



Financial Services
Purchasing Division
215 N. Mason St. 2nd Floor
PO Box 580
Fort Collins, CO 80522
970.221.6775
970.221.6707
fcgov.com/purchasing

REQUEST FOR PROPOSAL
P1114 Lease Purchase Financing

Written proposals, two (2) will be received at the City of Fort Collins' Purchasing Division, 215 North Mason St., 2nd floor, Fort Collins, Colorado 80524. Proposals will be received before 2:30 p.m. (our clock), March 21, 2008. Proposal No. P1114. If delivered, they are to be sent to 215 North Mason Street, 2nd Floor, Fort Collins, Colorado 80524. If mailed, the address is P.O. Box 580, Fort Collins, 80522-0580.

Questions concerning the scope of the project or the submittal process should be directed to James R. Hume, CPPO, Senior Buyer, (970) 221-6776.

A copy of the Proposal may be obtained as follows:

1. Download the Proposal/Bid from the BuySpeed Webpage, www.fcgov.com/eprocurement
2. Come by Purchasing at 215 North Mason St., 2nd floor, Fort Collins, and request a copy of the Bid.

The City of Fort Collins is subject to public information laws, which permit access to most records and documents. Proprietary information in your response must be clearly identified and will be protected to the extent legally permissible. Proposals may not be marked 'Proprietary' in their entirety. Information considered proprietary is limited to material treated as confidential in the normal conduct of business, trade secrets, discount information, and individual product or service pricing. Summary price information may not be designated as proprietary as such information may be carried forward into other public documents. All provisions of any contract resulting from this request for proposal will be public information.

Sales Prohibited/Conflict of Interest: No officer, employee, or member of City Council, shall have a financial interest in the sale to the City of any real or personal property, equipment, material, supplies or services where such officer or employee exercises directly or indirectly any decision-making authority concerning such sale or any supervisory authority over the services to be rendered. This rule also applies to subcontracts with the City. Soliciting or accepting any gift, gratuity favor, entertainment, kickback or any items of monetary value from any person who has or is seeking to do business with the City of Fort Collins is prohibited.

Collusive or sham proposals: Any proposal deemed to be collusive or a sham proposal will be rejected and reported to authorities as such. Your authorized signature of this proposal assures that such proposal is genuine and is not a collusive or sham proposal.

The City of Fort Collins reserves the right to reject any and all proposals and to waive any irregularities or informalities.

Sincerely,

James B. O'Neill II, CPPO, FNIGP
Director of Purchasing & Risk Management

where renewal is a way of life

**REQUEST FOR PROPOSAL
CITY OF FORT COLLINS
P1114
LEASE PURCHASE FINANCING**

1.0 PROPOSAL

The City of Fort Collins is soliciting proposals for the lease-purchase financing of vehicles, equipment and related software. The City generally obtains such lease financing once or twice a year. Leases vary from \$400,000 to \$1.5 million; no guarantee of minimum amounts is implied by these approximations. The City's intent is to enter into a Master Lease agreement and process individual leases using a separate Lease Schedule for each.

1.1 PROPOSAL PROCESS

Leasing companies who are willing to use the City's standard lease-purchase agreement may enter an interest rate proposal. The City may negotiate with any or all respondents. Proposals will be evaluated based on:

- Company experience in supplying lease-purchase financing to municipalities
- Information gained from references
- Offered interest rate
- Total interest charge over the life of the agreement.

Once awarded, the City may continue to use the same vendor for up to five years, assuming interest rate changes are mutually acceptable.

1.2 RESPONSE SUBMITTAL

Firms shall submit Section 2.0, Vendor's Response (two copies) with the following information:

1. A statement that the City's standard lease-purchase agreement is acceptable.
2. Company information, including lease-purchase financing history and financial reports bearing on company stability.
3. Names and locations of service representatives who shall be responsible for assisting the City of Fort Collins. Include contact phone numbers and fax numbers.
4. References from five public entities, located in Colorado, if possible, which currently have lease-purchase arrangements with your company.
5. Interest rate proposal as requested in Section 2.0.

The proposal must be signed by a duly authorized representative of the submitting firm. The signature shall include the individual's title. **A faxed, signed response is acceptable.**

1.3 LESSOR REQUIREMENTS

Awarded Lessor must enter into a Master Lease agreement, using the City of Fort Collins Master Lease, attached as Attachment 1.

An escrow agreement attached as Exhibit D to the Master Lease-Purchase Agreement will be entered into between the City, lessor, and escrow agent, the First National Bank of Fort Collins.

The lessor must agree to quarterly payments in arrears.

Lessor must produce an amortization table for the overall lease. Additional amortization tables needed for City departments will be produced by City staff.

1.4 General Lease Schedule Procedures

Once a Master Lease is in place, individual leases will be set up using Lease Schedules. City staff will provide Lessor with an estimate for the amount of equipment to be purchased and ask for an interest rate quote. The quote must be good for at least 45 days.

Upon receipt of the quote, City staff will prepare an ordinance and supporting documents for action by City Council. Creation of an ordinance requires approval at two Council meetings, which are generally scheduled for the 1st and 3rd Tuesday of each month. An approved ordinance cannot go into effect until ten days after final action by Council.

During the ten day waiting period, City staff will complete all lease documentation and forward them to Lessor. Funding of the escrow will generally occur on the tenth day, or shortly thereafter.

All equipment purchased will be listed on the Lease Schedule in general terms.

Payments from escrow are handled in two ways:

- Repayments to the City for equipment already purchased and paid for.
- Payments to vendors for equipment to be paid for directly to vendors from escrowed funds.

Samples of Certificate of Acceptance and Concurrence letters are attached as part of the Master Lease agreement. Currently these documents are faxed to the leasing company for their concurrence, then faxed from the leasing company to the bank for payment. Email transmittal is acceptable if all entities involved can agree on procedures.

SECTION 2.0 VENDOR'S RESPONSE - Proposal No. P1114

The City of Fort Collins does not anticipate the issuance of long-term, tax-exempt obligations exceeding \$10,000,000 in 2008. Therefore, this agreement will be considered bank qualified.

1. THE CITY OF FORT COLLINS LEASE-PURCHASE AGREEMENT.

Acceptable? Yes _____ No _____

(If your response is "No", please explain on a separate sheet.)

The City will consider suggestions for changes in the agreement if those changes are minor in nature, legally required, or which reflect current industry practice.

2. COMPANY INFORMATION.

Provide requested information on a separate sheet.

3. SERVICE REPRESENTATIVES:

List representatives on a separate sheet

4. REFERENCES: Include entity name, contact person, and phone number.

List references on separate sheet

5. INTEREST RATE PROPOSAL

2008x Lease: sample only for proposal purposes

Lease agreement date, April 25, 2008.

Lease funding date, not later than April 25, 2008.

Principal Amount: \$500,000 (estimated)

Term: Five (5) years, quarterly payments, in arrears

Proposed interest rate: _____ % (simple)

Quarterly payments: \$ _____. First payment due ~ July 25, 2008.

Signature	Typed or printed name and title
	() - () -
Company Name	Phone and Fax Numbers
Address	

Attachment 1: Sample lease agreement

STANDARD MASTER LEASE AGREEMENT

THIS STANDARD MASTER LEASE AGREEMENT ("Agreement") between _____ ("Lessor") and THE CITY OF FORT COLLINS, COLORADO, ("Lessee") a body corporate and politic existing under the laws of the State of Colorado, dated _____, 2008, is as follows:

ARTICLE I -- LEASE OF EQUIPMENT

1.1 Agreement to Lease

Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the equipment (the "Equipment") as more fully described in each Schedule of Equipment (Exhibit A), which together with a Payment Schedule (Exhibit B) shall constitute a "Schedule", subject to the terms and conditions of and for the purposes set forth in each Lease. Each Schedule and the terms and provisions of this Agreement (which includes all exhibits hereto, together with any amendments and modifications pursuant thereto) which are incorporated by reference into such Schedule shall constitute a separate and independent lease and installment purchase of the Equipment therein described and are referred to herein as a "Lease". Lessor, after having received all required documentation, shall, no later than 48 hours thereafter, unless otherwise directed by Lessee, deposit into Escrow the amount listed as the Total Lease Financing on the applicable Exhibit A, to be used by Lessee for the acquisition of the Equipment on behalf of Lessor, according to the terms of the Escrow Agreement attached as Exhibit D.

Nothing herein shall be construed to obligate the Lessor to enter into any Lease not currently in existence, and Lessor shall approve each proposed Lease in its sole discretion. Such approval shall not be unreasonably withheld.

Further, nothing herein shall be construed to obligate Lessee to enter into any lease not currently in existence. Lessor acknowledges and agrees that Lessee may enter into a lease-purchase arrangement at any time with any other party, and such agreement shall have no bearing on this Agreement.

1.2 Title

During the term of each Lease, title to the Equipment will be in Lessor subject to the transfer to Lessee upon Lessee's purchase of the Equipment as provided herein. Upon the termination of the Lease for any reason other than Lessee's purchase of the Equipment, title to any Equipment not purchased by Lessee at the time of termination shall remain in Lessor. Lessor at all times will have access to the Equipment for the purpose of inspection, alteration and repair. Upon the payment of all rent payable pursuant to Section 4.1 for the original term and all renewal terms, or exercise of the option to purchase as specified herein, Lessor shall immediately transfer title to any Equipment so purchased to Lessee, and Lessor's interest in such Equipment shall terminate.

1.3 Lease Not A Pledge of City's Revenues

Nothing contained in a Lease shall constitute a pledge of the general tax revenues, funds or monies of Lessee except amounts appropriated for the purpose of making Lease payments during the current fiscal year.

ARTICLE II -- DEFINITIONS

The following terms will have the meanings indicated below unless the context clearly requires otherwise:

- 2.1** "Agreement Term" or "term of this Agreement" means the period from the date of execution and delivery of this Agreement until terminated as provided herein.
- 2.2** "Commencement Date" for each Lease means the date interest commences to accrue under such Lease which shall be the earlier of (i) the date on which the Equipment listed in such Lease is accepted by Lessee in the manner described in Section 9.4; or (ii) the date on which sufficient monies to purchase the Equipment listed in such Lease are deposited for that purpose with an escrow agent.
- 2.3** "Equipment" means all or any of the property described in Exhibit A which Lessor is leasing to Lessee.
- 2.4** "Funds" means funds of Lessee legally available and which have been properly appropriated.
- 2.5** "Governing Body" means the City Council or any successor governing body of Lessee.
- 2.6** "Lease Term" or "term of a Lease" means the period commencing on the Commencement Date of each Lease and continuing as provided in the applicable Exhibit C, unless sooner terminated as provided for in Section 3.3 or 3.4 hereof.
- 2.7** "Lessee" means the City of Fort Collins, Colorado, a body corporate and politic existing under the Laws of the State of Colorado which is leasing the Equipment from Lessor.
- 2.8** "Lessor" means _____, a _____ corporation, which is leasing the Equipment to Lessee, and includes Lessor's assigns.
- 2.9** "Vendor" means the manufacturers of the Equipment (or the manufacturers' agent or dealer) from whom Lessee purchased or is purchasing the Equipment.

ARTICLE III -- LEASE TERM

3.1 Commencement

The term of this Agreement commences upon the execution hereof and continues unless terminated as provided elsewhere herein.

3.2 Intentionally Omitted

3.3 Non-appropriation of Funds

Lessee reasonably believes that it will have a need for the Equipment for the duration of the Lease Term provided under a Lease and that funds will be available and appropriated to make all payments for the Lease Term provided under the Lease, however, the availability of funds in future fiscal years is dependent upon appropriation of funds by Lessee's City Council, which appropriation is entirely discretionary.

Lessee will seek funding each year as part of its Budget process. If funds intended for the continued leasing of the Equipment for any ensuing fiscal period are not appropriated for such purpose, Lessee may terminate the Lease for which funds were not appropriated at the end of the fiscal period then in effect for such Lease without penalty.

Lessee will notify Lessor at least thirty (30) days prior to the expiration of the fiscal period if funds are not available for the payments required under a Lease by reason of nonappropriation of funds as set forth above. Upon termination of such Lease for non-appropriation, if Lessee has not exercised the Option to Purchase, Lessor shall be entitled to take possession of the Equipment. Lessee shall prepare the equipment for pickup by Lessor within a reasonable period of time following termination.

Lessor and Lessee understand and intend that the obligation of Lessee to pay rentals under the Lease shall constitute only a current expense of Lessee and shall not constitute or give rise to a general obligation or other indebtedness of Lessee within the meaning of any constitutional or statutory provision or limitation, nor a mandatory charge or requirement against Lessee in any ensuing fiscal year beyond the then current fiscal year.

3.4 Termination

Any Lease will terminate upon the earliest of any of the following events:

- (a) A nonappropriation of funds as provided in Section 3.3;
- (b) The exercise by Lessee of any option to purchase granted in the Lease by which Lessee purchases all of the Equipment subject to such Lease;
- (c) A default by Lessee and an election by Lessor to terminate such Lease under Article VIII; or
- (d) Upon payment of all payments required to be made by Lessee under the Lease.

ARTICLE IV -- RENT

4.1 Amount

Lessee will pay Lessor rental payments for the lease of the Equipment on the dates and in the amounts set forth in the applicable Exhibit B. Lessee shall have no power to make such rent payments from any source other than the Funds.

4.2 Portion of Rent Attributable to Interest

The portion of each rent payment which is paid as and is representative of interest is set forth in the applicable Exhibit B. The Net Effective Interest Rate for each Lease shall be shown on each Exhibit B.

4.3 Tax Representations

The parties assume that Lessor can exclude the interest component of the rental payments from Federal gross income. Lessee covenants and agrees on the date hereof and as of the Commencement Date of each Lease that it will, for each Lease:

- (i) use a book entry system to register the owner of each Lease so as to meet the applicable requirements of Section 149(a)(3) of the Internal Revenue Code of 1986, as amended (the "Code");
- (ii) timely file a Form 8038-G (or, if the invoice price of the Equipment is less than \$100,000, a Form 8038-GC) with the Internal Revenue Service in accordance with Section 149(e) of the Code;
- (iii) not permit the Equipment to be directly or indirectly used for a private business use within the meaning of Section 141 of the Code; and
- (iv) rebate an amount equal to excess earnings on the Escrow fund to the Federal Government if required by and in accordance with Section 148 (f) of the Code, and make the annual determinations and maintain the records required by the regulations applicable thereto;
- (v) ensure that the monies deposited by Lessor in Escrow are not invested in such manner so as to result in the Lease being treated as an "Arbitrage bond or Federally guaranteed bond" within the meaning of Section 148(a) or Section 149(b) of the Code respectively; and
- (vi) comply with all applicable provisions of Section 103 of the Code.

Lessee acknowledges and agrees that in the event Lessor is to reimburse Lessee under any Lease for Equipment which was acquired prior to the commencement of such Lease, Lessee shall comply with all Internal Revenue Code and Treasury Regulations regarding reimbursements.

4.4. No Right to Withhold

Notwithstanding any dispute between Lessor and Lessee, or Vendor and Lessee, Lessee will make all payments of rent when due, without withholding any portion of such rent, pending final resolution of such dispute by mutual agreement between Lessor and Lessee or by a court of competent jurisdiction.

ARTICLE V -- OPTION TO PURCHASE EQUIPMENT

5.1 Option to Purchase Price

Lessee may purchase the Equipment from Lessor, after payment of the rental payment then due, at a price determined by the Principal Balance remaining on Exhibit B, Payment Schedule. Individual pieces of Equipment may be purchased from Lessor, after payment of the rental payment then due, at a price determined by the principal balance remaining on the individual item's amortization schedule, as produced by City personnel. Price will be agreeable to both parties. In addition, when purchasing individual items, the City agrees to pay a re-amortization fee of \$_____.

5.2 Manner of Exercise of Option

To exercise the option granted in Section 5.1, Lessee must deliver to Lessor written notice of such election, specifying the date of which Equipment is to be purchased, at least thirty (30) days prior to the purchase date specified in such notice.

5.3 Conditions of Exercise to Option

Lessee may purchase the Equipment pursuant to the option granted by Section 5.1 only if Lessee has made all rent payments when due (or has remedied any defaults in the payment of rent, in accordance with the provisions of the Lease) and if all other representations, covenants, warranties, and obligations of Lessee under the Lease have been satisfied (or all breaches of the same have been waived by Lessor in writing).

ARTICLE VI -- REPRESENTATIONS, COVENANTS, AND WARRANTIES OF LESSEE

Lessee represents, covenants, and warrants on the date hereof and as of the Commencement Date of each Lease as follows:

6.1 Status of Lessee

Lessee is a Municipal Corporation duly organized and existing under the constitution and the laws of the State of Colorado.

6.2 Authorization to Execute Lease

Lessee is authorized by the Constitution and laws of the State of Colorado to enter into the transactions contemplated by this Agreement and each Lease, including all exhibits hereto and thereto, and to effect all of the Lessee's obligations under each Lease and all exhibits. The City Council of Lessee has duly authorized the execution and delivery of this Agreement and each Lease and all exhibits hereto and thereto.

6.3 Satisfaction of Procedures and Funding Requirements

All procedures, including any legal bidding requirements, have been met by Lessee prior to the execution of this Agreement and each Lease, and all rent and other payment obligations will be paid only out of the Funds.

6.4 Preservation of Warranties and Guarantees

Lessee will use and service the Equipment in accordance with the Vendor's instructions and in such a manner as to preserve all warranties and guarantees with respect to the Equipment.

6.5 Representations, Covenants, Warranties, and Obligations to be Cumulative

The representations, covenants, warranties and obligations set forth in this Article are in addition to and are not intended to limit any other representations, covenants, warranties and obligations set forth in this Agreement or in any Lease.

6.6 Opinion of Lessee's Counsel

The Lessee will provide an opinion of its counsel with respect to the status of the Lessee, the notice of any pending legal proceedings threatening the enforceability of a lease, the compliance with bidding requirements, the enforceability of this Agreement or any Lease and related matters.

ARTICLE VII -- REPRESENTATIONS, COVENANTS AND WARRANTIES OF LESSOR

7.1 Enjoyment

During the term of each Lease, Lessor will provide Lessee with quiet use and enjoyment of the Equipment, without suit, or hindrance from Lessor, except upon default by Lessee as to such Lease, as set forth in Section 8.1 herein.

7.2 Disclaimer of Warranties and Status of Lessor, Etc

Lessee has selected the Equipment and desires to lease the Equipment for use in the performance of its governmental functions. Lessor will not be liable for specific performance or for damages if the supplier or manufacturer of the Equipment for any reason fails to fill, or delays in filling, the order for the Equipment (or similar Equipment) and does not inspect the Equipment prior to delivery to Lessee. For the purposes of each Lease and of any purchase of the Equipment affected under any Lease, Lessor expressly disclaims any warranty with respect to the condition, quality, durability, suitability, or merchantability of the Equipment in any respect, and any other representation, warranty, or covenant, express or implied. Lessor will not be liable to Lessee for any liability, loss, or damage caused or alleged to be caused directly or indirectly, by any inadequacy, deficiency, or defect in the Equipment, or by use of the Equipment, whatsoever. Lessor assigns to Lessee, without recourse, for the term of each Lease, all manufacturer warranties and guarantees, express or implied, pertinent to the Equipment, and Lessor authorizes Lessee to obtain the customary services furnished in connection with such guarantees and warranties at Lessee's expense, subject to Lessee's obligation to reassign to Lessor all such warranties and guarantees upon Lessor's repossession of the Equipment.

ARTICLE VIII -- DEFAULT

8.1 Events of Lessee Default

Lessee will be in default under a Lease upon the happening of any one or more of the following events:

- (a) Lessee fails to make any rent payment or other payment (including, without limitation, insurance premiums, taxes, utilities, fines, and fees) when due; or

- (b) Lessee fails to satisfy promptly any representation, covenant, warranty, or other obligation under the Lease; or
- (c) Lessee comes within the jurisdiction of any court as debtor under any bankruptcy, reorganization, or similar law, whether or not such law is in existence on the date such Lease commences.

8.2 Remedies on Default

To the maximum extent permitted by law, upon any event of default, Lessor may in its sole discretion pursue any one or more of the following remedies (which will be exercisable cumulatively and concurrently or separately), provided notice of default is given by Lessor to Lessee by certified mail and Lessee shall have at least thirty (30) days after receipt of such notice within which to cure any such default specified in Section 8.1:

- (a) Terminate such Lease, repossess the Equipment subject to the Lease under default, and lease (free and clear of any interest of Lessee in the Equipment) all or any portion of the Equipment to such other persons as Lessor may elect, applying the proceeds of any such lease (after deducting Lessor's cost of repossessing, repairing, storing, moving, and leasing the Equipment, including attorney's fees) against any rent unpaid for the remainder of the Original and any Renewal Terms and any other amounts owed to Lessor under such Lease at the time of Lessor's election under this paragraph.
- (b) Terminate such Lease, repossess the Equipment subject to the Lease under default, and sell (free and clear of any interest of Lessee in the Equipment) all or any portion of the Equipment at any public or private sale without demand or notice of intention to sell, applying the proceeds of such sale (after deducting the costs of repossessing, repairing, storing, moving, and selling the Equipment, including attorneys' fees) against any rent unpaid for the remainder of the Original and any Renewal Terms and any other amounts owed to Lessor under such Lease at the time of Lessor's election under this paragraph:
- (c) Avail itself of any other remedy at law or equity.

A Default as to any one Lease shall in no way affect or impair Lessee's rights or obligations as to any other Lease then in effect.

8.3 Default by Lessor

Each and every duty imposed upon Lessor by the terms of this Agreement is deemed to be material. In the event Lessor should fail to perform any of the material elements of this Agreement, Lessor may be declared in default of this Agreement. To the maximum extent permitted by law upon any event of default, the Lessee may, in its sole discretion, pursue any of the following remedies provided notice of default is given by Lessee to Lessor by certified mail and provided further that Lessor shall have at least thirty (30) days time after receipt of such notice within which to cure any such default.

- (a) Terminate this Agreement and seek damages;
- (b) Treat the Agreement as continuing and require specific performance; or
- (c) Avail itself of any other remedy at law or equity.

A Default by Lessor shall in no way affect or impair Lessee's rights or obligations as to any lease then in effect.

8.4 Interest on Unpaid Rent

In addition to all of the remedies in Section 8.2, Lessee will be liable to the maximum extent permitted by law for interest on any unpaid rent or other payment under a Lease at the rate of eight per cent per annum.

8.5 Attorneys' Fees

In the event either party to this Lease should incur attorneys' fees for litigation in order to enforce this Agreement or any Lease or to protect its rights hereunder, then, in that event, the prevailing party in any such litigation shall be entitled to reasonable attorneys' fees.

ARTICLE IX -- NET LEASE

9.1 Interpretation

Each Lease for all purposes will be treated as a net lease.

9.2 Taxes and Fees

Lessee agrees to pay all license, sales, use, personal property, and other taxes and fees, together with any penalties, fines, and interest on such taxes and fees imposed or levied with respect to the Equipment and the ownership, delivery, lease, possession, use, operation, sale, and other disposition of the Equipment, and upon the rental or earnings arising from any such disposition, except any Federal or State income taxes payable by Lessor on such rental or earnings. Lessee may in good faith and by appropriate proceedings contest any such taxes and fees so long as such proceedings do not involve any danger of sale, forfeiture, or loss of the Equipment or of any interest in the Equipment.

9.3 Permits

Lessee will provide all permits and licenses necessary for the installation, operation, and use of the Equipment. Lessee will comply with all laws, rules, regulations, and ordinances applicable to the installation, use, possession, and operation of the Equipment. If compliance with any law, rule, regulation, ordinance, permit, or license requires changes or additions to be made to the Equipment, such changes or additions will be made by Lessee at its own expense.

9.4 Certificate of Acceptance/Inspection by Lessee

Lessee agrees to furnish a Certificate of Acceptance in a form similar to attached Exhibit D when requesting disbursement of funds from the Escrow Account. After execution and delivery by Lessee of the Certificate of Acceptance, it shall be conclusively presumed that Lessee is satisfied with and has accepted the Equipment as being in good condition and repair.

ARTICLE X -- USE, REPAIRS, ALTERATIONS, AND LIENS

10.1 Use

Lessee will not install, use, operate, or maintain the Equipment improperly, carelessly, in violation of any applicable law, or in a manner contrary to that contemplated by the Lease. Lessee agrees that the Equipment is and at all times will remain personal property notwithstanding that the Equipment or any part of the Equipment may now or hereafter become affixed in any manner to real property or to any building on real property.

10.2 Repairs

Lessee, at its own cost will service, repair, and maintain the Equipment so as to keep the Equipment in as good condition, repair, appearance, and working order as when delivered to and accepted by Lessee under the Lease, ordinary wear and tear excepted. At its own cost, Lessee will replace any and all parts and devices which may from time to time become worn out, lost, stolen, destroyed, damaged beyond repair, or rendered unfit for use or any reason whatsoever. All such replacement parts, mechanisms, and devices will be free and clear of all liens, encumbrances, and rights of others, and immediately will become a part of the Equipment and will be covered by the Lease.

10.3 Alterations

Lessee may install such miscellaneous equipment as may be necessary for use of the Equipment for its intended purposes so long as either

- (a) the installation of such equipment does not alter the function or manner of operation of the Equipment, or
- (b) Lessee, upon termination of the Lease, restores the Equipment to its function and manner of operation prior to the installation of such miscellaneous equipment.

Subject to the obligations described above, Lessee may remove such miscellaneous equipment upon termination of the Lease, if the removal of such miscellaneous equipment will not damage the Equipment. Without the prior written consent of Lessor, Lessee will not make any other

alterations, changes, modifications, additions, or improvements to the Equipment as described in Section 10.2. Modifications, additions, and improvements made to the Equipment, other than miscellaneous equipment installed as set forth above, immediately will become a part of the Equipment and will be covered by the Lease to the same extent as the Equipment originally covered by the Lease. No such alterations, changes, modifications, additions and improvements may impair or reduce the value of the Equipment.

10.4 Liens

Lessee and Lessor will not directly or indirectly create, incur, assume, or suffer to exist any mortgage, pledge, lien, charge, encumbrance, or claim on or with respect to the Equipment or any interest in the Equipment. Lessee and Lessor, promptly and at its own expense, will take such action as may be necessary to duly discharge any mortgage, pledge, lien, charge, encumbrance, or claim caused by Lessee or Lessor, respectively, if the same rises at any.

ARTICLE XI -- INDEMNIFICATION, INSURANCE, AND DAMAGE TO OR DESTRUCTION OF THE EQUIPMENT

11.1 Indemnification

Lessor assumes no liability for any damages of any nature which in any way relate to or rise out of delivery, lease, possession, use, operation, condition, sale or other disposition of the Equipment. To the extent permitted by law, Lessee hereby assumes and agrees to indemnify, protect, save and keep harmless Lessor, its agents and employees from the against any and all losses, damages, injuries, claims, demands and expenses, including legal expenses, of whatsoever kind and nature, arising on account of the negligent act or omission of the Lessee, its officers, employees or agents in:

- (1) the ordering, acquisition, delivery, installation or rejection of the Equipment;
- (2) the possession, maintenance, use, condition (including, without limitation, latent and other defects whether or not discoverable by Lessor or Lessee, any claim in tort, including actions for strict liability, and any claim for patent, trademark or copyright infringement) or operation of any item of the Equipment (by whomsoever used or operated); or
- (3) the loss, damage, destruction, removal, return, surrender, sale or other disposition of the Equipment, or any item thereof.

It is understood and agreed, however, that Lessor shall give Lessee prompt notice of any claim or liability hereby indemnified against and that Lessee shall be entitled to control the defense thereof, so long as Lessee is not in default hereunder.

11.2 Liability and Property Insurance

Lessee will self-insure any Schedule for Equipment valued at \$50,000 or less. Lessee, at its own expense, will provide commercial property insurance and liability insurance for any Schedule for Equipment valued at more than \$50,000. Equipment will be insured in an amount sufficient to cover the actual cash value at the commencement of the Lease (as determined by the purchase price paid by Lessee for the equipment) Lessee will provide Lessor with proof of insurance upon request.

11.3 Damage to or Destruction of the Equipment

If all or any part of the Equipment is lost, stolen, destroyed, or damaged, Lessee will give Lessor prompt notice of such event and will repair or replace the same with equipment of equal or greater value at Lessee's cost within sixty (60) days after such event, and any replaced Equipment will be substituted in the Lease by appropriate endorsement. If Lessee fails or refuses to make the required repair or replacement, Lessee will buy out the individual piece of Equipment not repaired or replaced, at the next payment date (as set forth in Exhibit C.) No loss, theft, destruction, or damage to the Equipment will impose any obligation on Lessor under the Lease, and the Lease will continue in full force and effect regardless of such loss, theft, destruction, or damage. Lessor does not assume any risk and/or liability for loss, theft, destruction, or damage to the Equipment and for injuries or deaths of persons and damage to property however arising, whether such injury or death be with respect to agents or employees of Lessee or of third parties, and whether such damage to property is to Lessee's property or to the property of others.

ARTICLE XII -- MISCELLANEOUS

12.1 Assignment and Sublease by Lessee

Lessee may not assign, transfer, pledge, or encumber this Agreement or any Lease or any portion of the Equipment (or any interest in a Lease or the Equipment) or sublet the Equipment, without the prior written consent of Lessor which consent shall not be unreasonably withheld. Lessee agrees that Lessor may impose on the Equipment such plates or other means of identification as are necessary to indicate that the Equipment is subject to a Lease and the restrictions set forth in this Section.

12.2 Assignment and Sublease by Lessor

Lessor may freely assign, transfer, pledge, or encumber any Lease or any interest in a Lease. Immediately after receiving notice of such assignment or transfer, Lessee will then make all payments directly to the assignee or transferee (as its interests may appear) and, within thirty (30) days of such assignment or transfer, Lessee will acknowledge the same to the assignee or transferee. Any payments made in accordance with such assignment or transfer will relieve Lessee of all liability to Lessor for such payments. No such assignment shall be effective against Lessee unless and until Lessee shall receive written notice thereof from Lessor. Lessor will maintain a written record of such assignments for the term of the Lease.

12.3 Lessor's Right to Perform for Lessee

If Lessee fails to make any payment or fails to satisfy any representation, covenant, warranty, or obligation, Lessor may (but need not) make such payment or satisfy such representation, covenant, warranty, or obligation, and the amount of such payment and any expenses incurred by Lessor, if the case may be, will be deemed to be additional rent payable by Lessee on Lessor's demand.

12.4 Addresses

All notices and payments under this Lease will be mailed or delivered,

(a) if to Lessee, City of Fort Collins, at 215 N Mason, P.O. Box 580,
Fort Collins, Colorado 80522; and

(b) if to Lessor, _____;

until either Lessee or Lessor gives written notice to the other specifying a different address.

12.5 Manner of Payment

All payments by Lessee will be made by check or by other manner acceptable to Lessor.

12.6 Nonwaiver

No breach by Lessee in the satisfaction of any representation, covenant, warranty, or obligation may be waived except by the written consent of Lessor, and any such waiver will not operate as a waiver of any subsequent breach.

12.7 Severance Clause

Any provision in Agreement or in a Lease which is prohibited by law will be treated as if it never were a part of this Agreement or such Lease, and the validity of the remaining terms of this Agreement and the Lease will be unaffected.

12.8 Entire Agreement; Addendum

This Agreement, each Lease and the Exhibits thereto constitute the entire agreement between Lessor and Lessee and supersede any prior agreement between Lessor and Lessee with respect to the Equipment, except as is set forth in any Addendum which is made a part of such Lease and which is signed by Lessor and Lessee.

12.9 Amendments

This Agreement and any Lease may be amended only by a written document signed by Lessor and Lessee.

12.10 Inurement

Subject to the restrictions in Section 12.1, this Agreement and each Lease are binding upon and inure to the benefit of Lessor and Lessee, their respective successors and assigns.

12.11 Governing Law

This Agreement and each Lease shall be governed by the laws of the State of Colorado.

12.12 Headings

Headings used in this Agreement are for convenience of reference only and the interpretation of this Agreement will be governed by the text only.

12.13 Transmittal Fees

Transmittal of all documentation required for payment will be sent in an electronic format acceptable to all parties from the Lessee to the Lessor and from the Lessor to the Escrow Agent. Expedited overnight mail service may be substituted at the Lessor's expense.

12.14 Prohibition Against Employing Illegal Aliens.

This paragraph shall apply to all Contractors whose performance of work under this Agreement does not involve the delivery of a specific end product other than reports that are merely incidental to the performance of said work. Pursuant to Section 8-17.5-101, C.R.S., et. seq., Contractor represents and agrees that:

- A. As of the date of this Agreement:
 - 1. Contractor does not knowingly employ or contract with an illegal alien; and
 - 2. Contractor has participated or attempted to participate in the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, administered by the United States Department of Homeland Security (the "Basic Pilot Program") in order to confirm the employment eligibility of all newly hired employees.
- B. Contractor shall not knowingly employ or contract with an illegal alien to perform work under this Agreement or knowingly enter into a contract with a subcontractor that knowingly employs or contracts with an illegal alien to perform work under this Agreement.
- C. Contractor shall continue to apply to participate in the Basic Pilot Program and shall in writing verify same every three (3) calendar months thereafter, until Contractor is accepted or the public contract for services has been completed, whichever is earlier. The requirements of this section shall not be required or effective if the Basic Pilot Program is discontinued.
- D. Contractor is prohibited from using Basic Pilot Program procedures to undertake pre-employment screening of job applicants while this Agreement is being performed.
- E. If Contractor obtains actual knowledge that a subcontractor performing work under this Agreement knowingly employs or contracts with an illegal alien, Contractor shall:
 - 1. Notify such subcontractor and the City within three days that Contractor has actual knowledge that the subcontractor is employing or contracting with an illegal alien; and
 - 2. Terminate the subcontract with the subcontractor if within three days of receiving the notice required pursuant to this section the subcontractor does not cease employing or contracting with the illegal alien; except that Contractor shall not terminate the contract with the subcontractor if during such three days the subcontractor provides

information to establish that the subcontractor has not knowingly employed or contracted with an illegal alien.

F. Contractor shall comply with any reasonable request by the Colorado Department of Labor and Employment (the "Department") made in the course of an investigation that the Department undertakes or is undertaking pursuant to the authority established in Subsection 8-17.5-102 (5), C.R.S.

G. If Contractor violates any provision of this Agreement pertaining to the duties imposed by Subsection 8-17.5-102, C.R.S. the City may terminate this Agreement. If this Agreement is so terminated, Contractor shall be liable for actual and consequential damages to the City arising out of Contractor's violation of Subsection 8-17.5-102, C.R.S.

H. The City will notify the Office of the Secretary of State if Contractor violates this provision of this Agreement and the City terminates the Agreement for such breach.

EXECUTED this _____ day, of _____, 2008

_____, Lessor

By _____

Title _____

ATTEST:

(Corporate Seal)

ATTEST:

Lessee

Wanda Krajicek, City Clerk

THE CITY OF FORT COLLINS, COLORADO

By _____

James B. O'Neill II, CPPO

Director of Purchasing and Risk Management

Approved As To Form:

Kraig Ecton

Assistant City Attorney

Schedule of Equipment No. _____

Exhibit A - Sample

RE: STANDARD MASTER LEASE AGREEMENT entered into as of _____, __, ("Agreement"), between _____ ("Lessor") and the City of Fort Collins, Colorado ("Lessee"). All terms used and not otherwise defined herein have the meanings ascribed to them in the Agreement.

The following items of Equipment are hereby included under this Schedule to the Agreement:

Line No.	Department	Qty.	Description	Total Cost	Term (yrs)
1					5
2					5
3					5
4					5
5					5
6					5
Total 5-year Financing				\$	

Total Lease Financing \$ _____

Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Agreement are true and correct as though made on the Commencement Date of Payments under this Schedule. **The terms and provisions of the Agreement (other than to the extent that they relate solely to other Schedules or Equipment listed on other Schedules) are hereby incorporated into this Schedule by reference and made a part hereof.**

Dated: _____, ____

Lessee: the City of Fort Collins, Colorado

Lessor: _____

By _____

By _____

Name _____

Name _____

Title _____

Title _____

Date: _____

Date: _____

EXHIBIT B: Payment Schedule (Sample)

Interest rate _____ %

Term _____ years.

Quarterly payments, in arrears

Pmt No.	Due Date	Payment Amount	Interest Portion	Principal Portion	Principal Balance
1					
2					
3					
4					
5					

Amortization schedule supplied by Lessor must include the above information at a minimum, plus a signature block for Lessee.

EXHIBIT C: Certificate of Acceptance and Concurrence (Samples)

FAX DOCUMENT

**Certificate of Acceptance and
Request for Payment**

Date: _____

Dear _____:

The undersigned hereby certifies that he is duly qualified to act on behalf of the City of Fort Collins, State of Colorado, with respect to Schedule of Equipment No. ____ dated _____, __ to the Standard Master Lease Agreement dated _____, by and between the City of Fort Collins, Lessee, and _____, Lessor, and certifies that the following equipment has been delivered to and accepted by Lessee:

Line #	Qty	Description	Serial #	Invoice #

Enclosed is a copy of the purchase order # _____ and invoice for the above items.

Please review the documents, sign the concurrence and fax them to our escrow agent, First National Bank of Fort Collins for payment. Thank you for your assistance. Should you have further questions, please contact Jim Hume at 970-221-6776.

Sincerely;

James B. O'Neill II, CPPO, FNIGP
Director of Purchasing and Risk Management

Enclosures

cc: Becky Sullivan, Accounting
file

Fax Document
Concurrence Form

Date _____

Ms. Cathy Schott
First National Bank Trust Department
P.O. Box 2010
Fort Collins, CO. 80522

Re: Lease Purchase

Dear Ms. Schott:

In accordance with the terms of the escrow agreement between _____ and the City of Fort Collins dated _____, _____, (escrow account # _____), you are hereby authorized to disburse funds for:

##

A copy of the acceptance certificate is attached. Please make remittance in the amount of \$ _____ payable to:

Thank you for your assistance.

Sincerely;	Concurrence:
_____ James B. O'Neill II, CPPO, FNIGP Director of Purchasing & Risk Management	By: _____ Title: _____ Date: _____

cc: Becky Sullivan, Accounting
file

EXHIBIT D (sample)

ESCROW AGREEMENT AND INSTRUCTIONS

Schedule of Equipment No. ____

THIS AGREEMENT is made this _____ by and between _____, as Lessor, and the City of Fort Collins, Colorado, as Lessee, hereinafter called the "Principals", and the First National Bank of Fort Collins, P.O. Box 2010, Fort Collins, Colorado 80522 hereinafter called "Escrow Agent".

The subject matter shown in Schedule A hereof has been delivered to Escrow Agent by Principals, or with the consent of Principals, and is to be held by Escrow Agent subject to the Special Instructions shown in Schedule B hereof, and the General Provisions hereof.

SCHEDULE A - SUBJECT MATTER*

- An executed copy of Schedule of Equipment No. ____ dated _____, ____ to the Standard Master Lease Agreement (collectively the "Lease") between the Principals executed as the same date as these Escrow Instructions. All exhibits to the Lease, except Exhibit C (Certificate of Acceptance) are attached. Executed copies of Exhibit C will be furnished to Escrow Agent prior to disbursement of funds.
- Funds in the amount of \$_____, to be deposited with the Escrow Agent as directed by the Lessee, but not later than _____.

*Documents will be described as "originals" unless they are copies. If not described, they will be presumed to be copies. If subject matter is listed which is not delivered, all copies of the Escrow Agreement and documents will be held a reasonable time (not exceeding thirty (30) calendar days) pending delivery and a receipt will be given only for documents received. If all documents are not received within a reasonable time, the documents will be returned to parties. Only subject matter received at the time of execution will be listed above.

SCHEDULE B - SPECIAL INSTRUCTIONS*

- Escrow Agent will invest Funds at the direction of Lessee or its Agent.
- Escrow Agent will promptly deposit all earnings from investment of Funds to escrow fund created hereunder.

- Funds deposited with the Escrow Agent shall be used to pay for the cost of acquisition of items of equipment listed on Exhibit A to the Lease. Escrow Agent shall make payment for each piece of leased equipment only upon receipt of both an executed copy of the appropriate Exhibit C of Lease and a letter of disbursement authorization signed by both Principals (Lessor and Lessee).
- Provide to Lessor and Lessee on a monthly basis, for the term of this Escrow Agreement, reports indicating the following:
 - Amount of disbursements for the purchase of investments.
 - Amount of disbursements for the payment of invoices.
 - Amount of principal and interest received from investments.
 - An inventory of outstanding investments.

*(Any notice which Escrow Agent is required to give must be specifically set out in these Special Instructions.)

GENERAL PROVISIONS

1. The Escrow Agent shall have no duty or determine the performance or nonperformance of any provision of any agreement between the other parties hereto, and the original, or a copy, of any such agreement deposited with the Escrow Agent shall not bind said agent in any manner. The Escrow Agent assumes no responsibility for the validity or sufficiency of any documents or papers or payments deposited or called for hereunder except as may be expressly and specifically set forth in these instructions in clear and unambiguous language.
2. This Agreement may be supplemented, altered, amended, modified or revoked by writing only, signed by all of the parties hereto, and approved by the Escrow Agent, upon payment of all fees, costs and expenses incident thereto.
3. No assignment, transfer, conveyance or hypothecation of any right, title or interest in and to the subject matter of this Escrow shall be binding upon the Escrow Agent unless written notice thereof shall be served upon the Escrow Agent and all fees, costs and expenses incident thereto shall have been paid and then only upon the Escrow Agent's assent thereto in writing.
4. Any notice required or desired to be given by the Escrow Agent to any party to this Escrow may be given by mailing the same addressed to such party at the address noted herein, or the most recent address of such party shown on the records of the Escrow Agent, or believed by Escrow Agent to be proper, and notice so mailed shall be as effectual as though served upon such party in person at the time of depositing such notice in the mail.

5. The Escrow Agent may receive any payment or performance called for hereunder after the due date thereof unless subsequent to the due date of such payment or performance and prior to the receipt thereof the Escrow Agent shall have been instructed in writing by the proper parties to refuse any such payment.
6. The Escrow Agent shall not be personally liable for any act it may do or omit to do hereunder as such agent, while acting in good faith and in the exercise of its own best judgment, and any act done or omitted by it pursuant to the advice of its own attorneys shall be conclusive evidence of such good faith. The Escrow Agent shall have the right at any time to consult with counsel upon any question arising hereunder and shall incur no liability for any delay reasonably required to obtain the advice of counsel.
7. The Escrow Agent is hereby expressly authorized to disregard any and all notices or warnings given by any of the parties hereto, or by any other person, firm or corporation, excepting only orders or process of court, and is hereby expressly authorized to comply with and obey any and all process, orders, judgments or decrees of any court, and in case the Escrow Agent obeys or complies with any such process, order, judgment or decree of any court it shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance, notwithstanding any such process, order, judgment or decree by subsequently reversed, modified, annulled, set aside or vacated, or found to have been issued or entered without jurisdiction.
8. In consideration of the acceptance of this escrow by the Escrow Agent, the Principals agree, jointly and severally, for themselves, their heirs, legal representatives, successors and assigns, to pay the Escrow Agent its charges and fees hereunder, if any, and to indemnify and hold it harmless as to any liability by it incurred to any other person, firm or corporation by reason of its having accepted the same, or in connection herewith, and under such circumstance, or in the event of a dispute, whether or not resulting in litigation, between the parties hereto, or between the parties hereto and the Escrow Agent, to reimburse the Escrow Agent for all its expenses, including, among other things, court costs and reasonable attorneys' fees incurred in connection therewith. Escrow fees or charges, as distinguished from other expenses hereunder, shall be as set forth in paragraph 16, and are intended as compensation for the Escrow Agent's ordinary services as contemplated by these Instructions. In the event the conditions of this escrow are not promptly fulfilled or any dispute arises hereunder, or if for any other reason, the Escrow Agent renders services not provided for in these Instructions, the parties hereto jointly and severally agree to pay reasonable compensation for such extraordinary services. In the event of any action to recover the Escrow Agent's fees, expenses or charges from any party hereto, the Escrow Agent shall be entitled to reasonable attorneys' fees and costs incurred with respect to any such action. No provision in any attached special instructions

by which one or more of the other parties hereto shall undertake to pay such fees, charges and expenses, or any portion thereof, shall, except as between such other parties only, alter their joint and several liability to the Escrow Agent for such fees, charges and expenses. The Principals shall not be liable for gross negligence or intentional acts of the Escrow Agent.

9. The Escrow Agent shall be under no duty or obligation to ascertain the identity, authority or rights of the parties (or their agents) executing or delivering or purporting to execute or deliver these instructions or any documents or papers or payments deposited or called for hereunder.
10. The Escrow Agent shall not be liable for the outlawing of any rights under any Statute of Limitations or by reason of laches in respect to the Instructions or any documents or papers deposited.
11. In the event of any dispute between the parties hereto as to the facts of default or execution, the validity or meaning of these instructions or any other fact or matter relating to the transaction between the parties, the Escrow Agent is instructed as follows:

(a) That it shall be under no obligation to act, except under process or order of court, or until it has been adequately indemnified to its full satisfaction, and shall sustain no liability for its failure to act pending such process or court or indemnification:

(b) That it may in its sole and absolute discretion deposit the property described herein or so much hereof as remains in its hands with the then Clerk, or acting Clerk, of the District Court of the County of Larimer, State of Colorado, and interplead the parties hereto, and upon depositing such property and filing its complaint in interpleader it shall be relieved of all liability under the terms hereof as to the property so deposited and shall be entitled to recover in such interpleader action, from the other parties hereto, its reasonable attorney fees and related costs and expenses incurred in commencing such action and furthermore, the parties hereto for themselves, their heirs, legal representatives, successors and assigns do hereby submit themselves to the jurisdiction of said court and do hereby appoint the then Clerk, or acting Clerk, of said court as their Agent for the Service of all process in connection with such proceedings. The institution of any such interpleader action shall not impair the rights of Escrow Agent under paragraph numbered 8, above.

12. This Escrow will expire on or before _____. If the deposits hereunder are not withdrawn or this Escrow terminated before that date Escrow Agent may mail the Subject

Matter as follows, for use only for payment of principle or interest under the lease or for the purchase of equipment for Lessee's own use, and upon such mailing, the Escrow Agent shall be relieved from further responsibility or liability.

CITY OF FORT COLLINS
Revenue Division
P.O. Box 580
Fort Collins, Colorado 80522

13. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, personal representatives, successors and assigns.
14. The Escrow Agent may resign by giving notice in writing to all parties of its intent to resign. The resignation shall become effective no sooner than sixty (60) days from the date of mailing of the notice. The notice will be sent certified mail with return receipt requested to the addresses set forth in paragraph 17 below unless these addresses have been changed. The Principals shall advise the Escrow Agent in writing of the name of the new Escrow Agent. If the Principals cannot agree as to the new Escrow Agent, or fail to advise the Escrow Agent within the time set forth, the Escrow Agent may treat this as a dispute and proceed under paragraph 11 above. If the new Escrow Agent is designated, then upon delivery of all documents to the new Escrow Agent, the Escrow Agent is relieved of all further responsibility or liability.
15. Other provisions:
 - (a) This agreement shall be construed and governed in accordance with the laws of the State of Colorado.
 - (b) Any provisions of this Agreement found to be prohibited by law shall be ineffective only to the extent of such prohibition, and shall not invalidate the remainder of this Agreement.
 - (c) This Agreement (and, with respect to Lessor and Lessee, together with the Lease) constitutes the entire agreement of the parties relating to the subject matter hereof.
16. The fees to be paid Escrow Agent shall be paid by the Principals as follows:

No fees will be charged by Escrow Agent for maintenance of this Escrow Agreement.

17. IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

Principals:

By: _____

Title: _____

By: _____

James B. O'Neill II, CPPO, FNIGP

City of Fort Collins, CO (Lessee)

PO Box 580

Fort Collins, CO 80522

Escrow Agent:

First National Bank of Fort Collins

205 West Oak St., Fort Collins, CO 80521

By: _____

Title: _____