

The Town of Upper Marlboro

RESOLUTION: 2021-24
SESSION: Regular Town Meeting
DATE: October 12th, 2021

A RESOLUTION OF THE BOARD OF COMMISSIONERS FOR THE TOWN OF UPPER MARLBORO TO AUTHORIZE THE ENTRY INTO A LEASE PURCHASE-AGREEMENT WITH TAX-EXEMPT LEASING CORP. AND OTHER RELATED DOCUMENTS FOR THE PROCUREMENT, ACQUISITION, AND OUTFITTING OF TWO FORD EXPLORER POLICE VEHICLES AND EQUIPMENT, AND TO WAIVE THE REQUIREMENTS FOR COMPETITIVE SEALED BIDDING

WHEREAS, on or about September 10, 2019, the Board of Commissioners approved Resolution 2019-10 thereby authorizing entering into a Master Lease Purchase Agreement with Tax-Exempt Leasing Corp. for the procurement of three (3) police vehicles at a cost of \$119,000 spread over four Town fiscal years with bi-annual payments of \$16,162.54; and

WHEREAS, on October 8, 2019, the Board approved Lessee Resolution (Unnumbered) thereby authorizing entering into a Master Lease Purchase Agreement (and Schedule No. 1) dated October 4, 2019, with Tax-Exempt Leasing Corp. for the procurement of two Ford utility police interceptors with equipment and a Chevrolet Tahoe with equipment at a cost of \$130,099.60 to be paid over a term of 4-years at a rate of 4.49%; and

WHEREAS, on or about August 10, 2021, the Board of Commissioners approved Resolution 2021-19 thereby authorizing entering into a Master Lease Purchase Agreement with Tax-Exempt Leasing Corp. for the procurement of a Ford F-750 public works vehicle at a cost of \$135,000.00 to be paid over a term of 3-years at a rate of 3.32% as indicated on a quote dated August 10, 2021; and

WHEREAS, the Board of Town Commissioners has received a quote dated September 24, 2021, from Tax-Exempt Leasing Corp. to finance the leasing of two (2) police vehicles at a cost of \$130,000.00 to be paid over a term of 3-years at a rate of 3.36% as well as alternative payment schedules for 4 and 5-year periods, attached hereto and incorporated herein by referenced as Exhibit A; and

WHEREAS, pursuant to Section 82–81 (Acquisition, Possession, and Disposal [of Property]) of the Charter of the Town of Upper Marlboro, the Town may acquire real, personal, or mixed property within or without the corporate limits of the Town for any public purpose by purchase, gift, bequest, devise, lease, condemnation, or otherwise and may sell, lease, convey, or otherwise dispose of or encumber any property belonging to the Town; and

WHEREAS, pursuant to Section 82–44 (Over–Expenditure Forbidden) of said Charter, no officer or employee shall during any budget year expend or contract to expend any money or incur any liability or enter into any contract which by its terms involves the expenditure of money, for any purpose, in excess of the amounts appropriated for or transferred to that general classification of expenditure pursuant to this Charter, and that any contract, verbal or written, made in violation of the Charter shall be null and void, but that nothing in said section contained, however, shall prevent the making of contracts or the spending of money for capital improvements to be financed in whole or in part by the issuance of bonds, nor the making

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of contracts of lease, or for services for a period exceeding the budget year in which such contract is made when such contract is permitted by law; and

WHEREAS, the Board of Town Commissioners finds that tax-exempt leasing (sometimes referred to as "financing," "lease financing" or "lease purchase") is a financing tool that allows tax-exempt entities to acquire essential use equipment now and pay over time; and that under a tax-exempt lease, title to the equipment passes to the Town at lease signing and the Town owns the equipment at the end of the term with no liens attached, and that there is no residual at the end nor any end-of-lease buyout, and that because the Lessee is tax-exempt, the Lessor is not required to pay federal income taxes on the interest generated by the lease, thus lower financing rates are available; and

WHEREAS, the Board of Town Commissioners desires to ratify the Master Lease-Purchase Agreement (the "Agreement"), attached hereto and adopted by reference herein as Exhibit B, by and between Tax-Exempt Leasing Corp and the Town for the purpose of funding the procurement of two 2022 Ford Explores, their outfitting, two Panasonic 33 Toughbook laptops, and two Motorola in-car radios, and the Town desires to designate this Agreement as a "qualified tax exempt obligation" of the Town for the purposes of Section 265 (b)(3) of the Internal Revenue Code of 1986, as amended; and

WHEREAS, the Board of Town Commissioners under the heading "Public Safety" in the FY 2022 Condensed Budget has appropriated \$25,000 in FY '22 as Line Item 9004 (Capital Outlay – Vehicles); and

WHEREAS, pursuant to Section 82–56 (Purchasing and Contracts) of said Charter, all expenditures for contracts and purchases with an anticipated cost of more than ten thousand dollars (\$10,000) shall be subject to competitive sealed bidding unless the Board, by unanimous vote of the full Board, finds another method of procurement to be more advantageous; and

WHEREAS, the Board finds that according to Town Ordinance 2011-02, Section 6(a), that Tax-Exempt Leasing Corp. is a unique equipment finance company that provides innovative financing solutions to tax-exempt entities and municipalities nationwide and that this contract may be awarded without competition as the Board of Commissioners has determined and recorded in the minutes of a public meeting, after conducting a good faith review of available sources, that there is only one (1) reasonable source available for the required supply, service or construction item, and that the Town has an existing financial relationship with said vendor.

NOW THEREFORE, BE IT RESOLVED by the Board of Commissioners of the Town of Upper Marlboro that the Town is hereby authorized to ratify the Master Agreement (Exhibit B) and enter into an individual lease for the equipment described in the applicable Equipment Schedule (i.e., two police patrol vehicles with equipment, as further described above), and a quote dated October 7th, 2021 (Exhibit A), according to the terms of the Master Lease Purchase Agreement with Tax-Exempt Leasing Corp. dated October 4, 2019, as amended; which were awarded without competition in accordance with Section 6(a) of Ordinance 2011-02, and approved in accordance with the terms and conditions stated therein; and

BE IT FURTHER RESOLVED, that this Resolution shall take effect immediately upon passage and that the President/Mayor is authorized to execute the subject Lease-Purchase Agreement not to exceed \$130,000 to be paid back over eight (8) bi-annual payments during commencing six (6) months after signing at an interest rate of 3.23% with the above-referenced Tax-Exempt Leasing Corp. and any amended Master


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Lease Purchase Agreement, related addenda, resolutions, schedules, exhibits, escrow agreement, or certificates thereto pertaining.

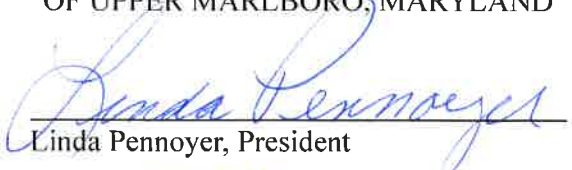
PASSED by the Board of Commissioners of the Town of Upper Marlboro, Maryland at a regular public meeting on this 12th day of October, 2021.

ATTEST:

BOARD OF COMMISSIONERS OF THE TOWN OF UPPER MARLBORO, MARYLAND



John Hoatson, Clerk



Linda Pennoyer, President



Sarah Franklin, Commissioner

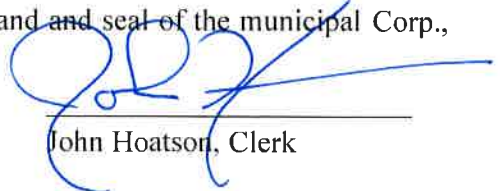


Janice Duckett, Commissioner



CERTIFICATION

I, the undersigned, hereby certify that I am the Town Clerk of the Town of Upper Marlboro and that the Board of Town Commissioners of the Town of Upper Marlboro at a public meeting at which a quorum was present adopted this Resolution, and that said Resolution is in full force and effect and has not been amended or repealed. In witness whereof, I have hereunto set my hand and seal of the municipal Corp., this 12th day of October, 2021.



John Hoatson, Clerk