



Office of the Chief MEMORANDUM

DATE: September 14, 2016

TO: Board of Fire Commissioners

FROM: Brian Gorski, Fire Chief

RE: **FY2017 Fire Apparatus Purchase**

RECOMMENDED MOTION(S) OR ACTION(S):

To approve proposed Resolutions 2016-011 and 2016-012 for the purchase of a Pierce Impel 107' Ascendant Ladder Truck and the funding methodology for this apparatus.

REPORT:

In accordance to our vehicle replacement program, for FY17 it calls for the replacement of E9 (2004 Pierce Aerial Sky-boom). In the preparation of our FY17 budget, the funding for the replacement of this apparatus was approved and is contained within our FY17 Approved Budget.

During the months of May through August 2016 our apparatus committee had numerous meetings and selected the Pierce Impel 107' Ascendant Ladder Truck made by Pierce Fire Apparatus. This selection was not only based on standardization with our current Impels but it also was selected due to its performance, capabilities and in both vertical and horizontal reach. The District's Insurance Service Office (ISO) rating was based on the District operating a Ladder Truck on all fire incidents and since 2004 had been running a Pierce Sky-boom which had a maximum of less than 60 feet.

Since 2004 the District has experienced significant growth in both residential and commercial buildings. The residential increase in total square footage is in excess of 11,360,498 square feet, a 23% overall increase. The number of commercial structures has increased by more than 31%, a 6,312,576 square footage increase. Many of the increases in commercial properties have included multi-story building, many of which are two (2) and three (3) stories in height, including one which exceeds 700,000 square feet under a single roof.

The 107' Ascendant Ladder Truck allows for 107' of vertical reach, 100' of horizontal reach and will flow 1500 GPM and can be safely operated in winds up to 35 mph. These features will enhance the District's reach capabilities by greater than 50% and will also contain a Class A foam suppression system that will enhance fire extinguishment.

Pursuant to Florida Statutes §§ 287.056 and 163.3164(21) and Florida Administrative Code Rule 60A-1.005, the District was able to piggyback onto the State of Florida Cooperative Bid for Fire/Rescue Vehicles, State Bid #FSA16-VEF12.0.

The District will purchase this Impel 107' Ascendant Ladder Truck by utilizing a percentage of impact fees and financing the remainder through a lease purchase agreement with Leasing 2, Inc..

The District determined that there has been an increase in new development over the past ten (10) years of residential and commercial buildings greater than 3 stories and large square footage warehouses and that such growth has created a need for a Ladder Truck with greater capabilities that also includes a Class A foam fire suppression system that will benefit the whole District.

Additionally these enhanced capabilities of this Impel 107' Ascendant Ladder Truck does satisfy the needs created by the new development in the District and based on this the District has determined that an allocation of fifty percent (50%) of impact fees towards the purchase of this new Impel 107' Ascendant Ladder Truck is a proper percentage of impact fees to allocate.

Based upon the foregoing, 50% of the purchase price \$454,577.00 will be funded through a lease-purchase agreement and the remaining 50%, \$454,577.00 will be funded using impact fees.

Pursuant to the terms of the Lease-Purchase agreement, the District will be obligated to budget and appropriate the annual lease payments to the lessor (Leasing 2, Inc.) or its successor. Failure to appropriate sufficient payments along with notice to the lessor is one way to terminate the lease. The Lease-Purchase agreement is not a debt of the District. The lessor will retain a security interest against the fire apparatus until such time as the vehicle is paid in full. If there is a default (including non-payment or failure to appropriate) the lessor has a security interest in the apparatus and such default could result in the surrendering of the apparatus to the lessor.

Under the terms of the Lease Purchase Agreement ("Agreement") there are

various exhibits that must be executed to complete the transaction. A copy of the Agreement is included in your materials. Pursuant to the terms of the Agreement, the lessor (Leasing 2) requires a resolution in the format of Resolution 2016-012 to be adopted as part of the lease transaction. Resolution 2016-011, authorizes the District to enter into the Agreement with Leasing 2, and sets forth the funding sources for the apparatus, and designates the Fire Chief as the authorized signatory on the Agreement.

Our attorney, Maggie Mooney-Portale has reviewed and approved these Resolutions. On the advice of counsel, each of the resolutions (Resolution 2016-011 and 2016-012) should be adopted through the passage of separate motions.

RESOLUTION NO. 2016 - 011

MANATEE COUNTY, FLORIDA

**FY2016 - 2017 FIRE APPARATUS LEASE PURCHASE AGREEMENT
FOR THE SOUTHERN MANATEE FIRE & RESCUE DISTRICT**

ADOPTED: September 14, 2016

RESOLUTION 2016 – 011

A RESOLUTION OF THE BOARD OF FIRE COMMISSIONERS OF THE SOUTHERN MANATEE FIRE & RESCUE DISTRICT OF MANATEE COUNTY, FLORIDA, FOR THE LEASE PURCHASE OF FIRE APPARATUS FOR THE SOUTHERN MANATEE FIRE RESCUE DISTRICT; PROVIDING FOR FUNDING; PROVIDING AUTHORIZATION TO THE FIRE CHIEF; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Southern Manatee Fire & Rescue District ("District") is a tax supported special purpose district authorized under the provisions of Chapters 189 and 191, Florida Statutes, and Chapter 2000-402, Laws of Florida to levy ad valorem taxes, special assessments and impact fees; and

WHEREAS, the District desires to lease purchase one (1) new Impel 107' Ascendant Ladder Truck to replace one (1) Class A Fire Engine – Sky-boom in accordance with the District's Vehicle Replacement Program; and

WHEREAS, pursuant to Florida Statutes 189.4221, the District piggybacked onto the State of Florida Cooperative Bid for Fire/Rescue Vehicles, State Bid #FSA16-VEF12.0, and selected the Impel 107' Ascendant Ladder Truck made by the Pierce Fire Apparatus (hereinafter "Impel Ladder Truck") ; and

WHEREAS, the District will lease purchase one (1) Impel Ladder Truck by entering into a lease financing agreement for fifty (50%) of the cost through Leasing 2 Inc. and funding the remaining fifty (50%) of the costs through impact fees; and

WHEREAS, the District determined that since 2004 the District has experienced significant growth in both residential and commercial buildings; and

WHEREAS, the District considered that residential properties have increased in total square footage to include in excess of 11,360,498 square feet, a 23% overall increase; and

WHEREAS, the District considered that the number of commercial structures have increased by more than 31%, a 6,312,576 square footage increase, many of which are two (2) and three (3) stories in height, including one which exceeds 700,000 square feet under a single roof; and

WHEREAS, the District considered that the residential and commercial property growth has created a need for additional vertical and horizontal reach capabilities by the District's fire and rescue vehicles to access multi-story buildings and structures; and

WHEREAS, the District also considered that the increased growth and development within the District has resulted in a need for additional equipment that provides foam system suppression capabilities; and

WHEREAS, this Impel Ladder Truck has a Class A Firefighting Foam System and enhanced vertical and horizontal reach capabilities by more than fifty (50%) percent compared to the existing Sky-boom Fire Apparatus that presently serves the population within the District; and

WHEREAS, the enhanced capabilities of this Impel Ladder Truck will be able to satisfy the needs created by the new development within the District; and

WHEREAS, the District has determined that an allocation of fifty percent (50%) of impact fee funds towards the purchase of this Impel Ladder Truck is a proper percentage of impact fees to allocate towards the acquisition of the Impel Ladder Truck as it is commensurate with the enhanced needs created by new development and population growth within the District; and

NOW, THEREFORE, BE IT RESOLVED by the Board of Fire Commissioners, acting as the governing body of the Southern Manatee Fire Rescue District of Manatee County, Florida, in a public meeting, that:

1. The above recitals are true and correct and are incorporated herein fully.
2. The District is authorized to acquire the Impel Ladder Truck for a total purchase price of \$909,154.00.
3. The District hereby approves of the funding of a portion of the Impel Ladder Truck, in an amount of \$454,577.00 through a Lease Purchase Agreement with Leasing 2, Inc.
4. The Fire Chief is hereby authorized to execute on the District's behalf all necessary Lease-Purchase Agreements and the exhibits thereto to enter into the lease agreement and finance \$454,577.00 of acquisition costs for the Impel Ladder Truck.
5. The remaining \$454,577.00 purchase price for the Impel Ladder Truck shall be funded from the District's Impact Fees, which represents fifty percent (50%) of the total purchase cost.
6. This Resolution shall take effect September 14, 2016.

DULY ADOPTED at a public meeting this 14th day of September, 2016.

ATTEST:



Melanie A. Marker
Secretary

SOUTHERN MANATEE FIRE & RESCUE DISTRICT

Absent

Charles A. Durant, Chair

Absent

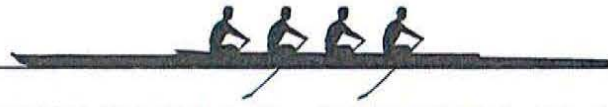
Dan Center, Vice Chair



Anthony C. Evans, Treasurer



Jim Cena, Commissioner



PERSSON & COHEN, P.A.
ATTORNEYS AND COUNSELORS AT LAW

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Reply to: Lakewood Ranch

September 8, 2016

Leasing 2, Inc.
1720 West Cass Street
Tampa, FL 33606-1230

**RE: Southern Manatee Fire and Rescue District -Leasing 2, Inc.
Legal Opinion**

Ladies and Gentlemen:

As counsel for Southern Manatee Fire and Rescue District ("Lessee"), I have examined duly executed originals of the Lease-Purchase Agreement and Escrow Agreement (the "Agreement"), between Lessee and Leasing 2, Inc. ("Lessor"), dated as of October 3, 2016 and the proceedings taken by Lessee to authorize and execute the Agreement. Based upon such examination and upon such other examination as I have deemed necessary or appropriate, I am of the opinion that:

1. Lessee is a public body corporate and politic, legally existing under the laws of the State of Florida.
2. The Agreement has been duly authorized, executed and delivered by Lessee, pursuant to Constitutional, statutory and/or home rule provisions which authorize this transaction and Resolution No. 2016-012, attached as Exhibit A to the Agreement.

Lakewood Ranch
6853 Energy Court
Lakewood Ranch, Florida 34240

St. Petersburg
111 Second Avenue NE, Suite 536
St. Petersburg, Florida 33701

Venice
217 Nassau Street S.
Venice, Florida 34285

3. The Agreement is a legal, valid and binding obligation of Lessee, enforceable in accordance with its terms. In the event the Lessor obtains a judgment against Lessee in money damages, as a result of an event of default under the Agreement, Lessee will be obligated to pay such judgment.
4. Applicable public bidding requirements have been complied with.
5. To the best of my knowledge, no litigation is pending or threatened in any court or other tribunal, state or federal, which questions or affects the validity of the Agreement.
6. The signature of the officer of Lessee which appears on the Agreement is true and genuine; I know said officer and know him/her to hold the office set forth below his/her names.
7. The Equipment leased pursuant to the Agreement constitutes personal property and when subjected to use by Lessee will not be or become fixtures under applicable law.
8. The leasing of the Equipment pursuant to the Agreement is exempt from all sales and use taxes against either the Lessor or the Lessee during the term of the Lease and the Equipment will be exempt from any state and local personal property or other ad valorem taxes during the term of the Lease.

This opinion may be relied upon by the addressee hereof and its successors and assignees of interest in the Lease, but only with regard to matters specifically set forth herein.

Sincerely,

Maggie D. Mooney-Portale

Exhibit B

RESOLUTION NO. 2016 – 12

MANATEE COUNTY, FLORIDA

**LEASE AGREEMENT WITH
LEASING 2, INC.**

ADOPTED: SEPTEMBER 14, 2016

SOUTHERN MANATEE FIRE & RESCUE DISTRICT

RESOLUTION 2016-12

Lease Agreement with Leasing 2, Inc.

At a duly called meeting of the Board of Fire Commissioners of the Southern Manatee Fire & Rescue District held on the 14th day of September, 2016, the following resolution was introduced and adopted.

RESOLVED, whereas the Board of Fire Commissioners of the Southern Manatee Fire & Rescue District has determined that a true and very real need exists for the acquisition of the Equipment described in the Lease-Purchase Agreement by and between Southern Manatee Fire & Rescue District and Leasing 2, Inc. dated as of October 4, 2016 and presented to this meeting and has further determined that the Equipment will be used solely for essential governmental functions and not for private business use.

WHEREAS, Southern Manatee Fire & Rescue District has taken the necessary steps, including, without limitation to compliance with legal bidding requirements, under applicable law to arrange for the acquisition of such Equipment.

NOW THEREFORE BE IT RESOLVED by the Board of Fire Commissioners of the Southern Manatee Fire & Rescue District that the terms of said Lease-Purchase Agreement and Escrow Agreement are in the best interest of Southern Manatee Fire & Rescue District for the acquisition of such Equipment, and the governing body of Southern Manatee Fire & Rescue District designates and confirms the following person to execute and deliver, the Lease-Purchase Agreement and Escrow Agreement and any related documents necessary to the consummation of the transactions contemplated by the Lease-Purchase Agreement and Escrow Agreement.



(Signature of Party to Execute
Lease-Purchase Agreement and Escrow Agreement)

Brian Gorski, Fire Chief

The undersigned further certifies that the above resolution has not been repealed or amended and remains in full force and effect and further certifies that the above and foregoing Lease-Purchase Agreement and Escrow Agreement is the same as presented at said meeting of the governing body of Lessee.

SOUTHERN MANATEE FIRE & RESCUE DISTRICT

(SEAL)



Melanie A. Marken, Secretary