



REPORT TO COUNCIL City of Sacramento

915 I Street, Sacramento, CA 95814-2671
www. CityofSacramento.org

Consent
October 6, 2005

Honorable Mayor and
Members of the City Council

Subject: Approve Acquisition and Financing of Greenwaste Trash/Recycling Containers

Location/Council District: Citywide

Recommendation:

Adopt the attached resolution: 1) Authorizing the City Treasurer to secure funding of Greenwaste and Trash/Recycle Containers in an amount not to exceed \$750,000 and to execute related financing documents (financing documents, as identified on **Attachment A**, are on file with the City Clerk)

Contact: Harold Duffy, Integrated Waste General Manager (916) 808-4932
Kim Gladden, Sr. Debt Analyst (916) 808-5168

Presenters: Harold Duffy, Integrated Waste General Manager(916) 808-4932
Kimberlie Gladden, Senior Debt Analyst (916) 808-5168

Department: General Services and Office of the City Treasurer

Division: Solid Waste Division and Public Finance

Organization: 3141 and 0900

Summary:

This report advises the City Council of the City Treasurer's actions to secure the second series of financing for the City's Solid Waste Voluntary Containerized Lawn and Garden (VCLG) Program.

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Acquisition & Lease Financing of Greenwaste Trash & Recycling Containers

On July 21, 2005, City Council approved the action to authorize the City Treasurer to secure funding for the first of two series for the City's Solid Waste Division in Fiscal Year (FY) 2005/2006 in an effort to obtain funds for the acquisition of Greenwaste and Trash/Recycle Containers. At that time, City Council was informed that \$1.5 million in financing would be needed in FY 2005-06 – of which \$750,000 was authorized for the first series. In this, the second and final series for the City's Solid Waste Division, approval of \$750,000 that remains under the \$1.5 million authorization to be financed is now being presented for consideration. This series will entail the purchase of 10,000 Greenwaste and 10,000 Trash/Recycling containers.

Solid Waste's original goal was to acquire the additional 20,000 containers and seek the second phase of funding in November 2005. However, Solid Waste has modified their acquisition strategy to take advantage of existing purchase prices that are due to increase when the existing contract with Toter, Inc. expires in December 2005. Therefore, Solid Waste now requests the acquisition and financing of the greenwaste and trash/recycling containers in October 2005, earlier than anticipated.

To assist in accomplishing Solid Waste's goal in implementing the expansion of the VCLG Program, the City Treasurer's Office has secured the second series of lease financing for the proposed \$750,000 with an interest rate of 3.36%. The source of repayment for the lease financing would be derived from fees paid by existing and future rate payers.

Committee/Commission Action: None

Background Information:

In May 2004, City Council approved the Voluntary Containerized Lawn and Garden (VCLG) Program. This program provides weekly automated collection of lawn and garden material in a 96-gallon container and supplemental loose-in-the-street collection eight times per year.

On July 21, 2005, City Council approved the action to authorize the City Treasurer to secure funding for the first of two series for the City's Solid Waste Division in an effort to obtain funds for the acquisition of 40,000 Greenwaste and Trash/Recycle Containers. As a result of the increase in City growth, the report advised the City Council to approve the acquisition of 40,000 Greenwaste and Trash/Recycling Containers to support additional homes citywide. The Solid Waste Division will purchase approximately 20,000 Greenwaste and 20,000 Trash/Recycling containers for the Voluntary Containerized Lawn and Garden (VCLG) Program in.

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At that time, City Council was informed that \$1.5 million in financing would be needed in FY 2005-06 – of which \$750,000 was authorized for the first series for the purchase of 20,000 containers.

City Council approved Bid No. 1829 with Toter Inc. and Environmental Delivery Services, jointly, in November 2000. This existing contract was utilized to purchase 20,000 containers in the first series of this financing and will again be utilized to purchase an additional 20,000 containers, in the second series, to support the VCLG Program until the contract expires in December, 2005.

The City Treasurer solicited proposals from several financial institutions for the most beneficial financing for the Project. As a result of the borrowing amount, the equipment lease structure with Banc of America Leasing and Capital LLC was the best proposal and the most efficient and economical structure for this project. The City Treasurer's Office has had a Master Lease Equipment Agreement with Banc of America Leasing & Capital LLC since 1996 and has provided equipment leases for similar acquisitions for Solid Waste containers and several other projects throughout the years. Banc of America Leasing has proposed a 3.36% rate over five years for the second series financing.

Financial Considerations:

The proposed \$750,000 borrowing establishes the lease proceeds needed for the purchase of approximately 20,000 Greenwaste and Trash/Recycling Containers.

The source of repayments for this series of this lease financing will be derived from user assessed fees and paid by existing and future rate payers. Lease payments for the container purchases are subject to the Solid Waste Base Rental (1999 Capital Improvement Revenue Bonds) semi-annual debt obligations under the Solid Waste Facilities Lease. Council approved a rate increase in June, 2005, this increase insures that there are sufficient revenues available to meet the debt obligations of the Solid Waste Funds.

The actual terms of the financing obtained by the City Treasurer for the second series of the financing are as follows:

Amount of Loan:	\$750,000.00
Term of Loan:	5 years
Interest Rate:	3.36%
Semi-Annual Lease Payment:	\$82,105

See **Attachment B** for detailed terms and conditions.

The first series of this financing received a rate of 3.27%. Treasuries climbed in late July and August, at times, exceeding 4% and have now fallen back to rates

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in the 3% range. The current rate is less than 10 bps higher than what was received in late June.

Environmental Considerations:

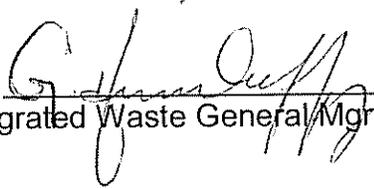
These activities are not subject to the requirements of CEQA under Guidelines section 15378(b)(2) and (b)(4), as these activities deal with purchases of supplies and governmental financing vehicles, respectively.

Policy Considerations:

The action herein is consistent with the City's Strategic Plan goals to achieve sustainability and livability.

Emerging Small Business Development (ESBD):

Goods and services will be purchased in accordance with established City policies.

Respectfully Submitted by: 
G. Harold Duffy, Integrated Waste General Mgr.

Recommendation Approved:


ROBERT P. THOMAS
City Manager

Approved by:

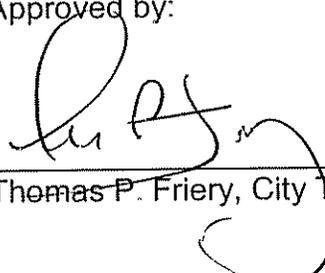

Thomas P. Friery, City Treasurer

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ATTACHMENT A

**CITY OF SACRAMENTO
LEASE FINANCING & ACQUISITION OF GREENWASTE TRASH &
RECYCLING CONTAINERS
LIST OF DOCUMENTS ON FILE WITH THE CITY CLERK**

- Acquisition Fund and Account Control Agreement
- Schedule of Property No. 6 re: Master Equipment Lease/Purchase Agreement (City Agreement No. 2004-047)
- Essential Use/Source of Funds Certificate
- Arbitrage and Tax Certificate

ATTACHMENT B

SUMMARY OF TERMS AND CONDITIONS

Date: September 14, 2005

Lessee: The City of Sacramento, California

Lessor: Banc of America Leasing & Capital, LLC or its designee ("Lessor")

Equipment: **New refuse containers (\$750,000)** (individually "Unit" and collectively "Equipment")

Maximum Purchase Price: the lower of \$750,000 and the fair market value of the Equipment

Lease Structure: A lease intended as security transaction; under which all tax benefits will remain with Lessee. The lease will be a net financial lease, and all expenses, including (but not limited to) insurance, maintenance, and taxes, will be for the account of Lessee.

Term: **Lease Commencement Date:** It is anticipated that funding will occur after October 14, 2005.

Lease Term: 5 year term.

Indicative Tax Exempt Interest Rate: 3.36 %

Such indicative Tax Exempt Interest Rate will be held until October 14, 2005. Subsequent to that date and subject to the economic yield maintenance requirements below, the Tax-Exempt Interest Rate will be fixed five business days prior to funding equal to a tax-exempt interest rate of

(.65 x 5-year U.S. Treasuries) plus .8195 %

Lessor will maintain its economic yield in the lease outside of the interest rate lock period described above and prior to funding.

Rent: Lessee shall make semiannual payments, each equal to the stated percentage of Maximum Purchase Price, payable in

arrears (“**Indicative Rental Rate**”). This rental amount is indicative only and is comprised of principal and interest at the Tax Exempt Interest Rate based on the following Index:

Index: The index on which the Tax Exempt Interest Rate is based is the bond-equivalent yield per annum for comparable-year U.S. Treasury obligations as quoted by Bloomberg Daily Market Summary. As of September 14, 2005, the Index was 3.91 % for 5 years.

Governmental Entity Lease:

The Base Rent installments are calculated on the assumptions, and Lessee will represent, that Lessee is a state or political subdivision of a state within the meaning of Section 103(c) of the Internal Revenue Code (the “Code”), and that this transaction will constitute an obligation of Lessee within the meaning of Section 103(a) of the Code, notwithstanding Section 103(b) of the Code. Lessee shall provide Lessor with such evidence as Lessor may request to substantiate and maintain such tax status. Lessee shall comply with the filing requirements of Section 149(e) of the Code. Lessee will pay Lessor amounts calculated at a taxable rate sufficient to maintain Lessor’s yield in the Lease, in the event Lessor suffers a loss of Federal income tax exemption of the interest portion of the rentals.

Early Termination: After the Lease Commencement Date, on any rental payment date and upon 30 days’ notice, Lessee may prepay in full all amounts then outstanding under the Lease, including accrued interest, principal balance, and other unpaid charges according to the following schedule: year 0-2 at 101% of outstanding balance; year 3 at 100.5% of outstanding balance; and from year 4 forward, at 100% of outstanding balance.

End of Term: At the expiration of the Lease Term, Lessee will purchase all (but not less than all) the Equipment for \$1.00 (“Purchase Price”).

Expenses: Lessee and Lessor will each be responsible for its own expenses incurred in connection with the preparation, negotiation and closing of the lease documentation.

Lease Documents: Master lease documents already negotiated between Lessee and Lessor will be utilized for this transaction with additional schedules, conforming to the details of this financing.

Lessee will also provide board resolutions and other documentation required by Lessor.

Executed lease documents shall control the final transaction.

Opinion of Counsel:

Lessee's counsel shall deliver an opinion to Lessor at closing in form and substance satisfactory to Lessor concerning the due authorization, execution, delivery, and enforceability of the lease.

Assignment

by Lessor: The Lessor shall be entitled to assign its right, title and interest in the Lease and leased equipment on a private placement basis to qualified purchasers. In addition, Lessor shall be entitled to assign its right, title and interest in the Lease to a trustee for the purpose of issuing certificates of participation or other forms of certificates evidencing an undivided interest in such Lease, provided such certificates are sold only on a private placement basis (and not pursuant to any "public offering") to a purchaser(s) who represent that (i) such purchaser has sufficient knowledge and experience in financial and business matters to be able to evaluate the risks and merits of the investment (ii) such purchaser understands neither the Lease or certificates will be registered under the Securities Act of 1933, (iii) such purchaser is either an "accredited investor" within the meaning of Regulation D under the Securities Act of 1933, or a qualified institutional buyer within the meaning of Rule 144A, and (iv) that it is the intention of such purchaser to acquire such certificates (A) for investment for its own account or (B) for resale in a transaction exempt from registration under the Securities Act of 1933.

Filing Fees:

Lessor will obtain Uniform Commercial Code financing statement searches in Lessee's headquarters and each Equipment location. If Lessor requests, Lessee will also furnish duly executed landlord and mortgage waivers and supporting information. Lessee will also provide board resolutions, incumbency certificates and other documentation required by Lessor.

**Utilization
Period :**

Utilization period will extend until September 14, 2006, or 12 months from the date of documentation closing.

**Proposal
Expiration Date:**

This proposal will expire on October 14, 2005.

RESOLUTION NO. 2005-_____

Adopted by the Sacramento City Council

October 6, 2005

APPROVE ACQUISITION AND FINANCING OF GREENWASTE TRASH/RECYCLING CONTAINERS

BACKGROUND

- A. In May 2004, City Council approved the Voluntary Containerized Lawn and Garden (VCLG) Program. This program provides weekly automated collection of lawn and garden material in a 96-gallon container and supplemental loose-in-the-street collection eight times per year. City Council approved Bid No. 1829 with Toter Inc. and Environmental Delivery Services, Inc. (Toter/EDS) in November, 2000, this existing contract was utilized to purchase 20,000 containers in the first series of this financing and will again be utilized to purchase an additional 20,000 containers to support the VCLG Program until the contract expires in December, 2005. In order to facilitate the purchase of these containers, the existing Toter/EDS contract was increased to an aggregate not to exceed amount of \$6.8 million.
- B. The City Treasurer's Office has had a Master Lease Equipment Agreement with Banc of America Leasing & Capital LLC since 1996 and has provided equipment leases for similar acquisitions for Solid Waste containers and several other projects throughout the years. The City will once again utilize this financing structure to finance the second series of \$750,000 for the acquisition of the Greenwaste and Trash/Recycling containers.

BASED ON THE FACTS SET FORTH IN THE BACKGROUND, THE CITY COUNCIL RESOLVED AS FOLLOWS:

- Section 1. The City Treasurer is hereby authorized to secure \$750,000 in lease financing and to execute the Acquisition Fund Agreement, Schedule of Property No. 6 and Arbitrage and Tax Certificate between the City of Sacramento and Banc of America Leasing and Capital LLC.
- Section 2. The source of repayment for the second series of lease financing would be derived from user assessed fees and paid by existing and future rate payers. Lease payments for the container purchases are subject to Solid Waste Base Rental (1999 Capital Improvement

Revenue Bonds) semi-annual debt obligations under the Solid Waste Facility Lease.

Adopted by the City of Sacramento City Council on October 6, 2005 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

Mayor Heather Fargo

Shirley Concolino, City Clerk