

RESOLUTION 18-[\_\_\_]

A RESOLUTION OF THE TOWN OF ERIE AUTHORIZING A TABOR ELECTION ON APRIL 3, 2018, FIXING THE BALLOT TITLE AND QUESTION, AND SETTING FORTH OTHER DETAILS RELATING THERETO.

WHEREAS, the Town of Erie, Boulder and Weld Counties, Colorado (the “Town”), is a municipal corporation duly organized and existing as a statutory town under the Constitution and laws of the State of Colorado; and

WHEREAS, the members of the Board of Trustees of Town of Erie (the “Board”) have been duly elected and qualified; and

WHEREAS, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires voter approval for any new tax, the creation of any debt and for spending certain moneys above limits established by TABOR; and

WHEREAS, TABOR requires the Town to submit ballot issues (as defined in TABOR) to the Town’s electors on limited election days before action can be taken on such ballot issues; and

WHEREAS, April 3, 2018, is the date of the regular municipal election in the Town and one of the election dates at which ballot issues may be submitted to the eligible electors of the Town pursuant to TABOR; and

WHEREAS, the Board hereby determines that it is necessary to submit to the electors of the Town, at the regular election to be held on April 3, 2018, the question of increasing debt and taxes to finance the construction and equipping of a Town hall expansion and renovation project, including an expanded board room for greater audience participation, community meeting space, health and safety upgrades and energy efficiency upgrades (the “Project”); and

WHEREAS, the Town Clerk (the “Clerk”) will conduct the election as an independent mail ballot election (the “election”); and

WHEREAS, it is necessary to set forth certain procedures concerning the conduct of the election.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF ERIE, COLORADO, AS FOLLOWS:

Section 1. All action heretofore taken (not inconsistent with the provisions of this resolution) by the Town and the officers thereof, directed towards the election and the objects and purposes herein stated is hereby ratified, approved and confirmed.

Section 2. Unless otherwise defined herein, all terms used herein shall have the meanings defined in Title 31, Article 10, C.R.S., as amended (the "Municipal Election Code").

Section 3. The Board hereby determines that the regular election of the Town to be held on April 3, 2018, shall be conducted as a mail ballot election pursuant to the Municipal Election Code. The Board hereby determines that at the regular election to be held on April 3, 2018, there shall be submitted to the eligible electors of the Town the question set forth in Section 4 hereof. Because the election will be held as an independent mail ballot election, the Board hereby determines that the Town Clerk shall conduct the election on behalf of the Town.

Section 4. The following ballot issue, in substantially the form set forth below, is hereby referred to the registered electors of the Town and shall appear on the ballot of the Town at the election with the following ballot title which is set pursuant to 31-11-111.

**TOWN OF ERIE BALLOT ISSUE 3A: BALLOT QUESTION OF THE TOWN OF ERIE AUTHORIZING THE ISSUANCE OF GENERAL OBLIGATION DEBT AND AN INCREASE IN TAXES, IF NECESSARY, FOR THE EXPANSION OF TOWN HALL TO IMPROVE CUSTOMER SERVICE, INCREASE ACCESSIBILITY AND ENERGY EFFICIENCY, AND ACCOMMODATE FUTURE SERVICE NEEDS**

SHALL THE TOWN OF ERIE DEBT BE INCREASED BY NOT MORE THAN \$13,750,000, WITH A REPAYMENT COST OF NOT MORE THAN \$25,216,250, AND SHALL TOWN TAXES BE INCREASED NOT MORE THAN \$2,195,000 ANNUALLY TO REPAY SUCH DEBT FOR TOWN CAPITAL CONSTRUCTION PURPOSES, INCLUDING, BUT NOT LIMITED TO THE FOLLOWING:

- THE CONSTRUCTION AND EQUIPPING OF A TOWN HALL EXPANSION AND RENOVATION PROJECT, INCLUDING AN EXPANDED BOARD ROOM FOR GREATER AUDIENCE PARTICIPATION, COMMUNITY MEETING SPACE, HEALTH AND SAFETY UPGRADES AND ENERGY EFFICIENCY UPGRADES;

SUCH DEBT TO BE PAYABLE FROM REVENUE RECEIVED BY THE TOWN FROM PUBLIC FACILITY IMPACT FEES (FEES RECEIVED BY THE TOWN FROM THE ISSUANCE OF BUILDING PERMITS) AND CERTAIN INVESTMENT INCOME THEREON, AND TO THE EXTENT SUCH REVENUES ARE INSUFFICIENT, FROM A MILL LEVY THAT MAY BE INCREASED IN ANY YEAR WITHOUT LIMITATION AS

TO RATE BUT ONLY IN AN AMOUNT SUFFICIENT TO PAY THE PRINCIPAL OF, PREMIUM, IF ANY, AND INTEREST ON SUCH DEBT OR ANY REFUNDING DEBT (OR TO CREATE A RESERVE FOR SUCH PAYMENT);

SUCH DEBT TO BE EVIDENCED BY THE ISSUANCE OF GENERAL OBLIGATION BONDS OR OTHER MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS, TO BE SOLD IN ONE SERIES OR MORE, FOR A PRICE ABOVE OR BELOW THE PRINCIPAL AMOUNT OF SUCH SERIES, ON TERMS AND CONDITIONS AND WITH SUCH MATURITIES AS PERMITTED BY LAW, INCLUDING PROVISIONS FOR REDEMPTION OF THE BONDS PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF THE PREMIUM OF NOT TO EXCEED THREE PERCENT;

AND SHALL SUCH TAX REVENUES AND THE EARNINGS FROM THE INVESTMENT OF SUCH BOND PROCEEDS AND TAX REVENUES BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

Section 5. The net effective interest rate on any general obligation indebtedness issued pursuant to this question shall not exceed 5.00%.

Section 6. The issuance of any general obligation indebtedness pursuant to this question shall not cause the Town to exceed statutory debt limitations.

Section 7. The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election.

Section 8. If a majority of the votes cast on the questions to authorize general obligation indebtedness and the levy of ad valorem property taxes submitted at the election shall be in favor of incurring general obligation indebtedness and levying ad valorem property taxes as provided in such questions, the Town, acting through the Board shall be authorized to proceed with the necessary action to incur general obligation indebtedness and levy ad valorem property taxes in accordance with such questions.

Any authority to contract general obligation indebtedness or to levy ad valorem property taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to contract the general obligation indebtedness and levy the ad valorem 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 9. If a majority of the votes cast on the question to authorize general obligation indebtedness as described above, the Town intends to issue such general obligation indebtedness in the approximate aggregate principal amount of \$13,750,000 to pay the costs of the Project, including the reimbursement of certain costs incurred by the Town prior to the execution and delivery of such bonds, upon terms acceptable to the Town, as authorized in an ordinance to be hereafter adopted, and to take all further action which is necessary or desirable in connection therewith. The officers, employees and agents of the Town shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to finance the Project and to otherwise carry out the transactions contemplated by the resolution. The Town shall not use reimbursed moneys for purposes prohibited by Treasury Regulation §1.150-2(h). This resolution is intended to be a declaration of “official intent” to reimburse expenditures within the meaning of Treasury Regulation §1.150-2.

Section 10. Pursuant to Section 31-10-1308(2), C.R.S. and Section 1-11-203.5, C.R.S., 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 days after the title of the ballot issue or ballot question is set.

Section 11. The officers of the Town are hereby authorized and directed to take all action necessary and appropriate to effectuate the provisions of this resolution.

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 in no manner affect any remaining provisions of this resolution.

Section 13. All resolutions or parts of resolutions inconsistent herewith are hereby repealed to the extent only of such inconsistency. This repealer shall not be construed to revive any resolution or part of any resolution heretofore repealed.

Section 14. The effective date of this resolution shall be immediately upon adoption.

INTRODUCED, PASSED AND ADOPTED at a regular meeting of the Board of Trustees the Town of Erie, Colorado, on January 23, 2018.

TOWN OF ERIE, COLORADO

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Tina Harris, Mayor

( S E A L )

ATTEST:

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Nancy J. Parker, Town Clerk

STATE OF COLORADO )  
 )  
 COUNTIES OF BOULDER AND WELD ) SS.  
 )  
 TOWN OF ERIE )

I, Nancy J. Parker, the Town Clerk of the Town of Erie, Colorado (the “Town”), do hereby certify:

1. The foregoing pages are a true and correct copy of a resolution (the “Resolution”) passed and adopted by the Board of Trustees (the “Board”) of the Town at a regular meeting of the Board held on January 23, 2018.

2. The Resolution was duly introduced, moved and seconded and passed on at the regular meeting of January 23, 2018, by an affirmative vote of a majority of the members of the Board as follows:

| Name                      | “Yes” | “No” | Absent | Abstain |
|---------------------------|-------|------|--------|---------|
| Tina Harris, Mayor        |       |      |        |         |
| Mark Gruber, Trustee      |       |      |        |         |
| Scott Charles, Trustee    |       |      |        |         |
| Jennifer Carroll, Trustee |       |      |        |         |
| Geoff Deakin, Trustee     |       |      |        |         |
| Waylon Schutt, Trustee    |       |      |        |         |
| Dan Woog, Trustee         |       |      |        |         |

3. The members of the Board were present at the meeting and voted on the passage of such Resolution as set forth above.

4. The Resolution was approved and authenticated by the signature of the Mayor, sealed with the Town seal, attested by the Town Clerk and recorded in the minutes of the Board.

5. There are no bylaws, rules or regulations of the Board which might prohibit the adoption of said Resolution.

6. Notice of the meeting of January 23, 2018, in the form attached hereto as Exhibit A was posted at the Town Hall not less than twenty-four hours prior to the meeting in accordance with law.

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Nancy J. Parker, Town Clerk

(SEAL)

EXHIBIT I

(Attach Notice of Meeting)

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