

ORDINANCE NO. 1
Series 2017

December 14, 2016: Introduced as Council Bill 8, Series 2016 by Councilor Klasina VanderWerf, seconded by Councilor Earl Hoellen and considered in full text on first reading. Passed by a vote of 4 yes and 1 no.

January 3, 2017: Considered in full text on second reading. Passed by a vote of 5 yes and 0 no.

**A BILL FOR AN ORDINANCE
 OF THE CITY OF CHERRY HILLS VILLAGE
 AUTHORIZING A SITE LEASE AND LEASE PURCHASE AGREEMENT
 BETWEEN THE CITY OF CHERRY HILLS VILLAGE, COLORADO, AND UMB
 BANK, N.A. (SOLELY IN ITS CAPACITY AS TRUSTEE) FOR THE PURPOSE
 OF FINANCING PUBLIC BUILDINGS AND CERTAIN PARK IMPROVEMENTS;
 APPROVING A NOT TO EXCEED \$12,900,000 PRINCIPAL AMOUNT OF
 CERTIFICATES OF PARTICIPATION, SERIES 2017 IN CONNECTION
 THEREWITH; AUTHORIZING OFFICIALS OF THE CITY TO TAKE ALL
 ACTION NECESSARY TO CARRY OUT THE TRANSACTIONS
 CONTEMPLATED HEREBY; AND RELATED MATTERS**

WHEREAS, the City of Cherry Hills Village (the "City") is authorized, pursuant to Section 31-15-801, Colorado Revised Statutes, as amended, the City's home rule powers and Section 1.3 of the City's Home Rule Charter ("Charter") to enter into long-term or short-term rental or leasehold agreements in order to provide necessary land, buildings, equipment and other property for governmental or proprietary purposes, which agreements may include an option to purchase and acquire title to such leased or rented property within a period not exceeding the useful life of such property and in no case exceeding 30 years; and

WHEREAS, in order to provide for the capital asset needs of the City, the City Council (the "Council") has determined and hereby determines that it is necessary and in the best interests of the City and its citizens that the City undertake lease purchase financing of sites, buildings, equipment and other property for use by the City for governmental or proprietary purposes; and

WHEREAS, the City has determined to acquire and construct public buildings for use by the City government, including a City Hall building and a building to house the City's Public Works and Parks department, and to acquire and construct certain City park improvements (the "Project"), such buildings and other improvements to be constructed on land currently or to be owned by the City; and

WHEREAS, to provide financing for the acquisition and construction of the Project, Certificates of Participation, Series 2017 (the "Series 2017 Certificates") in an aggregate amount not to exceed \$12,900,000 will be sold and executed and delivered pursuant to an Indenture of Trust (the "Indenture") entered into by UMB Bank, n.a. (the "Trustee"); and

WHEREAS, in connection with the Series 2017 Certificates, it will be necessary to execute and deliver a Site Lease (the "Site Lease") and a Lease Purchase Agreement (the "Lease") between the City and the Trustee; and

WHEREAS, there will be prepared, executed and distributed in connection with the sale of the Series 2017 Certificates a Preliminary Official Statement (the "Preliminary Official Statement") and a final Official Statement (the "Official Statement") summarizing the documents filed for public inspection with the City Clerk in connection with this Ordinance and containing information about the City, the Leased Property (as defined in the Lease) and other matters material to potential purchasers of the Series 2017 Certificates. At such time as the Preliminary Official Statement is available in substantially final form the Finance Director is authorized to certify that it is in near-final form and to authorize its distribution by Stifel, Nicolaus & Company, Incorporated in its capacity as underwriter of the Series 2017 Certificates (the "Underwriter").

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CHERRY HILLS
 VILLAGE, COLORADO, ORDAINS:**

Section 1. Ratification of Actions. All action heretofore taken, not inconsistent with the provisions of this ordinance (the "Ordinance"), by the Council or the officers of the City, directed toward the implementation of the Project, including the preparation of the forms of Site

Lease, Lease, Indenture and Official Statement and related documents, are hereby ratified, approved and confirmed.

Section 2. Findings; Authorizations. The Council hereby finds and determines, pursuant to the City's home rule powers and the laws of the State of Colorado, that the Project is necessary, convenient, and in furtherance of the governmental purposes of the City and in the best interests of the City and its citizens; and the Council hereby authorizes the Project.

Section 3. Approval and Execution of Documents; City Representatives. The Site Lease, the Lease, the Indenture, the Certificate Purchase Agreement between the City and the Underwriter (the "Certificate Purchase Agreement") and the Official Statement, in substantially the forms filed in the office of the City Clerk prior to the final adoption of this Ordinance, are in all respects approved, authorized and confirmed, and the Mayor or the Mayor Pro Tem of the City is hereby authorized and directed to execute and deliver, and the City Clerk of the City or any Deputy or Assistant City Clerk is hereby authorized and directed to affix the seal of the City to, and attest, the Site Lease and Lease in substantially the forms filed with the City Clerk, with such changes as are not inconsistent with the intent of this Ordinance and are approved by bond counsel or the City Attorney. The Council hereby designates the City Manager and the Finance Director (and any persons authorized by law to act on their behalf in their absence) to act as "City Representatives" under the Lease and any related documents. In the event that bond insurance or other credit enhancement is deemed advantageous to the City in connection with the Series 2017 Certificates by the City Representatives, they may insert provisions, not inconsistent herewith, required by the provider of such credit enhancement. Prior to the execution of the Site Lease, the Lease or any other instrument contemplated by this Ordinance, or the issuance of the Series 2017 Certificates, the final Base Rentals due under the Site Lease and Lease, and the principal amount, interest rates and other terms of the Series 2017 Certificates, not inconsistent herewith, shall be approved by a certificate executed by a City Representative (the "Final Terms Certificate") not later than May 31, 2017.

Section 4. The Series 2017 Certificates. The Council hereby acknowledges and consents to the sale, execution and delivery of the Series 2017 Certificates pursuant to the Indenture. The Council hereby acknowledges and approves the forms, terms and provisions of the Series 2017 Certificates contained in the Indenture, in substantially the form filed with the City Clerk prior to the final adoption of this Ordinance.

The Series 2017 Certificates shall be issued in one or more series in an aggregate principal amount not to exceed \$12,900,000, shall mature not later than December 1, 2042, shall bear interest at a net effective interest rate not exceeding 6%, and may be made subject to redemption at redemption prices which may include redemption premiums not exceeding 3% of their principal amount, all as may be approved by the Final Terms Certificate. The proceeds of the Series 2017 Certificates shall be used to accomplish the Project in the manner required under the Site Lease, the Lease and the Indenture.

Section 5. Additional 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. The Mayor, the Mayor Pro Tem and the City Representatives are hereby authorized 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 appropriate officers of the City are also authorized to execute on behalf of the City agreements concerning the deposit and investment of funds in connection with the transactions contemplated by this Ordinance.

Section 6. No General Obligation or Other Indebtedness. The obligation of the City to make rental payments under the Lease is subject to annual appropriation by the Council and constitutes an undertaking of the City to make current expenditures. No provision of this Ordinance, the Lease, the Indenture or the Series 2017 Certificates shall be construed as constituting or giving rise to a general obligation or other indebtedness or multiple fiscal year financial obligation of the City within the meaning of any home rule, constitutional or statutory debt limitation nor a mandatory charge or requirement against the City in any ensuing fiscal year beyond the current fiscal year. The City shall have no obligation to make any payment with respect to the Series 2017 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 are subject to termination and nonrenewal by the City in accordance with the provisions of the Lease.

Section 7. Expression of Need; Reasonable Rentals. The City hereby declares its current need for the Leased Property, which is considered to be essential to the governmental
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operations of the City. It is hereby declared to be the present intention and expectation of the Council that the Lease will be renewed annually until all of the Leased Property is acquired by the City pursuant to the Lease; but this declaration shall not be construed as contractually obligating or otherwise binding the City.

The maximum Base Rentals payable under the Lease shall be an amount which would provide Revenues, as defined in the Lease, sufficient to pay the maximum principal and interest authorized herein for the Series 2017 Certificates. The Council hereby determines and declares that the Base Rentals due under the Lease will represent the fair value of the use of the Leased Property and the Purchase Option Price (as defined in the Lease) will represent, as of any date upon which the City may exercise its option to purchase such Leased Property, the fair purchase price of such Leased Property. The Council further hereby determines and declares that the Base Rentals due under the Lease will not exceed a reasonable amount so as to place the City under an economic or practical compulsion to renew the Lease or to exercise its option to purchase the Leased Property pursuant to the Lease. In making such determinations, the Council has given consideration to the cost of acquiring and installing the Leased Property, the uses and purposes for which the Leased Property will be employed by the City, the benefit to the citizens of the City by reason of the acquisition and installation of the Leased Property and the use of the Leased Property pursuant to the terms and provisions of the Lease, the City's option to purchase the Leased Property, and the expected eventual vesting of unencumbered possession and title to the Leased Property in the City. The Council hereby determines and declares that the acquisition and installation of the Leased Property and the leasing of the Leased Property pursuant to the Lease will result in facilities of comparable quality and meeting the same requirements and standards as would be necessary if the acquisition and installation of the Leased Property were performed by the City other than pursuant to the Lease. The Council hereby determines and declares that the maximum duration of the portion of the Lease allocable to any item of Leased Property separately identified in the Lease will not exceed the weighted average useful life of such item of Leased Property.

Section 8. **Severability.** If any section, paragraph, clause or provision of this Ordinance or the Lease (other than provisions as to the payment of Base Rentals by the City during the term of the Lease, provisions for the quiet enjoyment of the Leased Property by the City during the term of the Lease, and provisions for the transfer of the Leased Property to the City under the conditions provided in the Lease) shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

Section 9. **Repealer of Measures.** All acts, orders, resolutions, ordinances or parts thereof, in conflict with this Ordinance or with any of the documents hereby approved, are hereby repealed only to the extent of such conflict. This repealer shall not be construed as reviving any resolution, ordinance, or part thereof heretofore repealed.

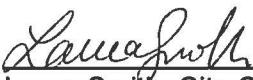
Section 10. **Publication and Effective Date.** Pursuant to the Charter, this Ordinance shall be published by title, together with the statement that the full text is available for public inspection and acquisition in the office of the City Clerk, following second reading and shall take effect and be in force ten days after publication by title hereof. This Ordinance shall expire to the extent that the Series 2017 Certificates authorized herein are not issued by December 31, 2017.

Adopted as Ordinance No. 1, Series 2017, by the City Council
of the City of Cherry Hills Village, Colorado, on the 3rd day of January, 2017.

(SEAL)


Laura Christman, Mayor

ATTEST:


Laura Smith, City Clerk

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CITY OF CHERRY HILLS
VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 1, SERIES 2017

A bill for an Ordinance of the City of Cherry Hills Village authorizing a site lease and lease purchase agreement between the City of Cherry Hills Village, Colorado, and UMB Bank, n.a. (solely in its capacity as trustee) for the purpose of Financing Public Buildings and Certain Park Improvements; Approving a not to exceed \$12,900,000 principal amount of certificates of participation, Series 2017 in connection therewith; authorizing officials of the City to take all action necessary to carry out the transactions contemplated hereby; and related matters

Copies of the Ordinances are on file at the office of the City Clerk and may be inspected during regular business hours.

Published in The Villager
Published: January 12, 2017
Legal # 7201

Approved as to form:


Linda C. Michow
Linda C. Michow, City Attorney