



Legislation Text

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ORDINANCE NO. 220561

Authorizing the Director of Finance to accept the proposal of PNC Bank, National Association or an affiliate or other designee thereof for financing the acquisition of fire fleet vehicles and equipment under a lease-purchase agreement at an estimated cost of \$9,120,000.00; authorizing the entering of lease-purchase agreements to refinance and extend the lease term of certain vehicles currently leased under an existing lease-purchase agreement in an estimated amount not to exceed \$4,620,170.00; authorizing the execution of any and all documents and agreements necessary for the financing and refinancing; estimating and appropriating revenues in the amount of \$13,740,170.00 in Fund No. 3230, the Equipment Lease Capital Acquisition Fund; designating requisitioning authority and authorizing the Director of Finance to close project accounts; declaring the intent of the City to reimburse itself from the lease purchase proceeds for certain expenditures; and recognizing this ordinance as having an accelerated effective date

WHEREAS, the City of Kansas City, Missouri (the “City”) is a constitutional charter city, municipal corporation and political subdivision of the State of Missouri (the “State”) and is duly organized and existing pursuant to the Constitution and laws of the State; and

WHEREAS, pursuant to applicable law, the governing body of the City (“Governing Body”) is authorized to acquire, dispose of and encumber real and personal property, including, without limitation, rights and interest in property, leases and easements necessary to the functions or operations of the City; and

WHEREAS, the City previously accepted the proposal of Oshkosh Capital, previously also known as PNC Equipment Finance, LLC, and now known as PNC Bank, National Association (“PNC”) pursuant to Ordinance No. 150394, for financing the acquisition of new fleet vehicles and equipment for the Fire Department of the City to properly perform its fire service duties, at an estimated purchase price of \$36,675,538 and a not-to-exceed purchase price of \$37,000,000 (the “2015 Project”), the purchase of which fleet vehicles and related equipment constituting the 2015 Project was carried out over a period of time pursuant to one or more lease-purchase agreements and related schedules and documents (each, a “2015 Project Lease”) with PNC as Lessor thereunder; and

WHEREAS, the fire fleet vehicles and equipment constituting the 2015 Project were ordered from Pierce Manufacturing, Inc. (“Pierce”); and

WHEREAS, the payment of scheduled debt service payments on a 2015 Project Lease for the financing of pumpers and certain equipment was to be paid over a successive seven-year (7) period and for the financing of rear-mount aerial platforms (RMAPs), rescues and tillers and certain equipment was to be paid over a successive ten-year (10) period, depending on the applicable useful life of the vehicle or equipment, from legally available funds; and

WHEREAS, as provided in Ordinance No. 150394 approving the 2015 Project, no fire fleet vehicle financed under a 2015 Project Lease will have been paid in full at the end of the applicable Lease term, instead,

the form of Lease included an end-of-lease term rider setting out three options available to the City at the end of the lease term, as follows: (1) the City may pay a balloon rent payment and purchase the fire fleet vehicle, (2) the City may turn in the fire fleet vehicle to Pierce and agree to acquire a new fire fleet vehicle from Pierce or Pierce's designated dealer, or (3) the City may refinance the balloon rent payment, subject to further approval as applicable by the governing body of the City prior to the exercise of such option; and

WHEREAS, PNC and the City entered into a 2015 Project Lease for the purchase of 32 pumpers and equipment in the principal amount of \$18,067,251 (net of prepay discounts) pursuant to a Lease Purchase Agreement (Turn-In Lease for Pierce Equipment) dated June 29, 2015 (the "2015 Pumper Lease"), with a lease term ending July 29, 2022; and

WHEREAS, the City wishes to replace the 32 pumpers over a period of time, pursuant to the turn-in plan set out in the 2015 Pumper Lease; and

WHEREAS, PNC proposed a three-year staggered replacement plan of replacing currently leased vehicles with an estimated 11 new units each year, where certain existing leased vehicles would be purchased by the City as reserve apparatus and the remaining vehicles would be turned in over the three year period, commencing at the end of the current 2015 Pumper Lease term; and

WHEREAS, the City previously purchased 11 new pumpers in 2022 (the "2022A Pumper Project"), including the turning in to Pierce of certain previously purchased fire fleet vehicles and the purchase from Pierce of new vehicles, at a cost of \$8,300,000, pursuant to a Lease Purchase Agreement (Turn-In Lease for Pierce Equipment) (the "2022A Pumper Lease"), which had comparable terms to the 2015 Pumper Lease; and

WHEREAS, the City wishes to purchase an additional 11 new pumpers in 2022 (the "2022B Pumper Project" and with the 2022A Pumper Project, the "2022 Pumper Project"), at a cost not to exceed \$9,120,000.00, pursuant to a Lease Purchase Agreement (Turn-In Lease for Pierce Equipment) and attachments thereto including a Four-Party Agreement between the City, Pierce, PNC and Conrad Fire Equipment Inc. (the "2022B Pumper Lease"), which will have comparable terms to the 2022A Pumper Lease; Pierce and its consultants have advised that at present there is an approximately 25 month lead time between the payment of the purchase price and the delivery of the vehicles; and

WHEREAS, the payment of scheduled debt service payments on the 2022B Pumper Lease will be made by annual appropriation of monies from the Fire Sales Tax Fund over a successive nine (9) year period beginning in fiscal year 2022-2023; and

WHEREAS, PNC proposes that at the end of the 2015 Pumper Lease term (July 29, 2022), there will be a refinancing of the remaining 23 vehicles currently leased under the 2015 Pumper Lease that have not been purchased or turned in as a part of the 2022 Pumper Project, until such time as such currently leased vehicles are either purchased by the City or turned in as a part of the future purchase of new vehicles in the remaining two years of the three-year staggered replacement plan; and

WHEREAS, the refinancing proposal is that 2 vehicles will be refinanced for a lease term ending in May of 2023 (or such other number of vehicles and term end as may be approved by the Director of Finance), that 11 vehicles will be refinanced for a lease term ending in September of 2024 (or such other number of vehicles and term end as may be approved by the Director of Finance) and that 10 vehicles will be refinanced for a lease term ending in November of 2024 (or such other number of vehicles and term end as may be approved by the Director of Finance) (the "Refinancing Project"), each of such refinancings to be effected

pursuant to a Lease Purchase Agreement (Turn-In Lease for Pierce Equipment) and attachments thereto including a Four-Party Agreement between the City, Pierce, PNC and Conrad Fire Equipment Inc. (collectively, the “Refinancing Pumper Leases”), in a cumulative amount not to exceed \$4,620,170.00, which will have comparable terms to the 2022A Pumper Lease; and

WHEREAS, the Governing Body hereby finds and determines that the execution of the 2022B Pumper Lease in the principal amount not exceeding the amount stated above for the purpose of acquiring the fire fleet vehicles and equipment to be described in the 2022B Pumper Lease and the execution of the Refinancing Pumper Leases to carry out the Refinancing Project is appropriate and necessary to the functions and operations of the City; NOW THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Director of Finance is authorized to accept the proposal of PNC for financing the 2022B Pumper Project under the 2022B Pumper Lease and carrying out the Refinancing Project under the Refinancing Pumper Leases in substantially the form of the lease made available for inspection by the Council at the time this ordinance is passed, with such changes therein as shall be approved by the Director of Finance.

Section 2. That the Director of Finance is authorized to execute, deliver and file in the name of the City, the 2022B Pumper Lease relating to the 2022B Pumper Project and the Refinancing Pumper Leases relating to the Refinancing Project and any and all documents and agreements necessary to complete such transactions, including, without limitation and when appropriate, escrow trust agreements, lease schedules of property and certificates and other documents related to such 2022B Pumper Lease and Refinancing Pumper Leases.

Section 3. That the City will, and the officials and agents of the City, including but not limited to the Director of Finance and the Fire Chief, are hereby authorized and directed to, take such actions, expend such funds and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this ordinance and to carry out, comply with and perform the duties of the City with respect to the 2022B Pumper Project, the 2022B Pumper Lease, the Refinancing Project and the Refinancing Pumper Leases and the other documents authorized or approved hereby.

Section 4. That the aggregate principal amount of the 2022B Pumper Lease to be entered into for the 2022B Pumper Project shall not exceed \$13,740,170 and shall bear interest as set forth in the 2022B Pumper Lease and the 2022B Pumper Lease shall contain such options to purchase by the City as set forth therein. The Refinancing Pumper Leases shall bear interest and contain such options to purchase by the City as set forth therein.

Section 5. That the approval of subsequent leases for the purchase of additional replacement pumbers to be entered into following the initial purchase described herein and following the refinancing of the vehicles currently leased under the 2015 Pumper Lease, as applicable, shall be as set forth in subsequent ordinances of the City.

Section 6. That the City’s obligations under the 2022B Pumper Lease and the Refinancing Pumper Leases shall be subject to annual appropriation or renewal by the Governing Body as set forth therein and the City’s obligations under the 2022B Pumper Lease and the Refinancing Pumper Leases shall not constitute general obligations of the City or indebtedness under the Constitution or laws of the State.

Section 7. That the City approves Kutak Rock LLP to serve as Lease Counsel for the City in connection with the 2022B Pumper Lease and financing of the 2022B Pumper Project thereunder, and in connection with the Refinancing Project and Refinancing Pumper Leases.

Section 8. That the revenue in the following account of Fund No. 3230, the Equipment Lease Capital Acquisition Fund, is hereby estimated in the following amount:

AL-3230-120000-583000	Lease Proceeds	<u>\$13,740,170.00</u>
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Section 9. That the sum of \$13,740,170.00 is hereby appropriated from the Unappropriated Fund Balance of Fund No. 3230, the Equipment Lease Capital Acquisition Fund to the following account:

AL-3230-237701-E-23FLTPU22	Fire Fleet	\$ 9,100,000.00
AL-3230-129671-G	Defeasance of Lease	4,620,170.00
AL-3230-129620-G	Cost of Issuance	<u>20,000.00</u>
	TOTAL	\$13,740,170.00

Section 10. That the Chief of the Fire Department is hereby designated as requisitioning authority for Account Number AL-3230-237701-E-23FLTPU22 and the Director of Finance is hereby designated as the requisitioning authority for Account Numbers AL-3230-129671-G and AL-3230-129620-G.

Section 11. That the Director of Finance is hereby authorized to close accounts, open encumbrances and retainage related to the accounts in Section 9, and return the unspent portion to the Fund balance from which it came upon the earliest of: (i) completion of the project; (ii) final maturity of financing or (iii) five years after issuance.

Section 12. That the City hereby declares its official intent to reimburse itself for certain expenditures made within sixty (60) days prior to or on and after the date of this ordinance with respect to the 2022B Pumper Project with the proceeds expected to be drawn under the 2022B Pumper Lease. The maximum principal of lease proceeds amount for the 2022B Pumper Project and Refinancing Project expected to be financed under the 2022B Pumper Lease and Refinancing Pumper Leases is \$13,740,170. This constitutes a declaration of official intent under Treasury Regulation Section 1.150-2.

Section 13. That the Director of Finance is hereby authorized to modify the previously approved estimated revenues and appropriations in Section 8 and Section 9 previously as required to correctly record the budgetary amounts finalized through the 2022B Pumper Lease and the Refinancing Pumper Leases.

Section 14. That this Ordinance is recognized as an ordinance with an accelerated effective date as provided by Section 503(a)(3)(C) of the City Charter in that it appropriates money, and shall take effect in accordance with that section.

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Tammy L. Queen
Director of Finance

Approved as to form and legality:

Katherine Chandler
Senior Associate City Attorney