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Title: A resolution of the city council of the City of Littleton, Colorado, to establish a refund method for excess TABOR revenues from 2016

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Agenda Date: 08/15/2017

Subject:

A resolution of the city council of the City of Littleton, Colorado, to establish a refund method for excess TABOR revenues from 2016

Presented By: Tiffany Hooten, Finance Director

POLICY QUESTION:

Does city council support a resolution establishing a refund method for excess TABOR revenues from 2016?

BACKGROUND:

For the fiscal year ended December 31, 2016, Littleton’s revenue exceeded the Colorado Taxpayer’s Bill of Rights (TABOR) limit. This excess must be refunded in the next fiscal year unless voters approve a revenue change as an offset.

The TABOR excess is \$1,937,904. The city council must decide by the end of 2017 to either: 1) refund the excess revenue in some manner or, 2) ask voters to keep the excess revenue to spend on local projects or services.

A study session was held on July 25, 2017 to discuss the options. Council directed staff to prepare two TABOR resolutions referring two ballot questions to the voters in November.

On August 1, 2017, the city council approved two resolutions (as amended with additional language) referring two separate ballot questions to the voters. If approved, one question allows the city to retain the excess to be used for specific capital projects, and the other allows the city to adjust the base used for calculating the TABOR limit.

The TABOR excess has many contributing factors. Revenue increases over 2015 in the general fund, as well as significant increases in impact fees and building use taxes all contributed to the TABOR excess. It is important to note that all eligible revenue received during 2016 ultimately contributed to the TABOR surplus.

In 2006, the city had a TABOR excess of \$1,119,484. The city elected to issue refunds to registered voters and property owners in the amounts of \$20 and \$41.49, respectively. In all other TABOR excess years, 1994-1995, 1998, 1999-2001, 2002-2003, 2004 and 2007, council asked voters to approve TABOR excess revenue be used for capital improvements. A majority of Littleton voters supported each of these requests. A full de-brucing failed to pass in 2006.

Projects that were funded by voter approval include significant safety improvements to Santa Fe Drive in cooperation with CDOT, the pedestrian underpass at the Highline Canal and County Line Road, purchase of open space, mini-parks and other recreation projects, Ketring Lake improvements, street improvements, upgrades to Fire Station #11, installation of a fire suppression system at Bemis Library, school zone signage conversion to fiber optics, improvements to the fire training burn building, and partial funding of fleet building improvements and museum expansion.

While there has been a considerable amount of interpretation of the TABOR amendment, no particular refund method or methods are prescribed in TABOR or in subsequent legislation. This allows the refund method to be determined in almost any way possible. There is no case law requiring that refunds be made in an equitable manner, or returned to any particular source. The city is only required to refund the excess in some form or manner if the voters do not agree that it should be retained.

Alternative Refund Method

At the July 25, 2017 study session, ballot language and refund options were discussed, including a temporary reduction of property taxes, a refund to registered voters and property owners, and a refund of building permits/use taxes or impact fees.

Council directed staff to prepare a resolution supporting a temporary reduction in the mill levy in the event that the city is required to issue a refund if voters don't approve the TABOR ballot question.

Based upon the city's preliminary property tax assessment value, a temporary reduction of approximately 2.03 mills would be necessary to refund \$1.9 million. This is only an estimate as preliminary assessed values will not be available until the end of August and final assessed values will not be available until November. Commercial properties are assessed at a much higher rate (29%) than residential (7.2%); thus, commercial property owners pay more in property taxes and would receive a higher refund.

A temporary reduction would equate to a temporary reduction of about \$16.50 per \$100,000 of actual value. The owner of a \$370,000 home, the 2016 median sales price for a Littleton home, would receive a reduction in property taxes of approximately \$61. A temporary reduction for a commercial property equates to about \$667 per \$1,000,000 of actual value. Both residential and commercial renters would be excluded since they are not the property owner.

There would be little to no costs associated with this method of refund. From an administrative standpoint, a temporary reduction in the property tax mill levy is the most cost effective method of refund.

OPTIONS/ALTERNATIVES:

While TABOR does not specifically prescribe a refund method, three options are presented with a temporary reduction in property taxes being a reasonable and cost effective method.

FISCAL IMPACTS:

There is little to no cost associated with this method of refund.

STAFF RECOMMENDATION:

If a majority of voters do not support the ballot question allowing the city to retain the excess revenues, a refund is required. A temporary reduction in the property tax mill levy is a reasonable and cost effective method to accomplish a TABOR refund.

PROPOSED MOTION:

I move to approve a resolution of the city council of the City of Littleton, Colorado, to establish a refund method for excess TABOR revenues from 2016.