Council Meeting of
April 13, 2010

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

Members of the Council:

SUBJECT: Public Works - Appropriate funds and authorize purchase order for automated curbside refuse, recycling and green waste recycling containers. Expenditure: $66,795.12

RECOMMENDATION

Recommendation of the Public Works Director that City Council:

1. Appropriate $66,795.12 from the Sanitation Enterprise Fund for the purchase of automated refuse, recycling and green waste recycling containers; and

2. Authorize a purchase order with Toter Incorporated of Statesville, North Carolina in the amount of $66,795.12 for the sole source purchase of 1,272 Toter automated curbside refuse, recycling and green waste recycling containers.

Funding

Funding is available in the Sanitation Enterprise Fund.

BACKGROUND/ANALYSIS

As part of our ongoing effort to increase recycling participation, the Public Works Department is requesting authorization to purchase 186 96-gallon curbside refuse containers, 186 96-gallon recycling containers and 900 96-gallon curbside green waste recycling containers. The refuse containers will be used to replace older worn out containers. The larger recycling containers will replace the 64-gallon containers now in use. The green waste containers will be used for the existing pilot program routes. Staff will return at a later date for expansion of the green waste program.

We are continuing to purchase the containers through Toter as a sole-source provider for the following reasons: 1) All of our curbside containers are Toter made, ensuring uniformity of appearance throughout the community; 2) Toter containers are extremely durable, far outlasting their anticipated usable life and therefore lowering replacement costs; and 3) The grabber arms on our collection vehicles are equipped

specifically for the shape and size of the Toter containers. If we were to purchase containers from a different vendor, the style and shape of the container may not be compatible with the grabber arms of our fleet, which could affect their ability to properly grip and lift the containers without crushing or damaging them.

This is a sole source purchase, as the container is the patented design of Toter Inc. The Torrance Municipal Code, (Section 22.3.17.b), (EXCEPTIONS; SOLE-SOURCE PURCHASES) states that "sole source purchases shall mean 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."

Respectfully submitted,

ROBERT J. BESTE
Public Works Director

By: Matthew Knapp
Sanitation Services Manager

CONCUR:

Robert J. Beste
Public Works Director

LeRoy J. Jackson
City Manager

Attachment: A. Toter Quote

ATTACHMENT A

Toter® INCORPORATED

QUOTATION

NATIONAL IPA

QUOTE # : 4231

March 29, 2010

Dear Mr. Knapp and Ms. Sherman:

Toter Incorporated is pleased to provide the City of Torrance the following pricing off Toter's contract through the National IPA agreement bid by the City of Tucson.

PREPARED FOR:	SHIP TO:
Mr. Matthew Knapp Ms. Alison Sherman City of Torrance, Public Works 20500 Madrona Avenue Torrance, CA 90503 P: 310-781-6900 / F: 310-781-6902 E: MKnapp@TorranceCA.gov / ASherman@TorranceCA.gov	Torrance, CA 90503

DESCRIPTION	QUANTITY	UNIT PRICE	EXTENDED PRICE
Toter 96 Gallon – Model 57596 - EVR Automated Container ❖ ***Color*** – Gray body and lid (Recycle) ❖ ***Serial Numbers*** – Toter serial numbers hot stamped on body lid ❖ ***Body Hot Stamp*** – Custom hot stamp on both sides of body (S3116) ❖ ***Lid Hot Stamp*** – "Recycle" with arrows hot stamp on lid (S2905) ❖ ***Lid Insert*** – Custom lid insert (B0200) ❖ ***Wheels*** – 10" Black lug wheel ❖ ***Warranty*** – Container body, lid, wheels, axle, stop bar, and all attachments are covered by a 10-year unprorated warranty (special exclusions may apply to non-standard options) ❖ ***Cart Assembly*** – Shipped unassembled	186	$43.45	**$8,081.70**
Toter 96 Gallon – Model 57596 - EVR Automated Container ❖ ***Color*** – Black body and lid (Trash) ❖ ***Body Hot Stamp*** – Custom hot stamp on both sides of body (S3116) ❖ ***Lid Hot Stamp*** - None ❖ ***Lid Insert*** – Custom lid insert (B0201) ❖ ***Same specs as above***	186	$43.45	**$8,081.70**
Toter 96 Gallon – Model 76896 - EVR Automated Yardwaste Container with Vents ❖ Vents on lower sides and upper rim of cart body (stop bar & grid not included) ❖ ***Color*** – 940 Green body and lid ❖ ***Serial Numbers*** – Toter serial numbers hot stamped on body lid ❖ ***Body Hot Stamp*** – Custom hot stamp on both sides of body ❖ ***Lid Hot Stamp*** – Custom hot stamp on lid ❖ ***Wheels*** – 10" Black lug wheel ❖ ***Warranty*** – 10-year manufacturer's warranty ❖ ***Cart Assembly*** – Shipped unassembled	900	$44.95	**$40,455.00**
Option – 10" Snap-On Wheels	1,272	$0.90	**$1,144.80**
Subtotal = **Sales Tax – 9.75% =** **Freight Rate per Truckload =** **Total =**	2	$1,700.00	**$57,763.20** **$5,631.92** **$3,400.00** **$66,795.12**

Quote 4231 – Continued:

Please return signed quotes to fax 559-320-0366. Call 559-320-0364 for further information.

Mr. Matthew Knapp
Ms. Alison Sherman
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ADDITIONAL INFORMATION:

Freight: FOB factory estimated freight is $1,700.00 per truckload. This is an estimate only and may change based on actual freight charges at time of order shipment. This order will require 2 truckloads.

Payment Terms: Net 30 days after shipping pending credit approval

Delivery: Estimated to be 3-4 weeks, ARO

Due to an extremely volatile petro-chemical market, actual prices and freight are subject to change and must be confirmed before acceptance of an order.

Above pricing is based on orders placed in the quantities stated above. Should quantity requirements change, please contact Toter for a revised quotation.

This proposal is subject to Toter's Standard Terms and Conditions following. Toter prices do not include state and local taxes, if applicable. Delivery is subject to availability at time of order entry. Pricing is based on current resin cost and freight which must be confirmed by Toter in writing before acceptance of order. This quote supersedes any past proposal on the same item.

If you should have questions regarding Toter's products, services, or this proposal, please contact me at (800) 424-0422.

Sincerely,

Rob Vezina – via e-mail
Regional Sales Director, Pacific Southwest

c: Andrew Keratzides, Judy Bates

ACCEPTED BY:

City of Torrance Date

P. O. #

Please return signed quotes to fax 559-320-0366. Call 559-320-0364 for further information.

TOTER® INC.

STANDARD TERMS AND CONDITIONS
of This Quotation and Any Sale Resulting Thereof

1. **ACCEPTANCE**: All orders and sales contracts are subject to acceptance or rejection by Toter and are not binding until accepted. Acceptance by Toter constitutes a complete and binding contract governed by the terms and conditions of sale herein and by the laws of the State of North Carolina. Acceptance is subject to availability and may be subject to a written agreement signed by both Buyer and Toter.

2. **BROKEN CARTONS**: All product will be shipped in full cartons only.

3. **CANCELLATION PENALTY**: Cancelled orders received twenty-four (24) hours after order date are subject to a 15% cancellation charge. All cancellation requests must be confirmed in writing. In no event may any order be cancelled after goods have left point of shipment.

4. **CASH TERMS**: Standard payment terms are **NET THIRTY (30) DAYS** after invoice date unless specifically indicated otherwise. Buyer will be charged 1½% interest per month (18% per annum) on any payment received after terms indicated on invoice. Terms are contingent on credit approval. Toter reserves the right to modify credit and payment terms at any time. Invoices are payable in U.S. currency, unless otherwise specified by Toter. Toter retains a security interest in all of the goods described on the reverse side hereof until such time as the entire purchase price is paid in full.

5. **DAMAGED GOODS**: If any part of any shipment is damaged or missing when it arrives **TAKE DELIVERY AT ONCE** and have delivery carrier acknowledge damage or shortage, and make proper notation on your freight receipt. Failure to have carrier acknowledge damage may void any warranty and continue Buyer responsibility for payment in full.

6. **SHIPPING ESTIMATES/DELIVERY**: The shipping date shown on this form is an approximation only and does not, in any way, represent a contract by Seller to ship or deliver on said date. Seller will not be liable for any or all damages resulting from any delay or early shipment, regardless of the cause of the delay or early shipment. Unless otherwise expressly stated, Toter shall have the right to make delivery in installments. In the event of war, fire, flood, strike, labor trouble, accident, riot, act of God, act of governmental authority or any other contingencies beyond the control of Toter interfering with the production, supply, transportation, or consumption of the goods covered by this agreement or with the supply of any raw material used in connection therewith, quantities so affected may be eliminated from the agreement without liability but the agreement shall otherwise remain unaffected. Toter may during any period of shortage due to any of said causes, prorate its supply of such goods among its customers under this and other orders and agreements in such manner as Toter may deem fair and practicable.

7. **FREIGHT**: Any quotation of freight, transportation, shipping, handling, or similar charges are **ESTIMATES** only. Buyer is solely responsible for all charges connected with freight, transportation, shipping, handling, insurance, demurrage or similar functions, unless otherwise agreed to in writing by Toter. If such charges are by the terms of sale included in the price, any increase in rates becoming effective after the date hereof shall be for the account of the Buyer.

8. **MINIMUM ORDER**: One hundred ($100.00) dollar minimum, excluding freight, taxes, etc.

9. **MODIFICATIONS**: Modifications will only be accepted within twenty-four (24) hours of date the original order is placed with Toter's Customer Service Department.

10. **PRICES**: All prices quoted are F.O.B.: Shipping point, unless specifically indicated otherwise, and supersede all previous prices and quotations.

11. **RETURNS**: A Return Authorization Number must be obtained from Toter within five (5) days of receipt of goods and before merchandise may be returned for credit. Returns must be completed within sixty (60) days of invoice date. All transportation charges for returned merchandise must be **PREPAID** by the shipper. Returned saleable merchandise accepted by Toter for credit is subject to a 15% restocking charge. If any portion of the goods delivered to Buyer are defective or are otherwise not in accordance with contract specifications, Toter shall have the right in its discretion either to replace such defective goods or to refund the portion of the purchase price applicable thereto. No goods shall be returned to Toter without Toter's written consent. In no event shall Toter be liable for the cost of processing, lost profits, injury to goodwill or any other special incidental or consequential damages.

12. **SPECIFICATIONS**: Toter reserves the right to substitute materials and modify product features provided that the resulting quality is equal or improved. If an inspection or testing of the goods has been agreed upon, such inspection or testing shall be made at Toter's plant or other source of supply before shipment of the goods, and approval or rejection shall be made promptly and in any event before shipment. No claims will be entertained thereafter. In all other cases, Buyer is required to give written notice to Toter of any claim promptly upon receipt of the goods and in any event within five (5) days thereafter, and Toter shall thereupon be afforded a reasonable opportunity to inspect the goods.

13. **TAXES**: Prices do not include city, county, state, federal, or any other taxes. All applicable taxes shall be paid by the Buyer unless a proper exemption certificate is furnished.

14. **WARRANTY**: THERE ARE NO WARRANTIES, EXPRESSED OR IMPLIED, WHICH EXTEND BEYOND THE SEPARATE WRITTEN WARRANTY REFERENCED ON THE FACE HEREOF. NON-PAYMENT SIXTY (60) DAYS PAST THE DATE OF AN INVOICE MAY VOID WARRANTY END USE: DETERMINATION OF THE SUITABILITY OF THE GOODS COVERED BY THIS AGREEMENT FOR THE USE CONTEMPLATED BY THE BUYER OR BUYER'S CUSTOMERS IS THE SOLE RESPONSIBILITY OF THE BUYER IN CONNECTION THEREWITH, BUYER ASSUMES ALL RISK AND LIABILITY FOR LOSS, DAMAGE, OR INJURY ARISING OUT OF OR INCIDENT TO THE USE OR POSSESSION OF THE GOODS FURNISHED UNDER THIS AGREEMENT.

15. **ENTIRE AGREEMENT**: The above terms and conditions represent the entire agreement between Toter and Buyer with respect to the sale of goods supplied hereunder. This agreement cannot be modified except in a writing signed by an officer of Toter and Buyer covering the sale of said goods.

Please return signed quotes to fax 559-320-0366. Call 559-320-0364 for further information.