



STAFF REPORT  
*Public Hearing 11-22-22*

AGENDA ITEM #: 22-128  
COUNCIL MTG OF: November 22, 2022  
FROM: Dave Caron, Town Administrator  
OFFERED BY: Mark A. Fleischer, Chief Financial Officer  
PREPARED BY: Mark A. Fleischer, Chief Financial Officer  
SUBJECT: Authorization to enter into a Master Lease Agreement and Supplemental Appropriation

INTRODUCTION: Obtain Council approval to enter into a FY23 Master Lease Agreement for capital equipment/vehicle purchases as approved in the FY2023 budget.

TOWN ADMINISTRATOR COMMENTS

I have reviewed this proposal and concur with the CFO's recommendation.

BACKGROUND

During the FY23 budget review in May 2022, it was determined that entering into a competitively bid master lease agreement for capital equipment/vehicle purchases over the next three to seven years would be cost effective for the town.

DISCUSSION

After soliciting bids for municipal lease services, TD Bank was chosen for their guaranteed fixed interest rates and no fees passed onto the community. The interest rate as of 10/25/22 was 4.10% for a 3-year term, 4.013% for a 5-year term and 3.9842% for a 7-year term. Interest rates on borrowing are changing daily and we wish to lock in these rates. We have been approved for a \$2.2M credit line for this lease. The FY23 lease amount approved in the budget was \$2,049,368. Below is the list of items to be leased.

Description	Activity Center	FY23 Budget	Actual	Variance
Replace Ford 550 w/Crane Body	Highway	\$130,000	\$131,444	\$1,444
Replace Ford F350 W/Plow	Highway	105,000	120,000	15,000
Replace Mack 10-Wheel Dump	Highway	235,000	244,188	9,188
Replace 1991 Mack Tanker-Replace w/Pumper Tanker	Fire	750,000	698,947	(51,053)
Replace Police Cruisers (10 vehicles)	Police	489,368	629,590	140,222
<b>Supplemental Appropriation-General Fund</b>				<b>114,801</b>
Replace Ford 550 Mechanic Utility w/Crane Body	Water	130,000	143,970	13,970
New Ford F550 Mechanics Utility Truck	Water	85,000	100,890	15,890
New Chevy or Dodge mid-size Cargo Van	Water	50,000	55,515	5,515
<b>Supplemental Appropriation-Water Fund</b>				<b>35,375</b>
Replace 2013 Mechanics Short Box Utility Truck	Wastewater	75,000	85,000	10,000
<b>Supplemental Appropriation-Wastewater Fund</b>				<b>10,000</b>
<b>Totals</b>		<b>2,049,368</b>	<b>2,209,544</b>	<b>160,176</b>
Cruiser Trade In			<b>(140,000)</b>	
<b>Adjusted Lease Amount</b>			<b>2,069,544</b>	

The total cost for these vehicles and equipment is \$2,209,544. As was the case in FY22, the pricing in the marketplace is greater than what was estimated when the FY23 was established. The cost of purchasing and outfitting (10) conventional police cruisers increased \$111,922. If hybrids are purchased, which is the current plan, the cost will be \$140,222 higher than budget. It is estimated however, we will receive \$140,000 for trade in value on (10) cruisers. Regarding the Fire Pumper/Tanker, prepaying for that purchase will save \$62,741 from the updated price and \$51,053 as compared to budget. Due to time constraints, the Town will pay the manufacturer directly and will be reimbursed by TD once the lease is active, estimated to be within 30 days.

Due to these pricing changes, we are seeking a supplemental appropriation of \$114,801 for the General Fund, \$35,375 for the Water Fund and \$10,000 for the Wastewater Fund for a total of \$160,176. Additionally, in activity center 35, lease revenue will be reduced by \$25,199 and the \$140,000 trade-in revenue will be added. Water lease revenue will be increased \$35,375 and Wastewater, lease revenue will be increased \$10,000.

The adjusted amount to be financed with TD Bank will be \$2,069,544. We are also seeking approval to enter into a master lease agreement with TD bank for these FY23 purchases.

#### FISCAL IMPACT

As purchases are made, funds available in the master lease will be applied to the purchases. Annual lease payments will be a legal obligation of the Town and will be made from Capital Reserve Funds or other resources as budgeted.

#### RECOMMENDED ACTION & MOTION BY COUNCIL

Please see Resolution #2022-085



## RESOLUTION

Number 2022-085

To Approve a Supplemental Appropriation to Purchase Capital Equipment  
and to Authorize the Execution and Delivery of a Master Lease Purchase  
Agreement Therefore

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WHEREAS, the Town Charter establishes the Town Council as the appropriating authority of the Town and as such it is empowered by Section 9.6 of the Charter to make supplemental appropriations after the annual budget is adopted; and

WHEREAS, the Town Council approved the purchase of Capital Equipment as part of the FY23 budget adoption; and

WHEREAS, current economic conditions require a Supplemental Appropriation to complete the purchases; and

WHEREAS, the Town customarily finances these acquisitions through a lease purchase program; and

WHEREAS, these excess costs will be absorbed through multi-year lease purchase payments from the Town's Capital Reserve Funds; and

WHEREAS the Town of Derry, a body politic and corporate duly organized and existing as a political subdivision of the State ("Lessee"), is authorized by the laws of the State of New Hampshire to purchase, acquire and lease personal property for the benefit of Lessee and to enter into contracts with respect thereto; and

WHEREAS Lessee desires to purchase, acquire, finance and lease certain equipment with a cost not to exceed \$2,069,544.00 constituting personal property necessary for Lessee to perform essential governmental functions (the "Equipment"); and

WHEREAS Lessee proposes to enter into that certain Master Lease Purchase Agreement (the "Agreement"), with TD Equipment Finance, Inc. ("Lessor"), the form of which has been available for review by the governing body of Lessee prior to this meeting; and

WHEREAS the funds made available by Lessor under the Agreement will be deposited into an account designated in writing by Lessee for the purpose of administering the Funding Amount pursuant to this Lease (the "Funding Account") or pay to Lessee an amount equal to the Funding Amount.

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

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

WHEREAS the governing body of Lessee deems it for the benefit of Lessee and for the efficient and effective administration thereof to enter into the Financing Documents and any other documentation necessary, convenient or appropriate for the purpose of the financing the Equipment on the terms and conditions described therein;

NOW, THEREFORE, BE IT RESOLVED IN COUNCIL that the sum of One Hundred Sixty Thousand One Hundred Seventy-Six Dollars (\$160,176) is hereby raised to complete the purchase of Capital Equipment, to be allocated to the following funds:

General Fund	\$ 114,801
Water Fund	\$ 35,375
Wastewater Fund	\$ 10,000

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF LESSEE, that Lessee is hereby authorized to execute and deliver the Agreement with principal components of rental payments in an aggregate amount not to exceed \$2,069,544.00

BE IT FURTHER RESOLVED that the Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The Town Administrator of Lessee and any other officer of Lessee with the power to execute contracts on behalf of Lessee be, and each of them hereby is, authorized to execute, acknowledge and deliver the Financing Documents and any and all instruments, documents and certificates which may be required by or provided for in the Financing Documents or as may otherwise be required for or necessary, convenient or appropriate to the financing described in this resolution together with any changes, insertions and omissions therein as may be approved by the officer(s) who execute the Financing Documents, such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The Town Administrator of Lessee and any other officer of Lessee with the power to do so be, and each of them hereby is, authorized to affix the official seal of Lessee to the Financing Documents and attest the same.

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

BE IT FURTHER RESOLVED, that pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), Lessee hereby specifically designates the Agreement as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code.

BE IT FURTHER RESOLVED, that nothing contained in this Resolution, the Agreement nor any other instrument shall be construed with respect to Lessee as incurring a pecuniary liability or charge upon the general credit of Lessee or against its taxing power, nor shall the breach of any agreement contained in this Resolution, the Agreement or any other instrument or document executed in connection therewith impose any pecuniary liability upon Lessee or any charge upon its general credit or against its taxing power, except to the extent that the rental payments payable under the Agreement are special limited obligations of Lessee as provided in the Agreement.

BE IT FURTHER RESOLVED, that if any section, paragraph, clause or provision of this Resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

This Resolution has been adopted by a two-thirds majority of the entire Council as required by Charter and shall take effect immediately upon its passage.

Adopted: November 22, 2022

Attest:

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Joshua Bourdon, Council Chair

Date: \_\_\_\_\_

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Cristina Guilford, Town Clerk

Date: \_\_\_\_\_

Archival Ref: TC Agenda Item #22-128