



**Background Paper for Proposed Ordinance**

**COUNCIL MEETING DATE:** August 8, 2022

**TO:** President Heather Graham and Members of City Council

**CC:** Mayor Nicholas A. Gradisar

**VIA:** Marisa Stoller, City Clerk

**FROM:** Chief Chris Noeller, Pueblo Police Department  
Daniel C. Kogovsek, City Attorney

**SUBJECT:** AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, A QUESTION RELATING TO THE EXTENSION OF THE ONE-FIFTH PERCENT (.2%) SALES AND USE TAX RATE FOR FIVE YEARS FOR POLICE PERSONNEL AND OPERATING COSTS AND THE ADOPTION OF ORDINANCE NO. 10260 TO IMPLEMENT THE EXTENSION

**SUMMARY:**

Attached is a proposed Ordinance referring the extension of the one-fifth percent (.2%) sales and use tax ballot question to the voters of the City of Pueblo at the November 8, 2022 special municipal election. Since January 1, 2018, revenues from this Public Safety Sales Tax ("PSST") have been used to assist the City in paying the personnel and operating costs of the Pueblo Police Department.

**PREVIOUS COUNCIL ACTION:**

On July 24, 2017, by Ordinance No. 9147, City Council referred the PSST ballot measure to the electorate, which was approved at the November 3, 2017 general municipal election.

**BACKGROUND:**

The PSST will expire December 31, 2022. The attached Ordinance will give Pueblo voters the option to extend the PSST for an additional 5 years, from January 1, 2023 to December 31, 2027. Due to the requirements of the Taxpayers Bill of Rights ("TABOR"), Article X, §20 of the Colorado Constitution, any extension of an existing tax must be approved by the voters.

**FINANCIAL IMPLICATIONS:**

Extension of the PSST will assist the City in paying the personnel and operating costs of the Pueblo Police Department.

**BOARD/COMMISSION RECOMMENDATION:**

Not applicable to this Ordinance.

**STAKEHOLDER PROCESS:**

Not applicable to this Ordinance.

**ALTERNATIVES:**

If the Ordinance is not approved, Pueblo voters will not have the option of extending the PSST for an additional 5 years.

**RECOMMENDATION:**

This Ordinance must be adopted in order to refer the ballot measure to the voters.

**Attachments:**

Proposed Ordinance

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE SUBMITTING TO THE ELIGIBLE ELECTORS OF THE CITY OF PUEBLO, COLORADO AT THE SPECIAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 8, 2022, A QUESTION RELATING TO THE EXTENSION OF THE ONE-FIFTH PERCENT (.2%) SALES AND USE TAX RATE FOR FIVE YEARS FOR POLICE PERSONNEL AND OPERATING COSTS AND THE ADOPTION OF ORDINANCE NO. 10260 TO IMPLEMENT THE EXTENSION

WHEREAS, the City of Pueblo, Colorado (the "City") presently imposes, pursuant to Chapter 4, Title XIV of the Pueblo Municipal Code (the "Code"), a sales and use tax rate of 3.7%; and

WHEREAS, revenues from one-fifth percent of the sales and use tax rate (.2% of the 3.7% rate) commonly referred to as the "Public Safety Sales Tax" or "PSST" are deposited in a special fund known as the "Police Sales and Use Tax Fund" (the "Fund"); and

WHEREAS, the provisions in the Code implementing the PSST one-fifth percent (.2%) sales and use tax rate expire on December 31, 2022; and

WHEREAS, the City's Police Department has increasing personnel needs and operating expenses which remain difficult to pay due to current fiscal constraints. Continuation of the PSST for an additional five (5) years will assist the City in meeting these needs; and

WHEREAS, the City Council of the City has determined and hereby finds and determines that extending the one-fifth percent (.2%) sales and use tax rate dedicated to police personnel and operating costs would promote the public peace, health, safety and welfare of the residents of the City; and

WHEREAS, Section 18-5 of the Charter of the City requires that ordinances which have been adopted by an affirmative vote of the electorate, be amended only upon a vote of the electorate adopting the amending ordinance; and

WHEREAS, the City Council has proposed an ordinance (Ordinance No. 10260), which is attached hereto and which, if adopted by the voters of the City, would extend the PSST one-fifth percent (.2%) sales and use tax rate for an additional five years; and

WHEREAS, Article X, Section 20 of the Colorado Constitution, as interpreted by the Colorado Supreme Court in Bruce v. City of Colorado Springs, 129 P.3d 988 (Colo. 2006) requires voter approval in advance for any extension of an expiring tax; and

WHEREAS, the City desires to ask the electors of the City, pursuant to Article X, Section 20 of the Colorado Constitution and Section 18-5 of the Charter, to approve Ordinance No. 10260 and thereby extend the PSST one-fifth percent (.2%) sales and use tax rate for another five years for the purposes stated above; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF PUEBLO, that

SECTION 1.

The question of adopting Ordinance No. 10260 and thereby extending the one-fifth percent (.2%) sales and use tax rate dedicated to Police personnel and operating needs shall be submitted to a vote of the eligible electors of the City at the City's special municipal election to be held on November 8, 2022. The ballot question (submission clause and title) therefore shall be as follows:

QUESTION NO. 2A - EXTENSION OF THE PUBLIC SAFETY SALES TAX FOR 5 YEARS

WITHOUT RAISING ADDITIONAL TAXES, SHALL THE EXISTING ONE-FIFTH PERCENT (.2% ) CITY SALES AND USE TAX RATE FOR POLICE PERSONNEL AND OPERATING NEEDS BE EXTENDED FOR A FIVE-YEAR PERIOD FROM ITS CURRENT EXPIRATION OF DECEMBER 31, 2022 THROUGH DECEMBER 31, 2027 BY ADOPTING ORDINANCE NO. 10260, THE REVENUES THEREFROM TO BE SPENT TOGETHER WITH ALL INVESTMENT INCOME THEREON, INCLUDING INTEREST AND PENALTIES WITH RESPECT THEREOF, AS A VOTER-APPROVED REVENUE CHANGE AND AN EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, PROVIDING FOR THE DEPOSIT OF SUCH REVENUES INTO THE EXISTING "SALES AND USE TAX POLICE FUND" TO BE SPENT SOLELY FOR POLICE PERSONNEL AND OPERATING NEEDS, AND FINDING AND DETERMINING THAT THE EXPENDITURE OF SUCH REVENUES FOR POLICE PERSONNEL AND OPERATING NEEDS IS A PUBLIC PURPOSE AND MUNICIPAL FUNCTION?

FOR THE ORDINANCE \_\_\_\_\_  
AGAINST THE ORDINANCE \_\_\_\_\_

SECTION 2.

The officers and employees of the City are authorized to take all action necessary, appropriate or required to implement the provisions of this Ordinance.

**SECTION 3.**

This Ordinance shall become effective on the date of final action by the Mayor and City Council.

**Action by City Council:**

Introduced and initial adoption of Ordinance by City Council on \_\_\_\_\_.

Final adoption of Ordinance by City Council on \_\_\_\_\_.

\_\_\_\_\_  
President of City Council

**Action by the Mayor:**

Approved on \_\_\_\_\_.

Disapproved on \_\_\_\_\_ based on the following objections:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
Mayor

**Action by City Council After Disapproval by the Mayor:**

Council did not act to override the Mayor's veto.

Ordinance re-adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_.

Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
President of City Council

ATTEST

\_\_\_\_\_

City Clerk