

\$1,238,897.62
SCHEDULE OF EQUIPMENT NO. 2 DATED JANUARY 10, 2024 TO
MASTER EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF JULY 31, 2023, BETWEEN
ROC LEASING LLC, AS LESSOR, AND THE
TOWN OF HENRIETTA, NEW YORK, AS LESSEE

CLOSING DATE: JANUARY 10, 2024

LIST OF CLOSING DOCUMENTS

**Document
Number**

1. Copy of Master Equipment Lease Purchase Agreement.
2. Schedule of Equipment No. 2, with the following attachments attached:

Attachment 1: Equipment Description.
Attachment 2: Payment Schedule.
3. Escrow Deposit Agreement, with the following exhibits attached:

Exhibit A: Certificate of Acceptance and Payment Request.
Exhibit B: Lessee's Incumbency Certificate.
Third Party Custodian Agreement.
4. Federal Tax Agreement, with the following exhibits attached:

Exhibit A: Amortization Schedule and Calculation of Weighted Average Maturity and Yield on the Lease.
Exhibit B: IRS Form 8038-G, together with proof of filing.
Exhibit C: Description of Equipment Expected to Comprise Financed Assets and Benefitted Facilities.
Exhibit D: Sample Annual Compliance Checklist.
5. Lessee's Closing Certificate, with the following exhibits attached:

Attachment 1: Evidence of authorization from Lessee's governing body.
Attachment2: List of Outstanding Obligations (since December 31, 2022).
6. Essential Use Certificate.
7. Opinion of Lessee Counsel (validity opinion).

**Document
Number**

8. Opinion of Special Tax Counsel to Lessor (tax opinion).
9. Evidence of insurance.
10. Purchase Agreement.
11. License Agreement.
12. Evidence of required approval by the Public Service Commission Approval.
13. Copy of Energy Performance Contract dated March 8, 2023.
14. UCC-1 Financing Statement respecting the Equipment.
15. Notice of Assignment; Assignment Agreement; UCC-1 Financing Statement.
16. Lender Documents:
 - A. Letter from Lender to Lessee regarding role in transaction.
 - B. Lender Certificate.
 - C. Certificate of Lender regarding issue price.
17. Lessee's Form W-9.
18. Closing Memorandum.

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SCHEDULE OF EQUIPMENT NO. 2

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DATED AS OF JULY 31, 2023, BETWEEN
ROC LEASING LLC, AS LESSOR, AND THE
TOWN OF HENRIETTA, NEW YORK, AS LESSEE**

1. Defined Terms. All terms used herein have the meanings ascribed to them in the above-referenced Master Equipment Lease Purchase Agreement.

2. Equipment. The Equipment included under this Schedule of Equipment No. 2 (the "Schedule") is comprised of the items described in the Equipment Description attached hereto as **Attachment 1**, and all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto, and proceeds therefrom.

3. Payment Schedule. The Rental Payments and Purchase Prices under this Schedule are set forth in the Payment Schedule attached as **Attachment 2** hereto.

4. Representations, Warranties and Covenants.

(a) Lessee hereby reaffirms its representations, warranties and covenants set forth in the Master Agreement as if made on the Commencement Date of the Lease and this Schedule.

(b) Lessee has provided Lessor with audited financial statements through December 31, 2022. Lessee has experienced no material change in its financial condition or in the revenues expected to be utilized to meet Rental Payments under the Lease since December 31, 2022.

(c) Lessee has complied with such public bidding requirements as may be applicable to the Lease and this related Schedule, and the acquisition of the Equipment hereunder.

(d) The application, statements and credit or financial information submitted by Lessee to Lessor are true and correct and made to induce Lessor to enter into the Lease and this Schedule, and Lessee has experienced no material change in its financial condition since the date(s) of such information.

(e) The parties agree that the Lease is entered into pursuant to New York Energy Law §9-103 and its implementing regulations to provide financing for Lessee to obtain equipment to improve the energy efficiency of Lessee's buildings and facilities.

(f) The execution and delivery of this Schedule by Lessee will not cause Lessee to exceed the indebtedness limitations set forth in N.Y. Gen. Mun. Law § 109-b.6(c).

(g) The authorization for this Schedule to finance the Equipment to be leased, acquired and financed hereunder is not required by law to be subject to (1) a permissive or mandatory referendum, (2) a supermajority vote of Lessee's governing body or (3) if this Schedule has a maturity not less than a specified minimum period, a referendum.

5. Tax-Exempt Interest Related Covenants, Representations and Warranties. Lessee hereby covenants, represents and warrants as follows:

(a) The estimated total costs of the Equipment listed in this Schedule, together with any costs of entering into this Schedule that are expected to be financed hereunder, will not be less than the total principal portion of the Rental Payments listed in this Schedule.

(b) The Equipment listed in this Schedule has been ordered or is expected to be ordered within six months of the Commencement Date of this Schedule, and the Equipment is expected to be delivered, and the Vendor fully paid, within eighteen months of the Commencement Date of this Schedule.

(c) Lessee has not created or established, and does not expect to create or establish, any sinking fund or other similar fund (i) that is reasonably expected to be used to pay the Rental Payments listed in this Schedule, or (ii) that may be used solely to prevent a default in the payment of the Rental Payments listed in this Schedule.

(d) The Equipment listed in this Schedule has not been and is not expected to be sold or otherwise disposed of by Lessee, either in whole or in major part, prior to the last maturity of the Rental Payments listed in this Schedule.

(e) Lessee has not been notified of any listing or proposed listing of it by the Internal Revenue Service as an issuer whose arbitrage certificates may not be relied upon.

(f) Lessee will comply with all applicable provisions of the Internal Revenue Code of 1986, as amended, including without limitation Sections 103, 141 and 148 thereof, and the applicable regulations of the Treasury Department to maintain the exclusion of the interest components of Rental Payments from gross income for purposes of federal income taxation.

(g) To the best of Lessee's knowledge, information and belief, the above expectations are reasonable.

6. Incorporation of the Master Agreement Terms and Provisions. Lessee and Lessor hereby ratify and confirm the Master Agreement, the terms and provisions of which (other than to the extent that they relate solely to other Leases or Equipment listed on Schedules to other Leases), except as specifically amended under paragraph 7 below, are hereby incorporated by reference and made a part hereof.

7. Purchase Option; Prepayment. Lessee may exercise its purchase option with respect to the Equipment subject to this Lease on January 5, 2032, and any Rental Payment Date thereafter at the applicable Purchase Price shown on the Payment Schedule attached hereto, all in accordance with Section 31(a)(i) of the Master Agreement. If a Purchase Price is not listed for such date that Lessee has designated as the purchase date, the Purchase Price for that date shall be calculated as the Rental Payment then due at 102% of the then outstanding principal balance of the Lease.

8. Other Provisions.

(a) **Section 1** of the Master Agreement is hereby amended to add the following definitions:

"License Agreement" means that certain License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures between Niagara Mohawk Power Corporation d/b/a National Grid and Lessee relating to Lessee's acquisition of the Street Lights.

"Purchase Agreement" means that certain Agreement for Purchase and Sale of Street Lighting Facilities between Rochester Gas and Electric Corporation and Lessee, relating to Lessee's acquisition of the Street Lights.

(b) For purposes of this Schedule, **Subsection 2(p)** of the Master Agreement is hereby deleted, and the following **Subsection 2(p)** is inserted in lieu thereof:

(p) The useful life of the Equipment under the Lease will not be less than the Maximum Lease Term for the Lease.

(c) Lessee hereby agrees with Lessor that the first disbursement of moneys from the escrow fund held under the related escrow agreement for the Lease, as evidenced by a Certificate of Acceptance and Payment Request requesting payment thereof, shall relate to payment obligations due under the Purchase Agreement and shall be delivered to Lessor within 90 days of the date hereof, together with an executed copy of the Purchase Agreement.

[Signature page follows.]

Dated: January 10, 2024.

ROC LEASING LLC

By: _____
Name: Patricia Moore
Title: President
Address: 1900 Empire Blvd., Suite 249
Webster, NY 14580

TOWN OF HENRIETTA, NEW YORK

By: _____
Name: Stephen L. Schultz
Title: Town Supervisor
Address: 475 Calkins Road
Rochester, NY 14623

COUNTERPART NO. ____ OF 2

LESSOR'S INTEREST IN, TO AND UNDER THE LEASE, CONSISTING OF THIS SCHEDULE AND THE INCORPORATED MASTER AGREEMENT AS IT RELATES TO THIS SCHEDULE, MAY BE SOLD OR PLEDGED ONLY BY DELIVERING POSSESSION OF COUNTERPART NO. 2 OF THIS SCHEDULE, WHICH COUNTERPART NO. 2 SHALL CONSTITUTE CHATTEL PAPER FOR PURPOSES OF THE UNIFORM COMMERCIAL CODE.

**ATTACHMENT 1 TO
SCHEDULE OF EQUIPMENT NO. 2**

EQUIPMENT DESCRIPTION

The Equipment consists of the following:

- Approximately 1,476 streetlights (the “Streetlights”) purchased by Lessee pursuant to the terms of that certain Agreement for Purchase and Sale of Street Lighting Facilities between Rochester Gas and Electric Corporation and Lessee; and
- Streetlight upgrades, including LED fixtures, as further described in that certain Energy Performance Contract dated March 8, 2023, between Lessee and Centrica Business Solutions Services, Inc.,

together with all replacements, substitutions, repairs, restorations, modifications, attachments, accessions, additions and improvements thereof or thereto, and proceeds therefrom. See “Scope of Work” set forth below for a further description of the Equipment.

SCOPE OF WORK

FIM #1: Town Wide Street Lighting Upgrades – Utility Owned Fixtures

CBS will replace all of the existing HID fixtures with new LED fixtures. New LED fixtures will exhibit the following characteristics:

- Rated lifetime of 100,000-150,000 hours (22 to 34 years)
- 10-year warranty
- High efficiency and exceptional reliability when compared to other lighting technologies
- Low Total Cost of Ownership/Lifecycle Cost

The existing removed fixtures, lamps and ballasts, as well as any metal and cardboard will be recycled. CBS will be responsible for disposal and recycling of existing lighting fixtures. CBS will provide all necessary aerial equipment for safe and proper replacement of the light fixtures in accordance with good practice and local codes and ordinances. CBS will provide necessary traffic control/diversion measures as mandated by local codes and ordinances. This includes all necessary cones, flaggers, barriers, barricades, and vehicles.

As part of the buyback process, a Rochester Gas and Electric or National Grid approved in-line disconnecting device equipped with over-current protection will be installed at each fixture, based upon the utility territory where the fixture is located.

Table 1 provides a summary of the lighting upgrades by fixture type. All cobrahead fixtures to be installed will be 4000k color temperature and will have a 7-pin NEMA receptacle for control. All post top fixtures in residential neighborhoods will have a 3000k color temperature and will have a 7-pin NEMA receptacle for control. All fixtures will be equipped with a long-life photo cell and a 10-year material only product warranty. A detailed line-by-line summary of the lighting upgrades and locations are represented in *Appendix F* of Exhibit C. Cut sheets for the materials described in *Table 1* are provided in *Appendix B* of Exhibit C.

As part of the upgrade to the street lighting system, the Town of Henrietta has requested that Centrica provide upgrades to specific areas of the Town. The first being the 54 streetlights mounted on NYS DOT poles. These fixtures will be removed and remounted onto existing wooden utility poles to eliminate mounting on the traffic signal poles. Every effort will be made to move these light fixtures to adjacent wooden poles and provide an adequate amount of light. In some instances, it may be necessary to remove a light entirely where a disconnect device cannot be installed that will comply with the utility regulations. Additional scope related to this specific item can be found in *Appendix G* of Exhibit C.

In the Riverton Knoll community, there are 10 existing shoebox style lights on wooden poles. Centrica will remove and replace the existing components with new fiberglass poles and fixtures to match the lighting style to the proposed system.

Table 1 – Proposed Street Lighting Upgrades

Existing Technology	Quantity	Proposed Technology – Type - Model	Proposed Wattage
MH 150W Cobra-head	11	LED – Cobra-head – AEL ATBS P10	41
HPS 100W Cobra-head	188	LED – Cobra-head – AEL ATBX P40	29
HPS 150W Cobra-head	130	LED – Cobra-head – AEL ATBS P10	41
HPS 70W Cobra-head	62	LED – Cobra-head – AEL ATBX P30	24
LED Cobra-head	9	LED – Cobra-head – AEL ATBS P40	71
MV 175W Cobra-head	1	LED – Cobra-head – AEL ATBS P10	41
HPS 250W Cobra-head	93	LED – Cobra-head – AEL ATBS P40	41
HPS 400W Cobra-head	228	LED – Cobra-head – AEL ATBS P60	93
HPS 100W Residential Post Top	762 ¹	LED – Post Top – AEL 247CL P103	41
Total	1,476		

This Equipment Description shall be deemed to be supplemented and amended by the descriptions of the Equipment included in the Certificate of Acceptance and Payment Requests submitted to Lessor for approval pursuant to the Escrow Deposit Agreement dated January 10, 2024, among Lessor, Lessee and Capital One, National Association, as escrow agent, which descriptions shall be deemed to be incorporated herein.

**ATTACHMENT 2 TO
SCHEDULE OF EQUIPMENT NO. 2**

PAYMENT SCHEDULE

Principal Amount: \$1,238,897.62

Interest Rate: 5.549%

Commencement Date: January 10, 2024

Rental Payments will be made in accordance with **Section 9** of the Master Agreement and this Payment Schedule.

Rental Payment Date	Total Rental Payment	Interest Portion	Principal Portion	Purchase Price ¹
01/05/2025	\$ 105,000.00	\$ 67,791.62	\$ 37,208.38	N/A
01/05/2026	110,000.00	66,681.74	43,318.26	N/A
01/05/2027	115,000.00	64,278.01	50,721.99	N/A
01/05/2028	119,999.99	61,463.44	58,536.55	N/A
01/05/2029	122,000.00	58,215.25	63,784.75	N/A
01/05/2030	127,999.99	54,675.83	73,324.16	N/A
01/05/2031	132,000.00	50,607.08	81,392.92	N/A
01/05/2032	137,999.99	46,090.58	91,909.41	\$753,475.22
01/05/2033	143,000.00	40,990.53	102,009.47	649,425.56
01/05/2034	146,999.99	35,330.02	111,669.97	535,522.20
01/05/2035	149,955.12	29,133.46	120,821.66	142,284.10
01/05/2036	149,955.11	22,429.06	127,526.05	282,207.53
01/05/2037	149,955.12	15,352.64	134,602.48	144,913.00
01/05/2038	149,955.12	7,883.55	142,071.57	0.00
Totals	<u>\$1,859,820.43</u>	<u>\$620,922.81</u>	<u>\$1,238,897.62</u>	

TOWN OF HENRIETTA, NEW YORK

By: _____
Name: Stephen L. Schultz
Title: Town Supervisor

¹ Lessee's option to purchase is subject to the provisions of Section 31 of the Master Agreement, as amended by paragraph 7 of the Schedule.

ESCROW DEPOSIT AGREEMENT

LESSOR:
ROC Leasing LLC
1900 Empire Blvd., Suite 249
Webster, NY 14580

ESCROW AGENT:
Capital One, National Association
1307 Walt Whitman Road
Melville, NY 11747

LESSEE:
Town of Henrietta, New York
475 Calkins Road
Rochester, NY 14623

THIS ESCROW DEPOSIT AGREEMENT (this “Escrow Agreement”) dated as of January 10, 2024, by and among ROC LEASING LLC, as lessor (“Lessor”), the TOWN OF HENRIETTA, NEW YORK, as lessee (“Lessee”), and CAPITAL ONE, NATIONAL ASSOCIATION, as escrow agent (the “Escrow Agent”).

Lessor and Lessee have entered into Schedule of Equipment No. 2 dated January 10, 2024 (the “Schedule”) to that certain Master Equipment Purchase Agreement dated as of July 31, 2023 (the “Master Agreement,” and together with the Schedule, the “Lease”). The Lease contemplates that certain equipment described therein (the “Equipment”) is to be acquired and installed from the vendor(s) or manufacturer(s) thereof.

Pursuant to the Lease, Lessor and Lessee have agreed that Lessor will deposit \$1,238,897.62, to be held in escrow by the Escrow Agent and applied on the express terms and conditions set forth herein. Such escrow fund deposit, together with all interest and additions received with respect thereto (hereinafter, the “Escrow Deposit”), is to be applied from time to time to pay certain costs of acquiring and installing the Equipment (a portion of which may, if required, be paid prior to final acceptance of the Equipment by Lessee) and, if requested by Lessee and approved for payment by Lessor, to pay certain costs of entering into the Lease.

The parties desire to set forth the terms on which the escrow is to be created and to establish the rights and responsibilities of the parties hereto.

NOW, THEREFORE, accordingly, in consideration of the mutual covenants contained herein, the parties, intending to be legally bound, hereby agree as follows:

1. Interest. The Escrow Agent hereby agrees to serve as escrow agent upon the terms and conditions set forth herein. The Escrow Agent agrees that the Escrow Deposit shall be held irrevocably in trust for the account and benefit of Lessee and Lessor and all interest earned with respect to the Escrow Deposit shall accrue to the benefit of Lessee and shall be applied as expressly set forth herein.

2. Security Interest. To the limited extent required to perfect the security interest granted by Lessee to Lessor in the Escrow Deposit cash from time to time comprising the Escrow Deposit, Lessor hereby appoints the Escrow Agent as its security agent, and the Escrow Agent hereby accepts the appointment as security agent, and agrees to hold physical possession of such cash on behalf of Lessor. To the extent such funds have been paid in accordance with Section 6(a), Lessor shall no longer retain a security interest in such amounts paid.

3. Receipt of Escrow Deposit. On such day as determined to the mutual satisfaction of the parties (the “Commencement Date”), Lessor shall deposit with the Escrow Agent cash in the amount of \$1,238,897.62 to be held by the Escrow Agent on the express terms and conditions set forth herein. The Escrow Agent agrees to accept the deposit of the Escrow Deposit by Lessor, and further agrees to hold the amount so deposited together with all interest and other additions received with respect thereto in escrow on the express terms and conditions set forth herein.

4. Separate Account. The Escrow Agent shall at all times segregate the Escrow Deposit into an account maintained for that express purpose, which shall be clearly identified on the books and records of the Escrow Agent as being held in its capacity as Escrow Agent. The Escrow Deposit shall not, to the extent permitted by applicable law, be subject to levy or attachment or lien by or for the benefit of any creditor of any of the parties hereto (except with respect to the security interest therein held by Lessor).

5. Investment of Escrow Deposit. The Escrow Deposit shall be invested as directed by Lessee, in writing, in a qualified investment as authorized by Lessee's investment policy. In furtherance thereof, Lessee has directed in writing that the Escrow Deposit be invested by the Escrow Agent into the following interest-bearing NOW checking account:

NOW Account # _____ *[To be provided by Escrow Agent]*

The Parties acknowledge that the Escrow Agent is not providing investment supervision, recommendations, or advice. The Escrow Deposit Account is FDIC-insured up to the sum of \$250,000, and the remainder of the Escrow Deposit shall be fully collateralized as required by law. Escrow Agent shall not attempt to assert control over or claim any security or other interest in the Escrow Deposit or any part of the collateral. Escrow Agent will not exercise, enforce or attempt to enforce any right of setoff against the Escrow Deposit Account or the collateral or otherwise deduct any amounts from the Escrow Deposit Account. Escrow Agent shall send to or otherwise make available to Lessee a monthly Escrow Account statement with respect to the Escrow Deposit Account.

6. Release of Escrow Deposit. Lessor and Lessee hereby authorize the Escrow Agent to take the following actions with respect to the Escrow Deposit:

(a) The Escrow Agent from time to time, shall release the Escrow Deposit only pursuant to joint written instructions executed by Lessor and Lessee and delivered to the Escrow Agent as provided in **Exhibit A**. Attached hereto as **Exhibit B** is an incumbency certificate setting forth the representatives of Lessee that are authorized to execute the Certificates of Acceptance and Payment Requests on behalf of Lessee. Without limiting the foregoing, Lessor shall not be required to approve any payment from the Escrow Deposit Account for costs of the Equipment unless (i) such written instructions relate to payment obligations payable under the Purchase Agreement (as defined in the Lease) and (ii) Lessee has provided to Lessor a fully executed copies of such Purchase Agreement.

(b) In the event that Lessor provides to the Escrow Agent written notice of the occurrence of an Event of Default or a nonappropriation by Lessee under the Lease, the Escrow Agent shall thereupon promptly remit to Lessor the entire balance of the Escrow Deposit.

(c) Upon receipt by the Escrow Agent of a duly executed Certificate of Acceptance and Payment Request identified as the final such request, the remaining monies in the Escrow Deposit shall, be paid to Lessor, for application against the outstanding principal components of Rental Payments (as defined in the Master Agreement), including prepayment of Rental Payments under the Lease, as provided therein, unless Lessor directs that payment of such amount be made in such other manner directed by Lessor that, in the opinion of nationally recognized counsel in the area of tax-exempt municipal obligations satisfactory to Lessor, will not adversely affect the exclusion of the interest components of Rental Payments from gross income for federal income tax purposes. If any such amount is used to prepay principal, the Payment Schedule attached to the Schedule will be revised accordingly as specified by Lessor.

(d) Provided (i) Lessee has complied with the terms of this Escrow Agreement and properly completed the Certificate of Acceptance and Payment Request, and (ii) there is no Event of Default or nonappropriation by Lessee under the Lease, Lessor shall review and approve the Certificate of Acceptance and Payment Request without undue delay.

7. W-9. Prior to closing, Lessor shall provide the Escrow Agent with certified tax identification numbers by furnishing appropriate forms W-9 and such other forms and documents that the Escrow Agent may request.

8. Indemnity. To the extent authorized by law, Lessee hereby agrees to indemnify and save the Escrow Agent harmless against any liabilities which it may incur in the exercise and performance of its powers and duties hereunder and which are not due to the Escrow Agent's gross negligence or willful misconduct. No indemnification will be made under this Section or elsewhere in this Escrow Agreement for damages arising solely out of gross negligence, willful misconduct or bad faith by the Escrow Agent, its officers, agents, employees, successors or assigns.

9. Fees. The reasonable fees and expenses of the Escrow Agent incurred in connection herewith shall be the responsibility of Lessor and are herein defined as the sum of \$1,500, for escrow services as described herein, plus any extraordinary expenses incurred by the Escrow Agent at the request of Lessor or Lessee.

10. Termination. This Escrow Agreement and the Escrow Deposit established hereunder shall terminate upon receipt by the Escrow Agent of the written notice from Lessor specified in Section 6(b) or Section 6(c) hereof.

11. Limitation of Liability. THE ESCROW AGENT SHALL NOT BE LIABLE, DIRECTLY OR INDIRECTLY, FOR ANY (I) DAMAGES, LOSSES OR EXPENSES ARISING OUT OF THE SERVICES PROVIDED HEREUNDER, OTHER THAN DAMAGES, LOSSES OR EXPENSES WHICH HAVE BEEN FINALLY ADJUDICATED TO HAVE DIRECTLY RESULTED FROM THE ESCROW AGENT'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT, OR (II) SPECIAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR LOSSES OF ANY KIND WHATSOEVER (INCLUDING WITHOUT LIMITATION LOST PROFITS), EVEN IF THE ESCROW AGENT HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES AND REGARDLESS OF THE FORM OF ACTION.

12. Notices. All notices and other communications required or permitted pursuant to this Escrow Agreement shall be in writing and be deemed to have been duly given and delivered if mailed by certified mail, return receipt requested, postage prepaid, or by mutually recognized overnight carrier addressed to the other party at its respective address shown on page 1 of this Escrow Agreement or to such other address as such party shall specify by written notice to the other parties hereto and shall be effective on the date of receipt. Any notice sent to the Escrow Agent shall also be sent to the other parties to this Escrow Agreement.

13. Duties of Escrow Agent. Notwithstanding any provision to the contrary, the Escrow Agent is obligated only to perform the duties specifically set forth in this Escrow Agreement, which shall be deemed purely ministerial in nature. Under no circumstances will the Escrow Agent be deemed to be a fiduciary to the Lessor or Lessee or any other person under this Escrow Agreement. The Escrow Agent will not be responsible or liable for the failure of Lessor or Lessee to perform in accordance with this Escrow Agreement. The Escrow Agent shall neither be responsible for, nor chargeable with, knowledge of the terms and conditions of any other agreement, instrument, or document other than this Escrow Agreement, whether or not an original or a copy of such agreement has been provided to the Escrow Agent; and the Escrow Agent shall have no duty to know or inquire as to the performance or nonperformance of any provision of any such agreement, instrument, or document. References in this Escrow Agreement to any other agreement, instrument, or document are for the convenience of the Parties, and the Escrow Agent has no duties or obligations with respect thereto. This Escrow Agreement sets forth all matters pertinent to the escrow contemplated hereunder, and no additional obligations of the Escrow Agent shall be inferred or implied from the terms of this Escrow Agreement or any other agreement.

14. Attorneys and Agents. The Escrow Agent shall be entitled to rely on and shall not be liable for any action taken or omitted to be taken by the Escrow Agent in accordance with the advice of counsel or other professionals retained or consulted by the Escrow Agent. The Escrow

Agent shall be reimbursed for any and all compensation (fees, expenses and other costs) paid and/or reimbursed to such counsel and/or professionals. The Escrow Agent may perform any and all of its duties through its agents, representatives, attorneys, custodians, and/or nominees.

15. Reliance. The Escrow Agent shall not be liable for any action taken or not taken by it in accordance with the direction or consent of the Lessor and Lessee or their respective agents, representatives, successors, or assigns. The Escrow Agent shall not be liable for acting or refraining from acting upon any notice, request, consent, direction, requisition, certificate, order, affidavit, letter, or other paper or document believed by it to be genuine and correct and to have been signed or sent by the proper person or persons, without further inquiry into the person's or persons' authority.

16. Right Not Duty Undertaken. The permissive rights of the Escrow Agent to do things enumerated in this Escrow Agreement shall not be construed as duties.

17. No Financial Obligation. No provision of this Escrow Agreement shall require the Escrow Agent to risk or advance its own funds or otherwise incur any financial liability or potential financial liability in the performance of its duties or the exercise of its rights under this Escrow Agreement.

18. Resignation or Removal. The Escrow Agent may resign by furnishing written notice of its resignation to the Lessor and Lessee, and the Lessor or Lessee may remove the Escrow Agent by furnishing to the Escrow Agent and the other party to this Escrow Agreement a written notice of the Escrow Agent's removal along with payment of all fees and expenses to which it is entitled through the date of termination. Such resignation or removal, as the case may be, shall be effective thirty (30) days after the delivery of such notice or upon the earlier appointment of a successor, and the Escrow Agent's sole responsibility thereafter shall be to safely keep the Escrow Deposit and to deliver the same to a successor escrow agent as shall be appointed by the Lessor and Lessee, as evidenced by a joint written notice filed with the Escrow Agent or in accordance with a court order. If the Lessor and Lessee have failed to appoint a successor escrow agent prior to the expiration of thirty (30) days following the delivery of such notice of resignation or removal, the Escrow Agent may petition any court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief, and any such resulting appointment shall be binding upon the Lessor and Lessee.

The Escrow Agent will transfer the Escrow Deposit then held by it to the successor Escrow Agent selected by Lessor and Lessee.

Any successor Escrow Agent must be authorized to do business in the State of New York and have an office in the State of New York.

19. Disagreements. If any conflict, disagreement or dispute arises between, among, or involving any of the parties hereto concerning the meaning or validity of any provision hereunder or concerning any other matter relating to this Escrow Agreement, or the Escrow Agent is in doubt as to the action to be taken hereunder, the Escrow Agent is authorized to retain the Escrow Deposit until the Escrow Agent (i) receives a final non-appealable order of a court of competent jurisdiction or a final non-appealable arbitration decision directing delivery of the Escrow Deposit, (ii) receives a written agreement executed by each of the parties involved in such disagreement or dispute directing delivery of the Escrow Deposit, in which event the Escrow Agent shall be authorized to disburse the Escrow Deposit in accordance with such final court order, arbitration decision, or agreement, or (iii) files an interpleader action in any court of competent jurisdiction, and upon the filing thereof, the Escrow Agent shall be relieved of all liability as to the Escrow Deposit and shall be entitled to recover reasonable attorneys' fees, expenses and other costs incurred in commencing and maintaining any such interpleader action. The Escrow Agent shall be entitled to act on any such agreement, court order, or arbitration decision without further question, inquiry, or consent.

20. Merger or Consolidation. Any corporation or association into which the Escrow Agent may be converted or merged, or with which it may be consolidated, or to which it may sell or transfer all or substantially all of its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any such conversion, sale, merger, consolidation or transfer to which the Escrow Agent is a party, shall be and become the successor escrow agent under this Escrow Agreement and shall have and succeed to the rights, powers, duties, immunities and privileges as its predecessor, without the execution or filing of any instrument or paper or the performance of any further act.

21. Attachment of Escrow Deposit; Compliance with Legal Orders. In the event that any of the Escrow Deposit shall be attached, garnished or levied upon by any court order, or the delivery thereof shall be stayed or enjoined by an order of a court, or any order, judgment or decree shall be made or entered by any court order affecting the Escrow Deposit, the Escrow Agent is hereby expressly authorized, in its sole discretion, to respond as it deems appropriate or to comply with all writs, orders or decrees so entered or issued, or which it is advised by legal counsel of its own choosing is binding upon it, whether with or without jurisdiction. In the event that the Escrow Agent obeys or complies with any such writ, order or decree it shall not be liable to any of the Lessor and Lessee or to any other person, firm or corporation, should, by reason of such compliance notwithstanding, such writ, order or decree be subsequently reversed, modified, annulled, set aside or vacated.

22. Successors and Assigns. This Escrow Agreement shall inure to the benefit of shall be binding upon the parties hereto and their respective successors and assigns. No rights or obligations of the Escrow Agent under this Escrow Agreement may be assigned without the prior written consent of Lessor and Lessee.

23. Waivers. The failure of any party to this Escrow Agreement at any time or times to require performance of any provision under this Escrow Agreement shall in no manner affect the right at a later time to enforce the same performance. A waiver by any party to this Escrow Agreement of any such condition or breach of any term, covenant, representation, or warranty contained in this Escrow Agreement, in any one or more instances, shall neither be construed as a further or continuing waiver of any such condition or breach nor a waiver of any other condition or breach of any other term, covenant, representation, or warranty contained in this Escrow Agreement.

24. Headings. Section headings of this Escrow Agreement have been inserted for convenience of reference only and shall in no way restrict or otherwise modify any of the terms or provisions of this Escrow Agreement.

25. Counterparts Electronic Transaction. This Escrow Agreement may be executed in one or more counterparts, each of which when executed shall be deemed to be an original, and such counterparts shall together constitute one and the same instrument. In addition, the parties agree that the transaction described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

26. Miscellaneous. This Escrow Agreement, and with respect to Lessee and Lessor, the Lease, embody the entire agreement and understanding of the parties concerning the Escrow Deposit. This Escrow Agreement may be amended only by a writing signed by all the parties hereto. The headings in this Escrow Agreement are intended solely for convenience or reference and shall be given no effect in the construction or interpretation of this Escrow Agreement. This Escrow Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to the choice of law rules applicable in such jurisdiction.

27. Patriot Act. The parties acknowledge that in order to help the United States government fight the funding of terrorism and money laundering activities, pursuant to Federal

regulations that became effective on October 1, 2003 (Section 326 of the USA PATRIOT Act) all financial institutions are required to obtain, verify, record and update information that identifies each person establishing a relationship or opening an account. The parties to this Escrow Agreement agree that they will provide to the Escrow Agent such information as it may request, from time to time, in order for the Escrow Agent to satisfy the requirements of the USA PATRIOT Act, including but not limited to the name, address, tax identification number and other information that will allow it to identify the individual or entity who is establishing the relationship or opening the account and may also ask for formation documents such as articles of incorporation or other identifying documents to be provided.

To evidence their agreement, the parties have caused this Escrow Agreement to be executed on the date first written above.

LESSOR:
ROC LEASING LLC

By: _____
Name: Patricia Moore
Title: President

LESSEE:
TOWN OF HENRIETTA, NEW YORK

By: _____
Name: Stephen L. Schultz
Title: Town Supervisor

ESCROW AGENT:
CAPITAL ONE, NATIONAL ASSOCIATION

By: _____
Name: _____
Title: _____

EXHIBIT A

CERTIFICATE OF ACCEPTANCE AND PAYMENT REQUEST

Capital One, National Association (the “Escrow Agent”), as escrow agent under that certain Escrow Deposit Agreement dated January 10, 2024 (the “Escrow Agreement”), by and among the Town of Henrietta, New York (“Lessee”), ROC Leasing LLC (“Lessor”) and the Escrow Agent, is hereby requested to pay from the Escrow Deposit established and maintained thereunder, the amount set forth below to the named payee(s). The amount shown is due and payable under a purchase order or contract (or has been paid by and not previously reimbursed to Lessee). The equipment and costs described below are (i) costs of acquiring and installing part or all of the Equipment listed in Schedule of Equipment No. 2 dated January 10, 2024 (the “Schedule”) to that certain Master Equipment Lease Purchase Agreement dated as of July 31, 2023 (the “Master Agreement,” and together with the Schedule, the “Lease”), between Lessor and Lessee or (ii) costs incurred in connection with the execution and delivery of the Lease:

DESCRIPTION OF EQUIPMENT OR FINANCING COST	AMOUNT	PAYEE
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Lessee hereby certifies and represents to and agrees with Lessor as follows: (i) the amount to be disbursed is not being paid in advance of the time, if any, fixed for any payment, and does not include any retained percentage entitled to be retained by Lessee at this time; (ii) no amount requested to be disbursed was included in any payment request previously filed with the Escrow Agent for which payment was actually made by the Escrow Agent; (iii) Lessee has made such investigation of such sources of information as are deemed necessary and is of the opinion that the applicable portion of the Equipment and related work has been fully paid for, and no claim or claims exist against Lessee or any Vendor out of which a lien based on furnishing labor or material exists or might arise; (iv) acquisition and installation of the applicable portion of the Equipment for which payment is being requested has been completed in accordance with plans and specifications approved by Lessee and in accordance with the terms and conditions of the related contracts, and said applicable portion of the Equipment is suitable and sufficient for the expected uses thereof, however, this statement is made without prejudice to any rights against third parties which exist at the date hereof or which may subsequently come into being; (v) the amount remaining in the Escrow Deposit will, after payment of the amount requested, be sufficient to pay the remaining costs of the Equipment; (vi) a present need exists for such Equipment for which payment is being requested, which need is not temporary or expected to diminish in the near future; (vii) such Equipment is essential to and will be used by Lessee only for the purpose of performing one or more governmental functions of Lessee consistent with the permissible scope of Lessee’s authority; (viii) the estimated useful life of such Equipment based upon the manufacturer’s representations and Lessee’s projected needs is not less than the term of lease with respect to such Equipment; (ix) Lessee has conducted such inspection and/or testing of such Equipment as it deems necessary and appropriate and hereby acknowledges that it accepts such Equipment for all purposes as of the date of this Certificate; (x) such Equipment is covered by insurance in the types and amounts required by the Master Agreement; (xi) no Event of Default, as such term is defined in the Master Agreement, or nonappropriation under the Lease, and no event which with the giving of notice or lapse of time or both, would become an Event of Default or nonappropriation under the Lease, has occurred and is continuing on the date hereof; and (xii) sufficient funds have been appropriated by Lessee for the payment of all rental payments due under the Lease during Lessee’s current fiscal year.

Based on the foregoing, the Escrow Agent is hereby authorized and directed to pay or cause to be paid, the manufacturer(s)/vendor(s), Lessee or other payee(s) the amounts set forth on the attached invoices from the Escrow Deposit held under the Escrow Agreement in accordance with its terms.

The following documents are attached hereto and made a part hereof: (a) invoice(s) for costs being paid; (b) a current IRS Form W-9 for the payee (unless such IRS Form W-9 has been previously submitted to the Escrow Agent); and (c) lien waivers, if applicable.

IF REQUEST IS FOR REIMBURSEMENT, CHECK HERE . Lessee paid an invoice prior to the commencement date identified in the Lease and is requesting reimbursement for such payment. A copy of evidence of such payment together with a copy of Lessee's Declaration of Official Intent and any other evidence required by Lessor prior to Lessor's approval hereof that Lessee has satisfied the requirements for reimbursement set forth in Treas. Reg. 1.150-2, is hereby attached. Lessor's approval hereof shall evidence that Lessee has delivered to Lessor such required documentation.

IF REQUEST IS FINAL REQUEST, CHECK HERE . Lessee hereby certifies that (a) all of the Equipment described in the Lease has been received in good condition and has been installed in accordance with the related contracts; (b) such Equipment is accepted **"AS-IS, WHERE-IS"**; (c) Lessee has inspected the Equipment, and determined that it is in good working order and complies with all purchase orders, contracts and specifications; (d) Lessee has fully and satisfactorily performed all covenants and conditions to be performed by it as of this date under the Lease with regard to such Equipment; (e) Lessee waives any right to revoke its acceptance; and (f) the Equipment is fully insured in accordance with Section 22 of the Master Agreement. This certificate is made without prejudice to any rights against third parties which may exist as of the date hereof or which may subsequently come into being.

Date: _____, 20__.

Approved for Payment:

_____, as Lessor

TOWN OF HENRIETTA, NEW YORK,
as Lessee

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

EXHIBIT B
INCUMBENCY CERTIFICATE REGARDING
AUTHORIZED LESSEE REPRESENTATIVES
ESCROW AGREEMENT
DATED AS OF JANUARY 10, 2024, BY AND AMONG
ROC LEASING LLC, AS LESSOR, THE
TOWN OF HENRIETTA, NEW YORK, AS LESSEE, AND
CAPITAL ONE, NATIONAL ASSOCIATION, AS ESCROW AGENT

The undersigned officer of the Town of Henrietta, New York (“Lessee”) hereby certifies that the persons listed below are each designated as an Authorized Lessee Representative of Lessee for the Escrow Agreement dated January 10, 2024 (the “Escrow Agreement”), among Lessee, ROC Leasing LLC (“Lessor”) and Capital One, National Association, as escrow agent (the “Escrow Agent”), including but not limited to initiating and approving transactions under the Escrow Agreement and confirming such approvals through call-backs from Lessor and the Escrow Agent relating thereto, all on behalf of Lessee. Each such person is the current holder of the office or title indicated, and the signature set forth opposite the name of each such authorized representative is the true and correct specimen of such person’s signature:

<u>Name/Title/Telephone/Email</u>	<u>Specimen Signature</u>
Stephen L. Schultz Name	_____ Signature
Town Supervisor Title	
585-359-7000 Telephone #	
supervisor@henrietta.org Email Address	

<u>Name/Title/Telephone/Email</u>	<u>Specimen Signature</u>
Linda K. Salpini Name	_____ Signature
Director of Finance Title	
585-359-7024 Telephone #	
lsalpini@henrietta.org Email Address	

TOWN OF HENRIETTA, NEW YORK

By: _____
Name: Rebecca Wiesner
Title: Town Clerk

FEDERAL TAX AGREEMENT

THIS FEDERAL TAX AGREEMENT (the “Tax Agreement”), is executed as of January 10, 2024, by the Town of Henrietta, New York (the “Issuer”), for the benefit of ROC Leasing LLC and its successors and assigns (the “Lessor”), and any firm of attorneys rendering an opinion on the exclusion from gross income for federal income tax purposes of the interest portion of rental payments payable under the Lease.

RECITALS

1. This Tax Agreement is being executed and delivered in connection with Schedule of Equipment No. 2 dated January 10, 2024 (the “Schedule”), to Master Equipment Lease Purchase Agreement dated as of July 31, 2023 (the “Master Agreement” and, as amended and supplemented by the Schedule, the “Lease”), entered into by and between the Issuer, as lessee, and the Lessor, as lessor.

2. The Internal Revenue Code of 1986, as amended from time to time, and the applicable Regulations (as defined herein), impose certain limitations on the uses and investment of the Lease Proceeds (as defined herein) and of certain other money relating to the Lease, and set forth the conditions under which the interest portion of rental payments payable under the Lease will be excluded from gross income for federal income tax purposes.

3. The Issuer is executing this Tax Agreement in order to set forth certain facts, covenants, representations, and expectations relating to the use of the Lease Proceeds and the property financed or refinanced with those proceeds and the investment of the Lease Proceeds and of certain other related money, in order to establish and maintain the exclusion of the interest portion of rental payments payable under the Lease from gross income for federal income tax purposes, and to provide guidance for complying with the arbitrage rebate provisions of Code § 148(f).

NOW, THEREFORE, in consideration of the foregoing and the mutual representations, covenants and agreements set forth in this Tax Agreement, the Issuer represents, covenants and agrees as follows:

Section 1. Definitions of Words and Terms. Except as otherwise provided in this Tax Agreement or unless the context otherwise requires, capitalized words and terms used in this Tax Agreement have the same meanings as set forth in the Lease, and certain other words and phrases have the meanings assigned in Code §§ 103, 141-150 and the Regulations. The following words and terms used in this Tax Agreement have the following meanings:

“**Annual Compliance Checklist**” means a checklist for the Lease designed to measure compliance with the requirements of this Tax Agreement after the Closing Date substantially in the form attached as **Exhibit D**.

“**Benefitted Facilities**” or “**Benefitted Facility**” means, as the context requires, all or any of the Issuer’s buildings and facilities benefitted from the Project, comprising the Financed Assets as further described on **Exhibit C** to this Tax Agreement. The Benefitted Facilities are expected to include the facilities set on **Exhibit C** to this Tax Agreement.

“**Closing Date**” means January 10, 2024.

“**Code**” means the Internal Revenue Code of 1986, as amended from time to time.

“Compliance Officer” means the Town Supervisor of the Issuer or its designee.

“Escrow Agent” means Capital One, National Association, as escrow agent under the Escrow Agreement, and its successors and assigns.

“Escrow Agreement” means the Escrow Deposit Agreement of even date herewith, among the Issuer, the Lessor and the Escrow Agent, as amended from time to time.

“Financed Assets” and **“Financed Asset”** means, as the context requires, all or any portion of the Project financed with proceeds of the Lease, as described on **Exhibit C** hereto.

“Investment” means any security, obligation, annuity contract or other investment-type property that is purchased directly with, or otherwise allocated to, Lease Proceeds. This term does not include a tax-exempt bond, except for “specified private activity bonds” as defined in Code § 57(a)(5)(C), but it does include the investment element of most interest rate caps.

“IRS” means the Internal Revenue Service.

“Lease” means the Schedule and the Master Agreement, the terms and provisions of which are incorporated into the Schedule, except as provided therein.

“Lease Proceeds” means the gross proceeds of the Lease, which include (a) sale proceeds (any amounts actually or constructively received by the Issuer from the execution and delivery of the Lease, including amounts used to pay a discount or fees to the Lessor, but excluding pre-issuance accrued interest), (b) any amounts received from investing sale proceeds or transferred proceeds or other investment proceeds, (c) any amounts held in a sinking fund for the Lease, (d) any amounts held in a pledged fund or reserve fund for the Lease, and (e) any other replacement proceeds.

“Management or Service Agreement” means a legal agreement defined in Regulations § 1.141-3(b) as a management, service, or incentive payment contract with an entity that provides services involving all or a portion of any function of a Financed Asset or a Benefitted Facility, such as a contract to manage all or any portion of the Financed Assets or the Benefitted Facilities. However, contracts for services that are solely incidental to the primary governmental function of a Financed Asset or a Benefitted Facility (for example, contracts for janitorial, office equipment repair, billing or similar services); however, are not treated as Management or Service Agreements.

“Master Agreement” means the Master Equipment Lease Purchase Agreement dated as of July 31, 2023, between the Issuer, as lessee, and the Lessor, as lessor, as amended from time to time.

“Measurement Period” means the period beginning on the later of (i) the Closing Date or (ii) the date the property is placed in service and ending on the earlier of (A) the final maturity date of the Lease or (B) the expected economic useful life of the property.

“Non-Qualified Use” generally means any use of a Financed Asset or a Benefitted Facility in a trade or business carried on by any Non-Qualified User that is different in form or substance to the use made of a Financed Asset or a Benefitted Facility by any other member of the general public. Generally, ownership, a lease agreement or any other use that provides a Non-Qualified User a special legal right or entitlement to use a Financed Asset or a Benefitted Facility will constitute Non-Qualified Use.

“Non-Qualified User” means any person or entity other than the Issuer.

“Opinion of Special Tax Counsel” means the written opinion of Special Tax Counsel addressed to the Lessor to the effect that the proposed action or the failure to act will not adversely affect the exclusion of the interest portion of rental payments under the Lease from gross income for federal income tax purposes or an opinion describing additions, modifications or additional procedures required to preserve the interest portion of rental payments under the Lease from gross income for federal income tax purposes.

“Post-Issuance Tax Requirements” means those requirements related to the use of Lease Proceeds, the use of the Financed Assets and Benefitted Facilities, and the investment of Lease Proceeds after the Closing Date.

“Project” means all of the energy conservation measures acquired, installed, constructed, and equipped by the Issuer using Lease Proceeds and other money contributed by the Issuer, if any, as described on **Exhibit C**.

“Qualified Use Agreement” means any of the following:

(1) A lease or other short-term use by members of the general public who use the Project on a short-term basis in the ordinary course of the Issuer’s governmental purposes.

(2) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Project for a period up to 200 days in length pursuant to an arrangement whereby (a) the use of the Project under the same or similar arrangements is predominantly by natural persons who are not engaged in a trade or business and (b) the compensation for the use is determined based on generally applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed. Any Qualified User or Non-Qualified User using all or any portion of the Project under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(3) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Project for a period up to 100 days in length pursuant to arrangements whereby (a) the use of the property by the person would be general public use but for the fact that generally applicable and uniformly applied rates are not reasonably available to natural persons not engaged in a trade or business, (b) the compensation for the use under the arrangement is determined based on applicable, fair market value rates that are in effect at the time the agreement is entered into or renewed, and (c) the Project was not constructed for a principal purpose of providing the property for use by that Qualified User or Non-Qualified User. Any Qualified User or Non-Qualified User using all or any portion of the Project under this type of arrangement may have a right of first refusal to renew the agreement at rates generally in effect at the time of the renewal.

(4) Agreements with Qualified Users or Non-Qualified Users to use all or a portion of the Project for a period up to 50 days in length pursuant to a negotiated arm’s-length arrangement at fair market value so long as the Project was not constructed for a principal purpose of providing the property for use by that person.

“Qualified User” means a State, territory, possession of the United States, the District of Columbia, or any political subdivision thereof, or any instrumentality of such entity, but it does not include the United States or any agency or instrumentality of the United States.

“Regulations” means United States Treasury Regulations governing obligations the interest on which is excluded from gross income for federal income tax purposes under Code §§ 103 and 141-150.

“Schedule” means Schedule of Equipment No. 2 dated January 10, 2024, between the Issuer, as lessee, and the Lessor, as lessor, as amended from time to time.

“Special Tax Counsel” means Gilmore & Bell, P.C., Kansas City, Missouri, or other nationally recognized firm of bond counsel acceptable to the Lessor.

“State” means the State of New York.

“Tax Compliance File” means documents and records for the Lease maintained by the Compliance Officer pursuant to this Tax Agreement.

“Yield” means the yield on the Lease, computed under Regulations § 1.148-4, and yield on an Investment, computed under Regulations § 1.148-5.

Section 2. Organization and Authority; General Representations.

(a) **Authority.** The Issuer (1) is a political subdivision organized and existing under the laws of the State, (2) has lawful power and authority to enter into, execute and deliver the Lease for the purposes set forth in the Lease and this Tax Agreement and to carry out its obligations under this Tax Agreement and under such documents, and (3) by all necessary action has been duly authorized to execute and deliver the Lease and this Tax Agreement, acting by and through its duly authorized officials.

(b) **Tax-Exempt Status of Lease—General Representation and Covenants.** In order to maintain the exclusion of the interest component of Rental Payments payable under the Lease from gross income for federal income tax purposes, the Issuer (1) will take whatever action, and refrain from whatever action, necessary to comply with the applicable requirements of the Code; (2) will not use or invest, or permit the use or investment of, any Lease Proceeds or other funds of either party in a manner that would violate applicable provisions of the Code; and (3) will not use, or permit the use of, any portion of the Financed Assets or any Benefitted Facilities, in a manner that would cause any portion of the Lease to become a “private activity bond” as defined in Code § 141.

Section 3. Purpose of the Lease; Reimbursement; Use of Lease Proceeds.

(a) **Purpose.** The Lease is being executed and delivered for the purpose of paying costs of the Project.

(b) **Reimbursement.** Reimbursement from proceeds of the Lease of expenditures paid prior to the Closing Date will satisfy the requirements of Regulations § 1.150-2. The list of expenditures to be reimbursed, if any, are set forth on **Exhibit C**.

(c) **Use of Lease Proceeds.** On the Closing Date, all proceeds of the Lease in the amount of \$1,238,897.62, are expected to be deposited in the escrow fund established by the Escrow Agent pursuant to the terms of the Escrow Agreement (the “Escrow Fund”) and used to pay costs of the Financed Assets.

Section 4. Project Completion. The Issuer has incurred, or will incur within 6 months after the Closing Date, a substantial binding obligation to a third party to spend at least 5% of the Lease Proceeds on the Financed Assets. The completion of the Financed Assets and the allocation of the Lease Proceeds to expenditures will proceed with due diligence. At least 85% of the proceeds of the Lease will be allocated to expenditures on the Financed Assets within 3 years after the Closing Date.

Section 5. Funds or Accounts. The Escrow Fund has been established under the Escrow Agreement with the Escrow Agent. Amounts held in the Escrow Fund will be used to pay costs of the Project. No other funds or accounts have been established for the Lease to hold Lease Proceeds or other money that will be used to make rental payments under the Lease.

Section 6. Rebate and Yield Restriction.

(a) *Lessor's Certifications.* Capital One Public Funding, LLC, as assignee of ROC Leasing LLC (the "Lender") has represented in the Issue Price Certificate dated as of the Closing Date (the "Issue Price Certificate") that it has acquired the Lease pursuant to Regulations §1.148-1(f)(2)(i) (relating to the so-called "private placement rule") at a premium and presently intends to hold the Lease for its own account with no current intent to sell, assign or transfer the Lease.

(b) *Lease Yield.* Based on certifications by the Lender, Special Tax Counsel has determined that the Yield on the Lease is 5.1861%. The amortization schedule and calculation of the Yield on the Lease is attached to this Tax Agreement as **Exhibit A**. The Issuer has not entered into an interest rate swap agreement with respect to any portion of Lease Proceeds.

(c) *Lease Subject to the Rebate Requirement.* The Lease is subject to the arbitrage rebate requirements of Code § 148(f). Pursuant to the Escrow Agreement, investment of the Lease Proceeds is limited to placement in an interest-bearing demand deposit account. If the Yield on investments of the Escrow Fund exceeds 5.1861%, or if the Issuer establishes any sinking or reserve fund for the Lease, then the Issuer will contact Special Tax Counsel to seek advice regarding the need to calculate and pay arbitrage rebate.

Section 7. Use of Financed Assets and Benefitted Facilities.

(a) *General.* The Project will be owned by the Issuer throughout the Measurement Period. Except as otherwise described in this **Section 6**, no portion of the buildings and facilities comprising the Project is expected to be used in a Non-Qualified Use during the Measurement Period. Unless the Issuer obtains an Opinion of Special Tax Counsel, the Issuer will not use, or permit the use of, the buildings and facilities comprising the Project in any other Non-Qualified Use.

(b) *Management of Service Agreements.* As of the Closing Date, the Issuer does not have any Management or Service Agreements with Non-Qualified Users that relate to the management or operation of any portion of the facilities comprising the Project. During the Measurement Period, the Issuer will not enter into or renew any Management or Service Agreement with any Non-Qualified User with respect to the management or operation of any portion of the facilities comprising the Project without first obtaining an Opinion of Special Tax Counsel.

(c) *Leases and Other Use Agreements.* As of the Closing Date, the Issuer does not have any leases or similar use agreements with Non-Qualified Users with respect to the facilities comprising the Project. During the Measurement Period, the Issuer will not enter into or renew

any leases or similar use agreements with any Non-Qualified Users, other than Qualified Use Agreements, with respect to the facilities comprising the Project without first obtaining an Opinion of Special Tax Counsel.

(d) *Written Policies and Procedures of the Issuer.* The Issuer intends for this Tax Agreement to be its primary written policies and procedures for monitoring compliance with the Post-Issuance Tax Requirements for the Lease and to supplement any other formal policies and procedures related to the Post-Issuance Tax Requirements that the Issuer has established.

(e) *Compliance Officer.* The Issuer, when necessary to fulfill the Post-Issuance Tax Requirements, will, through the Compliance Officer, sign Form 8038-T in connection with the payment of arbitrage rebate or Yield reduction payments, participate in any federal income tax audit of the Lease or related proceedings under a voluntary compliance agreement procedures (VCAP) or undertake a remedial action procedure pursuant to Regulations § 1.141-12.

(f) *Annual Compliance Checklist.* Attached as **Exhibit D** is a form of Annual Compliance Checklist for the Lease. The Compliance Officer will prepare and complete an Annual Compliance Checklist for the Financed Assets and Benefitted Facilities at least annually. In the event the Annual Compliance Checklist identifies a deficiency in compliance with the requirements of this Tax Agreement, the Compliance Officer will obtain an Opinion of Special Tax Counsel and take actions to correct any deficiency.

Section 8. Recordkeeping. The Compliance Officer will maintain the Tax Compliance File for the Lease in accordance with this Tax Agreement. Unless otherwise specifically instructed in a written Opinion of Special Tax Counsel or to the extent otherwise provided in this Tax Agreement, the Compliance Officer shall retain records related to the Post-Issuance Tax Requirements until 3 years following the final maturity of (i) the Lease or (ii) any obligation issued to refund the Lease. Any records maintained electronically must comply with Section 4.01 of Revenue Procedure 97-22, which generally provides that an electronic storage system must (1) ensure an accurate and complete transfer of the hardcopy records which indexes, stores, preserves, retrieves and reproduces the electronic records, (2) include reasonable controls to ensure integrity, accuracy and reliability of the electronic storage system and to prevent unauthorized alteration or deterioration of electronic records, (3) exhibit a high degree of legibility and readability both electronically and in hardcopy, (4) provide support for other books and records of the Issuer, and (5) not be subject to any agreement that would limit the ability of the IRS to access and use the electronic storage system on the Issuer's premises.

Section 9. Miscellaneous

(a) *Form 8038-G.* A copy of the completed and fully executed IRS Form 8038-G (Information Return for Tax-Exempt Governmental Obligations) is attached to this Tax Agreement as **Exhibit B**. The Form 8038-G was prepared by Special Tax Counsel based on representations and covenants by the Issuer contained in this Tax Agreement or otherwise made by the Issuer. The information contained on Form 8038-G is true, complete and correct to the knowledge of the undersigned, and the undersigned is authorized to sign the Form 8038-G on behalf of the Issuer and deliver it to Special Tax Counsel for filing with the IRS.

(b) *Single Issue.* No other debt obligations of the Issuer: (1) are being sold within 15 days of the execution and delivery of the Lease, (2) are being sold under the same plan of financing as the Lease, and (3) are expected to be paid from substantially the same source of funds as the Lease (disregarding guarantees from unrelated parties, such as bond insurance).

(c) *Bank Qualified Tax-Exempt Obligation.* The Issuer has designated the Lease as a “qualified tax-exempt obligation” under Code § 265(b)(3), and with respect to this designation certifies as follows:

(1) The Issuer reasonably anticipate that the amount of tax-exempt obligations (other than private activity bonds that are not qualified 501(c)(3) bonds) that will be issued by or on behalf of the Issuer (and all subordinate entities of the Issuer) during the calendar year that the Lease is executed and delivered, including the Lease, will not exceed \$10,000,000; and

(2) The Issuer (including all subordinate entities of the Issuer) will not issue tax-exempt obligations (other than private activity bonds that are not qualified 501(c)(3) bonds) during the calendar year that the Lease is executed and delivered, including the Lease, in an aggregate principal amount or aggregate issue price in excess of \$10,000,000, without first obtaining an Opinion of Special Tax Counsel that the designation of the Lease as a “qualified tax-exempt obligation” will not be adversely affected.

(d) *No Federal Guaranty.* The payment of rental payments under the Lease are not, and the Issuer will not permit the payment of rental payments under the Lease to be, directly or indirectly guaranteed by the United States of America or any agency thereof.

(e) *Hedge Bonds.* The Issuer reasonably expects that at least 85% of the net sale proceeds (the sale proceeds of the Lease less any sale proceeds invested in a reserve fund) of the Lease will be used to carry out the governmental purpose of the Lease within 3 years after the Closing Date, and not more than 50% of the proceeds of the Lease will be invested in Investments having a substantially guaranteed Yield for 4 years or more.

(f) *Registration Requirement; Record Owner.* The Issuer will maintain or cause to be maintained a record of the owner(s) of the Lease and the person/entity entitled to the receipt of the interest portions of rental payments under the Lease. Transfer of ownership of the Lease is effective only if entered in these records.

(g) *Reliance.* The Issuer understands that its certifications will be relied upon by the law firm of Gilmore & Bell, P.C., in rendering its opinion as to the validity of the Lease and the exclusion from federal gross income of the interest portion of payments payable by the Issuer under the Lease.

(h) *Enforceability.* If any provision in this Tax Agreement or in the Lease is determined to be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions will not be affected or impaired.

(i) *Electronic Transactions.* The transaction described in this Tax Agreement may be conducted, and related documents may be stored, by electronic means.

[Signature page follows.]

IN WITNESS WHEREOF, the undersigned, by execution of this Tax Agreement, hereby makes the foregoing certifications, representations, and agreements contained in this Tax Agreement on behalf of the Issuer.

TOWN OF HENRIETTA, NEW YORK

By: _____
Town Supervisor

EXHIBIT A

**AMORTIZATION SCHEDULE AND CALCULATION OF
WEIGHTED AVERAGE MATURITY AND YIELD ON THE LEASE**

Schedule of Lease Payments								
Payment Date	Amort.		Payments			Principal Balance	Bond Years	Purchase Price
	Pmt. No.	Interest Rate	Interest	Principal	Total			
1/10/2024								
1/10/2024	-					\$ 1,238,897.62	-	N/A
1/5/2025	1	5.549%	67,791.62	37,208.38	105,000.00	1,201,689.24	36.692	N/A
1/5/2026	2	5.549%	66,681.74	43,318.26	110,000.00	1,158,370.98	86.035	N/A
1/5/2027	3	5.549%	64,278.01	50,721.99	115,000.00	1,107,648.99	151.461	N/A
1/5/2028	4	5.549%	61,463.44	58,536.55	119,999.99	1,049,112.44	233.333	N/A
1/5/2029	5	5.549%	58,215.25	63,784.75	122,000.00	985,327.69	318.038	N/A
1/5/2030	6	5.549%	54,675.83	73,324.16	127,999.99	912,003.53	438.927	N/A
1/5/2031	7	5.549%	50,607.08	81,392.92	132,000.00	830,610.61	568.620	N/A
1/5/2032	8	5.549%	46,090.58	91,909.41	137,999.99	738,701.20	733.999	753,475.22
1/5/2033	9	5.549%	40,990.53	102,009.47	143,000.00	636,691.73	916.668	649,425.56
1/5/2034	10	5.549%	35,330.02	111,669.97	146,999.99	525,021.76	1,115.149	535,522.20
1/5/2035	11	5.549%	29,133.46	120,821.66	149,955.12	404,200.10	1,327.360	412,284.10
1/5/2036	12	5.549%	22,429.06	127,526.05	149,955.11	276,674.05	1,528.541	282,207.53
1/5/2037	13	5.549%	15,352.64	134,602.48	149,955.12	142,071.57	1,747.963	144,913.00
1/5/2038	14	5.549%	7,883.55	142,071.57	149,955.12	-	1,987.029	-
Total			620,922.81	1,238,897.62	1,859,820.43		11,189.815	

Lease Statistics			
Principal amount		\$ 1,238,897.62	Day-Count Method 30/360
Interest rate		5.549%	
Dated date		1/10/2024	
Issue date		1/10/2024	Days of accrued interest -
First interest payment		1/5/2025	Accrued interest \$0.00
First principal payment		1/5/2025	Bond years 11,189.815
Last payment		1/5/2038	
No. of principal payments per year		1	Weighted avg. maturity (years) 9.0321
Total no. of principal payments		14	Lease yield 5.186151%
Denomination		0.01	Net interest cost 5.549000%

Proof of Arbitrage Yield

Payment Date	Days After Closing	Lease Payments	Pres. Val. Factor 5.18615%	Present Value to 1/10/2024
1/10/2024				
1/10/2024	-	-	1.0000000	-
1/5/2025	355	105,000.00	0.9507640	99,830.22
1/5/2026	715	110,000.00	0.9033096	99,364.06
1/5/2027	1,075	115,000.00	0.8582238	98,695.74
1/5/2028	1,435	119,999.99	0.8153883	97,846.58
1/5/2029	1,795	122,000.00	0.7746907	94,512.27
1/5/2030	2,155	127,999.99	0.7360245	94,211.13
1/5/2031	2,515	132,000.00	0.6992881	92,306.03
1/5/2032	2,875	137,999.99	0.6643854	91,685.18
1/5/2033	3,235	143,000.00	0.6312247	90,265.13
1/5/2034	3,595	146,999.99	0.5997191	88,158.70
1/5/2035	3,955	149,955.12	0.5697860	85,442.33
1/5/2036	4,315	149,955.11	0.5413469	81,177.74
1/5/2037	4,675	149,955.12	0.5143273	77,126.01
1/5/2038	5,035	149,955.12	0.4886563	73,276.51
Total		1,859,820.43		1,263,897.62

EXHIBIT B

IRS FORM 8038-G

[Post Closing Item -- To be prepared and filed by Special Tax Counsel.]

EXHIBIT C

**DESCRIPTION OF EQUIPMENT EXPECTED TO
COMPRISE FINANCED ASSETS AND BENEFITTED FACILITIES**

Description of Financed Assets:

The Financed Assets consists of the following:

- Approximately 1,476 streetlights (the “Streetlights”) purchased by the Issuer pursuant to the terms of that certain Agreement for Purchase and Sale of Street Lighting Facilities between Rochester Gas and Electric Corporation and the Issuer; and
- Streetlight upgrades, including LED fixtures, as further described in that certain Energy Performance Contract dated March 8, 2023, between the Issuer and Centrica Business Solutions Services, Inc.,

The estimated average economic life of the Financed Assets is not less than 14 years, and the Issuer expects the Financed Assets to be placed in service no later than December 31, 2024.

Sources and Uses of Funds:

The overall financing sources and uses of the Lease are expected to be as follows:

Source:

Lease Proceeds.....	<u>\$1,238,897.62</u>
Total Sources:	<u>\$1,238,897.62</u>

Uses:

Acquisition and Installation of Financed Assets	<u>\$1,238,897.62</u>
Total Uses:	<u>\$1,238,897.62</u>

EXHIBIT D

SAMPLE ANNUAL COMPLIANCE CHECKLIST

<p>Name of tax-exempt obligation (the “Lease”) financing the Financed Assets:</p>	<p>This Annual Compliance Checklist is designed to cover Schedule of Equipment No. 2 to Master Equipment Lease Purchase Agreement, each dated as of July 31, 2023, by and between the Town of Henrietta, New York, as lessee, and ROC Leasing LLC, as lessor</p>	
<p>Placed in service date of Financed Assets:</p>	<p>_____</p>	
<p>Benefitted Facilities:</p>	<p>_____</p>	
<p>Name of Compliance Officer:</p>	<p>_____</p>	
<p>Period covered by request (“Annual Period”):</p>	<p>_____</p>	
Item	Question	Response
<p align="center">1 Ownership</p>	<p>For federal income tax purposes, were all of the Financed Assets and Benefitted Facilities owned by the Issuer for federal tax purposes during the entire Annual Period?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If answer above was “No,” was an Opinion of Special Tax Counsel obtained prior to the transfer?</p> <p style="margin-left: 40px;">If Yes, include a copy of the Opinion in the Tax Compliance File.</p> <p style="margin-left: 40px;">If No, contact Special Tax Counsel and include description of resolution in the Tax Compliance File.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p align="center">2 Use of the Financed Assets and the Benefitted Facilities</p>	<p>During the Annual Period, was any Financed Asset or Benefitted Facility used by a Non-Qualified User pursuant to a lease agreement or similar use agreement or arrangement, management or service agreement or any other agreement granting the Non-Qualified User special legal rights to use any Financed Asset or Benefitted Facility?</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>If answer above was “Yes,” was an Opinion of Special Tax Counsel obtained prior to entering into the arrangement?</p> <p style="margin-left: 40px;">If Yes, include a copy of the Opinion in the Tax Compliance File.</p> <p style="margin-left: 40px;">If No, contact Special Tax Counsel and include description of resolution in the Tax Compliance File.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
<p align="center">3 Arbitrage & Rebate</p>	<p>1. Were the proceeds of the Lease spent in accordance with the following schedule? (a) at least 15% within 6 months from the Closing Date; (b) at least 60% within 12 months from the Closing Date; and (c) 100% within 18 months from the Closing Date.</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>
	<p>2. Has the Issuer established a fund or account to make rental payments under the Lease or has the Issuer established a segregated portion of</p>	<p><input type="checkbox"/> Yes <input type="checkbox"/> No</p>

	investments in an account to make rental payments under the Lease?	
	<p>If the answer to question 1 above is “No,” or the answer to question 2 above was “Yes,” contact Special Tax Counsel to determine if an arbitrage rebate or yield restriction calculation must be completed.</p> <p>Include a description of Special Tax Counsel’s advice in the Tax Compliance File. If an arbitrage rebate or yield restriction calculation is prepared, include a copy of the report in the Tax Compliance File.</p>	

By: _____
Compliance Officer

Date Completed: _____

LESSEE'S CLOSING CERTIFICATE

\$1,238,897.62

**SCHEDULE OF EQUIPMENT NO. 2 DATED AS OF JANUARY 10, 2024 TO
MASTER EQUIPMENT LEASE PURCHASE AGREEMENT
DATED AS OF JULY 31, 2023, BETWEEN
ROC LEASING LLC, AS LESSOR
AND THE TOWN OF HENRIETTA, NEW YORK, AS LESSEE**

We, the undersigned, the duly appointed, qualified and acting Town Supervisor and Town Clerk, respectively, of the Town of Henrietta, New York, do hereby certify as follows:

Capitalized terms used herein and not otherwise defined will be as defined in that certain Master Equipment Lease Purchase Agreement dated as of July 31, 2023 (the "Master Agreement" and, as amended and supplemented by Schedule of Equipment No. 2 thereto dated as of January 10, 2024, the "Lease"), each between the Town of Henrietta, New York, as lessee ("Lessee"), and ROC Leasing LLC, as lessor ("Lessor").

1. Lessee did, at a meeting of the governing body of Lessee held December 20, 2023, by motion duly made, seconded and carried, in accordance with all requirements of law, approve and authorize the execution and delivery of (a) the License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures between Niagara Mohawk Power Corporation d/b/a National Grid and Lessee (the "License Agreement"), (b) the Agreement for Purchase and Sale of Street Lighting Facilities between Rochester Gas and Electric Corporation and Lessee (the "Purchase Agreement"), and (c) the above-referenced Lease and related escrow agreement and tax agreement (the "Lease Documents" and together with the License Agreement and the Purchase Agreement, the "Lessee Documents") on its behalf by the following named representative of Lessee:

<u>Stephen L. Schultz</u>	<u>Town Supervisor</u>	_____
Printed Name	Title	Signature

[This signature line to be signed by person who executed the Lessee Documents on behalf of Lessee.]

- 2. The above-named representative of Lessee held at the time of such authorization and holds at the present time the office designated above and the signature set forth opposite such officer's name is the true and correct specimen of such officer's genuine signature.
- 3. The meeting of the governing body of Lessee at which the Lessee Documents were approved and authorized to be executed was duly called, regularly convened and attended by the requisite majority of the members thereof or by other appropriate official approval, and the actions approving the Lessee Documents and authorizing the execution thereof have not been altered or rescinded. Attached hereto as **Attachment 1** is a true and correct copy of the resolution, ordinance or other documents constituting such official action.
- 5. 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 (as such term is defined in the Master Agreement) exists at the date hereof.
- 6. All insurance required in accordance with the Lease is currently maintained by Lessee.
- 7. Lessee has, in accordance with the requirements of law, fully budgeted and appropriated sufficient funds for the current fiscal year to make the Rental Payments scheduled to come due during the Original Term and to meet its other obligations for the Original Term (as such terms are defined in the Master Agreement), and such funds have not been expended for other purposes.
- 8. 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 Lessee Documents or the interest of Lessor or its assigns, as the case may be, in the Equipment.

9. The Equipment has not been the subject of a referendum that failed to receive the approval of the voters of Lessee within the preceding four years.

10. Since December 31, 2022 (date of Lessee's last audited financial statements), Lessee has not entered into any direct or contingent bond debt, lease, installment purchase or loan obligation, other than those listed on **Attachment 2** attached hereto.

11. The correct billing address for Rental Payments is as follows:

Town of Henrietta, New York
475 Calkins Road
Rochester, NY 14623
Attention: Town Supervisor

DATED: January 10, 2024.

By: _____
Name: Stephen L. Schultz
Title: Town Supervisor
Date Signed: _____

By: _____
Name: Rebecca Wiesner
Title: Town Clerk
Date Signed: _____

**ATTACHMENT 1 TO
LESSEE'S CLOSING CERTIFICATE**

**EVIDENCE OF AUTHORIZATION BY LESSEE'S GOVERNING BODY
(per Section 3)**

[Please provide signed copy of authorizing resolution to Lessor.]

**ATTACHMENT 2 TO
LESSEE'S CLOSING CERTIFICATE**

**LIST OF OUTSTANDING OBLIGATIONS SINCE DECEMBER 31, 2022
(DATE OF LESSEE'S LAST AUDITED FINANCIAL STATEMENTS)
(per Section 10)**

Please list all direct or contingent bond debt, lease, installment purchase or loan obligations (including estimated outstanding principal amount) that Lessee has entered into since December 31, 2022. If this statement is not applicable, please state "None."

- \$2,300,000 Schedule of Equipment No. 1 to Master Equipment Lease Purchase Agreement, each dated as of July 31, 2023, between Lessee and ROC Leasing LLC.

- _____

- _____

- _____

ESSENTIAL USE CERTIFICATE

January 10, 2024

ROC Leasing LLC
1900 Empire Blvd., Suite 249
Webster, NY 14580

Re: Schedule of Equipment No. 2 dated as of January 10, 2024 (the "Schedule"), to Master Equipment Lease Purchase Agreement dated as of July 31, 2023 (the "Master Agreement" and, as amended and supplemented by the Schedule, the "Lease"), each between ROC Leasing LLC, as lessor ("Lessor"), and the Town of Henrietta, New York, as lessee ("Lessee")

Ladies and Gentlemen:

I, Stephen L. Schultz, a duly elected, appointed, or designated representative of the Town of Henrietta, New York ("Lessee"), am qualified to answer the questions set forth below regarding the Equipment to be acquired by Lessee in connection with the above-referenced Lease:

1. *What is the specific use of the Equipment?*

2. *What increased capabilities will the Equipment provide?*

3. *Why is the Equipment essential to your ability to deliver governmental services?*

4. *Does the Equipment replace existing equipment?
(If so, please explain why you are replacing the existing equipment)*

5. *Why did you choose this specific Equipment?*

6. *For how many years do you expect to utilize the Equipment?*

7. *What revenue source will be utilized to make Rental Payments due under the Lease?*

Very truly yours,

TOWN OF HENRIETTA, NEW YORK

By: _____

Name: Stephen L. Schultz

Title: Town Supervisor

FORM OF OPINION OF LESSEE COUNSEL

January 10, 2024

ROC Leasing LLC
1900 Empire Blvd., Suite 249
Webster, NY 14580

Re: Energy Performance Contract dated March 8, 2023, between the Town of Henrietta, New York (the “Town”) and Centrica Business Solutions Services, Inc. (the “Energy Performance Contract”), and Schedule of Equipment No. 2 dated as of January 10, 2024 (the “Schedule”), to Master Equipment Lease Purchase Agreement dated as of July 31, 2023 (the “Master Agreement” and, as amended and supplemented by the Schedule, the “Lease”), each between ROC Leasing LLC, as lessor (“Lessor”), and the Town of Henrietta, New York, as lessee (“Lessee”)

Ladies and Gentlemen:

We are special counsel to Lessee in connection with the Energy Performance Contract regarding municipal lighting and the Lease to be entered into by Lessee (the “Transaction”). In such capacity, we have reviewed the following documents (the “Transaction Documents”):

1. Energy Performance Contract dated March 8, 2023, between Lessee and Centrica Business Solutions Services, Inc. (the “Energy Performance Contract”).
2. License Agreement for Customer-Owned Street and Area Lighting Attachments to Utility Poles and Structures between Niagara Mohawk Power Corporation d/b/a National Grid and Lessee.
3. Agreement for Purchase and Sale of Street Lighting Facilities between Rochester Gas and Electric Corporation and Lessee.
4. Escrow Deposit Agreement dated as of January 10, 2024, by and among Lessor, Lessee and Capital One, National Association (the “Escrow Agreement”).
5. Schedule No. 2.
6. Master Agreement.

All capitalized terms herein will have the same meanings as in the Master Agreement.

We provide this opinion letter to you at the request of Lessee. Except as may otherwise be noted herein, in rendering our opinion we have examined and relied solely upon our review of the Transaction Documents and we have made no other inquiry, investigation, or documentary review whatsoever.

As to various questions of facts material to our opinion, we have relied upon, with your consent, the documents listed above, as well as a written certification of the Town Clerk of the Town of Henrietta, a copy of which is attached hereto as Exhibit A.

Based solely upon the foregoing, without independent investigation and in reliance upon the matters and subject to the limitations contained in this opinion, we are of the opinion that:

1. The Energy Performance Contract complies with Article 9 of the New York Energy Law, for the performance of work and services in order to achieve long-term energy and cost savings with respect to the Equipment.

2. The procurement provisions set forth in Article 9 of the New York Energy Law are applicable to the terms of the Transaction. The Lease and Schedule, as drafted, conform to the Energy Performance Contract provisions and otherwise comply with the requirements of Article 9 of the New York Energy Law.

3. Lessee is a political subdivision duly organized and existing under the laws of the State of New York, 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) police power.

4. Lessee has the requisite power and authority to purchase the Equipment and to execute and deliver the Transaction Documents and to perform its obligations thereunder.

5. The Transaction Documents and the other documents either attached thereto or required therein have been duly authorized, approved and executed by and on behalf of Lessee, and the Transaction Documents are valid and binding obligations of Lessee enforceable in accordance with their respective terms.

6. The authorization, approval and execution 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 and federal laws, including without limitation Article 9 of the New York Energy Law.

7. To our knowledge, 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 Equipment.

8. The Equipment to be leased pursuant to the Lease constitutes personal property and when subjected to use by Lessee will not be or become a fixture under applicable law.

9. The authorization, execution, delivery and performance of the Transaction Documents by Lessee do not require submission to, approval of, or other action by any governmental authority or agency which action has not been taken and is final and non-appealable.

In addition, in our review of the Transaction Documents, nothing has come to our attention indicating that the implementation of the Energy Performance Contract pursuant to the Escrow Agreement and Lease will be inconsistent with the provisions of Article 9 of the New York Energy Law.

The opinions expressed herein are limited to the existing laws of the of the State of New York as applied by courts located in the State of New York and of the United States of America. We are attorneys admitted to practice in the State of New York, and we are not expressing any opinion with regard to the laws of any other jurisdiction. We express no opinion as to choice or conflict of laws. Our opinions in this letter with respect to laws and regulations relate only to statutory laws and regulations that we, in the exercise of customary professional diligence, would reasonably recognize as being directly applicable to Lessee, the Transaction Documents, or both.

We have assumed (i) the genuineness of all signatures (except for the signature of Lessee on the Transaction Documents), (ii) the legal capacity of natural persons, (iii) the conformity to original documents of all documents submitted to us as electronic, uncertified, certified, telefacsimile, or photostatic copies, (iv) the authenticity, accuracy, and completeness of all documents submitted to us as originals or copies of originals, (v) the due execution and delivery of the Transaction Documents (except for the due execution and delivery by Lessee), (vi) the

Transaction Documents as executed and delivered are identical to the drafts thereof reviewed by us in all respects material to the opinions expressed herein, (vii) the conduct of the parties to the Transaction Documents has complied with any requirement of good faith, fair dealing and conscionability, (viii) there are no agreements or understandings among the parties, written or oral, and there is no usage of trade or course of prior dealing among the parties that would, in either case, define, supplement or qualify the terms of the Transaction Documents, and (ix) the absence of mutual mistake or misunderstanding and of fraud, coercion, duress or other similar inequitable conduct in connection with the negotiation, execution and delivery of the Transaction Documents and the transactions contemplated thereby.

This opinion is rendered as of the date hereof, and solely for the benefit of Lessor, and its successors and assigns and any counsel rendering an opinion on the exclusion of interest components of Rental Payments under the Lease from gross income for purposes of federal income taxation in connection with the Transaction and may not be used, disclosed or relied upon by you or any other person for any other purpose whatsoever, without our prior written consent. We shall have no obligation to revise, update, or reissue this opinion to reflect any facts or circumstances which may hereafter come to our attention or any changes in the law that occur after the date hereof.

Very truly yours,

Whiteman Osterman & Hanna LLP

NOTICE OF AND CONSENT TO ASSIGNMENT

January 10, 2024

Town of Henrietta, New York
475 Calkins Road
Rochester, NY 14623

Re: Schedule of Equipment No. 2 dated as of January 10, 2024 (the "Schedule"), to Master Equipment Lease Purchase Agreement dated as of July 31, 2023 (the "Master Agreement" and, as amended and supplemented by the Schedule, the "Lease"), each between ROC Leasing LLC, as lessor ("Lessor"), and the Town of Henrietta, New York, as lessee ("Lessee")

Ladies and Gentlemen:

Please be advised that the undersigned Lessor, upon obtaining your written consent, intends to assign all of its rights, title and interest in, to and under the Schedule, the Equipment leased thereunder, and the right to receive rental payments thereunder and the payment of the purchase price thereunder to Capital One Public Funding, LLC, a New York limited liability company ("Assignee"), whose mailing address is 1307 Walt Whitman Road, 3rd Floor, Melville, NY 11747, and whose tax identification number is 11-2209667.

All rental payments and payment of the purchase price due under the Schedule should be made to the Assignee at the address below or as otherwise instructed by Assignee:

CAPITAL ONE PUBLIC FUNDING, LLC
P.O. BOX 2400
HICKSVILLE, NY 11802

Lessee acknowledges that Assignee is acting solely as Assignee for its own loan account and not as a fiduciary for Lessee or in the capacity of broker, dealer, placement agent, municipal securities underwriter, municipal advisor or fiduciary. Assignee has not provided, and will not provide, financial, legal (including securities law), tax, accounting or other advice to or on behalf of Lessee (including to any financial advisor or any placement agent engaged by Lessee) with respect to the structuring, issuance, sale or delivery of the Schedule. Lessee acknowledges that Assignee has no fiduciary duty pursuant to Section 15B of the Securities Exchange Act of 1934 to Lessee with respect to the transactions relating to the structuring, issuance, sale or delivery of the Schedule and the discussions, undertakings and procedures leading thereto. Each of Lessee, its financial advisor and its placement agent has sought and shall seek and obtain financial, legal (including securities law), tax, accounting and other advice (including as it relates to structure, timing, terms and similar matters and compliance with legal requirements applicable to such parties) with respect to the Schedule from its own financial, legal, tax and other advisors (and not from Assignee or its affiliates) to the extent that Lessee, its financial advisor or its placement agent desires, should or needs to obtain such advice. Assignee expresses no view regarding the legal sufficiency of its representations for purposes of compliance with any legal requirements applicable to any other party, including but not limited to Lessee's financial advisor or placement agent, or the correctness of any legal interpretation made by counsel to any other party, including but not limited to counsel to Lessee's financial advisor or placement agent, with respect to any such matters. Lessee acknowledges that the transaction between Lessee and Assignee is an arm's length commercial transaction in which Assignee is acting and has acted solely as a principal and for its own interest, and Assignee has not made recommendations to Lessee with respect to the transaction relating to the Schedule.

Please acknowledge your consent to the foregoing assignment and your agreement to make payments due under the Schedule to Assignee by the signature of a duly authorized officer in the space set forth below.

Sincerely,

ROC LEASING LLC
LESSOR

By: _____
Name: Patricia Moore
Title: President
Address: 1900 Empire Blvd., Suite 249
Webster, NY 14580

ACKNOWLEDGED AND CONSENTED TO:

TOWN OF HENRIETTA, NEW YORK,
LESSEE

By: _____
Name: Stephen L. Schultz
Title: Town Supervisor