



RESOLUTION 09-030

A RESOLUTION OF THE CITY OF FOUNTAIN, COLORADO CALLING AN ELECTION ON NOVEMBER 3, 2009 FOR THE IMPOSITION OF A SALES TAX INCREASE FOR TRANSPORTATION FUNDING INCLUDING TRANSPORTATION IMPROVEMENTS, TRANSPORTATION SERVICES, TRANSPORTATION MAINTENANCE, PUBLIC TRANSPORTATION AND AUTHORIZING THE EXEMPTION OF REVENUES COLLECTED FROM THE SALES TAX INCREASE AND EARNINGS THEREON FROM REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, SETTING THE TITLE AND CONTENT OF THE BALLOT FOR THE ELECTION, AND PROVIDING FOR OTHER MATTERS RELATING THERETO

WHEREAS, the City of Fountain, El Paso County, Colorado (the "City") is a home rule municipality and political subdivision of the State of Colorado duly organized and operating under the Charter of the City (the "City Charter") and the Constitution and laws of the State, and;

WHEREAS, pursuant to the Article X, Section 20 of the Colorado Constitution ("TABOR") any tax increase is required to be approved by the voters of the City; and

WHEREAS, the City Council of the City (the "City Council") has determined that it is in the best interests of the City and its residents to seek voter approval, as permitted under TABOR and the City Charter, of an increase in the rate of sales tax within the City for the purposes set forth herein; and

WHEREAS, the City Council has determined that such tax revenues should be exempt from the revenue and spending limits under TABOR and any other law; and

WHEREAS, the City Charter authorizes regular municipal elections on the first Tuesday in November of each odd-numbered year; and

WHEREAS, the City Council pursuant to Resolution No. 09-021 has authorized participation by the City of Fountain in the part of the coordinated election on November 3, 2009 to be administered by the El Paso Clerk and Recorder through its Election Department under the Uniform Election Code of 1992; and

WHEREAS, the City Council has determined it is appropriate to submit a ballot issue at the coordinated election on November 3, 2009, and to set the title and content of the ballot for the ballot issue to be submitted at the election called for by this Resolution.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Fountain, Colorado

1. An election shall be held on Tuesday, November 3, 2009, at which time there shall be submitted to the registered electors of the City for transportation funding including transportation improvements, transportation services, transportation maintenance and public transportation by authorizing (i) a rate increase in the city-wide sales tax to be implemented by an amendment to the Fountain Municipal Code to consist of a rate increase of 0.75% (seventy-five hundredths of one percent which represents three-quarters of a cent on each dollar purchase) beginning on or after January 1, 2010 with a reduction of such tax rate increase to 0.40% (forty hundredths of one percent which represents four-tenths of a cent on each dollar purchase) ten years after the beginning of the tax increase and (ii) authorizing the exemption of all tax revenues generated from the sales tax authorized herein and any earnings from the investment of such revenues as a voter-approved revenue change, and exception to the revenue and spending limits of Article X, Section 20 of the Colorado Constitution, or any other law, which question shall be in substantially the form as set forth in Exhibit A, Ballot Issue, which is attached to and incorporated herein by reference, The submission of this question to the voters is authorized under Article X, Section 20 of the Colorado Constitution, §1-41-103 C.R.S. and § 31-11-111 C.R.S.

2. The election shall be conducted as a coordinated election in El Paso County in accordance with Articles 1 to 13 of Title 1, C.R.S. (the "Uniform Election Code"), and Intergovernmental Agreement between the City and the El Paso County Clerk and Recorder, and in accordance with the provisions of Resolution No. 09-021.

3. No later than September 4, 2009, the City Clerk, as the designated election official for the City, shall certify the order of the ballot and ballot content to the County Clerk.

4. No later than September 22, 2009, the City Clerk, shall submit to the County Clerk, in the form, if any, specified by the County Clerk, the Notice of Election required by the Article X, Section 20(3)(b) of the Colorado Constitution.

5. If a majority of the votes cast on the ballot issue submitted at the election shall be in favor of the question, the City acting through the City Council shall be authorized to undertake all actions set forth in paragraph number one (1) of this Resolution and the Ballot Issue submitted to the voters.

6. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot issue set forth herein and the ballot title for such question shall be the text of the question itself.

7. Any contest to the content of the ballot title shall be conducted in accordance in accordance with C.R.S. § 1-11-203.5 and any other applicable provisions of Articles 1 through 13 of Title 1 C.R.S.

8. The City Clerk, Deputy City Clerk, and other City officials and employees are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

9. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

10. This Resolution shall take effect immediately upon its passage.

Done this 25th day of August 2009.

Jane C. Howells
Mayor 8-25-09

ATTEST:

Sharon A. Mesley
City Clerk

Exhibit A

BALLOT ISSUE

SHALL CITY OF FOUNTAIN TAXES BE INCREASED \$1,352,⁰⁰⁰~~022~~ (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, SUCH TAX TO BE IMPLEMENTED BY AN AMENDMENT TO THE FOUNTAIN MUNICIPAL CODE TO CONSIST OF A RATE INCREASE IN THE CITY-WIDE SALES TAX OF 0.75% (SEVENTY-FIVE HUNDREDTHS OF ONE PERCENT WHICH REPRESENTS THREE-QUARTERS OF A CENT ON EACH ONE DOLLAR PURCHASE) (AN INCREASE IN THE SALES TAX RATE FROM 3% TO 3.75%) BEGINNING ON OR AFTER JANUARY 1, 2010, WITH A REDUCTION OF SUCH TAX RATE INCREASE TO 0.40% (FORTY HUNDREDTHS OF ONE PERCENT WHICH REPRESENTS FOUR-TENTHS OF A CENT ON EACH ONE DOLLAR PURCHASE) (TO A SALES TAX RATE OF 3.40%) TEN YEARS AFTER THE BEGINNING OF THE TAX FOR TRANSPORTATION FUNDING INCLUDING TRANSPORTATION IMPROVEMENTS, TRANSPORTATION SERVICES, TRANSPORTATION MAINTENANCE AND PUBLIC TRANSPORTATION AS FOLLOWS:

- THE 0.35% (THIRTY-FIVE HUNDREDTHS OF ONE-PERCENT) PORTION OF THE SALES TAX INCREASE SHALL END TEN YEARS AFTER THE BEGINNING OF THE TAX AND SHALL BE USED TO PAY FOR CAPITAL IMPROVEMENTS TO STREETS INCLUDING PAVING, CURBS, GUTTERS, MEDIANS, SIDEWALKS AND/OR NECESSARY DRAINAGE FACILITIES, TRAFFIC SIGNALS AND SAFETY IMPROVEMENTS FOR THE FOLLOWING PROJECTS:
 - RAILROAD CROSSING HORN QUIET ZONE & SAFETY IMPROVEMENTS
 - DUCKWOOD ROAD/STATE HIGHWAY 85 INTERSECTION & RAILROAD CROSSING IMPROVEMENTS – REPLACES MESA ROAD CROSSING
 - C&S ROAD CONNECTION TO DUCKWOOD ROAD/MESA ROAD
 - COMANCHE VILLAGE/STATE HIGHWAY 85 INTERSECTION IMPROVEMENTS
 - FOUNTAIN MESA ROAD/C&S ROAD INTERSECTION IMPROVEMENTS

- OHIO AVENUE/JIMMY CAMP ROAD INTERSECTION IMPROVEMENTS
- CARSON BLVD/ STATE HIGHWAY 85 TRAFFIC SIGNAL
- MONTEREY WAY IMPROVEMENTS – COMANCHE VILLAGE TO C&S ROAD
- AMERICANS WITH DISABILITIES ACT SIDEWALK CORNER RAMP IMPROVEMENTS
- TRAFFIC CALMING – VARIOUS LOCATIONS; AND
- THE 0.25% (TWENTY-FIVE HUNDREDTHS OF ONE PERCENT) PORTION OF THE SALES TAX INCREASE SHALL BE USED FOR PUBLIC TRANSPORTATION INCLUDING TRANSIT SERVICES, TRANSIT IMPROVEMENTS, AND TRANSIT MAINTENANCE WHICH MAY INCLUDE FIXED-ROUTE BUS SERVICE, EXPRESS BUS SERVICE, OTHER BUS SERVICE, PARATRANSIT SERVICE, DIAL-A-RIDE TRANSIT SERVICE, TRANSIT VEHICLES, TRANSIT EQUIPMENT, AND/OR TRANSIT FACILITIES; AND
- THE 0.15% (FIFTEEN HUNDREDTHS OF ONE PERCENT) PORTION OF THE SALES TAX INCREASE SHALL BE USED TO PAY FOR PUBLIC STREET RESURFACING;

AND SHALL ALL TAX REVENUES GENERATED FROM THE SALES TAX AUTHORIZED HEREIN AND FROM ANY EARNINGS FROM THE INVESTMENT OF SUCH REVENUES CONSTITUTE A VOTER-APPROVED REVENUE CHANGE, AND AN EXCEPTION TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

