



Legislation Text

File #: 23-0052, **Version:** 1

Resolution Authorizing the Execution and Delivery of an Equipment Lease/Purchase Agreement, and Related Instruments, and Determining Other Related Matters to Acquire Up to Two Fire Trucks and Related Equipment

PURPOSE/BACKGROUND:

See Discussion below.

Discussion:

The Division of Fire & Rescue (in consultation with the City Manager's Office, Finance Department and Fleet Management), has determined that there is a need to acquire through a lease/purchase arrangement additional fire trucks and related equipment (the "Equipment") to promote and enhance the welfare and public safety of the residents of the City.

On behalf of the City, Davenport & Company LLC ("Davenport") distributed an Invitation for Bid ("IFB") in order to assess current market interest rates for viable financing options as it relates to the City's potential purchase of two (2) fire trucks. The IFB requested proposals for a tax-exempt lease purchase financing backed by the equipment being purchased based on a financing period of up to ten (10) years, depending on the useful life of the Equipment. The estimated cost of the Equipment is approximately \$2,900,000; in addition, the principal sum ultimately financed may also include costs of issuance.

Based upon their review of the proposals, related analyses and discussions with City Staff and Bond Counsel, Davenport has made a recommendation outlined on the attached Bank RFP Results.

Impact:

See Discussion above.

Recommendation:

Approve the Resolution.

WHEREAS, the City Council (the "City Council") of the City of Hampton, Virginia has determined that there is a need to acquire through a lease/purchase arrangement additional fire trucks and related equipment (the "Equipment") to promote and enhance the welfare and public safety of the residents of the City; and

WHEREAS, after solicitation of bids and a description of such process being made to the City

Council, the City Council desires to proceed with the lease/purchase financing and enter into a Lease/Purchase Agreement (the "Agreement") for such purpose with the bidder providing the most advantageous proposal to the City, as determined by the City Manager.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF HAMPTON, VIRGINIA AS FOLLOWS:

1. **Authorization of Equipment Lease Purchase Agreement; Essentiality.** The City Manager is authorized to select and accept the lease/purchase proposal for Equipment determined by the City Manager to be the most advantageous to the City. The City Manager is authorized further to execute and deliver an Agreement on terms not inconsistent with this Resolution to accomplish the lease financing. The City Council determines that the Equipment to be financed under the Agreement is essential to the operations of the City and expects the Equipment to remain essential to such operations during the term of the Agreement.
2. **Terms of Agreement.** The terms of the Agreement shall be satisfactory to the City Manager; provided, however, that (a) the purchase price or principal component of the rental payments thereunder shall not exceed \$2,900,000; (b) the annual rate of interest shall not exceed 3.75%, and (c) the rental payments due under the Agreement shall be payable quarterly, semi-annually or over such other period as the City Manager may determine for a term ending no later than December 31, 2033.
3. **Subject to Appropriation.** The obligations of the City under the Agreement shall be limited obligations payable solely from funds to be appropriated by the City Council for such purpose and shall not constitute a debt of the City within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit of the City beyond any fiscal year for which the City Council has lawfully appropriated funds from time to time. Nothing herein or in the Agreement shall constitute a debt of the City within the meaning of any constitutional or statutory limitation or a pledge of the faith and credit or taxing power of the City.
4. **Annual Budget.** The City Council believes that funds sufficient to make payment of all amounts payable under the Agreement can be obtained. While recognizing that it is not empowered to make any binding commitment to make such payments beyond the current fiscal year, the City Council hereby states its intent to make annual appropriations for future fiscal years in amounts sufficient to make all such payments and hereby recommends that future City Councils do likewise during the term of the Agreement. The City Council directs the City Manager, or such other officer who may be charged with the responsibility for preparing the City's annual budget, to include in the budget request for each fiscal year during the term of the Agreement an amount sufficient to pay all amounts coming due under the Agreement during such fiscal year.
5. **Tax Compliance and Arbitrage Covenants.** The City covenants that it shall not take or omit to take any action the taking or omission of which will cause the interest attributable to the rental payments under the Agreement to be "arbitrage bonds," within the meaning of Section 148 of the Internal Revenue Code of 1986, as amended, (the "Code"), or otherwise cause the interest components of the rental payments due under the Agreement to be includable in the gross income for federal income tax purposes of the registered owners thereof under existing law. Such officers of the City as may be requested are authorized and directed to execute such tax compliance certificates, as may be necessary to demonstrate compliance with this paragraph.

6. **Other Actions.** The City Manager and such other officers and agents of the City as may be designated by City Manager are authorized and directed to take such further actions as they deem necessary regarding the execution and delivery of the Agreement and implementation of the provisions thereof including, without limitation, the execution and delivery of closing documents and certificates including, any related agreements, IRS Form 8038-G, a Non-Arbitrage Agreement and Tax Certificate. Such officers are further authorized to execute and deliver any and all schedules, additions, amendments or modifications to any existing master equipment lease purchase agreement to undertake the lease of the Equipment, subject to the terms set forth in paragraph 2 hereof. All such actions previously taken by the City Manager or such officers and agents are hereby approved, ratified and confirmed.

7. **Effective Date.** This Resolution shall become effective immediately upon adoption.