

ORDINANCE NO. 7673

AN ORDINANCE SUBMITTING A BALLOT ISSUE TO THE VOTERS AT THE TUESDAY, NOVEMBER 3, 2009 ELECTION, TO AUTHORIZE ADDITIONAL DEBT TO CONTINUE THE ACQUISITION OF INTERESTS IN OPEN SPACE REAL PROPERTY, TO BE PAID FROM THE EXISTING SALES AND USE TAX DESIGNATED FOR THE ACQUISITION OF OPEN SPACE; AND INCREASING THE CITY'S PROPERTY TAX TO SERVE AS A "BACK-UP" PLEDGE FOR SUCH DEBT; AND SETTING FORTH RELATED DETAILS.

The City Council finds that:

A. The voters of the city have earmarked sales and use taxes for the acquisition of interests in real property for open space purposes by approval of two separate sales and use taxes in the amounts of 0.33% and 0.15%, which taxes expire at the end of 2018 and 2019, respectively.

B. In 1994 the voters authorized the issuance of approximately \$35 million of revenue bonds payable from the open space sales and use tax. The ballot question approved by the voters in 1993 was intended to allow the bonds to be issued as general obligation bonds rather than revenue bonds to pay lower interest rates and obtain more favorable terms on the bonds. However, the Colorado Supreme Court determined that the ballot issue in 1994 approved only revenue bonds, but not the general obligation pledge for such bonds. The general obligation pledge provides backing from city property taxes in the event the designated sales and use tax revenues are not sufficient for bond payments.

C. Authorizing a general obligation pledge for bonds to be paid from the open space sales and use tax revenues will assure bondholders that the repayment of the bonds will not be affected by the expiration of such taxes, and additional property taxes will be levied if necessary to pay bondholders, thereby reducing the cost of such bonds, by obtaining more favorable terms.

D. Authorizing the issuance of general obligation bonds will allow the city to obtain more favorable interest rates and terms for bonds approved by the voters in 1993 by issuing general obligation bonds.

E. It is appropriate for voters to consider approving the continued collection, retention and expenditure of the full bond proceeds and any related earnings from the bond funds or revenues therefrom.

F. The purposes that will be served by the ability to fund acquisition of interests in real property for opens space are consistent with the goals of the city.

G. If a majority of the votes cast at the election shall be against the measure, the authorization granted by the voters in 1994 for sales and use tax revenue bonds will not be affected.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BOULDER, COLORADO:

Section 1. A general municipal coordinated election will be held in the city of Boulder, county of Boulder and state of Colorado, on Tuesday, November 3, 2009, between the hours of 7 a.m. and 7 p.m.

Section 2. At that election, there shall be submitted to the electors of the city of Boulder entitled by law to vote, the question of authorizing the city to issue general obligation debt backed by the full faith and credit of the city. The proceeds of the bonds are to be used to fund acquisition of real property interests for open space from existing sales and use taxes earmarked for open space purposes. As general obligation bonds, any other revenues of the city in addition to the earmarked sales and use tax, including an increase in property taxes, will be used to repay the bonds. The bond issue also authorizes any earnings from bond proceeds as a voter approved revenue change.

The official ballot shall contain the following ballot title, which shall also be the designation and submission clause for the measure:

BALLOT ISSUE NO. 7673

OPEN SPACE GENERAL OBLIGATION BONDS

SHALL CITY OF BOULDER DEBT BE INCREASED UP TO \$33,450,000 WITH A REPAYMENT COST OF UP TO \$80,863,800, AND SHALL CITY TAXES BE INCREASED UP TO \$3,200,000 ANNUALLY, (TAXES TO BE INCREASED ONLY IF EXISTING DEDICATED OPEN SPACE SALES AND USE TAXES ARE INSUFFICIENT TO REPAY THE DEBT); AND

SHALL THE PURPOSE OF THIS MEASURE BE TO ALLOW THE CITY TO OBTAIN MORE FAVORABLE INTEREST RATES AND TERMS FOR BONDS APPROVED BY THE VOTERS IN 1993 BY ISSUING GENERAL OBLIGATION BONDS; AND

SHALL THE BOND PROCEEDS BE USED TO CONTINUE THE PURCHASE OF OPEN SPACE REAL PROPERTY INTERESTS AS WAS PREVIOUSLY AUTHORIZED BY A VOTE OF THE PEOPLE IN 1971; AND

SHALL THIS PURPOSE BE ACCOMPLISHED BY THE ISSUANCE AND PAYMENT OF CITY BONDS AT A NET EFFECTIVE INTEREST RATE NOT TO EXCEED 7% PER YEAR AND WITH A MATURITY DATE NOT TO EXCEED 30 YEARS FROM THE RESPECTIVE DATES OF ISSUANCE; AND

SHALL SUCH BONDS BE ISSUED, DATED, AND SOLD AT SUCH TIME(S) AND IN SUCH MANNER AND CONTAIN SUCH TERMS, NOT INCONSISTENT WITH THIS MEASURE, AS THE CITY COUNCIL MAY DETERMINE; AND

SHALL SUCH BONDS BE PAYABLE FROM REVENUE DERIVED FROM EXISTING SALES AND USE TAXES, WITHOUT ANY INCREASE IN RATE, EARMARKED AND COMMITTED FOR SUCH PURPOSES BY VOTE OF THE CITY'S ELECTORS AND BY A PLEDGE OF THE FULL FAITH AND CREDIT OF THE CITY AS AUTHORIZED IN THE CITY'S CHARTER AND PURSUANT TO THE ADOPTION OF ORDINANCE NO. 7673; AND

SHALL AD VALOREM PROPERTY TAXES BE LEVIED IN ANY YEAR WITHOUT LIMITATION AS TO RATE AND IN AN AMOUNT SUFFICIENT, TOGETHER WITH OTHER AVAILABLE REVENUES, TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH BONDS WHEN DUE; AND

SHALL ANY EARNINGS FROM THE INVESTMENT OF THE PROCEEDS OF SUCH TAXES AND BONDS (REGARDLESS OF THE AMOUNT) CONSTITUTE A VOTER APPROVED REVENUE CHANGE WITHOUT REGARD TO THE REVENUE AND SPENDING LIMITS OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

FOR THE MEASURE ____ AGAINST THE MEASURE ____

Section 3. The electors of the city of Boulder hereby authorize the City Council to adopt such amendments to this Ordinance No. 7673 as may be necessary to implement the intent and purpose of this ordinance.

Section 4. If a majority of all the votes cast at the election on the measure submitted shall be for the

measure, the measure shall be deemed to have passed and shall be effective upon passage.

Section 5. The election shall be conducted under the provisions of the Colorado Constitution, the Charter and ordinances of the city, of the Boulder Revised Code, 1981, and this ordinance, and all contrary provisions of the statutes of the state of Colorado are hereby superseded.

Section 6. The officers of the city are authorized to take all action necessary or appropriate to effectuate the provisions of this ordinance and to contract with the county clerk to conduct the election for the city.

Section 7. If any section, paragraph, clause, or provision of this ordinance shall for any reason be held to be invalid or unenforceable, such decision shall not affect any of the remaining provisions of this ordinance.

Section 8. This ordinance is necessary to protect the public health, safety and welfare of the residents of the city, and covers matters of local concern.

Section 9. The council deems it appropriate that this ordinance be published by title only and orders that copies of this ordinance be made available in the office of the city clerk for public inspection and acquisition.

INTRODUCED, READ ON FIRST READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 7th day of July 2009.

Matthew Appelbaum,
Mayor

Attest:

Alisa D. Lewis,
City Clerk on behalf of the
Director of Finance and Record

READ ON SECOND READING, AMENDED, AND ORDERED PUBLISHED BY TITLE ONLY this 21st day of July 2009.

Matthew Appelbaum,
Mayor

Attest:

Alisa D. Lewis,
City Clerk on behalf of the
Director of Finance and Record

READ ON THIRD READING, AMENDED AND ORDERED PUBLISHED BY TITLE ONLY this 4th day of August 2009.

Matthew Appelbaum,
Mayor

Attest:

Alisa D. Lewis,
City Clerk on behalf of the
Director of Finance and Record

READ ON FOURTH READING, PASSED, ADOPTED, AND ORDERED PUBLISHED BY TITLE ONLY this 18th day of August 2009.

Matthew Appelbaum,
Mayor

Attest:

Alisa D. Lewis,
City Clerk on behalf of the
Director of Finance and Record