



Agenda Item #: _____

Staff Report

City of Manhattan Beach

TO: Honorable Mayor Fahey and Members of the City Council

THROUGH: Geoff Dolan, City Manager

FROM: Bruce Moe, Finance Director
Russell J. Morreale, Assistant Finance Director
Henry Mitzner, Controller

DATE: October 18, 2005

SUBJECT: Award of Contract to SunTrust Leasing Corporation for a Five Year Lease-Purchase Financing of a Previously Budgeted and Approved Sewer Vacuum Truck (\$62,308 per year)

RECOMMENDATION:

Staff recommends that the City Council adopt Resolution No. 6002 approving five year lease-purchase documents with SunTrust Leasing Corporation in order to finance the purchase of a sewer vacuum truck previously budgeted and approved by the City Council on October 4, 2005.

FISCAL IMPLICATION:

The FY 2005-2006 budget includes debt service for the lease-purchase of the new sewer vacuum truck approved by the City Council on October 4, 2005. The capital cost of the truck, including all delivery costs and taxes, is \$286,566. The monthly lease-purchase payments over a five year period will be \$5,192.37 per month, or \$62,308 per year.

BACKGROUND:

Council approved the purchase of a replacement sewer vacuum truck on October 4, 2005. At the time of the approval, staff advised Council that we would lease-purchase the equipment, and return this evening with the documents for approval.

DISCUSSION:

On September 20th, Council approved a lease-purchase financing arrangement with SunTrust Leasing Corporation for the City's new fire truck (delivery is expected this month). SunTrust was selected through a competitive process and offered the lowest effective borrowing cost (3.44%). Despite the fact that rates have increased approximately 10 basis points since the lease-purchase of the fire truck, SunTrust has agreed to offer us the same rate (3.44%) for the lease-purchase of the sewer vacuum truck. Utilizing SunTrust in this way not only provides us an excellent interest rate, but has the added benefit of utilizing contract documents that have already been reviewed and negotiated through the City Attorney, thereby streamlining the process. As a result, we recommend that Council approve the five year lease-purchase agreement with SunTrust.

A lease-purchase arrangement for this equipment is preferable to a cash purchase because the cost of

borrowing is below our own anticipated portfolio rate of return. The city's current investment portfolio rate of return closely matches the lease rate quoted by SunTrust and is expected to increase steadily above the 4% range in the near term.

The rate offered is for a five year term, with payments on a monthly basis. Prepayment is permissible, however a 3% penalty on the outstanding principal is levied in that event. We do not believe this to be an issue though since prepayment is not likely given the preferential rate and the short lease term.

Staff is recommending that the City Council adopt Resolution No. 6002 which approves the lease-purchase documents (approved as to form by the City Attorney) and authorizes the City Manager or his designee to execute all documents associated with the transaction.

- Attachments:
- A. Resolution No. 6002
 - B. Lease-Purchase Financing Documents

RESOLUTION NO. 6002

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MANHATTAN BEACH, CALIFORNIA, AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT, EQUIPMENT SCHEDULE NO. 02, AN ESCROW AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH

WHEREAS, the governing body of City of Manhattan Beach ("Lessee") desires to obtain certain equipment (the "Equipment") described in Equipment Schedule No. 02 to the Master Lease Agreement (collectively, the "Lease") with SUNTRUST LEASING CORPORATION, the form of which has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental functions; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS, Lessee proposes to enter into the Lease with SunTrust Leasing Corporation and the Escrow Agreement with the Escrow Agent substantially in the forms presented to this meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE AS FOLLOWS:

SECTION 1. It is hereby found and determined that the terms of the Lease and the Escrow Agreement (collectively, the "Financing Documents") in the forms presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment.

SECTION 2. The Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The City Manager of Lessee and any other officer of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents with any changes, insertions and omissions therein as may be approved by the officers who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The City Manager of the Lessee and any other officer of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Financing Documents and attest the same.

SECTION 3. The proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Financing Documents.

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the Lease and Escrow Agreement executed on behalf of Lessee are the same as presented at such meeting of the governing body of Lessee, excepting only such changes, insertions and omissions as shall have been approved by the officers who executed the same.

SECTION 4. The resolution shall take effect immediately.

SECTION 5. The City Clerk shall certify to the passage and adoption of this resolution; shall cause the same to be City Council members voting for and against this Resolution and shall post in the office of the City Clerk a certified copy of the full text of this Resolution along with the names of those City Council members voting for and against the Resolution. The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further

certifies that the Lease and Escrow Agreement executed on behalf of Lessee are the same as presented at such meeting of the governing body of Lessee, excepting only such changes, insertions and omissions as shall have been approved by the officers who executed the same.

PASSED, APPROVED AND ADOPTED this 18th day of October, 2005.

Ayes:
Noes:
Absent:
Abstain:

Mayor, City of Manhattan Beach, California

ATTEST:

City Clerk

CITY OF MANHATTAN BEACH, CA
INDEX TO LEGAL DOCUMENTS
NON BANK-QUALIFIED NON-ESCROW

Master Lease Agreement; ON FILE

Exhibit A - Equipment Schedule No. 02;

Acceptance Certificate;

Payment Schedule;

Exhibit B-1 - Tax Agreement and Arbitrage Certificate;

Exhibit C - Resolution of Governing Body;

Exhibit D - Incumbency Certificate;

Exhibit E - Opinion of Counsel;

Exhibit F - Omitted Intentionally;

Exhibit G-1 Confirmation of Outside Insurance;

Exhibit G-2 Questionnaire for Self-Insurance to Lease and Addendum;

UCC Financing Statements with attached Schedule A;

Form 8038-G.

**EQUIPMENT SCHEDULE NO. 02
TO LEASE NO. 04107**

The following Equipment comprises an Equipment Group which is the subject of the Master Lease Agreement dated as September 26, 2005 (the "Agreement") between the undersigned Lessor and Lessee. The Agreement is incorporated herein in its entirety, and Lessee hereby reaffirms each of its representations, warranties and covenants contained in the Agreement. Lessee warrants that no Non-Appropriation and no Event of Default, or event which, with the passage of time or the giving of notice or both, would constitute an Event of Default, has occurred under the Agreement. An Acceptance Certificate and Payment Schedule are attached to this Equipment Schedule and by reference are made a part hereof. The terms capitalized in this Equipment Schedule but not defined herein shall have the meanings assigned to them in the Agreement.

EQUIPMENT GROUP

The cost of the Equipment Group to be funded by Lessee under this Lease is \$286,666.00 (the "Acquisition Cost"). The Equipment Group consists of the following Equipment which has been or shall be purchased from the Vendor(s) named below for the prices set forth below:

Sewer Truck \$ 286,566.00
Documentation Fee \$100.00
Total \$ 286,666.00

The Equipment Group is or will be located at the following address(es). Prior to relocation of the Equipment Group or any portion thereof during the Lease Term, Lessee will provide written notice to Lessor:

**1400 Highland Avenue
Manhattan Beach, CA 90266**

CITY OF MANHATTAN BEACH, CA,
Lessee

SUNTRUST LEASING CORPORATION,
Lessor

By: _____
Name: Bruce Moe
Title: Director of Finance
Date: _____

By: _____
Name: Michael J. Powers
Title: Secretary
Date: _____

Address: 1400 Highland Avenue
Manhattan Beach, CA 90266

Address: 29 West Susquehanna Avenue, Suite 400
Towson, MD 21204

Telephone: 310/802-5554
Facsimile: _____

Telephone: 410/307-6644
Facsimile: 410/307-6702

ACCEPTANCE CERTIFICATE

I, the undersigned, hereby certify that I am the duly qualified and acting officer of the Lessee identified below and, with respect to the above referenced Equipment Schedule and Lease, that:

1. The Equipment described below has been delivered and installed in accordance with Lessee's specifications, is in good working order and is fully operational and has been fully accepted by Lessee on or before the date indicated below:

Sewer Truck
V390LHAD/850

2. Attached are (a) evidence of insurance with respect to the Equipment in compliance with Article VII of the Agreement; (b) Vendor invoice(s) and/or bill(s) of sale relating to the Equipment, and if such invoices have been paid by Lessee, evidence of payment thereof (evidence of official intent to reimburse such payment as required by the Code having been delivered separately by Lessee); and (c) financing statements executed by Lessee as debtor and/or the original certificate of title or manufacturer's certificate of origin and title application, if any, for any Equipment which is subject to certificate of title laws.

3. Rental Payments shall be due and payable by Lessee on the dates and in the amounts indicated on the Payment Schedule attached to the Equipment Schedule. Lessee has appropriated and/or taken other lawful actions necessary to provide moneys sufficient to pay all Rental Payments required to be paid under the Lease during the current Fiscal Year of Lessee. Such moneys will be applied in payment of all such Rental Payments due and payable during such current Fiscal Year. Lessee anticipates that sufficient funds shall be available to make all Rental Payments due in subsequent Fiscal Years.

4. Lessee hereby authorizes and directs Lessor to fund the Acquisition Cost of the Equipment by paying, or directing the payment by the Escrow Agent (if applicable) of, the invoice prices to the Vendor(s), in each case as set forth above, or by reimbursing Lessee in the event such invoice prices have been previously paid by Lessee.

 X 5. **Final Acceptance Certificate.** This Acceptance Certificate constitutes final acceptance of all of the Equipment identified in the Equipment Schedule described above. Lessee certifies that upon payment in accordance with paragraph 4 above, or direction to the Escrow Agent (if applicable) to make payment, Lessor shall have fully and satisfactorily performed all of its covenants and obligations under the Lease. [CHECK BOX IF APPLICABLE.]

CITY OF MANHATTAN BEACH, CA,
Lessee

By: _____

Name: Bruce Moe
Title: Director of Finance
Date: _____

PAYMENT SCHEDULE

The Funding Date with respect to the above referenced Equipment Group shall be October 20, 2005. The Annual Interest Rate applicable to the Equipment Group shall be 3.44%. Lessee will make Rental Payments each consisting of Principal and Interest as set forth below for a term of 5 years. The first Rental Payment is due on October 20, 2005 and subsequent payments are due monthly on like date thereafter.

<u>Payment Number</u>	<u>Payment Date</u>	<u>Payment Amount</u>	<u>Principal Component</u>	<u>Interest Component</u>	<u>Prepayment Price*</u>
1	10/20/2005	5,192.37	5,192.37	0.00	
2	11/20/2005	5,192.37	4,385.48	806.89	285,400.79
3	12/20/2005	5,192.37	4,398.05	794.32	280,870.80
4	1/20/2006	5,192.37	4,410.66	781.71	276,327.82
5	2/20/2006	5,192.37	4,423.30	769.07	271,771.82
6	3/20/2006	5,192.37	4,435.98	756.39	267,202.75
7	4/20/2006	5,192.37	4,448.70	743.67	262,620.59
8	5/20/2006	5,192.37	4,461.45	730.92	258,025.30
9	6/20/2006	5,192.37	4,474.24	718.13	253,416.83
10	7/20/2006	5,192.37	4,487.07	705.30	248,795.15
11	8/20/2006	5,192.37	4,499.93	692.44	244,160.22
12	9/20/2006	5,192.37	4,512.83	679.54	239,512.01
13	10/20/2006	5,192.37	4,525.77	666.60	234,850.46
14	11/20/2006	5,192.37	4,538.74	653.63	230,175.56
15	12/20/2006	5,192.37	4,551.75	640.62	225,487.25
16	1/20/2007	5,192.37	4,564.80	627.57	220,785.51
17	2/20/2007	5,192.37	4,577.89	614.48	216,070.29
18	3/20/2007	5,192.37	4,591.01	601.36	211,341.55
19	4/20/2007	5,192.37	4,604.17	588.20	206,599.25
20	5/20/2007	5,192.37	4,617.37	575.00	201,843.36
21	6/20/2007	5,192.37	4,630.61	561.76	197,073.83
22	7/20/2007	5,192.37	4,643.88	548.49	192,290.64
23	8/20/2007	5,192.37	4,657.19	535.18	187,493.73
24	9/20/2007	5,192.37	4,670.54	521.83	182,683.07
25	10/20/2007	5,192.37	4,683.93	508.44	177,858.62
26	11/20/2007	5,192.37	4,697.36	495.01	173,020.34
27	12/20/2007	5,192.37	4,710.83	481.55	168,168.18
28	1/20/2008	5,192.37	4,724.33	468.04	163,302.12
29	2/20/2008	5,192.37	4,737.87	454.50	158,422.12
30	3/20/2008	5,192.37	4,751.45	440.92	153,528.12
31	4/20/2008	5,192.37	4,765.08	427.30	148,620.09
32	5/20/2008	5,192.37	4,778.74	413.64	143,698.00
33	6/20/2008	5,192.37	4,792.43	399.94	138,761.79
34	7/20/2008	5,192.37	4,806.17	386.20	133,811.43
35	8/20/2008	5,192.37	4,819.95	372.42	128,846.88
36	9/20/2008	5,192.37	4,833.77	358.60	123,868.10
37	10/20/2008	5,192.37	4,847.62	344.75	118,875.04
38	11/20/2008	5,192.37	4,861.52	330.85	113,867.67
39	12/20/2008	5,192.37	4,875.46	316.91	108,845.96
40	1/20/2009	5,192.37	4,889.43	302.94	103,809.84
41	2/20/2009	5,192.37	4,903.45	288.92	98,759.28
42	3/20/2009	5,192.37	4,917.51	274.86	93,694.26

43	4/20/2009	5,192.37	4,931.60	260.77	88,614.70
44	5/20/2009	5,192.37	4,945.74	246.63	83,520.59
45	6/20/2009	5,192.37	4,959.92	232.45	78,411.87
46	7/20/2009	5,192.37	4,974.14	218.23	73,288.51
47	8/20/2009	5,192.37	4,988.40	203.97	68,150.47
48	9/20/2009	5,192.37	5,002.70	189.67	62,997.68
49	10/20/2009	5,192.37	5,017.04	175.33	57,830.13
50	11/20/2009	5,192.37	5,031.42	160.95	52,647.78
51	12/20/2009	5,192.37	5,045.84	146.53	47,450.56
52	1/20/2010	5,192.37	5,060.31	132.06	42,238.44
53	2/20/2010	5,192.37	5,074.81	117.56	37,011.38
54	3/20/2010	5,192.37	5,089.36	103.01	31,769.34
55	4/20/2010	5,192.37	5,103.95	88.42	26,512.27
56	5/20/2010	5,192.37	5,118.58	73.79	21,240.12
57	6/20/2010	5,192.37	5,133.26	59.11	15,952.88
58	7/20/2010	5,192.37	5,147.97	44.40	10,650.47
59	8/20/2010	5,192.37	5,162.73	29.64	5,332.86
60	9/20/2010	5,192.37	5,177.53	14.84	0.00
Totals		311,542.20	286,666.00	24,876.20	

CITY OF MANHATTAN BEACH, CA,
Lessee

By: _____
Name: Bruce Moe
Title: Director of Finance
Date: _____

* After payment of Rental Payment due on such date.

TAX AGREEMENT AND ARBITRAGE CERTIFICATE

This **TAX AGREEMENT AND ARBITRAGE CERTIFICATE** (this "Certificate") is issued by **CITY OF MANHATTAN BEACH, CA** ("Lessee") in favor of **SUNTRUST LEASING CORPORATION** ("Lessor") in connection with that certain Master Lease Agreement dated as of September 26, 2005 (the "Agreement"), by and between Lessor and Lessee. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

Section 1. In General.

1.1 This Certificate is executed for the purpose of establishing the reasonable expectations of Lessee as to future events regarding the financing of certain equipment (the "Equipment") to be acquired by Lessor and leased to Lessee pursuant to and in accordance with the Equipment Schedule referenced above (the "Equipment Schedule") executed under the Agreement (together with all related documents executed pursuant thereto and contemporaneously herewith, the "Financing Documents"). As described in the Financing Documents, Lessor shall apply \$286,666.00 (the "Principal Amount") toward the acquisition of the Equipment and Lessee shall make Rental Payments under the terms and conditions as set forth in the Financing Documents.

1.2. The individual executing this Certificate on behalf of Lessee is an officer of Lessee delegated with the responsibility of reviewing and executing the Financing Documents, pursuant to the resolution or other official action of Lessee adopted with respect to the Financing Documents, a copy of which has been delivered to Lessor.

1.3. The Financing Documents are being entered into for the purpose of providing funds for financing the cost of acquiring, equipping and installing the Equipment which is essential to the governmental functions of Lessee, which Equipment is described in the Equipment Schedule. The Principal Amount will be disbursed by Lessor on or promptly after the date of issuance of the Financing Documents to acquire the Equipment.

1.4. Lessee will timely file for each payment schedule issued under the Lease a Form 8038-G (or, if the invoice price of the Equipment under such schedule is less than \$100,000, a Form 8038-GC) relating to such Lease with the Internal Revenue Service in accordance with Section 149(e) of the Internal Revenue Code of 1986, as amended (the "Code").

Section 2. Non-Arbitrage Certifications.

2.1. The Rental Payments due under the Financing Documents will be made with monies retained in Lessee's general operating fund (or an account or subaccount therein). No sinking, debt service, reserve or similar fund or account will be created or maintained for the payment of the Rental Payments due under the Financing Documents or pledged as security therefor.

2.2. There have been and will be issued no obligations by or on behalf of Lessee that would be deemed to be (i) issued or sold within fifteen (15) days before or after the date of issuance of the Financing Documents, (ii) issued or sold pursuant to a common plan of financing with the Financing Documents and (iii) paid out of substantially the same source of funds as, or deemed to have substantially the same claim to be paid out of substantially the same source of funds as, the Financing Documents.

2.3. Lessee does not and will not have on hand any funds that are or will be restricted, segregated, legally required or otherwise intended to be used, directly or indirectly, as a substitute, replacement or separate source of financing for the Equipment.

2.4. No portion of the Principal Amount is being used by Lessee to acquire investments which produce a yield materially higher than the yield realized by Lessor from Rental Payments received under the Financing Documents.

2.5. The Principal Amount does not exceed the amount necessary for the governmental purpose for which the Financing Documents were entered into. Such funds are expected to be needed and fully expended for payment of the costs of acquiring, equipping and installing the Equipment.

2.6. Lessee does not expect to convey, sublease or otherwise dispose of the Equipment, in whole or in part, at a date which is earlier than the final Payment Date under the Financing Documents.

Section 3. Disbursement of Funds; Reimbursement to Lessee.

3.1 It is contemplated that the entire Principal Amount will be used to pay the acquisition cost of Equipment to the vendors or manufacturers thereof, provided that, if applicable, a portion of the principal amount may be paid to Lessee as reimbursement for acquisition cost payments already made by it so long as the conditions set forth in Section 3.2 below are satisfied.

3.2. Lessee shall not request that it be reimbursed for Equipment acquisition cost payments already made by it unless each of the following conditions have been satisfied:

(a) Lessee adopted a resolution or otherwise declared its official intent in accordance with Treasury Regulation § 1.150-2 (the "Declaration of Official Intent"), wherein Lessee expressed its intent to be reimbursed from the proceeds of a borrowing for all or a portion of the cost of the Equipment, which expenditure was paid to the Vendor not earlier than sixty (60) days before Lessee adopted the

Declaration of Official Intent;

- (b) The reimbursement being requested will be made by a written allocation before the later of eighteen (18) months after the expenditure was paid or eighteen (18) months after the items of Equipment to which such payment relates were placed in service;
- (c) The entire payment with respect to which reimbursement is being sought is a capital expenditure, being a cost of a type properly chargeable to a capital account under general federal income tax principles; and
- (d) Lessee will use any reimbursement payment for general operating expenses and not in a manner which could be construed as an artifice or device under Treasury Regulation § 1.148-10 to avoid, in whole or in part, arbitrage yield restrictions or arbitrage rebate requirements.

Section 4. Use and Investment of Funds; Temporary Period.

- 4.1. Lessee has incurred or will incur, within six months from the date of issuance of the Financing Documents, binding obligations to pay an amount equal to at least five percent (5%) of the Principal Amount toward the costs of the Equipment. An obligation is not binding if it is subject to contingencies within Lessee's control. The ordering and acceptance of the items of Equipment will proceed with due diligence to the date of final acceptance of the Equipment.
- 4.2. An amount equal to at least eighty-five percent (85%) of the Principal Amount will be expended to pay the cost of the Equipment by the end of the three-year period commencing on the date of this Certificate. No portion of the Principal Amount will be used to acquire investments that do not carry out the governmental purpose of the Financing Documents and that have a substantially guaranteed yield of four (4) years or more.
- 4.3. (a) Lessee covenants and agrees that it will rebate an amount equal to excess earnings on the Principal Amount to the Internal Revenue Service if required by, and in accordance with, Section 148(f) of the Code, and make the annual determinations and maintain the records required by and otherwise comply with the regulations applicable thereto.
(b) Lessee reasonably expects to cause the Equipment to be acquired and placed in service within one (1) month of the date of issuance of the Financing Documents. If the entire Principal Amount has not been expended on the Equipment by the date that is the six-month anniversary of the issuance of the Financing Documents, Lessee will provide evidence to Lessor that the rebate amount has been calculated and paid to the Internal Revenue Service in accordance with Section 148(f) of the Code.
(c) Lessee hereby covenants that (i) Lessee is a governmental unit with general tax powers; (ii) the Lease is not a "private activity bond" under Section 141 of the Code; (iii) at least ninety-five percent (95%) of the Principal Amount is used for the governmental activities of Lessee.

Section 5. No Private Use; No Consumer Loan.

- 5.1. Lessee will not exceed the private use restrictions set forth in Section 141 of the Code. Specifically, Lessee will not permit more than ten (10%) of the Principal Amount to be used for a Private Business Use (as defined herein) if, in addition, the payment of more than ten percent (10%) of the Principal Amount plus interest earned thereon is, directly or indirectly, secured by (i) any interest in property used or to be used for a Private Business Use or (ii) any interest in payments in respect of such property or derived from any payment in respect of property or borrowed money used or to be used for a Private Business Use.
In addition, if both (A) more than five percent (5%) of the Principal Amount is used as described above with respect to Private Business Use and (B) more than five percent (5%) of the Principal Amount plus interest earned thereon is secured by Private Business Use property or payments as described above, then the excess over such five percent (5%) (the "Excess Private Use Portion") will be used for a Private Business Use related to the governmental use of the Equipment. Any such Excess Private Use Portion of the Principal Amount will not exceed the portion of the Principal Amount used for the governmental use of the particular project to which such Excess Private Use Portion is related. For purposes of this paragraph 5.1, "Private Business Use" means use of bond proceeds or bond financed-property directly or indirectly in a trade or business carried on by a natural person or in any activity carried on by a person other than a natural person, excluding, however, use by a state or local governmental unit and excluding use as a member of the general public.
- 5.2. No part of the Principal Amount or interest earned thereon will be used, directly or indirectly, to make or finance any loans to non-governmental entities or to any governmental agencies other than Lessee.

Section 6. No Federal Guarantee.

- 6.1. Payment of the principal or interest due under the Financing Documents is not directly or indirectly guaranteed, in whole or in part, by the United States or an agency or instrumentality thereof.
- 6.2. No portion of the Principal Amount or interest earned thereon shall be (i) used in making loans the payment of principal or interest of which are to be guaranteed, in whole or in part, by the United States or any agency or instrumentality thereof, or (ii) invested, directly or indirectly, in federally insured deposits or accounts if such investment would cause the financing under the Financing Documents to be "federally guaranteed" within the meaning of Section 149(b) of the Code.

Section 7. Miscellaneous.

- 7.1. Lessee shall keep a complete and accurate record of all owners or assignees of the Financing Documents in form and substance satisfactory to comply with the registration requirements of Section 149(a) of the Code unless Lessor or its assignee agrees to act as Lessee's agent for such purpose.

7.2. Lessee shall maintain complete and accurate records establishing the expenditure of the Principal Amount and interest earnings thereon for a period of five years after payment in full under the Financing Documents.

7.3. To the best of the undersigned's knowledge, information and belief, the above expectations are reasonable and there are no other facts, estimates or circumstances that would materially change the expectations expressed herein.

IN WITNESS WHEREOF, this Tax Agreement and Arbitrage Certificate has been executed on behalf of Lessee as of October 20, 2005.

CITY OF MANHATTAN BEACH, CA,
Lessee

By: _____

Name: Bruce Moe
Title: Director of Finance

RESOLUTION OF GOVERNING BODY

At a duly called meeting of the governing body of Lessee held in accordance with all applicable legal requirements, including open meeting laws, on the ____ day of _____, _____, the following resolution was introduced and adopted:

RESOLUTION AUTHORIZING THE EXECUTION AND DELIVERY OF A MASTER LEASE AGREEMENT, EQUIPMENT SCHEDULE NO. 02, AN ESCROW AGREEMENT, AND RELATED INSTRUMENTS, AND DETERMINING OTHER MATTERS IN CONNECTION THEREWITH.

WHEREAS, the governing body of **CITY OF MANHATTAN BEACH, CA**, (“Lessee”) desires to obtain certain equipment (the “Equipment”) described in Equipment Schedule No. 02 to the Master Lease Agreement (collectively, the “Lease”) with SunTrust Leasing Corporation, the form of which has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS, the Equipment is essential for the Lessee to perform its governmental functions; and

WHEREAS, the funds made available under the Lease will be deposited with SunTrust Bank (the “Escrow Agent”) pursuant to an Escrow Agreement between Lessee and the Escrow Agent (the “Escrow Agreement”) and will be applied to the acquisition of the Equipment in accordance with said Escrow Agreement; and

WHEREAS, Lessee has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS, Lessee proposes to enter into the Lease with SunTrust Leasing Corporation and the Escrow Agreement with the Escrow Agent substantially in the forms presented to this meeting.

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE AS FOLLOWS:

Section 1. It is hereby found and determined that the terms of the Lease and the Escrow Agreement (collectively, the “Financing Documents”) in the forms presented to this meeting and incorporated in this resolution are in the best interests of Lessee for the acquisition of the Equipment.

Section 2. The Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The _____ of Lessee and any other officer of Lessee who shall have power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents with any changes, insertions and omissions therein as may be approved by the officers who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The _____ of the Lessee and any other officer of Lessee who shall have power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Financing Documents and attest the same.

Section 3. The proper officers of Lessee be, and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and the Financing Documents.

NOTE: INSERT THE FOLLOWING PARAGRAPH FOR BANK QUALIFIED TRANSACTIONS.

[Section 4. Pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended (the “Code”), Lessee hereby specifically designates the Lease as a “qualified tax-exempt obligation” for purposes of Section 265(b)(3) of the Code.]

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the Lease and Escrow Agreement executed on behalf of Lessee are the same as presented at such meeting of the governing body of Lessee, excepting only such changes, insertions and omissions as shall have been approved by the officers who executed the same.

Date: _____, _____

CITY OF MANHATTAN BEACH, CA,
Lessee

By: _____

Name: Bruce Moe

Title: Director of Finance

Attested By: _____

Name: _____

Title: _____

INCUMBENCY CERTIFICATE

I do hereby certify that I am the duly elected or appointed and acting City Clerk of **CITY OF MANHATTAN BEACH, CA**, a political subdivision duly organized and existing under the laws of the State of CALIFORNIA, that I have custody of the records of such entity, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of such entity holding the offices set forth opposite their respective names.

I further certify that (i) the signatures set opposite their respective names and titles are their true and authentic signatures and (ii) such officers have the authority on behalf of such entity to enter into that certain Master Lease Agreement dated as of September 26, 2005 between such entity and **SUNTRUST LEASING CORPORATION**.

<u>NAME</u>	<u>TITLE</u>	<u>SIGNATURE</u>
Bruce Moe _____	Director of Finance _____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

IN WITNESS WHEREOF, I have duly executed this certificate as of this ____ day of _____, _____.

By: _____

Name: Liza Tamura
Title: City Clerk

[LETTERHEAD OF LESSEE'S COUNSEL]

[DATE OF LEASE]

SUNTRUST LEASING CORPORATION

29 W. Susquehanna Avenue, Suite 400
Towson, Maryland 21204

Re: Master Lease Agreement dated as of September 26, 2005 (the "Agreement") by and between **SUNTRUST LEASING CORPORATION** ("Lessor") and **CITY OF MANHATTAN BEACH, CA** ("Lessee")

Ladies and Gentlemen:

We have acted as counsel to Lessee with respect to the Agreement described above and various related matters, and in this capacity have reviewed a duplicate original or certified copy thereof and Equipment Schedule No. 02 executed pursuant thereto (together with the Agreement, the "Lease"). The terms capitalized in this opinion but not defined herein shall have the meanings assigned to them in the Lease. Based upon the examination of these and such other documents as we have deemed relevant, it is our opinion that:

1. Lessee is a political subdivision of the State of CALIFORNIA (the "State") within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended, and is duly organized, existing and operating under the Constitution and laws of the State.

2. Lessee is authorized and has the power under applicable law to enter into the Lease, and to carry out its obligations thereunder and the transactions contemplated thereby.

3. The Lease has been duly authorized, executed and delivered by and on behalf of Lessee, and is a legal, valid and binding obligation of Lessee enforceable in accordance with its terms, except as enforcement thereof may be limited by bankruptcy, insolvency and other similar laws affecting the enforcement of creditors' rights generally and by general equitable principles.

4. The authorization and execution of the Lease and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable open meeting, public records, public bidding and all other laws, rules and regulations of the State.

5. The execution of the Lease and the appropriation of moneys to pay the Rental Payments coming due thereunder do not and will not result in the violation of any constitutional, statutory or other limitation relating to the manner, form or amount of indebtedness which may be incurred by Lessee.

6. There is no litigation, action, suit or proceeding pending or before any court, administrative agency, arbitrator or governmental body that challenges the organization or existence of Lessee, the authority of Lessee or its officers or its employees to enter into the Lease, the proper authorization and/or execution of the Lease or the documents contemplated thereby, the appropriation of moneys to make Rental Payments under the Lease for the current Fiscal Year of Lessee, or the ability of Lessee otherwise to perform its obligations under the Lease and the transactions contemplated thereby. To the best of our knowledge, no such litigation, action, suit or proceeding is threatened.

7. The Equipment is personal property, and when used by Lessee will not be or become fixtures under the laws of the State.

8. Resolution No. _____ of the governing body of Lessee was duly and validly adopted by such governing body on _____, _____, and such resolution has not been amended, modified, supplemented or repealed and remains in full force and effect.

This opinion may be relied upon by the addressee hereof and assignees of interests in the Lease, but only with regard to matters specifically set forth herein.

Very truly yours,

(type name and title under signature)

CERTIFICATE REQUIRED TO WIRE FUNDS

Lease No.: 04107
Equipment Schedule: 02

DATE: _____

TO: _____

Insurance Agent Name & Address
Phone Number and Fax Number

Gentlemen:

CITY OF MANHATTAN BEACH, CA has entered into a Master Lease Agreement dated as of September 26, 2005 with **SUNTRUST LEASING CORPORATION**. In accordance with the Agreement, Lessee certifies that it has instructed the insurance agent named above to issue:

- a. All Risk Physical Damage Insurance on the leased Equipment evidenced by a **Certificate of Insurance and Long Form Loss Payable Clause naming SunTrust Leasing Corporation and/or its assigns as Loss Payee.**

The Coverage Required is \$286,666.00.

- b. Public Liability Insurance evidenced by a **Certificate of Insurance naming SunTrust Leasing Corporation and/or its assigns as Additional Insured.**

The following minimum coverage is required:

Liability:	\$ 500,000.00 per person
Liability - Bodily Injury:	\$1,000,000.00 aggregate
Liability - Property Damage:	\$1,000,000.00 property damage liability

PROPERTY: Sewer Truck
LOCATION: 1400 Highland Avenue
Manhattan Beach, CA 90266

Upon issuance of the coverage outlined above, please mail a certificate of insurance to SunTrust Leasing Corporation, 29 W. Susquehanna Avenue; Suite 400 ATTN: GERI COBB Towson, MD 21204.

Your courtesy in issuing and forwarding the requested certificate at your earliest convenience will be appreciated.

Very truly yours,

CITY OF MANHATTAN BEACH, CA

By: _____
Name: Bruce Moe
Title: Director of Finance
Date:

**QUESTIONNAIRE FOR SELF-INSURANCE TO
 MASTER LEASE AGREEMENT**

In connection with the Master Lease Agreement (the "Agreement"), dated as of September 26, 2005, made and entered into by and between **SUNTRUST LEASING CORPORATION**, as Lessor (the "Lessor"), and the lessee identified below, as Lessee (the "Lessee"), Lessee warrants and represents to Lessor the following information. The terms capitalized herein but not defined herein shall have the meanings assigned to them in the Agreement.

1. Property Insurance.

- a. Lessee is self-insured for damage or destruction to the Equipment.

YES NO (circle one)

If yes, the dollar amount limit for property damage to the Equipment under the Lessee's self-insurance program is \$_____.

- b. The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for property damage to the Equipment as indicated above.

YES NO (circle one)

If yes, the umbrella policy provides coverage for all risk property damage.

YES NO (circle one)

If yes, the dollar limit for property damage to the Equipment under such umbrella policy is \$_____.

2. Liability Insurance.

- a. Lessee is self-insured for liability for injury or death of any person or damage or loss of property arising out of or relating to the condition or operation of the Equipment.

YES NO (circle one)

If yes, the dollar limit for such liability claims under the Lessee's self-insurance program is \$_____.

- b. The Lessee maintains an umbrella insurance policy for claims in excess of Lessee's self-insurance limits for liability including injury or death of persons or damage to property as indicated above.

YES NO (circle one)

If yes, the umbrella policy provides coverage for liabilities for injury and death to persons as well as damage or loss of property arising out of or relating to the condition or operation of the Equipment.

YES NO (circle one)

If yes, the dollar amount of the umbrella policy's limits for such liability coverage is \$_____.

3A. Self Insurance Fund.

- a. Lessee maintains a self-insurance fund.

YES NO (circle one)

If yes, please complete the following:

Monies in the self-insurance fund are subject to annual appropriation.

YES NO (circle one)

The total amount maintained in the self-insurance fund to cover Lessee's self-insurance liabilities is \$_____.

- b. Amounts paid from the Lessee's self-insurance fund are subject to limitations for each claim.

YES NO (circle one)

If yes, the dollar amount of limit per claim is \$_____.

3B. No Self Insurance Fund.

- a. If Lessee does not maintain a self-insurance fund, please complete the following:
Lessee obtains funds to pay claims for which it has self-insured from the following sources:

- b. The limitations on the amounts payable for claims from the above sources are as follows:

4. Authority.

- a. The following entity or officer has authority to authorize payment for claim:
- b. In the event the entity or officer named in the prior response denies payment of a claim, does the claimant have recourse to another administrative officer, agency or the courts?

YES NO (circle one)

If yes, to whom does the claimant have recourse?

5. Certificates of Insurance.

Attached hereto are copies of certificates of insurance with respect to policies maintained by Lessee.

IN WITNESS WHEREOF, Lessee has caused this Questionnaire to be executed as a supplement to the representations of Lessee in the Agreement by its duly authorized officer.

CITY OF MANHATTAN BEACH, CA,
Lessee

By: _____

Name: Bruce Moe

Title: Director of Finance

Date: _____

Telephone: 310/802-5554

Facsimile: _____

Attachment

SUNTRUST LEASING CORPORATION

**ADDENDUM TO EQUIPMENT SCHEDULE NO. 02
TO MASTER LEASE AGREEMENT (LEASE NO. 04107)
RELATING TO SELF-INSURANCE**

THIS ADDENDUM is made as of October 20, 2005, between **SUNTRUST LEASING CORPORATION** (the "Lessor") and **CITY OF MANHATTAN BEACH, CA** (the "Lessee").

Recitals

- A. Lessor and Lessee have entered into a Master Lease Agreement dated as of September 26, 2005 (the "Agreement").
- B. Lessee desires to lease equipment described in Equipment Schedule No. 02 to the Agreement (the "Equipment") and Lessee has requested that Lessor lease such Equipment to Lessee.
- C. With respect to Equipment Schedule No. 02, Lessee has requested that Lessor permit it to provide self-insurance for liability claims and property damage.
- D. Lessor is willing to grant Lessee's request subject to the following terms and conditions.

NOW, THEREFORE, in consideration of the premises and mutual covenants and agreements contained herein and in the Agreement, it is hereby agreed as follows:

- 1. The terms capitalized in this Addendum but not defined herein shall have the meanings assigned to them in the Agreement.
- 2. Lessee hereby represents and warrants that all representations and warranties contained in the Agreement are true and correct as of the date hereof and that neither a Non-Appropriation nor any Event of Default or event which, with the passage of time or giving of notice or both, would constitute an Event of Default has occurred under the Agreement.
- 3. All other terms and conditions of the Agreement not specifically amended by this Addendum shall remain in full force and affect and are hereby ratified and confirmed by Lessee.
- 4. Lessee represents and warrants that all representations and warranties contained in the Questionnaire for Self- Insurance to Master Lease Agreement (the "Questionnaire") are true and correct as of the date hereof.
- 5. Lessor acknowledges receipt of the Questionnaire and, in reliance upon the information provided therein, agrees that Lessee may satisfy the requirements of Sections 7.1 through 7.3 of the Agreement with respect to Equipment Schedule No. 02 through self-insurance.
- 6. By written notice to Lessee, Lessor may revoke its agreement relative to Equipment Schedule No. 02 to accept self-insurance in lieu of the insurance required by Section 7.1 through 7.3 of the Agreement at any time during the related Lease Term when Lessor deems itself insecure with respect to such self-insurance. Within thirty (30) days of receipt of notice from Lessor, Lessee agrees to obtain insurance in compliance with Section 7.1, 7.2 and 7.3 of the Agreement and provide evidence thereof to Lessor.

IN WITNESS WHEREOF, the parties by their duly authorized officers have executed this Addendum as of the date and year first above written.

CITY OF MANHATTAN BEACH, CA,
Lessee

SUNTRUST LEASING CORPORATION,
Lessor

By: _____
Name: Bruce Moe
Title: Director of Finance
Date: _____

By: _____
Name: Michael J. Powers
Title: Secretary
Date: _____

[PAGE TO BE REPLACED BY UCC FINANCING STATEMENT]

TO BE FILED ONLINE

**SCHEDULE A TO FINANCING STATEMENT OF
CITY OF MANHATTAN BEACH, CA, AS DEBTOR, AND
SUNTRUST LEASING CORPORATION, AS SECURED PARTY**

Continuation of Collateral Description

The financing statement to which this Schedule A is attached covers the types of property described on the face of such financing statement and all of the Debtor's right, title and interest in and to (collectively, the "Collateral"):

Sewer Truck

(a) the equipment described in Equipment Schedule No. 02 dated as of October 20, 2005 (the "Equipment Schedule") to the Master Lease Agreement dated as of September 26, 2005 (the "Agreement," and together with the Equipment Schedule, the "Lease") between Debtor, as lessee, and Secured Party, as lessor, as such Lease may be amended, modified or supplemented from time to time.

(b) to the extent not included in the foregoing, all books, ledgers and records and all computer programs, tapes, discs, punch cards, data processing software, transaction files, master files and related property and rights (including computer and peripheral equipment) necessary or helpful in enforcing, identifying or establishing any item of Collateral; and

(c) to the extent not included in the foregoing, all repairs, replacements, substitutions and modifications and all proceeds and products of any or all of the foregoing, whether existing on the date hereof or arising hereafter.

SUNTRUST LEASING CORPORATION

DISBURSEMENT AUTHORIZATION

October 20, 2005

SunTrust Leasing Corporation
29 West Susquehanna Avenue, Suite 400
Towson, Maryland 21204

Gentlemen:

In connection with that certain Master Lease Agreement Schedule No. 02 dated 10/20/05 executed between SunTrust Leasing Corporation and the Lessee identified below, Lessee hereby directs SunTrust Leasing Corporation to wire transfer the monies to SunTrust Bank as follows and to deduct the documentation fee due to SunTrust Leasing Corporation at closing:

Destination Information:

Bank Name	_____
Bank ABA Number	_____
Account Number	_____
Account Name	_____
Attention	_____
Dollar Value	<u>\$ 286,566.00</u>
Reference	<u>City of Manhattan Beach, CA Schedule No. 02</u>

Documentation Fee:

SunTrust Leasing Corporation	
Dollar Value	<u>\$100.00</u>
Reference	<u>Documentation Fee</u>

TOTAL DISBURSEMENTS: \$286,666.00

Lessee acknowledges: (a) the Acquisition Cost of the Equipment is being increased by \$500.00 to cover the Documentation Fee and these Fees will be allocated to cost of the largest single piece of Equipment under lease. Lessee warrants that payment to the persons of the amounts described above constitutes full and final payment to all persons necessary so that the Equipment is fully paid for and shall be owned by Lessee free of all liens and encumbrances.

CITY OF MANHATTAN BEACH, CA

Lessee

By: _____
Name: Bruce Moe
Title: Director of Finance
Date: _____

Information Return for Tax-Exempt Governmental Obligations
 ▶ Under Internal Revenue Code section 149(e)
 ▶ See separate Instructions.
 Caution: If the issue price is under \$100,000, use Form 8038-GC.

OMB No. 1545-0720

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name Ciy of Manhattan Beach, CA	2 Issuer's employer identification number 95 : 6000742		
3 Number and street (or P.O. box if mail is not delivered to street address) 1400 Highland Avenue	Room/suite	4 Report number 3 05-	
5 City, town, or post office, state, and ZIP code Manhattan Beach, CA 90622		6 Date of issue October 20, 2005	
7 Name of issue Master Lease Agreement No. 04107, Schedule No. 02		8 CUSIP number n/a	
9 Name and title of officer or legal representative whom the IRS may call for more information		10 Telephone number of officer or legal representative ()	

Part II Type of Issue (check applicable box(es) and enter the issue price) See instructions and attach schedule

11 <input type="checkbox"/> Education	11	
12 <input type="checkbox"/> Health and hospital	12	
13 <input type="checkbox"/> Transportation	13	
14 <input checked="" type="checkbox"/> Public safety	14	286,666.00
15 <input type="checkbox"/> Environment (including sewage bonds)	15	
16 <input type="checkbox"/> Housing	16	
17 <input type="checkbox"/> Utilities	17	
18 <input type="checkbox"/> Other. Describe ▶	18	
19 If obligations are TANs or RANs, check box <input type="checkbox"/> If obligations are BANs, check box <input type="checkbox"/>		
20 If obligations are in the form of a lease or installment sale, check box <input checked="" type="checkbox"/>		

Part III Description of Obligations. Complete for the entire issue for which this form is being filed.

	(a) Final maturity date	(b) Issue price	(c) Stated redemption price at maturity	(d) Weighted average maturity	(e) Yield
21	9/20/2010	\$ 286,666.00	\$ 286,666.00	5 years	3.44 %

Part IV Uses of Proceeds of Bond Issue (including underwriters' discount)

22 Proceeds used for accrued interest	22	
23 Issue price of entire issue (enter amount from line 21, column (b))	23	286,666.00
24 Proceeds used for bond issuance costs (including underwriters' discount)	24	
25 Proceeds used for credit enhancement	25	
26 Proceeds allocated to reasonably required reserve or replacement fund	26	
27 Proceeds used to currently refund prior issues	27	
28 Proceeds used to advance refund prior issues	28	
29 Total (add lines 24 through 28)	29	
30 Nonrefunding proceeds of the issue (subtract line 29 from line 23 and enter amount here)	30	286,666.00

Part V Description of Refunded Bonds (Complete this part only for refunding bonds.)

31 Enter the remaining weighted average maturity of the bonds to be currently refunded years

32 Enter the remaining weighted average maturity of the bonds to be advance refunded years

33 Enter the last date on which the refunded bonds will be called

34 Enter the date(s) the refunded bonds were issued

Part VI Miscellaneous

35 Enter the amount of the state volume cap allocated to the issue under section 141(b)(5)

36a Enter the amount of gross proceeds invested or to be invested in a guaranteed investment contract (see instructions)

b Enter the final maturity date of the guaranteed investment contract

37 Pooled financings: a Proceeds of this issue that are to be used to make loans to other governmental units

b If this issue is a loan made from the proceeds of another tax-exempt issue, check box and enter the name of the issuer and the date of the issue

38 If the issuer has designated the issue under section 265(b)(3)(B)(i)(III) (small issuer exception), check box

39 If the issuer has elected to pay a penalty in lieu of arbitrage rebate, check box

40 If the issuer has identified a hedge, check box

Under penalties of perjury, I declare that I have examined this return and accompanying schedules and statements, and to the best of my knowledge and belief, they are true, correct, and complete.

Sign Here

Signature of issuer's authorized representative _____ Date _____

Type or print name and title **Bruce Moe, Director of Finance**

