

REQUEST FOR PROPOSALS

**City of Rock Hill, South Carolina
Equipment Lease-Purchase Financing, 2016B**

Response Due: November 1, 2016
12:00 noon, South Carolina Time

NOT BANK QUALIFIED

The City of Rock Hill, South Carolina (the "City"), is requesting proposals from various banks and financial institutions for not exceeding \$4,300,000 tax-exempt lease-purchase financing to defray the costs of acquisition of certain equipment as described herein. The City invites interested parties to submit a proposal to finance the equipment by specifying a rate of interest and other conditions for such financing.

Mailed or Hand Delivered Bids: Each mailed or hand delivered proposal shall be enclosed in a sealed envelope marked "Proposal for 2016B Equipment Lease Purchase" and should be mailed or delivered to:

Anne Poag Harty, CGFO
Chief Financial Officer
City of Rock Hill, South Carolina
155 Johnston Street
Post Office Box 11706
Rock Hill, South Carolina 29731-1706

Facsimile Bids: The City will accept the facsimile transmission of proposals at the risk of the bidder. The City shall not be responsible for the confidentiality of proposals submitted by facsimile transmission. Any delay in receipt of a facsimile proposal, and any incompleteness or illegible portions of such proposal are the responsibility of the bidder. Proposals by facsimile should be transmitted to the attention of Anne Poag Harty, Chief Financial Officer: Fax No.: 803.329.8759.

E-Mail Bids: Electronic proposals may be e-mailed to the attention of Anne Poag Harty at e-mail address: anne.harty@cityofrockhill.com with copies to mburns@mcnair.net and bnorris@mcnair.net.

PROPOSALS MAY BE DELIVERED BY HAND, BY MAIL, BY E-MAIL OR BY FACSIMILE TRANSMISSION, BUT NO PROPOSAL SHALL BE CONSIDERED WHICH IS NOT ACTUALLY RECEIVED BY THE CITY AT THE PLACE, DATE AND TIME APPOINTED, AND THE CITY SHALL NOT BE RESPONSIBLE FOR ANY FAILURE, MISDIRECTION, DELAY OR ERROR RESULTING FROM THE SELECTION BY ANY BIDDER OF ANY PARTICULAR MEANS OF DELIVERY OF BIDS.

Please note that this request for proposals is also being sent to a number of other institutions as well and that the City reserves the right to select the proposal(s) determined to be the most advantageous to the City in its sole discretion. The selection process will be heavily weighted toward lowest financing costs; however, lowest financing cost is not the only factor that may be considered by the City. The City reserves the right to reject any or all bid proposals as well as negotiate with the lowest responsible bidder.

I. Terms and Conditions

- (a) Equipment. The equipment to be financed by the lease is described and designated as having a five, seven or ten year amortization period on Exhibit A attached hereto (respectively, “Five Year Equipment”, “Seven Year Equipment” and “Ten Year Equipment”).
- (b) Amount to be Financed: The amount to be financed will not exceed \$4,300,000. It is anticipated that the total amount to be financed will be \$4,260,000, which amount will be allocated as follows:

Five Year Equipment	\$2,199,200
Seven Year Equipment	715,200
Ten Year Equipment	1,345,600
<u>Total</u>	<u>\$4,260,000</u>

After the receipt of proposals, the City reserves the right, in its sole discretion, to adjust the principal amount of the lease attributable to Five Year Equipment, Seven Year Equipment and/or Ten Year Equipment by up to ten percent (10%); provided, however, that the aggregate principal amount of the lease financing shall not exceed \$4,300,000. A bid for less than the total principal amount of the lease will not be considered.

- (c) Interest. Bidders may submit a bid containing one single fixed rate of interest for the total principal amount of the lease of all equipment, or may submit a bid for the total principal amount of the lease containing different fixed rates of interest with respect to the principal amounts allocated to each of Five Year Equipment, Seven Year Equipment and Ten Year Equipment as described above. Bids containing variable rates of interest, or rates of interest which may adjust upon the occurrence of specified events, may be rejected by the City. Unless otherwise designated by a bidder interest on the lease will be calculated based on a 360-day year comprised of twelve 30-day months.
- (d) Principal and Interest Payment Schedule; Release of Equipment.
- (i) *Five Year Equipment*. With respect to the principal amount of the lease allocated to Five Year Equipment, the City will make five (5) approximately equal principal and interest payments to the lessor annually on February 1 of each year commencing February 1, 2017 to and including February 1, 2021, on which date all Five Year Equipment shall be released from the lien of the lease.
- (ii) *Seven Year Equipment*. With respect to Seven Year Equipment, the City will make seven (7) approximately equal principal and interest payments to the lessor annually on February 1 of each year commencing February 1, 2017 to and including February 1, 2023, on which date all Seven Year Equipment shall be released from the lien of the lease.
- (iii) *Ten Year Equipment*. With respect to Ten Year Equipment, the City will make ten (10) approximately equal principal and interest payments to the lessor annually on February 1 of each year commencing February 1, 2017

to and including February 1, 2026, on which date all Ten Year Equipment shall be released from the lien of the lease.

- (e) Guarantee of Interest Rate: The interest rates, costs and other terms of any bid submitted must be guaranteed from the date of your proposal to the closing date (expected to be November 17, 2016).
- (f) Form of Equipment Lease-Purchase Agreement: A bidder's proposed form of lease agreement ("Lease Agreement") should be provided to the City's Special Counsel identified herein within three (3) business days of the award of the successful proposal.
- (g) Non-appropriation: A non-appropriation provision acceptable to the City must be included in each Lease Agreement. Any and all amounts due including, but not limited to, scheduled lease payments, reimbursements, penalties or fees under each Lease Agreement or any Acquisition/Escrow Account (as defined below) must be subject to annual appropriation by the City.
- (h) Non-substitution: A non-substitution provision is not permitted to be included in any Lease Agreement.
- (i) Deficiency Judgment: No deficiency judgment can be assessed or imposed against the City, nor will the full faith, credit and taxing power of the City be pledged to the payment of any Lease Agreement.
- (j) Title: Title to the equipment will be in the name of the City subject to the bidder's rights under the Lease Agreement. Unencumbered title to the various items of Five Year Equipment, Seven Year Equipment and Ten Year Equipment must be provided to the City, and the bidder's lien on the equipment must be released, on the dates and in the manner more particularly described in item (d) above.
- (k) Acquisition Account: The City will require the successful bidder(s) to transfer by Federal funds the full amount of the financing on the date of the closing. If a bidder requires that an acquisition or escrow account (the "Acquisition/Escrow Account") be held by it or its designee, the bidder must so indicate on its proposal (including any fees required thereunder). Otherwise, the City retains the right to designate a bank to act as custodian of any Acquisition/Escrow Account established in connection with the leases. Interest earnings in the Acquisition/Escrow Accounts must accrue to the City. Payments therefrom may be made either to the City as reimbursement for prior expenditures or directly to the equipment vendor for payment of the equipment as directed by the City. Without limitation of the foregoing, funds on deposit in the Acquisition/Escrow Account must be made available upon request of the City for periodic partial payments to equipment vendors for the manufacture and/or assembly of equipment prior to delivery and acceptance of such equipment by the City. In such cases, funds will be paid to the City as reimbursement for prior expenditures, or directly to the equipment vendor, as directed by the City. All funds invested or deposited in the Acquisition/Escrow Account shall at all times be invested or deposited, as applicable, in a manner which satisfies the requirements of the laws of the State of South Carolina relating to investment or deposit of public funds, including, without limitation, Section 6-5-10 or Section 6-5-15 of the Code of Laws of South Carolina 1976, as amended,

as applicable.

(l) Costs of Issuance: All costs relating to the preparation of the Lease Agreement and fees of special counsel will be paid by the City. Any fees and costs of the bidder to be paid by the City must be stated in the response to this Request for Proposals. The Lease Agreement must allow the City to pay its legal fees and costs related to execution and delivery of such Lease Agreement out of the proceeds of the Lease Agreement.

(m) Insurance:

Mobile Equipment: The City purchases and maintains property coverage for the City's mobile equipment. The valuation of the adjustment of a loss is on actual cash value basis with a deductible which changes from time to time. The lessor may be listed as a loss payee.

Automobile Physical Damage: The City purchases and maintains automobile physical damage insurance for the City's automobiles. The valuation of the adjustment of a loss is on actual cash value basis with a deductible which changes from time to time. The lessor may be listed as a loss payee.

General Liability/Automobile Liability Insurance: The City purchases and maintains the automobile and general liability insurance. The City retains the first \$100,000 of each loss. Each year, the funds to pay the retention are funded in the City's budget. The lessor cannot be added as an additional insured.

(n) Closing: The City expects to close the transaction on or about November 17, 2016.

(o) Lease Agreement Not Designated as Qualified Tax-Exempt Obligation: The City will not designate the Lease Agreement as a "qualified tax-exempt obligation" for purposes of Section 265 of the Internal Revenue Code of 1986, as amended (the "Code"), relating to the ability of financial institutions to deduct from income for federal income tax purposes interest expense that is allocable to carrying and acquiring tax-exempt obligations.

(p) Prepayment: Unless otherwise specifically provided in a bidder's proposal and agreed to by the City, the Lease Agreement will be subject to prepayment at the option of the City in whole or in part at any time without any prepayment penalty.

II. Form of Proposal

(a) All proposals must be in writing. It is preferred that a bidder's proposal not be subject to further credit or underwriting approval.

(b) No proposal may be modified by a bidder after it has been submitted, except with the consent of the City.

(c) Proposals should include: the name, address, telephone number of your institution; the primary contact; and identity of legal counsel, if any.

(d) Proposals must be accompanied with a list of all requirements and conditions

associated with its bid.

- (e) It is requested that proposals include an amortization schedule showing annual payment amounts for the term of the financing.
- (f) Proposals must provide full disclosure of all financing costs, including any closing, legal, and tax opinion charges.
- (g) Any prepayment penalty or other fee requirements should be detailed in the proposals.

III. Evaluation of Proposals and Award. The Lease Agreement will be awarded to the bidder that provides the most advantageous proposal, as determined by the City in its sole and absolute discretion. After the proposals are received, they will be evaluated by the officials of the City based on various factors, including, but in no way limited to, the interest rate, prepayment penalties or limitations, additional credit or underwriting approval, additional covenants and terms, if any, and other conditions set forth therein. The City reserves the right to reject any and all bids or to waive irregularities in any proposal. The City expects to accept the successful proposals on or about November 1, 2016.

IV. Legal Opinion. The execution and delivery of the Lease Agreement is subject to the respective opinions of the McNair Law Firm, P.A., Special Counsel, and the City's attorneys, Spencer & Spencer, P.A.

V. Tax Exemption and Other Tax Matters. The Code, and the Treasury Regulations promulgated thereunder, include provisions that relate to tax exempt obligations, such as the Lease Agreement, including, among other things, permitted uses and investment of the proceeds of the Lease Agreement and the rebate of certain net arbitrage earnings from the investment of such proceeds to the United States Treasury. Noncompliance with these requirements may result in interest paid under the Lease Agreement becoming subject to federal income taxation retroactive to the date of issuance of the Lease Agreement. The City has covenanted to comply with the requirements of the Code to the extent required to maintain the exclusion of interest on the Lease Agreement from gross income for federal tax purposes. Failure of the City to comply with these covenants could cause the interest on the Lease Agreement to be taxable retroactively to its date of issuance.

The Code imposes an alternative minimum tax on a taxpayer's alternative minimum taxable income. Interest on the Lease Agreement is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals and corporations; however, such interest is taken into account in determining adjusted current earnings for purposes of computing the alternative minimum tax imposed on certain corporations.

The accrual or receipt of interest on the Lease Agreement may affect the federal income tax liability of the recipient. The extent of these other tax consequences will depend upon the recipient's particular tax status or other items of income or deduction. Prospective purchasers of the Lease Agreement should be aware that ownership of the Lease Agreement may result in collateral federal income tax consequences to certain taxpayers, including, without limitation, financial institutions, property and casualty insurance companies, individual recipients of Social Security or Railroad Retirement benefits, certain S corporations with "excess net passive income," foreign corporations subject to the branch profits tax, life insurance companies and taxpayers otherwise entitled to claim the earned income credit and taxpayers who may be deemed to have incurred or continued indebtedness to purchase or carry or have paid or incurred certain expenses allocable to the Lease Agreement. Special Counsel will not express any opinion as to such collateral tax consequences. Prospective purchasers of the Lease Agreement should consult their tax advisors as to collateral federal income tax

consequences.

Special Counsel has not undertaken to determine (or to inform any person) whether any action taken (or not taken) or event occurring (or not occurring) after the date of issuance of the Lease Agreement may affect the tax status of interest on the Lease Agreement. In rendering its opinion, Special Counsel will rely upon certificates and representations of the City with respect to certain material facts solely within the knowledge of the City relating to the application of the proceeds of the Lease Agreement.

VI. Investment Letter. The lessor(s) will be requested to execute a letter to the City in substantially the form submitted with this request for proposals.

VII. Additional Information. If you should have any questions regarding this request for proposals, you should contact:

Anne Poag Harty
Chief Financial Officer
City of Rock Hill
Phone: 803.329.8764
E-mail: anne.harty@cityofrockhill.com

Michael W. Burns, Esq.
McNair Law Firm, P.A.
Special Counsel
Phone: 864.271.4940
E-mail: mburns@mcnair.net

Melanie Brandon
Budget Analyst
City of Rock Hill
Phone: 803.326.3797
E-mail: melanie.brandon@cityofrockhill.com

Brandon T. Norris, Esq.
McNair Law Firm, P.A.
Special Counsel
Phone: 864.271.4940
E-mail: bnorris@mcnair.net

CITY OF ROCK HILL, SOUTH CAROLINA

Dated: October 12, 2016

Exhibit A

Equipment

Five (5) Year Amortization

Division Name	Equipment Description	Per Unit Estimated Cost	Number to Purchase	Estimated Total Cost
Police	Tahoe	\$50,644	7	\$354,508
PW - Residential	Automated Trucks	\$268,000	2	\$536,000
PW - Curbside	Grappler Truck	\$165,000	1	\$165,000
Water - Distribution	Trencher	\$35,000	1	\$35,000
Water - Distribution	Express Van	\$35,000	1	\$35,000
Water - Distribution	F550 Pickup	\$40,000	1	\$40,000
Ops Admin	Acadia SUV	\$42,000	1	\$42,000
Power & Communications	Excavator	\$34,000	1	\$34,000
Electrical Services	Back Yard Digger	\$145,000	1	\$145,000
Electrical Services	Pick-up Truck	\$36,000	1	\$36,000
Stormwater	Sweeper Truck	\$270,000	1	\$270,000
Stormwater	Jeep Liberty	\$32,000	1	\$32,000
Stormwater	Excavator	\$43,000	1	\$43,000
Police	Camera Equipment	\$400,000	1	\$400,000
Total			22	\$2,167,508

Seven (7) Year Amortization

Division Name	Equipment Description	Per Unit Estimated Cost	Number to Purchase	Estimated Total Cost
PW - Recycling	Automated Trucks	\$245,000	1	\$245,000
PW - Curbside	Leaf Truck	\$165,000	1	\$165,000
Electrical Services	Bucket Truck	\$140,000	1	\$140,000
Stormwater	Excavator	\$155,000	1	\$155,000
Total			4	\$705,000

Ten (10) Year Amortization

Division Name	Equipment Description	Per Unit Estimated Cost	Number to Purchase	Estimated Total Cost
Fire	Fire Pumper	\$650,000	1	\$650,000
PW - Construction	Excavator	\$201,600	1	\$201,600
PW - Curbside	Automated Truck	\$165,000	1	\$165,000
Water - Distribution	Dump Truck	\$125,000	1	\$125,000
Electrical Services	Digger Truck w/Bucket	\$185,000	1	\$185,000
Total			5	\$1,326,600