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Debra A Green
Park County Clerk

**PARK COUNTY, COLORADO
BOARD OF COUNTY COMMISSIONERS**

Resolution No. 18- 10

A RESOLUTION REFERRING TO THE REGISTERED ELECTORS OF PARK COUNTY AT THE NOVEMBER 6, 2018 GENERAL ELECTION A BALLOT ISSUE CONCERNING REAUTHORIZING THE EXISTING 1% SALES TAX APPROVED AS REFERENDUM 1A BY THE PARK COUNTY ELECTORS ON NOVEMBER 7, 1997, AND REAUTHORIZED ON NOVEMBER 7, 2006, FOR THE PERIOD OF JANUARY 1, 2019 THROUGH DECEMBER 31, 2028, WITH THE REVENUES DERIVED FROM SUCH 1% SALES TAX TO BE USED FOR THE PRESERVATION, PROTECTION, ACQUISITION, IMPROVEMENT AND MAINTENANCE OF PARK COUNTY LAND AND WATER RESOURCES.

WHEREAS, Article 2, Title 29, Colorado Revised Statutes, (the County and Municipal Sales or Use Tax Act, hereinafter the "Act") as amended, authorizes Park County (the "County") to impose a sales tax on the sale of tangible personal property at retail or the furnishing of services, subject to approval of the registered electors of the County; and

WHEREAS, in 1997 the Park County Electors approved Referendum 1A authorizing the collection of a 1% sales tax with the revenues being used exclusively for the preservation, protection, acquisition, improvement and maintenance of Park County's water resources and land containing associated water resources; and

WHEREAS, in 2006 the Park County Electors reauthorized such 1% sales tax for the period through December 31, 2018; and

WHEREAS, the 1% sales tax has resulted in significant success in protecting and preserving the County's water resources; and

WHEREAS, the 1% sales tax is scheduled to expire on December 31, 2018; and

WHEREAS, the Park County Board of County Commissioners ("BOCC") desires to seek voter approval to reauthorize the 1% sales tax for an additional ten (10) years in order to continue protecting and preserving the County's water resources; and

WHEREAS, Section 29-2-104(3) of the Act provides for the submission of a sales tax proposal to the registered electors of the County at a general election scheduled within 100 days after adoption of a resolution by the Board of County Commissioners; and

WHEREAS, the BOCC believes that it is in the best interests of the citizens of the County to place a ballot issue on the November 6, 2018 ballot, which seeks the reauthorization and continuation of the existing 1% sales tax for an additional ten (10) years; and

WHEREAS, the BOCC also wishes to seek voter approval to clarify and expand, via a second ballot question, the uses to which the proceeds of the 1% sales tax may be put; and

WHEREAS, the Act provides that the County Clerk and Recorder shall publish the text of the tax proposal four separate times, a week apart, in the official newspaper of the County and of each incorporated municipality within the County; and

WHEREAS, Colorado Constitution, Article X, Section 20(3)(b), requires certain election notices to be mailed to all registered voters of the County; and

WHEREAS, the Act provides that the proposal shall contain certain provisions concerning the amount, levying, and scope of the sales tax.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF PARK COUNTY:

Section 1. Purpose. The purpose of this Resolution is to submit to the registered electors the reauthorization of the existing 1% sales tax upon the sale at retail of tangible personal property and the furnishing of certain services purchased at retail, in accordance with the provisions of Article 2, Title 29, Colorado Revised Statutes, and any amendment thereto enacted before or after the effective date of this Resolution.

The proceeds of this one percent (1%) sales tax shall be expended by Park County for the following purposes:

- a) To preserve, protect, improve and maintain Park County's remaining water resources and lands in Park County containing associated water rights and water resources.
- b) To acquire fee title interest in real property in Park County containing associated water rights and water resources.
- c) To acquire less than fee title interest in real property in Park County, such as rights-of-way, easements (including conservation and agricultural), leases, options, future interests, covenants, development rights, subsurface rights and contractual rights, either on an exclusive or nonexclusive basis, for the preservation, protection, acquisition, improvement and maintenance of Park County's remaining water resources.
- d) To acquire water rights and water storage rights for use in connection with the aforementioned purposes.

Section 2. Statutory Definitions Incorporated. For the purposes of Sections 2 through 11, inclusive, of this Resolution, the words therein contained shall have the meanings as set forth in this Resolution and in Section 39-26-102, Colorado Revised Statutes, as it currently exists or as may hereafter be amended. The definitions in such statute are incorporated by this specific reference.

Section 3. Property and Services Taxed.

A. There is hereby imposed on the sale of tangible personal property at retail and the furnishing of services as provided in Section 29-2-105(1), Colorado Revised Statutes, on all such sales within Park County, Colorado, a one percent (1%) sales tax (the "Sales Tax"), in addition to any sales, use or other tax currently levied within the County. The tangible personal property and services taxable under this Resolution shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, Colorado Revised Statutes, except as specifically provided in this Resolution.

B. The amount subject to the Sales Tax shall not include the amount of any sales tax imposed by Article 26 of Title 39, Colorado Revised Statutes, as amended.

C. The Sales Tax shall not apply to the sale of construction and building materials as the term is used in Section 29-2-109, Colorado Revised Statutes, as amended, 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.

D. The Sales Tax shall not apply to the sale of food purchased with food stamps. For the purposes of this paragraph, "food" shall have the same meaning as provided in 7 U.S.C. Section 2012(g), as such section exists on October 1, 1987, or is thereafter amended.

E. The Sales Tax shall 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. Section 1786. For the purposes of this paragraph, "food" shall have the same meaning as provided in 42 U.S.C. Section 1786, as such section exists on October 1, 1987, or is thereafter amended.

F. The Sales Tax shall not apply to 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 by Park County, Colorado. A credit shall be granted against the Sales Tax with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser to the previous statutory or home rule county. The amount of the credit shall not exceed the Sales Tax imposed by Park County, Colorado.

G. Notwithstanding any other provision of this Resolution, the value of construction and building materials on which a use tax has previously been collected by an incorporated municipality or county shall be exempt from the Sales Tax if the materials are delivered by the retailer or his agent to a site within the limits of the County.

Section 4. Exemptions.

A. There shall be exempt from taxation under the provisions of this Article, all of the tangible personal property and services which are exempt under the provisions set forth in Article 26, Title 39, Colorado Revised Statutes, as amended, which exemptions are incorporated herein by this reference including the exemption of sales of food, as defined in Section 39-26-102(4.5), Colorado Revised Statutes, exempted from the state sales tax pursuant to Section 39-26-114(1)(a)(XX), Colorado Revised Statutes, sales of and purchases of those items exempted from the state sales tax pursuant to Section 39-26-114(1)(a)(XXI), Colorado Revised Statutes, purchases of machinery or machine tools as provided in Section 39-26-114(11), Colorado Revised Statutes, and occasional sales by a charitable organization as provided in Section 39-26-114(18), Colorado Revised Statutes.

B. All sales of tangible personal property on which a specific ownership tax has been paid or is payable shall be exempt from the Sales Tax when such sales meet both of the following conditions:

- (i) The purchaser is a non-resident of, or has its principal place of business outside of, the County; and
- (ii) Such tangible personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.

Section 5. General Provisions.

A. The imposition of the Sales Tax on individual sales shall be in accordance with schedules set forth in the rules and regulations promulgated by the Department of Revenue of the State of Colorado. If any vendor, during any reporting period, shall collect as the Sales Tax an amount in excess of the amount of the Sales Tax imposed by this Resolution, such vendor shall remit to the Executive Director of the Department of Revenue of the State of Colorado (the "Executive Director") the full amount of the Sales Tax herein imposed and also such excess.

B. For the purpose of the Sales Tax, 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 the County or to a common carrier for delivery to a destination outside the limits of the County. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by Article 26, Title 39, Colorado Revised Statutes, regardless of the place to which delivery is made. If a retailer has no permanent place of business in the County, or has more than one place of business, the place at which the retail sales are consummated for the purpose of

the Sales Tax shall be determined by the provisions of Article 26, Title 39, Colorado Revised Statutes, and by rules and regulations promulgated by the Department of Revenue.

Section 6. Sales Tax Collection. The collection, administration, and enforcement of the Sales Tax shall be performed by the Executive Director in the same manner as the collection, administration, and enforcement of the Colorado State Sales Tax. Unless otherwise provided by Article 2, Title 29, Colorado Revised Statutes, or by the terms of this Resolution, the provisions of Article 26, Title 39, Colorado Revised Statutes shall govern the collection, administration, and enforcement of the Sales Tax.

Section 7. Sales Tax Vendor's Fees. The vendor shall be entitled as collection agent for the County to withhold an amount equal to three and one-third percent (3 1/3%) of the total amount to be remitted by the vendor to the Executive Director each month to cover the vendor's expense in the collection and remittance of the Sales Tax. If any vendor is delinquent in remitting the Sales Tax, other than in unusual circumstances shown to the satisfaction of the Executive Director, the vendor shall not be allowed to retain any amounts to cover his or her expense in collecting and remitting said Sales Tax, and an amount equivalent to the full amount of the Sales Tax imposed by this Resolution shall be remitted to the Executive Director by any such delinquent vendor.

Section 8. Distribution and Use of Revenues. Distribution of the sales tax proceeds collected by the Executive Director of the Colorado Department of Revenue, pursuant to this resolution, shall be paid to Park County. The revenues derived from the sales tax shall be used exclusively for the purposes set forth in the ballot question set forth below, and by Park County Resolution No. 97-75. The relevant provisions of Resolution 97-75 are incorporated herein by reference. Such revenues shall continue to be deposited in a separate fund and handled in accordance with the provisions of Resolutions 97-75; and shall be expended by the Board of County Commissioners after obtaining a recommendation from the Park County Trust Fund Board, all in accordance with the provisions of Resolutions 97-75.

Section 9. Duration of One Percent (1%) Sales Tax. The Sales Tax imposed by this Resolution shall be collected from January 1, 2019 until 12:00 midnight on December 31, 2028. All monies collected prior to the expiration and remaining in the fund may continue to be used for the purposes set forth in this Resolution.

Section 10. Submission of Sales Tax Ballot Questions to Registered Electors.

A. The Sales Tax proposed herein shall be submitted to the registered electors of the County at the special election to be held on November 6, 2018. Such election shall be conducted in accordance with applicable law governing such elections.

B. The Ballot Titles on the proposed county-wide one percent (1%) sales tax and the permitted uses thereof shall be as follows, subject to administrative revisions to correct grammar or to better facilitate understanding of the title and issue:

BALLOT QUESTION _____

WITHOUT INCREASING TAXES, SHALL THE EXISTING PARK COUNTY 1% SALES TAX APPROVED AS REFERENDUM 1A BY THE PARK COUNTY ELECTORS ON NOVEMBER 7, 1997 BE REAUTHORIZED AND EXTENDED ANNUALLY FOR THE PERIOD BEGINNING JANUARY 1, 2019 AND ENDING ON DECEMBER 31, 2028,

AND SHALL THE MONEYS RECEIVED FROM SUCH SALES TAX CONTINUE TO BE RECEIVED AND SPENT BY THE COUNTY IN ANY YEAR WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER CONSTITUTIONAL LIMITATION,

WITH THE REVENUES DERIVED FROM SUCH 1% SALES TAX CONTINUING TO BE USED EXCLUSIVELY FOR THE PRESERVATION, PROTECTION, ACQUISITION, IMPROVEMENT AND MAINTENANCE OF PARK COUNTY'S REMAINING WATER RESOURCES, AND LANDS IN PARK COUNTY CONTAINING ASSOCIATED WATER RIGHTS AND WATER RESOURCES?

YES _____

NO _____

BALLOT QUESTION _____

SHALL THE PERMITTED USES OF THE PROCEEDS OF THE 1% LAND AND WATER TRUST FUND SALES TAX INCLUDE THE PRESERVATION, PROTECTION, ACQUISITION, LEASING, IMPROVEMENT AND MAINTENANCE OF WATER RIGHTS, WATER SYSTEMS/STRUCTURES, OPEN SPACE, AND WILDLIFE AND OUTDOOR RECREATION RESOURCES.

YES _____

NO _____

C. The judges of the election shall be those electors appointed by the Park County Clerk and Recorder pursuant to Section 1-5-101, Colorado Revised Statutes.

D. If the majority of the registered electors voting thereon vote for approval of this County-wide sales tax proposal, such County-wide sales tax shall be effective throughout the incorporated and unincorporated portions of Park County beginning January 1, 2019.

E. There shall be sent to all registered electors of the County, at least thirty (30) days before the general election to be held on November 6, 2018, a Ballot Issue Notice, as required by Article X, Section 20, § 3(b), of the Colorado Constitution.

F. There shall be published a Notice of Election, at least ten (10) days prior to the election to be held on November 6, 2018, in the *Fairplay Flume*. A copy of the Notice of Election shall be posted until after the election in a conspicuous place in the office of the Park County Clerk and Recorder.

Section 11. Effective Date. This Resolution shall be effective immediately upon approval by the Board of County Commissioners for Park County. The Sales Tax proposed by this Resolution shall be effective on January 1, 2019, only upon the approval of the sales tax proposed herein by a majority of registered electors at the election of November 6, 2018.

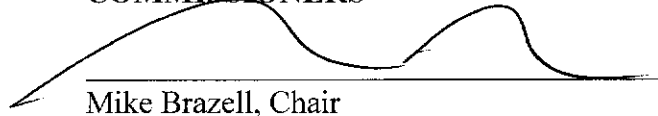
Section 12. Severability. If any part or provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provisions or application, it being the intent of the Board of County Commissioners that the provisions of this Resolution are severable.

Section 13. No Implicit Repeal. Neither this Resolution nor the approval or rejection of the sales tax proposed by this Resolution is intended to or shall repeal or affect in any way any provision of any other resolution of the County concerning a County Sales Tax, including, but not limited to, Amended Resolution No. 97-75, adopted by the Board of County Commissioners on or about October 2, 1997, and approved by the voters.

Section 14. Publication. Upon adoption, the Park County Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the *Fairplay Flume*.

ADOPTED this 22 day of March, 2018.

PARK COUNTY BOARD OF
COMMISSIONERS



Mike Brazell, Chair

ATTEST:


County Clerk or Deputy County Clerk

