

ORDINANCE NO. 2202

INTRODUCED BY: \_\_\_\_\_

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AN ORDINANCE AUTHORIZING THE LEASE OF EQUIPMENT AND THE EXECUTION BY THE CITY OF A MASTER LEASE AGREEMENT WITH DEERE CREDIT, INC. AND RELATED DOCUMENTS; AUTHORIZING THE CITY MANAGER TO EXECUTE RELATED SCHEDULES; SETTING FORTH PARAMETERS AND RESTRICTIONS; AND PROVIDING FOR OTHER RELATED MATTERS.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

**SECTION 1. FINDINGS.**

A. Pursuant to its Charter, the City of Commerce City (“City”) is authorized to enter into long term installment purchase contracts and rental or leasehold agreements to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes;

B. The City Council has determined that there exists a true and essential need to procure certain equipment, consisting of a backhoe, loader, grader, and tractor with associated attachments, for use in the efficient and proper operation of the City’s Public Works Department and Parks Division;

C. The City Council has determined that, to obtain said equipment, it is in the best interests of the City and its inhabitants to lease said equipment through Deere Credit, Inc. (“Deere”) through the Master Lease Agreement including an Amendment, attached as Exhibit A (together, the “Agreement”), as set forth in Schedules executed in accordance with the Agreement consistent with this ordinance.

D. The City’s obligations under the Agreement shall be from year to year only; shall constitute a currently budgeted expenditure of the City; shall not constitute a mandatory charge or requirement in any ensuing budget year; and shall not constitute a general obligation or other indebtedness or multiple fiscal year direct or indirect City debt or other financial obligation of the City within the meaning of any constitutional, statutory or Charter limitation or requirement concerning the creation of indebtedness or multiple fiscal year financial obligation, nor a mandatory payment obligation of the City in any ensuing fiscal year beyond any fiscal year during which the Agreement shall be in effect.

## **SECTION 2. AUTHORIZATION & PARAMETERS.**

A. The Agreement, substantially in the form attached hereto in the opinion of the City Attorney, is hereby approved.

B. The City Manager is hereby authorized to execute, and the City Clerk to attest, on behalf of the City of Commerce City the Agreement and all other documents necessary to implement the Agreement consistent with this ordinance. The City Manager is further authorized to negotiate and approve such revisions to these documents as the City Manager determines to be necessary and appropriate for the protection of the City so long as the essential terms of the Agreement are not altered, in the opinion of the City Attorney.

C. After approval as to form by the City Attorney, the City Manager is authorized to approve Schedules as needed to obtain equipment and related purchase orders Deere's agents, consistent with the limitations of this ordinance, the City's Procurement Policy, and available appropriated funds. Without further approval of the City Council, the Agreement shall not include and the City Manager shall not authorize any Schedule or order under the Agreement exceeding the maximum aggregate expenditure of \$620,144.07.

## **SECTION 3. NO GENERAL OBLIGATION DEBT.**

No provision of this ordinance, the Agreement, any Schedule, or any related document shall be construed as creating or constituting a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter provision, nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the then current fiscal year. The City shall not have any obligation to make any payment with respect to the Agreement except those payments specifically required under the Agreement, which payments may be terminated by the City in accordance with the provisions of the Lease. Neither this ordinance, the Agreement, any Schedule, or any related document shall constitute a mandatory charge or requirement of the City in any ensuing fiscal year beyond the then current fiscal year or constitute or give rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect City debt or other financial obligation whatsoever. No provision of this ordinance, the Agreement, any Schedule, or any related document shall be construed or interpreted as creating an unlawful delegation of governmental powers nor as a donation by or a lending of the credit of the City within the meaning of Sections 1 or 2 of Article XI of the State Constitution. Neither this ordinance, the Agreement, any Schedule, or any related document shall directly or indirectly obligate the City to make any payments beyond those budgeted and appropriated for the City's then current fiscal year.

#### **SECTION 4. SEVERABILITY.**

If any section, subsection, paragraph, clause or other provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability thereof shall not affect any of the remaining sections, subsections, paragraphs, clauses or provisions hereof.

#### **SECTION 5. STATUTES SUPERSEDED.**

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 City Council and shall be deemed made pursuant to the Charter.

#### **SECTION 6. REPEALER.**

All ordinances, resolutions, bylaws, orders, and other instruments, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any ordinance, resolution, bylaws, order, or other instrument, or part thereof, heretofore repealed.

INTRODUCED AND PASSED ON FIRST READING AND PUBLIC NOTICE  
ORDERED THIS 1ST DAY OF APRIL 2019.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED  
THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2019.

CITY OF COMMERCE CITY, COLORADO

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Sean Ford, Mayor

ATTEST:

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Laura J. Bauer, MMC, City Clerk