

# MEMO

Date: July 24, 2020

To: Matthew Strugis, Town Manager

From: John Quartararo, Finance Director



Re: Award of Lease-Purchase borrowing to TD Equipment Finance

The Town circulated a request for proposals for a lease-purchase borrowing for \$1,035,100 in CIP projects approved in the FY 2021 budget.

Two of the three potential bidders declined to participate unless the Town withdrew financing for the turf field.

The third potential bidder, TD Equipment Finance, included financing for the turf field without any additional conditions at a rate of 1.296%.

I am asking that award of this bid be included on the August 10, 2020 Council agenda.

Suggested language for the vote is:

*Ordered that the Town award the bid for \$1,035,100 lease-purchase contract to TD Equipment Finance, Inc. at a rate of 1.296%.*

Bond counsel, Jim Saffian, Esq., Pierce Atwood will provide an order authorizing lease-purchase borrowing as a separate agenda item.

TD Equipment Finance's Financing Bid dated July 23, 2020 is included.

Enc:



THIS PROPOSAL IS CONFIDENTIAL AND ONLY INTENDED FOR THE RECIPIENT TO WHICH IT IS ADDRESSED

John Ingham  
One Portland Square  
Portland, Maine 04110  
Phone: 207 761 8734  
Fax: 207 761 8660  
Email: John.Ingham@td.com

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## Financing Bid

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**For:**

Town of Cape Elizabeth  
320 Ocean House Road  
Cape Elizabeth, Maine 04107

Mr. John Quartararo

July 23, 2020

Finance Director

Town of Cape Elizabeth

320 Ocean House Road

Cape Elizabeth, Maine 04107

Proposal for 2021 Municipal Equipment Lease

Dear John

Thank you for this opportunity to bid on your request for a Municipal Lease Purchase ("Lease") in the amount of \$1,035,000. TD Equipment Finance, Inc. is pleased to offer the following Lease Proposal, which is subject to the following terms and conditions:

1. **Lessor** TD Equipment Finance, Inc., its successors and assigns
2. **Lessee** Town of Cape Elizabeth
  
3. **Equipment Description** A combination of four capital expenditure projects –  
  
Replacement of a turf surface at Hannaford Field - \$325,100  
PWD tool carrier - \$180,000  
Police radios - \$166,000  
A communications Tower - \$665,1000  
  
Details are attached as Exhibit A (the Town RFP dated 6/16/2020)
  
4. **Maximum Purchase Price** Approximately \$1,035,000

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5. **Term**
- **Commencement Date:** The Lease shall commence upon Lessee's acceptance of the Equipment, but in no event later than September 30, 2020.
  - **Lease Term:** Five (5) years
  - **Payment Amount:** See amortization scheduled attached hereto and made a part hereof
6. **Payment**
- **Payments Due:** annually in advance
  - **Prepayment:** The Lease may be prepaid at any time. If a prepayment shall occur, and if applicable, Lessee will agree to pay a premium to be calculated as the Greater of 1% or Yield Maintenance.
7. **Tax-exempt Interest Rate** 1.296%
8. **Index** The Tax-Exempt rate quoted above is fixed and will be held until September 30, 2020. If the Closing Date does not occur by September 30, 2020, the final rate will be adjusted to reflect any change in the Lessor's Cost of Funds. Thereafter the rate and payments will be fixed for the term of the Lease.
9. **Purchase Option** Lessee will purchase all, but not less than all, of the Equipment for \$1.00
10. **Structure** This Lease shall be a Lease intended as a secured transaction, to the extent allowable by law. Titles, if any, shall list Lessee as owner and Lessor as lienholder. The Lease shall be subject to, and contain a non-appropriation clause; and, the Lessor will require bona fide best efforts by Lessee to include all payments under this master "Lease" purchase in all its budget requests during each Lease term in accordance with the terms of the Lease.
11. **Municipal Lease Purchase** This Lease shall be considered a "Municipal Lease Purchase" by all parties. The Lessee will represent and warrant that it is a state or a political sub-division thereof, within the meaning of Section 103(c) of the Internal Revenue Code of 1986, as amended (the "Code") and that the Lease will constitute a Tax Exempt Obligation of the Lessee as described in Section 103(a) of the Code.
12. **Tax Status** This agreement is a qualified tax exempt obligation under Section 265 (b) (3) of the Internal Revenue Code of 1986. The interest portion of the payments under this Lease will not be includable in the gross income of the Lessor for federal income taxation purposes. The Lessee will supply at closing a tax opinion from qualified bond counsel.
13. **Legal Opinion** This transaction is subject to a legal opinion which must include a statement that the Lease represents a valid and binding obligation of the Lessee.

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14. **Costs & Expenses** A \$250 document fee will be payable by Lessee at funding .
15. **Insurance** Lessee shall bear all risk of loss, damage and liability to the Equipment and Lessee shall be responsible to keep the Equipment insured or self-insured in an amount and in a form acceptable to Lessor.
16. **Warranties** Lessor shall Lease the Equipment to Lessee without representation or warranty on an "AS IS BASIS". However, Lessor shall assign to Lessee all warranties, guarantees and services provided by the manufacturer(s) and/or vendor(s) to the extent that they can be assigned. LESSOR SHALL NOT BE RESPONSIBLE FOR PROVIDING ANY OF THE FOREGOING.
17. **Lease Documents** All legal matters, and all documents to be executed in connection herewith, shall be in satisfactory form and substance to Lessor, or Lessor's counsel, as may be the case, in its sole discretion. Lessor shall verify the Equipment specifications including, but not limited to, model number, number of units, installation costs, year of manufacturing and maintenance contracts; and approve the final Equipment configuration, and acceptance of the financing.
18. **Lessor's Proposal/Financial Information** This Lease Proposal is subject to final credit review, and not, nor should it be construed as, a commitment by Lessor or any affiliate to enter into the proposed Lease transaction. In order to complete its credit due diligence, Lessee shall provide Lessor with the following:
- Three years most current audited annual financial statements, and shall be furnished annually thereafter, if not otherwise published on the Lessee's website
  - Copy of meeting minutes
  - Copy of budget
  - Statement of essential use
  - Other supporting data as may be requested
19. **Authorization** Lessee acknowledges and agrees that Lessor may furnish all Lessee-presented information, financials, analysis, and related credit and review materials to its employees, counsel and agents, as well as its participants and/or assigns. Lessee authorizes Lessor to contact TD Bank, N.A. and other references of Lessee, and to order any and all credit checks and investigative reports, all as Lessor deems necessary in connection with the evaluation of the transaction.

20. **General** The Lease will be a "Triple Net Lease" in which the Lessee will be responsible for all expenses relating to the Equipment including, but not limited to, Equipment maintenance, insurance coverage, and all taxes (e.g. sales, use and personal property).  
The Lessee will carry any and all insurance coverage required by Lessor in accordance with the Lease.
- TD Equipment Finance, Inc. complies with Section 326 of the USA Patriot Act. This Act mandates that we verify certain information about the Lessee while processing any Lease request.
21. **Expiration** This Lease Proposal shall expire, if not accepted by a qualified official by 5:00 pm, on July 25, 2020.

Thank you for this opportunity to present our Lease Proposal to you. If these proposed terms are acceptable to you, please sign and return it with the requested credit information. Upon receipt, we will conduct a formal credit review and seek approval for the Lease Proposal described herein. Please feel free to address any questions or comments with me. My contact information follows for your convenience.

Sincerely,

**John Ingham (signature 7/23/20)**

John Ingham  
Regional Manager  
TD Equipment Finance, Inc.  
One Portland Square  
Portland, Maine 04101

-Payment amortization schedule

date	funding	Amortization payment	interest	Rate 1.296% principal	balance
Sep-30-20	\$ 1,035,000.00				\$ 1,035,000.00
Sep-30-20		\$ 212,364.99	\$ -	\$ 212,364.99	\$ 822,635.01
Sep-30-21		\$ 212,364.99	\$ 10,661.35	\$ 201,703.64	\$ 620,931.36
Sep-30-22		\$ 212,364.99	\$ 8,047.27	\$ 204,317.72	\$ 416,613.64
Sep-30-23		\$ 212,364.99	\$ 5,399.31	\$ 206,965.68	\$ 209,647.96
Sep-30-24		\$ 212,364.99	\$ 2,717.04	\$ 209,647.96	\$ (0.00)
		\$ 1,061,824.97	\$ 26,824.97	\$ 1,035,000.00	

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Exhibit A – Lease/purchase quotes request - Town of Cape Elizabeth

The Town of Cape Elizabeth is soliciting rate quotes for lease purchasing financing of four capital improvement projects approved in the FY 2021 budget.

There are two construction projects - replacing the turf surface at Hannaford Field and construction of a communications tower..

There is a purchase of a vehicle - Tool Carrier

There is the purchase of 22 radios for the Police Department - 16 for officers and 6 to be installed in vehicles.

1. Hannaford Field - the Town had the turf surface tested and it is in need of replacement. The expected cost is \$600,000 of which \$325,100 would be financed. The preliminary work is completed and the construction will begin the week of July 6th. The project will wrap up by August 14th. Pending completion of the lease/purchase agreement and distribution of proceeds, the Town will upfront the payments and be reimbursed after the fact. This project is being overseen by the Public Works.

2. Tool Carrier replacement - the Public Works Department is replacing its tool carrier and is working with an expected cost of \$180,000. Bid specifications have been written and issued and responses are due to be opened on July 9th. The Public Works Director expects the carrier to be delivered in October or November.

3. Police Radios - the Police Department is purchasing 22 radios with an expected cost of \$166,000 and will finance \$160,000 of that amount. We anticipate receipt of the radios in August and pending completion of the lease/purchase agreement and distribution of proceeds, the Town will upfront the payments and be reimbursed after the fact. The Police Chief is overseeing this purchase.

The total financing amount for these three projects is \$665,100 and we would consider separating these projects from the communications tower, which follows.

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4. Communications Tower - the Town is looking at the construction of a communications tower for the Police, Fire and Public Works departments. The expected cost is \$370,000. The project is being overseen by the Fire Chief and I am short on information, therefore this project may have to be treated as a stand-alone financing. As I receive information I will pass it along, and although we would like a quote, we do not expect that you have sufficient information to submit a quote at this time.

As noted above, the Town would consider separating the communication tower project from the other three and treating it as a stand-alone financing. Our preference, though, would be to have a single transaction with the proceeds held aside pending disbursement.

As missing information becomes available it will be passed along.

Please submit a bidder for a 5-year lease term with the first year paid in advance by noon, local time, Thursday July 23, 2020. I expect the approval to go before the Town Council at its regularly scheduled meeting August 10, 2020. The response must clearly identify the bidder, any terms and conditions to the bid, the expected closing date and the amortization schedule.

Any inquiries from potential bidders and responses will be shared with all potential bidders.

Thank you for your interest in servicing the financing needs of the Town of Cape Elizabeth

John Quartararo  
Finance Director  
Town of Cape Elizabeth

207-767-2273 ext. 259