

**ORDINANCE NO. 2018-20**

**AN ORDINANCE APPROVING A LEASE AGREEMENT FOR A NEW CATERPILLAR HYDRAULIC EXCAVATOR**

**WHEREAS**, the Town is authorized by applicable law, including but not limited to C.R.S. § 31-15-801 et seq., to acquire equipment and to enter into leases for the same; and

**WHEREAS**, the Board of Trustees deems it necessary and desirable for the efficient and proper functioning of the Town to acquire a new hydraulic excavator; and

**WHEREAS**, the Board of Trustees has determined it is in the best interest of the Town to enter into the lease contemplated herein for the lease of a new 305.5E2CR Caterpillar Hydraulic Excavator to be used by the Town's public works department;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF KEENESBURG, COLORADO:

**Section 1.** The Equipment Lease Agreement between the Town and Caterpillar Financial Services Corporation (the "Lease") for lease of a new 305.5E2CR Caterpillar Hydraulic Excavator, serial number CR506919, is hereby approved in essentially the same form and upon the same terms as the copy of such Lease accompanying this ordinance.

**Section 2.** The Mayor and Town Clerk are authorized to execute the Lease on behalf of the Town, except that the Mayor is further hereby granted the authority to approve such revisions to said Lease as determined necessary or desirable for the protection of the Town, so long as the essential terms and conditions of the Lease are not altered. The Lease shall be in an amount not to exceed \$47,760, and the term of the Lease shall not exceed forty-eight (48) months.

**Section 3.** The Mayor and Town Clerk are authorized to execute the Lease on behalf of the Town. The Mayor, Town Clerk, and Town staff are further authorized to execute such other documents as are necessary to implement the Lease, and Town staff is authorized and directed to make payments under the Lease for which funds are legally available.

**Section 4.** All financial obligations of the Town under the Lease shall be subject to annual budgeting and appropriation, and nothing herein shall be deemed to authorize, or construed to authorize, any multiple-fiscal year direct or indirect obligation whatsoever.

**Section 5.** The Lease and the Town's obligations thereunder to make lease payments are hereby designated a "qualified tax-exempt obligation" for the purpose and within the meaning of Section 265(b) of the Internal Revenue Code. The Board of Trustees finds and determines the reasonably anticipated amount of qualified tax-exempt obligations which have been and will be issued by the Town does not exceed \$10,000,000.00 for the calendar year within which the Lease is to be a "qualified tax-exempt obligation" pursuant to Section 265(b)(3) of the Internal Revenue Code.

**Section 6.** If any article, section, paragraph, sentence, clause, or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The Board of Trustees hereby declares it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this 17<sup>th</sup> day of December, 2018.

TOWN OF KEENESBURG, COLORADO

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Kenneth Gfeller, Mayor

Attest:

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Toni Johnson, Town Clerk