



DATE: February 2, 2011

TO: Honorable Mayor and City Council Members

FROM: Fire Department

SUBJECT: **LEASE/PURCHASE AGREEMENT FOR ONE 1500-GALLON-PER-MINUTE TRIPLE COMBINATION FIRE PUMPER AND ONE 100-FOOT TRACTOR-DRAWN AERIAL LADDER TRUCK, AND ADOPTION OF A RESOLUTION**

SYNOPSIS

Staff recommends that the City Council approve a seven-year lease/purchase agreement between Oshkosh Capital and the City of Oceanside in the amount of \$1,624,760.89 to lease two apparatus to be provided by Pierce Manufacturing of Ontario, California, that will replace two existing apparatus that have reached or exceeded their service life; adopt a resolution naming the City Manager as an authorized representative of the City for the purpose of executing leases with Oshkosh Capital; and authorize the City Manager to execute the agreement.

BACKGROUND

In the last fifteen years the Fire Department and the role of our fire apparatus delivery service has significantly expanded. In addition to fire suppression equipment, fire apparatus are currently stocked with the basic medical equipment, rescue equipment, hazardous materials equipment, and all the tools needed to provide a quick and proper deployment of any nature.

One of the most important capital assets of the City and its individual departments is a fleet of reliable automotive and fire apparatus. Firefighters depend heavily on the performance and capabilities of their vehicle when operating to protect life, property and the environment. To maximize these capabilities and minimize their risk of injury, it is important that the apparatus be equipped with the latest safety features and current operating technologies.

Replacing fire equipment is necessary, yet a very costly expenditure. It is unfortunate that at the same time that we are called upon to do more with less, the overall cost of fire apparatus has increased dramatically over the past several years. The impact of two major changes in diesel engine technology as a result of the EPA regulations which took effect during 2007 and 2010 caused all builders of both commercial and custom fire chassis to

make major engineering investments to redesign their cabs and electrical systems to accept the new engines. Also during the past two years there was a dramatic spike in the increase of metals and raw materials which also impact the entire fire apparatus industry. Both of these situations together with more-moderate cost increases due to the most recent NFPA 1901 requirements have all had an impact on the cost of new apparatus.

Fire apparatus replacement should be carefully planned out and conducted on a regular basis to avoid shortfalls within a fleet. The City's adopted budgeted amount to replace fire apparatus has been reduced by over \$200,000 over the past budget cycle. Currently there are not enough funds to replace all of the apparatus that have exceeded their life expectancy. The present challenges we face with the economic restraints have stirred the department to look at other ways of obtaining the necessary fire apparatus to maintain a healthy capable fleet.

The new triple combination pumper will replace F61, a 1994 BME pumper with 158,372 miles. The new Tractor-Drawn Aerial Ladder Truck will replace F63, a 1995 Smeal Quint 75' Aerial Truck with 130,517 miles. Both vehicles have met their life expectancy of 17 years and have had excessive down-time and repairs.

In addition to replacing these vehicles, the Fire Department will downsize its fleet by eliminating F38 from service. This vehicle currently serves as a rescue unit and its capabilities will be replaced by the Tractor-Drawn Aerial Ladder Truck. The balance of the replacement funds will be used to purchase tools and equipment for the new apparatus.

ANALYSIS

A recent analysis of the fire apparatus replacement schedule was performed by staff and the following three cycles were considered: Service life, technological life and economic life, as well as some immeasurable cost.

The service life of a vehicle is when a piece of equipment is capable of performing its needed duty. Service life is dependent on a number of factors and variables. The most important are mileage, number of responses, overall wear and tear, pumping capacity and operating capability.

The technological life of a vehicle is its capability to serve in the role it was initially designed for. While older vehicles may still be capable of performing the tasks they were designed for, they cannot match the performance requirements of new vehicles. Speed, acceleration and braking ability with new technologies such as antilock braking systems, traction control and rollover stability are some of the new technological advances of newer apparatus.

The economic life of a vehicle is its total expense for effective use over a given period of time. These costs include: depreciation, operating cost, fuel, oil, maintenance, repairs, downtime replacement and operator training. All these factors come into play when determining the vehicle's economic life. The cost to maintain a given vehicle increases with time, until it is more expensive to operate than maintain.

Currently, the City's purchasing procedures allow for the use of other government agency bids as a basis for vehicle and supply purchases. By attaching to Encinitas's Fire Department purchase order, the Oceanside Fire Department is able to realize significant savings while still remaining in compliance with guidelines set forth by the Financial Services Department's purchasing procedures.

FISCAL IMPACT

The total cost of the two apparatus is \$1,624,760.89. After a down payment of \$800,000, the amount remaining to be financed is \$824,760.89. The funding for the down payment comes from two accounts: \$693,211.93 from Fund 581, GF Community Facilities CIP Fund (581.3020.0175) which includes \$225,000/year for fire apparatus replacement, and \$106,788.07 from Fund 831, Fleet Management Fund (620609831.5705). The term of the lease is seven years at an interest rate of 3.95 percent, resulting in an annual payment of \$137,159.30. Buyout at the end of the lease is \$1. The total cost of the vehicles after financing and buyout is \$1,760,116.10. The specific details are outlined as follows:

Equipment:

One (1) Pierce PUC TDA	\$1,005,267
Discount	(32,206)
One (1) PUC Pumper	539,145
Discount	(18,173)
Sales Tax @ 8.75 percent	130,727
Total Equipment Cost	\$1,624,760.89
Less Down Payment	\$ (800,000.00)
Amount to be Financed	\$ 824,760.89
Annual Lease Payment:	\$ 137,159.30

The first lease payment will be due in January 2012, and will be appropriated in the FY 2011-2012 budget.

COMMISSION OR COMMITTEE REPORT

Does not apply.

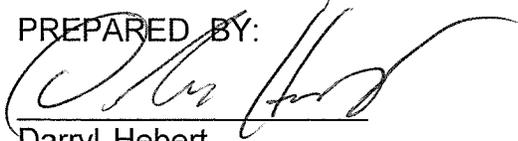
CITY ATTORNEY ANALYSIS

The resolution has been reviewed by the City Attorney and approved as to form. The standard lease/purchase agreement has been reviewed by the City Attorney and approved in substantial form.

RECOMMENDATION

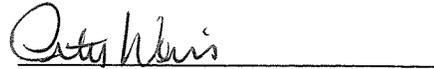
Staff recommends that the City Council approve a seven-year lease/purchase agreement between Oshkosh Capital and the City of Oceanside in the amount of \$1,624,760.89 to lease two apparatus to be provided by Pierce Manufacturing of Ontario, California, that will replace two existing apparatus that have reached or exceeded their service life; adopt a resolution naming the City Manager as an authorized representative of the City for the purpose of executing leases with Oshkosh Capital; and authorize the City Manager to execute the agreement.

PREPARED BY:



Darryl Hebert
Fire Chief

SUBMITTED BY:



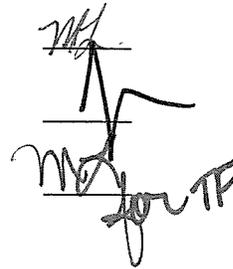
Peter A. Weiss
City Manager

REVIEWED BY:

Michelle Skaggs Lawrence, Deputy City Manager

Joe Arranaga, Deputy Director Public Works

Teri Ferro, Financial Services Director





January 10, 2011

SALES ORGANIZATION: South Coast – Tim
 LESSEE: Oceanside FD
 TYPE OF EQUIPMENT: One (1) Pierce PUC TDA and One (1) PUC Pumpers
 EQUIPMENT COST: \$1,494,033.00 does **not** include sales tax
 CUSTOMER DOWNPAYMENT: \$800,000.00 at contract signing
 TRADE-IN: \$0.00
 DELIVERY TIME: Std delivery
 PAYMENT MODE: Annual In Arrears
 FIRST PAYMENT DUE DATE: 1 Year After Lease Commencement
 LEASE COMMENCEMENT DATE: Upon contract signing with Pierce

Term	Number of Payments	Payment Amount
3 years	3 annual	\$ 245,267.40
5 years	5 annual	\$ 153,193.35
7 years	7 annual	\$ 115,419.00

The above listed payment(s) reflect all program discounts available exclusively through Oshkosh Capital. There are no closing costs or documentation fees associated with the completion of this financing.

NOTE: All lease documents must be fully executed within 14 days of the date of this proposal. Failure to receive completed documents may alter the final payment schedule due to changes in rates and/or discounts.

PERFORMANCE BOND: To utilize the prepay program, a performance bond is required. Said performance bond shall be paid for directly to Pierce manufacturing or financed by Oshkosh Capital as part of the transaction

TYPE OF FINANCING: Tax-exempt Lease Purchase Agreement with a \$1.00 buy out option at end of lease term. Said agreement shall be a net lease arrangement whereby lessee is responsible for all costs of operation, maintenance, insurance, and taxes.

BANK QUALIFICATION: This proposal assumes that the lessee will not be issuing more than \$10 million in tax-exempt debt this calendar year. Furthermore, it is assumed that the lessee will designate this issue as a qualified tax-exempt obligation per the tax act of 1986.

LEGAL TITLE: Legal title to the equipment during the lease term shall vest in the lessee, with Oshkosh Capital perfecting a first security interest

AUTHORIZED SIGNORS: The lessee's governing board shall provide Oshkosh Capital with its resolution or ordinance authorizing this agreement and shall designate the individual(s) to execute all necessary documents used therein.

LEGAL OPINION: The lessee's counsel shall furnish Oshkosh Capital with an opinion covering this transaction and the documents used herein. This opinion shall be in a form and substance satisfactory to Oshkosh Capital.

VOLUNTEER FIRE DEPARTMENTS: If Lessee is a Volunteer Fire Department, a public hearing under the requirements of Section 147(f) of the Internal Revenue Code of 1986 shall be conducted to authorize this transaction. It is recommended that a notice of the public hearing be published 10 to 14 days in advance of the public hearing.

This proposal will be valid for fourteen (14) days from the above date and is subject to final credit approval by Oshkosh Capital and approval of the lease documents in Oshkosh Capital's sole discretion. To render a credit decision, lessee shall provide Oshkosh Capital with their most recent two years' audited financial statements, copy of their most recent interim financial statement, and current budget.

Accepted by:

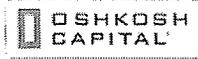
 Lessee

 Date

Proposal submitted by:

Kim Simon

 Kim Simon



Oshkosh Capital | Loc 16-0056 | 155 East Broad St | Columbus, OH 43215 | Ph: (800) 820-9041, ext. 1 | Fax: (800) 678-0602

MASTER LEASE – PURCHASE AGREEMENT

Dated as of February 4, 2011

This Master Lease-Purchase Agreement together with all addenda, riders and attachments hereto, as the same may from time to time be amended, modified or supplemented ("Master Lease") is made and entered by and between Oshkosh Capital ("Lessor") and the Lessee identified below ("Lessee").

LESSEE: City of Oceanside

1. **LEASE OF EQUIPMENT.** Subject to the terms and conditions of this Master Lease, Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, all Equipment described in each Schedule signed from time to time by Lessee and Lessor.

2. **CERTAIN DEFINITIONS.** All terms defined in the Lease are equally applicable to both the singular and plural form of such terms. (a) "Schedule" means each Lease Schedule signed and delivered by Lessee and Lessor, together with all addenda, riders, attachments, certificates and exhibits thereto, as the same may from time to time be amended, modified or supplemented. Lessee and Lessor agree that each Schedule (except as expressly provided in said Schedule) incorporates by reference all of the terms and conditions of the Master Lease. (b) "Lease" means each Schedule and this Master Lease as incorporated into said Schedule. (c) "Equipment" means the property described in each Schedule, together with all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto. (d) "Lien" means any security interest, lien, mortgage, pledge, encumbrance, judgment, execution, attachment, warrant, writ, levy, other judicial process or claim of any nature whatsoever by or of any person.

3. **LEASE TERM.** The term of the lease of the Equipment described in each Lease ("Lease Term") commences on the first date any of such Equipment is accepted by Lessee pursuant to Section 5 hereof and, unless earlier terminated as expressly provided in the Lease, continues until Lessee's payment and performance in full of all of Lessee's obligations under the Lease.

4. RENT PAYMENTS.

4.1 For each Lease, Lessee agrees to pay to Lessor the rent payments in the amounts and at the times as set forth in the Schedule A-1 attached to the Schedule ("Rent Payments"). A portion of each Rent Payment is paid as and represents the payment of interest as set forth in the Schedule A-1. Rent Payments will be payable for the Lease Term in U.S. dollars, without notice or demand at the office of Lessor (or such other place as Lessor may designate from time to time in writing).

4.2 If Lessor receives any payment from Lessee after the due date, Lessee shall pay Lessor on demand as a late charge five per cent (5%) of such overdue amount, limited, however, to the maximum amount allowed by law.

4.3 EXCEPT AS SPECIFICALLY PROVIDED IN SECTION 6 HEREOF OR IN ANY WRITTEN MODIFICATION TO THE LEASE SIGNED BY LESSOR, THE OBLIGATION TO PAY RENT PAYMENTS UNDER EACH LEASE SHALL BE ABSOLUTE AND UNCONDITIONAL IN ALL EVENTS AND SHALL NOT BE SUBJECT TO ANY SETOFF, DEFENSE, COUNTERCLAIM, ABATEMENT OR RECOUPMENT FOR ANY REASON WHATSOEVER.

5. DELIVERY; ACCEPTANCE; FUNDING CONDITIONS.

5.1 Lessee shall arrange for the transportation, delivery and installation of all Equipment to the location specified in the Schedule ("Location") by Equipment suppliers ("Suppliers") selected by Lessee. Lessee shall pay all costs related thereto unless Lessor otherwise agrees to pay such costs as stated in the Schedule.

5.2 Lessee shall accept Equipment as soon as it has been delivered and is operational. Lessee shall evidence its acceptance of any Equipment by signing and delivering to Lessor the applicable Schedule. If Lessee signs and delivers a Schedule and if all Funding Conditions have been satisfied in

full, then Lessor will pay or cause to be paid the costs of such Equipment as stated in the Schedule ("Purchase Price") to the applicable Supplier.

5.3 Lessor shall have no obligation to pay any Purchase Price unless all reasonable conditions established by Lessor ("Funding Conditions") have been satisfied, including, without limitation, the following: (a) Lessee has signed and delivered the Schedule and its Schedule A-1; (b) no Event of Default shall have occurred and be continuing; (c) no material adverse change shall have occurred in the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder (collectively, the "Code"); (d) no material adverse change shall have occurred in the financial condition of Lessee or any Supplier; (e) the Equipment is reasonably satisfactory to Lessor and is free and clear of any Liens (except Lessor's Liens); (f) all representations of Lessee in the Lease remain true, accurate and complete; and (g) Lessor has received all of the following documents, which shall be reasonably satisfactory, in form and substance, to Lessor: (1) evidence of insurance coverage required by the Lease, (2) an opinion of Lessee's counsel; (3) reasonably detailed invoices for the Equipment; (4) Uniform Commercial Code (UCC) financing statements; (5) copies of resolutions by Lessee's governing body, duly authorizing the Lease and incumbency certificates for the person(s) who will sign the Lease; (6) such documents and certificates relating to the tax-exempt interest payable under the Lease (including, without limitation, IRS Form 8038G or 8038GC) as Lessor may request; and (7) such other documents and information previously identified by Lessor or otherwise reasonably requested by Lessor.

6. TERMINATION FOR GOVERNMENTAL NON-APPROPRIATIONS.

6.1 For each Lease, Lessee represents and warrants: that it has appropriated and budgeted the necessary funds to make all Rent Payments required pursuant to such Lease for the remainder of the fiscal year in which the Lease Term commences; and that it intends to make Rent Payments for the full Lease Term as scheduled on the applicable Schedule A-1 so long as funds are appropriated in each fiscal year by its governing body. Lessee reasonably believes that moneys in an amount sufficient to make all Rent Payments can and will lawfully be appropriated and made available therefor. All Rent Payments shall be payable out of the general funds of Lessee or out of other funds legally available therefor. Lessor agrees that the Leases will not be general obligations of Lessee and that the Leases shall not constitute pledges of either the full faith and credit of Lessee or the taxing power of Lessee.

6.2 If Lessee's governing body fails to appropriate sufficient funds in any fiscal year for Rent Payments or other payments due under a Lease and if other funds are not available for such payments, then a "Non-Appropriation Event" shall be deemed to have occurred. If a Non-Appropriation Event occurs, then: (a) Lessee shall give Lessor immediate notice of such Non-Appropriation Event and provide written evidence of such failure by Lessee's governing body; (b) on the Return Date, Lessee shall return to Lessor all, but not less than all, of the Equipment covered by the affected Lease, at Lessee's sole expense, in accordance with Section 21 hereof; and (c) the affected Lease shall terminate on the Return Date without penalty or expense to Lessee, provided, that Lessee shall pay all Rent Payments and other amounts payable under the affected Lease for which funds shall have been appropriated or are otherwise available, provided further, that Lessee shall pay month-to-month rent at the rate set forth in the affected Lease for each month or part thereof that Lessee fails to return the Equipment under this Section 6.2. "Return Date" means the last day of the fiscal year for which appropriations were made for the Rent Payments due under a Lease.

7. **NO WARRANTY BY LESSOR. The Equipment is sold "AS IS". LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE EQUIPMENT. LESSOR DOES NOT REPRESENT THE MANUFACTURER, OWNER, OR DEALER, AND LESSEE SELECTED THE EQUIPMENT BASED UPON LESSEE'S OWN JUDGMENT. LESSOR MAKES NO WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE OR OTHERWISE OR AS TO THE EQUIPMENT'S VALUE, DESIGN, CONDITION, USE, CAPACITY OR DURABILITY. LESSEE AGREES THAT REGARDLESS OF CAUSE, LESSOR IS NOT RESPONSIBLE FOR, AND LESSEE WILL NOT MAKE ANY CLAIM AGAINST LESSOR FOR, ANY DAMAGES, WHETHER CONSEQUENTIAL, DIRECT, SPECIAL OR INDIRECT INCURRED BY LESSEE IN CONNECTION WITH THE EQUIPMENT OR THIS MASTER LEASE – LEASE PURCHASE AGREEMENT. NEITHER THE MANUFACTURER, THE DEALER, NOR ANY SALESPERSON, EMPLOYEE OR AGENT OF THE DEALER OR MANUFACTURER, IS LESSOR'S AGENT OR HAS ANY AUTHORITY TO SPEAK FOR LESSOR OR TO BIND LESSOR IN ANY WAY.** For and during the Lease Term, Lessor hereby assigns to Lessee any manufacturer's or Supplier's product warranties, express or implied, applicable to any Equipment and Lessor authorizes Lessee to obtain the customary

services furnished in connection with such warranties at Lessee's sole expense. Lessee agrees that (a) all Equipment will have been purchased by Lessor in accordance with Lessee's specifications from Suppliers selected by Lessee, (b) Lessor is not a manufacturer or dealer of any Equipment and has no liability for the delivery or installation of any Equipment, (c) Lessor assumes no obligation with respect to any manufacturer's or Supplier's product warranties or guaranties, (d) no manufacturer or Supplier or any representative of said parties is an agent of Lessor, and (e) any warranty, representation, guaranty or agreement made by any manufacturer or Supplier or any representative of said parties shall not be binding upon Lessor.

8. TITLE; SECURITY INTEREST.

8.1 Upon Lessee's acceptance of any Equipment under its Lease, title to the Equipment shall vest in Lessee, subject to Lessor's security interest therein and all of Lessor's other rights under such Lease including, without limitation, Sections 6, 20 and 21 hereof.

8.2 As collateral security for the Secured Obligations, Lessee hereby grants to Lessor a first priority security interest in any and all of the Equipment (now existing or hereafter acquired) and any and all proceeds thereof. Lessee agrees to execute and deliver to Lessor all necessary documents to evidence and perfect such security interest, including, without limitation, Uniform Commercial Code (UCC) financing statements and any amendments thereto.

8.3 "Secured Obligations" means Lessee's obligations to pay all Rent Payments and all other amounts due and payable under all present and future Leases and to perform and observe all covenants, agreements and conditions (direct or indirect, absolute or contingent, due or to become due, or existing or hereafter arising) of Lessee under all present and future Leases.

9. **PERSONAL PROPERTY.** All Equipment is and will remain personal property and will not be deemed to be affixed or attached to real estate or any building thereon.

10. **MAINTENANCE AND OPERATION.** Lessee agrees it shall, at its sole expense: (a) repair and maintain all Equipment in good condition and working order, in accordance with manufacturer's instructions, and supply and install all replacement parts or other devices when required to so maintain the Equipment or when required by applicable law or regulation, which parts or devices shall automatically become part of the Equipment; and (b) use and operate all Equipment in a careful manner in the normal course of its operations and only for the purposes for which it was designed in accordance with the manufacturer's warranty requirements, and comply with all laws and regulations relating to the Equipment. If any Equipment is customarily covered by a maintenance agreement, Lessee will furnish Lessor with a maintenance agreement by a party reasonably satisfactory to Lessor. No maintenance or other service for any Equipment will be provided by Lessor. Lessee will not make any alterations, additions or improvements ("Improvements") to any Equipment without Lessor's prior written consent unless the Improvements may be readily removed without damage to the operation, value or utility of such Equipment, but any such Improvements not removed prior to the termination of the applicable Lease shall automatically become part of the Equipment.

11. **LOCATION; INSPECTION.** Equipment will not be removed from, or if Equipment is rolling stock its permanent base will not be changed from, the Location without Lessor's prior written consent which will not be unreasonably withheld. Upon reasonable notice to Lessee, Lessor may enter the Location or elsewhere during normal business hours to inspect the Equipment.

12. LIENS, SUBLEASES AND TAXES.

12.1 Lessee shall keep all Equipment free and clear of all Liens except those Liens created under its Lease. Lessee shall not sublet or lend any Equipment or permit it to be used by anyone other than Lessee or Lessee's employees.

12.2 Lessee shall pay when due all Taxes which may now or hereafter be imposed upon any Equipment or its ownership, leasing, rental, sale, purchase, possession or use, upon any Lease or upon any Rent Payments or any other payments due under any Lease. If Lessee fails to pay such Taxes when due, Lessor shall have the right, but not the obligation, to pay such Taxes. If Lessor pays any such Taxes, then Lessee shall, upon demand, immediately reimburse Lessor therefor. "Taxes" means present and future taxes, levies, duties, assessments or other governmental charges that are not based on the

net income of Lessor, whether they are assessed to or payable by Lessee or Lessor, including, without limitation (a) sales, use, excise, licensing, registration, titling, gross receipts, stamp and personal property taxes, and (b) interest, penalties or fines on any of the foregoing.

13. RISK OF LOSS.

13.1 Lessee bears the entire risk of loss, theft, damage or destruction of any Equipment in whole or in part from any reason whatsoever ("Casualty Loss"). No Casualty Loss to any Equipment shall relieve Lessee from the obligation to make any Rent Payments or to perform any other obligation under any Lease. Proceeds of any insurance recovery will be applied to Lessee's obligations under this Section 13.

13.2 If a Casualty Loss occurs to any Equipment, Lessee shall immediately notify Lessor of the same and Lessee shall, unless otherwise directed by Lessor, immediately repair the same.

13.3 If Lessor determines that any item of Equipment has suffered a Casualty Loss beyond repair ("Lost Equipment"), then Lessee shall either: (a) immediately replace the Lost Equipment with similar equipment in good repair, condition and working order free and clear of any Liens (except Lessor's Liens) and deliver to Lessor a bill of sale covering the replacement equipment, in which event such replacement equipment shall automatically be Equipment under the applicable Lease; or (b) on the next scheduled Rent Payment date, pay Lessor (i) all amounts owed by Lessee under the applicable Lease, including the Rent Payment due on such date plus (ii) an amount equal to the applicable Termination Value set forth in the Payment Schedule to the applicable Lease. If Lessee is making such payment with respect to less than all of the Equipment under a Lease, then Lessor will provide Lessee with the pro rata amount of the Rent Payment and Termination Value to be paid by Lessee with respect to the Lost Equipment.

13.4 Lessee shall bear the risk of loss for, shall pay directly, and shall defend against any and all claims, liabilities, proceedings, actions, expenses (including reasonable attorney's fees), damages or losses arising under or related to any Equipment, including, but not limited to, the possession, ownership, lease, use or operation thereof. These obligations of Lessee shall survive any expiration or termination of any Lease. Lessee shall not bear the risk of loss of, nor pay for, any claims, liabilities, proceedings, actions, expenses (including attorney's fees), damages or losses which arise directly from events occurring after any Equipment has been returned by Lessee to Lessor in accordance with the terms of the applicable Lease or which arise directly from the gross negligence or willful misconduct of Lessor.

14. INSURANCE.

14.1 (a) Lessee at its sole expense shall at all times keep all Equipment insured against all risks of loss or damage from every cause whatsoever for an amount not less than the Termination Value of the Equipment. Proceeds of any such insurance covering damage or loss of any Equipment shall be payable to Lessor as loss payee. (b) The Total Amount Financed as set forth on the Schedule A-1 does not include the payment of any premium for any liability insurance coverage for bodily injury and/or property damage caused to others and no such insurance will be purchased by Lessor. (c) Lessee at its sole expense shall at all times carry public liability and property damage insurance in amounts reasonably satisfactory to Lessor protecting Lessee and Lessor from liabilities for injuries to persons and damage to property of others relating in any way to any Equipment. Proceeds of any such public liability or property insurance shall be payable first to Lessor as additional insured to the extent of its liability, and then to Lessee.

14.2 All insurers shall be reasonably satisfactory to Lessor. Lessee shall promptly deliver to Lessor satisfactory evidence of required insurance coverage and all renewals and replacements thereof. Each insurance policy will require that the insurer give Lessor at least 30 days prior written notice of any cancellation of such policy and will require that Lessor's interests remain insured regardless of any act, error, misrepresentation, omission or neglect of Lessee. The insurance maintained by Lessee shall be primary without any right of contribution from insurance which may be maintained by Lessor.

15. PURCHASE OPTION. Upon thirty (30) days prior written notice by Lessee to Lessor, and so long as there is no Event of Default then existing, Lessee shall have the option to purchase all, but not less than all, of the Equipment covered by a Lease on any Rent Payment due date by paying to Lessor all Rent Payments then due (including accrued interest, if any) plus the Termination Value amount set forth on the Payment Schedule to the applicable Lease for such date. Upon satisfaction by Lessee of such purchase conditions, Lessor shall release its Lien on such Equipment and Lessee shall retain its title to such

Equipment "AS-IS, WHERE-IS," without representation or warranty by Lessor, express or implied, except for a representation that such Equipment is free and clear of any Liens created by Lessor.

16. LESSEE'S REPRESENTATIONS AND WARRANTIES. With respect to each Lease and its Equipment, Lessee hereby represents and warrants to Lessor that:

(a) Lessee has full power, authority and legal right to execute and deliver the Lease and to perform its obligations under the Lease, and all such actions have been duly authorized by appropriate findings and actions of Lessee's governing body;

(b) the Lease has been duly executed and delivered by Lessee and constitutes a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms;

(c) the Lease is authorized under, and the authorization, execution and delivery of the Lease complies with, all applicable federal, state and local laws and regulations (including, but not limited to, all open meeting, public bidding and property acquisition laws) and all applicable judgments and court orders;

(d) the execution, delivery and performance by Lessee of its obligations under the Lease will not result in a breach or violation of, nor constitute a default under, any agreement, lease or other instrument to which Lessee is a party or by which Lessee's properties may be bound or affected;

(e) there is no pending, or to the best of Lessee's knowledge threatened, litigation of any nature which may have a material adverse effect on Lessee's ability to perform its obligations under the Lease; and

(f) Lessee is a state, or a political subdivision thereof, as referred to in Section 103 of the Code, and Lessee's obligation under the Lease constitutes an enforceable obligation issued on behalf of a state or a political subdivision thereof.

17. TAX COVENANTS. Lessee hereby covenants and agrees that:

(a) Lessee shall comply with all of the requirements of Section 149(a) and Section 149(e) of the Code, as the same may be amended from time to time, and such compliance shall include, but not be limited to, keeping a complete and accurate record of any assignments of any Lease and executing and filing Internal Revenue Form 8038G or 8038GC, as the case may be, and any other information statements reasonably requested by Lessor;

(b) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, any Lease to be an "arbitrage bond" within the meaning of Section 148(a) of the Code or any Lease to be a "private activity bond" within the meaning of Section 141(a) of the Code; and

(c) Lessee shall not do (or cause to be done) any act which will cause, or by omission of any act allow, the interest portion of any Rent Payments to be or become includable in gross income for Federal income taxation purposes under the Code.

(d) If Lessor either (i) receives notice, in any form, from the IRS; or (ii) reasonably determines, based on an opinion of independent tax counsel selected by Lessor and approved by Lessee, which approval Lessee shall not unreasonably withhold, that Lessor may not exclude the interest component of any Rent Payment under a Tax-Exempt Lease from federal gross income because Lessee breached a covenant contained herein, then Lessee shall pay to Lessor, within thirty (30) days after Lessor notifies Lessee of such determination, the amount which, with respect to Rent Payments previously paid and taking into account all penalties, fines, interest and additions to tax (including all federal, state and local taxes imposed on the interest component of all Rent Payments under such Tax-Exempt Lease due through the date of such event) that are imposed on Lessor as a result of the loss of the exclusion, will restore to Lessor the same after-tax yield on the transaction evidenced by such Tax-Exempt Lease (assuming tax at the highest marginal corporate tax rate) that it would have realized had the exclusion not been lost. Additionally, Lessee agrees that upon the occurrence of such an event with respect to a Tax-Exempt Lease, it shall pay additional rent to Lessor on each succeeding Rent Payment due date in such amount as will maintain such after-tax yield to Lessor. Lessor's determination of the amount

necessary to maintain its after-tax yield as provided in this subsection (b) shall be conclusive (absent manifest error). Notwithstanding anything in a Tax-Exempt Lease to the contrary, any payment that Lessee is required to make pursuant to this subsection (b) shall be made only from Legally Available Funds.

18. ASSIGNMENT.

18.1 Lessee shall not assign, transfer, pledge, hypothecate, nor grant any Lien on, nor otherwise dispose of, any Lease or any Equipment or any interest in any Lease or Equipment.

18.2 Lessor may assign its rights, title and interest in and to any Lease or any Equipment, and/or may grant or assign a security interest in any Lease and its Equipment, in whole or in part, to any party at any time. Any such assignee or lien holder (an "Assignee") shall have all of the rights of Lessor under the applicable Lease. **LESSEE AGREES NOT TO ASSERT AGAINST ANY ASSIGNEE ANY CLAIMS, ABATEMENTS, SETOFFS, COUNTERCLAIMS, RECOUPMENT OR ANY OTHER SIMILAR DEFENSES WHICH LESSEE MAY HAVE AGAINST LESSOR.** Unless otherwise agreed by Lessee in writing, any such assignment transaction shall not release Lessor from any of Lessor's obligations under the applicable Lease. An assignment or reassignment of any of Lessor's right, title or interest in a Lease or its Equipment shall be enforceable against Lessee only after Lessee receives a written notice of assignment which discloses the name and address of each such Assignee. Lessee shall keep a complete and accurate record of all such assignments in the form necessary to comply with Section 149(a) of the Code. Lessee agrees to acknowledge in writing any such assignments if so requested.

18.3 Each Assignee of a Lease hereby agrees that: (a) the term Secured Obligations as used in Section 8.3 hereof is hereby amended to include and apply to all obligations of Lessee under the Assigned Leases and to exclude the obligations of Lessee under any Non-Assigned Leases; (b) said Assignee shall have no Lien on, nor any claim to, nor any interest of any kind in, any Non-Assigned Leases; and (c) Assignee shall exercise its rights, benefits and remedies as the assignee of Lessor (including, without limitation, the remedies under Section 20 of the Master Lease) solely with respect to the Assigned Leases. "Assigned Leases" means only those Leases which have been assigned to an Assignee pursuant to a written agreement; and "Non-Assigned Leases" means all Leases excluding the Assigned Leases.

18.4 Subject to the foregoing, each Lease inures to the benefit of and is binding upon the heirs, executors, administrators, successors and assigns of the parties hereto.

19. **EVENTS OF DEFAULT.** For each Lease, "Event of Default" means the occurrence of any one or more of the following events as they may relate to such Lease: (a) Lessee fails to make any Rent Payment (or any other payment) as it becomes due in accordance with the terms of the Lease, and any such failure continues for ten (10) days after the due date thereof; (b) Lessee fails to perform or observe any of its obligations under Sections 12.1, 14 or 18.1 hereof; (c) Lessee fails to perform or observe any other covenant, condition or agreement to be performed or observed by it under the Lease and such failure is not cured within thirty (30) days after receipt of written notice thereof by Lessor; (d) any statement, representation or warranty made by Lessee in the Lease or in any writing delivered by Lessee pursuant thereto or in connection therewith proves at any time to have been false, misleading or erroneous in any material respect as of the time when made; (e) Lessee applies for or consents to the appointment of a receiver, trustee, conservator or liquidator of Lessee or of all or a substantial part of its assets, or a petition for relief is filed by Lessee under any federal or state bankruptcy, insolvency or similar law, or a petition in a proceeding under any federal or state bankruptcy, insolvency or similar law is filed against Lessee and is not dismissed within sixty (60) days thereafter; or (f) Lessee shall be in default under any other Lease or under any other financing agreement executed at any time with Lessor.

20. **REMEDIES.** If any Event of Default occurs, then Lessor may, at its option, exercise any one or more of the following remedies:

(a) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all amounts then currently due under all Leases and all remaining Rent Payments due under all Leases during the fiscal year in effect when the default occurs together with interest on such amounts at the highest lawful rate from the date of Lessor's demand for such payment.

(b) Lessor may require Lessee to promptly return all Equipment to Lessor in the manner set forth in Section 21 (and Lessee agrees that it shall so return the Equipment), or Lessor may, at its option, enter upon the premises where any Equipment is located and repossess such Equipment without demand or notice, without any court order or other process of law and without liability for any damage occasioned by such repossession;

(c) Lessor may sell, lease or otherwise dispose of any Equipment, in whole or in part, in one or more public or private transactions, and if Lessor so disposes of any Equipment, then Lessor shall retain the entire proceeds of such disposition free of any claims of Lessee, provided, that the net proceeds of any such disposition shall be applied to amounts payable by Lessee under clause (a) above of this Section only to the extent that such net proceeds exceed the applicable Termination Value set forth in the applicable Schedule A-1;

(d) Lessor may terminate, cancel or rescind any Lease as to any and all Equipment;

(e) Lessor may exercise any other right, remedy or privilege which may be available to Lessor under applicable law or, by appropriate court action at law or in equity, Lessor may enforce any of Lessee's obligations under any Lease; and/or

(f) Lessor may require Lessee to pay (and Lessee agrees that it shall pay) all out-of-pocket costs and expenses incurred by Lessor as a result (directly or indirectly) of the Event of Default and/or of Lessor's actions under this section, including, without limitation, any attorney fees and expenses and any costs related to the repossession, safekeeping, storage, repair, reconditioning or disposition of any Equipment.

None of the above remedies is exclusive, but each is cumulative and in addition to any other remedy available to Lessor. Lessor's exercise of one or more remedies shall not preclude its exercise of any other remedy. No delay or failure on the part of Lessor to exercise any remedy under any Lease shall operate as a waiver thereof, nor as an acquiescence in any default, nor shall any single or partial exercise of any remedy preclude any other exercise thereof or the exercise of any other remedy.

21. RETURN OF EQUIPMENT. If Lessor is entitled under the provisions of any Lease, including any termination thereof pursuant to Sections 6 or 20 of this Master Lease, to obtain possession of any Equipment or if Lessee is obligated at any time to return any Equipment, then (a) title to the Equipment shall vest in Lessor immediately upon Lessors notice thereof to Lessee, and (b) Lessee shall, at its sole expense and risk, immediately de-install, disassemble, pack, crate, insure and return the Equipment to Lessor (all in accordance with applicable industry standards) at any location in the continental United States selected by Lessor. Such Equipment shall be in the same condition as when received by Lessee (reasonable wear, tear and depreciation resulting from normal and proper use excepted), shall be in good operating order and maintenance as required by the applicable Lease, shall be free and clear of any Liens (except Lessor's Lien) and shall comply with all applicable laws and regulations. Until Equipment is returned as required above, all terms of the applicable Lease shall remain in full force and effect including, without limitation, obligations to pay Rent Payments and to insure the Equipment. Lessee agrees to execute and deliver to Lessor all documents reasonably requested by Lessor to evidence the transfer of legal and beneficial title to such Equipment to Lessor and to evidence the termination of Lessee's interest in such Equipment.

22. LAW GOVERNING. Each Lease shall be governed by the laws of the state of the lessee (The "State").

23. NOTICES. All notices to be given under any Lease shall be made in writing and either personally delivered or mailed by certified mail to the other party at its address set forth herein or at such address as the party may provide in writing from time to time. Any such notices shall be deemed to have been received five (5) days subsequent to mailing if sent by regular or certified mail, or on the next business day if sent by overnight courier, or on the day of delivery if delivered personally.

24. FINANCIAL INFORMATION; INDEMNITY; POWER OF ATTORNEY. Within thirty (30) days of their completion in each fiscal year of Lessee during any Lease Term, Lessee will deliver to Lessor upon Lessor's request the publicly available annual financial information of Lessee. Lessee shall indemnify, hold harmless and, if Lessor requests, defend Lessor and its shareholders, affiliates, employees, dealers

and agents against all Claims directly or indirectly arising out of or connected with (a) the manufacture, installation, use, lease, possession or delivery of the Equipment, (b) any defects in the Equipment, any wrongful act or omission of Lessee, or its employees and agents, or (c) any claims of alleged breach by Lessee of this Master Lease or any related document. "Claims" means all losses, liabilities, damages, penalties, expenses (including attorney's fees and costs), claims, actions and suits, whether in contract, tort or otherwise. Lessee hereby appoints Lessor its true and lawful attorney-in-fact (with full power of substitution) to prepare any instrument, certificate of title or financing statement covering the Equipment or otherwise protecting Lessor's interest in the Equipment, to sign Lessee's name with the same force and effect as if signed by Lessee, and to file same at the proper location(s); and make claims for, receive payment of, and execute and endorse all documents, checks or drafts for loss, theft, damage or destruction to the Equipment under any insurance.

25. **SECTION HEADINGS.** All section headings contained herein or in any Schedule are for convenience of reference only and do not define or limit the scope of any provision of any Lease.

26. **EXECUTION IN COUNTERPARTS.** Each Schedule to this Master Lease may be executed in several counterparts, each of which shall be deemed an original, but all of which shall be deemed one instrument. Only one counterpart of each Schedule shall be marked "Lessor's Original" and all other counterparts shall be deemed duplicates. An assignment of or security interest in any Schedule may be created through transfer and possession only of the counterpart marked "Lessor's Original."

27. **ENTIRE AGREEMENT; WRITTEN AMENDMENTS.** Each Lease, together with the exhibits attached thereto and made a part hereof and other attachments thereto, and other documents or instruments executed by Lessee and Lessor in connection therewith, constitute the entire agreement between the parties with respect to the lease of the Equipment covered thereby, and such Lease shall not be modified, amended, altered, or changed except with the written consent of Lessee and Lessor. Any provision of any Lease found to be prohibited by law shall be ineffective to the extent of such prohibition without invalidating the remainder of the Lease.

City of Oceanside
("Lessee")

Oshkosh Capital
("Lessor")

By: X _____

By: _____

Title: X _____

Title _____

300 N. Coast Hwy
Oceanside, CA 92054

155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

LEASE SCHEDULE NO. 143546000

Dated As Of February 4, 2011

This Lease Schedule (this "Schedule") is attached and made a part of the Master Lease-Purchase Agreement referenced below, together with all exhibits, schedules, addenda, and other attachments thereto, executed by Lessee and Lessor (the "Lease"). Unless otherwise defined herein, capitalized terms will have the same meaning ascribed to them in the Master Lease. All terms and conditions of the Master Lease are incorporated herein by reference. To the extent that there is any conflict between the terms of the Lease and this Schedule, the terms of this Schedule shall control.

Master Lease-Purchase Agreement dated February 4, 2011

- EQUIPMENT DESCRIPTION.** As used in the Lease, "Equipment" means all of the property described in Schedule A-1 attached to this Schedule and all attachments, additions, accessions, parts, repairs, improvements, replacements and substitutions thereto.
- RENTAL PAYMENTS; LEASE TERM.** The Rental Payments to be paid by the Lessee to Lessor, the commencement date thereof and the lease term of this Lease Schedule are set forth on the Schedule A-1 attached to this Lease Schedule.
- ESSENTIAL USE; CURRENT INTENT OF LESSEE.** Lessee represents that the use of the Equipment is essential to Lessee's proper, efficient and economic functioning or to the services that Lessee provides to its citizens and the Equipment will be used by Lessee only for the purpose of performing its governmental or proprietary functions consistent with the permissible scope of its authority. Lessee currently intends for the full Lease Term: to use the Equipment; to continue this Lease; and (if applicable) to make Rent Payments if funds are appropriated in each fiscal year by its governing body.
- ACCEPTANCE OF EQUIPMENT.** AS BETWEEN LESSEE AND LESSOR, LESSEE AGREES THAT (A) LESSEE HAS RECEIVED AND INSPECTED ALL EQUIPMENT; (B) ALL EQUIPMENT IS IN GOOD WORKING ORDER AND COMPLIES WITH ALL PURCHASE ORDERS, CONTRACTS AND SPECIFICATIONS; (C) LESSEE ACCEPTS ALL EQUIPMENT FOR PURPOSES OF THE LEASE "AS-IS, WHERE IS"; AND (D) LESSEE WAIVES ANY RIGHT TO REVOKE SUCH ACCEPTANCE.
- BANK QUALIFIED.** LESSEE CERTIFIES THAT IT HAS DESIGNATED THIS LEASE AS A QUALIFIED TAX-EXEMPT OBLIGATION IN ACCORDANCE WITH SECTION 265(b)(3) OF THE CODE, THAT IT HAS NOT DESIGNATED MORE THAN \$10,000,000 OF ITS OBLIGATIONS AS QUALIFIED TAX-EXEMPT OBLIGATIONS IN ACCORDANCE WITH SUCH SECTION FOR THE CURRENT CALENDAR YEAR AND THAT IT REASONABLY ANTICIPATES THAT THE TOTAL AMOUNT OF TAX-EXEMPT OBLIGATIONS TO BE ISSUED BY LESSEE DURING THE CURRENT CALENDAR YEAR WILL NOT EXCEED \$10,000,000.
- RE-AFFIRMATION OF THE MASTER LEASE-PURCHASE AGREEMENT.** Lessee hereby re-affirms all of its representations, warranties and obligations under the Master Lease Purchase Agreement (including, without limitation, its obligation to pay all Rental Payments, its disclaimers in Section 7 thereof and its representations in Section 6.1 and 16 thereof).

City of Oceanside
("Lessee")

By: X _____

Title: X _____

Oshkosh Capital
("Lessor")

By: _____

Title: _____

Schedule A-1

1. EQUIPMENT LOCATION & DESCRIPTION:

City of Oceanside

300 N. Coast Hwy
Oceanside, CA 92054

San Diego County

2011 Pierce PUC Tiller VIN#

2011 Pierce PUC Pumper VIN #

2. LEASE PAYMENT SCHEDULE.

(a) Accrual Date: February 4, 2011

(b) Amount Financed:

i.	Equipment Purchase Price	\$ <u>1,544,412.00</u>
i.	Sales Tax	\$ <u>130,727.89</u>
ii.	Purchase Price Deduction	\$ <u>0.00</u>
	Prepay Discounts	\$ <u>50,379.00</u>
	Trade In	\$ <u>0.00</u>
iii.	Total Amount Financed (Cash Sale Price minus Purchase Price Deductions)	\$ <u>1,624,760.89</u>

(c) Payment Schedule:

Accrual Date: February 4, 2011

Rent Payment Number	Rent Payment Date	Rent Payment Amount	Interest Portion	Principal Portion	Termination Value
1	2/4/2011	800,000.00	0.00	800,000.00	824,760.89
2	2/4/2012	137,159.30	32,578.06	104,581.24	734,583.24
3	2/4/2013	137,159.30	28,447.10	108,712.20	623,696.80
4	2/4/2014	137,159.30	24,152.97	113,006.33	508,430.34
5	2/4/2015	137,159.30	19,689.22	117,470.08	388,610.86
6	2/4/2016	137,159.30	15,049.15	122,110.15	264,058.51
7	2/4/2017	137,159.30	10,225.80	126,933.50	134,586.34
8	2/4/2018	137,159.30	5,211.91	131,947.39	1.00

City of Oceanside
("Lessee")

By: X _____

Title: X _____

Oshkosh Capital
("Lessor")

By: _____

Title: _____

VEHICLE SCHEDULE ADDENDUM

Dated As Of February 4, 2011

Lease Schedule No. 143546000 Dated February 4, 2011

Lessee: City of Oceanside

Reference is made to the above Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease") by and between Oshkosh Capital ("Lessor") and the above Lessee ("Lessee"). This Addendum amends and modifies the terms and conditions of the Schedule and is hereby made a part of the Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease shall have the same meaning when used herein.

NOW THEREFORE, as part of the valuable consideration to induce the execution of the Schedule, Lessor and Lessee hereby agree to amend the Schedule as follows:

1. In the event that any unit of Equipment covered by the Schedule is a vehicle or trailer under applicable State law, then the following provisions shall also apply to the Schedule to the extent permitted by law,

(a) each manufacturer's statement of origin and certificate of title shall state that Lessor has the first and sole lien on or security interest in such unit of Equipment;

(b) the public liability and property damage insurance required by the terms of the paragraph titled "Insurance in the Master Lease shall be in an amount not less than \$1,000,000.00 per person insured and \$2,000,000.00 combined single limit per unit per occurrence (provided, that if the unit of Equipment is a bus or other passenger vehicle, then such insurance amount shall be such larger amount as may be reasonably required by Lessor) and \$1,000,000.00 for damage to property of others;

(c) Lessee shall furnish and permit only duly licensed, trained, safe and qualified drivers to operate any such unit of Equipment, and such drivers shall be agents of Lessee and shall not be agents of Lessor; and

(d) Lessee shall cause each such unit of Equipment to be duly registered and licensed as required by applicable State law with Lessor noted as lien holder and Lessee as owner.

2. Except as expressly amended by this Addendum and other modifications signed by Lessor, the Schedule remains unchanged and in full force and effect.

IN WITNESS WHEREOF, the parties hereto have executed this Addendum as of the date first referenced above.

City of Oceanside
("Lessee")

Oshkosh Capital
("Lessor")

By: X _____

By: _____

Title: X _____

Title: _____

CERTIFICATE OF INCUMBENCY

Lessee: City of Oceanside

Lease Schedule No.: 143546000

Dated: February 4, 2011

I, the undersigned Secretary/Clerk identified below, do hereby certify that I am the duly elected or appointed and acting Secretary/Clerk of the above Lessee (the "Lessee"), a political subdivision duly organized and existing under the laws of the State where Lessee is located, that I have the title stated below, and that, as of the date hereof, the individuals named below are the duly elected or appointed officers of the Lessee holding the offices set forth opposite their respective names.

[NOTE: Use same titles as Authorized Representatives stated in Resolutions.]

X _____
Name Title Signature

X _____
Name Title Signature

IN WITNESS WHEREOF, I have duly executed this certificate and affixed the seal of such Lessee as of the date set forth below.

X _____
Signature of Secretary/Clerk of Lessee

[SEAL]

Print Name: X _____

Official Title: X _____

Date: X _____

FORM OF OPINION OF COUNSEL

(To Be Typed on Attorney's Letterhead Stationary)

Date:

Lessee: City of Oceanside

Lessor: Oshkosh Capital

Re: Lease Schedule No. 143546000 dated February 4, 2011, together with its Master Lease-Purchase Agreement dated February 4, 2011, by and between the above-named Lessee and the above-named Lessor

Gentlemen:

I have acted as counsel to Lessee with respect to the Lease Schedule, the Master Lease-Purchase Agreement and all other agreements described above or related thereto (collectively, the "Agreements") and various related matters, and in this capacity have reviewed a duplicate original or certified copy of the Agreements and such other documents as I have deemed necessary for the purposes of this opinion.

Based upon the examination of such documents, it is my opinion that:

1. Lessee is a political subdivision of the State of California (the "State") duly organized, existing and operating under the Constitution and laws of the State.
2. Lessee is authorized and has power under State law to enter into all of the Agreements, and to carry out its obligations thereunder and the transactions contemplated thereby.
3. The Agreements and all other documents related thereto have been duly authorized, approved, and executed by and on behalf of Lessee, and each of the Agreements is a valid and binding contract of Lessee enforceable in accordance with its terms, except to the extent limited by State and Federal law affecting creditor's remedies and by bankruptcy, reorganization or other laws of general application relating to or affecting the enforcement of creditors' rights.
4. The authorization, approval and execution of the Agreements and all other proceedings of Lessee relating to the transactions contemplated thereby have been performed in accordance with all applicable Local, State and Federal laws (including open meeting laws and public bidding and property acquisition laws).
5. To the best of my knowledge, there is no litigation or proceeding pending before any court, administrative agency or governmental body, that challenges: the organization or existence of Lessee; the authority of its officers; the proper authorization; approval and execution of any of the Agreements or any documents relating thereto; the appropriation of monies to make payments under the Agreements for the current fiscal year; or the ability of Lessee otherwise to perform its obligations under the Agreements and the transactions contemplated thereby.
6. Lessee is a political subdivision of the State as referred to in Section 103 of the Internal Revenue Code of 1986, as amended, and the related regulations and rulings thereunder.

Lessor, its Assignee and any of their assigns may rely upon this opinion.

Very truly yours,

Attorney

INSURANCE COVERAGE DISCLOSURE

Oshkosh Capital, LESSOR

City of Oceanside, LESSEE

RE: INSURANCE COVERAGE REQUIREMENTS

1. In accordance with the Lease Schedule ("Schedule") to the Master Lease-Purchase Agreement identified in the Lease Schedule ("Master Lease"), Lessee certifies that it has instructed the insurance agent named below (please fill in name, address, and telephone number):

X _____

to issue: (check to indicate coverage)

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

Coverage Required: Termination Value Specified

- b. Public Liability Insurance evidenced by a Certificate of Insurance naming Oshkosh Capital and/or its assigns as an Additional Insured.

Minimum Coverage Required:

\$1,000,000.00 per person
\$2,000,000.00 aggregate bodily injury liability
\$1,000,000.00 property damage liability

Proof of insurance coverage will be provided to Oshkosh Capital, 155 East Broad Street, B4-B230-05-7, Columbus, OH 43215, prior to the time that the property is delivered to Lessee.

OR

2. Pursuant to the Master Lease, Lessee represents and warrants, in addition to other matters under the Agreement, that it is lawfully self-insured for: (check to indicate coverage)

- a. All risk, physical damage in the amount specified in 1(a) above.
b. Public liability for not less than the amounts specified in 1(b) above.

Lessee has attached a signed letter describing self-insurance.

LESSEE: City of Oceanside

By: X _____ Title: X _____

INSURANCE INFORMATION

Please provide the following information to your insurance company to help expedite receipt of the necessary coverage:

ITEMS WHICH NEED TO BE REFLECTED ON INSURANCE CERTIFICATE:

- Oshkosh Capital must be named Loss Payee and Additional Insured
- 30 Days Notice of Cancellation
- Not Less than \$2,000,000.00 limits on liability
- Certificate must reflect a short equipment description
- Certificate must reflect an expiration date

Certificate Holder Information:

Oshkosh Capital, its successors and/or all assigns
155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

Please send a FAX copy of certificate to Cheryl Kennedy at 1-800-678-0602.

The original should be mailed to the same at:

Oshkosh Capital
155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

Please call Cheryl Kennedy at 1-800-820-9041, ext. 4, if you have any questions.

THREE PARTY AGREEMENT

Dated as of February 4, 2011

"Lessee" means City of Oceanside

"Schedule" means Lease Schedule No. 143546000 Dated February 4, 2011, together with its Schedule A-1.

Reference is made to the Lease Schedule ("Schedule") and to the Master Lease-Purchase Agreement ("Master Lease") identified in said Lease Schedule, described above between Oshkosh Capital ("Lessor") and the Lessee identified above which relates to Equipment described in Schedule A-1 to the Lease Schedule attached therein ("Equipment") to be supplied by Pierce Manufacturing Inc. ("Supplier"). For good and valuable consideration, receipt of which is hereby acknowledged, Lessee, Lessor and Supplier hereby agree as follows:

1. Notwithstanding anything to the contrary in the Lease Schedule, Lessee hereby notifies Lessor that the Equipment has not yet been delivered to Lessee and the Equipment has not yet been accepted by Lessee for purposes of the Lease Schedule. Lessee agrees to execute and deliver to Lessor a Delivery and Acceptance Certificate in the form attached hereto as Exhibit A upon the circumstances set forth in said Certificate.
2. All parties hereto agree that the Purchase Price of the Equipment shall be as set forth below if said Purchase Price is paid on or before the Advance Payment Date set forth below:

Purchase Price:	<u>\$1,544,412.00</u>
Sales Tax	<u>\$130,727.89</u>
Vendor Discounts:	<u>\$50,379.00</u>
Advance Payment Date:	<u>February 4, 2011</u>

3. Upon execution of the Lease Schedule and delivery of all documents relating thereto required by Lessor, Lessee agrees that it shall pay the Lessee Down Payment stated below and Lessor agrees that it shall pay the balance of the Purchase Price (the "Amount Financed") stated below. Lessee agrees that the Lease Term and Lessee's obligation to pay Rent Payments shall commence on the date set forth in the Lease Schedule notwithstanding the delivery of the Equipment at a later date.

Lessee Down Payment:	<u>\$0.00</u>
Trade In:	<u>\$0.00</u>
Amount Financed:	<u>\$1,624,760.89</u>

4. (a) Supplier anticipates that it shall deliver the Equipment to Lessee by the **Anticipated Delivery Date** set forth below.

Anticipated Delivery Date:	<u>October 4, 2011</u>
----------------------------	------------------------

(b) Supplier hereby agrees that it shall deliver the Equipment to Lessee no later than the **Outside Delivery Date** set forth below and that such Equipment shall comply with all specifications and requirements of Lessee and with the terms and conditions of any purchase order/purchase agreement relating thereto.

Outside Delivery Date:	<u>December 4, 2011</u>
------------------------	-------------------------

5. If for any reason whatsoever Supplier fails to comply with its agreements set forth in **subparagraph 4(b)** of this Agreement by the Outside Delivery Date for any piece of Equipment (the "Delayed

Equipment"), and the Lessee has not agreed to revise the Outside Delivery Date with respect to such Delayed Equipment, then Supplier hereby agrees as follows only for the Delayed Equipment:

- (a) On the first business day after the Outside Delivery Date, Supplier shall pay to Lessee the Lessee Down Payment for the Delayed Equipment plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment;
- (b) On the first business day after the Outside Delivery Date, Supplier shall pay to Lessor for the Delayed Equipment the Amount Financed plus interest at the Prime Rate plus one percent (1%) per annum from the Advance Payment Date to the date of such payment; and
- (c) "Prime Rate" means the prime rate of interest as published from time to time in the Wall Street Journal.

If there is more than one piece of Equipment subject to the Lease, and some of the Equipment is delivered in accordance with subparagraph 4(b) of this Agreement, the payments owed pursuant to the Lease shall be modified to reflect only the obligations due on the Equipment that was delivered pursuant to subparagraph 4(b) of this Agreement. The new payment obligation will be determined based on the amount financed for the Equipment delivered to the Lessee, and based on the interest rate in effect as of the date of Lease commencement.

6. If Supplier makes the payments described in **paragraph 5** above for the Delayed Equipment under the circumstances set forth above and if Lessee has otherwise paid and performed its obligations under the Lease Schedule as of such payment date for the Delayed Equipment, then Lessee and Lessor agree that the Lease Schedule shall terminate as of the date of such payments by Supplier as to the Delayed Equipment only. Lessee's obligations shall continue unabated for the Equipment that was delivered pursuant to subparagraph 4(b) of this Agreement.

7. Supplier agrees that a Performance Bond will be issued which names the Supplier as Principal, the Lessee as Obligee and the Lessor as Additional Obligee. This Performance Bond will apply solely to the terms and conditions of the purchase order/purchase agreement, including related equipment specifications and warranties, as issued by the lessee and accepted by the Supplier. The "Contract Date" referred to in the Performance Bond shall be the date of the Three Party Agreement. Except as expressly set forth herein, the Lease Schedule and the terms and conditions of the purchase order/purchase agreement for the equipment remain unchanged and in full force and effect.

8. Except as expressly set forth herein, the Lease Schedule and terms and conditions of the purchase order/purchase agreement for the Equipment remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the duly authorized officers of the parties set forth below hereby execute and deliver this Agreement as of the date first written above.

City of Oceanside
("Lessee")

By: X _____

Title: X _____

Oshkosh Capital
("Lessor")

By: _____

Title: _____

Pierce Manufacturing Inc.
("Supplier")

By: _____

Title: _____

DELIVERY & ACCEPTANCE CERTIFICATE

Lease Schedule No. 143546000

Reference is made to the above Lease Schedule ("Schedule"), which has been executed and delivered by the undersigned Lessee ("Lessee") and Oshkosh Capital ("Lessor"). This Certificate amends and supplements the terms and conditions of the Lease Schedule and is hereby made a part of the Lease Schedule. Unless otherwise defined herein, capitalized terms defined in the Master Lease-Purchase Agreement and the Lease Schedule shall have the same meaning when used herein; provided, that "Equipment" shall mean the Equipment described in the Schedule A-1 and in any attachment or exhibit to this Certificate.

Notwithstanding anything to the contrary, expressed or implied, in the Lease Schedule or its Schedule A-1, Lessee agrees as follows:

1. ACCEPTANCE OF EQUIPMENT. As of the Acceptance Date stated below and as between Lessee and Lessor, Lessee hereby agrees that: (a) Lessee has received and inspected all Equipment; (b) all Equipment is in good working order and complies with all purchase orders, contracts and specifications; (c) Lessee accepts all Equipment for purposes of the Lease "as-is, where-is"; and (d) Lessee waives any right to revoke such acceptance.

ACCEPTANCE DATE: X _____

2. RENT PAYMENTS. Lessee hereby agrees that Lessee will pay the Rent Payments for the Equipment in the amounts and on the dates specified in Schedule A-1 to the Lease Schedule.

City of Oceanside
("Lessee")

By: X _____

Title: X _____

**OSHKOSH CAPITAL
INFORMATION REQUEST**

LESSEE NAME: City of Oceanside

FEDERAL TAX I.D. # _____

BILLING ADDRESS:

Billing Contact

Street Address or Post Office Box

City, State and Zip

Phone Number

Fax Number

PHYSICAL ADDRESS (IF DIFFERENT):

Street Address or Post Office Box

City, State and Zip

Require Board Approval for Payments? _____ Yes _____ No

Board Meeting Date? _____

Require signed vouchers for payments? _____ Yes _____ No

We typically mail our invoices 30 days in advance. Taking into account a 7-day mail period, do you foresee any problem that would prevent the payment from being received on or before the due date?
_____ Yes _____ No

Please list any special instructions below:



**OSHKOSH CAPITAL
ADVANCE INVOICE**

LESSEE: City of Oceanside
DATE: February 4, 2011
LEASE NUMBER: 143546000
TOTAL AMOUNT DUE: \$800,000.00
MAKE CHECK PAYABLE TO: Oshkosh Capital
155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

ADVANCE PAYMENT DUE: February 4, 2011 \$800,000.00

MAKE CHECK PAYABLE TO: Oshkosh Capital
155 East Broad Street, B4-B230-05-7
Columbus, OH 43215

- Please detach top portion and return with your payment.

Information Return for Tax-Exempt Governmental Obligations

► Under Internal Revenue Code section 149(e)
 ► See separate instructions.

OMB No. 1545-0720

Caution: If the issue price is under \$100,000, use Form 8038-GC.

Part I Reporting Authority		If Amended Return, check here <input type="checkbox"/>	
1 Issuer's name City of Oceanside		2 Issuer's employer identification number (EIN) 95 1688570	
3 Number and street (or P.O. box if mail is not delivered to street address) 300 N. Coast Hwy		Room/suite	4 Report number (For IRS Use Only) 3
5 City, town, or post office, state, and ZIP code Oceanside, CA 92054		6 Date of issue 2/4/2011	
7 Name of issue Lease# 143546000		8 CUSIP number None	
9 Name and title of officer of the issuer or other person whom the IRS may call for more information Ray Melendrez		10 Telephone number of officer or other person (760) 435-4090	

Part II Type of Issue (enter the issue price) See instructions and attach schedule		
11 Education	11	
12 Health and hospital	12	
13 Transportation	13	
14 Public safety	14	1,624,760 89
15 Environment (including sewage bonds)	15	
16 Housing	16	
17 Utilities	17	
18 Other. Describe ►	18	
19 If obligations are TANs or RANs, check only box 19a <input type="checkbox"/>		
If obligations are BANs, check only box 19b <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 2/4/2018	\$ 1,624,760.89	\$ 1,624,760.89	7 years	3.950 %

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	1,624,760	89
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	1,624,760	89

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 (MM/DD/YYYY)	_____
34 Enter the date(s) the refunded bonds were issued (MM/DD/YYYY)	_____

Part VI Miscellaneous

- | | | |
|------------|--|--|
| 35 | | |
| 36a | | |
| 37a | | |
- 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 (GIC) (see instructions)
- b Enter the final maturity date of the GIC ▶ _____
- 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 ▶

Signature and Consent	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. I further declare that I consent to the IRS's disclosure of the issuer's return information, as necessary to process this return, to the person that I have authorized above.			
	▶ _____ Signature of issuer's authorized representative	_____ Date	▶ _____ Type or print name and title	
Paid Preparer's Use Only	Preparer's signature ▶ _____	Date _____	Check if self-employed <input type="checkbox"/>	Preparer's SSN or PTIN _____
	Firm's name (or yours if self-employed), address, and ZIP code ▶ _____	EIN _____	Phone no. () _____	

1 RESOLUTION NO.

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 OCEANSIDE NAMING THE CITY MANAGER AS
4 "AUTHORIZED REPRESENTATIVE" OF THE CITY COUNCIL
OF THE CITY OF OCEANSIDE FOR THE PURPOSE OF
EXECUTING LEASES WITH OSHKOSH CAPITAL

5 WHEREAS, The City of Oceanside is a political subdivision of the State of California
6 and is duly organized and existing pursuant to the Constitution and laws of the State of
7 California;

8 WHEREAS, pursuant to applicable law, the City Council of the City of Oceanside is
9 authorized to acquire, dispose of and encumber real and personal property, including, without
10 limitation, rights and interest in property, leases and easements necessary to the functions or
11 operation of the City;

12 WHEREAS, the City Council hereby finds and determines that the execution of one or
13 more Master Lease-Purchase Agreements ("Leases") in the principal amount not exceeding the
14 amount of \$1,624,760.89 for the purpose of acquiring the property ("Equipment") to be
15 described in the Leases is appropriate and necessary to the functions and operations of the City
16 of Oceanside; and

17 WHEREAS, Oshkosh Capital ("Lessor") shall act as Lessor under said Leases.

18 NOW, THEREFORE, the City Council of the City of Oceanside does resolve as follows:

19 SECTION 1. The City Manager, as Authorized Representative acting on behalf of the
20 City of Oceanside, is hereby authorized to negotiate, enter into, execute, and deliver one or
21 more Leases in substantially the form set forth in the document presently before the City
22 Council, which document is available for public inspection at the offices of the City of
23 Oceanside Fire Department. The final lease is subject to legal approval of the City Attorney
24 prior to execution by the Authorized Representative. The Authorized Representative acting on
25 behalf of the City is hereby authorized to negotiate, enter into, execute, and deliver such other
26 documents relating to the Lease as the Authorized Representative deems necessary and
27 appropriate. All other related contracts and agreements necessary and incidental to the Leases
28 are hereby authorized.

1 SECTION 2. By a written instrument signed by the Authorized Representative, said
2 Authorized Representative may designate specifically identified officers or employees of the
3 City of Oceanside to execute and deliver agreements and documents relating to the Leases on
4 behalf of the City.

5 SECTION 3. The aggregate original principal amount of the Leases shall not exceed the
6 amount of \$1,624,760.89 and shall bear interest as set forth in the Leases and the Leases shall
7 contain such options to purchase by the City as set forth therein.

8 SECTION 4. The City's obligations under the leases shall be subject to annual
9 appropriation or renewal by the City Council as set forth in each Lease and the City's
10 obligations under the Leases shall not constitute general obligations of the City or indebtedness
11 under the Constitution or laws of the State of California.

12 SECTION 5. As to each Lease, the City reasonably anticipates to issue not more than
13 \$10,000,000 of tax-exempt obligations (other than "private activity bonds" which are not
14 "qualified 501(c)(3) bonds") during the fiscal year in which each such Lease is issued and
15 hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section
16 265(b) of the Internal Revenue Code of 1986, as amended.

17 SECTION 6. This resolution shall take effect immediately upon its adoption and
18 approval.

19 PASSED AND ADOPTED by the City Council of the City of Oceanside, California,
20 this _____ day of _____, 2011, by the following vote:

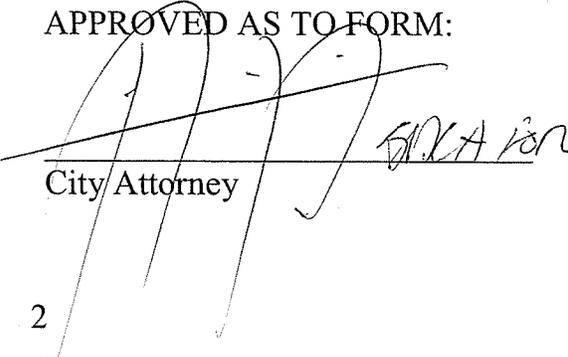
21 AYES:
22 NAYS:
23 ABSENT:
24 ABSTAIN:

MAYOR OF THE CITY OF OCEANSIDE

25
26 ATTEST:

APPROVED AS TO FORM:

27
28 _____
City Clerk



City Attorney