TOWN OF PARKER COUNCIL AGENDA
SPECIAL MEETING
May 23, 2019

THIS SPECIAL MEETING WAS REQUESTED BY TOWN COUNCIL, AS PROVIDED IN THE HOME RULE CHARTER UNDER SECTION 3.8 - SPECIAL MEETINGS.

THE AGENDA FOR THIS SPECIAL MEETING HAS BEEN POSTED AT THE MAIN ENTRANCE OF TOWN HALL AND ON THE TOWN'S WEBSITE AT www.parkeronline.org.

1. **TOWN COUNCIL MEETING SCHEDULE**

2. **5:00 P.M. – Call to Order Town Council Meeting and Roll Call**

3. **ORDINANCES**

ORDINANCE NO. 1.533 - Second Reading
A Bill for an Ordinance Authorizing a Lease Purchase Transaction and in Connection Therewith, Authorizing the Leasing of Certain Town Property and the Execution and Delivery by the Town of a Site Lease, a Lease Purchase Agreement, an Escrow Agreement and Other Financing Documents in Connection Therewith

Department: **Finance, Mary Lou Brown**
Town Attorney, Jim Maloney

4. **EXECUTIVE SESSION - See Attached**

5. **ADJOURNMENT**

Parker Town Council/Parker Authority for Reinvestment

Combined Executive Session Agenda

May 23, 2019

"To determine positions relative to matters that may be subject to negotiations, develop a strategy for negotiations, and/or instruct negotiators, pursuant to C.R.S. § 24-6-402(4)(e)."

1. Listing agreement for Town properties between NavPoint Real Estate Group and the Town (My Mainstreet)

"To hold a conference with the Town's attorney to receive legal advice on specific legal questions, pursuant to C.R.S. § 24-6-402(4)(b)."

2. *South Metro Fire Rescue Fire Protection District v. Parker Authority for Reinvestment, et al.*, Douglas County District Court Case No. 17CV30549

PARKER
COLORADO

Request for Town Council Action

Date:	May 23, 2019
Submitted By:	Mary Lou Brown, Finance Director Jim Maloney, Town Attorney
Reviewed By:	Michelle Kivela, Town Administrator
Title:	**ORDINANCE NO. 1.533 - Second Reading** **A Bill for an Ordinance Authorizing a Lease Purchase Transaction and in Connection Therewith, Authorizing the Leasing of Certain Town Property and the Execution and Delivery by the Town of a Site Lease, a Lease Purchase Agreement, an Escrow Agreement and Other Financing Documents in Connection Therewith**

Department: **Finance, Mary Lou Brown**
Town Attorney, Jim Maloney

EXECUTIVE SUMMARY

Town staff and the Town's Financial Advisor are recommending the refunding of the 2009 Certificates of Participation through the issuance of 2019 Refunding Certificates of Participation and the authorization of a lease purchase agreement, site lease, escrow agreement and other related financing documents. The result of these approvals will be a reduction in the amount of interest expense paid by the Town.

STAFF RECOMMENDATION

Approve

BACKGROUND/DISCUSSION

At a study session on May 13, 2019, the financial transaction was reviewed with Council by James Manire, Director, Hilltop Securities who serves as the Town's financial advisor. Also participating was Nate Eckloff, Managing Director, RBC Capital Markets; RBC will serve as the underwriter of the transaction.

In 2009, the Town issued $44,250,000 in Certificates of Participation to finance the costs of constructing and equipping a new police station, as well as the PACE Center. The certificates mature by October 15, 2035; those Certificates maturing on and after November 1, 2020 are subject to redemption on or after November 1, 2019 at the option of the Town.

In order to take advantage of positive market dynamics, Town Finance staff is recommending a refunding of the 2009 Certificates. The Refunding Certificates will be referred to as the Series 2019 and will reflect the interest in the rental under a new Lease Purchase Agreement entered into between Wells Fargo Bank as trustee and lessor and the Town of Parker as lessee. The Series 2019 Certificates will be executed and delivered by the Trustee according to a new Indenture of Trust. This process mirrors that of 2009.

Under the refunding, the collateral for the Series 2019 Certificates will be the Police Building and Site; under the current agreement both the Police Building and the PACE Center serve as collateral.

The recommendation for approval is being made for the following reasons: (1) the refunding is expected to reduce the effective interest rate from approximately 4.4% to less than 3.0%; (2) the maximum annual repayment cost of the base rentals will not exceed $2,250,000 which will be a reduction from the current maximum annual repayment cost of $2,900,000; (3) the total repayment cost will not exceed $35,890,000; (4) the term of the repayment obligation will end no later than December 31, 2035 which is the same end date as for the 2009 Certificates; and (5) the PACE Center will be released as security for the 2019 Certificates.

FINANCIAL IMPACT

The end result of the refunding will be a reduction in the annual interest expense incurred by the Town. The exact amount will not be known until the transaction is complete as it is dependent upon market conditions.

STRATEGIC GOAL(S)

ENHANCE ECONOMIC VITALITY

ATTACHMENTS

1. Ordinance No. 1.533

RECOMMENDED MOTION

I move to approve Ordinance 1.533 on second reading.

ORDINANCE NO. 1.533, Series of 2019

TITLE: **A BILL FOR AN ORDINANCE AUTHORIZING A LEASE PURCHASE TRANSACTION AND IN CONNECTION THEREWITH, AUTHORIZING THE LEASING OF CERTAIN TOWN PROPERTY AND THE EXECUTION AND DELIVERY BY THE TOWN OF A SITE LEASE, A LEASE PURCHASE AGREEMENT, AN ESCROW AGREEMENT AND OTHER FINANCING DOCUMENTS IN CONNECTION THEREWITH**

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF PARKER, COLORADO, ORDAINS:

Section 1. Recitals.

A. The Town of Parker, Colorado (the "Town") 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 Town (the "Charter").

B. The members of the Town Council of the Town (the "Council") have been duly elected or appointed and qualified.

C. The Town is authorized pursuant to Section 15.2 of the Charter and Article XX of the Colorado Constitution, to purchase, sell, exchange or dispose of any interest in real property, and the Council by ordinance may lease, for such a term as the Council shall determine, any real property to any person, firm or corporation, public or private.

D. The Town is authorized pursuant to Section 10.7 of the Charter to enter into lease-purchase and installment-purchase agreements as a means of acquiring any real or personal property for public purposes.

E. For the purpose of financing the cost of certain public improvements of the Town (the "Prior Projects"), the Town has previously executed and delivered:

i. The Site Lease dated as of August 1, 2009, between the Town, as lessor, and the Town of Parker Leasing Trust 2009, as Lessor (the "Leasing Trust"), as lessee (the "Site Lease") pursuant to which the Town leased certain property of the Town (the "2009 Leased Property") to the Leasing Trust; and

ii. A Lease Purchase Agreement dated as of August 1, 2009 (the "Original Lease"), by and between the Town, as Lessee, and the Leasing Trust, as Lessor, pursuant to which the 2009 Leased Property was leased by the Leasing Trust back to the Town.

F. In furtherance of Prior Projects, an Indenture of Trust dated as of August 1, 2009 (the "Original Indenture"), was executed and delivered by and between the Leasing Trust and Wells Fargo Bank, National Association, as Trustee.

G. Pursuant to the Original Indenture, there were executed and delivered certain Taxable Certificates of Participation (Direct Pay Build America Bonds), Series 2009A, in the original principal amount of $40,720,000, of which $34,190,000 is currently outstanding (the "2009A Certificates"), and certain Tax-Exempt Certificates of Participation, Series 2009B, none of which remain outstanding.

H. The Council has determined, and does hereby determine, that it is in the best interest of the Town and its inhabitants that the Town exercise its option to purchase the 2009 Leased Property by exercising its option to purchase the same as provided in the Original Lease by refunding and defeasing all of the outstanding 2009A Certificates (the "Refunding Project").

I. In connection with the Refunding Project, the 2009 Leased Property will be released from the terms and provisions of the Original Lease and the Original Indenture and the Leasing Trust's interest in the 2009 Leased Property will be conveyed to the Town.

J. The Town owns, in fee title, certain sites and the premises, buildings and improvements located thereon, or any additional property of the Town (as more particularly described in the Lease) (the "Leased Property").

K. The Council has determined, and now hereby determines, that it is in the best interest of the Town and its inhabitants that the Town lease the Leased Property to a financial institution with trust powers as named in the Sale Certificate (as hereinafter defined), as trustee under the Indenture (the "Trustee") pursuant to a Site Lease between the Town, as lessor, and the Trustee, as lessee (the "Site Lease"), and lease back the Trustee's interest in the Leased Property pursuant to the terms of a Lease Purchase Agreement (the "Lease") between the Trustee, as lessor, and the Town, as lessee.

L. The Trustee will execute and deliver 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 Town to make any payments beyond those appropriated for any fiscal year during which the Lease shall be in effect.

M. 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 as approved by the Finance Director of the Town.

N. The Town's obligation under the Lease to pay Base Rentals and Additional Rentals (as each is defined in the Lease) shall be from year to year only; shall constitute currently budgeted expenditures of the Town; 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 Town debt or other financial obligation of the Town 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 Town in any ensuing fiscal year beyond any fiscal year during which the Lease shall be in effect.

O. The Certificates will be executed and delivered pursuant to the Indenture and the Lease and pursuant to a certain Certificate Purchase Agreement (the "Purchase Agreement"), between RBC Capital Markets LLC (the "Purchaser") and the Trustee.

P. The net proceeds of the Certificates are expected to be used to provide funds in an amount sufficient to finance the costs of the Refunding Project and pay the costs of issuance of the Certificates.

Q. There has also been presented to the Council at this meeting the form of Continuing Disclosure Certificate (the "Continuing Disclosure Certificate").

R. The Supplemental Public Securities Act, part 2 of article 57 of title 11, Colorado Revised Statutes (the "Supplemental Act"), provides that a public entity, including the Town, may elect in an act of issuance to apply all or any of the provisions of the Supplemental Act to an issue of securities.

S. No member of the Council has any conflict of interest or is interested in any pecuniary manner in the transactions contemplated by this ordinance

T. There have been filed with the Town Clerk proposed forms of: (i) the Site Lease; (ii) the Lease; (iii) the Indenture; (iv) the Continuing Disclosure Certificate; (v) the Preliminary Official Statement; and (vi) the Escrow Agreement, between the Town and Trustee, as escrow agent (the "Escrow Agreement") relating to the refunding and defeasance of the 2009A Certificates.

U. Capitalized terms used herein and not otherwise defined shall have the meanings set forth in the Lease and the Site Lease.

Section 2. Ratification and Approval of Prior Actions. All action heretofore taken (not inconsistent with the provisions of this ordinance) by the Council or the officers, agents or employees of the Council or the Town relating to the Site Lease, the Lease, the implementation of the Refunding Project, and the execution and delivery of the Certificates is hereby ratified, approved and confirmed.

Section 3. Finding of Best Interests. The Council hereby finds and determines, pursuant to the Constitution, the laws of the State and the Charter, that the implementation of the Refunding Project, including the payment of the costs of issuance in connection therewith, and financing the costs thereof pursuant to the terms set forth in the Site Lease, the Lease, the Indenture and the Escrow Agreement are necessary, convenient and in furtherance of the Town's purposes and are in the best interests of the inhabitants of the Town and that the fair value of the Leased Property does not exceed its Purchase Option Price (as defined in the Lease), and the Council hereby authorizes and approves the same.

Section 4. Supplemental Act Election; Parameters. The Council hereby elects to apply all of the provisions of the Supplemental Act to the Lease, the Site Lease and the Certificates, and in connection therewith delegates to the Mayor, any other member of the Council, the Town Administrator and the Finance Director the independent authority to make any determination delegable pursuant to Section 11-57-205(1)(a-i), Colorado Revised Statutes, in relation to the Lease and the Site 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 Town pursuant to the Lease, subject to the following parameters and restrictions:

(a) the Site Lease Term shall end no later than December 31, 2045;

(b) the Lease Term shall end no later than December 31, 2035;

(c) the maximum annual repayment cost of Base Rentals payable by the Town shall not exceed $2,250,000, and the total repayment cost shall not exceed $35,890,000;

(d) the total aggregate principal amount of the Base Rentals payable by the Town under the Lease with respect to the Certificates shall not exceed $32,755,000;

(e) the purchase price of the Certificates shall not be less than 98% of the aggregate principal amount;

(f) the maximum net effective interest rate on the interest component of the Base Rentals relating to the Certificates shall not exceed 4.50%; and

(g) the estimated present value savings shall be no less than $1,000,000 computed based upon the arbitrage yield for the Certificates to the date of delivery of the Certificates, assuming semi-annual compounding

Pursuant to Section 11-57-205 of the Supplemental Act, the Council hereby delegates to each of the Mayor, the Town Administrator or the Finance Director the authority to acknowledge any contract for the purchase of the Certificates between the Trustee and the Purchaser, and to execute any agreement or agreements in connection therewith. In addition, each of the Mayor, the Town Administrator or the Finance Director is hereby independently authorized to determine if obtaining an insurance policy for the payment of all or a portion of the Certificates is in the best interests of the Town, 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 Town Administrator 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 Town, 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 Council hereby acknowledges and agrees that the proceeds of the Certificates will be used to finance the costs of the Refunding Project.

Section 5. Approval of Documents. The Site Lease, the Lease, the Indenture, the Escrow Agreement, and the Continuing Disclosure Certificate are in all respects approved, authorized and confirmed, and the Mayor of the Town is hereby authorized and directed for and on behalf of the Town to execute and deliver such documents in substantially the forms and with substantially the same contents as the proposed forms of such documents on file with the Town Clerk, with such changes as may hereafter be approved by the Mayor, the Finance Director or the Town Administrator.

Section 6. Official Statement. The designation of the Preliminary Official Statement by the Mayor or the Town Administrator 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, is in all respects approved and authorized. The Mayor is hereby authorized and directed to execute and deliver the final Official Statement, for and on behalf of the Town, in substantially the form and with substantially the same content as the Preliminary Official Statement on file with the Town Clerk. The distribution of the Preliminary Official Statement and the final Official Statement (in substantially the form of the Preliminary Official Statement) to prospective purchasers of the Certificates is hereby ratified, approved and authorized.

Section 7. Authorization to Execute Collateral Documents. The Town Clerk is hereby authorized and directed to attest all signatures and acts of any official of the Town, if so required by any documents in connection with the matters authorized by this ordinance and to place the seal of the Town on any document authorized and approved by this ordinance. The Mayor, the Town Administrator, the Finance Director, the Town Attorney, and Town Clerk and other appropriate officials or employees of the Town are hereby authorized to execute and deliver for and on behalf of the Town any and all additional certificates, documents, instruments and other papers, and to perform all other acts that they deem necessary or appropriate, in order to implement and carry out the transactions and other matters authorized by this ordinance, including but not limited to the execution of such other certificates and affidavits as may be necessary. The appropriate officers 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. The execution of any instrument by the aforementioned officers or members of the Council shall be conclusive evidence of the approval by the Town of such instrument in accordance with the terms hereof and thereof.

Section 8. No General Obligation Debt. No provision of this ordinance, the Lease, the Site Lease, the Indenture, the Continuing Disclosure Certificate, 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 Town within the meaning of any constitutional, statutory or Charter provision, nor a mandatory charge or requirement against the Town in any ensuing fiscal year beyond the then current fiscal year. The Town shall not have any obligation to make any payment with respect to the Certificates 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. Neither the Lease nor the Certificates shall constitute a mandatory charge or requirement of the Town 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 Town within the meaning of any constitutional, statutory or Charter debt limitation and shall not constitute a multiple fiscal year direct or indirect Town 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 Town within the meaning of Sections 1 or 2 of Article XI of the State Constitution. Neither the Lease nor the Certificates shall directly or indirectly obligate the Town to make any payments beyond those budgeted and appropriated for the Town's then current fiscal year.

Section 9. Reasonableness of Rentals. The Council hereby determines and declares that the Base Rentals constitute the fair rental value of the Leased Property and do not exceed a reasonable amount so as to place the Town under an economic compulsion to renew the Lease or to exercise its option to purchase the Leased Property pursuant to the Lease. The Council hereby determines and declares that the period during which the Town has an option to purchase the Leased Property (*i.e.*, the entire maximum term of the Lease) does not exceed the remaining useful life of the Leased Property. The Council hereby further determines that the amount of rental payments to be received by the Town 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 10. Town Representatives. The Council hereby authorizes each of the Mayor, the Town Administrator and the Finance Director to act as Town Representatives under the Lease, or such other person or persons who may be so designated in writing from time to time by the Mayor, as further provided in the Lease.

Section 11. Exercise of Option; Direction to Trustee. In order to effect the Refunding Project, the Council has elected and does hereby declare its intent to exercise on the behalf and in the name of the Town its option to redeem the outstanding 2009A Certificates set forth in the Sale Certificate on the earliest applicable redemption date. The Town hereby irrevocably instructs the Trustee to give notice of refunding and defeasance to the Owners of the 2009A Certificates as soon as practicable after the execution and delivery of the Certificates, in accordance with the provisions of the Indenture and the Escrow Agreement between the Trust and the Trustee, as escrow agent.

Section 12. No Recourse against Officers and Agents. Pursuant to Section 11-57-209 of the Supplemental Act, if a member of the Council, or any officer or agent of the Town 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 Council or the Town, 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 13. 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 Council and shall be deemed made pursuant to the authority of Article XX of the State Constitution and the Charter.

Section 14. Repealer. All bylaws, orders, resolutions and ordinances of the Town, or parts thereof, inconsistent herewith are hereby repealed to the extent only of such inconsistency.

This repealer shall not be construed to revive any other such bylaw, order, resolution or ordinance of the Town, or part thereof, heretofore repealed.

Section 15. Severability. If any clause, sentence, paragraph or part of this Ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 16. Safety Clause. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Parker, 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 Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained. The Town Council further finds that the title to this Ordinance was posted in two public places two days before the Town Council meeting, as provided by Section 7.5e. of the Town of Parker Home Rule Charter.

Section 17. Effective Date, Recording and Authentication. In accordance with Section 7.5 of the Charter, this Ordinance shall take effect ten (10) days after publication following final passage. A true copy of this Ordinance shall be numbered and recorded in the official records of the Town, authenticated by the signatures of the Mayor and the Town Clerk, and published in accordance with the Charter and the Town's municipal code.

INTRODUCED AND PASSED ON FIRST READING this _____ day of __________, 2019. A copy of this ordinance is available for inspection in the office of the Town Clerk.

____
Mike Waid, Mayor

ATTEST:

____
Carol Baumgartner, Town Clerk

ADOPTED ON SECOND AND FINAL READING this _____ day of __________, 2019.

____
Mike Waid, Mayor

ATTEST:

____
Carol Baumgartner, Town Clerk

APPROVED AS TO FORM:

____
James S. Maloney, Town Attorney

STATE OF COLORADO)
)
COUNTY OF DOUGLAS) SS. CERTIFICATE OF TOWN CLERK
)
TOWN OF PARKER)

I, the Town Clerk of the Town of Parker, Colorado (the "Town"), do hereby certify:

1. That the foregoing pages are a true and complete copy of the ordinance (the "Ordinance") introduced, passed and adopted by the Town Council (the "Council") at the regular meeting of the Council on May 20, 2019 and at the special meeting of the Council on May 23, 2019.

2. The adoption of the Ordinance on first reading was duly moved and seconded and the Ordinance was adopted by an affirmative vote of a majority of the members of the Council at the regular meeting of the Council on May 20, 2019, as follows:

Name	"Yes"	"No"	Absent
Mike Waid, Mayor			
John Diak			
Debbie Lewis			
Cheryl Poage			
Joshua Rivero			
Jeff Toborg			
Renee Williams			

3. The adoption of the Ordinance on second reading was duly moved and seconded and the Ordinance was adopted by an affirmative vote of a majority of the members of the Council at the special meeting of the Council on May 23, 2019, as follows:

Name	"Yes"	"No"	Absent
Mike Waid, Mayor			
John Diak			
Debbie Lewis			
Cheryl Poage			
Joshua Rivero			
Jeff Toborg			
Renee Williams			

4. A copy of the entire text of the Ordinance was available to the Council members at least four (4) days prior to the regular meeting at which the Ordinance was introduced.

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

6. Attached hereto as **Exhibit A** is the affidavit of publication in *The Douglas County News-Press* of the Ordinance which was published by title with a statement that the full text of the Ordinance is available for public inspection and acquisition in the office of the Town Clerk.

7. Notices of the meetings of May 20, 2019 and May 23, 2019, in the forms attached as **Exhibit B**, were posted as provided by law.

IN WITNESS WHEREOF, I have hereto set my hand and the seal of the Town this 23rd day of May, 2019.

____
Carol Baumgartner, Town Clerk

(SEAL)

<u>EXHIBIT A</u>

(Attach Affidavit of Publication)

EXHIBIT B

(Attach Notices of May 20, 2019 Meeting and May 23, 2019 Meeting)