

TOWN OF HOT SULPHUR SPRINGS,
COLORADO

RESOLUTION NO. 2009-8 1

A RESOLUTION (1) SUBMITTING BALLOT ISSUES TO THE ELIGIBLE ELECTORS OF THE TOWN OF HOT SULPHUR SPRINGS, COLORADO, AT THE COORDINATED GENERAL ELECTION TO BE HELD TUESDAY, NOVEMBER 3, 2009, AUTHORIZING THE TOWN TO (A) INCREASE TOWN AD VALOREM PROPERTY TAXES BY AN ADDITIONAL AMOUNT OF APPROXIMATELY \$30,240 FOR THE FIRST YEAR AND ANNUALLY THEREAFTER IN SUCH AMOUNTS AS ARE RECEIVED EACH YEAR BY THE IMPOSITION OF AN ADDITIONAL MILL LEVY NOT TO EXCEED THREE (3) MILLS, COMMENCING WITH TAX COLLECTION YEAR 2010, AND CONTINUING THEREAFTER, WHICH INCREASED MILL LEVY WILL BE USED FOR OPERATIONS AND MAINTENANCE EXPENSES OF THE TOWN'S STREETS AND ROADS, SUCH REVENUE TO BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION; (2) SETTING THE TITLES FOR THE BALLOT ISSUES; (3) DESIGNATING THE TOWN CLERK AS THE DESIGNATED ELECTION OFFICIAL; AND (4) APPROVING AN INTERGOVERNMENTAL AGREEMENT WITH THE GRAND COUNTY, COLORADO, CLERK AND RECORDER FOR THE CONDUCTING OF THE COORDINATED ELECTION.

WHEREAS, under the Taxpayer's Bill of Rights, Article X, Section 20(4)(a) of the Colorado Constitution ("TABOR"), governmental entities are limited from increasing any existing mill levy above that of the prior year without advance voter approval; and

WHEREAS, under the Taxpayer's Bill of Rights, Article X, Section 20(4)(b) of the Colorado Constitution ("TABOR"), governmental entities are limited from incurring any multiple fiscal year debt or other financial obligation without first obtaining voter approval; and

WHEREAS, the Town roads, streets, and other infrastructure are in need of capital improvement and funds to provide for increased maintenance and operations cost and the imposition of an additional three mills will broaden the Town's revenue base and will assist in the maintenance of all the new infrastructure being built by the Town; and

WHEREAS, the Town is experiencing and will likely continue to experience large increases in the cost for road and street repair and maintenance and projects and due to the aging of the Town's roads, streets, and other infrastructure and the significantly increasing costs of asphalt, concrete, petroleum products, and other commodities required to ensure proper preservation of the Town's assets; and

WHEREAS, the Board of Trustees has determined that it is in the best interest of the residents of the Town to refer to the eligible electors ballot issues at the November 3, 2009, coordinated general election to seek approval to increase the mill levy on real property within the Town an additional three (3) mills annually in order to raise approximately \$30,240 for ongoing maintenance and operations of the Town's infrastructure; and

WHEREAS, it is specifically the intent of the Board of Trustees that any and all prior voter approvals waiving any limitations otherwise imposed by TABOR shall not be affected by this Resolution.

NOW THEREFORE, BE IT RESOLVED by the Board of Trustees of the Town of Hot Sulphur Springs as follows:

Section 1. The Board of Trustees hereby refers and approves the following ballot questions for submission to the qualified electors to appear on the ballot for the election to be held on November 3, 2009:

Question 1 SHALL TAXES BE INCREASED APPROXIMATELY \$30,240 FOR THE FIRST YEAR AND ANNUALLY THEREAFTER IN SUCH AMOUNTS AS ARE RECEIVED BY THE IMPOSITION OF AN ADDITIONAL MILL LEVY NOT TO EXCEED THREE (3) MILLS, COMMENCING WITH TAX YEAR 2009 (COLLECTION YEAR 2010) AND CONTINUING THEREAFTER, WHICH INCREASED MILL LEVY WILL BE USED FOR OPERATIONS AND MAINTENANCE EXPENSES OF THE TOWN'S WATER AND SANITARY SEWER TREATMENT PLANT AND SYSTEM AND TOWN STREETS AND ROADS, SUCH REVENUE TO BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

_____ YES

_____ NO

Section 2. Nothing in this Resolution or the ballot titles or questions shall amend, alter, impair, or affect the prior voter approvals of, and permanent exemptions approved for, the Town's retention of revenues in excess of the limits set forth in Article X, Section 20, of the Colorado Constitution.

Section 3. For purposes of C.R.S. § 31-11-111, this Resolution shall serve to set the title and content for the ballot questions set forth herein and the ballot titles for such questions shall be the text of the questions themselves.

Section 4. The Board of Trustees hereby appoints the Town Clerk as the designated election official for the purposes of the coordinated election to be held on November 3, 2009.

Section 5. The Board of Trustees hereby approves the form of intergovernmental agreement with the Grand County Clerk and Recorder as presented to the Board and ratifies the action of the Mayor in executing the same on behalf of the Town.

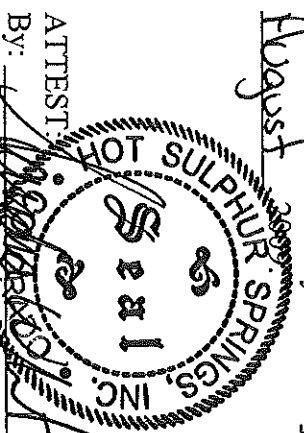
Section 6. The Town Clerk is authorized to correct typographical errors and omissions and to cause to be entered into the blanks of the ballot issue the appropriate ballot question number or letter upon designation of the ballot number or letter by the appropriate election official.

Section 7. The Acting Town Manager, Town Attorney, and Town Clerk are hereby authorized and directed to take all necessary and appropriate action to effectuate the provisions of this Resolution including all reasonable and necessary action to cause such approved ballot issues to be printed and placed on the ballot for the election.

Section 8. If any section, paragraph, clause or provision of this Resolution 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 issues of this Resolution.

Section 9. This Resolution shall be effective immediately upon approval of the Board of Trustees for the Town of Hot Sulphur Springs.

ADOPTED by a vote of 16 in favor and 0 against, and 0 abstaining, this 20th day of August



ATTEST:

By: Sandy White
Sandy White, Town Clerk

By: Hershal Deputy
Hershal Deputy, Mayor

AGREEMENT

This Letter of Agreement shall serve as the intergovernmental agreement between the Grand County Clerk and Recorder (hereinafter referred to as County), P. O. Box 120, Hot Sulphur Springs, CO 80451 and Town of Hot Sulphur Springs, (hereinafter referred to as District).

ARTICLE I

1.01 **PURPOSE.** Pursuant to the terms of this agreement, the County and District agree to the scheduling of a coordinated election during the Election on November 3, 2009. Such Election may involve more than one political subdivision with overlapping boundaries, and the County shall serve as the Coordinated Election Official for all political subdivisions involved in this election. This election shall be held under the provisions of Title I of the Colorado Revised Statutes. The Election shall be conducted by mail.

ARTICLE II

2.01 **DUTIES OF THE COUNTY.** The duties of the County are set forth in Exhibit A attached hereto.

ARTICLE III

3.01 **DUTIES OF THE DISTRICT.** The duties of the District are set forth in Exhibit B attached hereto.

ARTICLE IV

4.01 **ALLOCATION OF COSTS OF ELECTION.** The County shall determine the cost allocation for each political subdivision participating in the coordinated election. The District shall reimburse the County for such election costs that are solely that of the District and costs allocated to the District in an amount not to exceed \$2 per registered Grand County voter at the close of the registration books. (October 5, 2009, at 5:00 p.m.) Such reimbursement shall be made to the County within thirty days from receipt of billing from the County.

ARTICLE V

5.01 **INDEMNIFICATION.** The District agrees to indemnify, defend and hold harmless the County from any and all loss, costs, demands or actions, arising out of or related to any actions, errors or omissions of the District in completing its responsibilities relating to the November 3, 2009 Election.

In the event of a breach of this agreement by the County, including but not limited to the County's intentional or negligent failure to perform as provided for herein, the District's damages shall be limited to the cost of the new election.

GRAND COUNTY CLERK AND RECORDER

Steve L. Lora

DISTRICT

BY: *John D. Dyer*

Date 8/25/2009

Date 8/28/09

95-8 NY 52 304 699Z

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EXHIBIT A

DUTIES OF THE COUNTY

2.01 **County Duties.** The County Clerk shall perform the following duties for the Election for the District.

A. Create the layout of the text of the ballot in a format that complies with law and is acceptable to the District.

B. Provide the layout and text of the Mail-In (absentee) and Mail Ballots to the District on or before 54 days prior to the Election Day in order to permit review, proofreading, and approval before the County authorizes the printing of the ballots. The District shall return the ballots following review, proofreading, and approval on or before September 14, 2009. If the District fails to provide approval by 5:00 p.m. on September 14, 2009, the content is to be considered approved. No changes to the certified content may be made without the express written approval of the County after the proof has been approved.

C. Appoint, provide written materials, as required by law, train, and pay a sufficient number of qualified election judges to adequately serve the number of electors anticipated to vote at the Election. The election judges for the District's Election may be the same persons as are employed for the elections held by other districts on the same day and at the same polling places.

D. Conduct such formal training sessions for the Judges of elections as are deemed reasonably necessary by the County.

E. Perform all services necessary for Mail-In (absentee) and Mail Ballot voting in the District's election, including but not limited to, preparation of Mail-In (absentee) and Mail Ballot voter materials, receipt and processing of applications for Mail-In (absentee) ballots, mailing Mail-In (absentee) and Mail Ballot materials, receipt of Mail-In (absentee) and Mail Ballot materials, checking voter qualifications, and preparation for counting; opening ballot drop-off sites; and ballot replacement sites.

F. Provide for the District, the following:

1. "Instructions to Voters" signs
2. "Ballot drop-off" location signs
3. "100 Foot Limit" sign
4. security sleeves for ballots
5. miscellaneous supplies
6. adequate number of pens and pencils
7. changes in Voter Registration forms and all other voter registration forms
8. affidavits concerning Voter Assistance forms
9. Registration Verification forms

10. ballot boxes
11. locks
12. supply boxes
13. judge's name tags
14. poll watcher name tags
15. judge's manuals (County generated) one per election judge
16. detailed notice of election to be posted in the County's office and the Election Official's office as required by Section 1-5-205 C.R.S.
- G. Establish ballot drop off locations.
- H. Conduct and oversee the process of counting the ballots and reporting the results.
- I. Appoint, instruct, and otherwise oversee the board of canvassers.
- J. Certify the results of the District's election within the time required by law and forthwith provide the District with a copy of all election statements and certificates which are to be created under the Code.
- K. Only if requested by the Election Officer in writing within 60 days following the Election, capture the vote history from the Election Department's vote history file and generate a listing of who voted in the District. If, requested, the cost will be the per entry fee charged by the County's contractor for this service or \$.10 per name.
- L. Store all ballots for a minimum of (6) six months and all signed ballot envelopes and signature cards of electors who cast ballots at the election for a minimum of (25) twenty-five months, and all such other materials required by the Code to be saved for (25) twenty-five months in such a manner that they may be accessed by the District, if necessary, to resolve any challenge or other legal questions that might arise regarding the election.
- M. Keep careful and accurate accounting of time, supplies, and salaries chargeable to the District.
- N. Adhere to all applicable provisions of the Code which are necessary or appropriate to performance of the above duties.
- O. The County and its employees, agents, representatives or other persons acting under the direction or control of the County shall use reasonable care in carrying out its obligations under this agreement.
- P. The County, shall notify the Election Officer of the names, contact persons, and general topic of the election being held by all jurisdictions within Grand County holding elections on November 3, 2009, no later than 42 days prior to the election.
- Q. Publication of legal notices concerning the General Elections, which are

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EXHIBIT B

DUTIES OF THE DISTRICT

3.01 **District Duties.** In consideration of the foregoing, the District agrees to perform the following tasks and activities:

- A. Appoint an election officer.
- B. Review, proofread, and approve the layout, format, and text of the Mail-In (absentee) and Mail Ballots before the County Clerk authorizes the printing of the ballots.
- C. In consultation with the Election Officer, the County will order the number of ballots reasonably expected to be required for mailing and replacement ballots.
- D. Accept the established ballot drop-off locations ballot replacement locations for the District's November 3, 2009 election.
- E. Prepare and publish Legal Notices of the election as required by law and the applicable election code.
- F. Formally notify each of the Counties within the District of the election and request the certified number of registered electors residing within the District as of the close of the registration books on the 30th day prior to the election.
- G. Pick up election materials from the County when requested following the election.
- H. Store all election materials not stored by the County for that time required by the Code.
- I. The Petition process for the District shall be entirely the responsibility of the District, and shall be done in compliance with applicable Colorado statutes, ordinances or other charter provisions.
- J. In accordance with Colorado law, the ballot contents must be certified to the County by the District, in its exact and final form, no later than 5:00 p.m. on September 4, 2009. (Such date being 60 days before the election.) Such ballot contents must be delivered to the County at the County Clerk and Recorder's office, 308 Byers Avenue, Hot Sulphur Springs, CO 80451. The ballot content shall be provided in an electronic format word processing program.
- K. The process of receiving written comments and summarizing such comments, as required by Section 20 of Article X and Colorado Revised Statutes, shall be solely the responsibility of the District.
- L. The District shall certify a final and exact summary of comments concerning its ballot issues to the County, no later than September 22, 2009, for Section 20, Article X, of the Colorado constitution and Colorado Revised Statutes 1-7-904 **in written form and on a disk in ASCII format or e-mail.**
- M. Publication of legal notices concerning District's election, which are to be published prior to certification of the ballot content to the County, shall be the responsibility of the

District. A copy of such published legal notice shall be submitted to the County for its records.

N. Pay the District's proportional share of the actual costs of services, supplies and mileage to the County as required by Article IV of this agreement, upon receipt of the itemized statement and, if requested by the County, pay all or part of any such costs for the District election directly to vendors or contractors.