

ORDINANCE 2008-27

ORDINANCE AUTHORIZING THE EXECUTION OR ACKNOWLEDGMENT AND DELIVERY OF CERTAIN AGREEMENTS IN CONNECTION WITH THE SOMERSET COUNTY IMPROVEMENT AUTHORITY'S SOMERSET MUNICIPAL BANC PROGRAM

WHEREAS, under the Somerset Municipal Banc Program (as defined herein), various municipalities, an educational services commission and school districts within the County of Somerset (the "County") and the County (each a "Participant") submit a request (the "Application") to the Somerset County Improvement Authority (the "Authority") to borrow funds from the Authority (the "Somerset Municipal Banc Program") to finance the lease purchase of certain capital equipment and, if applicable, other personal property, as described in Schedule A attached hereto (the "Equipment"; the financing of the Equipment under the Somerset Municipal Banc Program may be referred to herein as the "Project");

WHEREAS, under the Somerset Municipal Banc Program, the Authority intends to enter into the hereinafter defined Authority Lease with Commerce Commercial Leasing, LLC (the "Lessor");

WHEREAS, under the Somerset Municipal Banc Program, the Lessor intends to provide funds to acquire the Equipment over time, and immediately lease the Equipment to the Authority, all pursuant to the terms of that certain "Master Lease Purchase Agreement" to be entered into by and between the Lessor, as lessor, and the Authority, as lessee (together with any amendments thereof or supplements thereto in accordance with the terms thereof, the "Authority Lease");

WHEREAS, under the Authority Lease, the Authority shall make rental payments that are subject to annual appropriation of the Authority solely from amounts received by the Participant under the hereinafter defined Participant Lease;

WHEREAS, simultaneously with the Authority Lease, the Authority will sublease the Equipment to the Participant pursuant to the terms of that certain "Sublease Purchase Agreement" to be entered into by and between the Authority, as sublessor, and the Participant, as sublessee (together with any amendments thereof or supplements thereto in accordance with the terms thereof, the "Participant Lease"), under which Participant Lease the Participant will make rental payments that are subject

to annual appropriation of said Participant in an amount sufficient to pay the corresponding rental payments applicable to the Equipment, and as appropriated by the Authority under the Authority Lease, plus all administrative expenses of the Somerset Municipal Banc Program;

WHEREAS, pursuant to the county improvement authorities law, constituting Chapter 183 of the Pamphlet Laws of 1960 of the State, and the acts amendatory thereof and supplemental thereto, specifically Section 37 thereof (N.J.S.A. 40:37A-79), the County may for the purpose of aiding the Authority in the planning, undertaking, acquisition, construction or operation of a public facility, guaranty the punctual payment of moneys for the purposes of the Authority (the “County Guaranty”); and

WHEREAS, in order to implement the County Guaranty, and in accordance with the terms of that certain agreement entitled Guaranty Agreement between the County and the Authority (the “County Agreement”), the County intends to appropriate moneys to the Authority to the extent the lease payments made by the Authority to the Lessor are not sufficient;

WHEREAS, the Township of Hillsborough in the County of Somerset, New Jersey (the “Township”) is desirous or participating in the Somerset Municipal Banc Program for the acquisition of the Equipment.

NOW THEREFORE BE IT ORDAINED BY THE TOWNSHIP COMMITTEE OF THE TOWNSHIP OF HILLSBOROUGH, IN THE COUNTY OF SOMERSET, NEW JERSEY (not less than two-thirds of all members thereof affirmatively concurring) AS FOLLOWS:

Section 1. That the financing of the Equipment through the Project is hereby approved.

Section 2. That the Participant Lease, in the form presented to this meeting, be and the same is hereby approved, and the Mayor, Chief Financial Officer or Business Administrator of the Township (each, an “Authorized Participant Representative”) is hereby authorized to, and one of such officers shall execute the Participant Lease, with such additions, deletions or modifications as such officer shall approve, and to deliver the same to the addresses designated on such Participant Lease, such approval to be conclusively evidenced by the execution and delivery thereof.

Section 3. That any Authorized Participant Representative is hereby authorized and directed to execute and deliver any and all documents and instruments and to do and cause to be done any and all acts and things necessary or proper for the execution and delivery of the Participant Lease (collectively with the Participant Lease, the “Financing Documents”) and for carrying out the sale, issuance and delivery of the lease obligations, and all related transactions contemplated by this resolution.

Section 4. The Clerk of the governing body of the Township is hereby authorized and directed, upon the execution or acknowledgment of the Financing

Documents in accordance with the terms of Section 3 hereof, to attest to the Authorized Officer's execution or acknowledgment of such documents and is hereby further authorized and directed, when required by the Authority, to thereupon affix the seal of Township to such documents.

Section 5. This Ordinance constitutes a declaration of official intent under Treasury Regulation Section 1.150-2. The Township reasonably expects to pay expenditures with respect to the Equipment prior to the date that Township incurs obligations under the Participant Lease. The Township reasonably expects to reimburse such expenditures with the proceeds of obligations to be incurred by the Township under the Participant Lease. The maximum principal amount of obligations expected to be issued for payment of the costs of the Equipment is \$693,000.00.

Section 6. This ordinance shall take effect at the time and in the manner prescribed by law.

Section 7. A public hearing shall be held on this ordinance on August 26, 2008 at 7:30 pm. in the Municipal Court , located in the Township of Hillsborough.

Section 8. The Clerk of the governing body of the Township is hereby directed to publish and post notice of this ordinance as required by law.

Section 9. Upon the adoption hereof, the Clerk of the Township shall forward certified copies of this ordinance to the Authorized Officer, and John D. Draikiwicz, Bond Counsel to the Authority.

ATTEST:

TOWNSHIP OF HILLSBOROUGH:

Kevin P. Davis, Township Clerk

Anthony Ferrera, Mayor

Introduced: 7/22/08

Published: 7/31/08

Public Hearing: 8/26/08

Adopted:

Published:

SCHEDULE A

Vehicle

Heavy Duty Tandem Axle Emergency Rescue Vehicle, 62,800 GVW

Equipment

<u>ITEM DESCRIPTION</u>	<u>QTY</u>
<u>AIRBAGS (high pressure)</u>	
PARATECH - 10 Bag - "GOTHAM CITY" HIGH PRESSURE AIR BAG KIT	1
PARATECH Master Control Package (Contains 5 Air Hoses)	1
<u>AIR CUSHION (low pressure)</u>	
PARATECH 48" 26T Low Pressure AirCushion Kit (Contains 3 1" hoses / controller)	1
<u>STRUTS</u>	
PARATECH HYWAY VEHICLE STABILIZATION KIT	2
<u>STRUTS (Heavy Truck)</u>	
INTERSTATE / MOTORWAY STABILIZATION KIT	1
<u>CUTTING TOOLS</u>	
PETROGEN Oxy-Gasoline Torch Set	1
STIHL Gasoline Chain Saw 20" bar	1
PARTNER Gasoline Concrete Chain Saw (kit)	1
<u>LIGHTING / ELECTRICAL</u>	
FIRE RESEARCH 1000w 120v - 60" closed FOCUS Tripod Lights	2
FIRE RESEARCH 500w 120v - FOCUS Mini Tripod Light	2
AKRON Portable Cord Reel w/100' 12/3 Yellow (portable)	4
HONDA 2000ui Gasoline Generator	2
<u>HYDRAULIC TOOLS</u>	
HURST 230V Trimo Pump	2
HURST 230V Single with A/B Switch	1
HURST DEFENDER - lightweight 28" spreader	1
HURST TRANSFORMER - up to 40" spreader	1
HURST MOC UltraC - High Power / Lightweight Combination Tool	1
HURST JL-MOC-Ultra Cutter	1
HURST JL-MOC Cutter - Parrot Blade	1
HURST TL-59 - 60" Tele Ram	2
HURST JL-20C - 20" Ram	1
HURST JL-30C - 30" Ram	1
HURST JL-60C - 60" Ram	1
HURST MINI-LITE Mini Cutter C-Cutter	1
HURST Ram Extension Kit	1
HURST Ram Accessory Kit	1
HURST HP Combo Tool (Manual Pump Combination Tool)	1