



November 8, 2016 Election

Ballot Issue: City	Whether the City May Keep and Spend All Revenues Related to the “Keep Fort Collins Great” Sales and Use Tax City Voters Approved in 2010
Ballot Language	<p>MAY THE CITY KEEP ALL OF THE REVENUES THAT IT HAS COLLECTED FROM THE CITY’S “KEEP FORT COLLINS GREAT” .85% SALES AND USE TAX APPROVED BY THE VOTERS IN 2010, WHETHER OR NOT SUCH REVENUES HAVE ALREADY BEEN SPENT, AND CONTINUE TO COLLECT THE TAX AT THE .85% RATE AND SPEND ALL OF THE REVENUES IN THE FOLLOWING WAYS DIRECTED BY THE VOTERS IN 2010:</p> <p align="center">33% FOR STREET MAINTENANCE AND REPAIR; 17% FOR OTHER STREET AND TRANSPORTATION NEEDS; 17% FOR POLICE SERVICES; 11% FOR FIRE PROTECTION AND OTHER EMERGENCY SERVICES; 11% FOR PARKS MAINTENANCE AND RECREATION SERVICES; AND 11% FOR COMMUNITY PRIORITIES OTHER THAN THOSE LISTED ABOVE, AS DETERMINED BY THE CITY COUNCIL;</p> <p>WITHOUT REFUNDING ANY AMOUNT FOR EXCEEDING THE REVENUE ESTIMATES IN THE ELECTION NOTICE MAILED TO VOTERS IN 2010?</p> <p align="center">_____ YES _____ NO</p>
Chamber Position	Despite opposing the original tax measure, the Chamber is Recommending a YES vote with the understanding that the original language and intent of the voter was to keep any additional dollars generated by the tax
The Basics	<p>In 2010 voters approved a .85% sales and use tax increase to be spent for the following purposes:</p> <ul style="list-style-type: none"> • 33% for street maintenance and repair, • 17% for other street and transportation needs, • 17% for police services, • 11% for fire protection and other emergency services,

- 11% for parks maintenance and recreation services, and
- 11% for other community priorities as determined by the City Council.

The 2010 ballot language also asked voters whether:

“the full revenues derived from the tax, and investment earnings thereon, may be retained and expended by the City for such purposes, notwithstanding any State revenue or expenditure limitations including but not limited to [TABOR]” (“KFCG Revenue Change”)

The KFCG initiative passed with 60% approval, despite the Chamber passively opposing the issue.

In the state of Colorado, any proposed tax increase is subject to the Colorado Taxpayer’s Bill of Rights (TABOR). The City asked voters in 1997 for exclusion from the revenue-limitation provisions of TABOR. This is commonly called “de-Brucing.” Voters approved this ballot measure by 57%. TABOR requires for tax increases that the first year’s tax revenue, as well as the expected fiscal year spending without the tax increase, be estimated in the TABOR notice that is mailed to voters before the election. TABOR also contains language addressing the consequences of when actual revenues collected exceed these estimates.

In 2010, the TABOR notice for the KFCG tax estimated one-year (2011) revenue from the .85% increase to be \$18.7 million. Actual revenue in 2011 was \$19.7 million.

Although voters approved in 1997 a general “de-Brucing” question authorizing the City to retain and spend all excess TABOR revenues collected by the City in all future years, and also approved in 2010 the KFCG ballot question with language stating that the City could keep and expend “all revenues” from the KFCG tax, a citizen has indicated they will sue the City under TABOR asking the courts to require the City to refund a portion of the KFCG tax revenues the City has already collected and spent for the voter-authorized purposes described because the City’s actual revenues in 2011 exceeded the estimates in the TABOR notice for the KFCG tax.

Similar concerns were recently raised relating to the State of Colorado’s November 2015 ballot question for Proposition BB, which asked the State’s voters to allow the State to retain and spend the revenues it received in fiscal year 2014-15 from the marijuana taxes the State’s voters approved in

	<p>Proposition AA at the November 2013 election. The State appears to have done this on the basis of a legal opinion from the Colorado Office of Legislative Legal Services (“LLS”), which raised questions about whether the State’s deBrucing waivers of TABOR’s revenue limitations were sufficient to avoid refunding its excess revenues relating to the marijuana taxes without seeking additional voter approval. Unfortunately, as the LLS opinion indicates, this question has not been answered by the Colorado appellate courts.</p> <p>Consequently, rather than litigate this issue, which could take years and would leave City budgeting in a state of uncertainty, the City believes it is more prudent to ask voters as soon as possible to confirm that in approving the KFCG tax in 2010 they did intend for the City to use all KFCG revenue as outlined in the original ballot language.</p>
Connection to Business	This is a Good Government issue. Business expects government to be predictable and efficient in providing services. Funding is a key issue.
Arguments for the Proposal	<ul style="list-style-type: none"> • The City has been transparent on the use of these dollars and the original language of the ballot suggests that they should be able to continue to use those dollars. • A court fight could be long and expensive, approving this measure settles the issue immediately.
Arguments Against the Proposal	<ul style="list-style-type: none"> • Since the Chamber opposed the original ballot issue, it should continue to oppose this issue. • The City has collect too much money and should return it to the voters
Resources	http://citydocs.fcgov.com/?cmd=convert&vid=72&docid=2780143&dt=AGENDA+ITEM&doc_download_date=AUG-30-2016&ITEM_NUMBER=01
Where We Stand	<p>GOOD GOVERNMENT BASIC PHILOSOPHY:</p> <p>The Chamber believes that business should expect government to be predictable, efficient in the delivery of services, reasonable in imposition of costs, be accessible and responsive, open and transparent, accurate and timely, be open to understanding the views of business, focus on basic services, be conscious of actions that impact business climate, be mindful of property rights and avoid mandates when possible.</p>