

ORDINANCE 4419

AN ORDINANCE OF THE CITY OF HARTSVILLE TO AUTHORIZE A LEASE-PURCHASE FINANCING IN AN AMOUNT NOT EXCEEDING THREE HUNDRED FIFTY THOUSAND DOLLARS (\$350,000), 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, the City has determined that the need exists to acquire various vehicles, equipment and capital assets, all generally described on Exhibit A attached hereto (collectively, the “*Capital Items*”);

WHEREAS, the Capital Items are essential to the operations of the City;

WHEREAS, certain of the Capital Items, as applicable, shall be acquired by and titled in the name of the City;

WHEREAS, the City seeks to finance the acquisition of the Capital Items under the terms of a capital lease-purchase financing (the “*Financing*”);

WHEREAS, certain of the Capital Items, notably (1) the roof for the police station, and (2) the parking lot for the fire station, constitute “*Asset(s)*” as such term is defined in Section 11-27-100(A)(1) of the Code of Laws of South Carolina 1976, as amended (the “*SC Code*”);

WHEREAS, due to the anticipated structure of the Financing, the portion of the Financing related to the Assets constitutes a “*Financing Agreement*” under Section 11-27-110(A)(6) of the SC Code; provided, however, the Financing does not constitute a Financing Agreement for that portion of the Capital Items other than the Assets;

WHEREAS, under Section 11-27-110(C) of the SC Code, the amount of any Financing Agreement, plus any “*Limited Bonded Indebtedness*” (as defined in Section 11-27-110(A)(9) of the SC Code) must not exceed the City’s constitutional debt limit, as established under Article X, Section 14 of the Constitution of the State of South Carolina, 1895, as amended (the “*Debt Limit*”);

WHEREAS, the assessed value of the City for tax year 2019, which is the latest available assessment thereof, is a sum not less than \$23,791,147, which produces for the City a Debt Limit of \$1,903,292. As of the date of this Ordinance, the only Limited Bonded Indebtedness of the City chargeable against its Debt Limit is the sum of \$270,000¹ (the “*Outstanding GO Bond*”);

¹ Representing the outstanding principal amount due on the originally issued \$1,224,500 General Obligation Bond, Series 2012 of the City of Hartsville, South Carolina.

WHEREAS, the principal amount of the Outstanding GO Bond, plus the portion of the Financing attributable to the Assets is less than the City's Debt Limit, and therefore, the City may proceed to finance the acquisition of the Assets through the Financing; and

WHEREAS, the City has determined to negotiate with financial institutions and receive proposals to finance the Capital Items.

BE IT THEREFORE RESOLVED, as follows:

1. The City hereby authorizes the Financing and further authorizes the City Manager of the City (the "***City Manager***") to negotiate the Financing with certain financial institutions and award the Financing to the lessor that the City Manager, in his sole discretion, determines. To the extent the City Manager has already begun such negotiations, all such actions associated therewith are ratified and approved in their entirety. The Financing may be separated into multiple series of obligations, which may be issued on a tax-exempt and/or taxable basis as advised by legal counsel to the City. The amount of the Financing, including any costs of issuance associated therewith, shall not exceed \$350,000 (the "***Lease Amount***") and the final Lease Amount, term, closing date, and other material terms for the Financing shall be determined by the City Manager. Additionally, the City, working with its municipal advisor, may create sub-schedules as necessary to show the amortization of that portion of the Financing attributable to the Assets, which as noted in the recitals herein shall apply against the City's Debt Limit.

2. All financing contracts and all related documents for the closing of the Financing (the "***Financing Documents***") shall be consistent with the foregoing terms. The City Manager is hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable to carry out the Financing as contemplated by the provisions of this ordinance (this "***Ordinance***").

3. The financial obligations of the City under the Financing do not constitute general obligations of the City to which its full faith, credit or taxing power are pledged, but are subject to and dependent upon lawful appropriations of funds being made by the City Council of the City of Hartsville, as the governing body of the City, to pay the payments due in each fiscal year under the Financing. The City's obligations under the Financing are from year to year only and do not constitute a mandatory payment obligation of the City in any fiscal year in which funds are not appropriated by the City to pay the payments due in such fiscal year. The City has no continuing obligation to appropriate funds to pay acquisition payments due under the Financing and may terminate its obligations under the Financing on an annual basis without any penalty.

4. The City Manager is hereby directed and authorized to hold executed copies of the Financing Documents until the conditions for delivery of the Financing Documents have been completed to his satisfaction. The Financing Documents shall be in such final forms as the City Manager shall approve, with the City Manager's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the final form of any of the Financing Documents.

5. The City shall not take or omit to take any action the taking or omission of which shall cause its interest payments on the Financing to be includable in the gross income for federal tax purposes of the registered owners of the Financing. To the extent the City does not intend to issue more than \$10 million of tax-exempt obligations in calendar year 2021, the City hereby designates the Financing as a “qualified tax-exempt obligation” for the purpose of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

6. The leasing and disposition of the Assets under the Financing, as approved by the provisions of this Ordinance, complies with the provisions of Sections 5-7-40 and 5-7-260(6) of the SC Code.

7. The City understands that certain costs of issuance are associated with the Financing and the City covenants and agrees that all such costs will be timely paid upon the closing of the Financing Documents and may be included in the Lease Amount.

8. All prior actions of City officers in furtherance of the purposes of this Ordinance are hereby ratified, approved and confirmed. All other resolutions or ordinances (or parts thereof) in conflict with this Ordinance are hereby repealed, to the extent of the conflict. This Ordinance shall take effect upon second reading.

DONE, RATIFIED AND ENACTED this ____ day of _____ 2021.

**CITY OF HARTSVILLE,
SOUTH CAROLINA**

(SEAL)

Carl M. (Mel) Pennington IV, Mayor

Attest:

Sherron L. Skipper, City Clerk

First Reading: July 13, 2021

Public Hearing:

Final Reading:

EXHIBIT A

Description of Capital Items

Public Safety

One (1) 2021 Dodge Charger

Two (2) Chevrolet Tahoe

One (1) Chevrolet Silverado

One (1) Chevrolet Tahoe (Federal)

Parks/Recreation

Golf Cart and Equipment

Assets

Roof for Police Station

Parking Lot for Fire Station