

**RESOLUTION  
BOARD OF DIRECTORS OF THE  
EVANS FIRE PROTECTION DISTRICT**

A RESOLUTION CALLING FOR A MAIL BALLOT ELECTION ON MAY 8, 2012

**WHEREAS**, in July 2010, the City of Evans ("**City**") City Council established a project to organize the Evans Fire Protection District ("**Fire District**") pursuant to the Colorado Special District Act ("**Act**"), C.R.S. § 32-1-101 *et seq.*, to provide the fire suppression, fire prevention and public education, rescue, hazardous materials, extrication, and emergency medical services (collectively, "**Emergency Services**") that were then being provided by the City's Fire Rescue Department;

**WHEREAS**, a Service Plan for the Evans Fire Protection District and an Intergovernmental Agreement for the Transfer of Emergency Services ("**IGA**") between the Fire District and the City were presented to the City Council on March 15, 2011. The City Council adopted Ordinance 509-11 approving the Service Plan and IGA on April 4, 2011;

**WHEREAS**, the voters approved the Fire District's organization at the November 1, 2011 election. As part of the Fire District's organization, the voters approved the Fire District's Service Plan;

**WHEREAS**, at the November 1, 2011 election, the voters also elected Mary Achziger and Stephen J. Bernardo to serve on the Fire District Board of Directors ("**Board**"). By law, their terms of office will expire after their successors are elected at the statutorily required special district election to be held on May 8, 2012 ("**Election**") and take office;

**WHEREAS**, in accordance with the Service Plan, the Act and the Uniform Election Code of 1992 ("**Code**"), during the Election two eligible individuals must be elected to fill the positions currently held by Directors Achziger and Bernardo, which elected individuals will then serve for a term of four (4) years each;

**WHEREAS**, to meet its Emergency Services obligations and provide the best possible Emergency Services to its citizens, the Fire District depends primarily on public funding from taxes to pay its administrative and operating costs, and the costs of capital improvements, such as fire stations, fire trucks, and Emergency Services equipment;

**WHEREAS**, Article V, Section 1(b) of the Fire District's approved Service Plan provides that as soon as practicable after the Fire District's organization, the Fire District and the City will accomplish a property tax transfer from the City to the Fire District by the City decreasing its property tax by 10 mills and the Fire District increasing its property tax by 10 mills ("**Property Tax Transfer**");

**WHEREAS**, the Property Tax Transfer will not increase taxes to the citizens and property owners of the City and Fire District.

**WHEREAS**, the Property Tax Transfer is the second step in the organization and funding of the Fire District. To accomplish the Property Tax Transfer, the City and the Fire District must take the following actions:

- The City Council must adopt an ordinance reducing the City's property tax by 10 mills effective on the date the Fire District's voters authorize the Fire District to increase its property tax by 10 mills; and,
- The Fire District must seek voter approval to increase its property tax by 10 mills at the Election.

**WHEREAS**, on February 21, 2012, the City Council approved on first reading (and on March 6, 2012 is expected to finally adopt) an Ordinance, which states, in relevant part:

The City of Evans mill levy of 13.536 mills shall be reduced by ten (10) mills, conditioned on the Fire District's voters approving an increase in the Fire District's mill levy by ten (10) mills. The decrease in the City's mill levy shall be effective beginning in the levy year in which the Fire District's voters approve its mill levy increase, for reduction in City tax collections beginning in the year immediately following the year in which the Fire District's voters approve its mill levy increase.

**WHEREAS**, Article X, Section 20 of the Colorado Constitution ("**TABOR**") requires voter approval for any new tax. Pursuant to C.R.S. § 32-1-805(2) and the Code, the Fire District may include a tax increase Ballot Issue in the Election, provided that the Election is conducted as a mail ballot election in accordance with the Mail Ballot Election Act, Article 7.5 of the Code;

**WHEREAS**, in order to complete the second step in the organization and funding of the Fire District, and to comply with the requirements of its Service Plan, the Board of Directors ("**Board**") has determined that the Fire District must seek voter approval to an increase the Fire District's taxes by 10 mills during the Election, on condition that the City actually reduces its property tax by 10 mills;

**WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of the Election; and

**WHEREAS**, it is the intent of the District Board that this Resolution shall supersede and replace Resolution 2012-1 previously adopted by the District Board with respect to the conduct of the Election, which shall be deemed rescinded and null and void for all purposes.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE EVANS FIRE PROTECTION DISTRICT, WELD COUNTY, COLORADO:**

**Section 1.** A regular election of the eligible electors of the Fire District shall be held on May 8, 2012, between the hours of 7:00 a.m. and 7:00 p.m., pursuant to and in accordance with the Act, Code, and other applicable laws. At that time, two (2) Directors will be elected to serve a four-year term each.

**Section 2.** If and only if the City Council finally adopts the 10 mill property tax reduction ordinance, the Fire District shall submit a tax increase Ballot Issue to the Fire District's voters during the Election. If the tax increase Ballot Issue is submitted pursuant to this Section 2, the ballot title shall be in substantially the form shown in Section 8 below.

**Section 3.** The Board hires Sue Blair with Community Resource Services, 3855 North Lewiston Street, Suite 140, Aurora, Colorado 80011, to serve as the Fire District's Designated Election Official for the Election. Ms. Blair shall have full authority to take any and all actions necessary and appropriate for the conduct of the Election.

**Section 4.** The Election shall be conducted as a mail ballot election in accordance with the Mail Ballot Election Act, and all other applicable laws. The Designated Election Official shall notify the Colorado Secretary of State of the Fire District's determination and submit a plan for conducting the mail ballot election, which may be based on the standard plan adopted by the Secretary of State. There shall be no election precinct or polling place. All mail ballots shall be returned to the Designated Election Official's office.

**Section 5.** Applications for mail-in ballots shall be filed with the Designated Election Official at the address above no later than the close of business on the 7th day prior to the election (Tuesday, May 1, 2012) if the mail-in ballot is to be mailed to the elector, or the close of business on the Friday immediately preceding the election (Friday, May 4, 2012) if the mail-in ballot will not be mailed to the elector.

**Section 6.** Self-Nomination and Acceptance forms are available at the Designated Election Official's office located at the address above. All candidates shall file a Self-Nomination and Acceptance form with the Designated Election Official no later than 5:00 p.m. on Friday, March 2, 2012.

**Section 7.** Pursuant to C.R.S. § 1-11-203.5, any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five (5) days after the title of the ballot issue or ballot question is set.

**Section 8.** The Board hereby directs and declares that if the tax increase Ballot Issue is submitted to the voters during the Election as provided by Section 2 above, the ballot title shall be in substantially the following form:

**BALLOT ISSUE**

SHALL EVANS FIRE PROTECTION DISTRICT TAXES BE INCREASED \$1,147,692 (FIRST FULL FISCAL YEAR DOLLAR INCREASE) ANNUALLY BEGINNING IN LEVY YEAR 2012 (FOR COLLECTION IN 2013) BY INCREASING THE DISTRICT'S EXISTING TAX BY 10 MILLS, WHICH TAX INCREASE WILL BE OFFSET AS A RESULT OF THE CITY OF EVANS HAVING PASSED AN ORDINANCE ON MARCH 6, 2012 DECREASING ITS PROPERTY TAX BY 10 MILLS BEGINNING IN LEVY YEAR 2012 (FOR REDUCTION IN 2013); PROVIDED THAT,

- THE DISTRICT'S TAX RATE SHALL NOT THEREAFTER BE INCREASED WITHOUT THE VOTERS' PRIOR APPROVAL; AND
  
- ALL REVENUE AND PROPERTY TAX REVENUE FROM THE 10 MILLS AND ANY EARNINGS ON THIS TAX, SHALL CONSTITUTE A PERMANENT VOTER-APPROVED REVENUE CHANGE WITHIN THE MEANING OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND AN EXCEPTION TO LIMITATIONS SET FORTH IN SECTION 29-1-301 OF THE COLORADO REVISED STATUTES AND ANY OTHER LAW?

\_\_\_\_\_ YES

\_\_\_\_\_ NO

**Section 9.** If, during the Election, a majority of the eligible electors voting in the Election approve the Ballot Issue set forth in Section 8, above, the Fire District, acting through the Board, shall be authorized to proceed with all necessary and appropriate actions to levy the increased property taxes in accordance with the Ballot Issue approved by the voters. Any authority to levy property taxes, if conferred by the results of the Election, shall be deemed and considered a continuing authority to levy the taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

**Section 10.** All prior actions of the Fire District, the Board, or the Fire District's members, officers, and agents directed toward the Election and the objects and purposes herein, which are not inconsistent with the provisions of this Resolution, are ratified, approved, and confirmed. Unless otherwise defined herein, all terms in this Resolution have the meanings specified in the Code.

**Section 11.** All orders, bylaws, motions, and resolutions, or parts thereof, in conflict with this Resolution, are hereby repealed.

**Section 12.** 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 provisions of this Resolution.

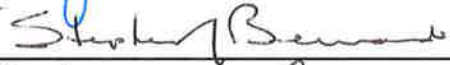
**Section 13.** The provisions of this Resolution shall take effect immediately.

**Section 14.** This Resolution shall supersede and replace Resolution 2012-1 previously adopted by the District Board with respect to the conduct of the Election, which Resolution is hereby rescinded and null and void for all purposes.

ADOPTED AND APPROVED this 27th day of February, 2012.

BOARD OF DIRECTORS OF THE  
EVANS FIRE PROTECTION DISTRICT

By:  \_\_\_\_\_  
Director

By:  \_\_\_\_\_  
Director

By:  \_\_\_\_\_  
Director

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By:  \_\_\_\_\_  
Director

