

TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA

ORDINANCE NO. 2025-06

AUTHORIZING THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA, TO EXECUTE AND DELIVER A LEASE PURCHASE AGREEMENT IN THE AMOUNT OF NOT EXCEEDING \$8,000,000 BETWEEN THE TOWN AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING CERTAIN FIRE TRUCKS, INCLUDING REIMBURSEMENT OF THE TOWN THEREFOR; AND OTHER MATTERS RELATING THERETO.

BE IT ORDERED AND ORDAINED BY THE TOWN COUNCIL FOR THE TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA; AND IT IS ORDAINED BY THE AUTHORITY OF THE SAID TOWN COUNCIL, AS FOLLOWS

Section 1. Findings and Determinations. The Town Council (the "Council") of the Town of Hilton Head Island, South Carolina (the "Town"), hereby finds and determines:

(a) The Town is an incorporated municipality located in Beaufort County, South Carolina, and as such possesses all powers granted to municipalities by the Constitution and laws of the State of South Carolina.

(b) Section 5-7-40 of the Code of Laws of South Carolina 1976, as amended (the "S.C. Code"), empowers all municipalities to own and possess real and personal property and such municipalities may lease any such property.

(c) The Town has previously ordered certain fire trucks, some of which the Town has previously accepted delivery and some of which the Town expects to take delivery in the future, all as more particularly described in Exhibit A hereto (the "Fire Trucks"), and the Town desires to enter into a lease purchase agreement (the "Lease Agreement") with a bank or other financial institution selected by the Town Manager for the purpose of financing the acquisition of the Fire Trucks, or reimbursement therefor.

(d) The Lease Agreement will not constitute a "financing agreement" and the Fire Trucks will not constitute "assets" as such terms are defined in Section 11-27-110 of the S.C. Code. Thus, the amount of the Lease Agreement will not be included when calculating the Town's constitutional debt limit under Article X, Section 14 of the Constitution of the State of South Carolina.

(e) The Lease Agreement will be subject to annual appropriation by the Council.

(f) It is in the best interest of the Town to acquire (or reimburse itself for) the Fire Trucks by entering into the Lease Agreement. The Lease Agreement will enable the Town to purchase the Fire Trucks (or reimburse itself therefor) which will provide service necessary and useful to the operations of the Town government.

Section 2. Approval of Lease/Purchase Financing; Delegation of Authority to Determine Certain Matters Relating to the Lease/Purchase Financing. The Fire Trucks described in Exhibit A shall be acquired (or the Town shall reimburse itself therefor) pursuant to a lease purchase financing which is hereby approved in a principal amount of not exceeding \$8,000,000 (the "Lease/Purchase Financing"). The Request for Proposals in the form set forth as Exhibit B hereto and the distribution thereof to various banks and other financial institutions in the Town and other locations as the Town Manager shall determine, is hereby ratified and approved. Without further authorization, the Council hereby delegates to the Mayor and the Town Manager, or either of them acting alone, the authority to: (a) determine the principal amount of the Lease Agreement, if less than authorized by this Ordinance; (b) determine the payment schedule and final payment date under the Lease Agreement; (c) determine the terms relating to any prepayment of the Lease Agreement; (d) determine the date and time for receipt of bids under the Request for Proposals; (e) accept, as well as negotiate, with any responsible bidder under the terms of the Request for Proposals and award the sale of the Lease Purchase Financing to the bidder (the "Bidder") submitting the proposal determined to be the most advantageous to the Town in accordance with the terms of the Request for Proposals; and (f) make changes to the quantity, cost or description of the Fire Trucks set forth in Exhibit A attached hereto.

Section 3. Approval of Lease Agreement. Without further authorization, the Mayor and the Town Manager, or either of them acting alone (each, an "Authorized Person"), is authorized to approve the form, terms and provisions of the Lease Agreement proposed by the Bidder, and to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the Town. The proceeds of the Lease Agreement shall be used for the acquisition of the Fire Trucks (or reimburse the Town therefor) as well as any of the Town's costs of issuance related thereto. The Lease Agreement is to be in the form as shall be approved by any Authorized Person, the Authorized Person's execution thereof to constitute conclusive evidence of such approval.

Section 4. Execution of Documents; Ratification of Certain Actions. The Mayor, Town Manager, Assistant Town Manager, Clerk, Finance Director and Town Attorney are fully empowered and authorized to take such further actions and to execute and deliver such additional documents as may be reasonably requested by the Bidder to effect the delivery of the Lease Agreement, including any project fund or acquisition fund agreement, in accordance with the terms and conditions therein set forth and the transactions contemplated hereby and thereby, and the actions of such officers in executing and delivering any of such documents, in such form as any Authorized Person shall approve, is hereby fully authorized.

Section 5. Federal Tax Covenant. The Town, as lessee under the Lease Agreement, agrees and covenants that it will not take any action which will, or fail to take any action which failure will, cause interest components of the payments to be made under the Lease Agreement to become includable in the gross income of the Bidder or its successors or assignees for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended ("Code") and regulations promulgated thereunder in effect on the date of the execution and delivery of the Lease Agreement, and that it will comply with all applicable provisions of Section 103 and Sections 141 through 150 of the Code, and any regulations promulgated thereunder, to maintain the exclusion from gross income for federal income tax purposes of the interest portion of the payments to be made under the Lease Agreement; and to that end the Town shall:

- (a) comply with the applicable provisions of Section 103 and Sections 141 through 150 of the Code and any regulations promulgated thereunder so long as the Lease Agreement is outstanding;
- (b) establish such funds, make such calculations and pay such amounts in the manner and at the times required in order to comply with the requirements of the Code relating to required rebates of certain amounts to the United States; and
- (c) make such reports of such information at the times and places required by the Code.

The Town will timely file Form 8038-G in accordance with the applicable regulations of the Internal Revenue Service.

Section 6. Filings with Central Repository. In compliance with Section 11-1-85 of the S.C. Code, the Town covenants that it will file or cause to be filed with a central repository for further availability in the secondary bond market when requested; (a) a copy of the annual audit of the Town within thirty (30) days of the Town's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the Town, adversely affects more than five percent (5%) of the Town's revenue or its tax base.

Section 7. Severability. All ordinances, resolutions and parts thereof, procedural or otherwise, in conflict herewith or the proceedings authorizing the execution of the Lease Agreement are, to the extent of such conflict, hereby repealed.

Section 8. Effective Date. This Ordinance shall be effective upon its enactment by the Council.

[Execution page follows]

**PASSED, APPROVED, AND ADOPTED BY THE TOWN COUNCIL FOR THE
TOWN OF HILTON HEAD ISLAND, SOUTH CAROLINA ON THIS 20TH DAY OF MAY,
2025.**



Alan R. Perry, Mayor

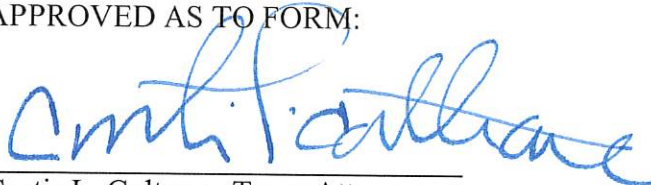
ATTEST:



Kimberly Gammon
Town Clerk

First Reading: May 6, 2025
Second Reading: May 20, 2025

APPROVED AS TO FORM:



Curtis L. Coltrane, Town Attorney

[Signature page]

EXHIBIT A

Fire Trucks

Description/Quantity	Approximate Cost	Delivery Dates
8 pumper fire trucks	\$5,051,890.32	June-October, 2024
2 quintuple combination pumper fire trucks	\$2,398,852.72	Fiscal Year 2027 ¹

¹ Expected

EXHIBIT B

Form of Request for Proposals

Request for Proposals

Town of Hilton Head Island, South Carolina
\$[_____] * 2025 Lease Purchase Financing

Bids due by: Wednesday, June 4, 2025 @ 12:00pm

The Town of Hilton Head Island, South Carolina (the “Town”), is requesting electronic proposals from financial institutions with respect to a commercial loan to be evidenced by its \$[_____] * tax-exempt lease purchase financing (the “Financing”) between the lessor and the Town. The following key assumptions are to be utilized in preparing your proposal:

- Issuer:* Town of Hilton Head Island, South Carolina.
- Use of Proceeds:* The proceeds of the Financing will be used to (i) reimburse the Town for the purchase of eight pumper fire trucks at an approximate cost of \$5,051,890, (ii) purchase two quintuple combination pumper fire trucks to be delivered at a later date at an approximate cost of \$2,398,853 and (iii) pay cost of issuance. The fire trucks are collectively referred to herein as the “Vehicles”.
- Tax Treatment:* Tax-Exempt.
- Bank Qualified:* No.
- Audit:* The Town’s annual comprehensive financial reports and budgets are available on the Town’s website at the following link: <https://hiltonheadislandsc.gov/finance/>
- Title:* Title to the Vehicles will be in the name of the Town, subject to the lessor’s rights under the financing agreement. The successful bidder shall be responsible for taking all actions it deems necessary to impose its lien upon or perfect any security interest in the Vehicles.
- Unencumbered title to the Vehicles must be provided to the Town, and the bidder’s lien on the Vehicles must be released, on the date of final payment, whether upon maturity or prior redemption of the financing agreement. The financing agreement must allow the Town to dispose of certain of the Vehicles in its sole discretion prior to the termination of the financing agreement provided the value of the remaining Vehicles is not less than the outstanding principal balance of the financing agreement at the time of such disposition.
- Acquisition/
Escrow Account:* The Town will require the successful bidder to transfer by Federal funds the full amount of the Financing on the date of the closing. If a bidder requires that an acquisition/escrow account be held by it or its designee, the bidder must so indicate in its proposal. Otherwise, the Town retains the right to designate a bank or the South Carolina Local Government Investment Pool to act as custodian of the acquisition/escrow account. If held by the lender, the acquisition/escrow account must be an interest-bearing account with earnings accruing to the benefit of the Town. This acquisition/escrow account will be structured to allow payments therefrom to be made (1) to the Town to reimburse it for amounts previously

expended on the Vehicles and (2) to the vendors of the Vehicles for payment as directed by the Town. All funds invested or deposited in the acquisition/escrow account shall at all times be invested or deposited, as applicable, in a manner which satisfied the requirements of the laws of the State of South Carolina relating to investment or deposit of public funds, including, without limitation, Sections 6-5-10, 6-5-15 and 6-6-10 or of the Code of Laws of South Carolina 1976, as amended, as applicable.

Deficiency

Judgment:

No deficiency judgment can be assessed or imposed against the Town nor will the full faith, credit and taxing power of the Town be pledged to the payment of the Financing.

Non-Appropriation: There must be a non-appropriation clause in the financing agreement. Any and all amounts due including, but not limited to, scheduled lease payments, reimbursements, penalties or fees under the financing agreement or any acquisition/escrow account must be subject to annual appropriation by the Town.

Non-Substitution:

Non-substitution clauses are not permitted.

Rating:

No credit rating is expected to be obtained for the Financing. However, the Town currently maintains General Obligation Bond ratings of Aaa / AA+ / AAA from Moody's, S&P and Fitch, respectively.

Issue Size:

\$[_____]*

Debt Structure:

The Town has provided a preliminary amortization below, which should be used in preparation of your bid. The Town reserves the right to revise the amortization to achieve its desired level debt service structure. A fixed rate for the entire term of the Financing is required.

[AMORTIZATION TABLE TO BE INSERTED]

Principal Payments:

Annual principal payments commencing June 1, 2026.

Interest Payments:

Annual interest payments, calculated on a 30/360 basis, commencing June 1, 2026.

Prepayment:

The Town is seeking flexibility with respect to redemption provisions. Please specify the redemption structure(s) that would provide the Town with flexibility at the lowest cost of funds. Proposals with multiple redemption options are permitted.

Closing Costs:

None anticipated to be paid to or on behalf of the successful bidder. Please specify any exceptions.

Annual/Ongoing Costs: None anticipated to be paid to or on behalf of the successful bidder. Please specify any exceptions.

Closing:

Closing is anticipated to take place on June 24, 2025. The interest rate bid must be held firm until at least this date.

Ongoing Disclosure: In accordance with its customary practice, the Town will post its annual financial statements to its website when available. The Town expects these filings will satisfy all financial reporting requirements. If additional information will be requested beyond these filings, describe the specific level, type and frequency of such additional requirements.

Award: *The Town expects to accept the successful proposal by the close of business on Thursday, June [5], 2025 (the "Award Date").* The Town reserves the right to request additional information from the bidders and to waive any irregularity or informality and to negotiate provisions and covenants directly with any bidder. The Town also reserves the right to reject all proposals for any reason. Although the selection will be based substantially on lowest total financing cost (including both interest cost and upfront fees and expenses), the Town reserves the right to award the commercial loan to be evidenced by the Financing to the bidder that best meets the needs of the Town in the Town's sole and absolute discretion.

Bids containing rates of interest which may adjust upon the occurrence of specified events, including changes in the Internal Revenue Code of 1986, as amended, changes in the bidder's capital requirements or cost of capital or loss of tax exemption (other than due solely to the actions or inactions of the Town), will be rejected. In the event of a tie bid and absent other factors favoring one proposal over another in the Town's sole and absolute discretion, the financing agreement will be awarded to the bidder whose bid was received first in the Town's sole and absolute discretion.

*Special Counsel/
Documentation:*

Burr & Forman, LLP ("Burr") will serve as special counsel to the Town in connection with the Financing. The legal documentation necessary for the Financing will be prepared by Burr, subject to the review and approval by the winning bidder and its counsel (if any). A copy of the financing agreement can be provided upon request. Alternatively, the Town and Burr may consider the use of a financing agreement provided by the winning bidder, subject to the review and approval of Burr.

Representations:

The winning bidder (the "Bank") will be required to execute a letter to the Town acknowledging, among other things, that (1) no official statement or other offering material has been furnished other than this Request for Proposals ("RFP"); (2) the Bank had an opportunity to make inquiries of, and receive answers from such officials, employees, agents and attorneys of the Town; (3) the Bank has knowledge and experience in financial and business matters and that it is capable of evaluating the merits and risks of making the loan to be evidenced by the Financing and is financially able to bear the economic risk of holding the Financing; (4) the Bank is acquiring the Financing as a vehicle for making a commercial loan and without a present view to the distribution or resale thereof (subject, nevertheless, to any requirement of law that the disposition of its property shall at all times be under its control) within the meaning of the Federal securities laws; and (5) the Bank is acquiring the Financing solely for its own account and no other person now has any direct or indirect beneficial ownership or interest therein.

The Bank will also be required to covenant that it will not voluntarily dispose of all or any portion of the Financing unless it procures from each assignee thereof representations and covenants in form and content substantially the same as those made by the Bank.

LOAN TREATMENT: BY SUBMITTING A BID IN RESPONSE TO THIS RFP, EACH BIDDER ACKNOWLEDGES AND REPRESENTS TO THE TOWN AND ITS FINANCIAL ADVISOR THAT (1) NO OFFICIAL STATEMENT OR OTHER OFFERING MATERIAL WILL BE FURNISHED OTHER THAN THIS RFP; (2) THE BIDDER HAS KNOWLEDGE AND EXPERIENCE IN FINANCIAL AND BUSINESS MATTERS AND THAT IT IS CAPABLE OF EVALUATING THE MERITS AND RISKS OF MAKING THE COMMERCIAL LOAN TO BE EVIDENCED BY THE FINANCING AND IS FINANCIALLY ABLE TO BEAR THE ECONOMIC RISK OF HOLDING THE FINANCING; (3) NO CUSIP NUMBER WILL BE OBTAINED FOR THE FINANCING; AND (4) THE BIDDER INTENDS TO ACQUIRE THE FINANCING SOLELY FOR ITS OWN ACCOUNT AS A VEHICLE FOR MAKING A COMMERCIAL LOAN AND WITH NO PRESENT INTENTION TO DISTRIBUTE OR RESELL THE FINANCING OR ANY PORTION THEREOF.

Confidentiality: If requested by a bidder, the Town and its professional advisors will maintain the confidentiality of such bid and the contents therein beginning from the Town's receipt of such bid until the Award Date; however, neither the Town nor its professional advisors shall be subject to any term or provision relating to the confidentiality of any bid or the contents therein following the Award Date. Notwithstanding anything to the contrary, in no event shall any confidentiality term or provision contained in any bid prevent any disclosure by the Town required by any applicable law or regulation (including continuing disclosure undertakings by the Town required thereby) or as a result of any legal or administrative procedure.

Proposals should include: the name, address, telephone number of your institution; the primary contact; and identity of legal counsel, if any.

To be considered, a proposal must be received by 12:00 pm on Wednesday, June 4, 2025. Email submission of the proposal to the following individuals is required:

adrianab@hiltonheadislandsc.gov

johnmc@hiltonheadislandsc.gov

mseezen@burr.com

fheizer@burr.com

dcheatwood@firsttryon.com

asmith@firsttryon.com

Questions may be addressed to the Town through its special counsel or financial advisor:

Special Counsel

Frannie Heizer / Michael Seezen

Burr & Forman, LLP

(803) 753-3232 / (803) 753-3257

mseezen@burr.com

fheizer@burr.com

Financial Advisor

David Cheatwood / Andy Smith

First Tryon Advisors

(704) 926-2447 / (704) 703-3747

dcheatwood@firsttryon.com

asmith@firsttryon.com

No questions may be directed to or contacts made with the Mayor, other members of Town Council or any Town staff not identified in this Request for Proposals as points of contacts during the period of time that this Request for Proposals is made public until the final selection is made, except as otherwise provided for herein. Violation of this prohibition may disqualify the bidder from further consideration.