

EXHIBIT A

ANALYSIS

ANALYSIS OF PAYMENTS WITH RESPECT TO PROPERTY LEASES ASSOCIATED WITH THIRD-PARTY OPERATIONS UNDER THE CITY'S CABLE TELEVISION FRANCHISE AGREEMENT

PREPARED BY: CITY TREASURER'S OFFICE

DATE: MONDAY, AUGUST 5, 2019

ISSUES PRESENTED

Whether payment activity of the City of Wilmington (the "City") associated with third-party operations under the City's cable television Franchise Agreement (the "Common Element") during the City's Fiscal Year ending June 30, 2019 and Fiscal Year ending June 30, 2020 appear to reflect irregularities such as i) apparent, procedural noncompliance; ii) inconsistencies; iii) errors; iv) conflicts; and/or v) other suspicious characteristics.

SHORT ANSWER

Yes. Payment activity associated with the Common Element appear to reflect irregularities including:

- I. Inconsistencies between certain invoices, certain requests for check and a certain purchase order
- II. Procedural noncompliance associated with a certain lease and a certain purchase order

FACTS AND ANALYSIS

I. INCONSISTENCIES BETWEEN CERTAIN INVOICES, CERTAIN REQUESTS FOR CHECK AND A CERTAIN PURCHASE ORDER

On March 29, 2019, an Assignment and Assumption of Lease appears to have been made between the City (as assignee) and Leased Access Preservation Association Inc. (the "Assignor") for a term commencing on April 1, 2019 and ending on March 31, 2022 (City Council President, Hanifa Shabazz's¹ signature appears on behalf of the City). *See* Lease attached hereto as **Attach. A**.

¹ On May 6, 2019, at a meeting of City Council's Finance and Economic Development Committee, a recording of which can be found online at the website address wtn22.org, Shabazz asserted that, at the time of the meeting, the lease had not been signed.

Subsequently, the City received three (3) invoices from Lancaster Associates LLC, a Delaware Limited Liability Company (the “Landlord”), dated April 1, 2019; May 1, 2019; and June 1, 2019, each for an amount of \$6,700.00, with the description reflecting: i) Rent; and ii) TIC (taxes, insurance, and common area maintenance).

In conflict with all this, on June 24, 2019, an Indenture of Lease was made, in this case, directly between the City and the Landlord for an amount of \$67,500.00 (twelve monthly installments of \$5,625.00; Shabazz’s signature again appearing on behalf of the City). *See* Indenture attached hereto as **Attach. B.** Following the signing of, what is now, the second lease, Council staff issued a requisition for purchase order on July 11, 2019 for an amount of \$60,000.00 (the only line-item on the purchase order is “1 Year Lease Rental” for the period April 1, 2019 – March 31, 2020). *See* Purchase Order No. 200419-00 attached hereto as **Attach. C.** Then, confusingly, on July 17, Council staff made requests for check to the City’s Finance Department in order to satisfy the abovementioned invoices. *See* Invoices and Requests for Check attached hereto as **Attach. D.** Not only is it uncustomary for a purchase order and request for check to be issued for the same payment, the invoices reflect payment requests for deliverables that do not seem to be covered under the purchase order.

In conclusion, there appear to be inconsistencies that call to question the status of the leases made by Shabazz and counterparties, and procedural documentation of those certain payments associated therewith.

II. PROCEDURAL NONCOMPLIANCE ASSOCIATED WITH A CERTAIN LEASE AND A CERTAIN PURCHASE ORDER

On July 16, 2019, the City received the latest invoice, against the abovementioned purchase order and lease indenture, from the Landlord for July rent. These costs, so-called third-party operating (TPO) lease payments, are generally budgeted in the City’s Special Governmental Fund, known as the Cable Television Fund (the “Fund”) which has a total budget of \$1,112,599.00 for the City’s Fiscal Year

ending June 30, 2020. However, no revenues have been appropriated for TPO lease payments. *See* excerpt from Budget Ordinance ¶ 1 and Budget Justifications for the Fund attached hereto as **Attach. E**.

Consequently, the lease indenture, made by Shabazz, and associated purchase order, issued by the City's Finance Department, appear to be procedurally noncompliant.