

ORDINANCE NO. 26

Series 2017

AN ORDINANCE APPROVING A LEASE-PURCHASE AGREEMENT WITH PNC EQUIPMENT
FINANCE, LLC
(Lease Number 205913000)

Amount \$169,292.16

WHEREAS, the Town of Breckenridge (“Lessee”) is a home rule municipal corporation organized and existing under Article XX of the Colorado Constitution, and is authorized by the laws of the State to purchase, acquire, and lease certain equipment and other property for the benefit of the Lessee and its inhabitants and to enter into contracts with respect thereto; and

WHEREAS, pursuant to applicable law, the Town Council of the Town of Breckenridge is authorized to acquire, dispose of, and encumber real and personal property, including, without limitation, rights and interest in property, leases, and easements necessary to the functions or operations of the Lessee; and

WHEREAS, the Town Council hereby finds and determines that the execution of one or more Lease-Purchase Agreements or lease schedules (“Leases”) in the principal amount not exceeding the amount stated above for the purpose of acquiring the property (“Equipment”) to be described in the Leases is appropriate and necessary to the functions and operations of the Lessee; and

WHEREAS, PNC Equipment Finance, LLC (“Lessor”) shall act as Lessor under said Leases; and

WHEREAS, included in the financing package for the Leases is a Security Agreement; and

WHEREAS, Section 15.3 of the Town Charter requires that an ordinance be adopted in order for the Town to mortgage its personal property.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF BRECKENRIDGE, COLORADO:

Section 1. Either one of the Mayor or the Town Manager of the Town of Breckenridge (each an “Authorized Representative”) acting on behalf of the Lessee, is hereby authorized to negotiate, enter into, execute, and deliver one or more Leases in substantially the form set forth in the document presently before the Town Council, which document is available for public inspection at the office of the Lessee. Each Authorized Representative acting on behalf of the Lessee is hereby authorized to negotiate, enter into, execute, and deliver such other documents relating to the Lease as the Authorized Representative deems necessary and appropriate. All other related contracts and agreements necessary and incidental to the Leases are hereby authorized.

Section 2. By a written instrument signed by any Authorized Representative, said Authorized Representative may designate specifically identified officers or employees of the Lessee to execute and deliver agreements and documents relating to the Leases on behalf of the Lessee.

Section 3. The aggregate original principal amount of the Leases shall not exceed the amount stated above and shall bear interest as set forth in the Leases and the Leases shall contain such options to purchase by the Lessee as set forth therein.

Section 4. Financial obligations of the Lessee under the Lease payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted and otherwise made available by the Town Council of the Town of Breckenridge, Colorado. In the event sufficient funds shall not be made available, the Lease may be terminated by either party without penalty. The Lessee’s obligations under the Lease shall not constitute a general obligation indebtedness or multiple year direct or indirect debt or other financial obligation whatsoever within the meaning of the Constitution or laws of the State of Colorado.

Section 5. As to each Lease, the Lessee reasonably anticipates to issue not more than \$10,000,000 of tax-exempt obligations (other than “private activity bonds” which are not “qualified 501(c)(3) bonds”) during the fiscal year in which each such Lease is issued and

hereby designates each Lease as a qualified tax-exempt obligation for purposes of Section 265(b) of the Internal Revenue Code of 1986, as amended.

Section 6. Minor changes to or amendments of the approved Leases may be made by the Town Manager if the Town Attorney certifies in writing that the proposed changes or amendments do not substantially affect the consideration to be received or paid by the Town pursuant to the approved Leases, or the essential elements of the approved Leases.

Section 7. The Town Council of the Town of Breckenridge hereby finds, determines and declares that an emergency exists and that this ordinance is necessary for the immediate preservation of public property, health, welfare, peace or safety because of the immediate need to approve the financing described in this ordinance. The Town Council further determines that the adoption of this ordinance as an emergency ordinance is in the best interest of the citizens of the Town of Breckenridge.

Section 8. Pursuant to Section 5.11 of the Breckenridge Town Charter this ordinance shall take effect and be in full force upon adoption of this ordinance by the affirmative votes of at least five (5) members of the Town Council.

Section 9. This ordinance shall be published in full within ten (10) days after adoption, or as soon thereafter as possible, as required by Section 5.11 of the Breckenridge Town Charter.

ADOPTED AND APPROVED as an Emergency Ordinance this 27th day of July, 2017.

TOWN OF BRECKENRIDGE, a Colorado
municipal corporation

By: _____/s/_____
Eric S. Mamula, Mayor

ATTEST:

_____/s/_____
Helen Cospolich, CMC,
Town Clerk

APPROVED IN FORM

_____/s/_____
Town Attorney