

**CITY OF LEADVILLE, COLORADO
RESOLUTION NO. 24
SERIES OF 2024**

**A RESOLUTION AUTHORIZING THE EXECUTION OF AN EQUIPMENT
LEASE/PURCHASE AGREEMENT IN THE PRINCIPAL AMOUNT OF \$138,152.00
BETWEEN THE CITY OF LEADVILLE AND NBH BANK, PROVIDING LEASE PAYMENTS
FROM LEGALLY AVAILABLE FUNDS, AND PRESCRIBING OTHER REQUIRED DETAILS**

WHEREAS, the City of Leadville (the “Lessee” or “City”) is a municipality duly organized and existing pursuant to the Constitution and laws of the State of Colorado; and

WHEREAS, the City is a duly and regularly created, organized and existing political subdivision of the State of Colorado (the “State”) and body corporate, existing as such under and by virtue of the Constitution, statutes and laws of the State; and

WHEREAS, the City desires to obtain one vacuum excavator for use by the City’s Streets Department; and

WHEREAS, the City received a quote for this piece of equipment from Wagner for a total cost of \$138,152; and

WHEREAS, the City included the cost for leasing this piece of equipment in its 2024 budget at \$50,000 per year; and

WHEREAS, the City Council of the Lessee is the governing body of the City (the “Governing Body”), and

WHEREAS, the Governing Body finds and determines that the execution of an Equipment Lease/Purchase Agreement (the “Lease”), for the purpose of leasing with the option to purchase the vacuum excavator described in the Lease, is necessary and essential to the functions and operations of the Lessee; and

WHEREAS, NBH Bank, a Colorado state bank (“Lessor”), a duly organized and existing national bank, shall act as Lessor under said Lease; and

WHEREAS, the Lease shall not constitute a general obligation indebtedness of the Lessee within the meaning of the Constitution and laws of the State; and does not create a multiple year obligation, and is expressly subject to non-appropriation or annual renewal, and

WHEREAS, the Lease does not create a multiple fiscal year direct or indirect debt or other financial obligation and does not require voter approval in advance under Section 4 (b) of Article X, Section 20 of the Colorado Constitution; and

WHEREAS, the Lease will not cause the Lessee to exceed its spending limits; and

WHEREAS, federal income tax law requires that issuers of tax-exempt obligations comply with certain post-issuance requirements set forth in the Internal Revenue Code; and

WHEREAS, for the purpose of maximizing the likelihood that certain applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the interest component of the Rental Payments (as defined in the Lease) are met, the Lessee desires to adopt the Post-Issuance Compliance Procedure and Policy for Tax-Exempt Governmental Obligations, attached as Exhibit A.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Leadville, Colorado, as follows:

Section 1: The City Administrator (the “Authorized Officer”), acting on behalf of the Lessee, is hereby authorized to enter into, execute, and deliver the Lease in substantially the form set forth in the document presently before the Governing Body, which document is available for public inspection at the office of the Lessee. The Authorized Officer, acting on behalf of the Lessee, is each hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as Authorized Officers, upon advice of counsel, deem necessary or appropriate.

Section 2: The Lease shall be in the principal amount of \$138,152 with terms as set forth in the Lease; said Lease to contain an option to purchase by the Lessee as set forth.

Section 3: The Lessee’s obligation under the Lease shall be annually renewable by the Lessee and expressly subject to annual appropriation by the Governing Body; and such obligation under the Lease shall not constitute a general obligation of the Lessee or indebtedness within the meaning of the Constitution and laws of the State of Colorado.

Section 4: The Lease does not create a multiple fiscal year direct or indirect Lessee debt or other financial obligation and does not require voter approval in advance under Section 4 (b) of Article X, Section 20 of the Colorado Constitution.

Section 5: The Lease will not cause the Lessee to exceed its spending limits under Section 7, Article X, Section 20 of the Colorado Constitution.

Section 6: All other related contracts and agreements necessary and incidental to the Lease are hereby authorized.

Section 7: The Lessee reasonably anticipates issuance of not more than \$10,000,000.00 of tax exempt obligations during the period from 2024 to 2025 and hereby designates the Lease as a bank qualified tax-exempt obligation for purposes of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended.

Section 8: This resolution shall take effect immediately upon its adoption.

ADOPTED this 16TH day of April 2024 by a vote of six(6) in favor, zero (0)
against, zero (0) abstaining, and one(1) absent.

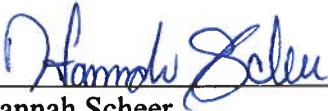


CITY OF LEADVILLE, COLORADO:



Dana Greene, Mayor

ATTEST:



Hannah Scheer
City Clerk

EXHIBIT A

POST-ISSUANCE COMPLIANCE PROCEDURE AND POLICY FOR TAX-EXEMPT GOVERNMENTAL OBLIGATIONS

Procedures for ongoing compliance with Sections 141 and 148 of the Internal Revenue Code

For the purpose of maximizing the likelihood that certain applicable post-issuance requirements of federal income tax law needed to preserve the tax-exempt status of the Rental Payments made pursuant to the Lease are met, the City Council ("Governing Body") of City of Leadville ("Lessee") adopts the following Post-Issuance Compliance Procedure and Policy for Tax-Exempt Governmental Obligations:

1. These procedures and the tax certificate and Form 8038-G filed for each issue of tax-exempt obligations will be reviewed by the officer or employee of Lessee designated by the City Administrator in writing (the "Compliance Officer") (i) on or prior to each five-year anniversary date of the issue date of the obligations; (ii) on or within 30 days of the date the obligations are retired, defeased or refunded; (iii) on or prior to the date of any rebate payment made if that date is not within 60 days of one of the dates mentioned in (i) or the date the obligations are retired, defeased or refunded; (iv) at the time of any change in use of any asset that was funded with a material amount of lease proceeds; and (v) at the time of the occurrence or non-occurrence of any other event that could affect the tax status of the Obligations as indicated in the tax certificate (e.g., the occurrence of an event which the tax certificate represents will not occur or is not expected to occur, or the non-occurrence of an event the tax certificate represents will or is expected to occur). In addition, the Compliance Officer will conduct annual compliance checks of the current status of the proceeds of each issue of tax-exempt obligations and the current use of the facilities financed by tax-exempt obligations. These reviews will be made for the purposes of identifying any possible violation of federal tax requirements and to ensure the timely correction of those violations with remedial action described in the regulations of the United States Department of the Treasury or through the Tax-Exempt Obligations Voluntary Closing Agreement Program. If a possible violation is identified, the Compliance Officer will consult with bond counsel as to the appropriate steps to take.
2. In addition, the Lessee may retain rebate consultants to assist in monitoring the compliance of its obligation issues with the rebate and yield restriction requirements of Section 148 of the Internal Revenue Code in appropriate circumstances (e.g., where investments are made during a temporary period at a yield in excess of the obligation yield, and if any the investments above the obligation yield extend beyond the temporary period). If any event of non-compliance is discovered by the Compliance Officer, by the rebate consultants, or otherwise, the Compliance Officer will consult with a bond counsel as to the appropriate action to take to remedy the non-compliance, including payment of late payment interest and penalties on rebate and yield reduction payments and through use of the Tax-Exempt Obligations Voluntary Closing Agreement Program.
3. As part of the training of any successor, the Compliance Officer will review the requirements of these procedures, the tax certificate and Form 8038-G for each issue of tax-exempt obligations with the successor as part of the successor's transition into office. Any successor Compliance Officer will be encouraged to adopt these procedures as his or her own.
4. Lessee will retain all records relating to tax-exempt obligations and compliance with the requirements of the Internal Revenue Code until at least three years after the last obligation of an issue (or any later issue that refinances the issue) is paid and discharged.