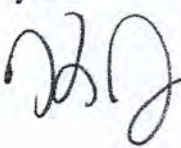


THE CITY OF OKLAHOMA CITY
OFFICE OF
THE MUNICIPAL COUNSELOR

LEGAL OPINION NO. 09-7

TO: Oklahoma City Arts Commission
David Holt
Chief of Staff to the Mayor

FROM: Kenneth Jordan 
Municipal Counselor

DATE: June 10, 2009

RE: Public Funding Sources for Public Works-of-Art

QUESTIONS

1. Can **general obligation bond funds** be used to pay for works-of-art incorporated into the design of a particular general obligation bond project?
2. Can **public trust funds** be used to pay for works-of-art incorporated into the design of a particular project? Of particular concern are those public trusts whose trustees are Council members, such as OCEAT, OCPPA, and OCMFA and the three "most significant" non-Council trusts. For purposes of this opinion, "most significant" is interpreted to mean those trusts with the largest amounts of funding: The Oklahoma City Water Utilities Trust, the Oklahoma City Airport Trust and the Oklahoma City Zoological Trust.
3. Can City **general funds** be used to pay for works-of-art incorporated into "regular City projects" (meaning City capital improvement projects funded w/general funds)?
4. Can **limited-purpose sales tax revenues** be used to pay for works-of-art incorporated into particular projects funded with such revenues?
5. Can **MAPS III sales tax revenues** be used to pay for works-of-art incorporated into particular MAPS III projects?

SHORT ANSWERS

Short Answer to Question 1 (General Obligation Bond Funds): In regard to general obligation bond authorizations approved by City voters in the past, such as the 2007 g.o. bond authorization, the answer is dependent on the language in each proposition and project approved by City voters. Based on Article X, § 16 of the Oklahoma Constitution and § 574(C) of the Bond Issue Proceeds Act, the bond proposition and project wording will control the issue.

If the City Council wishes to include a work-of-art with a specific bond project when the plans and specs for the project are prepared, this determination can be made by examining the relevant bond proposition and the specific wording for the project. This office is available to assist the Mayor and Council, the City Manager, or the City Engineer in making this determination on a project-by-project basis.

The Arts Commission's role in getting general obligation bond funding spent for public works-of-art for previously approved general obligation bond projects, such as the projects included in the 2007 bond authorization, could be to request that the Mayor and Council direct the City Manager to spend 1% of general obligation bond project monies for public works-of-art whenever legally possible. The Arts Commission could also review general obligation bond projects individually and make recommendations to the City Council regarding which projects should be designed, if lawful on that project, to include the expenditure of 1% of the project proceeds for public works-of-art.

Additionally, while it has never been done in the past, it would seem to us to be possible in a future general obligation bond election for the City Council, if it so desired, to include a stand-alone proposition for the purchase of City-owned public works-of-art. However, the final determination on the legality of a stand-alone bond proposition for City-owned works-of-art rests with bond counsel and not the Municipal Counselor. This is because bond counsel must write a legal opinion stating that the general obligation bond documents are lawful under Oklahoma law, so bond counsel has the final say-so regarding the form and content of the bond documents.

Short Answer to Question 2 (Public Trust Funds): Yes, as long as the purchase is within the powers granted the trustees in the particular trust's indenture.

For OCEAT, OCPPA, and OCMFA, the trust indentures appear broad enough to encompass the purchase of public works-of-art with trust funds. The trustees of these three trusts—who, as you likely are aware, are the same individuals as the Mayor and the individual Councilmembers—will control the use of OCEAT, OCPPA, and OCMFA trust revenues for providing public works-of-art.

For the Oklahoma City Airport Trust and the Oklahoma City Zoological Trust, the trust indentures would appear broad enough to encompass the purchase of public works-of-art with trust funds for Will Rogers World Airport and the Oklahoma City Zoo, respectively. The trustees of these two trusts—who, as you likely are aware, are not the same individuals as the Mayor and the individual Councilmembers—will control the use of Airport and Zoo Trust revenues for providing public works-of-art.

For OCWUT, this office would recommend that a specific individual request be made to the Chairman of that Trust for OCWUT and its legal counsel to review the possibility of providing public works-of-art in relation to OCWUT projects.

Short Answer to Question 3 (City General Funds): Yes. City general funds, which are City funds not specifically designated for a specific purpose by law, may be designated, through City Council's budgetary and expenditure discretion under

Oklahoma law, for purchasing publicly displayed works-of-art, so long as the artwork meets the municipal public purpose doctrine.

Short Answer to Question 4 (City Limited-Purpose Sales Tax Funds): The answer depends upon the language of the limited-purpose taxing ordinance that was approved by the voters. In regard to the limited-purpose sales taxes currently levied by the City, as of 2009, it is our opinion that the language in the Fire-Police Sales Tax Ordinance is likely not broad enough to include the purchase of public works-of-art; that the language in the Sports Facilities Sales Tax Ordinance is broad enough to include the purchase of public works-of-art for City sports facilities, including the Ford Center; and that the language in the Zoo Sales Tax Ordinance is broad enough to include the purchase of public works-of-art for the Oklahoma City Zoo. Use of such funds rests within the budgetary and expenditure discretion of the Oklahoma City Council under State law. The special purpose limits use; but budgeting and using such funds for specific items within the special purpose rests within the discretion of the legislative body of the municipality.

Short Answer to Question 5 (MAPs III Limited-Purpose Sales Tax Funds): Yes, assuming the language governing in the use of the MAPs III Sales Tax, once drafted and if approved by City voters, is sufficiently broad to authorize expenditure of such revenues for public artwork.

DISCUSSION

Analysis for Question 1—General Obligation Bond Funds

The City has typically issued general obligation bonds pursuant to Article X, § 27 of the Oklahoma Constitution, which provides:

Any incorporated city or town in this state may, by a majority of the voters of such city or town, voting at an election to be held for that purpose, be allowed to become indebted for the purpose of purchasing or constructing **public utilities**, or for repairing the same, **to be owned exclusively by such city** or town, or for the purpose of constructing, reconstructing, improving or repairing streets or bridges.¹ (emphasis added)

General obligation bonds approved by the voters pursuant to Article X, § 27 of the Oklahoma Constitution are limited to the specific purposes listed above - streets, bridges and exclusively owned “public utilities.” It has been held by the Supreme Court of Oklahoma that a municipal-owned art collection in a public museum constitutes a “public utility” within the constitutional meaning of Article X, § 27.² In reaching this conclusion, the Court noted that a “public utility” is generally known as:

¹ Article X, § 27 of the Oklahoma Constitution.

² *City of Tulsa v. Williamson*, 1954 OK 290, at ¶ 19, 276 P.2d 209.

[A]ny installation, institution, thing or entity, consisting of property of some determinable value, capable of being maintained and owned exclusively by the municipality, which is useful and usable by the public for the general welfare, and which is not specifically incorporated or included in some other category or classification different from a public utility.³

Typical “public utilities” that the City has funded in the past with general obligation bond revenues under Article X, § 27 include park improvements, traffic control improvements, drainage system improvements, sewerage system improvements, water system improvements, police-related facilities and equipment, fire-protection- and fire-suppression-related facilities and equipment, and construction of or improvements to certain types of public buildings. Purchasing works-of-art for projects in these traditional categories must be determined on a case-by-case basis by examining specific bond propositions and the projects listed under them.

Given the case law definition of “public utility” for purposes of Article X, § 27, however, it appears to us that “artwork” exclusively owned by the City and acquired for display in a public building or a public place—thereby making it “useful and usable by the public for the general welfare”—could, in and of itself, also be considered to be a “public utility” within the meaning of Article X, § 27. Therefore, it seems to us that it would be possible, in some future general obligation bond issue, to have a stand-alone, City-owned artwork proposition.⁴

Before closing the discussion of Question 1, it should again be emphasized that whether § 27 general obligation bond funds could be used to buy a piece of art for a particular type of bond project will depend upon the language of the bond issue authorization as approved by the voters. Article X, § 16 of the Oklahoma Constitution provides that, “All laws authorizing the borrowing of money by and on behalf of the State, county, or other political subdivision of the State, shall specify the purpose for which the money is to be used, and the money so borrowed shall be used for no other purpose....”

Additionally, § 574(C) of the Bond Issue Proceeds Act provides:

If any such bond issue is approved at an election, the particular governmental entity **shall expend** all of the proceeds of such bond issue **for the purposes set out in the proposition voted upon** and shall expend not less than eight-five percent (85%) of the monies allocated to each

³ *Id.* at ¶ 9.

⁴ One caveat: The final determination on this legal point must be made by general obligation bond counsel, because in order to sell the bonds, the City must have a legal opinion from g.o. bond counsel that the wording on the propositions and projects is lawful. Therefore, bond counsel, not the Municipal Counselor, will have the final say-so regarding whether or not a stand-alone bond proposition for providing City works-of-art is legally permissible.

specific project, unless such project can be completed for a smaller amount of money,...⁵ (emphasis added)

The Bond Issue Proceeds Act was enacted in an effort to “guarantee to the citizens of the State of Oklahoma that the proceeds of bond issues approved by them will be expended only for the purposes or projects for which any such bond issue was approved.”⁶ Therefore, whether “artwork” can be purchased with § 27 general obligation bond funds is dependent upon the purposes set out in the propositions as approved by the registered voters of the City of Oklahoma City. Whether a particular bond proposition allows for the purchase of works-of-art would depend upon the specific language of that proposition, to be analyzed on a case-by-case basis.

So based upon Article X, § 16 of the Oklahoma Constitution and § 574(C) of the Bond Issue Proceeds Act, the bond proposition and project wording will control the use of general obligation bond revenues.

Likewise, surplus g.o. bond funds remaining, after completion of a project and/or after expenditure of 85% of the bond proceeds for said project, can be used for purposes of the proposition from which they come; therefore, the bond proposition wording as approved by the voters will control the use of the surplus funds.

The Arts Commission’s role in getting general obligation bond funding spent for public works-of-art for previously approved general obligation bond projects, such as the projects included in the 2007 bond authorization, could be to request that the Mayor and Council direct the City Manager to spend 1% of general obligation bond project monies for public works-of-art whenever legally possible. The Arts Commission could also review general obligation bond projects individually and make recommendations to the City Council regarding which projects should be designed, if lawful on that project, to include the expenditure of 1% of the project proceeds for public works-of-art.

Analysis for Question 2—Funds of Public Trusts

In general, trusts for the benefit of the City have been created to issue obligations and enter into financing arrangements and other similar transactions and to provide funds for the furtherance and accomplishment of any authorized and proper public function of the City.⁷ Public trusts cannot engage in activities or transactions that are not expressly authorized in the instruments or articles prescribing its creation. Therefore, each trust’s indenture must be analyzed to determine whether the purchase of artwork with trust funds is a proper function of said trust.

⁵ 62 O.S. § 574(C).

⁶ 62 O.S. § 571.

⁷ 60 O.S. § 176(A).

So the answer to Question 2 is the following: Yes, as long as the purchase is within the powers granted the trustees in the particular trust's indenture.

For OCEAT, OCPPA, and OCMFA, the trust indentures appear broad enough to encompass the purchase of public works-of-art with trust funds. The trustees of these three trusts—who, as you likely are aware, are the same individuals as the Mayor and the individual Councilmembers—will control the use of OCEAT, OCPPA, and OCMFA trust revenues for providing public works-of-art.

For the Oklahoma City Airport Trust and the Oklahoma City Zoological Trust, the trust indentures would appear broad enough to encompass the purchase of public works-of-art with trust funds for Will Rogers World Airport and the Oklahoma City Zoo, respectively. The trustees of these two trusts—who, as you likely are aware, are not the same individuals as the Mayor and the individual Councilmembers—will control the use of Airport and Zoo Trust revenues for providing public works-of-art.

For OCWUT, this office would recommend that a specific individual request be made to the Chairman of that Trust for OCWUT and its legal counsel to review the possibility of providing public works-of-art in relation to OCWUT projects.

Analysis for Question 3—General Funds of the City

In general, the expenditure of municipal general funds, which are funds not otherwise legally designated for some specific municipal purpose, may be used for **any public purpose of the municipality**. Article X, § 14 of the Oklahoma Constitution provides in pertinent part:

Taxes shall be levied and collected by general laws, and **for public purposes only**, ... (emphasis added)

Because the Supreme Court has ruled that artwork in a City museum is a “public utility” for which general obligation bond funds can be expended, it is obvious that the purchase of artwork to be publicly displayed and owned by the City does constitute a “public purpose” for which general funds can be expended. What constitutes a public purpose for which municipal funds can be spent can be summed up in general as follows:

[T]he public purposes for which cities may incur liabilities are not restricted to those for which precedent can be found, but the test is whether the work is required for the general good of all inhabitants of the city. Further, it is not essential that the entire community, or even a considerable portion of it, should directly enjoy or participate in an improvement in order to make it a public one.⁸

Spending municipal funds on artwork for the cultural enhancement of the citizens of the City and visitors alike can be determined to be a municipal public purpose by the City

⁸ *McQuillin Mun. Corp.*, § 39.19 (3rd Ed.).

Council. Generally, the courts defer to a determination of public purpose expressed by the governing body of the taxing entity.⁹ In recent years, general funds have been expended on public art by way of funding portions or all of: the Land Run statues on the Bricktown Canal, commissioned artwork located in and around City Hall (the Municipal Building), and artwork purchased by City departments for decorating the common areas of public office buildings.

Therefore, there clearly is no legal problem with spending City general funds for City-owned artwork to be publicly displayed for the benefit of citizens of and visitors to The City of Oklahoma City. City general funds which are not specifically designated for a specific purpose by law may be designated, through City Council's budgetary and expenditure discretion under Oklahoma law, for purchasing publicly displayed works-of-art, so long as the artwork meets the municipal public purpose doctrine.

Analysis for Question 4—City Limited-Purpose Sales Tax Funds

The general rule, as stated above, is that **“no tax levied and collected for one purpose shall ever be devoted to another purpose.”**¹⁰ Therefore, in order to determine whether the revenues from a limited-purpose sales tax could legally be expended on public artwork would be dependent upon the specific taxing ordinance approved by the voters and the uses so authorized.

Currently, the City is receiving limited-purpose sales tax revenues from the Police-Fire Sales Tax (often inaccurately but popularly referred to as the “Public Safety Sales Tax”), the Sports Facilities Sales Tax, and the Zoo Sales Tax.

(a) Police-Fire Sales Tax

The Police-Fires Sales Tax is set forth in the Municipal Code, in § 52-21 of Chapter 52.¹¹ It sets forth the numerous purposes for which these tax revenues may be spent which include but are not limited to funding of: police officer personnel positions; purchase and maintenance of police cars, motorcycles and a police mobile command post; equipment such as radios, computers, gas chromatograph, etc.; improvements to Police Department buildings and facilities; construction and equipping of some specifically identified fires stations; firefighter personnel positions and fire vehicles, and other firefighting and fire rescue services, facilities and equipment.

A couple of the specifically listed categories (construction and equipping a new fire station or refurbishing the police training center) might be broad enough to include the purchase of artwork for the specifically listed building locations. However, when one reads this ordinance as a whole, it appears likely that the legislative intent behind what the voters approved was a revenue stream to fund police services, facilities, and

⁹ *McQuillin Mun. Corp.*, § 39.13 (3rd Ed.).

¹⁰ Article X, § 19 of the Oklahoma Constitution.

¹¹ §52-21 of Chapter 52 of the Oklahoma City Municipal Code, 2007.

equipment and fire-protection and -suppression services, facilities and equipment, *thereby aiding police and fire functions and enhancing the City's ability to protect and serve its citizens (i.e. public safety)*. Given this likely legislative intent, we cannot advise using this funding source to purchase artwork, which serves a public function, just not one in any way associated with police or fire protection for the public (i.e., public safety).

(b) Sports Facilities Sales Tax

The Sports Facilities Sales Tax ordinance provides for a limited-term excise tax to be used for **the limited purpose** of: “providing or improving City sports facilities, ...; the funding of a basketball training facility, ..., the funding of incidental or related real or personal property acquisition costs, real property interest acquisition costs, ...; the funding of any or **all other items(s), articles(s), costs(s) or expense(s) incidental or related in any way to providing or improving City sports facilities; ...**”¹² (emphasis added)

Sports Facility Sales Tax revenues have already been used to fund artwork for the Ford Center. The language of the taxing ordinance allowing expenditures for “any or all items incidental or related in any way providing or improving City sports facilities authorized these purchases” is broad enough to authorize this funding. The sports facilities are venues intended to be fun, entertaining, and enjoyable and will accommodate several thousands of people. Artwork and other aesthetic features would be essential to creating an overall enjoyable experience to the public visiting those venues. Use of said funds would be limited by the language of the ordinance to allow for the purchase of artwork at only Oklahoma City sports facilities and not at any other location.

(c) Oklahoma City Zoo Tax

Like the Sports Facility Sales Tax, the Zoo Sales Tax was approved by the voters to help create and establish a fun and enjoyable venue for the entire family. The specific language of the Zoo Sales Tax Ordinance is broad and includes establishing a zoo comparable to other major metropolitan zoos; expanding the zoological parks, gardens and “other collections;” funding entertainment facilities; funding of educational research and programs; etc.¹³ It would appear reasonable, based on the broad language used in the taxing ordinance and the overall intent of the tax, which appears to be creating an overall enjoyable and educational zoo experience, that part of said revenues could be expended for artwork to be enjoyed at the Oklahoma City Zoo as a part of the entire zoo experience the City is attempting to create. Use of said funds would be limited by the language of the ordinance to artwork to be located at only Oklahoma City Zoo facilities and not at any other location.

In closing the discussion of the use of limited-purpose sales taxes for buying public works-of-art, it should again be noted that the use of all funds of The City of Oklahoma City, including special purpose funds, rests within the budgetary and expenditure discretion of the Oklahoma City Council under State law. The special purpose limits use;

¹² § 52-23.3 of Article II of Chapter 52 of the Oklahoma City Municipal Code, 2007.

¹³ §52-22 of Chapter 52 of the Oklahoma City Municipal Code, 2007.

but budgeting and using such funds for specific items rests within the discretion of the legislative body of the municipality.

Analysis for Question 5—MAPS III Sales Tax Funds

The MAPS III Sales Tax documents have not yet been drafted. Therefore, pursuant to action of the Mayor and City Council, any ordinance(s) presented in the future to the voters of The City of Oklahoma City could include language sufficient to allow any potential revenues from said tax to be used for public artwork.

CONCLUSION

To summarize in bullet points as to each possible source of funding for public works of art:

General Obligation Bond Funds:

- Based on Article X, § 16 of the Oklahoma Constitution and § 574(C) of the Bond Issue Proceeds Act, the bond proposition and project wording will control the use of such funds.
- If the City Council wishes to include a work-of-art with a specific bond project when the plans and specs for the project are prepared, this determination can be made by examining the relevant bond proposition and the specific wording for the project.
- This office is available to assist the Mayor and Council, the City Manager, or the City Engineer in making this determination on a project-by-project basis.
- A stand-alone proposition for the purchase of City-owned public works-of-art may be possible for inclusion in some future general obligation bond issue proposition. But the final determination on the legality of a stand-alone bond proposition for City-owned works-of-art rests with bond counsel and not the Municipal Counselor.

Public Trust Funds:

- Public trust funds can be used to purchase public works-of-art as long as the purchase falls within the powers granted the trustees in the particular trust's indenture.
- The OCEAT, OCPPA, and OCMFA trust indentures appear broad enough to encompass the purchase of public works-of-art with trust funds. The trustees of these three trusts will control the use of OCEAT, OCPPA, and OCMFA trust revenues for providing public works-of-art.
- The trust indentures for the Oklahoma City Airport Trust and the Oklahoma City Zoological Trust appear broad enough to encompass the purchase of public

works-of-art with trust funds for Will Rogers World Airport and the Oklahoma City Zoo, respectively. The trustees of these two trusts will control the use of Airport and Zoo Trust revenues for providing public works-of-art.

- For OCWUT, this office recommends that a specific individual request be made to the Chairman of that Trust for OCWUT and its legal counsel to review the possibility of providing public works-of-art in relation to OCWUT projects.

City General Funds:

- City general funds may be used for purchasing publicly displayed works-of-art, so long as the artwork meets the municipal public purpose doctrine.
- Use of City general funds for purchasing works-of-art rests within the City Council's budgetary and expenditure discretion under Oklahoma law.

City Limited-Purpose Sales Tax Funds:

- The answer depends upon the language of the limited-purpose taxing ordinance that was approved by the voters.
- The Fire-Police Sales Tax Ordinance is likely not broad enough to include the purchase of public works-of-art.
- The language in the Sports Facilities Sales Tax Ordinance is broad enough to include the purchase of public works-of-art for City sports facilities, including the Ford Center.
- The language in the Zoo Sales Tax Ordinance is broad enough to include the purchase of public works-of-art for the Oklahoma City Zoo.
- Again, the specific use of such special purpose funds rests within the budgetary and expenditure discretion of the Oklahoma City Council under State law, subject to meeting the designated special purpose.

MAPs III Limited-Purpose Sales Tax Funds:

- The MAPs III Sales Tax documents are not yet drafted.
- However, as long as the wording of the MAPs III earmarking is sufficiently broad to authorize expenditure of such revenues for public artwork, then such artwork may be purchased with MAPs III funds.

cc: James D. Couch, City Manager
Catherine O'Connor, Assistant City Manager
James E. Thompson, P.E., Assistant City Manager
Laura A. Johnson, Finance Director
Dennis Clowers, P.E., City Engineer

Mark Kranenburg, Director of Airports
Dwight Scott, Executive Director/CEO, Oklahoma City Zoo
Diane Lewis, Deputy Municipal Counselor
Craig B. Keith, Trusts, Utilities & Finance Division Head
(and OCWUT Legal Advisor)
Amy Douglas, Assistant Municipal Counselor
Rita Douglas-Talley, Assistant Municipal Counselor
Marsha D. Harrod, Assistant Municipal Counselor
(and Zoo Trust Legal Advisor)
William O. West, Special Assistant Municipal Counselor
(and Airport Trust Legal Advisor)
Jami Beavers, Assistant Municipal Counselor
(and Airport Trust Legal Advisor Designate)
Wiley Williams, Assistant Municipal Counselor
John M. Williams, Esq., Bond Counsel

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(Published In The Journal Record June 28, 1989)

ORDINANCE NO. 19226

AN ORDINANCE AMENDING THE CITY SALES TAX CODE, CHAPTER 52, ARTICLE II, OF THE OKLAHOMA CITY MUNICIPAL CODE, 1980. BY THE ADDITION THERETO OF A NEW SECTION 52-20.1; PROVIDING FOR THE LEVYING OF AN EXCISE TAX OF THREE-QUARTERS (3/4%) PERCENT; SPECIFYING THE LIMITED-PURPOSES FOR WHICH SAID EXCISE TAX LEVY WOULD BE EXPENDED; ESTABLISHING TWO LIMITED-PURPOSE TAX FUNDS; PROVIDING FOR THE ADMINISTRATION OF SAID TAX FUNDS; PRDVIDING FOR SEVERABILITY AND FOR CODIFICATION; AND DECLARING AN EMERGENCY.

EMERGENCY ORDINANCE

BE IT ORDAINED BY THE PEOPLE OF THE CITY OF OKLAHOMA CITY, OKLAHOMA:

SECTION 1: Chapter 52, Article II, of the Oklahoma City Municipal Code, 1980, is hereby amended by the addition thereto of a new section 52-20.1 to read as follows:

Sec. 52-20.1. Additional excise tax to be levied upon gross receipts; specifying limited-purposes for which the tax shall be expended; establishing two limited-purpose tax funds; providing for the administration of said tax funds.

(A) In addition to and cumulative of the excise tax of two (2%) percent levied upon gross proceeds or gross receipts derived from all sales taxable under Section 52-20 of the City Sales Tax Code, an excise tax in the additional amount of three-quarters (3/4%) percent is hereby levied upon the gross proceeds or gross receipts derived from all sales taxable under the sales tax laws of this State, including but not limited to the specific taxable sales and service transactions enumerated in Paragraphs (1) through (11) of Subsection (a) of Section 52-20.

(B) The additional excise tax levied pursuant to Section 52-20.1(A) of this Article shall be expended only for the following purposes:

(1) One-half (1/2) of said tax shall be expended only for the purposes of providing police services, facilities or equipment, commencing with:

- (a) The funding of a minimum additional two hundred (200) fully equipped police officers for the Police Department;
- (b) The funding of purchase, maintenance and operation costs

for one hundred ninety-two (192) fully equipped new police cars;

- (c) The funding of purchase, maintenance and operation costs for eighty (80) additional vehicles to complete implementation of the "Take-Home-Car-Program" for the Oklahoma City uniformed police force;
- (d) The funding of purchase, maintenance and operation costs to replace the police motorcycle fleet;
- (e) The funding of purchase, maintenance and operation for a new police mobile command post;
- (f) The purchase of new equipment for the Oklahoma City Police Department, including but not limited to radios, a report recording system, microfilming equipment, mobile data terminals, a digital mug-shot system, personal computers, a public safety enhancement system, a pneumatic target turning system, a firearms training system, audio visual equipment, audio recording equipment, a fume hood, a gas chromatograph, and blood analysis testing equipment;
- (g) The funding of improvements to Oklahoma City Police Department buildings and facilities, including but not limited to redesign of the heating and air conditioning unit in the Oklahoma City Police Department Headquarters building, refurbishing the Police Training Center, paving the road leading to the Police firearms range, construction of a heliport on the roof of the Oklahoma City Police Headquarters, and jail building renovation;
- (h) The funding of other projects which provide police services, facilities or equipment.

(2) One-half (1/2) of said tax shall be expended only for the purposes of providing fire-fighting and fire-rescue services, facilities or equipment, commencing with:

- (a) Construction and equipping of a new fire station in the vicinity of Southwest 15th Street and Mustang Road, Oklahoma City, OK;
- (b) Construction and equipping of a new fire station in the vicinity of Northwest 93rd Street and Council Road, Oklahoma City, OK;
- (c) Construction and equipping of a new fire station in the vicinity of Southwest 134th Street and South May, Oklahoma City, OK;

- (d) Construction and equipping of a new fire station in the vicinity of Southeast 104th Street and Peebly Road. Oklahoma City, OK;
 - (e) Construction and equipping of a new fire station in the vicinity of Northwest 164th Street and North Pennsylvania Avenue, Oklahoma City, OK;
 - (f) Replacement of vehicles used by the Oklahoma City Fire Department;
 - (g) Purchase of maintenance of fire-fighting tools and equipment;
 - (h) The funding of a minimum additional two hundred (200) fully equipped firefighters for the Oklahoma City Fire Department; and
 - (i) The funding of other projects which provide fire-fighting or fire-rescue services, facilities or equipment.
- (C) (1) There is hereby established a limited-purpose tax fund to be known as the "Police Services, Facilities or Equipment Tax Fund" into which one-half (1/2) of all revenues collected pursuant to this Section 52-20.1 shall be deposited.
- (2) There is hereby established a limited-purpose tax fund to be known as the "Fire-Fighting and Fire-Rescue Services, Facilities or Equipment Tax Fund" into which one-half (1/2) of all revenues collected pursuant to this Section 52-20.1 shall be deposited.
- (3) Monies in said limited-purpose tax funds shall be accumulated from year to year and shall be placed in an insured interest-bearing account and the interest which accrues on each such fund shall be retained in the respective fund. Said limited-purpose tax funds shall be non-fiscal and shall not be considered in computing any levy when The City makes its estimate to the excise board for needed appropriations. Monies in each limited-purpose tax fund shall be expended only as accumulated and only for the respective limited-purposes described in Section 52-20.1(B)(1) and Section 52-20.1(B)(2) above. Monies in the limited-purpose tax funds may be appropriated for the authorized purposes provided by law.

SECTION 2. SEVERABILITY. If any section, subsection, sentence, clause, phrase" or portion of this Ordinance is, for any reason, held invalid or unconstitutional, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

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SECTION 3. CODIFICATION. The provisions of Section 1 herein are to be codified as Section 52-20.1 of Article II of Chapter 52 of the Oklahoma City Municipal Code, 1980.

SECTION 4. EMERGENCY. WHEREAS, it being necessary for the preservation of the peace, health, safety and public good of The City of Oklahoma City and the inhabitants thereof that the provisions of this Ordinance be put into full force and effect, an emergency is declared to exist by reason whereof this Ordinance shall take effect and be in full force from and after approval by a majority of the registered voters of The City of Oklahoma City, Oklahoma, voting in the election at which said ordinance is submitted to said voters.

PROPOSED by Initiative Petition No. 24 and APPROVED by City voters on the 20th day of June, 1989.

Jackie Casey

VIG MAYOR

SEAL
ATTEST

Thomas P. Sewby

CITY CLERK

HORNING, JOHNSON, GROVE, MOORE & HULETT

A PROFESSIONAL CORPORATION

ATTORNEYS AND COUNSELLORS

SUITE 1800, CITY PLACE

204 NORTH ROBINSON AVENUE

OKLAHOMA CITY, OKLAHOMA 73102

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PHILIP F. HORNING
KENT S. JOHNSON
ROGER A. GROVE
JAMES R. MOORE
CARRIE S. HULETT
CAROLYN S. THOMPSON

FILED

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CITY OF
OKLAHOMA CITY, OKLA.
OFFICE OF
CITY CLERK

February 13, 1989

HAND DELIVERED

Mr. Thomas P. Hurley, City Clerk
City of Oklahoma City
City Hall
200 North Walker
Oklahoma City, Oklahoma 73102

RE: Initiative Petition No. 24

Dear Mr. Hurley:

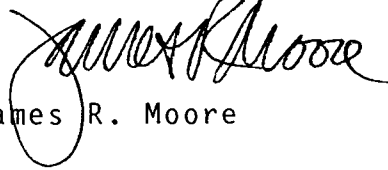
Pursuant to 34 O.S. 1951 §9, please accept for filing the following Ballot Title in Initiative Petition No. 24. A copy of said Petition was previously filed with your office on February 3, 1989.

BALLOT TITLE

Shall Initiative Petition Number 24, amending the City Sales Tax Code, Chapter 52, Article II of the Oklahoma City Municipal Code, 1980, by the addition thereto of a new Section 52-20.1, levying an additional three-quarters (3/4%) percent excise tax; one-half (1/2) to be earmarked and expended only for the purposes of providing police services, facilities and/or equipment; and one-half (1/2) to be earmarked and expended only for the purposes of providing fire-fighting and fire-rescue services, facilities and/or equipment; and establishing two limited-purpose tax funds, all as specified in said ordinance, be approved?

Respectfully submitted,

HORNING, JOHNSON, GROVE
MOORE & HULETT


James R. Moore

JRM/gh