

RESOLUTION 2016 - 61

**BOARD OF COUNTY COMMISSIONERS
OF THE
COUNTY OF SUMMIT
STATE OF COLORADO**

A RESOLUTION RELATING TO A LEASE PURCHASE AGREEMENT FOR FINANCING CERTAIN EQUIPMENT TO BE USED BY THE COUNTY'S ROAD & BRIDGE DEPARTMENT AND SOLID WASTE DEPARTMENT; AUTHORIZING THE EXECUTION OF THE LEASE PURCHASE AGREEMENT AND OTHER DOCUMENTS RELATED THERETO; AUTHORIZING OFFICIALS OF THE COUNTY TO TAKE ALL ACTIONS NECESSARY TO CARRY OUT THE TRANSACTION CONTEMPLATED HEREBY; AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, Summit County, Colorado (the "County"), as a political subdivision of the State of Colorado (the "State") and a body politic and corporate duly organized and existing under the laws of the State, and is authorized pursuant to Section 30-11-104.1, Colorado Revised Statutes ("C.R.S."), to enter into lease purchase agreements in order to provide financing for equipment used or to be used for governmental purposes; and

WHEREAS, the Board has determined and hereby determines that it would further the County's governmental purposes and would be in the best interests of the County (particularly its Road & Bridge and Solid Waste departments) for the County to enter the lease purchase agreement with the financing companies described in the attached and hereby incorporated Exhibit "A" (the "Lessors") for financing certain equipment, which is also described in the attached Exhibit "A" (the "Leased Property"); and

WHEREAS, there have been filed, in the office of the Clerk and Recorder of the County (the "County Clerk and Recorder") the lease purchase agreement (the "Leases") described in attached Exhibit "A"; and

WHEREAS, the County's payment obligations for the subject Lease shall be from year to year only; shall constitute currently budgeted expenditures of the County; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or a multiple fiscal year direct or indirect debt or other financial obligation whatsoever of the County within the meaning of any constitutional or statutory limitation or requirement concerning the creation of

indebtedness, nor a mandatory payment obligation of the County in any ensuing fiscal year beyond any fiscal year during which the Leases shall be in effect; and

WHEREAS, payments under the Lease entered for equipment utilized by the Summit County Road & Bridge Department shall be made solely from moneys deposited to the County Road & Bridge Fund and equipment utilized by the Solid Waste department shall be made solely from moneys deposited to the Solid Waste Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMMIT COUNTY, COLORADO THAT:

Section 1. *Ratification of Actions.* The Board hereby ratifies, approves and confirms all actions heretofore taken (not inconsistent with the provisions of this resolution) by the County or its officers or employees, which actions have been directed toward the financing of the subject Leased Property by the Lessor to the County pursuant to the Lease described in the attached and hereby incorporated Exhibit "A".

Section 2. *Findings; Authorizations.* This resolution is adopted pursuant to and in accordance with the authority conferred by the Constitution and laws of the State of Colorado; and the County hereby determines that each and every matter and thing as to which provision is made herein is necessary in order to carry out and to effect the purposes hereof.

The Board hereby finds and determines that leasing the Leased Property from Lessor under the terms and provisions set forth in the Lease is necessary, convenient, and in furtherance of the governmental purposes of the County and is in the best interests of the County and its residents; and the Board hereby authorizes leasing of the Leased Property under the terms and provisions of the Lease.

Section 3. *Approval; Execution of Documents; Authorized Officers.* The Lease is in all respects approved, and the Chair of the Board of County Commissioners (the "Chair") is hereby authorized and directed to execute and deliver, and the County Clerk and Recorder of the County is hereby authorized and directed to affix the seal of the County to, and attest, the Lease in substantially the forms as filed with the County Clerk and Recorder, but with such changes, modifications additions or deletions as the Board deems necessary, desirable or appropriate.

Section 4. *Additional Documents; Delegated Powers.* The County Clerk and Recorder is hereby authorized and directed to attest all signatures and acts of any official of the County in connection with the matters authorized by this resolution. The Chair, County Treasurer, County Clerk and Recorder and other officials and employees of the County are hereby authorized to execute and deliver for and on behalf of the County any

and all additional certificates, documents and other papers and to perform all other acts that they may deem necessary or appropriate in order to implement and carry out the transaction and other matters authorized by this resolution. Such necessary or appropriate actions include, without limitation, the execution and delivery of such certificates and opinions as may be reasonably required by Lessor relating to, among other things, the tenure and identity of the officials of the County and the Board, the absence of litigation, pending or threatened affecting the validity of the Lease and expectations and covenants relating to the exclusion from gross income for federal income tax purposes of the portion of rentals designated as interest in the Lease.

Section 5. *No General Obligation or Other Indebtedness.* The obligations of the County to make rental payments under the Lease are subject to annual appropriation by the Board, constitute undertakings of the County to make current expenditures and are payable solely from moneys deposited to the Road & Bridge Fund and Solid Waste Fund. No provision of this resolution or the Lease shall be construed or interpreted as delegation of governmental powers or as constituting or giving rise to a general obligation or other indebtedness or a multiple fiscal year direct or indirect debt or other financial obligation of the County within the meaning of any constitutional or statutory debt limitation, including without limitation, Article XI, Sections 1, 2 and 6, and Article X, Section 20, of the Colorado Constitution, nor a mandatory charge or requirement against the County in any ensuing fiscal year beyond the current fiscal year. The County shall have no obligation to make any payment to Lessor except in connection with the payment of base rentals under the Lease and certain other payments, for which funds have been specifically appropriated and encumbered by the County for such purpose, under the Lease, which payments may be terminated by the County in accordance with the provisions of the applicable Lease.

Section 6. *Reasonable Rentals.* The Board hereby determines and declares that the base rentals due under the Lease constitute the fair rental value of subject Leased Property and do not exceed a reasonable amount.

Section 7. *Designation of Lease as "Qualified Tax Exempt Obligation."* The County reasonably expects that the total amount of "tax exempt obligations" within the meaning of Section 265 of the Internal Revenue Code of 1986, as amended (the "Code") to be issued by it during the calendar year 2016, including its obligations under the Lease, will not exceed \$10,000,000. Accordingly, the County designates the Lease as a "qualified tax exempt obligation" for the purposes of Section 265(b) of the Code.

Section 8. *Severability.* If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or

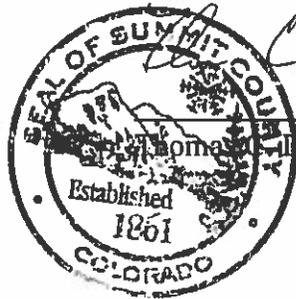
unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this resolution.

Section 9. *Repealer of Measures.* All other orders, resolutions and other instruments, or parts thereof, in conflict with this resolution or with any of the documents, hereby repealed only to the extent of such conflict. This repealer shall not be construed to revive any order, resolution or other instruments, or part thereof, heretofore repealed.

Section 10. *Effective Date.* This resolution shall take effect immediately upon its adoption and approval.

ADOPTED AND APPROVED THIS 26th DAY OF JULY, 2016.

**COUNTY OF SUMMIT
STATE OF COLORADO
BY AND THROUGH ITS
BOARD OF COUNTY COMMISSIONERS**



[Handwritten signature]

Thomas Davidson, Chair

ATTEST:

Kathleen Neel

Kathleen Neel, Clerk & Recorder

Exhibit “A” – Description of Lease Purchase Agreements Authorized and Ratified Pursuant to Summit County Resolution No. 2016 - 61, titled:

A RESOLUTION RELATING TO A LEASE PURCHASE AGREEMENT FOR FINANCING CERTAIN EQUIPMENT USED OR TO BE USED BY THE COUNTY’S ROAD & BRIDGE DEPARTMENT AND SOLID WASTE DEPARTMENT; AUTHORIZING THE EXECUTION OF THE LEASE PURCHASE AGREEMENT AND OTHER DOCUMENTS RELATED THERETO; AUTHORIZING OFFICIALS OF THE COUNTY TO TAKE ALL ACTIONS NECESSARY TO CARRY OUT THE TRANSACTION CONTEMPLATED HEREBY; RATIFYING ACTION PREVIOUSLY TAKEN; AND PROVIDING OTHER MATTERS RELATING THERETO

Summit County Capital Leases:

Dept.	Description	Date – Term	Amount	Lessor
R&B	Cat Mini Excavator	7/26/16 – 5 yr.	\$103,547	US Bancorp
R&B	Bomag vibratory roller	7/26/16 – 5 yr.	\$45,901	US Bancorp
R&B	Paver special lowboy	7/26/16 – 5 yr.	\$74,833	US Bancorp
R&B	Bobcat skid steer loader	7/26/16 – 5 yr.	\$76,885	US Bancorp
R&B	Sheepsfoot compactor	7/26/16 – 5 yr.	\$40,000	US Bancorp
R&B	2 electronic message boards	7/26/16 – 5 yr.	\$33,900	US Bancorp
SW	Cat D6T-T4 dozer	7/26/16 – 5 yr.	\$301,692	US Bancorp

R&B – Road & Bridge Department, Summit County Government

SW – Solid Waste Department, Summit County Government

Commissioner Gibbs moved that the Resolution be passed and adopted and Commissioner Stiegelmeier seconded such motion. The question being upon the passage and adoption of the Resolution, the roll was called with the following result:

Those voting YES: All in Favor

Those voting NO: None

A majority of the members present having voted in favor of the passage and adoption of the Resolution, the Chair thereupon declared the Resolution was duly passed and adopted.

Thereupon, after consideration of other business to come before the Board of County Commissioners, the meeting was adjourned.

(SEAL)



Kathleen Neel
County Clerk and Recorder

STATE OF COLORADO)
)
COUNTY OF SUMMIT)

I, Kathleen Neel, County Clerk and Recorder of Summit County, Colorado do hereby certify that the foregoing pages numbered 1 to 8, inclusive, constitute a true and correct copy of the record of proceedings of the Board of County Commissioners, taken at a regular meeting thereof, held at the County Commons in Frisco, Colorado, on July 26, 2016, commencing at the hour of 1:30 p.m. insofar as said proceedings relate to the passage and adoption of a Resolution Authorizing the Execution and Delivery by the County of Lease Purchase Agreements.

That the original Resolution has been duly authenticated by the signatures of the Chair and the County Clerk and Recorder, sealed with the seal of the County and recorded in the book kept for that purpose in my office, which record has been duly signed by the said officers and sealed with the seal of the County.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of Summit County, Colorado, this 26th day of July, 2016.

SUMMIT COUNTY, COLORADO



Kathleen Neel
County Clerk and Recorder