

Wednesday, November 21, 2018

Edward Chew

City of Chula Vista
276 4Th Street
Chula Vista, California 91910



Key Government Finance, Inc.
1000 South McCaslin Boulevard
Superior, CO 80027-9456

Re: Tax-Exempt Lease/Purchase Agreement Dated December 14, 2018

Dear Mr.Chew:

Enclosed, please find two (2) sets of financing documents for your review and execution. (If these documents were emailed to you, please print out two (2) sets.) Execute both sets and return all of the originals to my attention. **The original sets of the executed documents are required prior to funding your transaction.** *Please note that KGF requires the return of the fully executed documents by January 13, 2019; otherwise, this transaction *may* be subject to repricing.* To expedite the return of these documents, please overnight them to me:

KEY GOVERNMENT FINANCE, INC.
ATTN: Peter Brook
1000 S. MCCASLIN BLVD, SUPERIOR, CO 80027

Only the person with Signing Authority, listed on the Agreement, should execute the documents. For verification of original documents, please execute in blue ink. Upon closing, Key Government Finance will return a fully executed original set for your files.

Also, one of our representatives will contact you prior to funding to conduct a Telephone Audit to review the terms of your contract and to confirm the equipment that we are financing for you. We will also answer any questions you may have. If you will not be available, list the name of any individual that you wish to authorize on your behalf to complete this Audit.

Name _____ Title _____

- Tax-Exempt Lease/Purchase Agreement***
- Addendum/Amendment to Tax-Exempt Lease/Purchase Agreement***
- Certificate of Acceptance.** *The date of Acceptance will need to be filled in* with the date the property is installed and accepted.
- Payment of Proceeds Instructions.** This is the Supplier/Vendor payment information.
- Invoicing Instructions.** The information you provide enables us to invoice you correctly.
- Request for Certificate of Insurance.** Please fill out the form and fax it to your insurance company.
The Insurance Certificate is required prior to funding.
- Escrow Agreement.** Please keep copies of Exhibit A (Form of Requisition of Costs of Property) and Schedule 1 (Disbursement Schedule). When you are ready to disburse funds from Escrow, you will need to sign and fill in both Exhibit A and Schedule 1. Along with those 2 forms, we will need copies of invoices. Exhibit B (Acceptance Certificate) will need to be filled out when the project is complete and it is your final payment request.
- Invoice for 1st Payment**
- Sales Tax Exemption Certificate.** Please provide a copy of your state issued exemption certificate.
- IRS Form 8038-G or 8038-GC**

The original form will be required for funding, which we will submit to the IRS on your behalf. Or, you may submit the original completed form to the IRS directly. KGF will require a copy of the completed form and proof of filing prior to funding

*The items above marked with an asterisk require a signature in the presence of a witness/attestor. The attesting of the signature does not require a notary, but the signature of a person present at the time the document is signed.

Please contact either Katie Hamilton at (720) 980-3811 or me at (720) 304-1295 with any questions.

Sincerely,

Peter Brook
Account Manager

Tax-Exempt Lease/Purchase Agreement
Commencement Date: December 14, 2018

BETWEEN:	Key Government Finance, Inc. (the "Lessor") 1000 South McCaslin Blvd., Superior, CO 80027
AND:	City of Chula Vista (the "Lessee") 276 4Th Street Chula Vista, California 91910

AGREEMENT: Lessor leases to Lessee and Lessee rents from Lessor all the Property described below. This Tax-Exempt Lease/Purchase Agreement shall be defined as the Agreement. **THIS AGREEMENT, AS EXECUTED BY LESSOR AND LESSEE, MERGES ALL PRIOR UNDERSTANDINGS AND CONSTITUTES THE FINAL COMPLETE AGREEMENT AND MAY NOT BE AMENDED EXCEPT IN WRITING SIGNED BY BOTH PARTIES.** Documentation between or among Lessee and any property/equipment supplier/vendor does not apply to the Agreement or to Lessor. Lessor, at its sole determination, may choose not to accept this Agreement if the fully executed, original Agreement (and all accompanying documents) are not received by Lessor by January 13, 2019.

LEASE TERM AND PAYMENTS: Lease Term and Lease Payment amounts are in the Payment Table below. If the Payment Due Dates are not defined, they will be the 14th day of each annual period in the Payment Table, commencing with the Acceptance Date as stated in the attached Certificate of Acceptance. Lessee, so long as no Event of Default has occurred and is continuing, shall have the option to prepay the Lease Payments due under this Agreement by paying the outstanding principal together with all accrued and unpaid interest, plus a prepayment premium equal to 3% of the outstanding principal. This Agreement cannot be canceled or terminated by Lessee except as expressly provided in this Agreement. Lessor and Lessee intend that the obligation to pay Lease Payments shall not in any way be construed to be a debt of Lessee in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness, nor shall anything contained in this Agreement constitute a pledge of the general tax revenues, funds or monies of Lessee. Lessee shall pay when due all applicable taxes and governmental charges assessed with respect to the Property. If the parties enter into an escrow agreement for the acquisition of the Property, then the escrow agreement shall be attached to this Agreement. In lieu of the Acceptance Date for commencement of Lease Payments, the date of deposit of the Property Cost into the escrow by Lessor shall be used.

NO OFFSET: SUBJECT TO ANY RIGHT TO NON-APPROPRIATE, THE OBLIGATIONS OF LESSEE TO PAY THE LEASE PAYMENTS DUE UNDER THIS AGREEMENT 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, WITHOUT LIMITATION. THIS PROVISION SHALL NOT LIMIT LESSEE'S RIGHTS OR ACTIONS AGAINST ANY SUPPLIER.

LATE CHARGES: Any Lease Payment or other sum to be paid to Lessor under this Agreement not received on or before the due date shall bear interest from the due date until paid at the rate of 12% per annum or the highest rate permitted by law, whichever is less.

MAINTENANCE OF PROPERTY: During the Lease Term, at Lessee's own cost and expense, Lessee shall maintain, preserve, and keep the Property in good working order, and condition, and make all necessary and proper repairs, replacements, and renewals to the Property, which shall become part of the Property.

INSURANCE OF PROPERTY: At Lessee's own cost and expense during the Lease Term, Lessee shall, cause casualty, public liability, and property damage insurance to be carried and maintained (or shall provide Lessor with a certificate of adequate self-insurance) with respect to the Property, sufficient to protect the full replacement value of the Property and to protect from liability in all events for which insurance is customarily available. Lessee shall provide certificates evidencing coverage. All insurance to be carried and maintained pursuant to this Agreement shall make losses, if any, payable to Lessee and Lessor as their respective interests. All liability insurance shall name Lessor as an additional insured. Each insurance policy pursuant to this Agreement shall contain a provision that the insurance company shall not cancel the policy or modify it materially or adversely to the interest of the Lessor without first giving 30 days advance written notice to Lessor of such change.

QUIET ENJOYMENT AND TERMINATION OF LESSOR'S INTEREST: To secure Lessee's obligations, Lessor is granted a security interest in the Property, including substitutions, repairs, replacements and renewals, and the proceeds, which is a first lien. Lessee authorizes Lessor to file all financing statements which Lessor deems necessary or appropriate to perfect such security interest. Provided there does not exist an Event of Default, the Lessee shall have the right of quiet enjoyment of the Property throughout the Lease Term. Unless otherwise required by law, title to the Property shall be in the name of Lessee, subject to Lessor's interest.

OPTION TO PURCHASE: On the last day of the Lease Term, if Lessee has performed all of its obligations, including all Lease Payments, and no Event of Default shall be continuing, and this Agreement shall not have been earlier terminated, then, at the end of the Lease Term, Lessee shall have the option to purchase Lessor's entire interest in all of the Property for One (1) Dollar and to terminate any restrictions on the Property. Lessee shall give written notice to Lessor of its intent to purchase Lessor's interest in the Property at least sixty (60) days prior to the last day of the Lease Term. Upon receipt of notice, Lessor shall deliver to Lessee all documents and instruments as Lessee may reasonably require to evidence the transfer, without warranty by or recourse to Lessor, of all of Lessor's right, title, and interest in and to the Property to Lessee, whereupon Lessor's interest shall terminate.

TAX EXEMPTION: The parties contemplate that interest payable under this Agreement will be excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the "Code"). The tax-exempt status of this Agreement provides the inducement for the Lessor to offer financing at the interest rate set forth. Therefore, should this Agreement be deemed by any taxing authority not to be exempt from taxation, Lessee agrees that the interest rate shall be adjusted, as of the date of loss of tax exemption, to an interest rate calculated to provide Lessor or its assignee an after tax yield equivalent to the tax exempt rate and Lessor shall notify Lessee of the taxable rate. Provided, however, that the preceding sentence shall apply only upon a final determination that the interest payments are not excludable from gross income under Section 103(a) of the Code, and shall not apply if the determination is based upon the individual tax circumstances of the Lessor, or a finding that the party seeking to exclude such payments from gross income is not the owner and holder of the obligation under the Code.

REPRESENTATIONS AND WARRANTIES OF LESSEE: Lessee represents and warrants to Lessor that: (a) Lessee is a State or political subdivision within the meaning of Section 103 of the Code and applicable Treasury Regulations and Rulings. If Lessee is incorporated, it is duly organized and existing under the Constitution and laws of its jurisdiction of incorporation and will do or cause to be done all things necessary to preserve and keep such organization and existence in full force and effect. (b) Lessee has been duly authorized by the Constitution and laws of the applicable jurisdiction and by a resolution of its governing body (which resolution, if requested by Lessor, is attached hereto), to execute and deliver this Agreement and to carry out its obligations. (c) All legal and Lessee's internal requirements have been met, and procedures have been followed, including public bidding and those laws and procedures required by Lessee's governing body, Lessee's charter, if any, and the laws of the State, in order to ensure the enforceability of this Agreement. (d) The Property is and will remain Personal Property and will be used by Lessee only for essential governmental or proprietary functions of Lessee consistent with the scope of Lessee's authority and will not be used in a trade or business of any person or entity, by the federal government or for any personal, family or household use. Lessee's need for the Property is not expected to diminish during the term of the Agreement. (e) Lessee has funds available to pay Lease Payments until the end of its current appropriation period, and it intends to request funds in accordance with applicable provisions of law to make Lease Payments in each appropriation period, from now until the end of the term of this Agreement. (f) Lessee has never defaulted, failed to pay or non-appropriated on a lease, loan or bond. (g) The Lessee shall comply at all times with all applicable requirements of the Code, including but not limited to the registration and reporting requirements of Section 149, to maintain the federal tax-exempt

status of the Agreement. The Lessee shall maintain a system with respect to this Agreement, which tracks the name, and ownership interest of each assignee who has both the responsibility for administration of, and ownership interest in this Agreement. (h) Lessee's exact legal name is as set forth on the first page of this Agreement. Lessee will not change its legal name in any respect without giving thirty (30) days prior written notice to Lessor. (i) As of the date hereof, no litigation is pending, (or, to Lessee's knowledge, threatened) against Lessee in any court (1) seeking to restrain or enjoin the delivery of the Agreement or of other agreements similar to the Agreement; (2) questioning the authority of Lessee to execute the Agreement, or the validity of the Agreement, or the payment of principal or of interest on, the Agreement; (3) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Agreement; or (4) affecting the provisions made for the payment of or security for the Agreement.

INDEMNIFICATION OF LESSOR: To the extent permitted by law, Lessee shall indemnify and hold Lessor harmless from and against all claims, losses, costs, expenses, liability and damages, including legal fees and expenses, arising out of (a) the use, maintenance, condition or management of, the Property by Lessee, (b) any breach or default on the part of Lessee in the performance of any of its obligations under this Agreement or any other agreement made and entered in connection with the lease of the Property, (c) any act of negligence of Lessee, or its successors or assigns, or any of its agents, contractors, servants, employees, or licensees with respect to the Property, (d) the acquisition, delivery, and acceptance of the Property, (e) the actions of any other party including, but not limited to, the ownership, operation, or use of the Property by Lessee, or (f) Lessor's exercise and performance of its powers and duties hereunder. No indemnification will be made for negligence or breach of duty under this Agreement by Lessor, its directors, officers, agents, employees, successors, or assignees. Lessee's obligations under this Section shall remain valid and binding notwithstanding termination or assignment of this Agreement.

NONAPPROPRIATION: Non-Appropriation means the failure of Lessee's governing body to appropriate funds to pay Lease Payments. If the Lessee appropriates moneys for the Lease Payments, the Lessee's obligation to pay Lease Payments will be irrevocable, enforceable and the failure to pay the Lease Payments will be an Event of Default under this Agreement. If sufficient funds are not appropriated to make Lease Payments this Agreement shall terminate and Lessee shall not be obligated to make Lease Payments beyond the then current fiscal year for which funds have been appropriated. Upon such an event, Lessee shall, no later than the end of the fiscal year for which Lease Payments have been appropriated, deliver possession of the Property to Lessor. If Lessee fails to deliver possession of the Property to Lessor, the termination shall be effective but Lessee shall be responsible for the payment of damages in an amount equal to the portion of Lease Payments thereafter coming due that is attributable to the number of days after the termination during which the Lessee fails to deliver possession and for any other loss suffered by Lessor as a result of Lessee's failure to deliver possession as required. Lessee shall notify Lessor in writing within seven (7) days after the failure of the Lessee to appropriate funds sufficient for the payment of the Lease Payments, but failure to provide such notice shall not operate to extend the Lease Term or result in any liability to Lessee.

ASSIGNMENT BY LESSEE: Without Lessor's prior written consent, Lessee may not, by operation of law or otherwise, assign, transfer, pledge, hypothecate or otherwise dispose of the Property, this Agreement or any interest therein.

ASSIGNMENT BY LESSOR: Lessor may assign, sell or encumber all or any part of this Agreement, the Lease Payments and any other rights or interests of Lessor hereunder. Such assignees may include trust agents for the benefit of holders of certificates of participation.

EVENTS OF DEFAULT: Lessee shall be in default under this Agreement upon the occurrence of any of the following events or conditions ("Events of Default"):
(a) Failure to make any Lease Payment or any other amount owed under this Agreement, or (b) failure to perform any obligation, covenant or liability contained in this Agreement and the continuance of such default for ten (10) consecutive days after written notice by Lessor to Lessee, or (c) any warranty, representation or statement made or furnished by or on behalf of Lessee was false in any material respect when made, or (d) actual or attempted sale, lease or encumbrance of any of the Property, or the making of any levy, seizure or attachment thereof or thereon, or (e) dissolution, termination of existence, discontinuance of the Lessee, insolvency, business failure, failure to pay debts as they mature, or appointment of a receiver of any part of the property of, or assignment for the benefit of creditors by the Lessee, or the commencement of any proceedings under any bankruptcy, reorganization or arrangement laws by or against the Lessee.

REMEDIES OF LESSOR: Upon the occurrence of any Event of Default and at any time thereafter, Lessor may, in its sole discretion and without notice, exercise one or more of the following remedies without any presentment, demand or protest: (a) terminate the Agreement and all of Lessee's rights as to any or all items of Property; (b) proceed by appropriate court action to personally, or by its agents, take possession from Lessee of any or all items of Property wherever found and for this purpose enter upon Lessee's premises where any item of Property is located and remove such item of Property free from all claims of any nature whatsoever by Lessee and Lessor may thereafter dispose of the Property; provided, however, that any proceeds from the disposition of the Property in excess of the sum required to (i) pay to Lessor an amount equal to the total unpaid principal component of Lease Payments and any other amounts then due under this Agreement, and (iii) pay Lessor's costs and expenses associated with the disposition of the Property and the Event of Default (including attorney's fees), shall be paid to Lessee or such other creditor of Lessee as may be entitled thereto, and further provided that no deficiency shall be allowed against Lessee; (c) proceed by appropriate court action(s) to enforce performance by Lessee of its obligations or to recover damages for the breach or pursue any other remedy available to Lessor at law or in equity or otherwise; (d) declare all unpaid Lease Payments and other sums payable during the current fiscal year of the Lease Term to be immediately due and payable and / or take any and all actions to which Lessor shall be entitled under applicable law. No right or remedy herein conferred upon or reserved to Lessor is exclusive of any right or remedy, but each shall be cumulative of every other right or remedy given at law or in equity or by statute or otherwise. Lessee agrees to pay or reimburse Lessor for, in addition to all other amounts due, all of Lessor's costs of collection, including reasonable attorney fees, whether or not suit or action is filed. **UNLESS PROHIBITED BY LAW, LESSEE AND LESSOR HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

NOTICES: All notices and other communications shall be deemed given when delivered or mailed by certified mail, postage prepaid, addressed to Lessor or Lessee at their respective addresses in this Agreement or such other addresses as either of the parties may designate in writing to the other for such purpose.

CONSTRUCTION: This Agreement shall be governed by and construed in accordance with the laws of the Lessee's State. Titles of sections of this Agreement are for convenience only and shall not define or limit the terms or provisions. This Agreement shall inure to the benefit of and shall be binding upon Lessor and Lessee and their respective successors and assigns. Time is of the essence. This Agreement may be simultaneously executed in counterparts; each shall be an original with all being the same instrument.

(Initial if applicable: _____) Lessee hereby designates this Agreement as a "qualified tax-exempt obligation" as defined in Section 265(b)(3)(B) of the Code. Lessee reasonably anticipates issuing tax-exempt obligations (excluding private activity bonds other than qualified 501(c)(3) bonds and including all tax-exempt obligations of subordinate entities of the Lessee) during the calendar year in which the Commencement Date of this Agreement falls, in an amount not exceeding \$10,000,000.00.

PROPERTY COST: The total acquisition cost of the Property is \$287,454.71.

EFFECTIVE INTEREST RATE: 6.75%.

PROPERTY DESCRIPTION: Property as described in NIC Partners Quote Number 32340, dated September 26, 2018, referred to and incorporated herein by this reference.

The financing table below is net of the special financing promotion payment from Cisco Systems, Inc. in the amount of \$11,657.61. This payment will be made by Cisco to Seller. Purchaser is responsible for any and all taxes associated with this initial payment.

PAYMENT TABLE

Payment No.	Payment Due Date	Vendor Payment	Lease Payment	Principal Portion	Interest Portion	Outstanding Principal (after Lease Payment on Due Date)
1	12/14/2018	\$ 11,657.61	-	\$ 11,657.61	\$ -	\$275,797.10
2	1/14/2019	-	\$191,302.00	\$189,750.64	\$ 1,551.36	\$ 86,046.46
3	1/14/2020	-	\$ 25,382.00	\$ 19,390.76	\$ 5,991.24	\$ 66,655.69
4	1/14/2021	-	\$ 25,382.00	\$ 20,740.90	\$ 4,641.10	\$ 45,914.79
5	1/14/2022	-	\$ 25,382.00	\$ 22,185.05	\$ 3,196.95	\$ 23,729.75
6	1/14/2023	-	\$ 25,382.00	\$ 23,729.75	\$ 1,652.25	\$ -

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: KEY GOVERNMENT FINANCE, INC.
By:
Name:
Title:

LESSEE: City of Chula Vista
By:
Name:
Title:

The above named representative of the Lessee held at the time of such authorization and holds at the present time the office set forth above.

Attest By:
Name:
Title:

OPINION OF COUNSEL

With respect to the foregoing Tax Exempt Lease Purchase Agreement by and between Lessor and the Lessee, any amendment or addendum and, if applicable, the Escrow Agreement, each dated as of December 14, 2018 by and among Lessee, Lessor and ZB, National Association, dba Zions Bank as Escrow Agent (the "Escrow Agreement", and collectively the "Transaction Documents"), as legal counsel to Lessee, I have examined the law, certified proceedings and other papers as we deem necessary. I am of the opinion that:

- (1) Lessee is a public body corporate and politic, duly organized and existing under the laws of the State, and has a substantial amount of one or more of the following sovereign powers:
 - (a) the power to tax,
 - (b) the power of eminent domain, and
 - (c) the police power;
- (2) Lessee has all requisite power and authority to enter into the Transaction Documents and to perform its obligations, including the accounts opened pursuant to the Escrow Agreement;
- (3) All proceedings of Lessee and its governing body relating to the authorization and approval of the Transaction Documents, the execution thereof and the transactions contemplated thereby have been conducted in accordance with all applicable open meeting laws and all other applicable state and federal laws;
- (4) The Transaction Documents have been duly executed and delivered by Lessee and constitute legal, valid and binding obligations of Lessee, enforceable against Lessee in accordance with the terms thereof, except insofar as the enforcement may be limited by any applicable bankruptcy, insolvency, moratorium, reorganization or other laws of equitable principles of general application, or of application to municipalities or political subdivisions, affecting remedies or creditors' rights generally, and to the exercise of judicial discretion;
- (5) As of the date hereof, based on such inquiry and investigation as we have deemed sufficient, no litigation is pending in any court or, to our knowledge, threatened against Lessee in any court
 - (a) seeking to restrain or enjoin the delivery of the Transaction Documents;
 - (b) questioning the authority of Lessee to execute the Transaction Documents, or the validity of the Transaction Documents, or the payment of principal of or interest as provided for in the Agreement;
 - (c) questioning the constitutionality of any statute, or the validity of any proceedings, authorizing the execution of the Transaction Documents; or
 - (d) affecting the provisions made for the payment of or security for the Transaction Documents.

This opinion may be relied upon by Lessor, its successors and assigns, and any other legal counsel who provides an opinion with respect to the Transaction Documents.

Attorney for City of Chula Vista

Addendum to Tax-Exempt Lease/Purchase Agreement

Escrow

THIS ADDENDUM, which is entered into as of December 14, 2018 between Key Government Finance, Inc. ("**Lessor**") and City of Chula Vista ("**Lessee**"), is intended to modify and supplement the Tax-Exempt Lease/Purchase Agreement between Lessor and Lessee of even date herewith (the "**Agreement**"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Agreement.

The Agreement is hereby amended as set forth below:

A. The following Sections are added to the Agreement:

DEFEASANCE OF PAYMENTS: Lessee may at any time irrevocably deposit in escrow with a defeasance escrow agent for the purpose of paying all of the principal component and interest component accruing under the Agreement, a sum of cash and non-callable securities consisting of direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America or any agency or instrumentality thereof, in such aggregate amount, bearing interest at such rates and maturing on such dates as shall be required to provide funds sufficient for this purpose. Upon such defeasance, all right, title and interest of Lessor in the Property under the Agreement shall terminate. Lessee shall cause such investment to comply with the requirements of federal tax law so that the exclusion from gross income of the interest component of Installment Payments on the Agreement is not adversely affected.

SEPARATE FINANCINGS, ASSIGNEES OF LESSOR'S RIGHTS: Registered Owners rights with respect to the Agreement shall be determined as provided in the escrow agreement or trust agreement relating to the Agreement.

B. The Section entitled "REMEDIES OF LESSOR" is hereby amended to read as follows:

Upon the occurrence of any Event of Default and at any time thereafter, Lessor may, in its sole discretion and without notice, exercise one or more of the following remedies without any presentment, demand or protest: (a) terminate the Agreement and all of Lessee's rights as to any or all items of Property; (b) proceed by appropriate court action to personally, or by its agents, take possession from Lessee of any or all items of Property wherever found and for this purpose enter upon Lessee's premises where any item of Property is located and remove such item of Property free from all claims of any nature whatsoever by Lessee and Lessor may thereafter dispose of the Property; provided, however, that any proceeds from the disposition of the Property in excess of the sum required to (1) pay to Lessor an amount equal to the total unpaid principal component of Installment Payments and any other amounts then due under this Agreement, and (2) pay Lessor's costs and expenses associated with the disposition of the Property and the Event of Default (including attorney's fees), shall be paid to Lessee or other creditor of Lessee as may be entitled thereto, and further that no deficiency shall be allowed against Lessee; (c) proceed by appropriate court action(s) to enforce performance by Lessee of its obligations or to recover damages for the breach or pursue any other remedy available to Lessor at law or in equity or otherwise; (d) declare all unpaid Installment Payments and other sums payable during the current fiscal year of the Term, including any outstanding principal component of Installment Payments, to be immediately due and payable and / or take any and all actions to which Lessor shall be entitled under applicable law; (e) by written notice to the Agent, if any, Lessor may instruct the Agent to apply all sums held by the Agent in any accounts relating to the Agreement under the applicable escrow or trust agreement as provided in the applicable escrow or trust agreement; (f) by written notice to any escrow agent (other than the Agent) who is holding proceeds of the Agreement, Lessor may instruct such escrow agent to release all such proceeds and any earnings thereon to Lessor, the sums are to be credited to payment of Lessee's obligations under the Agreement. No right or remedy herein conferred upon or reserved to Lessor is exclusive of any right or remedy, but each shall be cumulative of every other right or remedy given at law or in equity or by statute or otherwise. Lessee agrees to pay or reimburse Lessor for, in addition to all other amounts due, all of Lessor's costs of collection, including reasonable attorney fees, whether or not suit or action is filed. **UNLESS PROHIBITED BY LAW, LESSEE AND LESSOR HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS AGREEMENT.**

C. The Section entitled "NONAPPROPRIATION" is hereby amended to add the following to the end of the Section:

In addition, Lessor may, by written instructions to the Agent or to any other escrow agent who is holding proceeds of the Agreement, instruct the Agent or such escrow agent to release all such proceeds and any earnings thereon to Lessor, the sums are to be credited to Lessee's obligations under the Agreement.

D. The Section entitled "REPRESENTATIONS AND WARRANTIES OF LESSEE" is hereby amended to add the following to the end of the Section:

The Property under this Agreement has been ordered or is expected to be ordered within twelve months and the Property is expected to be delivered and installed, and the vendor fully paid, within eighteen months from the date of this Agreement. Lessee will pursue the completion of the Property and the expenditure of the net proceeds of this Agreement with due diligence. The officer or official who has executed this Agreement on Lessee's behalf is familiar with Lessee's expectations regarding the use and expenditure of the proceeds of this Agreement, and to the best of Lessee's knowledge, information and belief, such expectations are reasonable.

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

Lessor: Key Government Finance, Inc.
By:
Name:
Title:

Lessee: City of Chula Vista
By:
Name:
Title:

Attest
By:
Name:
Title:

Certificate of Acceptance

This **Certificate of Acceptance** is pursuant to Tax-Exempt Lease/Purchase Agreement dated as of December 14, 2018 between Key Government Finance, Inc. and City of Chula Vista (the "Agreement").

1. Property Acceptance. Lessee hereby certifies and represents to Lessor that the Property referenced in the Agreement has been acquired, made, delivered, installed and accepted as of the date indicated below. Lessee has conducted such inspection and/or testing of the Property as it deems necessary and appropriate and hereby acknowledges that it accepts the Property for all purposes. Lessee will immediately begin making Lease Payments in accordance with the times and amounts specified herein. LESSOR MAKES NO (AND SHALL NOT BE DEEMED TO HAVE MADE ANY) WARRANTIES, EXPRESS OR IMPLIED, AS TO ANY MATTER WHATSOEVER, INCLUDING, WITHOUT LIMITATION, THE DESIGN, OPERATION OR CONDITION OF, OR THE QUALITY OF THE MATERIAL, EQUIPMENT OR WORKMANSHIP IN, THE PROPERTY, ITS MERCHANTABILITY OR ITS FITNESS FOR ANY PARTICULAR PURPOSE, THE STATE OF TITLE THERETO OR ANY COMPONENT THEREOF, THE ABSENCE OF LATENT OR OTHER DEFECTS (WHETHER OR NOT DISCOVERABLE), AND LESSOR HEREBY DISCLAIMS THE SAME; IT BEING UNDERSTOOD THAT THE PROPERTY IS LEASED TO LESSEE "AS IS" ON THE DATE OF THIS AGREEMENT OR THE DATE OF DELIVERY, WHICHEVER IS LATER, AND ALL SUCH RISKS, IF ANY, ARE TO BE BORNE BY LESSEE.

IN WITNESS WHEREOF, Lessee has caused this Certificate of Acceptance to be executed by their duly authorized representative.

Acceptance Date:
Lessee: CITY OF CHULA VISTA
By:
Name:
Title:

Payment of Proceeds

The undersigned, an authorized representative of City of Chula Vista hereby requests and authorizes Key Government Finance, Inc. to disburse the net proceeds of the Agreement as follows:

PAYEE NAME	AMOUNT	PAY BY	
Vendor/Escrow Name	\$287,454.71	<input type="checkbox"/> Check Mailing Address: _____ _____	<input type="checkbox"/> Wire (please separately include vendor's wire instructions) <input type="checkbox"/> ACH (please separately include vendor's ACH instructions)

Invoicing Instructions

LESSEE'S BILL TO ADDRESS: _____

LESSEE'S BILLING CONTACT:
 First and Last Name: _____
 Title: _____
 Phone Number: _____
 Email: _____

PURCHASE ORDER NUMBER:
 Invoices require purchase order numbers: YES _____ NO _____ Purchase Order Number: _____

Lessee: CITY OF CHULA VISTA
By:
Name:
Title:

****Please fill out this form and email it to your insurance company****

Request for Certificate of Insurance

TO:

Insurance Carrier: (Name) _____
(Address) _____
(Address) _____
(Contact Name) _____
(Contact Phone) _____
(Contact Email) _____

FROM:

Customer/Lessee: City of Chula Vista
276 4Th Street
Chula Vista, California 91910
Contact Name: Edward Chew
Contact Phone: (619) 691-5013

City of Chula Vista is in the process of financing Cisco Networking Equipment with Key Government Finance, Inc.

City of Chula Vista requests that Key Government Finance, Inc. be listed as "Key Government Finance, Inc., their successors and assigns" and that it be named ADDITIONAL INSURED as to liability coverage and LOSS PAYEE as to property coverage. A copy of said certificate should be forwarded to Key Government Finance, Inc. as described below.

NOTE: Coverage is to include:

- (1) insurance against all risks of physical loss or damage to the Property;
- (2) commercial general liability insurance (including blanket contractual liability coverage and products liability coverage) for personal and bodily injury and property damage of not less than \$1,000,000; and
- (3) if applicable, automobile liability coverage of not less than \$3,000,000.

Key Government Finance, Inc. is to receive **30 days** prior written notice of cancellation or material change in coverage. **Qualifying language such as "endeavor to provide"; "but failure to do so shall impose no obligation or liability of any kind upon the insurer, its agents or representative" or the like will NOT be accepted and will delay funding.**

- 1.** Please **EMAIL** this completed information to:
Key Government Finance, Inc.
Peter Brook, Account Manager
Phone Number: (720) 304-1295
Email: peter.brook@leasingcentral.com
- 2.** Please **MAIL** a Certificate of Insurance to:
Key Government Finance, Inc.
Attn: Collateral Services
1000 South McCaslin Blvd.
Superior, CO 80027
- 3.** Please **CONTACT** the Account Manager:
 - ✓ When sending this Certificate.
 - ✓ If this cannot be completed today.
 - ✓ If you have any questions.

INVOICE FOR FIRST PAYMENT



Key Government Finance, Inc.
 1000 S. McCaslin Blvd.
 Superior CO 80027

Bill to: City of Chula Vista 276 4Th Street Chula Vista, California 91910	Invoice No.	123696-12
	Invoice Date:	November 21, 2018
	Installment Contract No.	1800123696
	Purchase Order No.	
	Reference:	First Payment

Qty	Item	Description	Total
1	Lease Payment	Payment due January 14, 2019	\$191,302.00

Please remit funds to:
 Key Government Finance, Inc.
 Attn: Peter Brook
 1000 S. McCaslin Blvd.
 Superior, CO 80027

 Contact Phone: (720) 304-1295

REMITTANCE INFORMATION	
Date:	
Amount Due:	
Amount Enclosed:	

- Please remember to:
- 1) Make checks payable to Key Government Finance, Inc.
 - 2) Return a copy of this invoice with your payment.
 - 3) Keep a copy of this invoice for your records.
 - 4) Direct all inquiries to the contact listed above.

Comments:

Escrow Disbursement Instructions for Tax-Exempt financing

In reference to your equipment financing, we will be depositing the financing proceeds directly into an escrow account. This account will provide you with the ability to disburse funds incrementally (either directly to vendors or to reimburse yourself) based on equipment invoices (any \$ size and frequency). You will control the disbursement of funds by completing the attached documents.

Escrow Disbursements – The following are the steps that you will need to take when making disbursements of proceeds from your escrow account:

1. Complete and sign **Exhibit A** “FORM OF REQUISITION OF COSTS OF PROPERTY”. This needs to be on your letterhead.
 2. Complete and sign – **Schedule 1** “DISBURSEMENT SCHEDULE” complete with payment information.
 3. Attach – Invoice(s) from the Vendor(s).
 4. Mail a completed and signed copy of the **Exhibit A, Schedule 1 and the Vendor invoices** to my attention at the address listed below.
- **Note: If the disbursement from the escrow is for the reimbursement of funds already expended, you must attach proof of payment (front and back of cancelled checks).**

****PLEASE NOTE THAT WE MUST RECEIVE THE ORIGINAL DOCUMENTS****

Once you are ready to do the final disbursement out of the Escrow account:

- Final Disbursement – Include the signed and dated original of the **Exhibit 5** “ACCEPTANCE CERTIFICATE” (this document was part of your original document package), along with the Exhibit A “FORM OF REQUISITION OF COSTS OF PROPERTY” and the rest of the attachments needed. Additionally, please include a letter stating that this is the final disbursement and that you wish to close the Escrow account.
- If there is any money remaining in the Escrow account, after the final disbursement to the Vendor(s), the balance will be applied to your next payment.

If you have any questions regarding this information, please give me a call.

Thank you.

Peter Brook
Key Government Finance
1000 S. McCaslin Blvd.
Superior CO 80027
(720) 304-1295
866-840-3016 Fax

ESCROW AGREEMENT

This Escrow Agreement (the "Escrow Agreement"), dated as of December 14, 2018 and entered into among Key Government Finance, Inc. ("Lessor"), City of Chula Vista ("Lessee") and ZB, National Association, dba Zions Bank (the "Escrow Agent").

RECITALS:

A. Lessor and Lessee are parties to a Tax-Exempt Lease/Purchase Agreement, dated as of December 14, 2018 (the "Lease"), whereunder Lessee is acquiring from Lessor certain personal property more particularly described therein (the "Property").

B. Lessor and Lessee intend to cause or have caused certain funds to be deposited with Escrow Agent to pay for costs of the Property, and Escrow Agent has agreed to disburse said funds in accordance with the terms and conditions of this Escrow Agreement.

C. Each of the parties has authority to enter into this Escrow Agreement and has taken all actions necessary to authorize the execution of this Escrow Agreement by the officers whose signatures are affixed hereto.

NOW, THEREFORE, the parties agree as follows:

1. Appointment of Escrow Agent. Lessor, Lessee and Escrow Agent agree that Escrow Agent shall act as sole Escrow Agent under the Lease and this Escrow Agreement, in accordance with the terms and conditions set forth in this Escrow Agreement. The Escrow Agent, in its capacity as escrow agent hereunder, shall not be deemed to be a party to the Lease, and this Escrow Agreement shall be deemed to constitute the entire agreement regarding the Acquisition Fund (as hereinafter defined) among Lessor, Lessee and Escrow Agent.

2. Acquisition Fund. There is hereby established in the custody of Escrow Agent an escrow fund designated as the "City of Chula Vista Acquisition Fund" (the "Acquisition Fund") to be held and administered by Escrow Agent for Lessee and Lessor in accordance with this Escrow Agreement, subject to Lessor's rights under this Section 2 and Section 3 hereof.

The moneys and investments held by Escrow Agent under this Escrow Agreement are irrevocably held for the benefit of Lessee and Lessor, and such moneys, together with any income or interest earned thereon, shall be expended only as provided in this Escrow Agreement, and shall not be subject to levy or attachment or lien by or for the benefit of any creditor of Lessee (other than Lessor) or Lessor. Lessee hereby grants to Lessor a security interest in the Acquisition Fund to secure payment of all sums due to Lessor under the Lease. For such purpose, Escrow Agent hereby agrees to act as agent for Lessor in connection with the perfection of such security interest and agrees to note, or cause to be noted, on all books and records relating to such accounts, Lessor's interest therein.

(a) Deposit in Acquisition Fund. There shall be deposited in the Acquisition Fund the sum of \$287,454.71. Escrow Agent shall maintain accounting records sufficient to permit calculation of the income on investments and interest earned on deposit of amounts held in the Acquisition Fund, and such income and interest shall become part of the Acquisition Fund and may be expended as provided herein.

(b) Disbursements from Acquisition Fund. Escrow Agent shall make payments from the Acquisition Fund to pay costs of the Property upon receipt of requisitions from Lessee, signed by an authorized individual, and approved by Lessor, substantially in the form attached hereto as Exhibit A, which is incorporated by reference herein. In the event Escrow Agent is directed or requested by Lessee to hold or deposit any retained funds or to accept a retainage bond (in lieu of funds) as may be required by law or the terms of the acquisition contract to which Lessee is a party, Escrow Agent shall act in accordance with Lessee's instructions, and such retained funds (or performance bond) and any interest thereon shall be paid as provided in instructions to Escrow Agent from Lessee. In no event, shall Lessee submit more than six (6) requisitions in any month. The final requisition shall include the final acceptance certificate required in the Lease, which shall be executed by the Lessee and delivered to the Escrow Agent. Where requisitions involve titled motor vehicles, the requisition shall also include:

- (i) Manufacturer's Certificate of Origin.
- (ii) Motor vehicle paperwork appropriate to state of registration, noting Key Government Finance, Inc. as **lien holder**.
- (iii) Insurance certificate naming Key Government Finance, Inc., its successors and assigns as sole loss payee and additional insured for the specified equipment.

3. Termination of Escrow.

(a) Acquisition of Property. Upon the final acceptance of the Property by Lessee, as evidenced by execution by Lessee of a final acceptance certification pursuant to the Lease and delivered to Escrow Agent, and the payment of all costs related thereto (i) any retainage shall be disbursed as directed by Lessee, and (ii) any amounts remaining in the Acquisition Fund (including the earnings from investments thereof) shall be transferred to Lessee and be applied toward reimbursement of Lessee for funds advanced for the Property. To the extent that additional moneys in excess of those needed to reimburse Lessee for the acquisition of the Property exist in the Acquisition Fund, such amounts shall be paid to Lessor and applied first to the next payment due on the Lease and then applied to prepayment of the principal component of installment payments and Lessor shall recalculate the lease payment schedule for the remaining term such that the remaining lease payments shall be level. Upon disbursement of all sums in the Acquisition Fund, this Escrow Agreement shall terminate, provided that the indemnifications by Lessee shall survive the termination of this Escrow Agreement.

(b) Eighteen Months. This Escrow Agreement shall terminate eighteen (18) months from the date of this Escrow Agreement. It may, however, be extended by mutual consent of the Lessee and Lessor in writing to the Escrow Agent either in advance of the termination or retroactively. Any money remaining in the Acquisition Fund at the time of termination under this subsection (b) shall be transferred to Lessor and shall be applied first to the next payment due under the Lease, and then, if there are amounts remaining, applied to the prepayment of the Lease being applied to principal and Lessor shall recalculate the lease payment schedule for the remaining term such that the remaining lease payments shall be level. Lessee shall be deemed to have accepted all Property paid for from the Acquisition Fund at the time of termination under this subsection (b). Upon disbursement of all sums in the Acquisition Fund, this Escrow Agreement shall terminate, provided that the indemnifications by Lessee shall survive the termination of this Escrow Agreement.

(c) Event of Default; Nonappropriation. Upon receipt of written notice from Lessor of an event of default by Lessee under the Lease or an event of nonappropriation, if provided for under the Lease, Escrow Agent shall disburse the funds in the Acquisition Fund to Lessor for application in accordance with the Lease. Upon such payments from the Acquisition Fund, this Escrow Agreement shall terminate, provided that the indemnifications by Lessee shall survive the termination of this Escrow Agreement.

4. Investment of Acquisition Fund. Monies held by Escrow Agent hereunder shall be invested and reinvested by Escrow Agent upon written instructions from Lessee, signed by an authorized individual substantially in the form attached hereto as Exhibit B, which is incorporated by reference herein, in an investment which is a permitted investment for Lessee under the laws of the state in which Lessee is organized. Escrow Agent shall have no responsibility for advising Lessee or Lessor as to the permissibility of any investment of monies in the Acquisition Fund. If Escrow Agent does not receive a written direction from Lessee as to the investment or reinvestment of monies in the Acquisition Fund, Escrow Agent may hold such monies uninvested until such direction is received. Escrow Agent shall have no responsibility for any losses suffered from any investment of monies on deposit in the Acquisition Fund authorized by Lessee.

5. Amendment and Modification. This Escrow Agreement may not be amended, modified, altered, supplemented or waived except by a written instrument executed by Lessor, Lessee and Escrow Agent.

6. Regarding the Escrow Agent.

(a) Duties of Escrow Agent. Escrow Agent undertakes to perform only such duties as are specifically set forth in this Escrow Agreement. Escrow Agent shall be under no implied obligation or subject to any implied liability hereunder. Escrow Agent shall incur no liability whatsoever except for its gross negligence or willful misconduct so long as it is acting in good faith. Escrow Agent shall not be required to take notice of any of the provisions of the Lease or any document or instrument executed in connection therewith, except as expressly set forth in this Escrow Agreement. The permissive right of the Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as a duty.

(b) Escrow Agent Reliance. Escrow Agent may act in reliance upon any writing or instrument or signature which it, in good faith, believes to be genuine, may assume the validity and accuracy of any statement or assertion contained in such a writing or instrument, and may assume that any person purporting to give any writing, notice, advice or instructions in connection with the provisions hereof has been duly authorized to do so. Escrow Agent shall not be liable in any manner for the sufficiency or correctness as to form, manner and execution, or validity of any

instrument deposited with it, nor as to the identity, authority or right of any person executing the same; and its duties hereunder shall be limited to those specifically provided herein.

(c) **Counsel and Fees; Reliance upon Counsel.** If Escrow Agent believes it to be reasonably necessary to consult with counsel concerning any of its duties in connection herewith, or in case the Escrow Agent becomes involved in litigation on account of acting hereunder, then, in either case, its cost, expenses and reasonable attorneys fees shall be paid by Lessee. Escrow Agent's right to receive its attorneys' fees and expenses shall survive the termination of this Escrow Agreement. If Escrow Agent consults with counsel, Escrow Agent may act, in good faith, in reliance upon the advice of counsel concerning its duties in connection herewith or in acting hereunder.

(d) **No Obligation to Take Legal Action.** Escrow Agent shall not be under any obligation to take any legal action in connection with this Escrow Agreement or for its enforcement, or to appear, prosecute or defend any action or legal proceeding which, in its opinion, would or might involve it in any costs, expense, loss or liability, or to otherwise expend or risk its own funds or incur any financial liability in the performance of this Escrow Agreement, unless and as often required by it, it shall be furnished with security and indemnity satisfactory against all such costs, expenses, losses or liabilities. If any controversy arises between the parties hereto or with any third person, the Escrow Agent shall not be required to resolve the same or to take any action to do so (other than to use its best efforts to give notice of such controversy to Lessor and Lessee) but may, at its discretion, institute such interpleader or other proceedings as it deems proper.

(e) **Quarterly Statement.** Escrow Agent shall issue a quarterly accounting statement showing receipts to and disbursements from the Acquisition Fund. Such statement shall be mailed to Lessor and Lessee, and Lessee shall be provided online statement access.

(f) **Resignation and Termination.** Escrow Agent may, upon providing thirty days written notice, resign its position as Escrow Agent and terminate its liabilities and obligations hereunder. In the event Escrow Agent is not notified within thirty days of a successor Escrow Agent, Escrow Agent shall be entitled to transfer all funds to a court of competent jurisdiction with a request to have a successor appointed, at the expense of Lessee. Upon filing such action and delivering such assets, Escrow Agent's obligations and responsibilities shall cease. Lessor and Lessee may jointly terminate Escrow Agent and appoint a successor Escrow Agent by providing 15 days written notice to Escrow Agent.

7. **Indemnification.** To the extent permitted by law, Lessee hereby assumes liability for, and hereby agrees (whether or not any of the transactions contemplated hereby are consummated) to indemnify, protect, save and keep harmless the Escrow Agent and its respective successors, assigns, agents, employees and servants, from and against any and all liabilities, obligations, losses, damages, penalties, claims, actions, suits, costs, expenses and disbursements (including reasonable legal fees and disbursements) of whatsoever kind and nature which may be imposed on, incurred by or asserted against, Escrow Agent at any time (whether or not also indemnified against the same by Lessee or any other person under any other agreement or instrument, but without double indemnity) in any way relating to or arising out of the execution, delivery and performance of this Escrow Agreement, the establishment hereunder of the Acquisition Fund, the acceptance of the funds and securities deposited therein, the purchase of any securities to be purchased pursuant thereto, the retention of such securities or the proceeds thereof, and any payment, transfer or other application of moneys or securities by Escrow Agent in accordance with the provisions of this Escrow Agreement; provided, however, that Lessee shall not be required to indemnify, protect, save or keep harmless Escrow Agent against Escrow Agent's own gross negligence or willful misconduct or gross negligence or willful misconduct of Escrow Agent's respective successors, assigns, agents and employees or the material breach by Escrow Agent of the terms of this Escrow Agreement. The indemnities contained in this Section shall survive the termination of this Escrow Agreement.

8. **Notices.** Any notices permitted or required under this Escrow Agreement shall be made in writing and shall be deemed given upon the date of personal delivery or 48 hours after deposit in the United States mail, certified or registered, postage fully prepaid, return receipt requested, addressed to the addresses set forth on the signature page of this Escrow Agreement. The party to whom notices or copies of notices are to be sent shall have the right at any time and from time to time to change its address for notice or person to receive notice by giving notice in the manner specified in this paragraph.

9. **Escrow Agent's Fee.** Escrow Agent shall be paid \$1,000.00 for setting up the escrow, to be paid by Key Government Finance, Inc. In the event that Escrow Agent is made a party to litigation with respect to the Acquisition Fund, or brings an action in interpleader, or Escrow Agent is required to render any service not provided for in this Escrow Agreement, or there is any assignment of interests in this escrow or any modification hereof, Escrow Agent shall be entitled to reasonable compensation for such extraordinary services and reimbursement by Lessee for all fees,

costs, liability and expenses, including attorney fees. Lessee also agrees to pay any investment fees or other charges of Escrow Agent, such as wire transfer charges and disbursement charges and agrees such fees and charges may be deducted by and paid to the Escrow Agent from funds in or to be deposited in the Acquisition Fund or from investment earnings to be deposited in the Acquisition Fund.

10. Counterparts. This Escrow Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. This Escrow Agreement is to be executed by the parties hereto in sufficient numbers so that an Escrow Agreement bearing each party's original signature can be held by the Escrow Agent.

11. Waiver. Any waiver by any party of any breach of any term or condition of this Escrow Agreement shall not operate as a waiver of any other breach of such term or condition or any other term or condition, nor shall any failure to enforce such provision hereof operate as a waiver of such provision or of any other provision hereof, nor constitute nor be deemed a waiver or release of any other party for anything arising out of, connected with, or based on this Escrow Agreement.

12. Exhibits. All exhibits, schedules and lists attached to this Escrow Agreement or delivered pursuant to this Escrow Agreement shall be deemed a part of this Escrow Agreement and incorporated herein, where applicable, as if fully set forth herein.

13. Applicable Law. This Escrow Agreement shall be governed by the laws of the state in which Lessee is located.

14. Successors and Assigns. This Escrow Agreement shall be binding on and shall inure to the benefit of the parties and their respective successors and assigns. Any corporation or association into which the Escrow Agent may merge, or to which Escrow Agent may sell or transfer its banking business, shall automatically be and become successor Escrow Agent hereunder and vested with all powers as was its predecessor without the execution or filing of any instruments or further act, deed or conveyance on the part of the parties hereto.

15. Severability. In the event any provision of this Escrow 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.

16. WAIVER OF JURY TRIALS. UNLESS PROHIBITED BY LAW, LESSEE, LESSOR AND ESCROW AGENT HEREBY IRREVOCABLY WAIVE ALL RIGHT TO TRIAL BY JURY IN ANY ACTION, PROCEEDING OR COUNTERCLAIM (WHETHER BASED ON CONTRACT, TORT OR OTHERWISE) ARISING OUT OF OR RELATING TO THIS ESCROW AGREEMENT OR THE ACTIONS OF LESSOR, LESSEE OR ESCROW AGENT IN THE NEGOTIATION, ADMINISTRATION, PERFORMANCE OR ENFORCEMENT HEREOF.

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

Key Government Finance, Inc.

City of Chula Vista

By: _____
Authorized Officer

By: _____
Authorized Officer

Title:

Title:

Address: 1000 S McCaslin Blvd
Superior, Colorado 80027

Address: 276 4th Street
Chula Vista, CA 91910

ZB, National Association, dba Zions Bank

By: _____
Authorized Officer

Title:

Address: 601 Union Street, Suite 3600
Seattle, WA 98101

[Please type on your letterhead]

EXHIBIT A
FORM OF REQUISITION
COSTS OF PROPERTY
Schedule No. 1 (123696)

C/O Key Government Finance, Inc.
1000 South McCaslin Blvd.
Superior, CO 80027
Attn: Peter Brook
(720) 304-1295

On Behalf of:
ZB, National Association, dba Zions Bank
127 Public Square
Cleveland OH 44114

Amount Requested: \$ _____

Total Disbursements to Date: \$ _____

Requisition No.: _____

1. The undersigned, an officer or official of Lessee, hereby requests and authorizes ZB, National Association, dba Zions Bank, as Escrow Agent under the Escrow Agreement dated as of December 14, 2018, among City of Chula Vista (the "Lessee"), Key Government Finance, Inc. (the "Lessor") and Escrow Agent, to pay to or upon the order of the Lessee the amount specified above for the payment or reimbursement of costs of Property described in Schedule --- attached.

2. The Lessee hereby certifies that:
(a) each obligation mentioned in Schedule 1 has been properly incurred, is a proper charge against the Acquisition Fund and has not been the basis of any previous disbursement;
(b) no part of the disbursement requested hereby will be used to pay for materials not yet incorporated into the Property or for services not yet performed in connection therewith;
(c) insurance requirements of the Lease have been complied with and such coverage is in force;
(d) as of the date of this Requisition no event of default or event of nonappropriation, if any, as such terms are defined in the Lease between Lessor and Lessee has occurred and is continuing and no event which with notice or lapse of time, or both, has occurred and is continuing which would constitute such event of default or event of nonappropriation; and
(e) the Property acquired with this disbursement is functionally complete and operationally independent and is hereby accepted. If this is the final requisition, the final acceptance certification required in the Lease is attached hereto.

3. All capitalized terms herein shall have the meanings assigned to them in the Escrow Agreement

4. The list of equipment, set forth in the equipment/property description to the Lease, shall be deemed amended upon payment of this requisition to include the property set forth in Schedule 1 hereto and any property paid with funds of this requisition.

City of Chula Vista

By: _____
Name: _____
Title: _____
Date: _____

Approved by Lessor, or in the event Lessor's right, title and interest in the Lease has been assigned, by the current assignee of Lessor's right, title and interest in the Lease Agreement:

Key Government Finance, Inc.

By: _____
Name: _____
Title: _____
Date: _____

[Lessee to attach final acceptance certification if final disbursement request.]

SCHEDULE 1 (123696)
DISBURSEMENT SCHEDULE

To Requisition No. _____ for the Acquisition Fund:

1. Amount: \$ _____

Payee: _____ (**Payee's W-9 is required**)

By check _____ By wire transfer _____

If by check, Payee's address: _____

If by wire transfer, instructions as follows:

Pay to:

Bank Name:
Bank Address:
Bank City, State, Zip:
Bank Phone:
For Account of:
Account No.:
ABA No.:

2. Amount: \$ _____

Payee: _____ (**Payee's W-9 is required**)

By check _____ By wire transfer _____

If by check, Payee's address: _____

If by wire transfer, instructions as follows:

Pay to:

Bank Name:
Bank Address:
Bank City, State, Zip:
Bank Phone:
For Account of:
Account No.:
ABA No.:

City of Chula Vista

By: _____

Name: _____

Title: _____

Date: _____

[Please type on your letterhead]

Exhibit B

Deposit Sweep Fund Investment Direction

DIRECTION AND ACKNOWLEDGEMENT

[City of Chula Vista Acquisition Fund]

Pursuant to investment authority of the undersigned Authorized Representative and the governing documents for the above referenced account, the undersigned authorizes and directs ZB, National Association dba Zions Bank ("Zions") to deposit, withdraw and invest amounts into the Deposit Sweep Program and to execute any and all documents or agreements that may be necessary to complete the investment in the Deposit Sweep Program described in the attached product description.

The undersigned may revoke or modify this direction at any time by written notice to Zions. The undersigned acknowledges receipt of a description of the Deposit Sweep Program and a prospectus for the Fidelity Government Portfolio Class III ("the Money Market Fund") which, among other things, describes the fees and expenses paid by the Money Market Fund including fees paid to Zions for servicing the Money Market Fund (which affect the return on investment). The undersigned acknowledges the Money Market Fund is not an FDIC-insured deposit, is not an obligation of or guaranteed by Zions or its affiliates and may involve investment risk, including loss of principal.

The undersigned acknowledges that pursuant to national banking regulations it has been informed that, upon its request and at no additional cost, it is entitled to receive separate written notification of every security transaction effected for this account and agrees to notification of securities transactions by means of transaction statement(s) regularly provided by Zions.

By: _____
Authorized Representative

Dated: _____