

ORDINANCE NO. 2874

AN ORDINANCE

AUTHORIZING THE EXECUTION, DELIVERY, AND PERFORMANCE OF A LEASE-PURCHASE AGREEMENT AND OTHER DOCUMENTS RELATING TO THE LEASE-PURCHASE FINANCING OF CERTAIN VEHICLES AND EQUIPMENT IN AN AGGREGATE PRINCIPAL AMOUNT OF NOT EXCEEDING \$2,075,000, AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Sumter, South Carolina (the “City”), is a municipal corporation and political subdivision of the State of South Carolina (the “State”) is authorized by the laws of the State to acquire, finance and lease personal property (tangible and intangible) for the benefit of the City and its inhabitants and to enter into contracts with respect thereto;

WHEREAS, the City Council of the City (the “City Council”) is the governing body of the City;

WHEREAS, the City has determined to acquire certain equipment and rolling stock more fully described on Exhibit A hereto (collectively, the “Equipment”) and has further determined that the Equipment is personal property necessary for the City to perform essential governmental functions;

WHEREAS, the City Council desires to defray the cost of the Equipment through the issuance of a lease-purchase obligation of the City, and, having circulated a Request for Proposals and having received five (5) proposals for lease-purchase financing of the Equipment, proposes to enter into that Lease/Purchase Agreement with Bank of Clarendon (or one of its affiliates), as further provided in this Ordinance;

WHEREAS, the City Council has determined to establish a maximum principal amount of \$2,075,000 for the lease-purchase obligation;

NOW, THEREFORE, BE IT ORDAINED by City Council of the City of Sumter as follows:

ARTICLE I
DEFINITIONS

The terms defined in this Article I (except as otherwise expressly provided for or unless the context otherwise requires) for all purposes of this Ordinance shall have the respective meanings set forth in this Article I.

“City” means the City of Sumter, South Carolina, its successors and assigns.

“City Council” means the City Council of the City of Sumter, the governing body of the City, and any successor body.

“City Finance Director” shall mean the Finance Director of the City.

“City Manager” shall mean the City Manager of the City.

“Clerk” means the City Clerk of the City, or in her absence for any reason, the acting or deputy City Clerk of the City.

“Code” means the Internal Revenue Code of 1986, as amended, and applicable Treasury Regulations thereunder.

“Equipment” means the vehicles and any equipment associated therewith the acquisition of which is to be financed through the transactions contemplated by this Ordinance, as set forth on the attached Exhibit A.

“Escrow Agreement” means the Escrow Agreement to be entered into by the Lessor, the City and an escrow agent named therein, in connection with the Lease.

“Lease” means the Lease Purchase Agreement, including an Equipment Schedule and a Payment Schedule both attached thereto, to be entered into between the Lessor and the City, as Lessee, in substantially the forms presented to Council at the final reading of this Ordinance, whereby Lessor will lease the Equipment to the City for a term as shall be provided on the Payment Schedule, but not exceeding five (5) years (plus such additional number of days as may be required to allow payments to be made on a given day of the month), subject to annual appropriation by the City Council.

“Lessor” means Bank of Clarendon or one of its affiliates.

“Ordinance” means this Ordinance of the City Council.

ARTICLE II

AUTHORIZATION OF AND CONSENT TO LEASE

Section 2.01 Authorization to Acquire Equipment.

The City Council hereby approves the acquisition of the Equipment as specified on the attached Exhibit A. Subject to the final terms of the Lease, the City Manager is authorized to make such changes as he deems necessary or advisable to such Exhibit A (including with respect to the description of the Equipment, the quantities to be purchased, or the price to be paid), provided that the aggregate purchase price to be paid for the Equipment, together with associated costs of issuance, does not exceed \$2,075,000.

Section 2.02 Approval and Authorization to Execute and Deliver Lease.

(a) The City Council hereby finds and determines that the terms of the Lease (including the form of Equipment Schedule and the form of Payment Schedule), in the forms presented to Council at the final reading of this Ordinance, are in the best interests of the City for the acquisition financing and leasing of the Equipment.

(b) The form, terms and provisions of the Lease (including the form of Equipment Schedule and the form of Payment Schedule, both attached thereto) are hereby approved in substantially the forms

presented to Council at the final reading of this Ordinance, with such insertions, omissions and changes as shall be approved by the City Manager of the City, the execution and delivery of such documents by the City Manager being conclusive evidence of such approval; and the City Manager is hereby authorized and directed to execute, and the Clerk is hereby authorized and directed to attest, the Agreement and any related Exhibits attached thereto and to deliver the Agreement (including such Exhibits) to the respective parties thereto, and the Clerk is hereby authorized to affix the seal of the City to such documents. The City Manager is hereby authorized and directed to sign and deliver on behalf of the City the Lease (including the Equipment Schedule and the Payment Schedule attached thereto), any related Escrow Agreement, and any related exhibits attached thereto, and all other documents, instruments, certificates, or other papers if and when required or as he otherwise deems necessary and appropriate, with the advice of counsel, to accomplish the transactions contemplated by this Ordinance.

(c) The principal amount of the financing represented by the Lease shall not exceed \$2,075,000, the exact amount to be determined by the City Manager. The term of the Lease shall not exceed five (5) years (plus such additional number of days, if any, as may be required to allow payments to be made on a given day of the month), and the interest rate applicable to the Lease, in the absence of adjustment owing to acts or omissions of the City which have a negative impact on the tax-exempt status of interest on the Lease, shall not exceed 3.91%. The proceeds of the Lease shall be applied to finance the costs of the acquisition of the Equipment and costs of issuance. Payments of principal and interest components due under the Lease shall be subject to annual appropriation. The Lease shall not contain a non-substitution clause.

(d) The City Manager, the City Finance Director and the Clerk, or any one of them, shall take all action necessary or reasonably required by the parties to the Agreement to carry out, give effect to and consummate the transactions contemplated thereby (including the execution and delivery of Final Acceptance Certificates, Escrow Agreements, Disbursement Requests and any tax certificate and agreement, as contemplated in the Lease) and to take all action necessary in conformity therewith, including, without limitation, the execution and delivery of any closing and other documents required to be delivered in connection with the Lease.

Section 2.03 Award of Lease.

The City Manager has heretofore requested proposals from financial institutions to provide the Lease, and has determined that a proposal submitted by Lessor to enter into the Lease at an interest rate of 3.91% per annum is in the best interests of the City. The City Council ratifies all action taken by the City Manager and confirms the award of the Lease to Lessor.

Section 2.04 Appointment of Authorized Lessee Representatives.

The City Manager and the Finance Director of the City are each hereby designated to act as authorized representatives of the City for purposes of the Lease and related Escrow Agreement until such time as the City Council shall designate any other or different authorized representative for purposes of the Agreement and any Lease or Escrow Agreement.

ARTICLE III
COMPLIANCE WITH REQUIREMENTS OF THE CODE

Section 3.01 **Tax Representations and Covenants.**

The City reasonably expects that it and entities subordinate thereto will not issue tax-exempt obligations, including the Lease, in calendar year 2025 in an aggregate principal amount in excess of \$10,000,000. The Lease is hereby designated as a “qualified tax-exempt obligation” within the meaning of Section 265(b)(3)(B) of the Code. The City hereby covenants to timely file Form 8038-G with the Internal Revenue Service.

The City hereby represents and covenants that it will not take any action that will, or fail to take any action which failure will, cause interest on the Lease to become includable in the gross income of the holder thereof for federal income tax purposes pursuant to the provisions of the Code and regulations promulgated thereunder in effect on the date of original issuance of the Lease. In this connection, the City covenants to execute any and all agreements or other documentation as it may be advised by its bond counsel as will enable it to comply with this Section. Without limiting the generality of the foregoing, the City represents and covenants that:

(A) All property provided by the net proceeds of the Lease will be leased by the City pursuant to the Lease or owned by the City in accordance with the rules governing the ownership of property for federal income tax purposes.

(B) The City shall not permit the proceeds of the Lease or any facility financed with the proceeds of the Lease to be used in any manner that would result in (a) ten percent (10%) or more of such proceeds being considered as having been used directly or indirectly in any trade or business carried on by any natural person or in any activity carried on by a person other than a natural person other than a governmental unit as provided in Section 141(b) of the Code, or five percent (5%) or more of such proceeds being considered as having been used directly or indirectly to make or finance loans to any person other than a governmental unit as provided in Section 141(c) of the Code.

(C) The City is not a party to nor will it enter into any contracts with any person for the use or management of any facility provided with the proceeds of the Lease or by notes paid by the Lease that do not conform to the guidelines set forth in Revenue Procedure 2017-13.

(D) The City will not sell or lease the Equipment or any property obtained with proceeds of the sale thereof to any person unless it obtains the opinion of nationally recognized bond counsel that such lease or sale will not affect the tax exemption of the interest component of payments made by the City under the Lease.

(E) The Lease will not be federally guaranteed within the meaning of Section 149(b) of the Code. The City has not entered into any leases or sales or service contract with any federal government agency with respect to any facility financed with the proceeds of the Lease and will not enter into any such leases or contracts unless it obtains the opinion of nationally recognized bond counsel that such action will not affect the tax exemption of the Lease.

ARTICLE IV
MISCELLANEOUS

Section 4.01 **No General Liability.**

Nothing contained in this Ordinance, the Lease, any Escrow Agreement nor any other instrument shall be construed with respect to the City as incurring a pecuniary liability or charge upon the general credit of the City or against its taxing power, nor shall the breach of any Lease contained in this Ordinance, the Lease, any Lease, any Escrow Lease or any other instrument or document executed in connection therewith impose any pecuniary liability upon the City or any charge upon its general credit or against its taxing power, except to the extent that the Rental Payments payable under the Lease are limited obligations of the City, subject to annual appropriation, as provided herein and in the Lease.

Section 4.02 **Severability.**

If any section, paragraph, clause or provision of this Ordinance 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 Ordinance.

Section 4.03 **Repealer.**

All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent herewith, are hereby repealed to the extent only of such inconsistency with respect to this Ordinance. This repealer shall not be construed as reviving any bylaw, order, resolution or ordinance or part thereof.

Section 4.04 **Effective Date of Ordinance.**

The provisions of this Ordinance shall become effective upon its adoption.

[Signatures Appear on Following Page]

ADOPTED IN COUNCIL ASSEMBLED THIS 18TH DAY OF MARCH 2025.

CITY OF SUMTER, SOUTH CAROLINA

David P. Merchant, Mayor

James B. Blassingame, Mayor Pro Tempore

Calvin K. Hastie, Sr., Councilman

Colin C. Davis, Councilman

Gifford M. Shaw, Councilman

Anthony Gibson, Councilman

Rebecca Lynn Kennedy, Councilwoman

ATTEST:

Linda D. Hammett, City Clerk

First Reading: February 18, 2025

Second Reading: March 18, 2025

Exhibit A

<u>Item*</u>	<u>Estimated Cost</u>
Rescue Truck	\$500,000
Brush Truck	200,000
Street Sweeper	320,000
Garbage Trucks (2)	675,000
Ventrac Mower/Tractor	90,000
Bonnell Olympian Truck	<u>290,000</u>
TOTAL	\$2,075,000

*Including any associated equipment.

STATE OF SOUTH CAROLINA

COUNTY OF SUMTER

I, the undersigned, City Clerk of the City of Sumter, South Carolina (the "City"), **DO HEREBY CERTIFY:**

That the foregoing constitutes a true, correct, and verbatim copy of an Ordinance enacted by the City Council of the City (the "City Council") on March 18, 2025. The Ordinance was read at two public meetings of the City Council on two separate days, February 18, 2025, and March 18, 2025. An interval of at least six days occurred between each reading of the Ordinance. At each such meeting, a quorum of the City Council was present and remained present throughout the meeting.

The meetings held on February 18, 2025, and March 18, 2025, were duly called regular meetings of the City Council. As required by Chapter 4, Title 30 of the Code of Laws of South Carolina 1976, as amended, a notice of said meeting (including the date, time, and place thereof, as well as an agenda) was posted prominently in the City Hall of the City and on the City's public website at least twenty-four hours prior to said meeting. In addition, the local news media and all persons requesting notification of meetings of the City Council were notified of the time, date, and place of such meeting, and were provided with a copy of the agenda therefor at least twenty-four hours in advance of such meeting.

The original of the Ordinance is duly entered in the permanent records of the City, in my custody as City Clerk.

The Ordinance is now of full force and effect, and has not been modified, amended or repealed.

IN WITNESS WHEREOF, I have hereunto set my Hand and the Seal of the City of Sumter, South Carolina, this ____ day of _____, 2025.

(SEAL)

City Clerk, City of Sumter,
South Carolina