

ORDINANCE NO. 2018-49

ORDINANCE PROVIDING FOR THE LEASE PURCHASE
FINANCING AND ACQUISITION OF TRASH TOTERS FOR
AND BY THE CITY OF VINELAND, IN THE COUNTY OF
CUMBERLAND, NEW JERSEY.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND, NEW JERSEY (not less than two-thirds of the full membership thereof affirmatively concurring) AS FOLLOWS:

Section 1. The City Council of the City of Vineland, in the County of Cumberland, New Jersey (the "City") hereby authorizes the lease purchase financing and acquisition of trash toters for the City from TD Equipment Finance Inc., pursuant to N.J.S.A. 40A:11-15(7) and N.J.S.A. 40A:12-5 for a total principal cost of not to exceed \$2,000,000. The procurement of the trash toters is available pursuant to a request for bids to provide tax-exempt equipment financing issued by the Cumberland County Improvement Authority's Equipment Finance Program. The rental payments will be paid over five years at an interest rate per annum to be approved by the Chief Financial Officer of the City through a procurement process authorized herein and in accordance with law. The Chief Financial Officer of the City is authorized to take financing bids or proposals or procure financing by other lawful means, including through a national purchasing cooperative, as she deems most cost effective for the City.

Section 2. The Mayor and/or the Chief Financial Officer are hereby authorized to negotiate, execute and deliver, subject to the review of Bond Counsel, a lease purchase agreement (the "Lease") in accordance with the terms set forth in this ordinance, an agent or an escrow agreement, an assignment agreement, if necessary, and such other documents as may be necessary to consummate the transaction. The City Council authorizes the Chief Financial Officer to

establish an escrow account for the deposit of the lease proceeds and to direct the deposit and investment of the lease proceeds in the escrow for the term of the Lease in accordance with the requirements of law. The City Council hereby authorizes and directs the Mayor or the Chief Financial Officer to execute the Lease and such other documents as may be required to consummate the transaction in forms approved by Bond Counsel, such approval to be evidenced by the execution of the Lease or such other documents by the Mayor or the Chief Financial Officer. The Clerk is authorized to attest to such documents under the seal of the City. The Mayor and/or the Chief Financial Officer are also authorized and directed to take on behalf of the City such other actions as shall be necessary and appropriate to accomplish the lease purchase financing of the trash toters in accordance with the terms of the Lease and this ordinance and pursuant to the terms of the agreements and instruments authorized to be prepared hereby and to accomplish the performance of the obligations of the City in respect thereto.

Section 3. The payment of rent or other monies due under the Lease shall be made from operating funds, subject to the availability of funds and appropriation annually of sufficient funds as may be required to meet the obligations of the Lease, and the Lease shall contain a clause making it subject to such appropriation or shall contain an annual cancellation clause. Neither the City nor any agency, department or political subdivision thereof shall be obligated to pay any sum to the purchaser or lessor under the Lease from any taxing source for the payment of any sums due under the Lease unless an appropriation is made in a duly approved budget of the City. The obligations of the City shall not constitute indebtedness of the City or of any department, agency or political subdivision thereof. The Lease shall set forth the term of the Lease, the rental payments to be paid by the City in respect thereof, and the dates on which such rental payments shall be due and payable.

Section 4. The City Council hereby covenants that it will comply with any conditions subsequent imposed by the Internal Revenue Code of 1986, as amended (the “Code”), in order to preserve the exemption from taxation of the interest portion of rental payments due on the Lease, including the requirement to rebate all net investment earnings on the gross proceeds above the yield on the Lease, if applicable.

Section 5. The City Council hereby declares its intent to issue the Lease in the expected maximum principal amount of the Lease set forth herein and to use the proceeds of the Lease to pay or reimburse expenditures for the costs of the purpose for which the Lease is authorized herein. This resolution is a declaration of intent within the meaning and for the purposes of Treasury Regulations Section 1.150-2 or any successor provisions of federal income tax law.

Section 6. This ordinance shall take effect 20 days following final publication after final adoption and otherwise as provided by law.

Re: CITY OF VINELAND LEASE ORDINANCE

41 Certified copy of the minutes of the meeting of the City Council held on ___/___/___ showing introduction of the ordinance.

42 Affidavit of Publication in local newspaper following introduction of the ordinance.

43 Certified copy of the minutes of the meeting of the City Council held on ___/___/___ showing public hearing and final adoption of the ordinance.

44 Affidavit of Publication in local newspaper following final adoption of the ordinance.

45 Clerk's Certificate executed no sooner than 21 days following final publication of the ordinance.

BELOW FOR McMANIMON, SCOTLAND & BAUMANN, LLC USE ONLY

Posted: ___/___/___ Useful Life: n/a

Reviewed By: _____

Mayor's Approval: ___/___/___

Amends/Amended By: Ord. # _____ F/A: ___/___/___

Amendment: _____

Supplements/Supplemented By: Ord. # _____ F/A: ___/___/___

Original Appropriation/Authorization: \$ _____/\$ _____

EXTRACT from the minutes of a _____ meeting of the City Council of the City of Vineland, in the County of Cumberland, New Jersey held at the _____ in the City on _____, 2018 at _____ o'clock _____.m.

PRESENT:

ABSENT:

[Attach appropriate minutes hereto]

CERTIFICATE

I, Keith Petrosky, Clerk of the City of Vineland, in the County of Cumberland, State of New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the governing body of the City duly called and held on _____, 2018 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this _____ day of _____, 2018.

Keith Petrosky, Clerk

(SEAL)

EXTRACT from the minutes of a _____ meeting of the City Council of the City of Vineland, in the County of Cumberland, New Jersey held at the _____ in the City on _____, 2018 at _____ o'clock ____m.

PRESENT:

ABSENT:

[Attach appropriate minutes hereto]

CERTIFICATE

I, Keith Petrosky, Clerk of the City of Vineland, in the County of Cumberland, State of New Jersey, HEREBY CERTIFY that the foregoing annexed extract from the minutes of a meeting of the governing body of the City duly called and held on _____, 2018 has been compared by me with the original minutes as officially recorded in my office in the Minute Book of the governing body and is a true, complete and correct copy thereof and of the whole of the original minutes so far as they relate to the subject matters referred to in the extract.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this _____ day of _____, 2018.

Keith Petrosky, Clerk

(SEAL)

CLERK'S CERTIFICATE

I, Keith Petrosky, Clerk of the City of Vineland, in the County of Cumberland, State of New Jersey, HEREBY CERTIFY as follows:

1. I am the duly appointed Clerk of the City of Vineland, in the County of Cumberland, State of New Jersey (herein called the "City"). In this capacity, I have the responsibility to maintain the minutes of the meetings of the governing body of the City and the records relative to all ordinances and resolutions of the City. The representations made herein are based upon the records of the City.

2. Attached hereto is a true and complete copy of an ordinance passed by the governing body of the City on first reading on _____, 2018 and finally adopted by the governing body on _____, 2018 and, where necessary, approved by the Mayor on _____, 2018.

3. On _____, 2018, a copy of the ordinance and a notice that copies of the ordinance would be made available to the members of the general public of the municipality who requested copies, up to and including the time of further consideration of the ordinance by the governing body, was posted in the principal municipal building of the City at the place where public notices are customarily posted. Copies of the ordinance were made available to all who requested them.

4. A certified copy of this ordinance has been filed with the Director of the Division of Local Government Services.

5. After final passage, the ordinance, a copy of which is attached hereto, was duly published on _____, 2018. No protest signed by any person against making the

improvement or incurring the indebtedness authorized therein, nor any petition requesting that a referendum vote be taken on the action proposed in the ordinance has been presented to the governing body or to me or filed in my office within 20 days after the publication or at any other time after the final passage thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of the City this _____ day of _____, 2018.

Keith Petrosky, Clerk

[SEAL]

NOTICE OF PENDING ORDINANCE AND SUMMARY

The ordinance, the summary terms of which are included herein, was introduced and passed upon first reading at a meeting of the governing body of the City of Vineland, in the County of Cumberland, State of New Jersey, on _____, 2018. It will be further considered for final passage, after public hearing thereon, at a meeting of the governing body to be held at the Municipal Building in the City on _____, 2018 at _____ o'clock __.m. During the week prior to and up to and including the date of such meeting, copies of the full ordinance will be available at no cost and during regular business hours at the Clerk's office for the members of the general public who shall request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE PROVIDING FOR THE LEASE PURCHASE FINANCING AND ACQUISITION OF TRASH TOTERS FOR AND BY THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND, NEW JERSEY

Purpose: Lease purchase financing and acquisition of trash toters for total principal cost not to exceed \$2,000,000 financed over five years

Keith Petrosky, Clerk

ORDINANCE STATEMENT AND SUMMARY

The ordinance, the summary terms of which are included herein, has been finally adopted by the City of Vineland, in the County of Cumberland, State of New Jersey on _____, 2018, and the 20 day period of limitation within which a suit, action or proceeding questioning the validity of such ordinance can be commenced, as provided in the Local Bond Law, has begun to run from the date of the first publication of this statement. Copies of the full ordinance are available at no cost and during regular business hours at the Clerk's office for members of the general public who request the same. The summary of the terms of such ordinance follows:

Title: ORDINANCE PROVIDING FOR THE LEASE PURCHASE FINANCING AND ACQUISITION OF TRASH TOTERS FOR AND BY THE CITY OF VINELAND, IN THE COUNTY OF CUMBERLAND, NEW JERSEY

Purpose: Lease purchase financing and acquisition of trash toters for total principal cost not to exceed \$2,000,000 financed over five years

April Boyer-Maimone, Clerk

April Boyer-Maimone, Clerk
Keith Petrosky, Clerk

July 16, 2018

Susan M. Baldosaro, CMFO
Chief Financial Officer
City of Vineland
640 East Wood Street
P.O. Box 1508
Vineland, NJ 08362-1508

Re: \$2,000,000 Trash Toter Lease Ordinance

Dear Susan:

In accordance with your request I have prepared an ordinance authorizing the lease purchase financing of trash toters in the aggregate principal amount of \$2,000,000. The ordinance should be adopted in accordance with the procedure set forth below for your convenience. Since the equipment is being financed by a lease (as noted herein) and not by the issuance of bonds or notes, there is no need to file a supplemental debt statement for this ordinance.

The ordinance may be introduced and read by title only and adopted by a majority of the members of the governing body present, assuming a quorum. After introduction, the Notice of Pending Ordinance and Summary must be published in the local newspaper, a form of which I have enclosed for your use. Also, the ordinance should be posted on the bulletin board customarily used for notices, together with the Notice of Pending Ordinance and Summary, and copies of the ordinance should be made available to anyone who requests them of the Clerk after introduction.

The ordinance can be considered for final adoption not less than ten days after introduction and not less than seven days after the publication of the Notice of Pending Ordinance and Summary. If the ordinance has been posted and copies made available as indicated above, the ordinance can be read at the second hearing by title only. If the ordinance posting procedure has not been followed, the ordinance must be read in full at the second hearing. After the ordinance is read for the second time, the governing body should hold a public hearing and should give all members of the public a chance to be heard on the ordinance. After the public hearing, the ordinance can be finally adopted by the affirmative vote of a two-thirds majority of the full membership of the governing body. After final adoption, the Ordinance Statement and Summary must be published, a copy of which I have enclosed for your use. Note that if the approval of an officer is required to make the ordinance effective, the ordinance must be approved by that officer, or passed over veto, before it is published after final adoption.

After the ordinance is finally adopted, it will be necessary for us to establish a record of proceedings documenting the proper adoption of the ordinance. In order to do this, we will need one completely executed set of the documents enumerated on the attached checklist. By copy of this letter, I am sending the Clerk a copy of the checklist along with a copy of the ordinance. With the exception of the Affidavits of Publication, I am also sending the Clerk the necessary certificates to be completed, executed and returned to us along with the necessary attachments to provide us with this documentation. It should be noted that the Clerk's Certificate must be executed no sooner than 21 days following the final publication in order to attest that there has been no protest within the statutory twenty-day protest period.

If you or the Clerk has any questions about the form of the ordinance, the adoption procedure or the form of the certificates, please call me.

Very truly yours,



Erin K. Law

Enclosures

cc: Keith Petrosky, Clerk, w/encl.
Richard P. Tonetta, Esq., w/encl.
Leon Costello, C.P.A., w/encl.
Edward J. McManimon, III, w/encl.