

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF OURAY COUNTY DESCRIBING A PROPOSAL FOR THE IMPOSITION OF A COUNTYWIDE USE TAX ON CONSTRUCTION AND BUILDING MATERIALS AND MOTOR AND OTHER VEHICLES ON WHICH REGISTRATION IS REQUIRED AND THE SHARING OF REVENUES WITH THE TOWN OF RIDGWAY AND THE CITY OF OURAY; AND TO PROVIDE FOR THE SUBMISSION OF THIS RESOLUTION FOR APPROVAL BY THE REGISTERED ELECTORS OF OURAY COUNTY AT THE GENERAL ELECTION ON NOVEMBER 6, 2007

WHEREAS, the Board of County Commissioners of Ouray County, Colorado ("Board") tasked the Citizens Strategic Initiative and Advisory Committee ("CSIAC") to study methods of funding additional maintenance, repairs and capital improvements to Ouray County roads and bridges; and

WHEREAS, CSIAC has made certain recommendations to the Board regarding a means of funding additional maintenance, repairs and capital improvements to Ouray County roads and bridges and such recommendations are set forth in the report attached hereto and incorporated herein by this reference as Exhibit "A"; and

WHEREAS, the Board has conducted several public meetings at which the recommendations of CSIAC were presented and public comments were solicited regarding such recommendations and the need to fund additional maintenance, repairs and capital improvements to Ouray County roads and bridges; and

WHEREAS, the current mill levy and general fund monies that are devoted to the road and bridge fund are inadequate to properly maintain and make capital improvements to Ouray County roads; and

WHEREAS, current state law requires that the road maintenance impact fees that Ouray County collects on every new residence or accessory dwelling unit in Ouray County may only be used for capital expenditures; however, such monies are insufficient to address the necessary upgrades to Ouray County roads; and

WHEREAS, the Board has determined that a use tax on construction and building materials as well as motor vehicles on which registration is required is an equitable means of addressing deficiencies in the funding mechanism for road maintenance, repairs and improvements; and

WHEREAS, Article 2, Title 29, Colorado Revised Statutes (hereinafter the "Article") provides for the imposition of a use tax on the use or consumption of construction and building materials purchased at retail and on motor and other vehicles, purchased at retail on which registration is required, subject to approval of the registered electors of the County; and

WHEREAS, after careful consideration of the need to improve, repair and maintain roads throughout Ouray County ("County"), the Board has determined that the public interest requires that the rate of the County use tax should be three percent (3%) on the use and consumption of construction and building materials purchased at retail and for the privilege of storing, using or consuming in the county any motor and other vehicles, purchased at retail on which registration is required; and

WHEREAS, the County is authorized to distribute revenues resulting from the use tax to the Town of Ridgway ("Town") and the City of Ouray ("City"); and

WHEREAS, the three percent (3%) use tax of the County, if approved and imposed, would result in the imposition of a new tax on construction and building materials purchased outside of the County and used or consumed within the County and a new tax on motor and other vehicles, purchased at retail on which registration is required; and

WHEREAS, the three percent (3%) use tax of the County, if approved and imposed, would not result in the imposition of a total use tax by the State of Colorado and/or the County of Ouray in excess of six and ninety one-hundredths percent (6.90%); and

WHEREAS, if the use tax is approved by a majority of electors of Ouray County, the use tax will be deposited to the "Ouray County Road Maintenance and Capital Improvement Fund" to be used solely for providing funds necessary to make capital improvements to certain Ouray County roads and bridges as well as for performing repairs and maintenance of Ouray County roads and to repay debt, which the County may incur for completion of capital improvements to Ouray County roads;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Ouray that there shall be referred to the registered electors of Ouray County, at the general election to be held on November 6, 2007, the following proposal:

Section 1. Use Tax.

- (a) Use Tax Imposed. There is hereby imposed a Use Tax equal to three percent (3%) of the gross purchase price ("Use Tax") for the privilege of using or consuming within the County any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in the County any motor or other vehicles, purchased at retail on which registration is required, as provided in article 2 of title 29, C.R.S.
- (b) Exemption from Use Tax. The Use Tax shall not apply to:
 - (i) The storage, use or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the County;
 - (ii) The storage, use or consumption of any tangible personal property purchased for resale in the County either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of business;
 - (iii) The storage, use or consumption of tangible personal property brought into the County by a nonresident thereof for his own storage, use or consumption while temporarily within the County; however, this exemption does not apply to the storage, use or consumption of tangible personal property brought into the state by a nonresident to be used in the conduct of a business in the state;
 - (iv) The storage, use or consumption of tangible personal property by the United States government, or the state of Colorado, or its institutions or its political subdivisions in their governmental capacities only or by religious or charitable corporations in the conduct of their regular religious or charitable functions;
 - (v) The storage, use or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use any article, substance, or commodity, which

tangible personal property enters into the processing of or becomes an ingredient or component part of the product or service which is manufactured, compounded, or furnished and the container, label or the furnished shipping case thereof;

- (vi) The storage, use, or consumption of any article of tangible personal property the sale or use of which has already been subjected to a legally imposed sales or use tax of another town, city or Colorado statutory or home rule county equal to or in excess of that imposed by the Resolution. A credit shall be granted against the use tax imposed by this Resolution with respect to a person's storage, use, or consumption in this County of tangible personal property previously purchased in a town, city or Colorado statutory or home rule county. The amount of the credit shall be equal to the tax paid by the person by reason of the imposition of a sales or use tax of the previous town or city or statutory or home rule county, on the purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Resolution;
- (vii) The storage, use or consumption of tangible personal property and household effects acquired outside of the county and brought into it by a nonresident acquiring residency;
- (viii) The storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the County and he or she purchased the vehicle outside of the County for use outside the County and actually so used it for a substantial and primary purpose for which it was acquired and he or she registered, titled, and licensed said motor vehicle outside the County;
- (ix) The storage, use, or consumption of any construction and building materials and motor and other vehicles on which registration is required if a written contract for the purchase thereof was entered into prior to the effective date of the use tax;
- (x) To the storage, use or consumption of any construction and building materials required or made necessary in the performance of any construction contract bid, let or entered into at any time prior to the effective date of the use tax resolution;
- (xi) The first \$20,000.00 of construction and building materials on any project provided, however, that this exemption shall be cumulative in each calendar year such that if an owner is issued multiple building permits for minor projects, the cumulative total for all building permits shall be used for that calendar year.

Section 2. Use Tax Collection.

2.1 Construction and Building Materials Use Tax.

- (a) Administration and Collection. The collection, administration and enforcement of the three percent (3%) Use Tax on construction and building materials shall be collected, enforced and administered by the County of Ouray. The Board shall promulgate such rules and regulations as may be necessary for the proper collection, administration and enforcement of the Use Tax, including appropriate intergovernmental agreements with the

Town and the City for the collection of the Use Tax. Prior to a building permit being issued for any project in the County, Town or City, the appropriate building Official or his designee shall collect the Use Tax.

- (b) Final Enforcement. Until the Use Tax is paid in full by a taxpayer, the County, Town or City shall, at its discretion, withhold certificates of occupancy, temporary certificates of occupancy, or final inspections or other approvals. For all construction and building materials subject to the Use Tax that are not used or consumed in a project that may be subject to such permits, certificates or inspections, the Use Tax shall be paid within seven (7) days of such use or consumption. Until paid, all Use Tax determined to be owed by a taxpayer shall constitute a lien upon the real property benefited by such construction or building materials, and the County Administrator or designee is authorized to file a notice of such lien with the Ouray County Clerk and Recorder. The unpaid tax may also be certified to the County Treasurer for collection with property taxes.

2.2 Motor and Other Vehicle Use Tax Collection.

- (a) Administration and Collection. The three percent (3%) Use Tax provided for herein shall be applicable to every motor or other vehicle for which registration is required by the laws of the State of Colorado. No registration shall be made of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue of the State of Colorado or its authorized agents until any tax due upon the use, storage or consumption of such vehicle, as required by this Resolution, has been paid.
- (b) Agent for Collection. The Use Tax on motor and other vehicles shall be collected by the authorized agent of the Department of Revenue of the State of Colorado in Ouray County.

Section 3. Incurring of Debt.

If the majority of the registered electors voting thereon vote for approval of the Use Tax, as well as the question on the November 6, 2007 ballot authorizing Ouray County to incur debt, the Board of County Commissioners of Ouray County may incur debt up to an amount approved by the voters from time to time, net of any premium and costs, which may be repaid from the Use Tax authorized herein. To the extent that moneys from the Use Tax are not sufficient for the repayment of any debt incurred, the County's general fund and other legally available funds, in such amount as is necessary to pay the debt service, may be pledged for such repayment.

Section 4. Distribution of Revenues.

- (a) County's Share of the Use Tax. The County shall receive one hundred percent of the Net Revenue from the Use Tax for all motor vehicle registrations and for all Use Tax collected as part of the Ouray County building permit process.
- (b) Town's Share of the Use Tax. The Town shall receive one hundred percent (100%) of the Net Revenue of the Use Tax for all Use Tax collected as part of the Town building permit process.

- (c) City's Share of Use Tax. The City shall receive one hundred percent (100%) of the Net Revenue of the Use Tax for all Use Tax collected as part of the City building permit process.
- (d) Reporting. On an annual basis, the Town and the City shall report to Ouray County the amount of Use Tax collected and spent by each municipality.

Section 5. Use of Revenues.

- (a) County's Use of Revenue. One hundred percent (100%) of the County's portion of the Net Revenue from the Use Tax shall be deposited to the "Ouray County Road Maintenance and Capital Improvement Fund" (the "Fund"). All records of such Fund shall be open to public inspection consistent with the requirements of the Colorado Public (Open) Records Act. The revenues deposited to such Fund shall be used solely for the purpose of
 - (i) providing the funds necessary for capital road improvements to Ouray County roads in the nature of repairs, improvements or maintenance, generally described in the schedule attached hereto and incorporated herein by this reference as Exhibit "B," including personnel costs, outside contracting, engineering, materials and such other costs and expenses that may be incidental to repairs, improvements or maintenance of roads and bridges;
 - (ii) such other capital projects as may be determined through a planning process to develop and prioritize road capital projects, utilizing the guidance of the Road Committee and public input to determine the extent and scope of such projects, and, once determined, such projects shall include personnel costs, outside contracting, engineering, materials and such other costs and expenses that may be incidental to repairs, improvements or maintenance of roads and bridges;
 - (iii) repairs and maintenance to Ouray County roads and bridges, including personnel costs, outside contracting, engineering, materials and such other costs and expenses that may be incidental to repairs, improvements and maintenance of roads and bridges;
 - (iv) maintaining and acquiring materials and equipment for the maintenance, repair and improvements of Ouray County roads and bridges;
 - (v) paying the repayment costs of any debt incurred by the County, including principal and interest, on bonds or other obligations of Ouray County to fund capital road and bridge improvements.

Monies credited to the Fund shall not be available to be pledged or expended by interfund transfer or otherwise for any general purpose of the County.

- (b) Town's Use of Revenue. The Town's portion of the Net Revenue from the Use Tax shall be used for road and bridge projects through the Town's public works department.

- (c) City's Use of Revenue. The City's portion of the Net Revenue from the Use Tax shall be used for road and flume projects through the City's public works department.

Section 6. Duration. The Use Tax provided herein shall commence on January 1, 2008 and continue until repealed.

Section 7. Election. Before this Resolution shall become effective, it shall be submitted to and receive the approval of a majority of the registered electors of the County voting thereon at the general election to be held on November 6, 2007.

- (a) Conduct of Election. The Board hereby designates the County Clerk as the Election Official for the Conduct of the Election on behalf of the County, with the authority and direction to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and all constitutional and statutory provisions governing the conduct of this election. The County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colo. Const., Art. X, Section 20(3), including, but not limited to, the mailing of required election notices and ballot issue summaries.

- (b) Ballot Title. The ballot title for the Use Tax question shall be in substantially the following form:

SHALL OURAY COUNTY TAXES BE INCREASED \$900,000.00 (FIRST FULL FISCAL YEAR DOLLAR INCREASE IN 2008) AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, BY THE IMPOSITION OF A 3% USE TAX ON CONSTRUCTION AND BUILDING MATERIALS, AND FOR MOTOR AND OTHER VEHICLES PURCHASED AT RETAIL ON WHICH REGISTRATION IS REQUIRED, AND SHALL THE NET REVENUES FROM SUCH TAX BE DISTRIBUTED BETWEEN OURAY COUNTY, THE CITY OF OURAY AND THE TOWN OF RIDGWAY TO BE USED GENERALLY FOR REPAIRS, IMPROVEMENTS AND MAINTENANCE OF ROADS AND BRIDGES, AND SHALL SUCH USE TAX COMMENCE JANUARY 1, 2008, AND MAY ALL REVENUES GENERATED FROM SUCH USE TAX BE COLLECTED, RETAINED AND SPENT AS A VOTER APPROVED REVENUE CHANGE, OFFSET AND EXCEPTION TO THE LIMITS THAT WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW, ALL IN CONFORMANCE WITH OURAY COUNTY RESOLUTION NOS. 2007-052 AND 2007-054?

_____ YES _____ NO

Section 8. Severability. If any portion of this Resolution is found to be void or ineffective, it shall be deemed severed from this Resolution and the remaining provisions shall remain valid and in full force and effect.

Section 9. Amendment. This Resolution may be amended, altered, deleted, or changed by the adoption of an amending resolution in accordance with applicable law without being submitted to the electors of Ouray County for approval; provided, however, that the rate of the Use Tax, the items to be taxed and exempted from the Use Tax and the Distribution and use of the tax revenues provided herein, shall not be amended, altered, deleted or changed unless first being submitted to a vote of the electors of Ouray County for their approval.

Section 10. Effective Date. Upon passage of this Resolution and approval thereof at a subsequent election by the registered electors of Ouray County, Colorado the

proposals described in this Resolution shall take effect immediately upon approval of the electorate and the Use Tax shall become effective on January 1, 2008.

Section 11. Authorization. The officers of the County are authorized and directed to take all action necessary and appropriate to effectuate the provisions of this Resolution.

Section 12. Publication. Upon adoption, the County Clerk and Recorder shall publish the text of this Resolution four separate times a week apart, in official newspapers of the County, and in the official newspaper of each incorporated municipality in the County.

Section 13. TABOR. For purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of the use tax, together with the issuance of revenue obligations, if approved by the voters, together with any earnings on the investment of the proceeds of the use tax shall constitute a voter-approved revenue change.

APPROVED AND ADOPTED AT A SPECIAL MEETING THIS 28th DAY OF AUGUST, 2007 BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF OURAY, STATE OF COLORADO.

BOARD OF COUNTY COMMISSIONERS
OF OURAY COUNTY, COLORADO

Attest:

Don Batchelder, Chair

Heidi M. Albritton, Vice Chair

Michelle Nauer, Clerk and Recorder
By: Linda Munson-Haley, Deputy Clerk of the Board

K. Keith Meinert, Commissioner Member

June 1, 2007

CSIAC Recommendation to The Ouray Board of County Commissioners

In order to raise the needed funds to improve the maintenance of County roads to specified acceptable standards and to complete certain capital improvements as proposed by the Road and Bridge Committee, the CSIAC recommends to the BOCC the following:

1. * The imposition of a County 3% Use Tax on all building materials purchased outside the County and its municipalities in excess of \$20,000.00 collected by the County at time of issuance of a building permit. The Use Tax would apply to the municipalities of Ridgway and Ouray; however, Use Taxes collected by the municipalities shall be retained by the municipality issuing the building permit. If the purchase is made intra-county the Use Tax would be 2% plus 1% County Sales Tax.
2. * The imposition of a one time 3% Use Tax on all vehicle purchases that do not require payment of municipal sales tax to Ouray County municipalities, to be collected at the time of registration or titling. The County would retain the revenue from Use Tax on vehicles. If the purchase is made intra-county the Use Tax would be 2% plus 1% County Sales Tax.
3. * The issuance of a 10-year bond in the amount of \$2.795 million to fund certain capital improvements to certain heavily traveled roads designated by Road and Bridge as expeditiously as feasible. The debt service will be guaranteed by the full faith and credit of Ouray County and will be funded by Use Tax revenues. A Debt Service Reserve Fund would be set aside out of Bond proceeds to provide extra assurance that Bond Payments can be made on a timely basis.
4. All Use Tax revenues collected by the County shall be pledged solely and exclusively for roads consisting of debt service on capital improvements (if the bond issue is approved) and the maintenance of roads including engineering, materials, labor, and equipment costs.
5. All funds from the proceeds of the bond issue shall be used solely and exclusively for the capital improvement of County roads including engineering, material, labor, and equipment costs and separate, annually audited accounts be established for the accounting of all bond proceeds and disbursements. Said accounts shall be reasonably available for public review.
6. That the BOCC pass a resolution to continue to fund Road and Bridge with 1 mil from the General Fund.

7. That Table 2-A proposed on May 15, 2007 (Attachment #1) listing 22 County Road segments and specifying certain improvements and projected costs be adopted as the work priority for bond funded capital improvements to be completed as expeditiously as feasible.

8. The BOCC conduct at least two centrally located and fully noticed public meetings to present factual information and to receive citizen comment pertaining to road conditions, road priorities, projected maintenance and improvement costs, projected debt service, funding mechanisms and potential revenues. Additionally, it is recommended that the BOCC produce and distribute to citizens a "fact sheet" containing information needed by the public to assess the road and funding issues.

9. That following public meetings, public comment, and review conducted by the BOCC in open and regularly scheduled BOCC meetings, the BOCC prepare referenda in time for placement on the November '07 ballot. A referendum for the approval of a Use Tax as described above may be approved or disapproved by voters but the referendum on the bond obligation may only be approved if the Use Tax is approved. A "sunset provision" on the Use Tax is not recommended.

10. Pending approval of the Bond issue, the BOCC utilize George K. Baum & Company as Investment Banker for the bond issue and assistance due to its experience with previous bond issues in the County.

11. CSIAC feels strongly that the BOCC should obtain an estimated impact on the R&B revenue stream from the recent revaluation of properties in the County. This new information must be taken into account in formulating a final proposal on roads.

*IT IS UNDERSTOOD THAT VOTER APPROVAL IS REQUIRED FOR IMPLEMENTATION OF RECOMMENDATIONS 1, 2, AND 3.

EXHIBIT B

Table 2-A includes subtotal for pre-chip seal								
	Rte	length	sub-base	base	stdnd drainage	SUBTOT	Selected chip seal	Selected total
1	1	5.67	236,830	91,576	130,410	458,816	279,418	738,234
2	1	1.37	57,224	22,127	31,510	110,860	67,514	178,374
3	12	1.66	0	17,873	12,724	30,597		30,597
4	14	1.00	29,602	10,767	84,640	125,009		125,009
5	15	5.35	0	0	0	0		0
6	15	1.82	0	0	41,860	41,860		41,860
7	17	0.62	0	6,676	19,009	25,685		25,685
8	22	3.34	0	0	25,601	25,601		25,601
9	22	1.74	72,678	18,735	40,020	131,433		131,433
10	24	4.00	0	0	177,828	177,828		177,828
11	24	0.55	16,281	5,922	12,650	34,853		34,853
12	24	1.17	48,870	18,897	8,968	76,734	57,658	134,392
13	24	0.68	28,403	3,661	5,212	37,276	33,510	70,787
14	24	0.21	8,771	1,131	1,610	11,512	10,349	21,861
15	24C	0.68	20,129	0	15,640	35,769		35,769
16	24D	0.42	12,433	4,522	12,877	29,832		29,832
17	361	0.20	2,785	1,077	1,533	5,394	9,856	15,250
18	361	1.51	21,024	8,130	46,297	75,450	74,413	149,863
19	361	1.34	0	14,428	30,820	45,248		45,248
20	5	4.95	146,530	20,996	113,850	281,376		281,376
21	5	1.66	49,139	17,873	38,180	105,192		105,192
22	5A	1.23	0	0	37,712	37,712		37,712
						1,904,039		2,436,756
	conting	12%				228,485		292,411
						2,132,524		2,729,167