



CITY COUNCIL AGENDA
July 25, 2023 6:00 P.M.
116 Main St., Fountain
Register to attend virtually @
www.fountaincolorado.org

- 1) **Call to Order**
- 2) **Pledge of Allegiance**
- 3) **Roll Call**
- 4.1) **Presentations**
 - Department Update: Parks & Rec (Gordy McCormick) 10 mins
- 4.2) **Board/Commission/Committee**
- 5) **Correspondence, Comments and Ex-Officio Reports**
- 6) **Public to be Heard**

Citizens may address the Council on items that are not on the agenda. Council may not be able to provide an immediate answer but will direct staff to follow up. Out of respect for the Council and others in attendance, please limit your comments to three (3) minutes or less.
- 7) **Consent Agenda**

All items listed under the Consent Agenda are considered to be routine and will be approved with one motion. There will be no separate discussion of these items unless a Council Member or citizen so requests, in which case the item may be removed from the Consent Agenda and considered separately, at the discretion of Council. (Est. time-3 min)

 - A. Approval Of The July 11, 2023, City Council Meeting Minutes (S. Huffman)
 - B. Resolution 23-029, A Resolution To Approve An Intergovernmental Agreement Between The City Of Fountain And The Ventana Metropolitan District For The District To Maintain A Portion Of Tract A In Filing 6 Of City Owned Open Space At No Charge. (G. McCormick)
 - C. Request For Approval Of An Event Park Permit And Sponsorship For The Annual Fountain Fall Festival. (S. Huffman)
 - D. Resolution 23-032, A Resolution To Approve Emergency Funding For The Procurement Of A Steel Wheel Compactor To Replace Failed Equipment. (R. McDonald)
- 8) **Old Business**
- 9) **New Business**
 - A. Consideration Of Items Removed From The Consent Agenda

- B.** Resolution 23-030, A Resolution Assigning And Transferring To El Paso County, Colorado All Of The City Of Fountain's 2023 Private Activity Bond Volume Cap Allocation From The State Ceiling For Private Activity Bonds; And Authorizing The Execution And Delivery Of An Assignment And Other Documents In Connection Therewith. (K.Bailey est. 8 min)
- C.** Resolution No. 23-031, A Resolution Of The City Council Of The City Of Fountain, Colorado Authorizing The Hiring Of A-1 Chip Seal To Provide Professional Road Maintenance On 3 Projects In The City (R. McDonald est. 5 min.)
- D.** First Reading Of Ordinance 1791, An Ordinance Submitting To The Registered Qualified Electors Of The City Of Fountain, Colorado At The General Coordinated Election To Be Held On Tuesday, November 7, 2023, The Question Of The Imposition Of A Sales Tax Increase Required To Join The Pikes Peak Rural Transportation Authority (T. Johnson est. 20 min.)

10) City Council Agenda Requests

City Council shall use this time to request any items for future consideration.

11) Announcement of Executive Sessions

12) Adjourn

A (Administrative Action) QJ (Quasi-Judicial Action) L (Legislative Action)

NEXT REGULAR COUNCIL MEETING

August 8, 2023



Regular City Council Meeting

Consent –7A
Council Meeting Minutes

July 25, 2023

Summary Information

Title:

APPROVAL OF THE July 11, 2023, CITY COUNCIL MEETING MINUTES

Initiator : City Clerk Huffman

Presenter: City Clerk Huffman

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The attached minutes were compiled as the result of the June 20, 2023, City Council Meeting Minutes

Attachments: Above Referenced Meeting Minutes

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.**
- Diversify city financial resources and invest.**
- Provide reliable access to public safety services.**
- Improve the quality and availability of parks and recreation opportunities**

Recommendation

Staff recommends approval.

Proposed Motion

Motion to approve shall be included under the consent agenda.

CITY COUNCIL MEETING
July 11, 2023

1) Call to Order

Mayor Thompson called the meeting to order at 6:00P.M.

2) Pledge of Allegiance

The pledge of Allegiance was recited.

3) Roll Call

Roll call found the following members present:

Mayor Thompson
Mayor Pro Tem Estes
Council Member Cory
Council Member Rick
Council Member Applegate
Council Member Hinton

Council Member Duncan notified staff of her absence as she is attending a worksession in Manitou.

4 (1) Presentations

Fire Chief Graham gave a presentation on the current status of the fire departments accomplishments and obstacles with lack of personnel. He noted the proposed location of Fire Station 4.

4 (2) Board/Commission/Committee Appointments

- **Appoint One Regular Member To The Heritage Maintenance District Board**

City Clerk Huffman announced that Mr. Everett Frazier has applied for a regular position on the Heritage Maintenance District Board.

Mayor Pro Tem Estes made a motion to appoint Mr. Frazier to the Heritage Board, seconded by Council Member Cory. All members voted yes (6-0); the motion carried.

5) City Council Agenda Requests

Council Member Applegate asked to review the decision that was made years ago on annexing property on Ohio. He stated the residents did not want to annex, however, some of those residents are shooting guns without repercussions because they are not in our city limits.

City Council asked for this item to come back as a discussion.

6) Public to be Heard

Mr. Himes, local VFW, updated Council on the VFW's events and fundraisers. He then addressed concerns from residents regarding flooding off of Link Rd.

Residents near Link Rd. spoke about the flooding that occurred on their property during the last rainstorm.

City Manager Trainor asked for contact information from the residents.

Al Lender, resident asked for an update on the public safety calls on July 4th stating that several residents used illegal fireworks.

Police Chief Cristiani reported that the Police Department received 22 complaints and 11 complainants were willing to sign the complaint. They issued 2 citations and will be sending out some warning letters. He stated that although they were aware of the issue, he had decided it was more critical to keep officers safe rather than send them out to possible confrontations and there were no reported injuries or fires.

Penny Cimino, resident also stated her concerns with the fireworks on the holiday stating that residents have no respect for the law.

7) Consent Agenda

- A. **Approval Of The June 20, 2023, City Council Meeting Minutes (S. Huffman)**
- B. **Resolution No. 23-026, A Resolution Authorizing Participation By The City Of Fountain In The Coordinated Election On November 7, 2023 And Providing For Other Matters Relating Thereto**

Council Member Rick made a motion to approve the consent agenda, seconded by Council Member Hinton. All members voted yes (6-0); the motion carried.

8) Old Business

- A. **Second Reading Of Ordinance No. 1789, An Ordinance Amending Definition Of “Electronic Smoking Device” In Section 5.36.030 (Defining Terms) Of Chapter 5.36 (Tobacco Product Retail Licensing) Of Title 5 (Business Tax, Licenses And Regulations) Of The Fountain Municipal Code To Expressly Include Vaping Devices.**

Assistant Attorney Parker reported there have been no changes to this ordinance since first reading.

Segreant Sanchez stated that the School Board will be presented with this ordinance in August.

Council Member Rick stated he would like to table this item to allow for the School Board to review, Council Member Hinton concurred.

Mayor Pro Tem Estes reported that this ordinance is not just for the school districts, that it is for the entire city with concerns on children using vaping devices.

Mayor Thompson stated she feels that this will give a tool to the school district to help educate the students.

City Manager Trainor stated that the school district took a leadership role in creation of the initial ordinance. Assistant City Attorney Parker noted that this ordinance adds to the existing language of the current ordinance and no changes to the existing penalty.

Council Member Applegate made a motion to approve ordinance 1789 on second reading, seconded by Council Member Hinton. All members voted yes, except Council Member Rick, (5-1); the motion carried.

B. Second Reading Of Ordinance 1790, An Ordinance Amending Fountain Municipal Code, Creating A Hearing Officer And Authorizing The Hearing Officer To Act As The Local Liquor Licensing Authority And To Hear Various Appeals And Variance Requests

City Attorney Johnson stated there have been no changes to this ordinance since first reading. He reviewed the impactful language.

Mayor Thompson asked about the Judge being appointed and the City Attorney filling that role should the Judge not be available.

Attorney Johnson stated the hearing officer will not be an employee of the city except that it may be the Judge, appointed by Council, and if the Judge is not available, the City Attorney can appoint a hearing officer, temporarily but it would not be an employee of the city.

Mayor Thompson stated her main concern is that if a citizen wanted to be heard on a liquor item, they would not have the opportunity to come before Council.

City Clerk Huffman noted that all public is invited to the liquor hearing and notice will continue to conform to the State Statutes.

Mayor Pro Tem Estes made a motion to approve ordinance 1790 on second reading, seconded by Council Member Rick. All members voted yes (6-0); the motion carried.

9) New Business

A. Consideration Of Items Removed From The Consent Agenda

There were no items removed.

B. Resolution No. 23-027 A Resolution Amending The Appropriation Of Fiscal Year (FY) 2023 Budgeted Funds.

Finance Director Lewis reviewed some of the necessary amendments to the budget. Some in part due to grant funds and others due to unforeseen expenses.

Council Member Applegate made a motion to approve Resolution No. 23-027, seconded by Council Member Rick. All members voted yes (6-0); the motion carried.

C. Resolution No. 23-028, A Resolution Authorizing Schmidt Construction To Provide Professional Road Maintenance On Three Projects Throughout The City.

Street Superintendent McDonald reported the resurfacing for the following streets with this contract, 1. East Ohio Avenue – West Railroad Tracks east to Vern Street
2. Fountain Mesa Road – Lake Ave north to Calle Entrada,
3. South Main Street – East Ohio Avenue to West Indiana Avenue.

Council Member Hinton made a motion to approve Resolution No. 23-028, seconded by Council Member Rick. All members voted yes (6-0); the motion carried.

10) Correspondence, Comments and Ex-Officio Reports

Police Chief Cristiani reported on the number of contacts with the BCHON unit and its successes.

Street Superintendent McDonald reported on the damage to the concrete piers on the bridge along Old Pueblo Road, near Ventana and needs immediate attention. He noted that he will be working with FEMA and the State to see if there is any funding available.

Mayor Pro Tem Estes reported that she is a member of the Water Shed District and toured the Mile High District and will be working with staff to see if there is funding there.

Council Member Hinton announced that the Military Order of the Purple Heart Chapter 423, will be having an open house on August 5, 2023.

Council Member Cory reminded all, the upcoming Pikes Peak or Bust Rodeo and the County Fair.

Council Member Rick thanked Fire Chief Graham and Fire Marshall Gates for teaching him some processes and procedures. He also thanked the Street Department for clearing out storm drain blockages during the flooding.

Mayor Thompson noted that the CML conference was successful. She announced the upcoming redistricting meeting, and a proposal on map 8 would divide the city into 3 parts. She asked those interested to attend the meeting on Monday at 9 a.m.

11) Announcement of Executive Sessions

City Clerk Huffman requested the following executive sessions:

Pursuant to C.R.S. Section 24-6-402(4) for the Purpose of Review, Approval, and Amendment of Executive Session Minutes

Two Items Pursuant to C.R.S. Section 24-6-402(4)(b) for the purpose of receiving legal advice on specific legal questions.

Council Member Rick made a motion to hold the executive sessions as requested, seconded by Mayor Pro Tem Estes. All members voted yes (6-0); the motion carried.

12) Adjourn

There being no further business, Mayor Thompson declared the meeting adjourned at 7:53 P.M.

City Clerk

Mayor



Regular City Council Meeting

Consent – 7B
Open Space Maintenance IGA with
Ventana Metropolitan District

July 25, 2023

Summary Information

Title:

RESOLUTION 23-029, A RESOLUTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FOUNTAIN AND THE VENTANA METROPOLITAN DISTRICT FOR THE DISTRICT TO MAINTAIN A PORTION OF TRACT A IN FILING 6 OF CITY OWNED OPEN SPACE AT NO CHARGE.

Initiator : Ventana Metropolitan District

Presenter: Gordy McCormick

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview

This council item is for the Council to consider approval and execution of an IGA between the City of Fountain (City) and the Ventana Metropolitan District (District) to allow the District to provide maintenance as needed or requested by residents of the District at no cost to the City.

Attachments

Intergovernmental Agreement concerning Professional Services between the Ventana Metropolitan District and the City of Fountain

Background Information

The City currently maintains open space areas two times a year. The residents of the District wish to have Tract A Filing 6 that borders the residents tended to more frequently than the City can provide.

The City has no other maintenance agreement with the District. Since this area only effects residents of the District, the District is offering to provide the services at no cost to the City allowing the residents access to City trails.

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommends approval of Resolution 23-029.

Proposed Motion

"I Move to approve Resolution 23-029 and authorize execution of the Maintenance Services Intergovernmental Agreement".



RESOLUTION 23-029

A RESOLUTION TO APPROVE AN INTERGOVERNMENTAL AGREEMENT BETWEEN THE CITY OF FOUNTAIN AND THE VENTANA METROPOLITAN DISTRICT FOR THE DISTRICT TO MAINTAIN A PORTION OF TRACT A IN FILING 6 OF CITY OWNED OPEN SPACE AT NO CHARGE.

WHEREAS, the City of Fountain (“City”) and the Ventana Metropolitan District (“District”) wish to execute an Intergovernmental Agreement for the District to provide, at no cost to the City, vegetation control services (“Services”) in a reasonable manner to a portion of the Open Space from the back of residential properties up to the walking trail.

WHEREAS, the City and the District agree that the District can provide these Services as needed to meet the needs of the residents of Ventana.

WHEREAS, the District agrees to conduct the Services at no cost to the City

WHEREAS, either Party may terminate these Services at their discretion, otherwise to be presumed renewed annually

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

1. The Mayor, City Manager or other representative of the City delegated by the Mayor or City Manager are hereby authorized to execute the Intergovernmental Agreement.
2. The initial term of the Agreement will be for calendar year 2023 and will continue until terminated according to the terms and conditions of the Agreement.
3. The above authorization extends to the related documents necessary to achieve the identified and approved purchase elements.

Done this 25th day of July, 2023.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk

INTERGOVERNMENTAL AGREEMENT

BETWEEN VENTANA METROPOLITAN DISTRICT AND THE CITY OF FOUNTAIN

THIS INTERGOVERNMENTAL AGREEMENT (“IGA”), is made and entered into effective this ____ day of _____, 2023, by and between the CITY OF FOUNTAIN, COLORADO, a Colorado Home Rule municipal corporation (“City”), and the Ventana Metropolitan District (“District”). The City and the District are referred to herein individually as a “Party” and collectively as the “Parties.”

RECITALS

- A. The above entities are both political subdivisions of the State of Colorado formed pursuant to the Colorado Revised Statutes.
- B. The boundaries of the District are within the city limits of the City of Fountain and the City of Fountain is the approving authority for the approved Service Plan of the District.
- C. The primary responsibility of the District is to design, construct, finance, and maintain certain public improvements within the District.
- D. Tract A in Filing 6 is an open space dedicated to and owned by the City of Fountain (“Open Space”). See Exhibit A, attached hereto and incorporated herein, for the approximate map and legal description of the Open Space.
- E. The District is agreeing to maintain a portion of the Open Space, which portion is shown in Exhibit B, attached hereto and incorporated herein.
- F. The Parties desire to enter into this Agreement to facilitate the maintenance of the Open Space.
- G. Pursuant to the Colorado Constitution, Article XIV, Section 18(2)(a) and Section 29-1-203, C.R.S., governmental entities may cooperate or contract with each other to provide any function, service, or facility lawfully authorized to each, and any such contract may provide for the sharing of costs.

AGREEMENT

NOW THEREFORE, for and in consideration of the mutual covenants and promises contained herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

- 1. Recitals: The Recitals are incorporated as if fully set forth herein.
- 2. Services: The District agrees to provide, at no cost to the City, vegetation control services (“Services”) in a reasonable manner to the portion of the Open Space from the back of the residential properties up to the walking trail with the City maintaining the balance of the Open Space as reflected in Exhibit B.

The addresses for notices may be changed by written notice given to the other Party in the manner provided above. Notice may also be sent via e-mail delivery and shall be effective upon confirmation of receipt of the email.

7. No Third-Party Beneficiaries: This Agreement is intended to describe the rights and responsibilities of and between the Parties hereto and is not intended to, and will not be deemed to, confer rights upon or to benefit any persons or entities not signatories hereto, nor to limit, impair, or enlarge in any way the powers, regulatory authority, or responsibilities of any Party.
8. Amendment: This Agreement may not be amended or modified except by a subsequent written instrument signed by both Parties.
9. No Assignment: Neither Party may assign this Agreement and or any rights and obligations hereunder without the prior written consent of the other Party.
10. Severability. If any part, term or provision of this Agreement is declared unlawful or unenforceable, the remainder of this Agreement shall remain in full force and effect.
11. Waiver. No consent or waiver, express or implied, by a Party to or of any breach or default by the other Party in the performance by the other Party of its obligations hereunder shall be deemed or construed to be a consent or waiver to or of any other breach or default by the non-defaulting Party. Failure on the part of any Party to complain of any act or failure to act or to declare any other Party in default, irrespective of how long such failure continues, shall not constitute a waiver by such Party of its rights hereunder.
12. Applicable Law and Venue. This Agreement shall be construed according to the laws of the State of Colorado. Venue for any claim, proceeding or action arising out of this Agreement shall be in El Paso County, State of Colorado. In the event of any litigation, mediation, or other dispute resolution process arising out of this Agreement, the Parties agree that each is responsible for their own costs and fees, including attorney fees, associated with any such action.
13. Entire Agreement. The provisions of this Agreement represent the entire and integrated agreement between the City and the District and supersede all prior negotiations, representations and agreements, whether written or oral.
14. No Presumption. Each Party acknowledges that it has carefully read and reviewed the terms of this Agreement, and that the entry into and execution of this Agreement is of its own free and voluntary act and deed, without compulsion. The Parties agree that this Agreement reflects the joint drafting efforts of all Parties and in the event of any dispute, disagreement or controversy arising from this agreement, the Parties shall be considered joint authors and no provision shall be interpreted against any Party because of authorship.
15. Authority. Each person executing this Agreement represents and warrants that he or she has been duly authorized by the party which he or she purports to represent to execute this

EXHIBIT B





Regular City Council Meeting

Consent –7C

Fountain Fall Festival

July 25, 2023

Summary Information

Title:

REQUEST FOR APPROVAL OF AN EVENT PARK PERMIT AND SPONSORSHIP FOR THE ANNUAL FOUNTAIN FALL FESTIVAL.

Initiator : City Clerk Huffman

Presenter: City Clerk Huffman

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Fountain Valley Chamber of Commerce is hosting their annual Fountain Fall Festival event on September 4, 2023 in John Metcalfe Park.

Attachment:

Background Information

Fountain Valley Chamber has submitted an application for their Annual Fountain Fall Festival. The application is requesting in-kind sponsorship in the form of waiving rental fees and cost for public safety during this event. The total estimated amount of \$15,233 is requested to be waived.

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommends approval.

Proposed Motion

Motion to approve shall be included under the consent agenda.

City of Fountain Colorado

Event Permit Application



Date Received: 7-18-2023

Check or Cash: _____

Are you requesting sponsorship from City Council (Yes) (No) _____

Event Title: Fountain Fall Festival 2023 Phone Number: 719-382-3190

Entity Name: Fountain Valley Chamber of Commerce Tax ID Number: 84-1226233

Applicant Name and Title: Heather McDaniel, Vice President

Address: 116 S. Main St. Fountain CO 80817

Email Address: fountainvalleychamberinfo@gmail.com

Description: (Describe what your event is about, who and what will be involved, how it will operate and any other information that you feel is important that will help us make a determination on whether to approve or deny your event): _____

Fall Festival is an event hosted annually on Labor Day, that consists of a parade + festival. The parade starts at 10am at Main St / Hanover and ends at Metcalfe park where the Festival will begin. Parade consists of floats, bands, vehicles, pedestrians + animals. Festivals will consist of Live Music, Food vendors, chili cook off, demonstrations, + vendors.

Location of Event: Metcalfe Park

For official use only

City Authorization: _____

City Clerk: _____

Comments: _____

Set up date and time: 7am 9/4/23 Dismantle date and time: 6pm 9/4/23

Event Start date and time: 8am 9/4/23 End date and time: 5pm 9/4/23

Anticipated Attendance to include participants: 7500 Number of Vehicles: 450

Will there be an admission registration fee? Yes NO Cost: vendors pay based on booth size

Please provide website or Facebook page for your event: www.fountainvalleychamber.com

IF YOUR EVENT WILL INVOLVE ALCOHOL YOU MUST CONTACT THE CITY OF COMMERCE CLERK'S OFFICE AND THEY WILL ADVISE YOU ON THE PROCESS TO OBTAIN A LIQUOR LICENSE. YOU MAY HAVE BEER IN CANS ONLY (NOT FOR SALE).

IF YOU ARE POSTING SIGNS YOU MUST HAVE A SIGN PERMIT.

Are there plans to sell or distribute beer or wine at your event? Yes NO by Peaks N Pines - Teresa.

Will you be posting signs around the community to market you event? Yes No

A Certificate of Insurance must be received by the City of Fountain prior to approval and issuance of your Special Event Permit.

The applicant will need commercial general liability insurance which names, as Additional Insured, the "City of Fountain, its officers, employees and agents," and any other public entities impacted by your event to which this permit applies. Insurance coverage must be maintained for the duration of the event including setup and dismantle dates.

Name of Insurance Agency: Powerhouse Insurance Consultants

Address: 525 N. Cascade Ave City: Co Springs State: CO Zip: 80903

Phone number: 719-652-5299

Contact Person: Heather McDaniel

Policy Type: Business Owners Policy

Policy Amount: \$1363.00

Policy Number: NBP1567789

The following departments may provide and charge additional services. You will be provided cost estimates in your Agreement packet.

POLICE: Public Safety Personnel: How many? TBD at Meeting

STREETS/PARKS: Personnel, Equipment (cones, barricades, no parking signs): How many? TBD @ Meeting.

STREETS/PARK: Cleanup Personnel, Dumpster(s), trash receptacles, event site preparation and restoration. How many? TBD @ Meeting.

FIRE: Paramedics, Inspectors: How many? TBD @ Meeting.

Note: The City does not provide tents, Port-O-Lets, tables and chairs.

If you are requesting City Council sponsorship, please provide a summary of the benefit to the City and/or the Citizens of Fountain. If sponsorship is approved, the City requires public recognition of the City on all marketing material. Please see City Clerks Office for logo.

The FFF is expected to attract 7500 attendees
this year. For the City, as a sponsor of the Chamber,
it will be great exposure and bring many
patrons to support local businesses.

Review and check all conditions which apply to this event: Note the corresponding obligation for each condition.

<u>Condition</u>	<u>Comments/Details</u>	<u>Obligation</u>
<input checked="" type="checkbox"/> Public Invited		General Liability Insurance (City Clerk)
<input checked="" type="checkbox"/> Located in Park		Park Permit (City Clerk)
<input checked="" type="checkbox"/> Vending Product/Merchandise Sales		City of Fountain Business License (City Clerk)
<input checked="" type="checkbox"/> Vending Food/Beverage		Health License (Contact El Paso County Public Health)
<input checked="" type="checkbox"/> Vendors/Exhibitors	How Many?	
<input checked="" type="checkbox"/> Vending Beer/Wine		Alcohol Permit--additional insurance required (City Clerk)
<input checked="" type="checkbox"/> Erecting Tents	How Many?	Parks/Streets Department
<input type="checkbox"/> Fence Installation	What Type?	Parks/Streets Department
<input type="checkbox"/> Other Structures	What Structure?	Parks/Streets Department
<input type="checkbox"/> Open Flame Food Preparation		Fire Inspection Permit (Fire Department)
<input checked="" type="checkbox"/> Require Street Closure		Parade or Street Closure Permit (Police Department)
<input type="checkbox"/> Car Show	How Many? Impermeable Barrier must be used under car	
<input type="checkbox"/> Grills	How Many?	
<input checked="" type="checkbox"/> Amplified Sound	<input checked="" type="checkbox"/> Performers <i>Live Bands</i> <input type="checkbox"/> Announcement Only	
<input type="checkbox"/> Security	<input type="checkbox"/> Daytime-Private <input type="checkbox"/> Overnight-Private <input type="checkbox"/> Event Time Frame-Fountain PD	
<input checked="" type="checkbox"/> Sanitary Facilities (Port-o-Lets)	No. of Regular Units ____ No. of Disabled Units ____ No. of Hand Washing Units ____	
<input checked="" type="checkbox"/> Off-site Parking/Shuttle		
<input type="checkbox"/> Semi-Truck/ Tractor Trailer		
<input checked="" type="checkbox"/> Barricade and Street Blockage	Address for Drop Off:	Parks/Streets Department

Describe the economic benefit that this event will bring to the City of Fountain.

The event will attract families and businesses to Fountain to partake in many activities and support local businesses.

Please provide an event map that includes the following information

(If the item does not apply please write N/A in the space provided)

- Provision of minimum twenty feet (20') emergency access lanes throughout the event venue.
 - Location of first-aid facilities and ambulances.
 - Location of all stages, platforms, scaffolding, bleachers, grandstands, canopies, tents, portable toilets, booths, beer gardens, cooking areas, trash containers and dumpsters, and other temporary structures.
 - A detailed or close-up of the food booth and cooking area configuration including booth identification of all vendors cooking with flammable gases or barbecue grills.
 - Generator locations and/or source of electricity.
 - Placement of vehicles and/or trailers.
 - Exit locations for outdoor events that are fenced and/or locations within tents and tent structures.
-

Certification:

I/we certify that the information contained in the forgoing application is true and correct to the best of my/our knowledge and belief; that I/we have read, understand and agree to abide by the requirements, rules and regulations governing the proposed Event Permit under the City of Fountain. I/we certify that the event will be open to the public and that individuals will not be barred from participation due to race, creed, color, national origin, sex, age, or physical impairment. I/we agree to comply with all other requirements of the City, County, State, Federal Government, and any other applicable entity which may pertain to the use of the event venue and the conduct of the event. I/we agree to pay all fees and taxes; and the City shall not be liable for the payment of such taxes. I/we agree to abide by the requirements of the Public Events Permit, and further certify that I/we, on behalf of the Host Organization, am also authorized to commit that organization; and therefore, agree to be financially responsible, in conjunction with the Host Organization, for any costs and fees that maybe incurred by or on behalf of the Event to the City of Fountain. I/we hold the City of Fountain and all its entities harmless against all liability.

Print Name of Host Organization: Fountain Valley Chamber of Commerce

Name of Authorized Representative Heather McDaniel, VP.

Signature: Heather McDaniel

Date: 4/17/23

Review and Approval Process:

1. Complete application for public event and turn it in to the City Clerk's office at City Hall.
2. City Clerk will review and coordinate with other city departments as needed.
3. Fountain Parks Department will coordinate an Event Review (ER) meeting with appropriate city staff and event organizer.
4. The event organizer will provide a detailed event layout via the aerial maps provided and will return the map to the parks department for review.
5. If the event application needs special permit approval from City Council, the event organizer will be notified by the City Clerk for Council meeting date and time of appearance.
6. Payment for permit will be required at the Event Review Meeting.



Regular City Council Meeting

Consent –9D
Emergency Funding for Steel Wheel
Compactor

July 25, 2023

Summary Information

Title:

RESOLUTION 23-032, A RESOLUTION TO APPROVE EMERGENCY FUNDING FOR THE PROCUREMENT OF A STEEL WHEEL COMPACTOR TO REPLACE FAILED EQUIPMENT.

Initiator : Robert McDonald, Transportation Director

Council Action

Presenter: Robert McDonald, Transportation Director

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

The purpose of this action item is for city Council to consider the approval of Resolution 23-032, that authorizes the emergency purchase of a steel wheel compactor to replace failed equipment. This would be new funding in the approximate amount of \$67,000.00 as parts to repair the failed equipment are obsolete.

Background Information

The Streets Departments steel wheel compactor that was purchased in the year 2000, failed while operating on 7/18/23. Fleet determined that due to the age of the equipment that parts for repairs were obsolete.

This piece of equipment is paramount to the maintenance and repairs to city roadways and is the only roller the city owns. This equipment compresses, reduces, and compacts a variety of materials utilized for roadway repairs for pavement surface compaction. In order to replace this equipment, emergency funding in the amount of \$67,000.00 is required.

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommends that the City of Fountain allow for emergency funding in the amount of \$67,000.00 to replace the failed equipment.

Proposed Motion

“I move to approve Resolution 23-032 and approve the emergency funding in the amount of \$67,000.00 to procure a new steel wheel compactor.”



RESOLUTION 23-032

**A RESOLUTION TO APPROVE EMERGENCY FUNDING FOR THE
PROCUREMENT OF A STEEL WHEEL COMPACTOR TO REPLACE FAILED
EQUIPMENT.**

WHEREAS, the City of Fountain acknowledges the importance of replacing the 23 year old failed steel wheel compactor; and

WHEREAS, the City recognizes the importance that this piece of equipment is utilized for maintaining the infrastructure of our roadways; and

WHEREAS, the City Council of the City of Fountain desires to ensure the safety of our roadways.

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

Section 1. The City Council is allowing for the emergency procurement of a steel wheel compactor in an amount to not exceed \$67,000.00

Done this 25th day of July, 2023.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk



Regular City Council Meeting

New Business –9A

Items removed from Consent Agenda

July 25, 2023

Summary Information

Title:

CONSIDERATION OF ITEMS REMOVED FROM THE CONSENT AGENDA

Initiator: City Clerk

Presenter: City Clerk

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

Any Items removed from the Consent agenda for further discussion shall be heard under this item

Previous Action by City Council:

Attachment:

Background Information

Strategic Plan Priority (if applicable):

- Facilitate responsible development, building reasonable capacity to meet future community needs.
- Diversify city financial resources and invest.
- Provide reliable access to public safety services.
- Improve the quality and availability of parks and recreation opportunities

Recommendation

Staff recommendations

Proposed Motion

"I move to approve"



Regular City Council Meeting

New Business-9B

Private Activity Bonds Assignment

July 25, 2023

Summary Information

Title:

RESOLUTION 23-030, A RESOLUTION ASSIGNING AND TRANSFERRING TO EL PASO COUNTY, COLORADO ALL OF THE CITY OF FOUNTAIN'S 2023 PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION FROM THE STATE CEILING FOR PRIVATE ACTIVITY BONDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT AND OTHER DOCUMENTS IN CONNECTION THEREWITH.

Initiator : Kimberly Bailey

Presenter: Kimberly Bailey

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

The intent of this Resolution is for Council to assign all of the City's 2023 Private Activity Bonds Volume Cap Allocation (\$1,807,144) to El Paso County.

Attachment A: Resolution 23-030

Attachment B: Assignment

Background Information

In 2023, the State of Colorado allocated \$1,807,144 to the City for the purpose of issuing Private Activity Bonds (PAB) under the state ceiling imposed by the Tax Reform Act of 1987. Private Activity Bonds (PABs) are a form of tax-exempt financing in which the City acts as the conduit issuer, but assumes no debt responsibility. PABs are authorized to allow cities and counties a financial opportunity to promote industry and develop trade or other economic activity by inducing profit and non-profit entities to locate, expand or remain in the community. PABs may be used to finance an array of community development projects including affordable housing, manufacturing, and higher education institutional, as well as, limited eligibility of infrastructure and environmental projects. PABs are based on the credit rating and capacity of the issuer municipality, whereby borrowers typically receive favorable interest rates/terms since bonds are exempt from federal and state income tax. The City has an July 28th deadline to determine how the annual PAB allocation will be used. The City has three options: 1) use the allocation, 2) assign the unused PAB allocation to El Paso County or 3) return the unused portion of the allocation to the State of Colorado. The City did not receive any requests for the PAB allocation this year so staff recommends the City's allocation be assigned to El Paso County in order to retain the benefits of PABs in our region and to avoid returning the allocation to the State.

Strategic Plan Priority (if applicable):

- Transportation Infrastructure**
- Telecommunications Technology and Capabilities.**
- Distribution of Public Safety Resources**
- Improve the Availability of Venues Which Support Community Activities**

Recommendation

Staff recommends approval.

Proposed Motion

Staff recommends motion to approve.



RESOLUTION 23-030



A RESOLUTION ASSIGNING AND TRANSFERRING TO EL PASO COUNTY, COLORADO ALL OF THE CITY OF FOUNTAIN'S 2023 PRIVATE ACTIVITY BOND VOLUME CAP ALLOCATION FROM THE STATE CEILING FOR PRIVATE ACTIVITY BONDS; AND AUTHORIZING THE EXECUTION AND DELIVERY OF AN ASSIGNMENT AND OTHER DOCUMENTS IN CONNECTION THEREWITH.

WHEREAS, the City of Fountain, Colorado (the “City”) is authorized by the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, Colorado Revised Statutes, as amended (the “Act”) and the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended (the “Supplemental Act”), to finance projects as defined in the Act, including residential housing facilities for low- and middle-income persons and families; and

WHEREAS, the City has been awarded on January 1, 2023 \$1,807,144 (the “2023 Allocation”) of the bond ceiling for the State of Colorado (the “State”) and its issuing authorities pursuant to the Colorado Private Activity Bond Ceiling Allocation Act, constituting Part 17 of Article 32 of Title 24, Colorado Revised Statutes, as amended (the “Allocation Act”), for use in the issuance of private activity bonds to finance projects under the Act; and

WHEREAS, the Allocation Act provides for the assignment of bond allocations between issuing authorities of the State; and

WHEREAS, the City desires to assign and transfer to El Paso County, Colorado (the “Assignee”) all of the City’s 2023 Allocation, which the City and the Assignee will commit and reserve for the issuance of such private activity bonds, to finance “projects” under the Act; and

WHEREAS, it is necessary to evidence such assignment and transfer and the acceptance thereof by the execution and delivery by the City of an Assignment (the “Assignment”), by and between the City and the Assignee; and

WHEREAS, the Assignee proposes to issue its housing revenue bonds pursuant to the Act and the Supplemental Act (the “Bonds”) to finance “projects” under the Act (the “Project”);

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF FOUNTAIN:

Section 1. In order to finance the Project, the City hereby (i) assigns and transfers to the Assignee an amount equal to all of the City’s 2023 Allocation and (ii) approves and authorizes and directs the Mayor of the City to sign and deliver and the City Clerk to attest and deliver, the Assignment in substantially the form presented to the City Council. A copy of the proposed Assignment is on file in the office of the City Clerk and is available for inspection by the public.

Section 2. The Mayor of the City is hereby authorized and directed to execute and deliver and the City Clerk is hereby authorized and directed to attest and deliver such other agreements and

certificates and to take such other actions as may be necessary or convenient to carry out and give effect to the Assignment and this Resolution.

Section 3. Nothing contained in this Resolution, or the Assignment shall constitute a debt, indebtedness or multiple-fiscal year direct or indirect debt or other financial obligation of the City within the meaning of the Constitution or statutes of the State of Colorado or the home rule charter of any political subdivision thereof, nor give rise to a pecuniary liability of the City or a charge against its general credit or taxing powers.

Section 4. 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 any such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Resolution.

Section 5. This Resolution shall be in full force and effect upon its passage and approval.

Adopted this 25th day of July, 2023.

CITY OF FOUNTAIN, COLORADO

Mayor

ATTEST:

City Clerk

ASSIGNMENT

THIS ASSIGNMENT (the “Assignment”), dated this 25 day of July, 2023, is by and between the **CITY OF FOUNTAIN, COLORADO**, a home rule city, municipal corporation and political subdivision of the State of Colorado (the “Assignor”), and **EL PASO COUNTY, COLORADO**, a body corporate and politic (the “Assignee”);

WITNESSETH:

WHEREAS, the Assignor has been awarded \$1,807,144 (the “2023 Allocation”) of private activity bond volume cap allocation for the State of Colorado and its issuing authorities (the “State Ceiling”) computed under Section 146(d) of the Internal Revenue Code of 1986, as amended (the “Code”), and under the Colorado Private Activity Bond Ceiling Allocation Act, Part 17 of Article 32 of Title 24, Colorado Revised Statutes, as amended (the “Allocation Act”), for use in the issuance of private activity bonds; and

WHEREAS, subject to the terms and conditions set forth herein, the Assignor desires to assign to the Assignee, and the Assignee desires to accept all of the Assignor’s 2023 Allocation, which the Assignor has committed and reserved for the issuance of such private activity bonds; and

WHEREAS, the private activity bonds will be issued by the Assignee pursuant to the County and Municipality Development Revenue Bond Act, constituting Article 3 of Title 29, Colorado Revised Statutes, as amended (the “Act”), and the Supplemental Public Securities Act, constituting Title 11, Article 57, Part 2, Colorado Revised Statutes, as amended (the “Supplemental Act”), and such bonds will be used only for “projects” as described in the Act;

NOW THEREFORE, in exchange for the agreements set forth herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

Section 1. The Assignor hereby assigns and transfers to the Assignee all of the Assignor’s 2023 Allocation. The Assignee agrees to use all of the Assignor’s 2023 Allocation only for “projects” as described in the Act. In addition, the Assignor hereby consents to the election by the Assignee, if the Assignee in its discretion so decides, to treat all of the Assignor’s 2023 Allocation as an allocation for a project with a carryforward purpose, thus avoiding reversion of such 2023 Allocation to the statewide balance under the Allocation Act, or to assign such 2023 Allocation or a portion thereof to another Assignee.

Section 2. The Assignor represents that it has received no monetary consideration for the assignment set forth above.

Section 3. The Assignee hereby accepts the assignment of all of the Assignor’s 2023 Allocation from the State Ceiling described above, subject to the terms and conditions contained herein.

Section 4. The Assignor and Assignee each agree that it will take such further action and adopt such further proceedings as may be required to implement the terms of this Agreement, including but not limited to the Assignee filing an IRS Form 8328 “Carryforward Election of Unused Private Activity Bond Volume Cap” with respect to all of the Assignor’s 2023 Allocation.

Section 5. This Assignment is effective upon execution and is irrevocable.

IN WITNESS WHEREOF, the Assignor and the Assignee have caused this instrument to be executed to be effective as of the date and year first written above.

CITY OF FOUNTAIN, COLORADO, as
Assignor

By _____
Its: Mayor

[SEAL]

ATTEST:

Its: City Clerk

EL PASO COUNTY, COLORADO,
as Assignee

By _____
Its: Chair, Board of County Commissioners

[SEAL]

ATTEST:

Its: County Clerk



Regular City Council Meeting

New Business -9C

2023 Chip Seal Program

July 25, 2023

Summary Information

Title:

RESOLUTION NO. 23-031, A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO AUTHORIZING THE HIRING OF A-1 CHIP SEAL TO PROVIDE PROFESSIONAL ROAD MAINTENANCE ON 3 PROJECTS IN THE CITY

Initiator : Robert McDonald, Transportation Director

Council Action

Presenter: Robert McDonald, Transportation Director

Council Information

Legal Review: Yes No

Report to Council

Summary Overview and List of Attachments:

The purpose of this action item is for the Council to Approve the 2020 Chip Seal Program of the following street:

1. Progress Drive – Link Road to Wilson Road
2. Squirrel Creek Road – Jimmy Camp Road to Link Road
3. Venetucci Blvd – South Academy to Round About

Attachments: 2023 Chip Seal Project Contract.

Background Information

The 2023 Chip Seal project is meant to extend the service life of the listed road for four to six years.

Chip seal will be applied to the specified section of roadway to protect existing pavement from further deterioration and provide a new surface for vehicle traffic until funding can be allocated to repave the roadway. On April 25, 2019 the City Streets Department received and opened bid S201902 for the 2019 Chip Seal Projects. This Bid reserved the right to extend the awarded contract for up to four one-year periods if mutually agreeable by both the contractor and the City of Fountain. 2023 marks the fourth year of the contract. A-1 Rocky Mountain Pavement Proposal #31691 offers to chip seal the above-mentioned roadways for \$178,198.28.

This will be funded with the approved 2023 MFF Streets Resurfacing line-item funds to include a 5% Contingency Fee of \$8,909.91, for a total contract amount not to exceed \$187,108.19.

The proposed cost is within the Transportation Director’s estimate of probable costs. As such sufficient appropriated Transportation Sales Tax funds are already budgeted to award this project to A-1 Chip Seal.

Strategic Plan Priority (if applicable):

- Transportation Infrastructure**
- Telecommunications Technology and Capabilities.**
- Distribution of Public Safety Resources**
- Improve the Availability of Venues Which Support Community Activities**

Recommendation

Staff recommends moving forward with awarding the 2023 Chip Seal Project to A-1 Chip Seal in the amount of \$187,108.19 (5% Contingency Fee Included).

Proposed Motion

I move to approve Resolution 23-031 for the 2023 Chip Seal Project Bid Contract to A-1 Chip Seal in the amount of \$187,108.19 and Authorize the Mayor to Execute the Contract.



RESOLUTION 23-031

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF FOUNTAIN, COLORADO
AUTHORIZING THE HIRING OF A-1 CHIP SEAL. TO PROVIDE PROFESSIONAL ROAD
MAINTENANCE ON THREE PROJECTS IN THE CITY**

WHEREAS, the voters of the City of Fountain, Colorado at the November 3, 2009 coordinated election approved a ballot issue which authorized an increase in the sales tax rate for the City of Fountain, Colorado for purposes set forth in the ballot issue; and

WHEREAS, maintenance improvements are needed on the Street identified as:

1. Progress Drive -Link Road to Wilson Road
2. Squirrel Creek Road – Jimmy Camp Road to Link Road
3. Venetucci Blvd – South Academy to Round About

WHEREAS, staff has reviewed all proposals and believes A-1 Chip Seal to provide the most value to the City based upon the bids submitted and the services they provide at a reasonable price; and

NOW, THEREFORE, BE IT RESOLVED by the City Council:

Section 1. A-1 Chip Seal is agreed to be contracted by the City to complete Chip Seal maintenance aimed at improving these roadways.

Section 2. The Individual Project Contract outlines the services to be provided as well as the amount of services to be executed not to exceed \$ 187,108.19 (which includes the 5% Contingency Fee).

Section 3. Mayor is authorized to sign and execute the agreement.

This Resolution shall be in full force and effect upon approval by the City Council.

Done this 25th day of July, 2023.

Sharon Thompson, Mayor

ATTEST:

Silvia Huffman, City Clerk



CITY OF FOUNTAIN

Contract Number	S202302	Project Name	2023 Chip Seal Project
Vendor/Contractor	A-1 Chipseal		
Address	2505 East 74 th Street, Denver, CO 80229		
Federal Tax ID #	84-1216817	Please check one:	<input checked="" type="checkbox"/> Corporation <input type="checkbox"/> Individual <input type="checkbox"/> Partnership
CITY CONTACT:	Mr. Robert McDonald Ph. 719-322-2070		
Amount	\$178,198.28		

CONSTRUCTION CONTRACT

THIS CONTRACT, made and entered into this ___day of **July, 2023** by and between the **City of Fountain, Colorado, a municipal corporation**, in the County of El Paso, State of Colorado, party to the first part hereinafter in the Contract Documents referred to as the “City”, and **A-1 Chip Seal**, a corporation organized as existing under the laws of the State of Colorado, hereinafter in the Contract Documents called the “Contractor”; party of the second part.

WITNESSETH:

Whereas the City has heretofore prepared the necessary Contract Documents for **2023 Chip Seal Project** in the City of Fountain; and whereas the party of the second part did on the **8th** day of **May, 2023**, submit to the City his/her written offer and **proposal #31691** to do the work therein described under the terms and conditions therein set forth and furnish all labor, materials, tools, equipment, transportation and services for said work in strict conformity with the accompanying Contract Documents which include: Notice to Bidders, Instructions to Bidders, Bid Proposal, Notice of Award, Contract, Performance, Labor and Material Payment and Maintenance Bonds, Notice to Proceed, General and Special Conditions, Specifications and Drawings.

NOW, THEREFORE, it is hereby agreed that for the considerations and amounts specified in the Bid Proposal and the total contract amount designated in the Notice of Award to be paid by the City to the Contractor, Contractor agrees to furnish all materials and to perform all work as set forth in his/her proposal and as required by the aforesaid Contract Documents.

It is further agreed that the Contractor will start work promptly and continue work diligently until completed. The Contract Period of Performance for this contract is **Ninety (90) Calendar Days**. The Contractor shall provide a two-year guarantee on all works performed under this contract after the job has been completed and accepted.

On April 25, 2019 the City Streets Department received and opened bid S201902 for the 2019 Chip Seal Projects. This Bid reserved the right to extend the awarded contract for up to four one-year periods if mutually agreeable by both the contractor and the City of Fountain. 2023 marks the fourth year of the contract. A-1 Rocky Mountain Pavement Proposal #31691 offers to chip seal the above-mentioned roadways for **\$178,198.28**.

In accordance with the City Charter, performance of the City’s obligations under this agreement are expressly subject to appropriations of funds by the City Council. Further, in the event that funds are not appropriated in whole or in part sufficient for performance of the City’s obligations under this contract, or appropriated funds may not be expended due the City Charter spending limitations, then the City may terminate this Agreement without compensation to the Contractor.

The funds appropriated for this contract are equal to or exceed the awarded contract amount.

The Contractor and the City agree and acknowledge as a part of this contract, that no Change Order or other form or order or directive may be issued by the City which requires additional compensable work to be performed, which work causes the aggregate amount payable under the contract to exceed the amount appropriated for this contract as listed above, unless the Contractor has been given a written assurance by the City that lawful appropriations to cover the costs of the additional work have been made or unless such work is covered under a remedy-granting provision in this contract.



CITY OF FOUNTAIN

Contract Page 2

THE CONTRACTOR hereby Certifies that at the time of this certification, the Contractor does not knowingly employ or contract with an illegal alien and that the contractor has participated or attempted to participate in the basic pilot program in order to verify that the Contractor does not employ any illegal aliens. "Basic pilot program" means the basic pilot employment verification program created in Public Law 208, 104th Congress, as amended, and expanded in Public Law 156, 108th Congress, as amended, that is administered by the United States Department of Homeland Security.

The Contractor and the City further agree and acknowledge as a part of this contract that no Change Order or other form or order or directive which requires additional compensable work to be performed under this contract shall be issued by the City unless funds are available to pay such additional compensable work performed under this contract, and expressly waives any rights to additional compensation, whether by law or equity, unless, prior to commencing the additional work, the contractor was given a written Change Order describing the additional compensable work to be performed, and setting forth the amount of compensation to be paid, which Change Order was signed by the authorized City Representative. It is the Contractor's sole responsibility to know, determine, and ascertain the authority of the City representative signing any Change Order under this contract.

IN WITNESS WHEREOF, the parties have caused these presents to be executed on the month, day and year first above written.

This contract is executed in Three (3) original copy.

THE CITY OF FOUNTAIN, COLORADO:

Name: Sharon Thompson Title: Mayor

Attest : Silvia Huffman Title: City Clerk

SECOND PARTY:

A-1 Chip Seal
Contractor Name:

Signature:
Signatory Printed Name: Printed Title:

Witness Signature:

Witness Printed Name: Printed Title:



Regular City Council Meeting

New Business –9D

PPRTA Ballot Language

July 25, 2023

Summary Information

Title:

FIRST READING OF ORDINANCE 1791, AN ORDINANCE SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF THE CITY OF FOUNTAIN, COLORADO AT THE GENERAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2023, THE QUESTION OF THE IMPOSITION OF A SALES TAX INCREASE REQUIRED TO JOIN THE PIKES PEAK RURAL TRANSPORTATION AUTHORITY

Initiator: City Council

Presenter: Troy Johnson, City Attorney

Legal Review: Yes No

Council Action

Council Information

Report to Council

Summary Overview and List of Attachments:

This tax is proposed to add an additional 1% sales tax in the City of Fountain and would allow the City to join the Pikes Peak Rural Transportation Authority.

Background Information

Historically, the City of Fountain has chosen not to be a regional partner with the PPRTA for several reasons, primarily because the City felt it would not get enough benefit compared to our contribution. With recent changes to the bylaws, the allocation formula was changed. Given these changes and the reality that any property annexed into the City after the creation of PPRTA will have to pay the tax, the City evaluated if it was the right time to join the RTA now.

The City conducted fact finding and surveyed the community and there was positive support for the City to join PPRTA. Upon approval of this ordinance, the City Council will ask the citizens of Fountain to vote increase sales tax by 1%, and join the boundaries of PPRTA and the associated benefits to City street infrastructure.

Recommendation

Staff makes no recommendation.

Proposed Motion

"I move to approve Ordinance 1791 on First Reading "

ORDINANCE 1791

AN ORDINANCE SUBMITTING TO THE REGISTERED QUALIFIED ELECTORS OF THE CITY OF FOUNTAIN, COLORADO AT THE GENERAL COORDINATED ELECTION TO BE HELD ON TUESDAY, NOVEMBER 7, 2023, THE QUESTION OF THE IMPOSITION OF A SALES TAX INCREASE REQUIRED TO JOIN THE PIKES PEAK RURAL TRANSPORTATION AUTHORITY

WHEREAS, the City Council of the City of Fountain, 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 and the Constitution and laws of the state; and

WHEREAS, pursuant to 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 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 a new tax increase of 1 % sales and use tax for the benefit of the Pikes Peak Rural Transportation Authority (“PPRTA”); and

WHEREAS, even if Fountain voters approve the 1% PPRTA sales and use tax, before the tax could apply, the current PPRTA members would need to unanimously agree to expand the boundaries of the PPRTA to include the City, and the current PPRTA members would need to amend the intergovernmental agreement in place by the current PPRTA members to include the City; and

WHEREAS, the City acknowledges these additional steps and wishes to seek voter approval of the 1% PPRTA sales and use tax in advance as a way to facilitate joining the PPRTA; and

WHEREAS, the 1% PPRTA sales and use tax, if approved, would not be imposed unless the PPRTA accepts the City as a member; and

WHEREAS, the City Council has determined it is appropriate to submit a ballot issue at the coordinated election on November 7, 2023, and to set the title and content of the ballot for the ballot issue to be submitted at the election called for by this ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Fountain, Colorado, as follows:

1. An election shall be held on Tuesday, November 7, 2023, at which time there shall be submitted to the registered electors of the City a question of the imposition of an 1% sales and use tax for the benefit of the Pikes Peak Rural Transportation Authority, which question shall be in substantially the form as set forth in paragraph (2) of this Ordinance. 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 ballot question shall be submitted to the registered, qualified electors of the City of Fountain in substantially the following form:

SHALL PIKES PEAK RURAL TRANSPORTATION AUTHORITY (PPRTA), A REGIONAL TRANSPORTATION AUTHORITY, TAXES BE INCREASED \$4,500,000 ANNUALLY (ESTIMATED FIRST FULL FISCAL YEAR DOLLAR INCREASE) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER BY LEVYING A 1% (ONE PENNY PER DOLLAR) SALES AND USE TAX UPON EVERY TRANSACTION OR OTHER INCIDENT WITH RESPECT TO WHICH A SALES AND USE TAX IS LEVIED BY THE STATE OF COLORADO WITHIN THE CITY OF FOUNTAIN (EXCLUDING PURCHASES OF FOOD FOR DOMESTIC HOME CONSUMPTION, PRESCRIPTION MEDICATIONS, RESIDENTIAL UTILITY BILLS, OR OTHER EXEMPT TRANSACTIONS AS DETAILED IN ARTICLES 28 AND 30, TITLE 39, AS AMENDED, OF THE COLORADO REVISED STATUTES), COMMENCING ON JANUARY 1, 2024, OR OCCURRING FIRST AFTER FOUNTAIN'S ADMISSION INTO THE PPRTA, AND CONTINUING UNTIL DECEMBER 31, 2034, FOR THE PURPOSES OF FUNDING MAINTENANCE, REPAIR, AND OPERATIONS FOR ROADWAYS AND BRIDGES (35% OF NET REVENUE), FOR IMPROVED TRANSIT SERVICE WITHIN THE PPRTA'S BOUNDARIES (10% OF NET REVENUE), WITH 55% OF NET REVENUE DEDICATED TO SPECIFIC REGIONAL ROADWAY CAPITAL IMPROVEMENTS DESIGNATED BY THE PPRTA MEMBERS, AND NO MORE THAN 1% OF NET REVENUE EXPENDED FOR ADMINISTRATIVE EXPENSES, AND AFTER DECEMBER 31, 2034, REDUCING THE 1% SALES AND USE TAX TO A .45% SALES AND USE TAX FOR EACH YEAR THEREAFTER FOR FUNDING MAINTENANCE, REPAIR, AND OPERATION OF REGIONAL ROADWAYS AND BRIDGES (77.78% OF NET REVENUE) AND FOR FUNDING PUBLIC TRANSIT SERVICES (22.22% OF NET REVENUE), WITH ALL REVENUES FROM SUCH TAX AND OTHER REVENUES OF PPRTA BEING COLLECTED AND SPENT EACH YEAR WITHOUT LIMITATION BY THE REVENUE AND SPENDING LIMITS OF ARTICLE X, §20 OF THE COLORADO CONSTITUTION; AND, PURSUANT TO COLORADO REVISED STATUTES § 43-4-601, ET SEQ., PROVIDED THERE IS UNANIMOUS CONSENT OF PPRTA MEMBERS, SHALL THE BOUNDARIES OF THE PPRTA BE EXPANDED TO INCLUDE THE CORPORATE LIMITS OF THE CITY OF FOUNTAIN?

3. 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 Ordinance and the Ballot Issue submitted to the voters.
4. For purposes of C.R.S. § 31-11-111, this Ordinance 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.
5. 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 Colorado State law.
6. 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 Ordinance.

Introduced, read and passed this _____ day of _____, 2023, by the City Council, Fountain, Colorado, signed by the Mayor, and ordered published in the Colorado Springs Gazette, a newspaper of general circulation in the City of Fountain, Colorado.

Mayor

ATTEST:

City Clerk

Passed on second and final reading this _____ day of _____, 2023, by the City Council, Fountain, Colorado, signed by the Mayor, and ordered published in the Colorado Springs Gazette, a newspaper of general circulation in the City of Fountain, Colorado.

Mayor

ATTEST:

City Clerk

FOUNTAIN URBAN RENEWAL AUTHORITY

March 21, 2023

(COVID-19 Social Distancing and Unvaccinated Masks in effect)

General Board Meeting Minutes

Vice Chair (VC) McMaster called a regular monthly meeting of the Fountain Urban Renewal Authority to order at 6:05pm. Commissioners present included Tamera Estes, Leslie Louzon-Keller, and Nicole Reinhardt. Additional attendees include: FURA Executive Director (ED) Kimberly Bailey and Carrie Bartow of CliftonLarsonAllen (CLA)

CONSENT AGENDA

The following Consent Agenda items were presented for approval:

1. Approval of February 21, 2023 General Meeting Minutes
2. Approval of March 21, 2023 Accounts Payable
 - i. ED Bailey noted an A/P modification to include Check #1717 for CLA routine services
3. Approval of March 21, 2023 Monthly Financials Report
 - i. CLA Bartow noted normal Q1 activity with 38% of property tax collections

Louzon-Keller motioned for Consent approval with updates denoted, second by Reinhart, and the motion passed unanimously by the Board.

NEW ITEMS

The Blast Site and Passive Recreational Corridor Feasibility Study

EDD Bailey provided a base map poster and a master plan/land contribution matrix to introduce The Blast Site and Passive Recreational Corridor Feasibility Study. As FURA has been an active, informed participant during the course of the 3YR EPA Brownfields Coalition Partners grant program, The Blast Study and a Public Survey are the next steps as to the City's participation in the program. During the two-weeks of April 10-April 21st the base map poster will launch as an online Public Survey to steward community engagement on behalf of gaining a Conceptual Site Land Use Design and minor engineering scope from the grant funded consultant services. The board discussed general concepts, the THK study's traffic patterns, business vitality for the district, and a 50YR legacy on behalf of the historic Blast pedestrian corridor as a reuse public open place under the URA District's master plans. The Partners will collect data from the Survey for a findings report, as well as, add to additional feedback thru upcoming meetings with the City's Parks n Rec Board and the Working Committee of the project and grant consultant.

UPDATES

FURA Staff Recruitment

EDD Bailey shared an update on the recruitment efforts for the vacant URA/Economic Development Specialist (EDS) position. There were seven applicants with two demonstrating some potential, with a further review process and writing sample steps toward a final determination for the department.

Real Estate

Real Estate Broker Engagement

ED Bailey referred to two informational packets as prepared by Real Estate Broker Service firms expressing interests to work with the Authority asset holdings for business recruitment/fulfillment goals. The board discussed generalities of the broker services proposals. Reinhardt shared commentary as to CW national broker status and mostly a national brand oriented retailer recruitment. VC McMaster shared commentary as to WPS has built a custom portfolio of services with 8+ years of more extensive experience in the broker field. Louzon-Keller commented the WPS proposal demonstrates the extra leg work put forth in the deeper analysis of each site and a more polish appearance in their materials presentation. EDD Bailey expressed it's a 1YR services engagement contract and at such time either party will have the option to exit or extend the services contract. Reinhardt motioned of approval for ED Bailey to work with/finalize the WPS Real Estate Broker Engagement Services Contract, second by Louzon-Keller, and the motion passed unanimously by the Board.

Woodman Hall

ED Bailey presented the Nunn G.C. bid quote as it pertains to the Intermittent 2.0 Interior Stairwell scope of work services; per the board's February request. The board noted the services and the favorable pricing for ED Bailey to proceed accordingly with Nunn G.C. scheduling and supplies procurement.

ED Bailey provided commentary from the recent State of CO Historic Preservation site visit, per their request to learn more about the property's heritage and rehab vision. Also in attendance during the site visit was Tamera Estes and CLA Bartow representatives. Unfortunately, due to the decades of haphazard gutting and interior transformation, which transpired under former owner(s) of the property, the property does not meet the criteria of historic designation with the State. An alternative approach option that was presented is the establishment of a local district designation by the City, whereby the property falls within the historic district and earns an eligible criteria status with the State historic designation review process. In addition, any such earned State Historic tax credits could then become eligible pass thru by the Authority to a future small business tenant operation of the ground floor of the property.

ED Bailey briefly commented the 2nd FL Yoga Studio tenant has been notified to switch over the Electric Utility Meter Service to their self-registered name on or by April 1, 2023 timeframe; under the conditions of the Tenant Lease.

ED Bailey informed the board of interested parties to tour the property during the spring season. Site visit tours may include: Economic Development Commission, FV Chamber of Commerce, Olde Town Steering Committee, the City Mayor, Council, and Administration, as well as, Yoga Studio Open House. These site visit tours will provide educational awareness of the property's transformation to 100% commercial tenant occupancy and small business referral recruitment on behalf of the Authority's vision. Reinhardt shared a comment about the lack of Tesla Charging Stations in the URA district and for the Authority to keep this need in mind as its assets revitalize for the community and the potential as an alternative traffic generator for the district.

FINANCE

UMB Banking Industry

CLA Bartow mentioned in light of the SVB banking collapse that several other banks were listed in concerning status by the FED. The UMB bank was one of those listed by the FED in a banking industry notice. As such, Bartow wished to inform the board that the Authority's UMB banking investments are 102% collateralized by the FED, to which if the bank may collapse the governmental entities are first in line to be made whole in its investment portfolio.

SAH PH II Escrow

CLA Bartow noted that due to shifting interest rates and earnings on the South Academy Highlands (SAH) PH II Escrow that the CLA Team has particular attention attune to monitor the earnings performance to hedge off any arbitrage triggers with the PH II escrow account.

SAH PH I Retailer Audit

CLA Bartow shared that staff is working to issue the Sales Tax Audit notice with South Academy Highlands (SAH) PH I retailers by the next general board meeting.

2022 Audit Proceedings

CLA Bartow advised the 2022 FURA Audit has a start date of on/about March 23rd by BiggsKofford.


Check Signing

As approved on consent, A/P checks were signed totaling \$103,931.87.

ANNOUNCEMENTS

- Press Release: CoF New Retail 21-AC Development to Feature King Soopers Anchor
- Gazette Article: King-Sized King Soopers Store Planned in Fountain
 - https://gazette.com/premium/king-sized-king-soopers-store-planned-in-fountain/article_af1c5308-bd13-11ed-bc12-3334195c7a31.html
- CoF Transportation Public Survey to join the PPACG Regional Transportation Authority (*tentative Nov 2023 ballot measure*)

VC McMaster asked if there was any further business. No further topics were brought forth by board members; therefore, VC McMaster motioned to adjourn, second by Reinhardt, passed unanimously by the board at 7:26pm.



Kimberly Bailey, Executive Director

6.20.23

Date

FURA

Fountain Urban Renewal Authority

“revitalize, partner and fund with a sense of place for development.”

2022 Annual Report

URA Property-Owned Assets

Woodman Hall <http://www.furaco.org/woodman-hall.html>

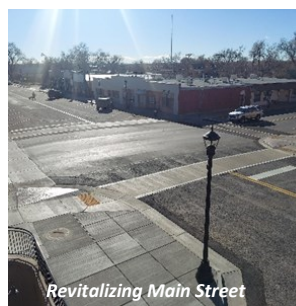
Since the 2017 FURA property purchase, the Authority has been tending to property upgrade services to its historic 1905 Woodman Hall property. The Services included tending to code compliance upgrades and permitting towards a revitalized 100% commercial reuse asset; upgrades included:

- ⇒ Dual floors interior environmental testing and non-historic demolition phases
- ⇒ 2nd FL Exterior Staircase Egress Public Safety Project
- ⇒ 100% Commercial broker services and engineering design plans for small business tenant fulfillment
- ⇒ 2nd FL Renovations included ADA Restrooms, HVAC Air Quality, Insulation, Mechanical/Electrical/Plumbing Service Upgrades, and an Utilitarian Kitchenette for tenants
- ⇒ Main Street sustainability district beautification garden beds streetscape improvements



In addition, FURA was a co-partner match in the two CDOT Revitalizing Main Street Grants awarded to the City on behalf of the Main Street/Ohio Avenue Intersection Public Improvement Project. The CDOT grant funding was on behalf of transportation, mobility, and public safety Improvements, located within the epicenter of the Olde Town URA district and Fountain-Fort Carson School District 8.

The 4-point intersection included the NE corner, 102 N. Main Street Woodman Hall URA property. FURA's in-kind match within the NE corner, included 1) broader sidewalk and curb radius allowances in a public right of way, 2) Woodman Hall basement and window well public safety improvements, 3) Woodman Hall drainage and chase improvements, and 3) bike rack design+installation (*REUSE section of the former Woodman Hall exterior staircase*).



US85 Pad Site

The FURA owns a 1.14 Acre assembled shovel ready site with a rear service alley on the high-traffic US85/87 corridor. The Pad Site has been marketed through on-site signage to engage commercial development outreach to derive new services and businesses in the Olde Town district. Interested parties can learn more at www.FURACO.org or contact Westward Properties at 719-301-9378 or www.westwardprop.com.



FURA Mission:

The Fountain Urban Renewal Authority (FURA) was formed as a means to revitalize the community's under-served assets through an offering of partnership programs and sole-source project capacity funding.

It avails the opportunity to cultivate a quality "sense of place" and encourage new business development for a resilient local economy.

COVID disclaimer: During the 2022 COVID pandemic, the Fountain Urban Renewal Authority initiatives were curtailed due to an abundance of caution regarding revenues performance and attentive monitoring of its four designated urban renewal areas.

As a COVID Recovery ensues in 2023 these cautionary measures will continue along with a focused attention on inhibiting a rebound of blight in the commercial vacancy marketplace.

URBAN RENEWAL AREA (URA) designations

US85 *(era 2009)*

Blight properties in designated Urban Renewal Areas remained status-quo in 2022 thanks to quick vacancy absorption, land maintenance up-keep, and commercial property investment.

South Academy Highlands *(era 2014)*

The west-side pad 5.63 acres of PH I moved into site grading and vertical development by the Developer. A retaining wall was installed and four new users are slated for a late 2023 grand opening. The final buildout of the west-side area represents 100% completion of the PH I South Academy Highlands URA leaving external areas known as PH II and PH III for future development in the City.

Bandley *(era 2015)*

The stand-alone URA consists of a tandem 49-acres site performing status-quo in 2022. The privately-owned SoCO RIC building is 60% occupied by a transportation/logistics operator and the remaining land mass area listed as available for future development. <http://www.furaco.org/ric.html>

Charter Oak *(era 2016)*

The URA was established in support of the proposed Dual-Service Rail Park of Southern Colorado envisioned to be located along the front range on over 3,000 acres of rural land situated between the Colorado Springs Nixon Power Plant (CSU) and Fort Carson Military Reservation. As a catalyst for commercial development and job creation under a public-private partnership (P3) and to strengthen the military resiliency of Fort Carson. In 2023, the P3 completed an EDA Technical Assistance Grant for project feasibility and spearheaded a rail trackage agreement among the City of Colorado Springs and Colorado Springs Utility in support of the P3 Industrial Rail Park to reside in the City of Fountain.

<http://www.furaco.org/rsbp.html>

PROGRAM ENGAGEMENT

EPA Brownfields Coalition Grant community projects

- ⇒ Lorraine Center City-Owned Redevelopment Opportunity, 301 E Iowa Avenue, Conceptual Site Plan Mixed-Use Working Committee
- ⇒ 1905 Woodman Hall, 102 E Main Street, Property Environmental Assessment Testing
- ⇒ The Blast Urban Pedestrian Corridor, BNSF Railway, Conceptual Land ReUse Working Committee in stewarding District PlaceMaking

To learn more about FURA initiatives, URA district maps, and project interests, please visit the Authority's website www.FURACO.org

Contact Info:

Fountain Urban Renewal Authority, *attn: Executive Director*
116 S. Main Street, Fountain, CO 80817
719-322-2056 or www.FURACO.org

FURA

FURA thanks the following entities for the progress on eradicating blight in the City of Fountain.

- Fountain Planning
- Fountain Fire and Police
- Fountain Utilities
- Fountain Neighborhood Svcs.
- Fountain City Council
- Fountain Housing Authority
- Fountain Museum and Historic Society
- Pikes Peak Regional Building Department
- El Paso County Commissioners
- State of Colorado OEDIT and DOLA and Historic Preservation
- Brownstein Hyatt Farber Schreck (BHFS), Esq.
- Paul Beneditti, Esq.
- CliftonLarsonAllen
- Hogan Lovells, Esq.
- Anderson Analytics, LLC
- Nunn Construction
- Tremmel Design Architect

Without their supportive efforts, success would not be possible.

Board Members:

Paul Aragon (Chair), Bill McMaster (Vice-Chair), Greg Welch, Tamara Estes, Leslie Louzon-Keller, Dixie Snyder, Logan Broz; and Kimberly Bailey (Executive Director)