the close of such extended period, or upon a termination of the Acquisition Fund and the Delivery Costs Fund as otherwise provided herein, shall be applied by Acquisition Fund Custodian to the prepayment price, excluding any premium which shall be paid with other legally available funds of Lessee, owed under the Lease in accordance with Section 4.06 of the Lease.

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

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

(a) All terms used in this Section 6 which are defined in the California Commercial Code (the "*Commercial Code*") but are not otherwise defined herein

shall have the meanings assigned to such terms in the Commercial Code, as in effect on the date of this Agreement.

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

(c) Acquisition Fund Custodian hereby represents and warrants that (i) the records of Acquisition Fund Custodian show that Lessee is the sole owner of the Collateral, (ii) Acquisition Fund Custodian has not been served with any notice of levy or received any notice of any security interest in or other claim to the Collateral, or any portion of the Collateral, other than Lessor's claim pursuant to this Agreement, and (iii) Acquisition Fund Custodian is not presently obligated to accept any entitlement order from any person with respect to the Collateral, except for entitlement orders that Acquisition Fund Custodian is obligated to accept from Lessor under this Agreement and entitlement orders that Acquisition Fund Custodian, subject to the provisions of paragraph (e) below, is obligated to accept from Lessee.

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

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

(f) Lessee hereby irrevocably authorizes Acquisition Fund Custodian to comply with all instructions and entitlement orders delivered by Lessor to Acquisition Fund Custodian.

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

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

(i) Acquisition Fund Custodian is hereby authorized and instructed, and hereby agrees, to send to Lessor at its address set forth in Section 7 below, concurrently with the sending thereof to Lessee, duplicate copies of any and all monthly Acquisition Fund and Delivery Costs Fund statements or reports issued or sent to Lessee with respect to the Acquisition Fund and the Delivery Costs Fund.

7. *Miscellaneous.* (a) Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease. This Agreement may not be amended except in writing signed by all parties hereto. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original instrument and each shall have the force and effect of an original and all of which together constitute, and shall be deemed to constitute, one and the same instrument. Notices hereunder shall be made in writing and shall be deemed to have been duly given when personally delivered or when deposited in the mail, first class postage prepaid, or delivered to an express carrier, charges prepaid, or sent by facsimile with electronic confirmation, addressed to each party at its address below:

If to Lessor: Banc of America Leasing & Capital, LLC
 11333 McCormick Road
 Mail Code: MD5-032-07-05
 Hunt Valley, MD 21031
 Attn: Contract Administration
 Fax: (443) 556-6977

If to Lessee:

City of Richmond
450 Civic Center Plaza
Richmond, CA 94804
Attn: James Goins, Finance Director
Fax: (510) 620-6522

If to Acquisition
Fund Custodian:

Deutsche Bank National Trust Company
200 South Tryon Street, Suite 550
Charlotte, NC 28202
Attn: Michael Weber
Phone: (704) 333-5744
Fax: (704) 333-5852

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Acquisition Fund and Account Control Agreement as of the date first above written.

Banc of America Leasing & Capital, LLC,
as Lessor

City of Richmond, California
as Lessee

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Deutsche Bank National Trust Company,
as Acquisition Fund Custodian

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

SCHEDULE 1

TO THE ACQUISITION FUND AND ACCOUNT CONTROL AGREEMENT

FORM OF DISBURSEMENT REQUEST

Re: Taxable QECB Equipment Lease/Purchase Agreement (Direct Subsidy) dated as of December 22, 2010 (the "*Lease*"), between Banc of America Leasing & Capital, LLC, as Lessor, and City of Richmond, California, as Lessee (Capitalized terms not otherwise defined herein shall have the meanings assigned to them in the Lease.)

In accordance with the terms of the Acquisition Fund and Account Control Agreement, dated as of December 22, 2010 (the "*Acquisition Fund and Account Control Agreement*") by and among Banc of America Leasing & Capital, LLC ("*Lessor*"), City of Richmond, California ("*Lessee*") and Deutsche Bank National Trust Company (the "*Acquisition Fund Custodian*"), the undersigned hereby requests the Acquisition Fund Custodian pay the following persons the following amounts from the Acquisition Fund created under the Acquisition Fund and Account Control Agreement for the following purposes:

PAYEE'S NAME AND ADDRESS	INVOICE NUMBER	DOLLAR AMOUNT	PURPOSE

The undersigned hereby certifies as follows:

(i) The date on which Equipment Acceptance occurred with respect to the portion of the Energy Conservation Equipment for which disbursement is hereby requested is _____, and such portion of the Energy Conservation Equipment is hereby accepted by Lessee for all purposes of Lessee.

(ii) An obligation in the stated amount has been incurred by Lessee, and the same is a proper charge against the Acquisition Fund for costs relating to the Energy Conservation Equipment identified in the Lease, and has not been paid (or has been paid by Lessee and Lessee requests reimbursement thereof), and the Energy Conservation Equipment relating to such obligation has been delivered, installed, is operating in a manner consistent with the manufacturer's intended use and has been inspected and finally accepted for all purposes by Lessee. Lessee has conducted such inspection and/or testing of the Energy Conservation Equipment relating to such obligation as it deems

necessary or appropriate in order to determine the Energy Conservation Equipment's operability and functionality in order to accept such Energy Conservation Equipment. Attached hereto is the original invoice with respect to such obligation.

(iii) The undersigned, as Authorized Representative, has no notice of any vendor's, mechanic's or other liens or rights to liens, chattel mortgages, conditional sales contracts or security interest which should be satisfied or discharged before such payment is made.

(iv) This requisition contains no item representing payment on account, or any retained percentages which Lessee is, at the date hereof, entitled to retain (except to the extent such amounts represent a reimbursement to Lessee).

(v) The Energy Conservation Equipment is insured in accordance with the Lease.

(vi) No Event of Default, and no event which with notice or lapse of time, or both, would become an Event of Default, under the Lease has occurred and is continuing at the date hereof.

(vii) The obligation has been incurred during the Acquisition Period.

(viii) No Material Adverse Change in Lessee's financial condition has occurred since the date of the execution of the Lease.

(ix) The representations, warranties and covenants of Lessee set forth in the Lease are true and correct as of the date hereof.

Dated: _____

CITY OF RICHMOND, CALIFORNIA

By: _____
Authorized Representative

Disbursement of funds from the Acquisition Fund in accordance with the foregoing Disbursement Request hereby is authorized

BANC OF AMERICA LEASING & CAPITAL, LLC,
as Lessor under the Lease

By: _____
Name: _____
Title: _____