

RESOLUTION 10-17-01

A RESOLUTION OF THE CITY OF HARTSVILLE TO AUTHORIZE THE RELEASE AND SUBSTITUTION OF LEASED PERSONAL PROPERTY FROM FIRST-CITIZENS BANK & TRUST COMPANY, AND OTHER MATTERS RELATING THERETO.

WHEREAS, the City of Hartsville, South Carolina (the “*City*”) is a municipal corporation of the State of South Carolina, located in Darlington County, South Carolina, and as such possesses all general powers granted to municipal corporations;

WHEREAS, heretofore, the City entered into an Equipment Lease-Purchase Agreement (the “*Lease Agreement*”) with First-Citizens Bank & Trust Company (the “*Bank*”) dated September 23, 2015;

WHEREAS, by the terms of the Lease Agreement, the City leased certain personal property from the Bank (the “*Equipment*”), a complete list of which is included as Exhibit A to the Lease Agreement;

WHEREAS, the City has determined that certain of the Equipment, specifically its 2016 Freightliner M2 Chassis Leaf Vac Truck (the “*Leaf Truck*”) is no longer suited for its needs and the City would like to sell or dispose of the Leaf Truck; and

WHEREAS, the provisions of the Lease Agreement permit the release and substitution of the Equipment, and the authorization for the particular release and substitution of the Leaf Truck are expressly authorized and permitted by the City under the terms of this resolution.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby determines to exercise the release and substitution provisions of the Lease Agreement and thereafter sell the Leaf Truck in accordance with its procurement practices. The proceeds of such sale shall be utilized by the City Manager of the City (the “*City Manager*”) to acquire a street sweeper vehicle or a similar public works vehicle, including all necessary equipment therefor (the “*Replacement Vehicle*”).

2. All documents (the “*Documents*”), including the Consent, Release and Substitution Certificate to be executed by and between the City and the Bank, a copy of which is attached hereto as Exhibit A (the “*Release and Substitution*”), necessary to conform to the provisions of the Lease Agreement, to properly sell or dispose of the Leaf Truck and to otherwise acquire the Replacement Vehicle shall be consistent with the foregoing terms. The City Manager is hereby authorized and directed to execute and deliver the Release and Substitution and any Documents, and to take all such further action as they may consider necessary or desirable to carry out provisions of this Resolution.

3. All prior actions of City officers in furtherance of the purposes of this Resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with

this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

DONE, RATIFIED AND ADOPTED this 10th day of October, 2017.

**CITY OF HARTSVILLE,
SOUTH CAROLINA**

(SEAL)

Carl M. (Mel) Pennington IV, Mayor

Attest:

Sherron L. Skipper, CMC, City Clerk

EXHIBIT A

CONSENT, RELEASE AND SUBSTITUTION AGREEMENT

LESSEE TAX ID – 57-6001045

LESSOR:	First-Citizens Bank & Trust Company	LESSEE:	City of Hartsville, South Carolina
ADDRESS:	1230 Main Street Columbia, SC 29201	ADDRESS:	P.O. Drawer 2497 Hartsville, SC 29551-2497
CONTACT:	Ms. Courtney Dunlap (803) 931-1721	CONTACT:	Ms. Karen Caulder (803) 383-3015

The undersigned representatives of First-Citizens Bank & Trust Company (the “*Lessor*”), and the City of Hartsville, South Carolina (the “*Lessee*”), hereby agree that:

1. Heretofore, the Lessee and the Lessor entered into an Equipment Lease-Purchase Agreement (the “*Lease Agreement*”) dated September 23, 2015.
2. By the terms of the Lease Agreement, the Lessee leased certain personal property from the Lessor (the “*Equipment*”), a complete list of which is included as Exhibit A to the Lease Agreement.
3. The City has determined that certain of the Equipment, specifically its 2016 Freightliner M2 Chassis Leaf Vac Truck (the “*Leaf Truck*”) is no longer suited for its needs and the Lessee would like to sell or dispose of the Leaf Truck.
4. Pursuant to Section 11(a) of the Lease Agreement, the Lessee may not dispose of any Equipment, inclusive of the Leaf Truck, without the prior consent of the Lessor.
5. By email to the Lessor dated August 30, 2017, the Lessee formally requested the consent of the Lessor to dispose of the Leaf Truck.
6. The Lessor consents to the Lessee’s request to dispose of the Leaf Truck, pursuant to the aforementioned Section 11(a) of the Lease Agreement, and in doing so, agrees to immediately release the title to the Leaf Truck to the Lessee, free and clear of all encumbrances, for the sole purpose of facilitating the Leaf Truck’s imminent disposal.
7. As an express condition of the release of title provided in Section 6 above, the Lessee must use a substantial amount of the proceeds from said sale of the Leaf Truck to acquire a street sweeper vehicle or a similar public works vehicle, including all necessary equipment therefor (the “*Replacement Vehicle*”).

8. Lessor understands and agrees that the Replacement Vehicle shall constitute a substitution under the terms of Section 13(c) of the Lease Agreement.

9. Pursuant to the aforementioned Section 13(c) of the Lease Agreement, Lessee understands that it grants to Lessor any and all right and interest of the Lessee in equipment obtained in substitution, and agrees to properly execute and deliver all financing statements and other instruments necessary or appropriate to evidence such security interest arising from the substitution equipment.

10. Upon the acquisition of the Replacement Vehicle, such item shall constitute Equipment under the terms of the Lease Agreement.

11. All of the other Equipment shall continue to remain encumbered under the terms of the Lease Agreement.

LESSOR:

**FIRST-CITIZENS BANK
& TRUST COMPANY**

By: _____
Title: Senior Vice President
Date: _____

LESSEE:

**CITY OF HARTSVILLE,
SOUTH CAROLINA**

By: _____
Title: Natalie M. Zeigler, City Manager
Date: _____