

AN ORDINANCE

2008-11-20-1051

AUTHORIZING THE TENTH DRAW, SCHEDULE J TO THE 2005 TAX-EXEMPT MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP, IN THE TOTAL AMOUNT OF \$5,552,747.10, WHICH CONSISTS OF \$3,785,231.75 FOR THE ACQUISITION OF FIFTEEN (15) AUTOMATED REFUSE COLLECTION TRUCKS FOR THE CITY'S SOLID WASTE MANAGEMENT DEPARTMENT AT A RATE OF 4.26% FOR AN 84 MONTH TERM; AND \$1,050,520.85 FOR THE ACQUISITION OF SEVEN HUNDRED SEVENTY (770) SETS OF BUNKER GEAR FOR THE CITY'S FIRE DEPARTMENT, AND \$716,994.50 FOR THE ACQUISITION OF VARIOUS COMPONENTS OF THE RADIO FREQUENCY IDENTIFICATION ("RFID") THEFT DETECTION SYSTEM FOR THE CITY'S LIBRARY DEPARTMENT, AT A RATE OF 3.88% FOR A 60 MONTH TERM, TO PAY THE COSTS OF THE TRANSACTION; AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE

* * * * *

WHEREAS, the City of San Antonio, Texas ("City" or "Lessee") is a home rule municipality, a political subdivision, and is duly organized and existing pursuant to the Constitution and laws, of the State of Texas ("State"); and

WHEREAS, pursuant to applicable law, the City Council ("Council") of the City is authorized to acquire, dispose of, and encumber personal property, including, without limitation, rights and interest in property, and leases necessary to the functions or operations of the City; and

WHEREAS, the Council previously adopted Ordinance No. 100438 on February 17, 2005 (the "Original Ordinance") authorizing the execution of the Tax-Exempt Master Equipment Lease/Purchase Agreement, dated as of February 24, 2005, attached to the Original Ordinance as Exhibit A, including the Acquisition Fund Agreement, dated February 24, 2005, by and among the Lessor, the Lessee, and The Frost National Bank, San Antonio, Texas (the "Master Agreement") in the principal amount not exceeding the amount stated therein for the purpose of acquiring the personal property ("Equipment") to be described in each Schedule to the Master Agreement as appropriate and necessary to the functions and operations of the City; and

WHEREAS, pursuant to Ordinance No. 101847, passed and approved on December 15, 2005, the Council approved that certain First Amendment And Renewal Of

Master Equipment Lease/Purchase Agreement, to provide for renewal of the Master Agreement for the First Renewal Agreement Term and to advance the date on which Schedules to the Master Agreement may be issued by the Lessee during the First Renewal Agreement Term; and

WHEREAS, pursuant to Ordinance No. 2007-10-04-1061, passed and approved on October 4, 2007, the Lessee and Banc of America Public Capital Corp (“Lessor”) entered into that certain Second Amendment And Renewal Of Master Equipment Lease/Purchase Agreement (the “Second Amendment”), pursuant to which the Master Agreement was further amended to provide that all remaining funds available under the Master Agreement (approximately \$10,000,000.00 and the \$5,546,245.15 in remaining lease year 2007 funds) may be drawn by Lessee through the issuance of Schedules to the Master Agreement issued during the Second Renewal Agreement Term, which ended February 23, 2008; and

WHEREAS, the parties to the Master Agreement have also heretofore renewed and extended the Master Agreement for the Third Renewal Agreement Term, which commenced February 24, 2008, and terminates February 24, 2009, during which all remaining funds available under the Master Agreement may be drawn by Lessee through the issuance of Schedules to the Master Agreement; and

WHEREAS, the Lessee desires to acquire on or about November 25, 2008, (A) fifteen (15) automated refuse collection trucks for the Solid Waste Management Department for the price of \$3,782,505.00, (B) 770 sets of Bunker Gear for the Fire Department for the price of \$1,049,764.10, and (C) various components of the RFID Theft Detection System for the Library Department for the price of \$716,478.00 plus Lessee’s costs of issuance of \$4,000.00, as disclosed in Schedule J to the Master Agreement attached hereto as Exhibit A and incorporated by reference for all purposes; and

WHEREAS, Lessor shall act as lessor under Schedule J to the Master Agreement; and

WHEREAS, the Council hereby finds and determines that the adoption of this Ordinance and authorization for the execution of Schedule J to the Master Agreement are in the best interests of the City; **NOW THEREFORE**:

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. Schedule J to the Master Agreement as attached hereto as Exhibit A is hereby approved and is incorporated by reference to this Ordinance for all purposes.

SECTION 2. The City Manager, the City Manager's designee, and the City's Director of Finance, acting on behalf of the City, are hereby authorized to negotiate, execute and enter into Schedule J to the Master Agreement in substantially the forms set forth in Exhibit A hereto, which documents are available for public inspection at the Office of the City Clerk. The Mayor, City Manager, Director of Finance, City Attorney, and the City Clerk (each an "Authorized Officer"), acting on behalf of the City, are each hereby authorized to enter into, execute, and deliver such documents and any other documents and certificates relating to Schedule J to the Master Agreement as the Authorized Officer deems necessary and appropriate as specified in Schedule J to the Master Agreement, without further action by this Council. All other related contracts, certificates, and agreements necessary and incidental to Schedule J to the Master Agreement are hereby authorized, with the exception of adding future Schedules to the Master Agreement, other than Schedule J as authorized by this Ordinance. Future Schedules to the Master Agreement shall require approval by Council.

SECTION 3. The aggregate original principal amount of Schedule J to the Master Agreement shall not exceed the amount set forth in Schedule J to the Master Agreement and shall bear interest as set forth in Schedule J to the Master Agreement and Schedule J to the Master Agreement shall contain such options to purchase by the City as set forth therein.

SECTION 4. The City's obligations under Schedule J to the Master Agreement shall be subject to annual appropriation or renewal by the Council as set forth in Schedule J to the Master Agreement and the City's obligations under Schedule J to the Master Agreement shall not constitute a general obligation of the City or indebtedness under the Constitution or laws of the State.

SECTION 5. The City hereby acknowledges and recognizes that Schedule J to the Master Agreement (the "Schedule J Obligations") are being issued by the City as "state or local bonds" under and pursuant to section 103(a) of the Internal Revenue Code of 1986, as amended, and the City hereby covenants and agrees with respect to the use of proceeds of sale of the Schedule J Obligations, and the use of the Equipment, as follows:

(a) Definitions. When used in this Section, the following terms have the following meanings:

"*Closing Date*" means the date on which the Schedule J Obligations are each first authenticated and delivered to the initial purchasers against payment therefor.

"*Code*" means the Internal Revenue Code of 1986, as amended by all legislation, if any, effective on or before the Closing Date.

"*Computation Date*" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Gross Proceeds" means any proceeds as defined in Section 1.148-1(b) of the Regulations, and any replacement proceeds as defined in Section 1.148-1(c) of the Regulations, of the Schedule J Obligations.

"Investment" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Nonpurpose Investment" means any investment property, as defined in section 148(b) of the Code, in which Gross Proceeds of the Schedule J Obligations are invested and which is not acquired to carry out the governmental purposes of the Schedule J Obligations.

"Rebate Amount" has the meaning set forth in Section 1.148-1(b) of the Regulations.

"Regulations" means any proposed, temporary, or final Income Tax Regulations issued pursuant to Sections 103 and 141 through 150 of the Code, and 103 of the Internal Revenue Code of 1954, which are applicable to the Schedule J Obligations. Any reference to any specific Regulation shall also mean, as appropriate, any proposed, temporary or final Income Tax Regulation designed to supplement, amend or replace the specific Regulation referenced.

"Yield" of (i) any Investment has the meaning set forth in Section 1.148-5 of the Regulations and (ii) the Schedule J Obligations has the meaning set forth in Section 1.148-4 of the Regulations.

(b) Not to Cause Interest to Become Taxable. The City shall not use, permit the use of, or omit to use Gross Proceeds or any other amounts (or any property the acquisition, construction or improvement of which is to be financed directly or indirectly with Gross Proceeds) in a manner which if made or omitted, respectively, would cause the interest on any Schedule J Obligation to become includable in the gross income, as defined in section 61 of the Code, of the owner thereof for federal income tax purposes. Without limiting the generality of the foregoing, unless and until the City receives a written opinion of counsel nationally recognized in the field of municipal bond law to the effect that failure to comply with such covenant will not adversely affect the exemption from federal income tax of the interest on any Schedule J Obligation, the City shall comply with each of the specific covenants in this Section.

(c) No Private Use or Private Payments. Except as permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall at all times prior to the last Stated Maturity of Schedule J Obligations:

(i) exclusively own, operate and possess all property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with Gross Proceeds of the Schedule J Obligations, and not use or permit the use of such Gross Proceeds (including all contractual arrangements with terms different than those applicable to the general public) or any property acquired, constructed or improved with

such Gross Proceeds in any activity carried on by any person or entity (including the United States or any agency, department and instrumentality thereof) other than a state or local government, unless such use is solely as a member of the general public; and

(ii) not directly or indirectly impose or accept any charge or other payment by any person or entity who is treated as using Gross Proceeds of the Schedule J Obligations or any property the acquisition, construction or improvement of which is to be financed or refinanced directly or indirectly with such Gross Proceeds, other than taxes of general application within the City or interest earned on investments acquired with such Gross Proceeds pending application for their intended purposes.

(d) No Private Loan. Except to the extent permitted by section 141 of the Code and the Regulations and rulings thereunder, the City shall not use Gross Proceeds of the Schedule J Obligations to make or finance loans to any person or entity other than a state or local government. For purposes of the foregoing covenant, such Gross Proceeds are considered to be "loaned" to a person or entity if: (i) property acquired, constructed or improved with such Gross Proceeds is sold or leased to such person or entity in a transaction which creates a debt for federal income tax purposes; (ii) capacity in or service from such property is committed to such person or entity under a take-or-pay, output or similar contract or arrangement; or (iii) indirect benefits, or burdens and benefits of ownership, of such Gross Proceeds or any property acquired, constructed or improved with such Gross Proceeds are otherwise transferred in a transaction which is the economic equivalent of a loan.

(e) Not to Invest at Higher Yield. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not at any time prior to the final Stated Maturity of the Schedule J Obligations directly or indirectly invest Gross Proceeds in any Investment (or use Gross Proceeds to replace money so invested), if as a result of such investment the Yield from the Closing Date of all Investments acquired with Gross Proceeds (or with money replaced thereby), whether then held or previously disposed of, exceeds the Yield of the Schedule J Obligations.

(f) Not Federally Guaranteed. Except to the extent permitted by section 149(b) of the Code and the Regulations and rulings thereunder, the City shall not take or omit to take any action which would cause the Schedule J Obligations to be federally guaranteed within the meaning of section 149(b) of the Code and the Regulations and rulings thereunder.

(g) Payment of Rebatable Arbitrage. Except to the extent otherwise provided in section 148(f) of the Code and the Regulations and rulings thereunder:

(i) The City shall account for all Gross Proceeds (including all receipts, expenditures and investments thereof) on its books of account separately and apart from all other funds (and receipts, expenditures and investments thereof) and shall retain all records of accounting for at least

six years after the day on which the last Outstanding Schedule J Obligation is discharged. However, to the extent permitted by law, the City may commingle Gross Proceeds of the Schedule J Obligations with other money of the City, provided that the City separately accounts for each receipt and expenditure of Gross Proceeds and the obligations acquired therewith.

(ii) Not less frequently than each Computation Date, the City shall calculate the Rebate Amount in accordance with rules set forth in section 148(f) of the Code and the Regulations and rulings thereunder. The City shall maintain such calculations with its official transcript of proceedings relating to the issuance of the Schedule J Obligations until six years after the final Computation Date.

(iii) As additional consideration for the purchase of the Schedule J Obligations by the initial purchasers thereof and the use of the money represented thereby and in order to induce such purchase by measures designed to insure the excludability of the interest thereon from the gross income of the owners thereof for federal income tax purposes, the City shall remit for payment to the United States the amount described in paragraph (g)(ii) above and the amount described in paragraph (g)(iv) below, at the times, in the manner and accompanied by such forms or other information as is or may be required by Section 148(f) of the Code and the Regulations and rulings thereunder.

(iv) The City shall exercise reasonable diligence to assure that no errors are made in the calculations and payments required by paragraph (g)(ii), and if an error is made, to discover and promptly correct such error within a reasonable amount of time thereafter (and in all events within one hundred eighty (180) days after discovery of the error), including the amount remitted for payment to the United States of any additional Rebate Amount owed to it, interest thereon, and any penalty imposed under Section 1.148-3(h) of the Regulations.

(h) Not to Divert Arbitrage Profits. Except to the extent permitted by section 148 of the Code and the Regulations and rulings thereunder, the City shall not, at any time prior to the earlier of the Stated Maturity or final payment of the Schedule J Obligations, enter into any transaction that reduces the amount required to be paid to the United States pursuant to Subsection (h) of this Section because such transaction results in a smaller profit or a larger loss than would have resulted if the transaction had been at arm's length and had the Yield of the Schedule J Obligations not been relevant to either party.

(i) Schedule J Obligations Not Hedge Bonds.

(1) The City reasonably expects to spend at least 85% of the spendable proceeds of the Schedule J Obligations within three years after such Schedule J Obligations are issued.

(2) Not more than 50% of the proceeds of the Schedule J Obligations will be invested in Nonpurpose Investments having a substantially guaranteed Yield for a period of 4 years or more.

SECTION 6. The Director of Finance is authorized to record and account for Schedule J to the Master Agreement in accordance with generally accepted accounting principles and all other applicable laws.

SECTION 7. The recitals contained in the preamble hereof are hereby found to be true, and such recitals are hereby made a part of this Ordinance for all purposes and are adopted as a part of the judgment and findings of the Council.

SECTION 8. All ordinances and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters resolved herein.

SECTION 9. This Ordinance shall be construed and enforced in accordance with the laws of the State of Texas and the United States of America.

SECTION 10. If any provision of this Ordinance or the application thereof to any person or circumstance shall be held to be invalid, the remainder of this Ordinance and the application of such provision to other persons and circumstances shall nevertheless be valid, and the Council hereby declares that this Ordinance would have been enacted without such invalid provision.

SECTION 11. It is officially found, determined, and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551, as amended, Texas Government Code.

SECTION 12: Expenses associated with this ordinance will be in accordance with the FY 2009 budget for Fund 55001000 Solid Waste Operating Fund(\$343,676.30) and Fund 11001000 General Fund (\$207,876.56) as approved by City Council.

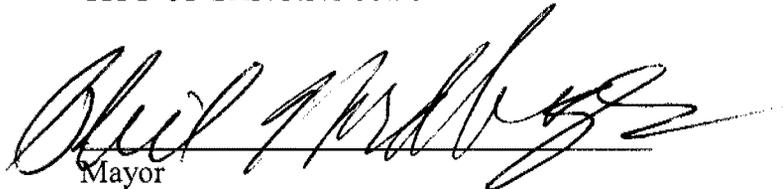
SECTION 13: The financial allocations in this ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director, may subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific cost centers and fund numbers as necessary to carry out the purpose of this ordinance.

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SECTION 14. This Ordinance is effective immediately, upon passage by eight (8) affirmative votes; otherwise, said effective date shall be ten (10) days from the date of passage hereof.

PASSED AND ADOPTED by an affirmative vote of 8 members of the City Council of the City of San Antonio, Texas, this the 20th day of November, 2008.

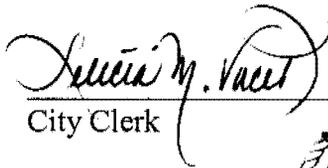
CITY OF SAN ANTONIO



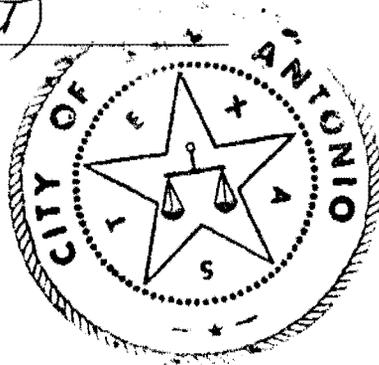
Mayor

PHIL HARDBERGER

ATTEST:


City Clerk

(CITY SEAL)



I, the undersigned, City Attorney of the City of San Antonio, Texas, hereby certify that I read, passed upon, and approved as to form the foregoing Ordinance prior to its adoption and passage as aforesaid.



Michael D. Bernard, City Attorney
City of San Antonio, Texas



Request for
**COUNCIL
ACTION**



Agenda Voting Results - 39

Name:	9, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30A, 30B, 30C, 30D, 30E, 30F, 30G, 30H, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 (Revised by Councilman Rowe at 12/11/08 meeting)
Date:	11/20/2008
Time:	05:35:26 PM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the tenth draw, Schedule J to the 2005 Tax-Exempt Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp in the total amount of \$5,552,747.10 for the acquisition of 15 Automated Refuse Collection Trucks for the City's Solid Waste Management Department, 770 sets of Bunker Gear for the Fire Department, and various components of the Radio Frequency Identification Theft Detection System for the Library Department. [Pat DiGiovanni, Deputy City Manager; Ben Gorzell, Director, Finance]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Phil Hardberger	Mayor		x				
Mary Alice P. Cisneros	District 1		x				
Sheila D. McNeil	District 2		x				
Jennifer V. Ramos	District 3	x					
Philip A. Cortez	District 4	x					
Lourdes Galvan	District 5		x				x
Delicia Herrera	District 6		x			x	
Justin Rodriguez	District 7	x					
Diane G. Cibrian	District 8		x				
Louis E. Rowe	District 9		x				
John G. Clamp	District 10		x				

EXHIBIT A
SCHEDULE J TO THE TAX-EXEMPT MASTER EQUIPMENT
LEASE/PURCHASE AGREEMENT

SEE TAB NO. _____

**SCHEDULE J
TO MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**

by and between

BANC OF AMERICA PUBLIC CAPITAL CORP,

as Lessor

and

CITY OF SAN ANTONIO, TEXAS,

as Lessee

Dated as of November 25, 2008

THIS SCHEDULE J (*"Schedule J"*) to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT** identified above, as heretofore amended (the *"Master Lease"*), is entered into as of November 25, 2008, by and between **BANC OF AMERICA PUBLIC CAPITAL CORP**, successor to **BANC OF AMERICA LEASING & CAPITAL, LLC**, as lessor (*"Lessor"*), and the **CITY OF SAN ANTONIO, TEXAS**, as lessee (*"Lessee"*). All of the provisions of the Master Lease are incorporated herein by reference and capitalized terms used herein and not defined shall have the meanings assigned them in the Master Lease.

1. The Master Lease and this Schedule J jointly constitute an Agreement (this *"Agreement"*). Lessor hereby leases and lets to Lessee, and Lessee hereby leases from Lessor, subject to the provisions of the Agreement, the equipment identified below (hereinafter referred to as the *"Equipment"*):

Item (Quantity)	<u>Description, Make, Model</u>
SOLID WASTE MANAGEMENT DEPARTMENT 15	Automated Refuse Collection Trucks 26 + Cubic Yard, High Compaction, Automated Side Load Condor – ALF Cab & Chassis with a Heil Durapack Body with Python Arm (CNG Powered) This equipment is sometimes hereafter referred to as the <i>"Solid Waste Management Department Equipment"</i>
FIRE DEPARTMENT 770	Bunker Gear Coats and Pants Coats – Model No. TXSANA00162 Pants – Model No. TXSANA00163 This equipment is sometimes hereafter referred to as the <i>"Fire Department Equipment"</i>

LIBRARY
DEPARTMENT

50,000	Media Tags
557,000	Book Tags
7	Digital Data Manager, Model 747
19	Staff Workstations, Model 895
6	Self Check Stations With Cabinet Model R With Cabinet
4	Exit Sensors, Model 8802
12	Digital Library Assistant, Model 803
4	Exit Sensors, Model 8801
12	Self Check Stations Without Cabinet Model R Without Cabinet

This equipment is sometimes hereafter referred to as
the "Library Department Equipment"

The Total Contract Price for this Schedule J is **\$5,552,747.10**, which is composed of \$3,785,231.75 for the Solid Waste Management Department Equipment, \$1,050,520.85 for the Fire Department Equipment, and \$716,994.50 for the Library Department Equipment.

The Maximum Contract Amount for this Schedule J is \$5,552,747.10.

As of the date of this Schedule J, Lessee has not taken possession of the Equipment shown above. It is expected that by three (3) years from the date of this Schedule J, Lessee will have expended all or substantially all (not less than 85%) of the Total Contract Price, and that a Lessee's Acceptance Certificate(s) for all items of which Lessee has taken possession will be signed by Lessee and delivered to Lessor on or before three (3) years from the date of this Schedule J.

2. Lessee hereby certifies that the description of the Equipment set forth above is accurate and reasonably identifies it for UCC purposes. The Equipment identified above shall be located in the City of San Antonio, Texas, Counties of Bexar, Medina and Guadalupe.
3. The following terms are applicable to the lease/purchase of the Equipment set forth in this Schedule J:

(a) Lease Term Commencement Date: The date of execution and delivery of this Schedule J, including Attachments B through K to Exhibit A thereto, and the satisfaction of all conditions of the Master Lease.

(b) Original Lease Term: The period beginning with the Lease Term Commencement Date and ending with the last business day of Lessee's current fiscal budget period.

(c) Number of Renewal Lease Terms: (i) For the Solid Waste Management Department Equipment, **seven (7)**. The seventh Renewal Lease Term will begin October 1, 2015 and end February 1, 2016, the due date of the final Lease Payment for such equipment under this Schedule J. (ii) For the Fire Department Equipment and the Library Department Equipment, **five (5)**. The fifth Renewal Lease Term will begin October 1, 2013 and end February 1, 2014, the due date of the final Lease Payment for such equipment under this Schedule J.

(d) Taxable Rate. (i) The Taxable Rate of interest for the Solid Waste Management Department Equipment is 6.55%. (ii) The Taxable Rate of interest for the Fire Department Equipment and the Library Department Equipment is 5.97 %.

(e) Acquisition Period: The period beginning with the Lease Term Commencement Date and continuing through and including September 30, 2009. The Acquisition Period will be extended for each succeeding Renewal Lease Term, if necessary to complete acquisition of the Equipment, as part of the automatic and successive renewal of this Schedule J pursuant to Section 3.2(b) of the Master Lease.

4. The Lease Proceeds which Lessor shall pay or provide to Lessee in connection with this Schedule J is \$5,552,747.10 , of which \$4,000.00 is for payment of the costs of issuance incurred by Lessee. Lessor has no issuance costs. Such Lease Proceeds shall be deposited into the Equipment Acquisition Account, for subsequent disbursement for payments of (i) the Total Contract Price of the Equipment, or portions thereof, and (ii) Lessee's costs of issuance, not later than the end of business on November 25, 2008, provided that prior thereto Schedule J, including Attachments B through K to Exhibit A thereto, have been fully executed, delivered and complied with by the parties.

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5. Interest on that portion of the Lease Proceeds attributable to the Solid Waste Management Department Equipment shall accrue from the date hereof and the payment dates and Lease Payment amounts (including the principal and interest components thereof, calculated at the Interest Rate of 4.26% per annum) are as follows:

**AMORTIZATION SCHEDULE
SEVEN (7) YEAR TERM
SOLID WASTE MANAGEMENT DEPARTMENT
REFUSE COLLECTION TRUCKS**

<u>Periods</u>	<u>Date</u>	<u>Principal Payment</u>	<u>Interest Payment</u>	<u>Total Payment</u>	<u>Total Payment by FY</u>	<u>Outstanding Principal Balance</u>
	11/25/08					\$3,785,231.75
	02/01/09		\$29,562.66	\$29,562.66		3,785,231.75
1	05/01/09	\$116,744.10	40,312.72	157,056.82		3,668,487.65
2	08/01/09	117,987.43	39,069.39	157,056.82	\$343,676.30	3,550,500.22
3	11/01/09	119,243.99	37,812.83	157,056.82		3,431,256.23
4	02/01/10	120,513.94	36,542.88	157,056.82		3,310,742.29
5	05/01/10	121,797.42	35,259.40	157,056.82		3,188,944.87
6	08/01/10	123,094.56	33,962.26	157,056.82	\$628,227.28	3,065,850.31
7	11/01/10	124,405.52	32,651.30	157,056.82		2,941,444.79
8	02/01/11	125,730.44	31,326.38	157,056.82		2,815,714.35
9	05/01/11	127,069.46	29,987.36	157,056.82		2,688,644.89
10	08/01/11	128,422.75	28,634.07	157,056.82	\$628,227.28	2,560,222.14
11	11/01/11	129,790.46	27,266.36	157,056.82		2,430,431.68
12	02/01/12	131,172.72	25,884.10	157,056.82		2,299,258.96
13	05/01/12	132,569.71	24,487.11	157,056.82		2,166,689.25
14	08/01/12	133,981.58	23,075.24	157,056.82	\$628,227.28	2,032,707.67
15	11/01/12	135,408.49	21,648.33	157,056.82		1,897,299.18
16	02/01/13	136,850.59	20,206.23	157,056.82		1,760,448.59
17	05/01/13	138,308.04	18,748.78	157,056.82		1,622,140.55

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18	08/01/13	139,781.03	17,275.79	157,056.82	\$628,227.28	1,482,359.52
19	11/01/13	141,269.69	15,787.13	157,056.82		1,341,089.83
20	02/01/14	142,774.22	14,282.60	157,056.82		1,198,315.61
21	05/01/14	144,294.76	12,762.06	157,056.82		1,054,020.85
22	08/01/14	145,831.50	11,225.32	157,056.82	\$628,227.28	908,189.35
23	11/01/14	147,384.61	9,672.21	157,056.82		760,804.74
24	02/01/15	148,954.25	8,102.57	157,056.82		611,850.49
25	05/01/15	150,540.61	6,516.21	157,056.82		461,309.88
26	08/01/15	152,143.87	4,912.95	157,056.82	\$628,227.28	309,166.01
27	11/01/15	153,764.21	3,292.61	157,056.82		155,401.80
28	02/01/16	155,401.80	1,655.02	157,056.82	\$314,113.64	(0.00)
		\$3,785,231.75	\$641,921.87	\$4,427,153.62	\$4,427,153.62	

6. Interest on that portion of the Lease Proceeds attributable to the Fire Department Equipment and the Library Department Equipment, (being the remainder of the Lease Proceeds, shall accrue from the date hereof and the payment dates and Lease Payment amounts (including the principal and interest components thereof, calculated at the Interest Rate of 3.88 % per annum) are as follows:

Table on the next page

COMBINED AMORTIZATION SCHEDULE

**FIVE (5) YEAR TERM
FIRE DEPARTMENT (BUNKER GEAR) AND
LIBRARY DEPARTMENT (RFID THEFT DETECTION DEPARTMENT EQUIPMENT)**

Periods	Date	Principal Payment	Interest Payment	Total Payment	Total Payment by FY	Outstanding Principal Balance
	11/25/08					\$1,767,515.35
	02/01/09		\$12,572.92	\$12,572.92		1,767,515.35
1	05/01/09	\$80,506.92	17,144.90	97,651.82		1,687,008.43
2	08/01/09	81,287.83	16,363.99	97,651.82	\$207,876.56	1,605,720.60
3	11/01/09	82,076.32	15,575.50	97,651.82		1,523,644.28
4	02/01/10	82,872.47	14,779.35	97,651.82		1,440,771.81
5	05/01/10	83,676.32	13,975.50	97,651.82		1,357,095.49
6	08/01/10	84,487.99	13,163.83	97,651.82	\$390,607.28	1,272,607.50
7	11/01/10	85,307.52	12,344.30	97,651.82		1,187,299.98
8	02/01/11	86,135.01	11,516.81	97,651.82		1,101,164.97
9	05/01/11	86,970.51	10,681.31	97,651.82		1,014,194.46
10	08/01/11	87,814.13	9,837.69	97,651.82	\$390,607.28	926,380.33
11	11/01/11	88,665.93	8,985.89	97,651.82		837,714.40
12	02/01/12	89,525.99	8,125.83	97,651.82		748,188.41
13	05/01/12	90,394.40	7,257.42	97,651.82		657,794.01
14	08/01/12	91,271.23	6,380.59	97,651.82	\$390,607.28	566,522.78
15	11/01/12	92,156.55	5,495.27	97,651.82		474,366.23
16	02/01/13	93,050.47	4,601.35	97,651.82		381,315.76
17	05/01/13	93,953.06	3,698.76	97,651.82		287,362.70
18	08/01/13	94,864.41	2,787.41	97,651.82	\$390,607.28	192,498.29
19	11/01/13	95,784.59	1,867.23	97,651.82		96,713.70
20	02/01/14	96,713.70	938.12	97,651.82		
		\$1,767,515.35	\$198,093.97	\$1,965,609.32	\$1,965,609.32	

7. Until Lessee receives written notification to the contrary, all payments due under the Master Lease and this Schedule J, including but not limited to Lease Payments, are to be paid to and all notices are to be sent to the following respective addresses:

The address for notices is: Banc of America Public Capital Corp
555 California Street, 4th Floor
San Francisco, CA 94104
Attention: Contract Administration
Mail Code: CA5-705-04-01

City of San Antonio, Texas
Finance Department
Riverview Towers
111 Soledad, Fifth Floor
San Antonio, TX 78205
Attention: Division of Financial Management
Director of Finance

The address for payments is: Banc of America Public Capital Corp
P.O. Box 100918
Atlanta, GA 30384-0918

8. Lessee further represents, covenants and warrants that it will not take, cause to be taken or fail to take any action which will cause the interest component of any Lease Payments to be or become subject to federal income taxation under the Code and that all of its representations, covenants and warranties of Lessee contained in the Master Lease were true and accurate as of the date made, remain true and accurate as of the date of this Schedule J and are hereby reaffirmed.
9. Lessee shall deliver or cause to be delivered an opinion of counsel concurrently with the execution and delivery of this Schedule J in the form of Attachment G to Exhibit A of the Master Lease and execute an IRS Form 8038-G (or, IRS Form 8038-GC if the Total Contract Price of the Equipment is less than \$100,000) substantially in the form of Attachment H to Exhibit A of the Master Lease.
10. Lessee shall deliver or cause to be delivered concurrently with the execution and delivery of Schedule J documents in the respective forms of Attachments B through K to Exhibit A hereto. Lessee shall deliver its Acceptance Certificate, or Acceptance Certificates, in the form of Attachment A to Exhibit A hereto in accordance with the terms of Section 14 of the Master Lease.
11. Attached hereto as Attachment B to Exhibit A and incorporated herein by reference is an original Essential Use Certificate, executed by an Authorized Officer of Lessee.
12. Attached hereto as Attachment C to Exhibit A and incorporated herein by reference is an original Certificate of Appropriation executed by an Authorized Officer of Lessee.

13. Attached hereto as Attachment D to Exhibit A and incorporated herein by reference is an original General Certificate, executed by Authorized Officers of Lessee.
14. Attached hereto as Attachment E to Exhibit A and incorporated herein by reference is an original Certificate of City Clerk, executed by the City Clerk of the City.
15. Attached hereto as Attachment F to Exhibit A and incorporated herein by reference is an original Signature and No-Litigation Certificate, executed by Authorized Officers of Lessee.
16. Attached hereto as Attachment G to Exhibit A and incorporated herein by reference is an original opinion of legal counsel to Lessee relating to the Agreement and this Schedule J. Lessor may, in its sole discretion, waive this requirement.
17. Attached hereto as Attachment H to Exhibit A is an IRS Form 8038-G (or IRS Form 8038-GC if the Total Contract Price of the Equipment is less than \$100,000) of Lessee.
18. Attached hereto as Attachment I to Exhibit A is an original Cross-Receipt executed by an Authorized Officer of Lessee and by Lessor.
19. Attached hereto as Attachment J to Exhibit A is an original No Arbitrage and Tax Certificate executed by an Authorized Officer of Lessee.

The remainder of this page is intentionally left blank.

20. Attached hereto as Attachment K to Exhibit A are copies of executed and filed financing statement(s) evidencing Lessor's security interest in the Equipment, provided, however, Lessee may deliver one or more financing statement(s), or amended financing statement(s) evidencing Lessor's security interest in the Equipment as reflected on each Acceptance Certificate.

IN WITNESS WHEREOF, the parties hereunto affix their signatures to this Schedule J as of the day and year first written above.

BANC OF AMERICA PUBLIC CAPITAL CORP,

SUCCESSOR TO

BANC OF AMERICA LEASING & CAPITAL, LLC,
as Lessor

By: _____

Name: _____

Title: _____

CITY OF SAN ANTONIO, TEXAS,

as Lessee

By: _____

Name: _____

Title: _____

BEFORE ME, on this day personally appeared the foregoing individual(s), known to me to be the persons whose names are subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this ____ day of November, 2008.

(NOTARY SEAL)

Notary Public, State of Texas

(CITY SEAL)

ATTACHMENT A TO SCHEDULE J
FORM OF
LESSEE'S ACCEPTANCE CERTIFICATE

Part I:

The **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*"), as lessee under that certain **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT** dated as of February 24, 2005, as amended, and under Schedule J thereto dated as of November 25, 2008 (collectively, the "*Agreement*"), with **BANC OF AMERICA PUBLIC CAPITAL CORP**, successor to **BANC OF AMERICA LEASING & CAPITAL, LLC**, as lessor, ("*Lessor*") hereby acknowledges receipt in good condition of all of the Equipment described in Part II below (the "*Equipment*"), hereby accepts such Equipment and hereby certifies:

(a) That Lessee has fully and satisfactorily performed all covenants and conditions to be performed by it under the Agreement with regard to such Equipment; provided, however, that this certification does not constitute a waiver by Lessee of any rights against third parties, including the Vendor(s) under the Purchase Agreement(s) (as such terms are defined in the Agreement) with respect to such Equipment, which exist at the date hereof or which may subsequently come into being; and

(b) That such Equipment is fully insured in accordance with Section 6.7 of the Agreement.

Part II:

The Equipment which is governed by the Agreement identified in Part I above is as follows:

<u>Item (Quantity)</u>	<u>Description, Make, Model</u>	<u>Total Contract Price</u>
------------------------	---------------------------------	-----------------------------

TO BE COMPLETED, EXECUTED AND DELIVERED BY LESSEE

UPON ACCEPTANCE OF EQUIPMENT

The remainder of this page is intentionally left blank.

DATED: _____, 20_____.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: _____

Title: _____

By: _____

Name: _____

Title: _____

By: _____

Name: Ben Gorzell, Jr., CPA

Title: Director of Finance

BEFORE ME, on this day personally appeared **BEN GORZELL, JR., CPA,** Director of Finance of the City of San Antonio, Texas, known to me to be the persons whose name is subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this _____ day of _____, 20_____.

(NOTARY SEAL)

Notary Public, State of Texas

ATTACHMENT B TO SCHEDULE J

ESSENTIAL USE CERTIFICATE

I, the undersigned Authorized Officer of the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*") acting in my capacity as such, hereby certify with respect to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 24, 2005, as heretofore amended, by and between Lessee, as lessee, and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as successor in interest to Banc of America Leasing & Capital, LLC, as lessor, and with respect to Schedule J thereto, dated as of November 25, 2008, issued thereunder ("*Schedule J*"), that the Equipment referenced in Schedule J shall be used for the following purpose:

Solid Waste Management Department Equipment

In connection with the operation of the Lessee's refuse collection operations within its Solid Waste Management Department, at various locations within and without the boundaries of Lessee.

Fire Department Equipment

In connection with the operation of the Lessee's Fire Department, at various locations within and without the boundaries of Lessee.

Library Department Equipment

In connection with the operation of the Lessee's Library Department, at various locations within and without the boundaries of Lessee.

The undersigned hereby further certifies and represents that the use of the Equipment is essential to the proper, efficient and economic operation of Lessee.

DATED: To be effective as of November 25, 2008.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Ben Gorzell, Jr., CPA

Title: Director of Finance

BEFORE ME, on this day personally appeared the foregoing individual, known to me to be the person whose name is subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this _____ day of November, 2008.

(NOTARY SEAL)

Notary Public, State of Texas

ATTACHMENT C TO SCHEDULE J

CERTIFICATE OF APPROPRIATION

I, the undersigned Authorized Officer of the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*"), hereby certify that all Lease Payments (as defined in the Agreement) presently due under that certain **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT** ("*Agreement*") dated as of February 24, 2005, as amended, between Lessee and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as successor in interest to Banc of America Leasing & Capital, LLC ("*Lessor*"), and Schedule J, dated as of November 25, 2008 thereunder ("*Schedule J*") for the fiscal year ending September 30, 2009 are available, unexhausted, unencumbered appropriation of unobligated funds for Lessee, representing the sum of its Lease Payment obligations owing under the Agreement and Schedule J during such fiscal year.

IN WITNESS WHEREOF, I have set my hand to be effective on the 25th day of November, 2008.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Ben Gorzell, Jr., CPA

Title: Director of Finance

BEFORE ME, on this day personally appeared the foregoing individual, known to me to be the persons whose names are subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this ____ day of November, 2008.

(NOTARY SEAL)

Notary Public, State of Texas

ATTACHMENT D TO SCHEDULE J

**GENERAL CERTIFICATE
OF
CITY OF SAN ANTONIO, TEXAS**

I, the undersigned Authorized Officer of the **CITY OF SAN ANTONIO, TEXAS**, as Lessee ("*Lessee*"), acting in my official capacity as such, hereby certify with respect to Schedule J, dated November 25, 2008, issued pursuant to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 24, 2005, as amended (the "*Master Lease*") by and between Lessee, as lessee, and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as successor in interest to Banc of America Leasing & Capital, LLC, as lessor ("*Lessor*"), collectively referred to as the "*Agreement*", as follows:

1. That Lessee is a body corporate and politic and a Texas home rule municipality, and was validly created and exists under the laws and the Constitution of the State of Texas and is a political subdivision or governmental agency thereof.

2. That as of the date of approval of Schedule J, the following named persons constitute the members of the City Council of Lessee:

Phil Hardberger	Mayor
Delicia Herrera	Mayor Pro Tem, District 6
Mary Alice P. Cisneros	Councilmember, District 1
Sheila D. McNeil	Councilmember, District 2
Jennifer V. Ramos	Councilmember, District 3
Philip A. Cortez	Councilmember, District 4
Lourdes Galvan	Councilmember, District 5
Justin Rodriguez	Councilmember, District 7
Diane G. Cibrian	Councilmember, District 8
Louis E. Rowe	Councilmember, District 9
John G. Clamp	Councilmember, District 10

3. The City Council of Lessee duly adopted by a majority vote the Ordinance Regarding Leasing Certain Equipment (the "*Ordinance*") authorizing and approving Lessee's entering into Schedule J to the Master Lease, at a duly called public meeting, at which a quorum was present and acting throughout; the Ordinance is in full force and effect and has not been altered, amended or repealed as of the date hereof; and that said meeting was duly called and open to the public in accordance with the laws of the State of Texas.

4. The following described instruments (collectively, the "*Instruments*"), as executed and delivered or authorized by Lessee, are in substantially the same form and text as copies of such Instruments which were before and were approved or ratified by the City Council of Lessee, and which the officers of Lessee were authorized to execute

and deliver for and on behalf of Lessee: Schedule J (including Attachments A through K thereto).

5. To the best knowledge of the undersigned, on the date hereof, Lessee is not in default in the performance or observance of any of the covenants, conditions, agreements or provisions of the Instruments.

6. The representations and warranties of Lessee contained in the Instruments are correct on and as of the date hereof as though made on and as of such date.

IN WITNESS WHEREOF, I have duly executed this certificate to be effective on the 25th day of November, 2008.

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Ben Gorzell, Jr., CPA

Title: Director of Finance

BEFORE ME, on this day personally appeared the foregoing individual, known to me to be the person whose name is subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this ____ day of November, 2008.

(NOTARY SEAL)

Notary Public, State of Texas

ATTACHMENT E TO SCHEDULE J

CERTIFICATE OF CITY CLERK
OF
CITY OF SAN ANTONIO, TEXAS

THE STATE OF TEXAS)
COUNTY OF BEXAR) ss.
CITY OF SAN ANTONIO, TEXAS)

THE UNDERSIGNED HEREBY CERTIFIES that:

1. On the 20th day of November, 2008, the City Council (the "Council") of the City of San Antonio, Texas (the "City") convened in regular session at its regular meeting place in the Municipal Plaza Building of the City (the "Meeting"), the duly constituted members of the Council being as follows:

Phil Hardberger	Mayor
Delicia Herrera	Mayor Pro Tem, District 6
Mary Alice P. Cisneros	Councilmember, District 1
Sheila D. McNeil	Councilmember, District 2
Jennifer V. Ramos	Councilmember, District 3
Philip A. Cortez	Councilmember, District 4
Lourdes Galvan	Councilmember, District 5
Justin Rodriguez	Councilmember, District 7
Diane G. Cibrian	Councilmember, District 8
Louis E. Rowe	Councilmember, District 9
John G. Clamp	Councilmember, District 10

and all of such persons were present at the Meeting, except the following: RAMOS, CORTEZ, AND RODRIGUEZ, thus constituting a quorum. Among other business considered at the Meeting, the attached Ordinance (the "Ordinance") entitled:

AN ORDINANCE

AUTHORIZING THE TENTH DRAW, SCHEDULE J TO THE 2005 TAX-EXEMPT MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT WITH BANC OF AMERICA PUBLIC CAPITAL CORP, IN THE TOTAL AMOUNT OF \$5,552,747.10, WHICH CONSISTS OF \$3,785,231.75 FOR THE ACQUISITION OF FIFTEEN (15) AUTOMATED REFUSE COLLECTION TRUCKS FOR THE CITY'S SOLID WASTE MANAGEMENT DEPARTMENT AT A RATE OF 4.26% FOR AN 84 MONTH TERM; AND \$1,050,520.85 FOR THE ACQUISITION OF SEVEN HUNDRED SEVENTY (770) SETS OF BUNKER GEAR FOR THE CITY'S FIRE DEPARTMENT, AND \$716,994.50 FOR THE ACQUISITION OF VARIOUS COMPONENTS OF THE RADIO FREQUENCY IDENTIFICATION ("RFID") THEFT DETECTION SYSTEM FOR THE CITY'S

LIBRARY DEPARTMENT, AT A RATE OF 3.88% FOR A 60 MONTH TERM, TO PAY THE COSTS OF THE TRANSACTION; AUTHORIZING THE EXECUTION OF DOCUMENTS RELATED TO THE TRANSACTION; ENACTING OTHER PROVISIONS INCIDENT AND RELATED TO THE SUBJECT AND PURPOSE OF THIS ORDINANCE; AND PROVIDING FOR AN IMMEDIATE EFFECTIVE DATE

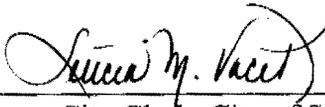
was introduced and submitted to the Council for passage and adoption. After presentation and due consideration of the Ordinance, a motion was made by Councilmember HERRERA that the Ordinance be finally passed and adopted in accordance with the City's Home Rule Charter. The motion was seconded by Councilmember GALVAN and carried by the following vote:

8 voted "For" 0 voted Against" 0 abstained

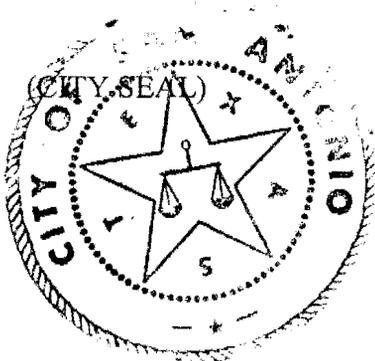
all as shown in the official Minutes of the Council for the Meeting.

2. The attached Ordinance is a true and correct copy of the original on file in the official records of the City; the duly qualified and acting members of the Council of the City on the date of the Meeting are those persons shown above, and, according to the records of my office, each member of the Council was given actual notice of the time, place, and purpose of the Meeting and had actual notice that the Ordinance would be considered; and the Meeting and deliberation of the aforesaid public business, including the subject of the Ordinance, was posted and given in advance thereof in compliance with the provisions of Chapter 551, as amended, Texas Government Code.

IN WITNESS WHEREOF, I have signed my name officially and affixed the seal of the City, this 20th day of November, 2008.



City Clerk, City of San Antonio, Texas



**CERTIFIED COPY OF ORDINANCE ADOPTED
BY LESSEE'S CITY COUNCIL**

[see attached]

ATTACHMENT F TO SCHEDULE J

SIGNATURE AND NO-LITIGATION CERTIFICATE

We, the undersigned Authorized Officers of the **CITY OF SAN ANTONIO, TEXAS** ("*Lessee*"), acting in our official capacities as such, hereby certify with respect to Schedule J, dated November 25, 2008, of the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 24, 2005, as amended (the "*Master Lease*") by and between Lessee, as lessee, and **BANC OF AMERICA PUBLIC CAPITAL CORP**, as successor in interest to Banc of America Capital & Leasing, LLC, as lessor ("*Lessor*") (the Master Lease and Schedule J collectively referred to as the "*Agreement*") as follows:

1. Schedule J has been duly and officially executed by the undersigned with their manual or facsimile signatures in the same manner appearing thereon, and the undersigned hereby adopt and ratify their respective signatures in the manner appearing on each side of the Schedule J whether in manual or facsimile form, as the case may be, as their true, genuine, and official signature.

2. That on the date of Schedule J and on the date hereof, we were and are the duly qualified and acting officers indicated therein and authorized to execute the same.

3. The legally adopted proper and official corporate seal of Lessee is impressed or imprinted on Schedule J and impressed on this certificate.

4. No litigation of any nature is now pending before any federal or state court in Bexar County, Texas, or administrative body, or to our knowledge threatened, seeking to restrain or enjoin the issuance or delivery of the Master Lease or Schedule J, the authority or action of the City Council of Lessee relating to the issuance or delivery of the Master Lease or Schedule J, the collection of the revenues of Lessee or the imposition of rates and charges with respect to Lessee, pledged to pay the Lease Payments on Schedule J, or that would otherwise adversely affect in a material manner the financial condition of Lessee to pay the Lease Payments on Schedule J; and that neither the corporate existence or boundaries of Lessee nor the right to hold office of any member of the City Council of Lessee or any other elected or appointed official of Lessee is being contested or otherwise questioned.

5. That no petition or other request has been filed with or presented to any official of Lessee requesting any proceeding authorizing the issuance of the Master Lease or Schedule J adopted by the City Council of Lessee be submitted to a referendum or other election; no authority or proceeding for the issuance, sale, or delivery of the Master Lease or Schedule J, passed and adopted by the City Council of Lessee, has been amended, repealed, revoked, rescinded, or otherwise modified since the date of passage thereof, and all such proceedings and authority relating to the issuance and delivery of the

Master Lease and Schedule J remain in full force and effect as of the date of this certificate.

EXECUTED AND DELIVERED as of November 25, 2008.

(CITY SEAL)

<u>SIGNATURE</u>	<u>OFFICIAL TITLE</u>
_____	Mayor
_____	City Manager
_____	City Clerk
_____	Director of Finance

BEFORE ME, on this day personally appeared the foregoing individual(s), known to me to be the persons whose names are subscribed to the foregoing instrument.

GIVEN UNDER MY HAND AND SEAL of office, this ____ day of November, 2008.

(NOTARY SEAL)

Notary Public, State of Texas

ATTACHMENT G TO SCHEDULE J
FORM OF
OPINION OF COUNSEL TO LESSEE

[see attached]

ATTACHMENT H TO SCHEDULE J

IRS Form 8038-G or IRS Form 8038-GC (if less than \$100,000)

(IRS FORM 8038-G OR IRS FORM 8038-GC FOLLOW)

[see attached]

ATTACHMENT I TO SCHEDULE J

CROSS-RECEIPT

With respect to the **MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT**, dated as of February 24, 2005, as amended (the "*Master Lease*") by and between **BANC OF AMERICA PUBLIC CAPITAL CORP**, as successor in interest to Banc of America Leasing & Capital, LLC, as lessor ("*Lessor*") and the **CITY OF SAN ANTONIO TEXAS**, as lessee ("*Lessee*") and Schedule J to the Master Lease, dated as of November 25, 2008:

Lessor hereby acknowledges the lease to Lessee of the Equipment listed on Schedule J to the Master Lease and receipt from Lessee of Schedule J to the Master Lease dated as of the date hereof.

Lessee hereby acknowledges the lease of the Equipment pursuant to the Master Lease and Schedule J to the Master Lease.

Dated: To be effective November 25, 2008.

**BANC OF AMERICA PUBLIC CAPITAL
CORP,**
as Lessor

By: _____

Name: _____

Title: _____

CITY OF SAN ANTONIO, TEXAS,
as Lessee

By: _____

Name: Ben Gorzell, Jr., CPA

Title: Director of Finance

ATTACHMENT J TO SCHEDULE J
FORM OF
NO-ARBITRAGE AND TAX CERTIFICATE

[see attached]

NO-ARBITRAGE AND TAX CERTIFICATE

I, Ben Gorzell, Jr. of the City of San Antonio, Texas (the "City") hereby certify that I am the duly qualified and authorized representative of the City and I am the Director of Finance of the City; that the City, as lessee (the "Lessee"), executed and delivered the Master Equipment Lease/Purchase Agreement originally on February 24, 2005, as amended on December 15, 2005 and October 4, 2007, including the Schedules (the "Schedules") to the Master Equipment Lease/Purchase Agreement (collectively, the "Lease"); that Lessee is a political subdivision of the State identified in the Lease; and that in my official capacity as such officer of the City, I am responsible for executing and delivering, on behalf of the Lessee, the Lease by and between Lessee and Banc of America Public Capital Corp, or its assigns, as lessor (the "Lessor").

This Certificate is being issued pursuant to sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), and Treasury Regulations, Sections 1.141, 1.148 and 1.150 (the "Regulations"). All terms not otherwise defined herein shall have the same meaning as those terms have in the Lease.

The following facts, estimates and circumstances are in existence on the date of this Certificate or are reasonably expected to occur hereafter. To be best of the knowledge and belief of the undersigned, the expectations of Lessee, as set forth herein, are reasonable; and there are no present facts, estimates and circumstances which would change such expectations.

1. The Lease provides for the lease of property by Lessor to Lessee. Under the Lease, the Lessor will provide funds to acquire property designated by Lessee from time to time pursuant to the terms and subject to the conditions of the Lease and Lessor thereafter will lease such property to Lessee in accordance with the Lease and the Schedules related to that property. The Lessee will authorize the lease of property pursuant to the Lease by separate ordinance and related official action and anticipates treating each such lease of property as a separate issue of tax-exempt obligations within the meaning of Code section 150 and the related Regulations. Under the Lease, Lessee is required to make lease payments with respect to the property, comprising separately stated components of principal and interest, on the dates and in the amounts stated in the Schedules to the Master Equipment Lease/Purchase Agreement.

2. On the date hereof, contracts or purchase orders providing for the acquisition and delivery of 15 automated refuse collection trucks, seven hundred seventy (770) sets of Bunker Gear, and various components of the RFID Theft Detection System (collectively, the "Equipment") have been issued by Lessee to the entity identified on the Schedules, including specifically Schedule J thereto, and the Equipment will be acquired and installed with due diligence. Based upon the provisions of the contracts or purchase orders, the Equipment is expected to be acquired and installed on or before the following date (the "Expected Purchase Date"):

Expected Purchase Date: February 28, 2009

The Equipment will be purchased by, and delivered to, and title will be held in the name of, the Lessee.

3. The Lease provides that Lessor shall deposit the amount stated below into escrow to be credited to the Equipment Acquisition Account (the "Fund") created by the Lease and utilized to pay for the Equipment as provided therein, and for costs of issuance related to the Lease and the lease of the Equipment.

Lessor's Deposit into the Fund: \$5,552,747.10

Of the proceeds of the Lease, \$4,000.00 is allocated hereby to costs of issuance and \$5,548,747.10 to the purchase of the Equipment.

It is presently expected that all such funds initially credited to the Fund shall be disbursed to pay for the Equipment and costs of issuance related thereto, and the proceeds of the Lease are allocated hereby to pay such costs of issuance and to purchase the Equipment, but any such amounts ultimately determined not to be needed for such purposes and the interest earnings on the amounts held in the Fund shall be utilized on or after the Expected Purchase Date to pay part of the principal or interest due under the Lease, as provided in the Lease.

4. The Lessee reasonably expects that at least 85% of the spendable proceeds of the Lease will be expended on the Equipment and related expenses within three years from the date of execution of the Lease.

5. The original proceeds of the Lease, and interest to be earned thereon, do not exceed the amount necessary for the purpose for which the Lease is entered into.

6. The interest of Lessee in the Equipment has not been and is not expected during the term of the Lease to be sold or disposed of by Lessee.

7. No sinking fund is expected to be created by Lessee with respect to the Lease and lease payments thereunder.

8. In the event that the Gross Proceeds (as defined in section 148(f) of the Code) of the Lease are not expended on the Equipment on or before the day which is six months after the date of issuance of the Lease and the Lease or the Lessee do not otherwise qualify for an exception to the rebate requirements, then Lessee shall comply with the requirements of section 148(f) of the Code and will rebate to the United States of America all arbitrage "profit" required thereby. Lessee hereby covenants to comply with all requirements of the Code and Regulations relating to the rebate of arbitrage "profit" to the United States of America.

9. The Lessee will, at all times prior to the termination of the Lease,

a. exclusively own, operate, and possess all property acquired, refinanced, constructed, or improved with Gross Proceeds and not use or permit the use of any property acquired, refinanced, constructed, or improved with Gross Proceeds in any activity carried on by any person or entity (other than a state or local government), *unless* such use is merely as a member of the general public, or

b. not directly or indirectly impose or accept any charge or other payment for use of Gross Proceeds or any property acquired, refinanced, constructed, or improved with Gross Proceeds, other than a charge or other payment merely as a member of the general public or interest earned on Investments acquired with Gross Proceeds pending application for their intended purposes, either or both.

10. The Lessee will not use Gross Proceeds to make, finance or refinance loans to any person or entity other than a state or local government.

11. The amounts received from the Lease, when added to available funds on hand and amounts expected to be received from the investment of such proceeds, do not exceed the amounts required to acquire the Equipment and the costs of offering and issuing the Lease.

12. No receipts from the Lease or amounts received from the investment thereof will be used to pay the principal of or interest on any currently outstanding issue of bonds or other obligations of the Lessee.

13. The Lessee reasonably expects to spend at least 85% of the spendable proceeds of the Lease with regard to the Equipment within three years. Not more than 50% of the proceeds of the Lease with regard to the Equipment will be invested in Investments having a substantially guaranteed Yield for a period of 4 years or more.

14. No other obligations of the Lessee with regard to the Equipment payable from substantially the same source of funds was or will be sold within 15 days of the date that the parties unconditionally agreed to enter into the Lease.

15. Lessee acknowledges that the Yield on the Lease is stated below, that the weighted average maturity of the Lease with regard to the Equipment is stated below and that such weighted average maturity is less than 120% of the average reasonably expected economic life of the Equipment:

Yield on the Lease with regard to the Equipment: **4.16%**

Weighted Average Maturity of the Lease with regard to the Equipment: **3.6years**

16. In connection with the Lease with regard to the Equipment, the Lessee has not
- a. employed any abusive arbitrage device, or
 - b. overburdened the market for tax-exempt obligations.

17. In connection with the Lease with regard to the Equipment, the Lessee has not employed any device to obtain a material financial advantage (based on arbitrage) apart from savings attributable to lower interest rates.

18. The Lessee has covenanted to account for the proceeds related to the Lease with regard to the Equipment separately and apart from all other funds of the Lessee from the date hereof.

19. The Lessee does not expect that the Lease with regard to the Equipment will be used in a manner that would cause the Lease to be arbitrage bonds within the meaning of Section 148 of the Code.

20. The Lease with regard to the Equipment will state the separate interest and principal components of the amounts designated as lease payments under the Lease with regard to the Equipment.

IN WITNESS WHEREOF, the undersigned has duly executed and delivered this No-Arbitrage and Tax Certificate as of November 25, 2008.

City of San Antonio, Texas

By: _____
Name: Ben Gorzell, Jr., CPA
Title: Director of Finance

ATTACHMENT K TO SCHEDULE J
UCC-1 FINANCING STATEMENT

[see attached]

MASTER EQUIPMENT LEASE/PURCHASE AGREEMENT

By and Between

BANC OF AMERICA PUBLIC CAPITAL CORP

as Lessor

and

CITY OF SAN ANTONIO, TEXAS

as Lessee

Dated as of February 24, 2005, as amended

CLOSING INDEX TO SCHEDULE J

CLOSED AND FUNDED NOVEMBER 25, 2008

1. 2005 Master Equipment Lease/Purchase Agreement
2. First Amendment of Master Equipment Lease/Purchase Agreement
3. Second Amendment of Master Equipment Lease/Purchase Agreement
4. Schedule J
5. Acceptance Certificate
6. Essential Use Certificate
7. Certificate of Appropriation
8. General Certificate
9. Certificate of City Clerk (with Ordinance)
10. Signature and No-Litigation Certificate
11. Opinion of Counsel to Lessee
12. Information Report on Form 8038-G
13. Cross-Receipt
14. No-Arbitrage and Tax Certificate
15. UCC-1 Financing Statement



CITY OF SAN ANTONIO
Request for Council Action

Agenda Item # 39
Council Meeting Date: 11/20/2008
RFCA Tracking No: R-4162

DEPARTMENT: Finance

DEPARTMENT HEAD: Ben Gorzell

COUNCIL DISTRICT(S) IMPACTED:
City Wide

SUBJECT:
Tenth Draw of the 2005 Master Equipment Lease Purchase with Banc of America

SUMMARY:

Authorizing the tenth draw, Schedule J to the 2005 Tax-Exempt Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp in the total amount of \$5,552,747.10, which consists of \$3,785,231.75 for the acquisition of fifteen (15) Automated Refuse Collection Trucks for the City's Solid Waste Management Department at a rate of 4.26% for an 84 month term; and \$1,050,520.85 for the acquisition of seven hundred seventy (770) sets of Bunker Gear for the City's Fire Department and \$716,994.50 for the acquisition of various components of the Radio Frequency Identification ("RFID") Theft Detection System for the City's Library Department at a rate of 3.88% for a 60 month term; and to pay the costs of the transaction.

BACKGROUND INFORMATION:

On February 17, 2005, Ordinance 100438 approved the execution of a Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp (the "Master Lease") with a term beginning on February 24, 2005 and ending on February 23, 2006, with options to renew for four (4) additional one (1) year terms. This is the third renewal term ending on February 23, 2009.

This ordinance will authorize the tenth draw under the Master Lease, which will finance the Automated Refuse Collection Trucks being purchased by the Solid Waste Management Department, the Bunker Gear being purchased by the Fire Department, and the Theft Detection System being purchased by the Library Department. The financing term for the Solid Waste Management Department is an 84-month term at an interest rate of 4.26% with payments made quarterly. Additionally, the financing term for the Fire Department, and the Library Department is a 60-month term at an interest rate of 3.88% with payments made quarterly. Funds in the amount of \$5,552,747.10 will be deposited into an escrow account on or before November 25, 2008. Pending final acceptance of the equipment, the funds will be invested with interest earnings accruing for the benefit of the City. Payment for the equipment will be made to the respective vendor(s) when final acceptance is provided in writing by: (1) the Requesting Department as identified above respectively and (2) the Finance Department.

City Council approved the contract for the Automated Refuse Collection Trucks being purchased by the Solid Waste Management Department in May 2007. The Bunker Gear

being purchased by the Fire Department and the Theft Detection System being purchased by the Library Department will be presented in separate items for approval on the November 20, 2008 agenda.

ISSUE:

The utilization of Banc of America Public Capital Corp to provide lease purchase financing for the aforementioned equipment is consistent with the terms of the Master Lease.

ALTERNATIVES:

An alternative to this financing mechanism is to fund these expenses out of the operating budgets of the Solid Waste Management Department, the Fire Department, and the Library Department. The proposed lease purchase financing mechanism minimizes the impact of the expenditure in FY 2009 by allocating it out over an 84-month period and a 60-month period respectively. Additionally, if this ordinance is not approved, new financing rates will be required as this interest rate is in effect only through November 29, 2008.

FISCAL IMPACT:

Payments will be made on a quarterly basis to Banc of America Public Capital Corp, commencing on or about February 1, 2009.

- I. The debt service payments for this lease program schedule are anticipated to be made from the Solid Waste Operating Fund. The proposed payment schedule for the Solid Waste Management Department, assuming delivery of funds on November 25, 2008, is as follows:

<u>Fiscal Year</u>	<u>Annual Payment</u>
2009	\$ 343,676.30
2010	628,227.28
2011	628,227.28
2012	628,227.28
2013	628,227.28
2014	628,227.28
2015	628,227.28
2016	<u>314,113.64</u>
Total	\$4,427,153.62

- II. The debt service payments for this lease program schedule are anticipated to be made from the General Fund. The proposed payment schedule for the Fire Department, assuming delivery of funds on November 25, 2008, is as follows:

<u>Fiscal Year</u>	<u>Annual Payment</u>
2009	\$ 123,551.20
2010	232,157.00
2011	232,157.00
2012	232,157.00
2013	232,157.00
2014	<u>116,078.50</u>
Total	\$1,168,257.70

- III. The debt service payments for this lease program schedule are anticipated to be made from the General Fund. The proposed payment schedule for the

Library Department, assuming delivery of funds on November 25, 2008, is as follows:

<u>Fiscal Year</u>	<u>Annual Payment</u>
2009	\$ 84,325.36
2010	158,450.28
2011	158,450.28
2012	158,450.28
2013	158,450.28
2014	<u>79,225.14</u>
Total	\$ 797,351.62

RECOMMENDATION:

Staff recommends approval authorizing the tenth draw, Schedule J to the 2005 Tax-Exempt Master Equipment Lease/Purchase Agreement with Banc of America Public Capital Corp in the total amount of \$5,552,747.10 for the acquisition of fifteen (15) Automated Refuse Collection Trucks, seven hundred seventy (770) sets of Bunker Gear, and various components of the Radio Frequency Identification (“RFID”) Theft Detection System.

ATTACHMENT(S):

File Description	File Name
Discretionary Disclosure	Discretionary Disclosure.pdf
Voting Results	
Original Vote Slip	Original Vote Slip.pdf
Ordinance/Supplemental Documents	200811201051.pdf

DEPARTMENT HEAD AUTHORIZATIONS:

Ben Gorzell Director Finance

APPROVED FOR COUNCIL CONSIDERATION:

Pat DiGiovanni Deputy City Manager