



MEMORANDUM

P.O. Box 4100 ♦ FRISCO, COLORADO 80443

TO: MAYOR AND TOWN COUNCIL
FROM: LESLIE EDWARDS, FINANCE DIRECTOR
RE: SECOND READING ORDINANCE 23-03, AN ORDINANCE CONCERNING CERTIFICATES OF PARTICIPATIONS AND SITE LEASE
DATE: FEBRUARY 14, 2023

Summary and Background: The purpose of this memo is to explain the attached Certificates of Participation (COPs) ordinance, Site-Lease Agreement, and Lease Purchase Agreement. The COP ordinance will allow Town Council to authorize the approval of the documents required to issue the 2023 Certificates of Participation (COPs). In the section one recitals the ordinance lists the purposes of the 2023 COP issue. The recitals in section one also speaks to the requirements to execute several documents to effect the issuance of the 2023 COPs.

Analysis:

If approved, the attached lease agreements will create the “lease-lease back” mechanism that is integral to issuing the COPs. The Site Lease Agreement leases the underlying property (Granite Park) to the Trustee for 30 years. For this consideration, the Trustee will remit to the Town the entire lease payment up front, an amount approximating \$7.2M. These are the COP loan proceeds. The Lease Purchase Agreement allows the Town to ‘lease back’ the properties to repay the estimated \$7.2M, plus interest, over 20 years, paid in semi-annual payments. These are our debt service payments.

Certificates of Participation (COP):

A COP is a type of municipal financing that is an alternative to the traditional municipal bond and is a bit harder to explain. Here’s a grossly simplified overview of the steps involved in a municipal COP such as the Town is planning:

1. First, the municipality determines how much money it needs to raise to pay for its municipal project(s).
2. Next, the municipality identifies the “collateral” to be used to assure the Town fully complies with the terms under which the COPs will be issued, the fair market value of which approximates the amount of money the municipality wants to raise.

3. Then, the municipality leases such “collateral” property to a trustee (a neutral third party, typically a large bank). The trustee immediately leases the municipal land back to the municipality at an agreed rental rate.

4. Simultaneously to the lease + lease-back of the municipal property COPs are issued and sold by the trustee to raise the amount of money the municipality desires to borrow. Investors purchase the COPs. The money generated by the sale of the COPs is paid to the municipality (net of all issuance costs). At that point, the municipality has raised the money it needs to do its project.

5. The investor who purchases a COP is entitled to an agreed percentage of the rental which the municipality pays to the trustee in connection with the lease-back of its municipal property (that is, the investor is “participating” in the rent payment, hence the name Certificate of Participation). You can think of the rental payments as the money paid by the Town to repay the investors. When the municipality pays its rent to the trustee the trustee will divide the rent equally among the owners of the COPs. The amount paid by the trustee to the COP owners is some portion of the original amount the investor paid or the COP by the investor (i.e., the principal), together with interest.

6. If everything works as planned, once the municipality has paid the trustee all of the original amount borrowed plus the agreed interest, the lease + lease back arrangement is terminated and the municipality gets its property back free from any encumbrance caused by the COPs. The municipality’s obligation to pay the rent to the trustee (and to indirectly pay back the investors) is subject to annual appropriation. This means that the governing body of the municipality must appropriate money each fiscal year to authorize the payment of the rent to the trustee. The governing body can legally refuse to appropriate funds to pay the rent. However, doing that would cause a default in the COP financing, and would jeopardize the municipality’s property that was pledged as collateral for the COPs.

With that background, here is an overview of the new COPs to be issued by the Town:

1. The Town will issue its COPs to raise money for the construction of the Town’s 11 units in Granite Park.
2. The vacant land on which Granite Park is to be constructed will be leased to the trustee and then leased back to the Town.
3. Upon the completion of construction of the Town’s 11 Granite Park units, 11 units will be leased to the trustee and then leased back to the Town. The remaining 11 units to be owned by CDOT will be released and titled to CDOT.

Financial Impact: Because the COPs will not be sold immediately after the ordinance is adopted, it is impossible to accurately predict at this time what the interest rate the Town will have to pay to sell the COPs. To deal with this uncertainty, the ordinance sets a top limit of 5% for the interest to be paid on the 2023 COPs. Keep in mind that the actual interest rates will be determined at the time that the Town issues its COPs, and that the interest rates can vary from day to day. We are hoping that the actual interest rates will be lower than the top limits set in the ordinance. The adoption of the ordinance as presented will allow the Town to determine the best time to issue the new COPs at an acceptable interest rate that is within the limits established in the ordinance.

The attached ordinance outlines the following financial impacts of the certificates of participation:

The maximum annual repayment cost of Base Rentals payable by the Town shall not exceed \$580,000, and the total repayment cost shall not exceed \$11,600,000;

The aggregate principal amount of the Base Rentals payable by the Town under the Lease with respect to the Certificates shall not exceed \$7,300,000;

The purchase price of the Certificates shall not be less than 98% of the aggregate principal amount; and

The maximum net effective interest rate on the interest component of the Base Rentals relating to the Certificates shall not exceed 5.00%.

Alignment with Strategic Plan: In passing this ordinance, the Town of Frisco will be able to move forward with the construction of Granite Park, which supports the Strategic Plan priority of Inclusive Community. Additionally, the construction of workforce housing supports the priority of Thriving Economy in enabling workforce to live in the community.

Staff Recommendation: Staff recommends that Town Council approve Ordinance 23-03 on second reading to allow for the Granite Park project financing to move forward.

Reviews and Approvals: This report has been reviewed and approved by:

Tom Fisher, Town Manager
Diane McBride, Assistant Town Manager
Thad Renaud, Town Attorney

Attachments:

Attachment 1 – Ordinance 23-03
Attachment 2 - Lease
Attachment 3 – Site Lease
Attachment 4 – Indenture
Attachment 5 - Continuing Disclosure Certificate