



## REPORT TO COUNCIL City of Sacramento

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

STAFF REPORT  
July 21, 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 Integrated Waste General Manager to increase the aggregate amounts under Bid No. 1829 with Toter Inc. and Environmental Delivery Services, Inc. (Toter/EDS), from \$5.9 million to \$6.8 million to acquire additional Greenwaste and Trash/Recycling containers; 2) Augment the Solid Waste revenue and expenditure budget by \$1.5 million which will be funded by lease financing secured by the City Treasurer; and 3) Authorize the City Treasurer to secure funding of Greenwaste and Trash/Recycle Containers in an amount not to exceed \$1.5 million 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:**

As a result of the increase in City growth, this report advises the City Council to approve the acquisition of 40,000 Greenwaste and Trash/Recycling Containers

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## Lease Financing & Acquisition of Greenwaste 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 order to facilitate the purchase of these containers, the existing contract with Toter/EDS must be increased. The Toter/EDS contract has a current, approved spending authority of a not to exceed amount of \$5.9 million. It is recommended at this time to increase the aggregate not to exceed amount by \$900,000 to a total of \$6.8 million. This will account for the proposed \$1.5 million as well as ensure that adequate funds exist for any cost overruns. The proposed increase is necessary to acquire containers to support an additional 20,000 homes targeted for inclusion in the VCLG Program in fiscal year 2005-2006.

Acquisition and financing is anticipated to occur in two series of \$750,000 (\$750,000 delivered in Aug-05 and \$750,000 delivered in Nov-05) each for a total of \$1.5 million and paid back over a five-year period. Each series will entail the purchase of 10,000 Greenwaste and 10,000 Trash/Recycling containers, totaling 20,000 containers in each series.

To assist in accomplishing Solid Waste's goal in implementing the expansion of the VCLG Program, the City Treasurer's Office has secured lease financing for the proposed \$1.5 million with an interest rate of 3.27%. 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.

City Council approved Bid No. 1829 with Toter Inc. and Environmental Delivery Services, jointly, in November 2000. To date, the Solid Waste Division has expended \$5.2 million (145,649 containers purchased) under the Toter/EDS contract for the acquisition of containers. This existing contract will be utilized to purchase the additional 40,000 containers to support the VCLG Program until the contract expires in December 2005.

The City Treasurer solicited proposals from several different 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

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## Lease Financing & Acquisition of Greenwaste Trash & Recycling Containers

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 proposed a 3.27% rate over five years for the first series of this financing.

### **Financial Considerations:**

The proposed \$1.5 million borrowing establishes the lease proceeds needed for the purchase of approximately 40,000 Greenwaste and Trash/Recycling Containers. This report recommends that the Solid Waste Division operating budget be amended to establish the appropriate expenditure authority related to the purchasing of containers and lease payments.

The source of repayments for both series of this 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 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 terms of the financing obtained by the City Treasurer for the first series of the financing are as follows:

Amount of Loan:	\$750,000.00
Term of Loan:	5 years
Interest Rate:	3.27%
Annual Lease Payment:	\$81,909

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

At this time, it is not known what the rate for the second series of this lease financing will be, but the rate will be derived from 65% of the 5-year US Treasuries Index, plus .8195%. It is not likely that the rate will exceed 6%.

### **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.

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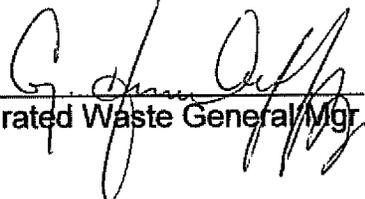
Lease Financing & Acquisition of Greenwaste Trash & Recycling Containers

**Policy Considerations:**

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

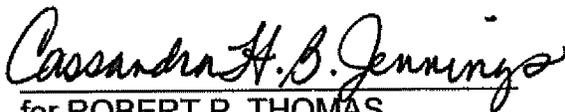
**Emerging Small Business Development (ESBD):**

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

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

Recommendation Approved:

Approved:

  
for ROBERT P. THOMAS  
City Manager

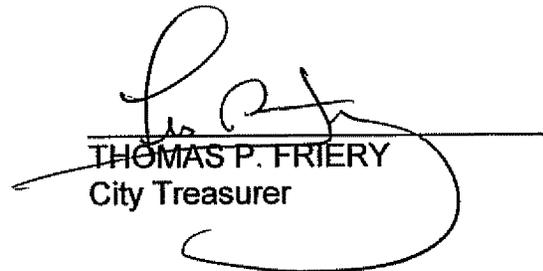
  
THOMAS P. FRIERY  
City Treasurer

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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. 5 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:** June 22, 2005

**Lessee:** The City of Sacramento, California

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

**Equipment:** **New refuse containers (\$1,500,000)** (individually "Unit" and collectively "Equipment")

**Maximum Purchase Price:** the lower of \$1,500,000 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 August 1, 2005.

**Lease Term:** 5 year term.

**Indicative  
Tax Exempt  
Interest Rate:** 3.27 %

Such indicative Tax Exempt Interest Rate will be held until August 4, 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 June 22, 2005, the Index was 3.77 % 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 June 22, 2006, or 12 months from the date of documentation closing.

**Proposal  
Expiration Date:**

This proposal will expire on August 1, 2005.

# RESOLUTION NO. 2005-\_\_\_\_\_

Adopted by the Sacramento City Council

## **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 will be utilized to purchase 40,000 containers to support the VCLG Program until the contract expires in December, 2005.
- B. In order to facilitate the purchase of these containers, the existing Toter/EDS contract must be increased. The Toter/EDS contract has a current, approved spending authority of a not to exceed amount of \$5.9 million. It is recommended at this time to increase the aggregate not to exceed amount by \$900,000 to a total of \$6.8 million. This will account for the proposed \$1.5 million as well as ensure that adequate funds exist for any cost overruns.
- C. 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 \$1.5 million 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 Manager is hereby authorized to increase the amount of the existing contract with Environmental Delivery Services, Inc. and Toter, Inc., joint payees, 9101 W. Sahara Avenue, Ste. 105-G-30, Las Vegas, NV 89117, to an aggregate amount of \$6,800,000.

- Section 2. The Finance Director is authorized to amend the Solid Waste Division operating budget by \$1.5 million to establish the necessary purchasing and lease payment expenditure authority related to this lease financing.
- Section 3. The City Treasurer is hereby authorized to secure \$1.5 million in lease financing and to execute the Acquisition Fund Agreement, Schedule of Property No. 5 and Arbitrage and Tax Certificate between the City of Sacramento and Banc of America Leasing and Capital LLC.
- Section 4. The source of repayment for both series of this 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 July 21, 2005 by the following vote:

Ayes:

Noes:

Abstain:

Absent:

Attest:

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Mayor Heather Fargo

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Shirley Concolino, City Clerk