

**TOWN OF MINTURN, COLORADO  
ORDINANCE NO. 13 – SERIES 2012**

**APPROVING THE EXECUTION OF A LEASE PURCHASE AGREEMENT, AND RELATED DOCUMENTS PERTAINING TO THE REFINANCING OF A CATERPILLAR IT38H TOOL CARRIER AND DELEGATING TO CERTAIN AUTHORIZED OFFICERS OF THE TOWN THE DETERMINATION OF CERTAIN FINANCIAL PARAMETERS FOR THE REFINANCING.**

**WHEREAS**, the Town of Minturn, Colorado (the "Town"), is a duly and regularly created, organized, and existing home rule municipality under and by virtue of its Town Charter (the "Charter") and the constitution and laws of the State of Colorado; and

**WHEREAS**, pursuant to Section 9.11 of the Charter, in order to provide necessary land, buildings, equipment and other property for governmental and proprietary purposes, the Town may enter into long-term installment purchase contracts and rental or leasehold agreements, which agreements may include an option or options to purchase and acquire title to such property within a period not exceeding the useful life of such property; and

**WHEREAS**, pursuant to such authority and for the purposes of financing the construction, other acquisition, the Town has heretofore entered into that certain Equipment Lease Agreement, dated January 12, 2010; and

**WHEREAS**, the Town is permitted by the 2010 Lease to pay the "Purchase Option Price" to acquire the Equipment, which Purchase Option Price is an amount sufficient to pay related costs thereof; and

**WHEREAS**, the Town Council of the Town (the "Town Council") has determined that it is in the best interests of the Town and its residents and taxpayers to refinance the 2010 lease agreement in order to reduce the interest component of the 2010 Lease; and

**WHEREAS**, the Base Rentals and Additional Rentals (both as defined in the Lease) payable by the Town shall constitute currently budgeted expenditures of the Town, and shall not constitute a general obligation or other indebtedness of the Town nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then-current fiscal year; and

**WHEREAS**, the Lease shall directly or indirectly obligate the Town to make any payments beyond those appropriated for the Town's then current fiscal year; and

**WHEREAS**, the Council desires to approve the forms of such documents and authorize the execution and performance by the Town of the Lease and the execution by any Authorized Officer of the Final refinance documents;

**THE TOWN OF MINTURN, COLORADO, ORDAINS:**

**Section 1. Definitions.** Unless the context indicates otherwise, capitalized terms used herein and not defined shall have the meanings ascribed thereto by the Lease. In addition, the following capitalized terms shall have the following meanings:

Authorized Officer: the person or persons authorized to sign the Final Terms Certificate and other documents authorized hereby, which shall be any one of the Mayor, the Mayor Pro Tem, or the Town Administrator.

Delegated Authority: the authority delegated by this Ordinance to any Authorized Officer to make the following determinations in the Final Terms Certificate with respect to the Lease, which determinations shall be subject to the restrictions and parameters set forth below:

- (1) the interest component of the Base Rentals;
- (2) the conditions on which and the prices at which the Lease may be defeased before its final Renewal Term;
- (3) the existence and amount of any capitalized interest or reserve funds;
- (4) the principal component of the Base Rentals;
- (5) the amount of Base Rentals coming due in any particular year; and
- (6) the dates on which the Base Rentals shall be paid, including the maximum Lease Term.

The foregoing authority shall be subject to the following restrictions and parameters:

- (1) the interest component of the Lease shall be such that the maximum net effective interest rate of the Lease does not exceed 4.00%;
- (2) the maximum annual Base Rentals shall not exceed \$50,000;
- (3) the maximum Lease Term shall be not later than December 1, 2015; and
- (4) the principal component of the Lease shall not exceed \$135,000.

**Section 2. Ratification of Actions.** All action heretofore taken by the Council or the officers and employees of the Town not inconsistent with the provisions of this Ordinance which were directed toward the refinancing of the 2010 Lease, are hereby ratified, approved, and confirmed.

**Section 3. Finding As To Governmental Purpose.** The Council hereby finds and determines, pursuant to the Charter and the Constitution and laws of the State of Colorado, that the leasing of the equipment is necessary, convenient, and in furtherance of the

governmental purposes of the Town, and is in the best interests of the Town and its citizens and inhabitants; and the Council hereby authorizes such lease.

**Section 4. Approval of Lease.** The Lease is in all respects approved, authorized, and confirmed, and the Mayor, or officials authorized by Town Council are authorized and directed to affix his signature to such documents, and the Town Clerk is authorized and directed to attest such signature, such documents to be in substantially the forms as stated herewith and with substantially the same content as presented to this meeting of the Council, for and on behalf of the Town, and thereafter the Town shall be bound by the provisions thereof. The execution of the Lease by any Authorized Officer is hereby approved, authorized, and confirmed.

**Section 5. Attestation; Authorization of Other Documents.** The Town Clerk or any deputy or assistant Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town in connection with the matters authorized by this Ordinance, and to place the seal of the Town on the documents authorized and approved by this Ordinance. The Mayor and other officials and employees of the Town are hereby authorized to execute and deliver for and on behalf of the Town 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 transactions and other matters authorized by this Ordinance. The appropriate officers and employees of the Town are authorized to execute on behalf of the Town agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this Ordinance.

**Section 6. No Indebtedness.** No provision of this Ordinance or the Lease shall be construed as creating or constituting a general obligation or other indebtedness of the Town, nor a mandatory charge or requirement against the Town in any ensuing budget year beyond the then-current budget year. No provision of this Ordinance or the Lease, shall be construed or interpreted as creating a multiple-fiscal year direct or indirect Town debt or other financial obligation whatsoever within the meaning of Article X, Section 20 of the Colorado Constitution. The Town shall have no obligation to make any payment with respect to the Lease except in connection with the payment of the Base Rentals and certain other payments under the Lease, which payments may be terminated by the Town in accordance with the provisions of the Lease.

**Section 7. Base Rentals.** The Council hereby determines and declares that the maximum Base Rentals permitted by the Delegated Authority do not place the Town under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's interest in the equipment pursuant to the Lease. The Council hereby determines and declares that the period during which the Town has an option to purchase the Trustee's interest in the equipment (*i.e.*, the maximum permitted term of the Lease established pursuant to the Delegated Authority) does not exceed the useful life of the equipment and improvements thereon.

**Section 8. Charter Controls Over Inconsistent State Statutes.** Pursuant to Article XX of the State Constitution and the Charter, all State statutes that might otherwise apply in connection with the provisions of this Ordinance are hereby superseded to the extent of any

inconsistencies between the provisions of this Ordinance and such statutes. Any such inconsistency is intended by the Council and shall be deemed made pursuant to the Charter.

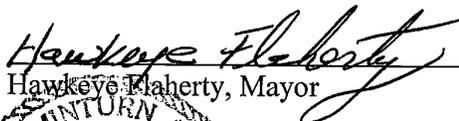
**Section 9. Severability.** If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause, or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the invalid or unenforceable section, paragraph, clause, or provision shall be severable from the remaining sections, paragraphs, clauses, or provisions.

**Section 10. Repealer.** All bylaws, orders, resolutions, and ordinances, or parts thereof, inconsistent with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such inconsistency. This repealer shall not be construed as reviving any bylaw, order, resolution, or ordinance, or part thereof.

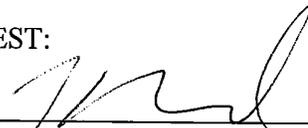
**Section 11. Effective Date.** This Ordinance shall be in full force and effect seven (7) days after publication following final passage.

**INTRODUCED, READ BY TITLE, APPROVED ON THE FIRST READING AND ORDERED PUBLISHED BY TITLE ONLY AND POSTED IN FULL ON THE OFFICIAL TOWN WEB SITE THE 7<sup>TH</sup> DAY OF NOVEMBER, 2012. THE 21<sup>ST</sup> DAY OF NOVEMBER, 2012 AT 6:30 p.m. AT THE MINTURN TOWN HALL 302 PINE STREET, MINTURN COLORADO 81645 IS SET FOR PUBLIC HEARING HEREON.**

TOWN OF MINTURN, COLORADO

  
Hawkeye Flaherty, Mayor

ATTEST:

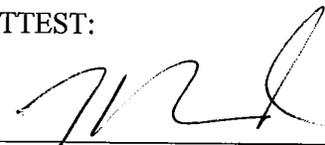
By:   
Jay Brunvand, Town Clerk



**THE TOWN OF MINTURN, COLORADO, ORDAINS THIS ORDINANCE ENACTED ON SECOND READING THIS 21<sup>ST</sup> DAY OF NOVEMBER, 2012.**

  
Hawkeye Flaherty, Mayor

ATTEST:

  
Jay Brunvand, Town Clerk



**Acct:** 1032852  
**Phone:** (970)827-5645  
**E-Mail:** MANAGER@MINTURN.OR  
**Client:**  
**Caller:** Jay  
**Receipt**

**Name:** Town of Minturn  
**Address:** P.O. Box 309

**City:** MINTURN  
**State:** CO  
**Zip:** 81645

**Ad Name:** 8580974A

**Original Id:** 0

**Editions:** 8VD/8VDI/

**Class:** 0990

**Start:** 11/12/12

**Stop:** 11/12/12

**Color:**

**Issue** 1

**Copline:** Ordinance No 13-2012

**Rep:** Pam Schultz

TOWN OF MINTURN, COLORADO  
 ORDINANCE NO. 13 - SERIES 2012

Lines:	32
Depth:	2.68
Columns:	1
Discount:	0.00
Commission:	0.00
Net:	0.00
Tax:	0.00
<b>Total</b>	<b>10.18</b>
Payment	0.00

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By: Jay Brunvand, Town Clerk

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