

**CITY OF ASPEN, COLORADO
ORDINANCE NO. 7
(SERIES OF 2019)**

AN ORDINANCE AUTHORIZING THE FINANCING OF CERTAIN PUBLIC IMPROVEMENTS OF THE CITY, AND IN CONNECTION THEREWITH AUTHORIZING THE LEASING OF CERTAIN CITY PROPERTY AND THE EXECUTION AND DELIVERY OF DOCUMENTS RELATED THERETO; SETTING FORTH CERTAIN PARAMETERS AND RESTRICTIONS WITH RESPECT TO THE FINANCING; AND PROVIDING OTHER MATTERS RELATED THERETO.

WHEREAS, The City of Aspen, Pitkin County, Colorado (the "City") is a duly organized and existing home rule municipality of the State of Colorado, created and operating pursuant to Article XX of the Constitution of the State of Colorado and the home rule charter of the City (the "Charter"); and

WHEREAS, pursuant to Article X of the Charter, the City is authorized to enter into one or more leases or lease-purchase agreements for land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, the City is authorized by Article XX, Section 6 of the Colorado Constitution, its Charter, and part 8 of Article 15 of title 31, Colorado Revised Statutes ("C.R.S."), to enter into rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes; and

WHEREAS, for the functions or operation of the City, it is necessary that the City finance the construction and equipping of a new City Administration facility for City purposes (the "Project"); and

WHEREAS, the City owns, in fee title, the Site, as further described in the Site Lease and the Lease (hereinafter defined); and

WHEREAS, the City Council of the City (the "City Council") has determined, and now hereby determines, that it is in the best interest of the City and its inhabitants that the City lease the Site to Zions Bancorporation, National Association, as trustee under the Indenture (the "Trustee") pursuant to a Site Lease between the City, as lessor, and the Trustee, as lessee (the "Site Lease"), and lease back the Trustee's interest in the Site, along with the improvements to be constructed thereon (collectively, the Site and improvements are the "Leased Property") pursuant to the terms of a Lease Purchase Agreement (the "Lease") between the Trustee, as lessor, and the City, as lessee; and

WHEREAS, pursuant to the Lease, and subject to the right of the City to terminate the Lease and other limitations as therein provided, the City will pay certain Base Rentals and Additional Rentals (as such terms are defined in the Lease) in consideration for the right of the City to use the Leased Property; and

WHEREAS, the City's obligation under the Lease to pay Base Rentals and Additional Rentals shall be from year to year only; shall constitute currently budgeted expenditures 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 financial obligation of the City within the meaning of any constitutional, charter, statutory 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 Lease shall be in effect; and

WHEREAS, the Trustee will enter into an Indenture of Trust (the "Indenture") pursuant to which there is expected to be executed and delivered certain certificates of participation (the "Certificates") dated as of their date of delivery that shall evidence proportionate interests in the right to receive certain Revenues (as defined in the Lease), shall be payable solely from the sources therein provided and shall not directly or indirectly obligate the City to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect; and

WHEREAS, the net proceeds of the Certificates are expected to be used to finance the Project; and

WHEREAS, there has also been presented to this meeting of the City Council the form of Continuing Disclosure Certificate (the "Disclosure Certificate"); and

WHEREAS, there will be executed and distributed in connection with the sale of the Certificates an Official Statement (the "Official Statement") in substantially the form of the Preliminary Official Statement (the "Preliminary Official Statement") relating to the Certificates presented to this meeting of the City Council; and

WHEREAS, Section 11-57-204 of the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended (the "Supplemental Act"), provides that a public entity, including the City, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act; and

WHEREAS, there has been presented to the City Council and are on file at the City offices the following: (i) the proposed form of the Site Lease; (ii) the proposed form of the Lease; (iii) the proposed form of the Disclosure Certificate to be provided by the City; and (iv) the Preliminary Official Statement; and

WHEREAS, capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF ASPEN, COLORADO, the following:

Section 1. Short Title. This Ordinance shall be known and may be cited by the short title "2019 COP Ordinance."

Section 2. Recitals Incorporated. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the City Council.

Section 3. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council or the officers, agents or employees of the City Council or the City relating to the Site Lease, the Lease, the acquisition, construction, installation or improvement of the Project, and the execution and delivery of the Certificates is hereby ratified, approved and confirmed.

Section 4. Finding of Best Interests. The City Council hereby finds and determines, pursuant to the Constitution, the laws of the State of Colorado and the Charter, that the acquisition, construction, and installation of the Project, and the financing of the costs thereof pursuant to the terms set forth in the Site Lease and the Lease are necessary, convenient, and in furtherance of the City's purposes and are in the best interests of the inhabitants of the City and the City Council hereby authorizes and approves the same.

Section 5. Supplemental Act; Parameters. The City Council hereby elects to apply all of the provisions of the Supplemental Act to the Site Lease and the Lease and in connection therewith delegates to each of the Mayor, the City Manager or the Finance Director the authority to make any determination delegable pursuant to §11-57-205(1)(a-i) of the Colorado Revised Statutes, as amended, in relation to the Site Lease and the Lease, and to execute a sale certificate (the "Sale Certificate") setting forth such determinations, including without limitation, the term of the Site Lease, the rental amount to be paid by the Trustee pursuant to the Site Lease, the term of the Lease, and the rental amount to be paid by the City pursuant to the Lease, subject to the following parameters and restrictions:

(a) the term of the Site Lease shall not extend beyond the December 31 which is 40 years from the date of the Site Lease;

(b) the aggregate principal amount of the Base Rentals payable by the City pursuant to the Lease shall not exceed \$30,600,000;

(c) the Lease Term shall not extend beyond the December 31 which is 30 years from the date of the Lease;

(d) the maximum annual repayment cost of the Base Rentals under the Lease shall not exceed \$2,100,000, and the total repayment cost shall not exceed \$60,000,000;

(e) the maximum net effective interest rate on the interest component of the Base Rentals relating to the 2019 Certificates shall not exceed 5.25%; and

(f) the purchase price of the Certificates shall not be less than 98% of the principal amount of the Certificates.

Pursuant to §11-57-205 of the Supplemental Act, the City Council hereby delegates to each of the Mayor, the City Manager or the Finance Director the authority to sign a contract for the purchase of the Certificates or to accept a binding bid for the Certificates and to execute any agreement or agreements in connection therewith. In addition, each of the Mayor, the City Manager or the Finance Director is hereby authorized to determine if obtaining an insurance policy for all or a portion of the Certificates is in the best interests of the City, and if so, to select an insurer to issue an insurance policy, execute a commitment relating to the same and execute any related documents or agreements required by such commitment. Each of the Mayor, the City Manager or the Finance Director is also hereby authorized to determine if obtaining a reserve fund insurance policy for the Certificates is in the best interests of the City, and if so, to select a surety provider to issue a reserve fund insurance policy and execute any related documents or agreements required by such commitment.

The City Council hereby agrees and acknowledges that the proceeds of the Certificates will be used to finance the costs of the Project and to pay other costs of issuance.

Section 6. Approval of Documents. The Site Lease, the Lease, and the Disclosure Certificate, in substantially the forms presented to the City Council and on file with the City, are in all respects approved, authorized and confirmed, and the Mayor of the City is hereby authorized and directed for and on behalf of the City to execute and deliver the Site Lease, the Lease, and the Disclosure Certificate in substantially the forms and with substantially the same contents as presented to the City Council, provided that such documents may be completed, corrected or revised as deemed necessary by the parties thereto in order to carry out the purposes of this Ordinance.

Section 7. Approval of Official Statement. The designation of the Preliminary Official Statement by the City Manager or the Finance Director as a "deemed final Official Statement" for purposes of Rule 15c2-12 of the Securities and Exchange Commission is hereby authorized and confirmed. A final Official Statement, in substantially the form of the Preliminary Official Statement on file with the City Clerk, is in all respects approved and authorized. The Mayor is hereby authorized and directed, for and on behalf of the City, to execute and deliver the final Official Statement in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the City Clerk, with such changes as may be approved by the City Manager or the Finance Director. The distribution of the Preliminary Official Statement and the final Official Statement to all interested persons in connection with the sale of the Certificates is hereby ratified, approved and authorized.

Section 8. Authorization to Execute Collateral Documents. The City Clerk is hereby authorized and directed to attest all signatures and acts of any official of the City in connection with the matters authorized by this Ordinance and to place the seal of the City on any document authorized and approved by this Ordinance. The Mayor, the City Clerk, the City Manager, the Finance Director and other employees and officials of the City are hereby authorized and directed to execute and deliver for and on behalf of the City 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 approval hereby given to the various documents referred to above includes an approval of such additional details therein as may be necessary and appropriate for their

completion, deletions therefrom and additions thereto as may be approved by the City Manager or the Finance Director prior to the execution of the documents. The execution of any instrument by the appropriate officers of the City herein authorized shall be conclusive evidence of the approval by the City of such instrument in accordance with the terms hereof.

Section 9. No General Obligation Debt. No provision of this Ordinance, the Site Lease, the Lease, the Indenture, the Certificates, the Preliminary Official Statement, or the final Official Statement 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 have no obligation to make any payment with respect to the Certificates except in connection with the payment of the Base Rentals (as defined in the Lease) and certain other payments under the Lease, which payments may be terminated by the City in accordance with the provisions of the Lease. Neither the Lease nor the Certificates 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 debt or other financial obligation whatsoever. No provision of the Site Lease, the Lease or the Certificates 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 Colorado Constitution. Neither the Lease nor the Certificates 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 10. Reasonableness of Rentals. The City Council hereby determines and declares that the Base Rentals due under the Lease, in the maximum amounts authorized pursuant to Section 5 hereof, constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the City under an economic compulsion to renew the Lease or to exercise its option to purchase the Trustee's leasehold interest in the Leased Property pursuant to the Lease. The City Council hereby determines and declares that the period during which the City has an option to purchase the Trustee's leasehold interest in the Leased Property (i.e., the entire maximum term of the Lease) does not exceed the useful life of the Leased Property. The City Council hereby further determines that the amount of rental payments to be received by the City from the Trustee pursuant to the Site Lease is reasonable consideration for the leasing of the Leased Property to the Trustee for the term of the Site Lease as provided therein.

Section 11. No Recourse Against Officers and Agents. Pursuant to §11-57-209 of the Supplemental Act, if a member of the City Council, or any officer or agent of the City acts in good faith, no civil recourse shall be available against such member, officer, or agent for payment of the principal, interest or prior redemption premiums on the Certificates. Such recourse shall not be available either directly or indirectly through the City Council or the City, or otherwise, whether by virtue of any constitution, statute, rule of law, enforcement of penalty, or otherwise. By the acceptance of the Certificates and as a part of the consideration of their sale

or purchase, any person purchasing or selling such Certificate specifically waives any such recourse.

Section 12. Repealer. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, heretofore repealed.

Section 13. Severability. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The City Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division, subdivision, section, subsection, sentence, clause or phrase; the term "application" means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the City.

Section 14. Interpretation. This Ordinance shall be so interpreted and construed as to effectuate its general purpose.

Section 15. Charter Controls. 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 or conflicts between the provisions of this Ordinance and the Sale Certificate authorized hereby and such statutes. Any such inconsistency or conflict is intended by the City Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 16. Safety Clause. The City Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the City, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that this Ordinance bears a rational relation to the proper legislative object sought to be obtained.

Section 17. Publication. The City Clerk is ordered to publish this Ordinance in accordance with Article IV of the Charter.

Section 18. Effective Date. This Ordinance shall be effective thirty (30) days after final passage of the Ordinance upon second reading by the City Council, as provided in Section 4.9 of the Charter.

INTRODUCED, READ AND PASSED ON FIRST READING by the City Council of the City of Aspen at its regular meeting on March 11, 2019, as provided by the City's Charter and applicable law.

[SEAL]

By: SA/SEL
Mayor

Attest:

By: Rinda Manning
City Clerk

READ, PASSED ON SECOND READING, FINALLY ADOPTED AND APPROVED AND ORDERED PUBLISHED WITHIN 10 DAYS OF SUCH FINAL PASSAGE by the City Council of the City of Aspen at its regular meeting on April 22, 2019, as provided by the City's Charter and applicable law.

[SEAL]

By: SA/SEL
Mayor

Attest:

By: Rinda Manning
City Clerk

STATE OF COLORADO)
)
 COUNTY OF PITKIN)ss.
)
 CITY OF ASPEN)

I, Linda Manning, the City Clerk of the City of Aspen, Colorado, do hereby certify that:

1. The foregoing pages are a true and correct copy of an ordinance (the "Ordinance") passed and adopted by the City Council (the "Council") at a regular meeting held on March 11, 2019.

2. The passage of the Ordinance on first reading on March 11, 2019, was duly moved and seconded and the Ordinance was approved by a vote of 5 to 0 of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Steve Skadron, Mayor	✓			
Adam Frisch	✓			
Ward Hauenstein	✓			
Ann Mullins	✓			
Bert Myrin	✓			

3. The passage of the Ordinance on second and final reading was duly moved and seconded at a regular meeting of the Council on April 22, 2019, and the Ordinance was approved on second and final reading by a vote of a 4 of 0 of the members of the Council as follows:

Name	"Yes"	"No"	Absent	Abstain
Steve Skadron, Mayor	✓			
Adam Frisch	✓			
Ward Hauenstein	✓			
Ann Mullins	✓			
Bert Myrin			✓	

4. The members of the City Council were present at such meetings and voted on the passage of such Ordinance as set forth above.

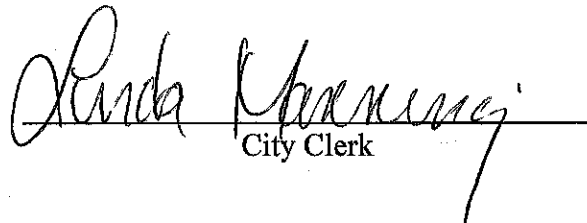
5. The Ordinance was authenticated by the signature of the Mayor, sealed with the City seal, attested by the City Clerk, and recorded in the minutes of the City Council.

6. There are no bylaws, rules or regulations of the City Council that might prohibit the adoption of the Ordinance.

7. Notices of the meetings of March 11, 2019, and April 22, 2019, in the forms attached hereto as **Exhibit A** were posted at the City Hall not less than 24 hours prior to each meeting in accordance with law.

8. The Ordinance was published by posting on the City's internet website, www.cityofaspen.com, as provided by Section 4.10(h) of the Home Rule Charter, on March 7, 2019.

WITNESS my hand and the seal of the City affixed this 29 day of April 2019.



City Clerk

(SEAL)

EXHIBIT A

(Attach Notice of Meetings of
March 11, 2019 and April 22, 2019)

CITY COUNCIL AGENDA

March 11, 2019

5:00 PM

- I. **Call to Order**
- II. **Roll Call**
- III. **Scheduled Public Appearances**
- IV. **Citizens Comments & Petitions** (*Time for any citizen to address Council on issues NOT scheduled for a public hearing. Please limit your comments to 3 minutes*)
- V. **Special Orders of the Day**
 - a) Councilmembers' and Mayor's Comments
 - b) Agenda Amendments
 - c) City Manager's Comments
 - d) Board Reports
- VI. **Consent Calendar** (*These matters may be adopted together by a single motion*)
 - a) Resolution #29, Series of 2019 - Contract for replacement of electric Zamboni
 - b) Resolution #33, Series of 2019 - Contract with Publicis Sapien for Support of Salesforce/BasicGov
 - c) Resolution #32, Series of 2019 - Landis + Gyr Technology Inc. Contract for AMI project
 - d) Resolution #35, Series of 2019 - Music Associates of Aspen (MAA) / Marolt Lease
 - e) Minutes - February 25, 2019
- VII. **Notice of Call-Up**
 - a) Notice of HPC approval of Conceptual Major Development for 931 Gibson Avenue, HPC Resolution #2, Series of 2019
- VIII. **First Reading of Ordinances**
 - a) Ordinance #7, Series of 2019 - Debt Issuance Approval for Funding Construction for New Administrative Offices
 - b) Ordinance #6, Series of 2019 - Historic Preservation Benefits Code Amendments
- IX. **Public Hearings**
 - a) Resolution #31, Series of 2019 - Appeal of variance granted by Resolution No. 4, Series of 2018 by the Board of Adjustment
 - b) Ordinance #5, Series of 2019 - Wireless Regulation Amendments
- X. **Action Items**
 - a) Resolution #25, Series 2019 - Removal of the Statement of Exemption from the Definition of Subdivision for 729 W. Francis St.
- XI. **Adjournment**

Next Regular Meeting March 25, 2019

COUNCIL'S ADOPTED GUIDELINES

- Make Decisions Based on 30 Year Vision
- Tone and Tenor Matter
- Remember Where We're Living and Why We're Here

COUNCIL SCHEDULES A 15 MINUTE DINNER BREAK APPROXIMATELY 7 P.M.

CITY COUNCIL AGENDA
April 22, 2019
5:00 PM

- I. Call to Order**
- II. Roll Call**
- III. Scheduled Public Appearances**
 - a) APD Presentation
- IV. Citizens Comments & Petitions** *(Time for any citizen to address Council on issues NOT scheduled for a public hearing. Please limit your comments to 3 minutes)*
- V. Special Orders of the Day**
 - a) Councilmembers' and Mayor's Comments
 - b) Agenda Amendments
 - c) City Manager's Comments
 - d) Board Reports
- VI. Consent Calendar** *(These matters may be adopted together by a single motion)*
 - a) Resolution #44, Series of 2019 - EOTC 2019 Amended Budget
 - b) Resolution #46, Series of 2019 - Appointment of Margaret Medellin as the City's Alternate Representative to MEAN and NMPP
 - c) Resolution #40, Series of 2019 - NWCCOG Project THOR MeetMe Center Host Agreement
 - d) Resolution #45, Series of 2019 - Amendment to rates and charges for MEAN contract
 - e) Resolution #50, Series of 2019 - Colorado HB19-1262 Full Day funding for Kindergarten support
 - f) Minutes - April 8, 2019
- VII. Notice of Call-Up**
- VIII. First Reading of Ordinances**
 - a) Ordinance #8, Series of 2019 - Spring Supplemental Budget
 - b) Ordinance #10, Series of 2019 - 119 Neale Avenue - Transferable Development Rights
 - c) Ordinance #11, Series of 2019 - Council Salary Adjustment
- IX. Public Hearings**
 - a) Ordinance #7, Series of 2019 - Debt Issuance Approval for Purposes of Funding Construction for New Administrative Offices
 - b) Ordinance #4, Series 2019 - 465 and 557 N. Mill Street Rezoning
 - c) Resolution #49, Series of 2019 - 1010 N. 3rd St. - Greenwald Pavilion - Temporary Use
- X. Action Items**

XI. Executive Session

- a) C.R.S. 24-6-402 (b) Conference with attorney for the purpose of receiving legal advice regarding the Angie Callen case.

XII. Adjournment

Next Regular Meeting Not Scheduled

COUNCIL'S ADOPTED GUIDELINES

- Make Decisions Based on 30 Year Vision
- Tone and Tenor Matter
- Remember Where We're Living and Why We're Here

COUNCIL SCHEDULES A 15 MINUTE DINNER BREAK APPROXIMATELY 7 P.M.

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Classified Services

Air Purifiers
using NASA inspired technology. Kills mold, bacteria, fungus, odors even MRSA!
<http://www.myvollara.com/antero>

Health Services

Attain Ketosis
in about one hour. 100% pure D BHB (betahydroxybutyrate)
www.ketonezone.com/antero

Misc For Sale & Needed

Wanted

Looking for a snowboarder dance partner to learn how to dance while riding down the mountain on snowboards. Yes, I am talking about ballroom style dancing on snowboards. Extreme fun! Willing to teach.
Contact Mark: 917-865-9578

Public Notices
Public Notice 1 Col

LEGAL NOTICE ORDINANCE #7, 2019
PUBLIC HEARING
The public hearing on Ordinance #7, Series of 2019 is scheduled for April 22, 2019 at 5 PM, City Hall, 130 South Galena Street, Aspen, CO.
This ordinance, if adopted, would approve debt issuance for the purpose of funding construction for new administrative office.

To see the entire text, go to the city's legal notice website <https://www.cityofaspen.com/184/Legal-Notices>

If you would like a copy FAXed, mailed or e-mailed to you, call the city clerk's office, 970-429-2687

YOUR AD
could be
HERE!

