



STAFF REPORT
Public Hearing 7-11-23

AGENDA ITEM #: 23-73
COUNCIL MTG OF: July 11, 2023
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 a FY24 Master Lease Agreement for capital equipment/vehicle purchases as approved in the FY2024 budget.

TOWN ADMINISTRATOR COMMENTS

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

BACKGROUND

During the FY24 budget review in May 2023, it was determined that entering 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 6/8/23 was 4.07% for a 5-year term and 3.97% for a 7-year term. Interest rates on borrowing continue to change daily and we have locked into these rates until 8/15/23. The FY24 lease amount approved in the budget was \$1,098,905. Resolution 2023-031 added \$110,000 to replace a Forestry Tanker in Fire. Below is the list of items to be leased.

Description	Activity Center	FY24 Budget	Actual	Variance
Replace Ford F550	Highway	\$130,000	\$138,866	\$8,866
Replace Ford F550 W/Plow	Highway	130,000	137,886	7,886
Replace 2014 Chevy Tahoe	Fire	75,000	75,000	0
Replace Forestry Tanker (Resolution 2023-031)	Fire	110,000	110,000	0
Replace Skid Steer	Tfr Station	0	80,680	80,680
Replace Wheeled Loader	Tfr Station	0	275,000	275,000
Replace Division Commander Vehicle	Police	73,905	73,905	0
Supplemental Appropriation-General Fund				372,432
Replace GMC 1500 Pickup	Water	45,000	47,094	2,094
Replace Chevy 2500 Pickup	Water	50,000	66,764	16,764
Supplemental Appropriation-Water Fund				18,858
Replace Sewer Jet-Vac	Wastewater	550,000	550,000	0
Replace Chevy Silverado Pickup	Wastewater	45,000	47,094	2,094
Supplemental Appropriation-Wastewater Fund				2,094
Totals		1,208,905	1,602,289	393,384

The total cost for these vehicles and equipment is \$1,602,289. Continuing the trend experienced in recent years, pricing in the marketplace is greater than what was estimated when the FY24 budget was established. There are (2) pieces of equipment totaling \$355,680 needed for the Transfer Station which are in the FY24 CIP but did not make it into the budget due to a technical issue. The remaining increase over the budget is \$37,704 which is due to price increases.

Due to these pricing changes, we are seeking a supplemental appropriation of \$372,432 for the General Fund, \$18,858 for the Water Fund and \$2,094 for the Wastewater Fund for a total of \$393,384. Lease revenues will increase by the same amount as the supplemental appropriation in the corresponding funds.

The adjusted amount to be financed by TD Bank will be \$1,602,289. We are also seeking approval to enter into a master lease agreement with TD bank for these FY24 purchases. Lease payment will commence in FY2025.

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 #2023-046

Vote Required: 2/3 majority for a Supplemental Appropriation.



RESOLUTION

Number 2023-046

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

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 FY24 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 \$1,602,289 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.

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 Three Hundred Ninety-Three Thousand Three Hundred Eighty-Four Dollars (\$393,384) is hereby raised to complete the purchase of Capital Equipment, to be allocated to the following funds:

General Fund	\$ 373,432
Water Fund	\$ 18,858
Wastewater Fund	\$ 2,094

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 \$1,602,289.

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 obligations" 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: July 11, 2023

Attest:

Charles Foote, Council Chair

Date: _____

Cristina Guilford, Town Clerk

Date: _____

Archival Ref: TC Agenda Item #23-73