

Honorable Mayor and Members
of the City Council
City Hall
Torrance, California

Members of the Council:

SUBJECT: General Services/Public Works – Authorize sole-source lease of one (1) CNG-powered Refuse Collection Truck.

Expenditure: Not to exceed \$327,423.80 over the 5-year term of the lease (includes 10 semi-annual installments of \$32,697.28, \$350.00 lease document fee, and \$101 residual payment for purchase). Expenditure subject to change on April 2, 2007 due to fluctuations in material charges.

RECOMMENDATION

The General Services and Public Works Directors recommend that the City Council:

- a) Authorize sole-source lease acquisition of one (1) 2007 compressed natural gas (CNG)-powered Peterbilt Model 320 Cab and Chassis, with a Heil *DuraPack* 7000 Automated Side-Loader Refuse Collection Truck Body attached, from Rush Truck Center of Pico Rivera, California.
- b) Authorize a five (5)-year Municipal Lease with PACCAR Financial Corporation, payable in ten (10) semi-annual installments of \$32,697.28, including sales tax. After payment of the tenth (10th) and final semi-annual payment, an additional residual payment of \$101.00 will allow the City the option of purchasing the truck. If the City elects to purchase the truck at the end of the lease, the total acquisition amount of all lease payments, including sales tax, plus lease document fees and the \$101.00 residual will be \$327,423.80 (preliminary amount subject to change on April 2, 2007).
- c) Appropriate \$33,047.28 from the Fleet Services Vehicle and Equipment Replacement fund balance for the first semi-annual payment.

Funding

Funding is available from the Fleet Services Vehicle and Equipment Replacement fund.

BACKGROUND

On November 21, 2006, the City Council approved a number of recommendations made by the Finance and Governmental Operations Committee, one of which was to begin a Curbside Green Waste Collection pilot program in selected neighborhoods within the City. In order to accomplish this, staff determined that at least one (1) additional Automated Side-Loader Refuse Collection Truck will be needed to augment existing fleet assets.

South Coast Air Quality Management District's (AQMD) Fleet Rule # 1193 prohibits the City from purchasing new diesel powered Refuse Trucks at this time. Because of this rule, staff recommends acquisition of a truck powered by CNG. CNG is an approved alternative fuel, per AQMD guidelines.

ANALYSIS

Staff has concluded that acquisition of this truck falls under the sole-source provisions in the City's Municipal Code, for the following reasons:

First, this is the same truck chassis and body configuration that the City currently operates (Peterbilt/Heil). The only difference will be the type of fuel that is used (CNG). The Peterbilt/Heil configuration has over the years become the City's standard chassis and truck body configuration. This standardization allows for reduced spare part inventories and standardization of Operator and Mechanic's training.

The Peterbilt/Heil trucks in our fleet have proven to be very reliable. Both Peterbilt and Heil are highly reputable national brands with considerable market share. Both are long-time suppliers of vehicles, parts and services to the City. Some of the City's previous experiences with lesser-known refuse equipment manufacturers have resulted in a myriad of logistical difficulties related to product support. In some cases this has included vehicle manufacturers or parts suppliers who have suddenly gone out of business, leaving customers to fend for themselves trying to obtain after-market, often substandard repair parts.

This particular Peterbilt truck chassis has already been manufactured and is the only such completed cab and chassis currently available for sale in the Western United States. Staff has determined that due to very high demand for these truck chassis, ordering a similar chassis from the factory would require at least a 300-day lead time for delivery. This would prohibit the City from beginning its Green Waste Program as scheduled in May 2007.

The City's Sole-Source Purchase Exception of TMC § 22.3.17 (b) states:

"For purposes of this Section, "sole-source purchases" means those purchases where it would be undesirable or impossible for the City to advertise for bids for particular work or for patented items, or experimental or unique services or products, or where competitive purchases would be unavailable or would not prove advantageous for the City.

No sole-source purchases may be made where to do so would show favoritism, improvidence, extravagance, fraud or corruption, or result in the waste of public funds, but may be used only to obtain the best economic result for the public."

This new CNG-powered truck will be maintained by Senior Mechanics at Fleet Services, one of whom is trained and certified to work on heavy-duty CNG-powered vehicles. Other Senior Mechanics will be provided with appropriate technical training before they are assigned to work on this vehicle. In addition, all maintenance services on this truck will be performed in an outdoor area away from the maintenance facility. CNG vapors are lighter than air. Working on CNG-powered equipment indoors without significant facility upgrades such as explosion-proof light fixtures and enhanced building ventilation systems would create potential safety hazards. Both the green waste recycling program and the introduction of a CNG powered refuse truck are pilot programs. Should the City decide to continue the green waste program and if AQMD continues to disallow purchasing diesel vehicles, the City will eventually need to consider the aforementioned facility upgrades in order to accommodate greater numbers of natural gas powered vehicles.

Since this is a pilot program, this truck lease has been structured to allow the City to cancel the lease without financial penalty for any reason, at any time, prior to any of the subsequent lease payments that become due.

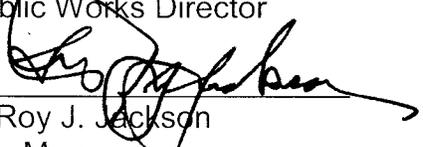
This truck will be refueled daily at a local CNG refueling station operated by Clean Energy, Inc. The CNG fuel station is located approximately five (5) miles from the City Yard, at 23924 Figueroa Street in the City of Carson.

Staff is concurrently exploring the cost-effectiveness of installing a small CNG compressor and related fuel dispensing equipment at the City Yard, which could provide us with the opportunity to take advantage of certain federal tax incentives that would help to offset the cost of fuel. Staff will report back to Council as soon as this analysis is completed.

CONCUR:


 Sheryl Ballew
 General Services Director


 Robert J. Beste
 Public Works Director


 LeRoy J. Jackson
 City Manager

Respectfully submitted,

SHERYL BALLEW
 General Services Director


 By David K. Winnett, Jr.
 Fleet Services Manager

ATTACHMENT:

- A. State and Municipal Master Lease/Purchase Agreement
- B. Letter from Paccar Financial Corp
- C. Form 8038-G Information Return for Tax-Exempt Governmental Obligations
- D. Retail Sales Order from Rush Truck Center

ATTACHMENT A
(EXHIBITS A, B, AND C)

STATE AND MUNICIPAL MASTER LEASE/PURCHASE AGREEMENT

MATERIAL AVAILABLE MONDAY

Eric Tsao / Dave Winnett
City of Torrance

Dear Sirs,

Attached are the municipal lease documents we have prepared for the approved lease on the purchase of the 2007 Peterbilt 320 with a refuse loader body from Rush Truck Center in Pico Rivera. Here are instructions to execute the documents.

Please have the person authorized by the city sign on the top line and print their name and title on the line below the signature line in the following four (4) places:

1. The Master Lease / Purchase Agreement on page 11 under Lessee.
2. The Master Lease / Purchase Agreement Exhibit A at the bottom of the page.
3. The Master Lease / Purchase Agreement Exhibit B at the bottom of the page.
4. The Master Lease / Purchase Agreement Exhibit C at the bottom of the page.
5. Form 8038-G at the bottom of the page.

The documents are time sensitive and we need them back promptly please.

Please make a copy of the signed documents for your records.

Along with the original signed documents, we will need a check for the first rental installment of \$32,697.28 (includes \$2,491.94 in state sales tax. See Exhibit A – Rental Payment and Amortization Schedules) plus a check for \$350.00 for documentation fees. Make the checks payable to Paccar Financial Corp. You may combine both items in one check if you prefer.

Please send the original documents and the payment via overnight service to:

Paccar Financial Corp.
10604 N.E. 38th Place – Suite 215
Kirkland, WA 98033
Attn: Barbara Coccia
Phone: (800) 777-8525

Thanks again for your for your help with this transaction and documentation. If you have any questions, please let me know.

Dean Porter
District Sales Manager
Paccar Financial Corp
Office: (714) 692-8833
Cell: (714) 686-4372
Fax: (714) 692-5487

MATERIAL AVAILABLE MONDAY



Rush Truck Center, Pico Rivera
 8830 E Slauson Ave.
 Pico Rivera, CA 90660
 562-949-5451

Retail Sales Order

SALES ORDER		Date 03/09/2007	
Please enter my order for the following: <input checked="" type="checkbox"/> New <input type="checkbox"/> F.E.T. Applicable <input type="checkbox"/> Used <input checked="" type="checkbox"/> F.E.T. Exempt		City of Torrance	
Make Peterbilt	Series 320	Customer's Name	
Year 2007	Body Type AUTOMATED SIDE LOADER	20500 Madrona Avenue Torrance Ca 90503	
Color N2031EA TURQUOISE	Trim CAB AND BODY PAINTED WHITE	Street	City State Zip
Serial # 1NPZLZ0X57D717148			310-781-6980 310-781-6981
Stock # P717148		SS# or Fed Id#	Business Phone Fax
To be delivered on or about 4/19/2007		Purchaser's Name	
		Street	City State Zip
		SS# or Fed Id#	Business Phone Fax
2007 HEIL DURAPACK 33 CUBIC YARD		Voss, Kevin	
SERIAL # 7S7302393		By Salesman	
		Truck Will be Titled in _____ County.	
		LIENHOLDER INFORMATION	
		Date of Lien	
		Lien Holder Paccar Financial Corp	
		10604 NE 38th Place, Suite 215	
		Kirkland, WA 98033	
		800-333-4998	
Sales Price	260,675.00	Draft Through	
Factory Paid F.E.T.	0.00		
F.E.T. Tire Credit	0.00		
Total Factory Paid F.E.T.	0.00		
Optional Factory Extended Warranties	3,350.00		
Sub-Total	264,025.00		
Dealer Paid F.E.T. *	0.00	Total Used Vehicle Allowance *	
Local Taxes	0.00		
License, Transfer, Title, Registration Fee	0.00	Less Total Balance Owed	
Vehicle Inventory Tax	0.00		
Tire Recycling Fee	29.00	Total Net Allowance on Used Vehicle(s)	
Documentary Fee	45.00		
Total Cash Delivered Price	264,099.00	Deposit or Credit Balance	
Total Down Payment	0.00	Cash with Order	
Contract in Transit	264,099.00	0.00	
A DOCUMENTARY FEE IS NOT AN OFFICIAL FEE. A DOCUMENTARY FEE IS NOT REQUIRED BY LAW, BUT MAY BE CHARGED TO BUYERS FOR HANDLING DOCUMENTS AND PERFORMING SERVICES RELATING TO THE CLOSING OF A SALE.		*See Trade-in details on page 4	
*SUBJECT TO ADJUSTMENT - FINAL F.E.T. MAY VARY. ANY F.E.T. VARIANCE RESPONSIBILITY OF DEALER		Customer, by the execution of this Order, offers to purchase the motor vehicle described above upon the terms and conditions contained herein. Customer acknowledges that Customer has read the terms and conditions of this Order and has received a true copy of this Order.	
NOTICE: THE FOLLOWING ARE IMPORTANT PROVISIONS OF THIS ORDER THIS ORDER CANCELS AND SUPERCEDES ANY PRIOR AGREEMENTS AND, AS OF THE DATE HEREOF, COMPRISES THE COMPLETE AND EXCLUSIVE STATEMENT OF THE TERMS OF THE AGREEMENT BETWEEN THE PARTIES.		This Order consists of this Page, as well as Pages 2 through 3, which are initialed for identification, and only those other documents, which are specifically identified and referenced in this Order.	
IF ANY REPRESENTATIONS, SPECIFICATIONS OR OTHER AGREEMENTS ARE RELIED UPON BY CUSTOMER, THEY MUST BE IN WRITING AND SPECIFICALLY IDENTIFIED AND REFERENCED IN THIS ORDER; OTHERWISE, THEY WILL NOT BE BINDING ON OR ENFORCEABLE AGAINST SELLER.		Customer's Signature _____ Date _____	
THERE ARE NO UNWRITTEN ORAL AGREEMENTS BETWEEN THE PARTIES.		OFFER RECEIVED BY: _____ Date _____ SALES REPRESENTATIVE	
		OFFER ACCEPTED BY: _____ Date _____ AUTHORIZED REPRESENTATIVE	


Rush Truck Center, Pico Rivera

8830 E Slauson Ave.
Pico Rivera, CA 90660
562-949-5451

Retail Sales Order
ADDITIONAL TERMS AND CONDITIONS

- DISCLAIMER OF CONSEQUENTIAL DAMAGES: In the event of any civil action by Purchaser against Dealer or Manufacturer, Customer shall not be entitled to recover any consequential damages as defined in the Uniform Commercial Code, as enacted in the state where Dealer is located, including but not limited to, loss of profits and down time.
- WARNING: Air Leaf with tracking rod suspension, which has a ride height approximately 2.4 inches higher than that of the low air leaf suspension is generally not suitable for high cube/low frame height applications. Customer should verify its height requirements and specify the low air leaf suspension when a lower frame height is required.
- ANY WARRANTIES ON THE PRODUCT(S) SOLD HEREBY ARE THOSE MADE BY MANUFACTURER. ANY PRINTED MANUFACTURER'S WARRANTY DELIVERED TO CUSTOMER WITH SAID PRODUCT(S) IS A CONTRACT SOLELY BETWEEN MANUFACTURER AND CUSTOMER AND IS NOT A PART OF THE SALE OR BARGAIN BETWEEN CUSTOMER AND DEALER. EXCEPT FOR ANY SUCH WARRANTY MADE BY MANUFACTURER, SAID PRODUCT(S) ARE SOLD ON AN "AS IS, WHERE IS" BASIS, IN LIEU OF ALL OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, EACH OF WHICH ARE EXPRESSLY DISCLAIMED.
- If initialed, Customer has requested Dealer to have certain modifications performed on the Product, prior to its delivery to Customer using a third party contractor to perform such modifications. Dealer has agreed to do so, and has included the cost of such modifications in its sales price for the Product, conditioned upon the express understanding and agreement of Customer that such modifications shall be subject to the terms and conditions of the Modifications Rider, which is attached hereto and incorporated herein for all purposes.
- PLACEMENT OF ANY CUSTOMER'S DEPOSIT INTO DEALER'S ACCOUNT SHALL NOT MEAN THAT DEALER HAS ACCEPTED THIS ORDER. THIS ORDER SHALL NOT BECOME BINDING UPON DEALER, UNTIL ACCEPTED BY DEALER'S AUTHORIZED REPRESENTATIVE. A LIST OF AUTHORIZED REPRESENTATIVES MAY BE OBTAINED, BY REQUEST SENT TO THE ADDRESS LISTED HEREIN.
- Parties to Order; Definitions.** As used in this Order, the terms: (a) "Dealer" shall mean the authorized Dealer to whom this Order is addressed and who shall become a party hereto only by its acceptance hereof; (b) "Customer" shall mean the party executing this Order as such on the face hereof; (c) "Manufacturer" shall mean the Corporation that manufactured the Product, it being understood by Customer and Dealer that Dealer is in no respect the agent of Manufacturer, that Dealer and Customer are the sole parties to this Order and that reference to Manufacturer herein is for the purpose of explaining generally certain contractual relationships existing between Dealer and Manufacturer with respect to the Product; (d) "Product" or "Products" shall mean the new and/or used vehicle or vehicles or other products, which are being purchased by Customer, as set forth in this Order.
 - Changes by Manufacturer; Effect on Order.** Manufacturer has reserved the right to change the price to Dealer of new motor vehicles without notice. In the event the price to Dealer of motor vehicles of the series and style ordered hereunder is changed by Manufacturer prior to delivery of the new motor vehicle ordered hereunder to Customer, Dealer reserves the right to change, the cash delivered price of such motor vehicle to Customer accordingly. If such cash delivered price is increased by Dealer, Customer may, if dissatisfied there with, cancel this Order, in which event if a motor vehicle has been traded in as a part of the consideration for such motor vehicle, such used motor vehicle shall be returned to Customer upon payment of a reasonable charge for storage and repairs (if any) or, if such used motor vehicle has been previously sold by Dealer, the amount received therefor, less a selling commission of 15% and any expense incurred in storing, insuring, conditioning or advertising said used motor vehicle for sale, shall be returned to Customer.
 - Reappraisal of Used Motor Vehicle.** If the used motor vehicle which has been traded in as a part of the consideration for the motor vehicle ordered hereunder is not to be delivered to Dealer until delivery to Customer of such motor vehicle, the used motor vehicle shall be reappraised at that time and such reappraised value shall determine the allowance made for such used motor vehicle. If such reappraised value is lower than the original allowance therefor shown on the front of this Order, Customer may, if dissatisfied therewith, cancel this Order, provided, however, that such right to cancel is exercised prior to the delivery of the motor vehicle ordered hereunder to the Customer and surrender of the used motor vehicle to Dealer.
 - Delivery of Used Motor Vehicle by Customer; Customer Warranty of Title.** Customer agrees to deliver to Dealer satisfactory evidence of title to any used motor vehicle traded in as a part of the consideration for the motor vehicle ordered hereunder at the time of delivery of such used motor vehicle to Dealer. Customer warrants any such used motor vehicle to be his property and free and clear of all liens and encumbrances except as otherwise noted herein.
 - Refusal of Acceptance of Motor Vehicle; Rights of Dealer.** Unless this Order shall have been cancelled by Customer under and in accordance with the provisions of paragraph 2 or 3 above, Dealer shall have the right, upon failure or refusal of Customer to accept delivery of any product ordered hereunder and to comply with the terms of this Order, or upon the existence of circumstances, which provide Dealer with a reasonable basis for believing Customer intends to breach its obligations under this Order, to exercise any and/or all of the following remedies: cancel this Order; retain any cash deposit made by Customer; in the event a used motor vehicle has been traded in as a part of the consideration for the product ordered hereunder, sell such used motor vehicle and reimburse itself out of the proceeds of such sale for the expenses specified in Paragraph 2 above and for such other expenses and losses as Dealer may incur or suffer as a result of such failure or refusal by Customer; and, take such other action and pursue such other remedies as are allowed by law.
 - Changes in Design by Manufacturer.** Manufacturer has reserved the right to change the design of any new motor vehicle, chassis, accessories or parts thereof at any time without notice and without obligation to make the same or any similar change, in any motor vehicle, chassis, accessories or parts thereof previously purchased by or shipped to Dealer or being manufactured or sold in accordance with Dealer's Orders. Correspondingly, in the event of any such change by Manufacturer, Dealer shall have the right, but no obligation to Customer, to make the same or any similar change, in any motor vehicle, chassis, accessories or parts thereof covered by this Order either before or subsequent to delivery thereof to Customer.
 - Delay or Failure in Delivery; Limitation of Dealer Liability.** Dealer shall not be liable for failure to deliver or delay in delivering any product covered by this Order where such failure or delay is due, in whole or in part, to any cause beyond the reasonable control or is without the gross negligence or intended misconduct of Dealer.
 - Liability for taxes.** The price for the product specified on the face of this Order includes reimbursement for Federal Excise taxes, but does not include sales taxes or occupational taxes based on sales volume, (Federal, State or Local) unless expressly so stated. Customer assumes and agrees to pay, unless prohibited by law any such sales or use of occupational taxes imposed on or applicable to the transaction covered by this Order, regardless of which party may have primary tax liability thereof.

Customer Initial _____


Rush Truck Center, Pico Rivera

8830 E Slauson Ave.
Pico Rivera, CA 90660
562-949-5451

Retail Sales Order

9. **Execution of Other Documents; Further Action.** Customer, before, at the time of delivery of the product covered by this Order, or thereafter, will execute such other forms of agreement or documents or instruments or corrective filings as may be required by the terms and conditions of payment indicated on the front of this Order and will use all commercially reasonable efforts to do or cause such other things as may be reasonably necessary or desirable to be done to effect the provisions and purposes of this Order.

10. **Request for List of Dealer's Authorized Representatives.** Customer, to request a list of Dealer's Authorized Representatives, should contact: Rush Truck Centers, P.O. Box 34630, San Antonio, TX 78265-4630, Attention: Customer Service. Customer, in making a request, should specify the dealership location, which is the subject of the request. Or visit the Website of Dealer's parent corporation, Rush Enterprises, Inc., at www.rush-enterprises.com.

11. **Execution and Delivery by Facsimile Transmission.** If this Order or any document executed in connection with this Order is delivered by facsimile or similar instantaneous electronic transmission device pursuant to which the signature of or on behalf of such party can be seen (a "fax"), such execution and delivery shall be considered valid, binding and effective for all purposes as an original document. Additionally, the signature of any party on this Order transmitted by way of a facsimile machine shall be considered for all purposes as an original signature. Any such faxed document shall be considered to have the same binding legal effect as an original document. At the request of Dealer, any faxed document shall be re-executed by Customer in an original form.

12. **Fees and Expenses of Actions.** If any legal action (an "Action"), is commenced by Dealer, including an Action for declaratory relief, to enforce or interpret the terms of this Order, or any document or instrument executed in connection with or pursuant to this Order, or involving any controversy or claim between or among the parties to this Order, whether sounding in contract, tort or statute, whether through arbitration, probate, bankruptcy, receivership or other judicial or administrative proceeding, Dealer shall, if Dealer prevails in such Action, be entitled to recover reasonable attorney's fees, paralegal costs, expert witness and consulting expert fees and costs, and other expenses, costs and necessary disbursements incurred by Dealer in the investigation, preparation, pursuit or defense of any claim asserted by any party in such Action (including allocated costs for in-house legal services), in addition to any other relief to which Dealer may be otherwise entitled, at law or hereunder, in the amount determined by the fact-finder(s) or arbitrator(s)

13. **Gender and Number.** Unless otherwise required by context, the genders shall include each other and the singular shall include the plural and the plural the singular.

14. **Headings, Etc.** Headings, table of contents, captions, titles and marginal notations are for convenience only and shall not limit or restrict the interpretation or construction of the passage(s) to which such headings, table of contents, captions, titles and notations may relate.

15. **Governing Law; Jurisdiction and Venue; Performance.** Except to the extent that the laws of the United States may apply or otherwise control this Order, the rights and obligations of the parties hereunder shall be governed by, construed and interpreted in accordance with the laws of the State in which Dealer is located, without regard to conflict of law principals. The County where Dealer's dealership is located shall be the proper place of venue to enforce payment under the performance of this Order.

16. **Waiver.** No waiver of any term of this Order shall be valid unless it is in writing and signed by Dealer's Authorized Representative. The failure of Dealer at any time or times to require performance of any provision hereof shall in no manner affect the right to enforce the same. No waiver by Dealer of any condition contained in this Order, or of the breach of any term, provision, representation, warranty or covenant contained in this Order, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach, or as a waiver of any other condition or of the breach of any other term, provision, representation, warranty or covenant.

17. **Customer's Deposit.** Any Customer's Deposit shall only be refunded, at the request of Customer if this Order has not been accepted within three (3) business days. Once accepted, any Customer's Deposit shall not be refunded except due to Dealer's failure to deliver the Product.

18. **Title; Security Interest and Lien.** Title to any Product shall pass to Customer, only when Customer has paid all amounts due from Customer for the purchase of the Product. Notwithstanding the foregoing, should Customer be deemed to have acquired title to the Product by law, at any time when Customer has not paid the entire amount due for the purchase of the Product, or any check delivered by Customer in payment of the purchase price of the Product, is returned to Dealer, unpaid for any reason, Dealer shall have a purchase money security interest in and/or lien against the Product and shall be entitled to take any action and file any documents to perfect its security interest in and/or lien against the Product. In such event, Customer hereby irrevocably appoints Dealer as its agent and attorney in fact, coupled with an interest, to execute any documents or statements in behalf of Customer.

19. **Attachments. If checked, attached to this Order and made a part hereof are the following:**

Modifications Rider;

Detailed Truck Specifications;

_____;

_____.

WARNING: Contains Freon (CFC 12) and manufactured with 1,1,1 Trichloroethane (methyl chloroform) substances which harm public health and environment by destroying ozone in the atmosphere.

Customer Initial _____

