

CIMARRON HILLS FIRE PROTECTION DISTRICT

A RESOLUTION RATIFYING APPOINTMENT OF A DESIGNATED ELECTION OFFICIAL AND AUTHORIZING THE DESIGNATED ELECTION OFFICIAL TO ENTER INTO AN INTERGOVERNMENTAL AGREEMENT WITH THE EL PASO COUNTY CLERK AND RECORDER CONCERNING THE CONDUCT OF A COORDINATED MAIL BALLOT ELECTION AND AUTHORIZING THE DESIGNATED ELECTION OFFICIAL TO CERTIFY THE BALLOT ISSUE

RECITALS

A. The Cimarron Hills Fire Protection District (the “**District**”) is a quasi-municipal corporation and political subdivision of the State of Colorado and a duly organized and existing special district pursuant to the Special District Act (the “**Act**”), organized to provide essential life safety and emergency response services to the residents and visitors of the District.

B. On December 30, 2010 a Complaint was filed in El Paso County District Court (the “**Lawsuit**”) against the District, alleging that the District has violated Article X, Section 20 of the Colorado Constitution (“**TABOR**”), and seeking, among other things: (1) the reduction of the District’s current mill levy imposed at the rate of 11.11 mills pursuant to the authorization provided by the District’s voters in 1996 under TABOR (the “**1996 TABOR Question**”) to no more than 7.598 mills and (2) the refund of a portion of the District’s tax collections since 2006 together with interest and the Plaintiffs’ attorneys fees and costs.

C. The Board of Directors of the District (the “**Board**”) disagrees with the Plaintiffs’ interpretation of the 1996 TABOR Question and does not believe that it has violated TABOR or any other law. The Board has not admitted (and does not admit) any violation of TABOR.

D. Both parties have estimated that the refund that the Plaintiffs are seeking would equal approximately \$2.6 million. For comparison purposes, the District has a total 2011 budget of \$1,793,831 and it currently has approximately \$1 million in funds available. Further, the Plaintiffs believe that a ruling in their favor would result in a net mill levy of 4.163 mills for collection in 2012, **which would reduce the District’s tax revenues by over 62%.**

E. The Board believes that such a reduction in revenues would have an extremely adverse impact on the District’s ability to deliver high quality fire and emergency response services to the community. The Board also notes that the Plaintiffs have in fact indicated their belief that the District must submit a TABOR Question to the voters because *the Plaintiffs’ own fire department expert does not believe that the District*

will be viable to provide emergency services if there is an adverse ruling in the Lawsuit and the mill levy is not raised.

F. The Board also believes that any savings to taxpayers from a reduced mill levy could be offset by possible increases in property owner's insurance premiums due to the negative impact on the District's fire-fighting capabilities. The Board in fact believes that many taxpayers would be worse off financially if the Plaintiffs win.

G. The Board remains extremely dismayed that a small group of individuals totaling about 0.2% of the District population would choose to *knowingly* endanger the health, safety and welfare of the Cimarron Hills community. The Board does not believe that the Plaintiffs have appropriately considered the well being of the other 99.8% of the community.

H. In light of this risk to the community's welfare, the Board has decided to submit two new TABOR questions to the voters at the November 1, 2011 election (the "**Election**") to ensure that the District is able to maintain emergency response services regardless of the outcome of the Lawsuit.

I. The first question that the District's voters will be asked to approve is related to the District's mill levy (the "**Mill Levy Question**"), and will authorize the District to receive a total of \$1,603,641 in ad valorem property taxes in 2012 and beyond and to collect, retain and spend revenues. The amount of total property tax revenues (\$1,603,641) is the same amount as the District levied for collection in 2011. **The average taxpayer will see NO tax increase above the amounts they paid in 2011.** (However, the Mill Levy Question is being asked as a tax increase of \$594,598 because of TABOR requirements. The tax increase listed at the beginning of the Mill Levy Question is based on the increase that would be needed above the 7.598 mill limit if there is an adverse ruling in the Lawsuit.)

J. The second question that the District's voters will be asked to approve relates to the approximately \$2.6 million refund that Plaintiffs are seeking (the "**Refund Question**") to avoid depleting District funds and further reducing the District's operating mill levy. Unfortunately TABOR does not allow the voters to simply authorize the District to keep the money in question in the event of an adverse ruling in the Lawsuit. TABOR also requires the District to present the Refund Question as a tax increase. Therefore, the Refund Question will ask for an approximately \$2.6 million tax increase for 2012 but all of these taxes could only be used as a tax credit. In other words, **the Refund Question will not actually raise taxes for ANY taxpayer.**

K. The Board hereby determines that the Mill Levy Question and the Refund Question should be presented to District's eligible electors at the Election, in accordance

with the provisions of the Act, the Uniform Election Code of 1992 (the “**Code**”), and TABOR.

L. The Election is being conducted as a coordinated mail ballot election, and the El Paso County Clerk and Recorder (the “**County Clerk**”) is the Coordinated Election Official for the Election and shall be responsible for mailing the notice required pursuant to TABOR (the “**TABOR Notice**”). At its August 10, 2011 regular meeting, the Board authorized the execution of an Intergovernmental Agreement (the “**IGA**”) with County Clerk, on or before August 23, 2011, regarding the conduct of the Election and mailing of the TABOR Notice. The District intends to cooperate with the County Clerk to provide all necessary ballot titles and notices and various agreements with the County Clerk and Recorder for the conduct of the Election.

NOW, THEREFORE, be it resolved by the Board of Directors of the Cimarron Hills Fire Protection District in the County of El Paso, State of Colorado that:

1. The Recitals above are incorporated into this Resolution by reference.
2. A special election of the eligible electors of the District shall be held on Tuesday, November 1, 2011, at which election there shall be submitted to the eligible electors of the District the question as stated in the form of ballot title hereafter set forth.
3. The Board hereby ratifies, confirms and approves the appointment of Matt Love as the Designated Election Official and appoints Peggy Rupp as Assistant Designated Election Official for the conduct of the Election on behalf of the District, and they are hereby authorized and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and of the Act, the Code, TABOR or other applicable laws. The Election shall be conducted in accordance with the Act, the Code, TABOR and other applicable laws. Among other matters, the Designated Election Official or Assistant Designated Election Official shall arrange for the required notices of Election, including the TABOR Notice (either by mail or publication), and direct that all other appropriate actions be accomplished. The Board hereby ratifies all election-related actions taken by the Designated Election Official, the Assistant Designated Election Official and other District officials and agents to date.
4. The Election shall be conducted in coordination with the County Clerk in accordance with all relevant provisions of the Code. The County Clerk is the Coordinated Election Official for the Election and shall be responsible for mailing the TABOR Notice.
5. The Mill Levy Question shall be in the form shown on **Exhibit A** attached hereto and the Refund Question shall be in substantially the form shown on **Exhibit B** attached hereto and these questions are incorporated herein by this reference, and the

Designated Election Official or Assistant Designated Election Official is authorized and directed to certify the ballot questions to the County Clerk on or before September 2, 2011.

6. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question 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.

7. If any part or provision of this Resolution is adjudged to be unenforceable or invalid, such judgment shall not affect, impair or invalidate the remaining provisions of this Resolution, it being the Board's intention that the various provisions hereof are severable.

8. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board and the officers, employees and agents of the District, and directed toward holding the Election for the purposes stated herein are hereby ratified, approved and confirmed in all respects. All prior acts, orders or resolutions or parts thereof, by the District in conflict with this Resolution are hereby repealed to the extent of such inconsistency, except that this repeal shall not be construed to revive any act, order, or resolution, or part thereof, heretofore repealed.

9. The provisions of this Resolution shall take effect immediately.

ADOPTED AND APPROVED this 30th day of August, 2011.

CIMARRON HILLS FIRE PROTECTION
DISTRICT

By  _____
President

ATTEST:

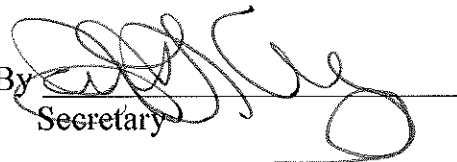
By  _____
Secretary

EXHIBIT A TO ELECTION RESOLUTION

SHALL CIMARRON HILLS FIRE PROTECTION DISTRICT TAXES BE INCREASED \$594,598 (ABOVE THE AMOUNT THAT WOULD BE COLLECTED FROM 7.598 MILLS) IN 2012 AND ANNUALLY THEREAFTER FROM A TOTAL MILL LEVY AT A RATE WHICH GENERATES \$1,603,641 (THE SAME AMOUNT LEVIED FOR COLLECTION IN 2011) FOR OPERATIONS, MAINTENANCE AND OTHER EXPENSES, INCLUDING:

- MAINTAINING PUBLIC SAFETY,
- MAINTAINING EMERGENCY RESPONSE TIMES, AND
- MAINTAINING FIREFIGHTER TRAINING AND SAFETY INITIATIVES;

AND SHALL THE DISTRICT BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL AMOUNTS RECEIVED ANNUALLY FROM ANY REVENUE SOURCES WHATSOEVER AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, SECTION 29-1-301, C.R.S., OR ANY OTHER LAW?

EXHIBIT B TO ELECTION RESOLUTION

SHALL CIMARRON HILLS FIRE PROTECTION DISTRICT TAXES BE INCREASED \$2,600,000 ANNUALLY IN 2012, FOR THE **EXCLUSIVE** PURPOSE OF PROVIDING **AN EQUAL AMOUNT** OF TAX CREDITS (\$2,600,000) IN 2012 TO REFUND A PORTION OF TAXES COLLECTED IN 2006 THROUGH 2011, **RESULTING IN NO NET TAX INCREASE FOR ANY TAXPAYER?**