
CITY OF SENECA, SOUTH CAROLINA

ORDINANCE NO. 2019-19

AUTHORIZING THE CITY OF SENECA, SOUTH CAROLINA, TO EXECUTE AND DELIVER AN EQUIPMENT LEASE-PURCHASE AGREEMENT, 2019, IN THE AMOUNT OF NOT EXCEEDING \$1,700,000 BETWEEN THE CITY AND THE LESSOR THEREOF TO DEFRAY THE COST OF ACQUIRING CERTAIN EQUIPMENT; AND OTHER MATTERS RELATING THERETO.

Enacted: October 29, 2019

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SENECA, SOUTH CAROLINA, IN COUNCIL ASSEMBLED:

Section 1. Findings and Determinations. The City Council ("Council") of the City of Seneca, South Carolina, hereby finds and determines:

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

(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 City desires to enter into a lease-purchase agreement (the "Lease Agreement") with a bank or other financial institution for the purpose of financing the acquisition of the equipment set forth on Exhibit A hereto (the "Equipment"). The City has received a proposal, a copy of which is attached as Exhibit B hereto ("Lessor's Proposal"), from Branch Banking and Trust Company (the "Lessor") to enter into the Lease Agreement and provide the above described lease-purchase financing favorable terms.

(d) The Lease Agreement will not constitute a "financing agreement" and the Equipment will not constitute an "asset" as such terms are defined in Section 11-27-110 of the South Carolina Code of Laws 1976 as amended (the "S.C. Code"). Thus, the amount of the Lease Agreement will not be included when calculating the City's constitutional debt limit under Article X, Section 14 of the Constitution of the State of South Carolina. The Lease Agreement will be subject to annual appropriation by the Council.

(e) It is in the best interest of the City to acquire the Equipment by entering into the Lease Agreement. The Lease Agreement will enable the City to finance and thereafter purchase the Equipment which is necessary and useful to the operations of the City government.

Section 2. Approval of Lease/Purchase Financing; Delegation of Authority to Determine Certain Matters Relating to the Lease/Purchase Financing. The Equipment described in Exhibit A shall be acquired pursuant to a lease purchase financing which is hereby authorized and approved in the aggregate principal amount of not exceeding \$1,700,000. The Lessor's Proposal is hereby accepted. That the Mayor or the City Administrator are authorized to (i) agree to such changes or revisions to the Lessor's Proposal as either of such officers may deem appropriate and beneficial to the City in their discretion, (ii) make changes to the quantity, cost or description of the Equipment to be financed described on Exhibit A, (iii) determine the final principal amount of the Lease Agreement, provided that such principal amount shall not exceed the amount authorized herein, (iv) determine the interest rate of the Lease Agreement, if different than set forth in the Lessor's Proposal, (v) determine the terms relating to penalties, if any, for prepayment of the Lease Agreement, if other than as set forth in the Lessor's Proposal, (vi) determine the payment schedule under the Lease Agreement, and (vii) make such other determinations as may be necessary to effect the lease-purchase financing authorized hereby.

Section 3. Approval of Lease Agreement. Without further authorization, the City Administrator is authorized to approve the form, terms and provisions of the Lease Agreement proposed by the Lessor. The City Administrator is hereby authorized, empowered and directed to execute, acknowledge and deliver the Lease Agreement in the name and on behalf of the City. The

Lease Agreement is to be in the form as shall be approved by the City Administrator, the City Administrator's execution thereof to constitute conclusive evidence of such approval.

Section 4. Execution of Documents. The Mayor, City Administrator, Finance Director and Clerk-Treasurer of the City are each fully empowered and authorized to take such further action and to execute and deliver such additional documents as may be reasonably requested by the Lessor or as may be necessary to effect the execution and delivery of the Lease Agreement in accordance with the terms and conditions therein set forth and the transactions contemplated hereby and thereby, including, but not limited to, an escrow or project fund agreement to govern the deposit and disbursement of the proceeds of the Lease Agreement entered into with the Lessor or other bank or financial institution selected by the City Administrator or Finance Director of the City, and the action of such officers in executing and delivering any of such documents, in such form as the Mayor, City Administrator, Finance Director or Clerk-Treasurer shall approve, is hereby fully authorized.

Section 5. Federal Tax Covenant. The City, as lessee, 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 Lessor or its successor or assignee for federal income tax purposes pursuant to the provisions of the Internal Revenue Code of 1986, as amended (the "Code") and regulations promulgated thereunder in effect on the date of original issuance 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 City 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 City does not reasonably anticipate that it will issue more the \$10,000,000 in tax-exempt obligations which are not "private activity bonds" during calendar year 2019, all within the meaning of Section 265(b)(3) of the Code. In accordance with Section 265(b)(3) of the Code, the Lease Agreement is hereby designated a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Code.

The Council hereby declares that this Ordinance shall constitute its declaration of official intent pursuant to §1.150-2 of the U.S. Treasury Regulations (the "Regulation §1.150-2") to reimburse the City from the proceeds of the Lease Agreement for certain expenditures in the approximate amount of \$487,500 (the "Expenditures") made by the City with respect to the acquisition of a portion of the Equipment prior to the issuance of the Lease Agreement. The Council understands that Expenditures which may be reimbursed are limited to Expenditures which are (a) properly chargeable to a capital account (or would be so chargeable with a proper election or with the application of the definition of "placed in service" under Regulation §1-150-2) under general federal income tax principles; or (2) certain *de minimis* or preliminary expenditures satisfying the requirements of Regulation §1.150-2(f). The source of funds for the Expenditures will be the City's general fund. In order for Expenditures to be eligible for reimbursement, a reimbursement

allocation must be made not later than 18 months after the later of (a) the date on which the Expenditures were paid, or (b) the date the Equipment was placed in service, but in no event more than three (3) years after the date of the original Expenditures.

The Mayor, City Administrator and Finance Director of the City, or any of them acting alone, are hereby authorized to adopt written procedures for and on behalf of the City to ensure the City's compliance with federal tax matters relating to the Lease Agreement.

The City 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 City 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 City within thirty (30) days of the City's receipt thereof; and (b) within thirty (30) days of the occurrence thereof, relevant information of an event which, in the opinion of the City, adversely affects more than five percent (5%) of the City's revenue or its tax base.

Section 7. Severability. All orders, ordinances and parts thereof, procedural or otherwise, in conflict herewith are, to the extent of such conflict, hereby repealed.

Section 8. Effective Date. This Ordinance shall become effective upon its enactment.

[Execution Page Follows]

Enacted by the City Council of the City of Seneca, South Carolina, this 29th day of October, 2019.

CITY COUNCIL OF THE CITY OF SENECA,
SOUTH CAROLINA

(SEAL)

Mayor

ATTEST:

Clerk-Treasurer

Date of First Reading: October 8, 2019

Date of Second Reading: October 29, 2019

Approved as to form:

City Attorney
City of Seneca, South Carolina

EXHIBIT A

Equipment

Equipment	Estimated Cost
Three (3) Bucket Trucks	\$ 628,133
Sewer Cleaning Vacuum Truck	374,495
Garbage Truck	294,014
Sewer Truck	48,000
Water Truck	33,000
B&P Truck	37,636
REC Truck	37,636
Sewer Truck with Hoist	50,000
Public Works Truck	31,996
Administration Fleet Tahoe	36,176
TOTAL	\$ 1,571,086

EXHIBIT B

Proposal of Lessor

[see attached]



Branch Banking & Trust Company

Governmental Finance

5130 Parkway Plaza Boulevard
Charlotte, North Carolina 28217
Phone (704) 954-1700
Fax (704) 954-1799

October 9, 2019

Mr. Josh Riches
City of Seneca, SC
P.O. Box 4773
Seneca, SC 29679

Dear Mr. Riches:

Branch Banking and Trust Company ("BB&T") is pleased to offer this proposal for the financing requested by the City of Seneca, SC ("Borrower").

PROJECT:	Vehicle Financing
AMOUNT:	\$1,700,000.00
TERM:	7 years
INTEREST RATE:	1.98%
TAX STATUS:	Tax Exempt-Bank Qualified
PAYMENTS:	<u>Interest:</u> Annual <u>Principal:</u> Annual
INTEREST RATE CALCULATION:	30/360
SECURITY:	Vehicles and Equipment
PREPAYMENT TERMS:	Prepayable in whole at any time without penalty
RATE EXPIRATION:	November 22, 2019
DOCUMENTATION/ LEGAL REVIEW FEE:	N/A
FUNDING:	Proceeds will be deposited into an account held at BB&T pending disbursement unless equipment is delivered prior to closing.

DOCUMENTATION: BB&T proposes to use its standard form financing contracts and related documents for this installment financing. We shall provide a sample of those documents to you should BB&T be the successful proposer.

The financing documents shall include provisions that will outline appropriate changes to be implemented in the event that this transaction is determined to be taxable or non-bank qualified in accordance with the Internal Revenue Service Code.

REPORTING

REQUIREMENTS: BB&T will require financial statements to be delivered within 270 days after the conclusion of each fiscal year-end throughout the term of the financing.

BB&T shall have the right to cancel this offer by notifying the Borrower of its election to do so (whether this offer has previously been accepted by the Borrower) if at any time prior to the closing there is a material adverse change in the Borrower's financial condition, if we discover adverse circumstances of which we are currently unaware, if we are unable to agree on acceptable documentation with the Borrower or if there is a change in law (or proposed change in law) that changes the economic effect of this financing to BB&T.

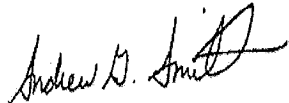
Costs of counsel for the Borrower and any other costs will be the responsibility of the Borrower.

The stated interest rate assumes that the Borrower expects to borrow no more than \$10,000,000 in the current calendar year and that the financing will qualify as qualified tax-exempt financing under the Internal Revenue Code. BB&T reserves the right to terminate this bid or to negotiate a mutually acceptable interest rate if the financing is not qualified tax-exempt financing.

BB&T appreciates the opportunity to offer this financing proposal. Please call me at (803) 251-1328 with your questions and comments. We look forward to hearing from you.

Sincerely,

Branch Banking & Trust Company



Andrew G. Smith
Senior Vice President

Seneca, SC Estimated Payment Schedule

Nominal Annual Rate: 1.980%

	Event	Date	Amount	Number	Period	End Date
1	Loan	11/7/2019	1,700,000.00	1		
2	Payment	11/1/2020	262,468.43	7	Annual	11/1/2026

AMORTIZATION SCHEDULE - Normal Amortization, 360 Day Year

	Date	Payment	Interest	Principal	Balance
Loan	11/7/2019				1,700,000.00
2020 Totals		0.00	0.00	0.00	
1	11/1/2020	262,468.43	33,660.00	228,808.43	1,471,191.57
2021 Totals		262,468.43	33,660.00	228,808.43	
2	11/1/2021	262,468.43	29,129.59	233,338.84	1,237,852.73
2022 Totals		262,468.43	29,129.59	233,338.84	
3	11/1/2022	262,468.43	24,509.48	237,958.95	999,893.78
2023 Totals		262,468.43	24,509.48	237,958.95	
4	11/1/2023	262,468.43	19,797.90	242,670.53	757,223.25
2024 Totals		262,468.43	19,797.90	242,670.53	
5	11/1/2024	262,468.43	14,993.02	247,475.41	509,747.84
2025 Totals		262,468.43	14,993.02	247,475.41	
6	11/1/2025	262,468.43	10,093.01	252,375.42	257,372.42
2026 Totals		262,468.43	10,093.01	252,375.42	
7	11/1/2026	262,468.43	5,096.01	257,372.42	0.00
2027 Totals		262,468.43	5,096.01	257,372.42	
Grand Totals		1,837,279.01	137,279.01	1,700,000.00	