



FILE WITH REPORT PUBLISH ELECTRONIC COPY TO WEB

Please file this material as an attachment with the council report noted below. These documents should be referenced in the Table of Contents and with a notation that they are available for review on the City's website or in the Office of the City Clerk.

Do not reproduce these documents for the agenda packet; however, please publish them in electronic format to the City's website along with the applicable staff report.

Agenda Date: June 28, 2007

Report Title: Fire Apparatus Acquisition Using a Cooperative Purchasing Agreement

Description of Documents: These documents are associated with a General Services Report

Comments: Should you have any questions, please contact Chris Tjie (x-5517)

SCHEDULE OF PROPERTY NO. 10

Re: Master Equipment Lease/Purchase Agreement, dated as of March 16, 2004, (the "Master Equipment Lease") between Banc of America Leasing & Capital, LLC, and City of Sacramento, California, (the "Lessee")

1. *Defined Terms; Lease; Banc of America Public Capital Corp as Lessor.* Unless otherwise defined herein, all terms used herein have the meanings ascribed to them in the above-referenced Master Equipment Lease. This Schedule constitutes a "Lease" for all purposes under the Master Equipment Lease, and is by and between the Lessee and Banc of America Public Capital Corp, a Kansas corporation (the "Lessor"), an affiliate of Banc of America Leasing & Capital, LLC ("BALC"). For all purposes under or with respect to this Schedule and any documents or instruments executed and delivered in connection herewith, each reference to "Lessor" contained herein and in the Master Equipment Lease is deemed to be a reference to Banc of America Public Capital Corp, as Lessor hereunder. Lessee acknowledges and agrees that the occurrence of an Event of Default under any Lease with Lessor or BALC constitutes an Event of Default under all Leases subject to the Master Equipment Lease.

2. *Equipment.* The following items of Equipment are hereby included under this Schedule of the Master Equipment Lease.

	Description			
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New Fire Engine as detailed below to be further described on Vendor Invoices:

(I) Velocity 1500 GPM Pumper

Location: 5730 24th Street, Sacramento, CA 95822

3. *Payment Schedule.*

(a) *Rental Payments.* The Rental Payments are in such amounts and payable on such dates as set forth in the Rental Payment Schedule attached to this Schedule as Exhibit A-I. Lessee's obligation to make Rental Payments commences on the date on which the Equipment listed in this Schedule is accepted by Lessee, as indicated in an Acceptance Certificate substantially in the form of Exhibit F to the Master Equipment Lease or the date on which sufficient moneys to purchase the Equipment are deposited for that purpose with Lessee, whichever is earlier.

(b) *Purchase Price Schedule.* The Purchase Price on each Rental Payment date for the Equipment listed in this Schedule is the amount set forth for such Rental Payment date in the "Purchase Price" column of the Rental Payment Schedule attached to this Schedule. The Purchase Price is in addition to all Rental Payments then due under this Schedule (including the Rental Payment shown on the same line in the Rental Payment Schedule).

4. *Representations, Warranties and Covenants.* Lessee hereby represents, warrants and covenants that its representations, warranties and covenants set forth in the Master Equipment Lease are true and correct as though made on the date of commencement of Rental Payments on this Schedule. Lessee further represents and warrants that no material adverse change in Lessee's financial condition has occurred since the date of the Master Equipment Lease.

5. *The Lease.* The terms and provisions of the Master Equipment Lease (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.

Notwithstanding the fourth "Whereas" clause of the Master Equipment Lease, attached hereto is Lessee's Resolution No. _____ dated _____, 2007, passed with respect to the Equipment to be leased under this Schedule of Property No. 10.

6. *Lease Proceeds.* The amount of Lease Proceeds which Lessor shall pay to the Lessee in connection with this Schedule is \$485,008.85 for deposit to a fund controlled by Lessee to be used exclusively for acquisition of the Equipment. By eighteen (18) months after the date of this Schedule No. 10, Lessee will have taken possession of all items of Equipment shown above and that a Lessee's Acceptance Certificate, or Acceptance Certificates, will be signed by Lessee and delivered to Lessor on or before eighteen (18) months after the date of this Schedule No. 10.

7. *Acquisition Period.* The Acquisition Period applicable to this Schedule ends at the conclusion of the 18th month following the date hereof.

8. *Lease Term.* The Lease Term consists of the Original Term and 10 consecutive Renewal Terms, with the final Renewal Term ending on September 4, 2017.

9. *Purchase Option Commencement Date.* For purposes of Section 10.01 of the Master Equipment Lease, the Purchase Option Commencement Date is September 4, 2007.

Dated: September 4, 2007

LESSOR:

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104
Attention: Contract Administration

LESSEE:

Office of the City Treasurer
City of Sacramento, California
915 I Street, Historic City Hall 3rd Flr
Sacramento, California 95814
Attention: _____

By: _____

Name: Bridgett Arnold

Title: Assistant Vice President

By: _____

Name: _____

Title: _____

(Seal)

Attest:

By: _____

Name: _____

Title: _____

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

ESSENTIAL USE/SOURCE OF FUNDS CERTIFICATE

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. 10 dated September 4, 2007 by and between Banc of America Public Capital Corp (the "Lessor") and the City of Sacramento, California (the "Lessee"), incorporating the terms of that certain Master Equipment Lease/Purchase Agreement dated as of March 16, 2004, by and between Banc of America Leasing & Capital, LLC and Lessee

This certificate confirms and affirms that the Equipment described in the Schedule of Property referenced above is essential to the functions of Lessee or to the services Lessee provides its citizens. Further, Lessee has an immediate need for, and expects to make immediate use of, substantially all such Equipment, which need is not temporary or expected to diminish in the foreseeable future. Such Equipment will be used by Lessee only for the purpose of performing one or more of Lessee's governmental or proprietary functions consistent with the permissible scope of its authority.

Lessee expects and anticipates adequate funds to be available for all future Rental Payments.

Signature: _____

Name: _____

Title: _____

ARBITRAGE AND TAX CERTIFICATE

We, the undersigned Thomas P. Friery, City Treasurer of the City of Sacramento, California (the "Issuer") and the City Council of the Issuer, do hereby certify that this Certificate is issued pursuant to Sections 1.141-1 through 1.141-16, 1.148-0 through 1.148-11, 1.150-1 and 1.150-2 of the Treasury Regulations (the "Regulations") promulgated pursuant to the Internal Revenue Code of 1986, as amended (the "Code"), to set forth the Issuer's reasonable expectations on the date of issue of the obligations of the Issuer under that certain Lease/Purchase Agreement (as hereinafter defined) and as to future events regarding the amount and use of the proceeds thereof.

The Lease/Purchase Agreement

1. Each of the undersigned is charged, together with other officials and officers, with the responsibility for entering into the \$485,008.85 Schedule of Property No. 10 dated as of September 4, 2007 (the "Schedule") between the Issuer and Banc of America Public Capital Corp (the "Lessor"), which Schedule incorporates by reference the terms of that certain Master Equipment Lease/Purchase Agreement, dated as of March 16, 2004, (the "Master Lease") by and between the Issuer and Banc of America Leasing & Capital, LLC, an affiliate of Lessor (the Schedule and the Master Lease are collectively referred to herein as the "Lease/Purchase Agreement"). The Lease Purchase Agreement is authorized pursuant to the laws of the State of California and a resolution adopted by the Issuer on _____ (the "Resolution"). This certificate is a document related to the Lease/Purchase Agreement.

2. The Lease/Purchase Agreement is being entered into to finance the cost of certain Equipment described in the Lease/Purchase Agreement. As contemplated by the Lease/Purchase Agreement, the Lessor will fund the Equipment Cost to the Issuer. The Lessor will then lease the equipment to the Issuer, and the Issuer will agree to make rental payments under the Lease/Purchase Agreement (the "Rental Payments") to the Lessor. The Equipment will be used for a corporate and public purpose of the Issuer.

Proceeds

3. The Issuer will receive from the Lessor, as a result of the financing of the Equipment as contemplated by the Lease/Purchase Agreement, the amount of \$485,008.85 (the "Equipment Proceeds"). Completion of the acquisition of the Equipment is expected to occur prior to March 4, 2009. Issuer has entered into, or will enter into within six months after the date hereof, binding contracts or commitments obligating the expenditure of at least five percent (5%) of the Equipment Proceeds. At least eighty-five percent (85%) of the Equipment Proceeds will be expended to pay issuance costs or to acquire the Equipment within three years after the date hereof.

4. The total cost of the Equipment is anticipated to be equal to the Equipment Proceeds. It is not anticipated that any proceeds from the issue will be used to pay the expenses of issuing the Lease/Purchase Agreement obligations.

Equipment

5. The Equipment Proceeds and anticipated investment earnings on such proceeds do not exceed the amount necessary to complete the acquisition of the Equipment.

6. The Issuer represents that the Equipment will not be used in such a manner so as to cause the Lease/Purchase Agreement to constitute "private activity bonds" as defined in Section 141(a) of the Code and Sections 1.141-0 through 1.141-16 of the Regulations.

7. All Equipment financed by the Lease/Purchase Agreement will be owned by the Issuer in accordance with Section 141 of the Code. The Issuer represents and covenants that while the Lease/Purchase Agreement is in effect, it will not sell, lease, or otherwise dispose of any portion of the Equipment, *except that* a portion of the Equipment may be disposed of in the normal course such as by reason of obsolescence and normal wear and tear without providing to the Lessor an opinion of bond counsel that such sale, lease, or other disposition will not adversely affect the exclusion of the interest portion of the Rental Payments made under the Lease/Purchase Agreement from the gross income of the Lessor for federal income tax purposes.

Yield

8. The Issuer represents that no other obligations of the Issuer (1) were or will be sold within 15 days of the lease of the Equipment as contemplated by the Lease/Purchase Agreement; (2) are being sold pursuant to a plan of financing common with the sales contemplated by the Lease/Purchase Agreement; and (3) are payable from substantially the same source of funds as the Lease/Purchase Agreement.

9. For purposes of this Certificate, "yield" means yield computed by the actuarial method using a 360-day year and semi-annual compounding, resulting in a discount rate which, when used in computing the present worth of all payments of principal and interest to be paid on an obligation, produces an amount equal to the issue price, fair market value, present value, or purchase price thereof, as applicable, and is determined in all respects in accordance with Section 148 of the Code and the Regulations.

10. As of the Closing Date, the Issuer expects that the purchase price of \$485,008.85 is the issue price of the obligations under the Lease/Purchase Agreement to the public (excluding bond houses, brokers, and other intermediaries). Based upon such price, the Issuer expects the yield on the Lease/Purchase Agreement to be computed as 4.09%.

ACCEPTANCE CERTIFICATE

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. 10, dated September 4, 2007, by and between Banc of America Public Capital Corp (the "Lessor") and the City of Sacramento, California (the "Lessee"), incorporating the terms of that certain Master Equipment Lease/Purchase Agreement, dated as of March 16, 2004, by and between Banc of America Leasing & Capital, LLC and Lessee

Ladies and Gentlemen:

In accordance with the above-referenced Master Equipment Lease/Purchase Agreement (the "Agreement"), the undersigned Lessee hereby certifies and represents to, and agrees with, Lessor as follows:

1. All of the Equipment (as such term is defined in the Agreement) listed in the above-referenced Schedule of Property (the "Schedule") has been delivered, installed, and accepted on the date hereof.

2. Lessee has conducted such inspection and/or testing of the Equipment listed in the Schedule as it deems necessary and appropriate and hereby acknowledges that it accepts the Equipment for all purposes.

3. Lessee is currently maintaining the insurance coverage required by Section 7.02 of the Agreement.

4. No event or condition that constitutes, or with notice or lapse of time, or both, would constitute, an Event of Default (as defined in the Agreement) exists at the date hereof.

Date: _____

LESSEE:
City of Sacramento, California

By: _____

Name: _____

Title: _____

(Seal)

September 4, 2007

Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, California 94104

Re: Schedule of Property No. 10, dated September 10, 2007, between Banc of America Public Capital Corp as Lessor and the City of Sacramento as Lessee, incorporating the terms of the Master Equipment Lease/Purchase Agreement dated as of March 16, 2004, between Banc of America Leasing & Capital, LLC and the City of Sacramento

Ladies and Gentlemen:

We serve as legal counsel to City of Sacramento ("Lessee"). In that capacity, and in connection with the lease financing of the new fire engine described below, we have examined the following documents:

- An executed counterpart of the Master Equipment Lease/Purchase Agreement (including exhibits) between Lessee and Banc of America Leasing & Capital, LLC, dated as of March 16, 2004 (the "Agreement").
- An executed counterpart of Schedule of Property No. 10 between Lessee and Banc of America Public Capital Corp ("Lessor"), dated September 4, 2007 (the "Schedule"). Among other things, the Schedule incorporates the terms of the Agreement and provides for the lease of the new fire engine listed in the Schedule (the "Equipment").
- An executed counterpart of the ordinances or resolutions of Lessee that, among other things, authorize Lessee to execute the Agreement and the Schedule.
- Any other opinions, documents, and matters of law that we deemed necessary to examine in connection with the opinions set forth below.

In this letter, the Schedule and the terms and provisions of the Agreement incorporated into the Schedule by reference, together with the Rental Payment Schedule attached to the Schedule, are referred to collectively as the "Transaction Documents."

Based on the foregoing, we are of the following opinions:

1. Lessee is a charter city of the State of California and is authorized by the Constitution and laws of that state to enter into the transactions contemplated by the Transaction Documents and to carry out its obligations under the Transaction Documents
2. Lessee has the requisite power and authority to lease and acquire the Equipment, to execute and deliver the Transaction Documents, and to perform its obligations under the Lease.
3. The Lease has been duly authorized, approved, executed, and delivered by and on behalf of Lessee, and the Transaction Documents are valid and binding obligations of Lessee, enforceable in accordance with their terms.
4. The authorization, approval, execution, and delivery of the Transaction Documents and all other proceedings of Lessee relating to the transactions contemplated in the Transaction Documents have been performed in accordance with all open-meeting laws, public-bidding laws, and all other applicable state or federal laws.
5. To our current, actual knowledge, Lessee has not been served with process in, or overtly threatened with, any lawsuit, administrative proceeding, or investigation in any court or before any governmental authority, arbitration board, or tribunal that, if adversely determined against Lessee, would adversely affect the transactions contemplated by the Transaction Documents or the security interest of Lessor or Lessor's assigns, as the case may be, in the Equipment or other collateral under the Transaction Documents.

These opinions are governed by, and are to be interpreted in accordance with, the Legal Opinions Accord included in the *Third-Party Legal Opinion Report of the ABA Section of Business Law (1991)*. These opinions are also governed by, and are to be interpreted in accordance with, the "California Provisions" set out in the *Business Law Section of the State Bar of California Report on the Third-Party Legal Opinion Report of the ABA Section of Business Law (dated May 1992)*. As a consequence, these opinions are subject to a number of qualifications, exceptions, definitions, limitations on coverage, understandings, and other matters, all as more particularly described in the Legal Opinions Accord and the California Provisions, and they must be read in conjunction with those documents.

Banc of America Public Capital Corp
Re: Schedule of Property No. 10
September 4, 2007
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We express no opinion regarding state or federal laws that pertain to the tax-exempt status of this lease financing.

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

Sincerely,

Eileen M. Teichert
City Attorney

By: _____
Joseph P. Cerullo
Senor Deputy City Attorney