

RESOLUTION NO. 2009-24

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS, ARIZONA, ORDERING AND CALLING A SPECIAL BOND ELECTION TO BE HELD IN AND FOR THE TOWN OF FOUNTAIN HILLS, ARIZONA, ON NOVEMBER 3, 2009, TO SUBMIT TO THE QUALIFIED ELECTORS THEREOF THE QUESTION OF AUTHORIZING THE ISSUANCE AND SALE OF FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATION AND/OR STREET AND HIGHWAY USER REVENUE BONDS, PROJECT OF 2009; AND DECLARING AN EMERGENCY.

WHEREAS, the Mayor and Council of the Town of Fountain Hills, Arizona, (the "Town Council") believe it to be in the best interest of the Town of Fountain Hills (the "Town") to authorize the issuance and sale of four million five hundred thousand dollars (\$4,500,000) principal amount of General Obligation or Street and Highway User Revenue Bonds or a combination of both General Obligation and Street and Highway User Revenue Bonds; and

WHEREAS, it is necessary that the Town Council submit the question of the issuance and sale of such bonds to the qualified electors of the Town.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE TOWN OF FOUNTAIN HILLS as follows:

SECTION 1. Recitals Incorporated. That the recitals set forth above are hereby incorporated as if fully set forth herein.

SECTION 2. Order Election; Ballot. A special bond election in the Town of Fountain Hills, Arizona, is hereby called to be held on November 3, 2009, to submit to the qualified electors of the Town the question as shown on the form of ballot attached hereto and marked Exhibit A. If approved, the bonds may be issued as general obligation bonds pursuant Title 35, Chapter 3, Article 3, ARIZ. REV. STAT. §§ 35-453 and 48-683, as amended, payable from an ad valorem tax levied on all taxable property within the corporate limits of the Town or the bonds may be issued as street and highway user revenue bonds pursuant to Title 48, Chapter 4, Article 5, Arizona Revised Statutes, as amended, payable from moneys to be derived from highway user taxes and all other taxes, fees, charges and other monies collected by the State of Arizona and returned to the Town for street and highway purposes.

SECTION 3. Voter Pamphlet Preparation. The Town Clerk is hereby directed to cause the preparation and distribution of an information pamphlet and sample ballot for the Town pursuant to ARIZ. REV. STAT. § 35-454. The officers of the Town are hereby authorized to prepare and deliver or cause to be prepared and delivered to the Town Clerk the information necessary or appropriate for completing the information pamphlet, including, without limitation, the estimated debt retirement schedule, estimated issuance cost, estimated tax rate impact on an average owner-occupied residence and commercial and industrial property, current outstanding debt and debt limitation, an introductory statement on behalf of the Town, and a statement of the purpose for which the bonds are to be issued.

SECTION 4. Notice of Election. Notice of the special bond election is ordered to be given by causing the information pamphlet to be mailed not less than thirty-five (35) days before the date of election to the residence of each registered voter in the corporate limits of the Town as shown on the general county register. The Town Clerk is hereby authorized and directed to cause the information pamphlet to be prepared and mailed as required by law and in accordance with the provisions of this Resolution and to cause a copy of the informational pamphlet to be submitted to the Arizona Department of Revenue within thirty (30) days after the election.

SECTION 5. Conduct of Election. The election will be conducted at the regular voting places within the corporate limits of the Town, to be finally determined by Maricopa County prior to publication of this resolution as required by applicable law, which locations shall be attached to this Resolution as **Exhibit B**, and the poll lists kept, and the votes cast thereat shall be counted and tabulated and the returns thereof will be made in the manner provided by law and only persons will be allowed to vote at the election who are qualified electors of the Town. The polls will open at 6:00 a.m. and will close at 7:00 p.m. The election may be consolidated with any other election conducted in the Town on November 3, 2009.

SECTION 6. Early Voting. Early voting will be permitted at the election in accordance with the provisions of Title 16, Chapter 4, Article 8, Arizona Revised Statutes, as amended.

SECTION 7. Compliance with Voting Rights Act. In order to comply with the Voting Rights Act of 1965, as amended, the following proceedings pertaining to this election will be translated into Spanish and posted, published and recorded in each instance where posting, publication and recording of such proceedings are required, to-wit: this Resolution, the ballot, the voter information pamphlet, all early voting material and all instructions at the polls.

SECTION 8. Ballots; Contracts. The Town Clerk is hereby directed to cause ballots to be printed and delivered to the election boards to be furnished to the qualified electors offering to vote at the election. The special bond election may be conducted using either electromechanical or electronic vote recording and ballot counting equipment or paper ballots, as shall be determined to be in the best interests of the Town by the County Elections Department and the Mayor and the Town Clerk or either of them. The Mayor and the Town Clerk or either of them is authorized and directed to enter into a contract with the Maricopa County Recorder to obtain precinct registers for the election and to enter into an agreement with the Maricopa County Elections Department to conduct the election for the Town.

SECTION 9. Canvass of Election. As soon as the polls are closed, the election officials will forward the votes cast to the Town Council of the Town for canvassing. The Town Council will meet at the Council Chambers on a day that is within twenty (20) days after the election date to canvass the returns of the election and will file and record a certificate of result of election in the office of the Maricopa County Recorder. The Town Council will be governed by the vote of the majority on the question submitted.

SECTION 10. Emergency. By reason of the urgent need for the improvements to be made from the proceeds of the bonds herein sought to be authorized, the immediate operation of the provisions of this resolution is necessary for the preservation of the public peace, health and

safety, and an emergency is hereby declared to exist, and this resolution will be in full force and effect immediately upon passage and adoption, and it is so enacted.

PASSED AND ADOPTED by the Mayor and Council of the Town of Fountain Hills, Arizona, July 2, 2009.

FOR THE TOWN OF FOUNTAIN HILLS:

ATTESTED TO:

Jay T. Schlum, Mayor

Bevelyn J. Bender, Town Clerk

REVIEWED BY:

APPROVED AS TO FORM:

Richard L. Davis, Town Manager

Andrew J. McGuire, Town Attorney

CERTIFICATION

I, Bevelyn J. Bender, the duly appointed and acting Town Clerk of the Town of Fountain Hills, Arizona, do hereby certify that the above and foregoing Resolution No. 2009-24 was duly passed by the Town Council of the Town of Fountain Hills, Arizona, at a regular meeting held on July 2, 2009, and the vote was ____ aye's and ___ nay's and that the Mayor and ____ Council Members were present thereat.

Bevelyn J. Bender, Town Clerk

EXHIBIT A
TO
RESOLUTION NO. 2009-24

OFFICIAL BALLOT

FOR SPECIAL ELECTION IN AND FOR THE TOWN OF FOUNTAIN HILLS,
ARIZONA ON NOVEMBER 3, 2009

Question

Shall the Mayor and Council of the Town of Fountain Hills, Arizona, be authorized to issue and sell bonds of the Town of Fountain Hills in the principal amount of \$_____, to provide funds to design, improve, construct, reconstruct and rehabilitate the streets, avenues, alleys and highways of or within the Town; to design, acquire, install, construct and reconstruct street lighting, traffic signal/control systems, underground utility lines, landscape improvements and transit/bicycle program improvements; to acquire land and interests in land for transportation purposes; and to liquidate any indebtedness already incurred for such purposes; such bonds to be issued at the option of the Mayor and Council either as: (1) street and highway user revenue bonds payable solely from revenues to be derived from highway user taxes and all other taxes, fees, charges and other monies collected by the State and returned to the Town for street and highway purposes; or (2) general obligation bonds of the Town, payable from the levy of an ad valorem tax against the taxable property located within the Town; such bonds to bear interest at a rate of not to exceed twelve percent (12%) per annum; said interest payable semiannually on the first day of January and the first day of July of each year until the maturity of each bond and the bonds to mature over a period of not to exceed twenty (20) years from the date of their issuance; said bonds, and any bonds issued to refund the Town's bonds, may be sold at prices that include premiums not greater than permitted by law; said bonds to be in the amount of \$5,000 each or multiples thereof and to mature on the first day of the same month of each year which may be either January or July?

If issued as general obligation bonds, the issuance of these bonds will result in an annual levy of property taxes sufficient to pay the debt on the bonds.

FOR THE BONDS	<input type="checkbox"/>
AGAINST THE BONDS	<input type="checkbox"/>

NOTICE TO VOTERS:

The voter shall place a mark in the square opposite the words "For the Bonds" or "Against the Bonds", whichever words express the voter's choice. Only qualified electors of the Town of Fountain Hills, Arizona are eligible to vote at this election.

**EXHIBIT B
TO
RESOLUTION NO. 2009-24**

(Polling Locations)

See following page.