STATE OF COLORADO

County of Grand

At a regular meeting of the Board of County Commissioners for the Grand County, Colorado, held at the Grand County Administration Building in Hot Sulphur Springs on Tuesday, the 29th day of August, 2023, there were present:

Richard Cimino, Commissioner Chair
Randal George, Commissioner
Meritt Linke, Commissioner
Maxine LaBarre-Krostue, County Attorney
Edward T. Moyer, County Manager
Jolene Linke, Clerk of the Board

when the following proceedings, among others, were had and done, to wit:

RESOLUTION NO. 2023-08-08

A RESOLUTION DESCRIBING A PROPOSAL FOR THE EXTENSION OF AND EXPANDED USES OF THE 0.3% COUNTYWIDE SALES TAX FOR THE OPERATION OF THE OPEN LANDS, RIVERS AND TRAILS FUND; CALLING AN ELECTION ON NOVEMBER 7, 2023, FOR THE CONSIDERATION OF SUCH PROPOSAL; SETTING THE BALLOT TITLE AND BALLOT QUESTION FOR THE ELECTION; AND AUTHORITY TO SPEND ALL OF THE PROCEEDS OF THE SALES TAX.

WHEREAS, the people of Grand County have repeatedly and enthusiastically recognized that Grand County’s water, natural resources and agricultural heritage define and support its character, economy and quality of life; and

WHEREAS, Grand County is authorized by Article 2, Title 29, Colorado Revised Statutes, as amended, to impose a countywide sales tax on the sale of tangible personal property at retail and the furnishing of services in the County upon approval of a majority of the registered electors of the County; and

WHEREAS, said Article provides for the submission of such sales tax proposal to the registered electors of the County at an election called by resolution of the Board of County Commissioners, and, pursuant to C.R.S., §29-2-104(3), the sales tax proposal be submitted at the next regular general election if there is one within the next succeeding one hundred twenty days after the adoption of such resolution; or at a special election to be held not less than thirty days nor more than ninety days after the adoption of such resolution; and

WHEREAS, there is no general election scheduled to occur within 90 days after the date of the adoption of this Resolution; and

WHEREAS, the Board of County Commissioners of Grand County intends that its continuation of a sales tax as set forth herein shall comply and be interpreted to comply with the requirements of Section 20, Article X of the Constitution of the State of Colorado; Article 2, Title 29, C.R.S.; Article 10, Title 31, C.R.S.; and all other applicable provisions of law; and

WHEREAS, the Board of County Commissioners of Grand County has determined that a question regarding the extension of and expansion of the uses of the existing three tenths of one percent (0.3%) sales tax beginning January 1, 2024, for the purposes enunciated herein, should be submitted to the eligible electors of the County; and

WHEREAS, the Board of County Commissioners has considered the proposed ballot question to be considered at the November 7, 2023 election; and

WHEREAS, pursuant to C.R.S., §1-5-203(3), the Board of County Commissioners must certify ballot contents to the Grand County Clerk and Recorder for said combined election.
NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Grand County, Colorado, as follows:

I. General Provisions.

A. Purpose. The purpose of this Resolution is, upon the approval of a majority of registered electors voting on such proposal, to extend the existing sales tax of three tenths of one percent (0.3%) upon the sale at retail of tangible personal property and the furnishing of certain services in Grand County in accordance with the provisions of Article 2 of Title 29 and Article 26 of Title 39, C.R.S. which provisions are incorporated herein by this reference, and such sales tax shall be dedicated to keeping water in the Colorado River and other rivers for agriculture, ranching and outdoor recreation; to the protection, conservation and acquisition of agricultural lands, natural areas, scenic open lands, wildlife habitat, wetlands, and river access; to wildfire mitigation and prevention; for water quality and river restoration projects; and for maintenance and creation of hiking, biking and multi-use trails. The sales and use tax shall become effective at 12:01 a.m. on January 1, 2024.

B. Statutory Definitions incorporated. Unless otherwise provided, the terms used in this Resolution shall have the meaning set forth in C.R.S., §39-26-102, which definitions are incorporated herein by this reference. If not defined therein, terms shall have their ordinary and common meaning.

II. Extension of Sales Tax. Upon majority voter approval, there is hereby extended the existing countywide three-tenths of one percent (0.3%) sales tax on all sales of tangible personal property at retail or the furnishing of services in Grand County, as provided in C.R.S., §29-2-105(1)(d), effective throughout the incorporated and unincorporated portions of Grand County, subject to the following terms and conditions:

A. Transactions Subject to the Sales Tax.

1. The tangible personal property and services taxable hereunder shall be the same as the tangible personal property and services taxable pursuant to Grand County Resolution No. 1982-3-9; Grand County Resolution No. 1982-6-6, and C.R.S., §39-25-104.

2. Such sales tax shall not apply to the sale of construction and building materials, as the term is used in C.R.S., §29-2-109, if such materials are picked up by the purchaser and if the purchaser of such materials presents to the retailer a building permit or other documentation acceptable to the County evidencing that a local use tax has been paid or is required to be paid.

3. All sales of personal property on which a specific ownership tax has been paid or is payable shall be exempt from the sales tax imposed by Grand County when such sales meet both of the following conditions: (1) the purchaser is a non-resident of or has his principal place of business outside of Grand County, and (2) such personal property is registered or required to be registered outside the limits of Grand County under the laws of the State of Colorado.

4. Such sales tax will not be imposed upon the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of that sought to be imposed hereunder by Grand County. A credit shall be granted against the sales tax imposed hereunder by Grand County with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule county. The amount of the credit shall not exceed the sales tax imposed hereunder by Grand County.
5. Such sales tax will not apply to the sale of food purchased with food stamps. For purposes of this section, "food" shall have the meaning as provided in 7 U.S.C. Section 20.2(g) as such section exists on October 1, 1987, or is thereafter amended.

6. Such sales tax will not apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. §1786. For purposes of this section, "food" shall have the same meaning as provided in 42 U.S.C. §1786 as such section exists on October 1, 1987, or is thereafter amended.

B. Determination of Place at Which Sales are Consummated. For the purposes of this Resolution, all retail sales shall be considered consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of Grand County or to a common carrier for delivery to a destination outside the limits of Grand County. The gross receipts from such sales shall include delivery charges when such charges are subject to the Colorado state sales tax and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in Grand County, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by this Resolution shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue. The amount subject to the sales tax imposed hereunder shall not include any Colorado state sales or use tax imposed by Article 26 of Title 39, C.R.S.

C. Collection, Administration, and Enforcement. The sales tax imposed hereunder shall be collected, administered and enforced by the Executive Director of the Colorado Department of Revenue ("Executive Director") in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of Article 26 of Title 39, C.R.S., and all rules and regulations promulgated hereunder by the Executive Director shall govern the collection, administration, and enforcement of the sales tax imposed hereunder. Distribution of all sales tax collected by the Executive Director, pursuant to this Resolution, shall be to Grand County.

D. Vendor Fee. At the time of making a monthly return of the sales taxes required by this Resolution, every retailer shall be entitled to withhold a vendor's fee in the amount, as authorized by state law, of the sales tax remitted to cover the retailer's expenses in the collection and remittance of said taxes. If any retailer is delinquent in remitting said taxes, other than in unusual circumstances shown to the satisfaction of the Executive Director of the Department of Revenue of the State of Colorado, the retailer shall not retain any amounts to cover his expenses in collecting and remitting said taxes. If any retailer, during any reporting period, shall collect as a tax an amount in excess of three-tenths of one percent of the total taxable sales, the retailer shall remit to the Executive Director the full amount of the tax herein imposed and also the full amount of said excess.

III. Effective Date. Upon adoption by the electorate at the election on November 7, 2023, the sales tax provided herein shall become effective and in force at 12:01 a.m. on January 1, 2024 and shall continue unless repealed or amended as detailed in Section VII. This Resolution shall be effective immediately upon its adoption, and the beginning date upon which the imposition of the sales tax referred to herein shall be January 1, 2024, if approved as set forth below.

IV. Necessity for Election. The sales tax extended hereunder shall not become effective until and unless a majority of the registered electors voting hereon, pursuant to C.R.S., §29-2-103(1) and §29-2-104(6), approve the ballot question.

A. Ballot Title/Question. The Ballot Title/Question on the Countywide Sales Tax Resolution that shall be referred to the registered electors of Grand County at the
general election to be held on Tuesday, the 7th day of November 2023 shall be as follows:

**BALLOT TITLE**

OPEN LANDS, RIVERS AND TRAILS MEASURE

**BALLOT ISSUE**

WITHOUT INCREASING THE TAX RATE, SHALL GRAND COUNTY BE AUTHORIZED TO EXTEND ITS EXISTING 0.3% SALES TAX LEVY, BEGINNING JANUARY 1, 2024, WHICH WILL NOT BE COLLECTED ON SALES OF PRESCRIPTION DRUGS, WITH THE PROCEEDS TO BE USED SOLELY FOR:

- PROTECTING LANDS THAT CONSERVE AND PROTECT WATER IN THE COLORADO RIVER, FRASER RIVER, AND OTHER RIVERS, LAKES AND STREAMS FOR AGRICULTURE, RANCHING AND OUTDOOR RECREATION;
- CONSERVING AGRICULTURAL LANDS, NATURAL AREAS, SCENIC OPEN LANDS, WILDLIFE HABITAT, WETLANDS, AND RIVER ACCESS THROUGH ACQUISITION;
- MAINTAINING HIKING AND BIKING TRAILS; AND

WITH ALL EXPENDITURES SUBJECT TO THE RECOMMENDATIONS OF A CITIZEN ADVISORY COMMITTEE, AN ANNUAL INDEPENDENT AUDIT, AND A CAP ON ADMINISTRATIVE EXPENSES OF FIVE PERCENT; AND SHALL THE COUNTY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE PROCEEDS OF THE REVENUE FROM SUCH TAXES AND ANY EARNINGS THEREON WITHOUT LIMITATION OR CONDITION AS A VOTER-APPROVED REVENUE CHANGE UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, AND WITH NO CHANGES TO THE “GRAND COUNTY OPEN LANDS, RIVERS AND TRAILS” PROGRAM EXCEPT INCLUDING OPERATIONAL COSTS TO NON-PROFIT FUNDED PURPOSES, WILDFIRE MITIGATION AND PREVENTION; WATER QUALITY AND RIVER RESTORATION PROJECTS; AND INCLUDING MAINTAINING AND CREATING HIKING, BIKING AND MULTI-USE TRAILS TO THE PURPOSES;

YES _________ NO _________

B. Cost of Election. The entire cost of the election shall be paid from the general fund of Grand County.

C. Notice by Publication. The Grand County Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the official newspaper of Grand County and each incorporated municipality within Grand County.

D. Election Officer. The Grand County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colorado Constitution, Article X, Section 20(3), including, but not limited to, the mailing of required election notices and ballot issue summaries.

E. Conduct of Election. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado.

V. Deposit and Expenditure of Open Lands, Rivers and Trails Sales Tax Revenue.

A. Up to but not exceeding five percent (5%) of the annual Open Lands Fund revenues may be used for county administrative expenses which includes, but is not limited to, county support staff expenses, education and training, audits, consultants, studies, appraisals, site reviews, etc.

B. After payment of administrative expenses, monies remaining in the Open Lands Fund shall be used as recommended by the Open Lands Advisory Committee and directed by the Board of County Commissioners, and substantially in accordance
with the following guidelines:

1. Competitive grant applications for the purposes specified in Section V(D), and in accordance with the guidelines set forth in this Resolution, shall be submitted to the Open Lands Advisory Committee.

   a. Grand County, incorporated municipalities located within Grand County, conservation districts established pursuant to C.R.S. §35-70-101 et seq., qualified non-profit land conservation organizations as defined at 26 U.S.C. §170(h)(3) or as accredited to hold conservation easements by the Land Trust Alliance Commission, and 501(c)(3) environmental non-profit organizations, may submit grant applications requesting funding for the following:

      i. Less than fee interests in real property; and

      ii. Fee simple or water rights acquisition; and

      iii. Water quality and river restoration projects.

   b. Grand County, incorporated municipalities located within Grand County, and non-profit organizations may submit grant applications to request funding for the creation and maintenance of hiking, biking and multi-use trails.

   c. Grand County, incorporated municipalities located within Grand County, fire protection districts, conservation districts, and non-profit organizations, may submit grant applications to request funding for mitigation and prevention of wildfires.

2. No more than forty percent (40%) total of the Open Lands Rivers and Trails funds (after payment of administrative expenses) may be utilized for the creation and maintenance of hiking, biking and multi-use trails and wildfire mitigation and prevention purposes.

3. The Open Lands Advisory Committee shall review the grant applications and make recommendations to the Board of County Commissioners regarding the approval, conditional approval, or denial of each application.

4. The Board of County Commissioners then shall approve, conditionally approve or deny the grant application based on the criteria recommended by the Open Lands Advisory Committee and adopted by the Board of County Commissioners.

5. If the allocated funds for the competitive grants are not expended by December 31st of each year, the County shall bank such funds according to the aforementioned uses. However, the County may not bank any unused portion of its allocation for county administration expenses. The Open Lands Advisory Committee shall make recommendations on the use of the unexpended funds to the Board of County Commissioners. The Board of County Commissioners then will accept or reject the Open Lands Advisory Committee's recommendations and/or designate the monies to be expended in a manner consistent with this Resolution, which may include banking the monies for future use.

6. On an annual basis, the County will utilize an independent auditor to audit the County’s expenditures of the Open Lands Fund.

C. Additional Guidelines for Use of Funds:
1. All acquisitions of land, whether in fee title or less than fee interests in real property, shall be carried out with good faith negotiations with willing sellers and must be voluntary transactions with willing landowners, and no entity receiving monies from the Open Lands Fund shall use such monies to make any acquisition through eminent domain or the threat of eminent domain.

2. Expenditure of monies from the Open Lands Fund is restricted to real property and bodies of water located within Grand County.

3. Revenues deposited in the Open Lands Fund may be used in the following manner:
   a. To acquire lands or interests in lands that conserve and protect water in the Colorado River, Fraser River and other rivers for agriculture, ranching, and outdoor recreation, and that conserve agricultural lands, natural areas, scenic open lands, wildlife habitat, wetlands and river access;
   b. To acquire less than fee interests in real property for the purposes provided herein, such as permanent conservation easements, future interests, covenants, development rights, subsurface rights and contractual rights, either on an exclusive or nonexclusive basis;
   c. To acquire fee title interest in real property for the purposes provided herein;
   d. To acquire water rights and water storage rights for use in connection with the purposes provided herein;
   e. To pay for all related costs of acquisition, such as but not limited to the costs of appraisal, surveying, legal and other services such as easement documentation and environmental reports, as well as the costs of stewardship of easements, and construction, as set forth in subsections (a) to (d) above;
   f. To participate in water quality and river restoration projects, including waterways as determined by the Open Lands Rivers and Trails Committee;
   g. To create and maintain hiking, biking, and multi-use trails;
   h. To mitigate and prevent wildfires;
   i. To pay for operational costs for approved non-profit applicants;
   j. To allow expenditure of funds for joint projects, consistent with the purposes set forth in this Resolution, between the County and municipalities, or other governmental entities in the County;
   k. To implement and effectuate the purposes of the Open Lands Fund.

4. No land or interests acquired by Grand County or a municipality with the revenues of the Open Lands Fund may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on such land or interests be given, without notice by the governing body of the entity having received any portion of the Open Lands Fund to Grand County, after conducting a public hearing.

5. If the Board of County Commissioners sells land or interests in land that was purchased with funds from the Open Lands Fund, the proceeds shall be deposited in the Open Lands Fund.
6. If any incorporated municipality sells land or interests in land as specified above, the proceeds shall be deposited in a fund to be used for purposes consistent with this Resolution.

7. To preserve and promote the open character of properties which have become subject to a conservation easement granted or acquired, in whole or part, with expenditures from the Open Lands Fund, such properties must remain substantially undeveloped as ranch, agricultural, natural areas, wildlife habitat, or open lands. However, it is recognized that some limited development and/or use rights may be reserved by the landowner pursuant to the conservation easement, so long as such rights may only be exercised in a manner that is consistent with the conservation purpose(s) of the conservation easement.

VI. Open Lands, Rivers and Trails Advisory Committee.

A. If said sales tax is approved for extension by county electors the following procedures shall continue to apply:

1. The Open Lands Advisory Committee shall make recommendations to the Board of County Commissioners regarding the disbursement of monies from the Open Lands Fund, in accordance with the guidelines set forth in this Resolution.

2. The Open Lands Advisory Committee shall consist of nine members, three of whom shall be residents of unincorporated Grand County (one from each commissioner district) and one person who shall be nominated by the governing body of his/her respective municipality in the County. The composition of the Open Lands Fund Advisory Committee ideally should have equitable representation from the agricultural, land conservation, outdoor recreation, water, business, and economic development communities.

3. Members of the Open Lands Advisory Committee shall serve for such terms and subject to such performance expectations to be determined in the by-laws.

4. Members of the Open Lands Advisory Committee shall not be compensated for their services, but will be reimbursed for related mileage accrued at the IRS rate.

5. The Open Lands Advisory Committee shall act in accordance with law, including the Colorado Code of Ethics as it is applicable to public bodies. Accordingly, no member shall vote or participate in the application process regarding an acquisition or expenditure in which he or she has a direct financial or ownership interest in the subject property or an adjacent property, or where his or her participation may have a direct economic benefit on a business or other undertaking in which such member has a financial interest.

6. The Open Lands Advisory Committee shall convene a minimum of twice a year for the purpose of reviewing applications, making recommendation to the Board of County Commissioners concerning expenditures from the Open Land's Fund and for performing its other functions under this Resolution. All meetings shall be held in accordance with the Colorado Open Meetings Act.

VII. Repeal and Amendment.

A. If the sales tax is extended by a majority of the registered electors of Grand County at the election to be held on November 7, 2023, this Resolution's provisions relating to the amount of tax imposed, specifically the three-tenths of one percent (0.3%) sales tax specified in Section II, the provisions relating to the deposit and expenditure of revenue as set forth in Sections V and the provisions of Sections VI, shall not be repealed or amended except by a vote of the registered electors of the County.
B. Except as provided in subsection A. hereof, or as otherwise provided in Article 2 of Title 29, C.R.S., the provisions of this Resolution may be repealed or amended, subsequent to its adoption of the sales tax by a majority of the electors of Grand County, by a majority vote of the Board of County Commissioners, and such repeal or amendment need not be submitted to the registered electors of the County for their approval.

IX. Miscellaneous

A. Severability. If any section, paragraph, clause, or provision of this Resolution, or the ballot question submitted to the registered electors at the election provided in Section IV above, shall be adjudged to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution or said ballot question. It is the intention of the Board of County Commissioners that the various parts of this Resolution and said ballot question are severable.

Upon motion duly made the foregoing resolution was adopted by the following vote:

[Signatures]

Aye

Aye

Aye

Commissioners

STATE OF COLORADO

County of Grand

I, .................................................., County Clerk and ex-officio Clerk of the Board of County Commissioners in and for the County and State aforesaid do hereby certify that the annexed and foregoing Order is truly copied from the Records of the Proceedings of the Board of County Commissioners for said Grand County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Hot Sulphur Springs, this ........ day of ................. A.D. 20......

County Clerk and ex-officio Clerk of the Board of Commissioners.