

STATE OF COLORADO     }  
                                      } SS.  
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 9<sup>th</sup> day of August, 2016, there were present:

- E. Jane Tollett \_\_\_\_\_, Commissioner Chairman
- Kristen Manguso \_\_\_\_\_, Commissioner
- Merrit Linke \_\_\_\_\_, Commissioner
- Alan N. Hassler \_\_\_\_\_, County Attorney
- Edward T. Moyer \_\_\_\_\_, Interim County Manager
- Sara L. Rosene \_\_\_\_\_, Clerk of the Board

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

**RESOLUTION NO. 2016-8-18**

**A RESOLUTION DESCRIBING A PROPOSAL FOR THE IMPOSITION OF A 0.3% COUNTYWIDE SALES TAX FOR THE PURPOSE OF KEEPING WATER IN THE COLORADO AND OTHER RIVERS; CONSERVING AGRICULTURAL LANDS, NATURAL AREAS, SCENIC OPEN LANDS, WILDLIFE HABITAT, WETLANDS AND RIVER ACCESS; AND MAINTAINING HIKING AND BIKING TRAILS; PROVIDING FOR THE CREATION OF A SPECIAL REVENUE FUND ENTITLED THE "OPEN LANDS, RIVERS AND TRAILS FUND" FOR THE DEPOSIT OF SUCH SALES TAX REVENUE THEREIN; CALLING AN ELECTION ON NOVEMBER 8, 2016, 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; and

WHEREAS, the Grand County Board of County Commissioners received a request to place a sales tax measure on the November 8, 2016, ballot to fund a county open lands, rivers and trails program; and

WHEREAS, the Board of County Commissioners of Grand County has determined that a question regarding the imposition of a three tenths of one percent (0.3%) sales tax for the period beginning January 1, 2017, through December 31, 2026, 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 8, 2016, 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 November 8, 2016, 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 impose a 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, 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; and to the maintenance of hiking and biking trails. The sales and use tax shall become effective at 12:01 a.m. on January 1, 2017, and cease at 11:59 p.m. on December 31, 2026.

B. Statutory Definitions Incorporated. Unless the context requires otherwise, 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. Imposition of Sales Tax. Upon majority voter approval, there is hereby imposed a 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 C.R.S., §39-26-104, subject to the same exemptions as those specified in C.R.S., §§39-26-701 to -728, including, specifically, and not by way of limitation, the exemption for sales of food, as the term "food" is defined in C.R.S., §39-26-102(4.5), as exempted from the Colorado state sales tax pursuant to C.R.S., §39-26-707; the exemption for purchases of machinery and machine tools specified in C.R.S., §39-26-709; the exemption for sales and purchases of electricity, coal, wood, gas, fuel oil or coke sold for residential use as specified in C.R.S., §39-26-715; and the exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source as specified in C.R.S., §39-26-724.
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 2012(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 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 thereunder 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-Expiration Date. Upon adoption by the electorate at the election on November 8, 2016, the sales tax provided herein shall become effective and in force at

12:01 a.m. on January 1, 2017, and shall expire at 11:59 p.m. on December 31, 2026, and upon said expiration, all monies remaining in any of the funds created hereunder may continue to be expended for the purposes set forth herein until completely exhausted. 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, 2017, if approved as set forth below.

IV. Necessity for Election. The sales tax imposed hereunder shall not become effective until and unless a majority of the registered electors voting thereon, 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 8th day of November, 2016, shall be as follows:

BALLOT TITLE

OPEN LANDS, RIVERS AND TRAILS MEASURE

BALLOT ISSUE

SHALL GRAND COUNTY TAXES BE INCREASED SEVEN-HUNDRED FIFTY THOUSAND DOLLARS AND BY WHATEVER AMOUNTS RAISED ANNUALLY, BEGINNING JANUARY 1, 2017, AND AUTOMATICALLY EXPIRING AFTER TEN YEARS, FROM A THREE TENTHS OF ONE PERCENT (0.3%) SALES TAX LEVY, WHICH WILL NOT BE COLLECTED ON SALES OF FOOD OR PRESCRIPTION DRUGS, TO BE USED SOLELY FOR:

- KEEPING WATER IN THE COLORADO RIVER AND OTHER RIVERS, LIKE THE FRASER RIVER, AVAILABLE FOR AGRICULTURE, RANCHING, AND OUTDOOR RECREATION;
- CONSERVING AGRICULTURAL LANDS, NATURAL AREAS, SCENIC OPEN LANDS, WILDLIFE HABITAT, WETLANDS, AND RIVER ACCESS THROUGH ACQUISITION; AND
- MAINTAINING HIKING AND BIKING TRAILS

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?

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. Creation of an Open Lands, Rivers and Trails Fund. A separate special revenue fund, to be known as the " Open Lands, Rivers and Trails Fund" (hereinafter referred to as "the Open Lands Fund") shall be created and 100% of the revenue derived from the sales tax imposed on the incorporated and unincorporated areas of Grand County shall be deposited thereto to be used solely for the purposes stated herein and as further described more fully below.
- A. For purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of revenues of the sales tax shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of Grand County and outside of the fiscal year spending of the County as calculated under Art. X, Section 20, and nothing in Art. X, Section 20, shall limit the receipt and expenditure in each fiscal year of the full amount of such revenues of the sales tax, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of Grand County for any fiscal year.
  - B. The Open Lands Fund shall remain inviolate, and all moneys deposited in the Open Lands Fund shall remain in trust for the purposes set forth herein, and no part thereof shall be used or appropriated for any other purpose, nor made subject to any other tax, charge, fee or restriction.
  - C. Interest generated from the revenues of the sales tax imposed herein shall be used for the purposes stated herein. Income generated from the use or lease of preserved lands, natural areas, wildlife habitats, trails, and parks acquired by Grand County or an incorporated municipality located within Grand County with the sales tax imposed herein shall be used for the purposes stated herein.
  - D. Any property donated to and accepted by Grand County for the specific purpose of benefiting the Open Lands Fund, including but not limited to contributions, grants, gifts, bequests, donations, and federal, state, or local grants, shall be deposited in the Open Lands Fund and shall be used for the purposes stated herein.
  - E. If the monies within the Open Lands Fund, including monies toward administrative expenses, are not expended by December 31st of each year, the County shall bank such funds for future use.
- VI. Open Lands, Rivers and Trails Advisory Committee. If said sales tax is approved by county electors, the Board of County Commissioners shall appoint an Open Lands, Rivers and Trails Advisory Committee (the "Open Lands Advisory Committee") within ninety (90) days following approval of the ballot question in accordance with the procedures set forth below.
- A. 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.
  - B. 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.
  - C. 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.

- D. 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.
- E. 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.
- F. 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 Lands Fund and for performing its other functions under this Resolution. All meetings shall be held in accordance with the Colorado Open Meetings Act.
- G. Promptly after its appointment and within six months' time, the Open Lands Advisory Committee shall recommend by-laws to the Board of County Commissioners, for its adoption, and recommend criteria to prioritize the selection of the grant applications. Criteria for prioritization shall include but is not limited to: quality of the resource, property size large enough to protect conservation values, contiguity to existing or likely to be protected properties, vulnerability to development, percentage of value donated by landowner, leveraging of other funds, and amount requested in grant application.

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

- A. The County shall establish an Open Lands, Rivers and Trails special revenue fund within which all revenues and expenditures from the Open Lands sales tax shall be accounted for.
- B. 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.
- C. 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, substantially in accordance with the following guidelines:
  - 1. Competitive grant applications for the purposes specified in Section VII(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, and qualified nonprofit 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 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.
    - b. Grand County, incorporated municipalities located within Grand County, and nonprofit organizations may submit grant applications requesting funding for the maintenance of hiking and biking trails, though no more than fifteen percent (15%) of the funds for the competitive grant awards may be utilized for this purpose.

2. 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.
3. 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.
4. 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.
5. On an annual basis, the County will utilize an independent auditor to audit the County's expenditures of the Open Lands Fund.

D. 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 maintain hiking and biking trails;
  - f. 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;

- g. 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 (g) above;
      - h. To implement and effectuate the purposes of the Open Lands Program.
- 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 purchased 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.

#### VIII. Repeal and Amendment

- A. If the sales tax is approved by a majority of the registered electors of Grand County at the election to be held on November 8, 2016, 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 VII, 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:

..... *E. Jane Tolett* ..... Aye  
 ..... *Gruta Mangano* ..... Aye  
 ..... *Maribel Sule* ..... Aye

Commissioners

STATE OF COLORADO    }  
                                   } SS.  
 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.

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