

STATE OF COLORADO     }  
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County of Grand           }

At a regular meeting of the Board of County Commissioners for Grand County, Colorado, held at the Grand County Administration Building in Hot Sulphur Springs on Tuesday, the 21<sup>st</sup> day of August, 2018, there were present:

Merrit Linke \_\_\_\_\_, Commissioner Chairman  
Kristen Manguso \_\_\_\_\_, Commissioner  
Richard D. Cimino \_\_\_\_\_, Commissioner  
Robert Franek \_\_\_\_\_, County Attorney  
Lee A. Staab \_\_\_\_\_, County Manager  
Sara L. Rosene \_\_\_\_\_, Clerk of the Board

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

**RESOLUTION NO. 2018-8-21**

**A RESOLUTION BY THE BOARD OF COUNTY COMMISSIONERS OF THE  
COUNTY OF GRAND, STATE OF COLORADO REFERRING TO THE REGISTERED  
ELECTORS OF GRAND COUNTY, COLORADO, A BALLOT QUESTION  
REGARDING WHETHER THE COUNTY MAY IMPOSE AN ADDITIONAL  
COUNTYWIDE SALES TAX ON ALL SALES OF RETAIL MARIJUANA AND  
RETAIL MARIJUANA PRODUCTS IN GRAND COUNTY**

**WHEREAS**, Article X, Section 20 of the Colorado Constitution requires any proposed increase in taxes to be approved by the voters; and

**WHEREAS**, Article XVIII, Section 16 of the Colorado Constitution and the Colorado Retail Marijuana Code, C.R.S. 12-43.4-101, et seq. authorizes the licensing and regulation of retail marijuana businesses and affords local government the option to determine whether or not to allow marijuana businesses within their respective jurisdictions, and to adopt licensing requirements that are supplemental to or more restrictive than the requirements set forth in state law and regulations; and

**WHEREAS**, the Board of County Commissioners of the County of Grand, State of Colorado (the "Board") may adopt future ordinances and/or regulations allowing and establishing licensing requirements for marijuana businesses in Grand County; and

**WHEREAS**, C.R.S. §29-2-115 (3)(a)(I) provides, "A county may levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products pursuant to this subsection (3) in the unincorporated areas of the county;" and

**WHEREAS**, C.R.S. §29-2-115 (3)(a)(II) provides as follows:

A county may levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products pursuant to this subsection (3) in the municipalities within the boundaries of the county, in whole or in part, that do not levy a municipal special sales tax on the sale of retail marijuana and retail marijuana products. The county may levy a special sales tax in a municipality pursuant to this subsection (3)(a)(II) only until the municipality obtains voter approval to levy a municipal special sales tax on retail marijuana and retail marijuana products. If the municipality obtains such voter approval, the county special sales tax authorized by this subsection (3)(a)(II) is invalid within the corporate limits of the municipality unless the county enters into an intergovernmental agreement with the municipality pursuant to subsection (3)(a)(III) of this section that authorizes the county to continue to levy, collect, and enforce the special sales tax on retail marijuana and retail marijuana products within the corporate limits of the municipality.

**WHEREAS**, C.R.S. §29-2-115 (3)(a)(III) provides as follows:

A county may levy, collect, and enforce a county special sales tax upon all sales of retail marijuana and retail marijuana products pursuant to this subsection (3) in each municipality within the boundaries of the county, in whole or in part, that levies a municipal special sales tax on the sales of retail marijuana and retail marijuana products, if the governing body of the county and the governing body of the municipality enter into an intergovernmental agreement pertaining to the county's levy, collection, and enforcement of a county special sales tax upon all sales of all retail marijuana and retail marijuana products within the corporate limits of the municipality. An intergovernmental agreement pursuant to this subsection (3)(a)(III) may include a provision for the apportionment of a specified percentage of the gross county retail marijuana special sales tax revenue collected by the county to the municipality.

**WHEREAS**, C.R.S. §29-2-115 (2) provides that, for purposes of that section, "special sales tax" means a sales tax imposed by a local government in addition to the general sales tax imposed pursuant to section 29-2-102 or section 29-2-103, as applicable, and in addition to the taxes imposed pursuant to articles 26 and 28.8 of title 39;" and

**WHEREAS**, C.R.S. §29-2-115 (3)(c) provides, in part, that "No special sales tax shall be levied pursuant to this subsection (3) until the proposal has been referred to and approved by the eligible electors of the county..."; and

**WHEREAS**, the Board finds that the eligible voters of Grand County should be given the opportunity to determine whether Grand County should levy, collect and enforce an additional sales tax pursuant to C.R.S. §29-2-115 at the next scheduled general election, with the revenues collected from such tax to be placed in the general fund and in the road and bridge fund and used for public safety, road construction, general government purposes, and any other lawful purpose.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO, THAT:**

1. **Purpose of this Resolution:** The purpose of this Resolution is, upon the approval of a majority of the eligible electors voting on such Proposal at the November, 2018 General Election, to enact, and, therefore, levy and impose an additional countywide sales tax of five percent (5%) upon the sale of "retail marijuana" and "retail marijuana products" as those products are defined in C.R.S. §12-43.4-103, in accordance with the provision of Article 2 of Title 29, C.R.S., which provisions are incorporated herein by this reference.
2. **Effective Date of Sales Tax Rate Increase:** If approved by a majority of the eligible electors voting thereon at the November, 2018 General Election, the sales tax proposed in this Resolution and in the ballot issue shall become effective January 1, 2019.
3. **Statutory Definitions Incorporated/Specific Definition of Countywide:** The definitions of the words contained herein shall be as set forth in C.R.S. §§39-26-102, 39-26-201, 39-26-701, and 12-43.4-103, which definitions are incorporated by reference into this Resolution as if fully set forth herein. The term, "countywide", as used in this Resolution includes all incorporated areas (i.e., municipalities, including but not limited to all statutory cities and towns and all home rule cities and towns) and unincorporated areas within Grand County.
4. **Property Taxed:** Upon approval in the November, 2018 General Election, there shall be enacted and, therefore, levied and imposed and there shall be collected and paid, a countywide sales tax of five percent (5%) on the gross receipts upon the sale of "retail marijuana" and "retail marijuana products" as those products are defined by C.R.S. §12-43.4-103.

5. Adoption of State Rules and Regulations: The imposition of this tax on the sale of retail marijuana and retail marijuana products shall be in accordance with the rules and regulations of the Colorado Department of Revenue, and/or in accordance with any regulations of Grand County, which may be enacted by separate written resolution or ordinance.
6. Amounts Excluded: The amounts subject to tax shall not include the amount of any sales tax imposed by Article 26 of Title 39, C.R.S.
7. Exemptions: There shall be exempt from sales taxation under the provisions of this Resolution all of the tangible personal property and services which are exempt from County sales taxation under the State Statute, "Sales and Use Tax Exemptions", C.R.S. §39-26-701, *et seq.*
8. Acknowledgement of statutory exemptions: As the additional sales tax proposed by this Resolution applies only to retail marijuana and retail marijuana products and applies to no other tangible personal property, the exemptions for types of tangible personal property other than retail marijuana and retail marijuana products described in C.R.S. §29-2-105 are not applicable to this additional sales tax proposal. It is specifically acknowledged that none of the tangible personal property covered by exemptions cited in C.R.S. §29-2-105 shall be taxed by the additional sales tax proposed in this Resolution.
9. Place of Sale: For purposes of this Resolution, all sales of retail marijuana and all sales of retail marijuana products shall be considered consummated at the place of business of the retailer, unless the retail marijuana or retail marijuana product 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 of title 39, C.R.S., 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 or places at which the retail sales are consummated for the purpose of the sales tax imposed by this Resolution shall be determined by the provisions of Article 26, of Title 39, C.R.S., and by the rules and regulations promulgated by the Colorado Department of Revenue.
10. Sales Tax Vendor's Fees: As collection agent for Grand County, the vendor shall be entitled to withhold an amount equal to 3 1/3% of the total amount to be remitted by vendor to the Grand County Treasurer each month to cover vendor's expense in the collection and remittance of said County sales tax on sales of retail marijuana and retail marijuana products. If any vendor is delinquent in remitting said tax, other than in unusual circumstances shown to the satisfaction of the Grand County Treasurer, the vendor shall not be allowed to retain any amounts to cover his or her expenses in collecting and remitting said tax, and an amount equivalent to the full five percent (5%) shall be remitted to the Grand County Treasurer by any such delinquent vendor. If any vendor, during any reporting period, shall collect as a tax an amount in excess of five percent (5%) of the total taxable sales, he or she shall remit to the Grand County Treasurer the full amount of the tax herein imposed and any such excess so collected.
11. Collection, Administration and Enforcement: The collection, administration and enforcement of the sales tax on sales of retail marijuana and retail marijuana products imposed by this Resolution shall be performed by the employees of Grand County pursuant to regulations regarding collection, administration and enforcement of this additional sales tax on retail marijuana and retail marijuana products to be passed by the Grand County Board of County Commissioners prior to January 30, 2019.

If the sales tax increase proposed by this Resolution is approved by the electorate at the General Election in November, 2018, the County Clerk and Recorder, shall send notice

of said adoption to the Executive Director of the Department of Revenue. Such notice shall include:

- a. A copy of this Resolution, certified by the Clerk and Recorder;
- b. Proofs of Publication of this Resolution, as provided herein; and
- c. An abstract of election results, certified as to the approval of the sales tax by a majority of the registered, qualified electors of Grand County voting thereon.

12. Distribution of Tax Revenues: In order to carry out the purposes expressed in this Resolution and in the proposed ballot issue, and pursuant to C.R.S. §29-2-104(2), Grand County shall retain all revenue generated by the additional sales tax imposed by this Resolution for the purposes described in paragraph 13 below and there shall be no distribution of revenues generated by this additional sales tax to any incorporated town within Grand County.

13. Use by County: The Board shall direct the utilization of the revenues of the additional sales tax on retail marijuana and retail marijuana products proposed by this Resolution solely as described in the ballot measure referred to the voters of Grand County by this Resolution. Effective January 1, 2019, the County shall expend all revenue generated from the Marijuana Excise Tax for the purposes listed on the ballot language in the attached Exhibit A of this Resolution and for no other purposes. Revenue generated from the Marijuana Excise Tax shall be used as follows:

Public safety, road construction, general government purposes, and any other lawful purpose.

14. Submission to Electors: Pursuant to C.R.S. §29-2-104(3), this sales tax increase proposal as set forth in this Resolution shall be referred to the eligible electors of Grand County at the General Election to be held Tuesday, November 6, 2018, and being referred to herein as the November, 2018 General Election. The ballot issue to be submitted to the eligible electors shall be substantially as set forth on the attached Exhibit A, which Exhibit A is incorporated by reference into this Resolution as if fully set forth herein.

15. Publication of Resolution: The County Clerk and Recorder is hereby authorized and directed to publish the text of this proposal for a sales tax increase four separate times, a week apart, in the Middle Park Times, a newspaper circulated in Grand County and in each incorporated town within the County.

16. Conduct of the Election: The election shall be held and conducted and the results thereof shall be determined, so far as practicable, in conformity with the provisions of the Colorado Uniform Election Code of 1992 as set forth in Articles 1 through 13, inclusive, of Title 1, C.R.S.

17. Ballot Title: For purposes of C.R.S. §1-11-203.5, the ballot title for the ballot issue contained in Exhibit A attached to this Resolution is hereby determined to be the text of the ballot issue itself set forth in the attached Exhibit A.

18. Authority to Effect Resolution: The officers, employees and agents of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution in accordance with Colorado law.

19. Effective Date- Applicability: Upon approval at the November, 2018 General Election, this Proposal shall become effective and in force immediately, subject to the terms and conditions as set forth in this Resolution, and shall remain effective unless otherwise repealed according to Colorado law; provided, however, that the provisions of this Resolution calling for an election on the ballot issue set forth in Exhibit A shall take effect immediately upon the passage of the Resolution by the Board.

20. Statutory References: All statutory citations in this Resolution shall be construed to refer to the Colorado Revised Statutes, 2018, referred to above as C.R.S., and as the same may be from time to time amended.

21. Amendments: Unless otherwise required by Colorado law, the provisions of this Resolution may be amended by Resolution of the Board of County Commissioners.

22. Severability: If any section, paragraph, clause, or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution. It is the intention of the Board that the various parts of this Resolution are severable.

**EXHIBIT A: BALLOT QUESTION**

The following ballot question shall be submitted to a vote of the registered electorate of Grand County at a general election to be held on November 6, 2018:

**SHALL GRAND COUNTY INCREASE TAXES BY \$310,000.00 ANNUALLY IN THE FIRST FULL FISCAL YEAR AND BY SUCH AMOUNTS AS ARE RAISED THEREAFTER AS AUTHORIZED BY COLORADO REVISED STATUTES 29-2-115 THROUGH THE IMPOSITION OF AN ADDITIONAL SALES TAX OF 5%, COMMENCING JANUARY 1, 2019, UPON ALL SALES OF RETAIL MARIJUANA AND RETAIL MARIJUANA PRODUCTS WITHIN GRAND COUNTY, WITH SUCH REVENUES TO BE DEPOSITED INTO THE GENERAL FUND AND THE ROAD AND BRIDGE FUND AND BE USED AS DETERMINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GRAND, STATE OF COLORADO TO FUND PUBLIC SAFETY, ROAD CONSTRUCTION, GENERAL GOVERNMENT PURPOSES, AND ANY OTHER LAWFUL PURPOSE, AND SHALL SUCH EARNINGS THEREON BE COLLECTED, RETAINED, AND EXPENDED AS A VOTER-APPROVED REVENUE CHANGE WITHOUT LIMITATION OR CONDITION UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR ANY OTHER LAW?**

\_\_\_\_\_ YES

\_\_\_\_\_ NO

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

*Mary Ann* ..... Aye  
*Kristen Mangusa* ..... Aye  
*[Signature]* ..... 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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