

August 27, 2013

## SIXTEENTH MEETING

The Board of Commissioners of the County of Fremont, State of Colorado, met in Regular Session on August 27th, 2013, 615 Macon Avenue, Room LL3, Fremont County Administration Building, Cañon City, Colorado. Commissioner Chairman Debbie Bell called the meeting to order at 9:30 A.M.

Debbie Bell	Commissioner	Present
Tim Payne	Commissioner	Present
Edward H. Norden	Commissioner	Present
Katie Barr	Clerk and Recorder	Present
Brenda Jackson	County Attorney	Present

Also present: George Sugars, County Manager; Bill Giordano, Planning and Zoning Director and Jody Blauser, Chief Deputy Clerk.

The Invocation was given by Dan Kletke from St. John Lutheran Church.

Those present recited the Pledge of Allegiance to the Flag of the United States of America.

### APPROVAL OF AGENDA

**Commissioner Payne** moved to approve the agenda. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

### CONSENT AGENDA

**Commissioner Bell** noted the scheduling of a Public Hearing for September 3, 2013 at 9:00 a.m. regarding proposed county ordinances for retail marijuana.

**Commissioner Norden** discussed item #3 on the consent agenda, a bid award to Rock Mountain Materials & Asphalt and said there may be a change order forthcoming.

**Commissioner Norden** moved to approve the consent agenda. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

### ADMINISTRATIVE/INFORMATIONAL

#### 1. Administrative and Elected Officials

**Sunny Bryant, Finance Director**, gave a report on Sales and Use Tax. The Retail Sales Tax collected in June was \$358,000 compared to \$366,000 in June of last year. Year to Date the Retail Sales Tax collected is \$1,834,000 compared to \$1,849,076 thru June of last year. Actual collections are down 2.99% compared to what was budgeted. The Auto Use Tax Collections year to date is \$349,000 compared to \$340,000 through June 2012. The Construction Use Tax collected year to date is \$85,000 compared to \$116,000 from this time last year.

**Commissioner Norden** announced the Brick Dedication Ceremony at the War Memorial will be held at 10:00 a.m. on Saturday, September 28, 2013. This is the same date of the annual fly in and air show at the Fremont County Airport.

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**Commissioner Payne** noted the John C. Fremont Sculpture at Pathfinder Park may be ready for a possible unveiling on Saturday, September 7, 2013.

2. Citizens Not Scheduled:

**Laura Ornelas** addressed the Commissioners about the poor conditions at the Fremont County Humane Society. She was a former volunteer at the Shelter. All of the allegations made against the Humane Society can be backed up by photos or eye witnesses by other volunteers and employees. This group of volunteers has spoken with the Board for the Humane Shelter regarding the poor treatment of the animals and still no changes have been made. Any of these volunteers would meet with the Commissioners regarding this issue if desired.

**OLD BUSINESS**

1. In consideration of Advanced Life Support (ALS) upgrade on ambulance license for Arkansas Valley Ambulance (AVA). Representative: Tom Anderson and Steve Morrissey.

**Tom Anderson** said Arkansas Valley Ambulance had applied for an upgrade from Basic Life Support (BLS) to Advanced Life Support (ALS) status. This issue was tabled last month due to an ongoing investigation on a complaint. This investigation is now being investigated by the Colorado Department of Public Health and Environment EMTS Division. Anderson read an email dated July 24<sup>th</sup> from Dr. Weber regarding his recommendation for the ALS upgrade. Dr. Weber recommends that AVA be kept at a BLS level until a coordinated care plan is in place to make sure care can be given at the highest level of standards. Mr. Anderson agrees with Dr. Weber's recommendation.

**Jay DeMay** said this is their third attempt at ALS status. He said the investigation was derived from a politically motivated complaint. Arkansas Valley Ambulance has been in service for 229 days without a dropped call. He does not feel that AVA should be penalized from a complaint that is against him. DeMay has not received any notification that the investigation is at the state level. Commissioner Payne noted the email from Dr. Weber that states Arkansas Valley Ambulance should be kept at BLS status until a coordinated care plan can be established between Deer Mountain Fire and Arkansas Valley Ambulance. De May stated there is not an IGA in place at this time.

**Dr. Numsen** said he will begin working with AVA as their Medical Director officially on September 1, 2013. He is not clear on what the violation in January was, based off his interpretation of the current resolution. Commissioner Norden asked what Dr. Numsen's recommendation will be for AVA as of September 1<sup>st</sup>. Dr. Numsen does not have an opinion at this point as he currently does not have enough information to make a recommendation. Dr. Numsen will await the investigation results from the state before making a recommendation.

**Jay De May** clarified the Board of Commissioners has not denied Arkansas Valley Ambulance anything. The political turmoil is not at the County level.

**Commissioner Norden** moved to table the consideration of an ALS upgrade for Arkansas Valley Ambulance until the September 24, 2013 Board of County Commissioners Meeting awaiting the report from the Colorado Department of Health and Environment EMS Division's investigation and to hear the recommendation from Dr. Numsen. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

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### **NEW BUSINESS**

1. In Consideration of a Proposal and Resolution concerning an increase of one cent (1.00%) in the Fremont County Sales and Use Tax, raising the Sales and Use Tax from one and one-half percent (1.5%) to two and one-half percent (2.5%) beginning January 1, 2014 and ending on December 31, 2023. Representative: Jim Beicker, Fremont County Sheriff.

**Sheriff Beicker** requested the Commissioners vote in favor of this Resolution and place it on the November ballot. He said the Sheriff's Department is a unique agency that is tasked with many different responsibilities. The jail is very understaffed. His Deputies provide security to the Court House and Judges. The transport division logs thousands of miles transporting inmates. Search and Rescue has received minimal funding. Wild land Fire fighting is a huge financial responsibility. His office issues concealed weapons permits, does fingerprinting, background checks and civil process. The budget cuts are so severe they are a detriment to public safety. Other municipalities that are required by law to provide or contract for law enforcement services rely on the Sheriff's Department even though they have never paid for these services. The regional dispatch center is needed but there is no funding for it. The School Districts do not reimburse the Sheriff's Department for any of the deputies at the five schools in the Sheriff's jurisdiction. The Investigations Unit is not compensated for being on call and has an overwhelming case load. The Sheriff continues to slash training and operational budgets. Many of the vehicles are old and have high miles. There is not even an animal control officer in the County. The Sheriff hopes the voters will vote in favor of the Sales Tax increase.

**Lissa Pinello** supports the Tax increase request but is worried it will not be enough. She suggested a large tax be placed on the marijuana industry to provide additional revenue.

**Leif Wagner** said the taxation of retail marijuana would immensely help the Sheriffs budget.

**Commissioner Norden** hopes the voters realize things have gotten worse. The jail staff has had 7 out of 16 positions cut. He thanked the dedicated staff for all of their hard work.

**Commissioner Norden** moved to approve Resolution #35 placing a one percent sales tax increase proposal on the ballot for the November 5, 2013 Election. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried. Resolution #35 is attached.

2. Request: SRU 10-006 Sporting Times Ranch & Red Horse B&B Extension of Contingency Deadline. Request approval of a third twelve month extension of the deadline for submittal of contingency items in conjunction with Special Review Use #SRU006 Sporting Times Ranch & Red Horse B&B. Said Special Review Use was approved on January 11, 2011, contingent upon specified items being provided to the Department of Planning and Zoning within six months after approval of the application by the BOCC. A twelve month extension was granted on July 11, 2012, expiring on July 11, 2013. The property is located on the west side of Garden Park Road, 4.5 miles north of the intersection of Field Avenue and Red Canyon Road (aka Garden Park Road). Representative: Court Stevens.

**Court Stevens** explained his wife suffered a severe spinal injury in an accident and has required two major surgeries. He has devoted all of his time in aiding his wife. Mr. Stevens has not been able to meet all of the SRU requirements and is asking for an extension.

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**Planning and Zoning Director Giordano** said the Department did receive a letter from the applicant requesting an extension on the contingencies. Normally they would grant a one year extension. The applicant also requested a waiver of the extension fee. Commissioner Norden asked if there would be a problem with a 24 month extension. Mr. Giordano said that would be acceptable.

**Commissioner Norden** moved to approve a 24 month extension of the contingency items deadline and waiving the \$175 fee for SRU 10-006 Sporting Times Ranch & Red horse B&B. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

3. Request: SRU 12-001 Eden West Ranch (Major Modification) Extension of Contingency Deadline. Request approval of a six month extension of the deadline for submittal of contingency items in conjunction with Special Review Use #SRU 12-001 Eden West Ranch (Major Modification). Said Special Review Use was approved on June 12, 2012, contingent upon specified items being provided to the Department of Planning and Zoning within six months after approval of the application by the BOCC. The property is in the Agricultural Forestry Zone District and the total size of the property is 44.63 acres. Representative: Neil Hartman, Owner.

**Neil Hartman** said they have run into difficulties complying with the contingencies from the Division of Water Resources and the Planning and Zoning Department. They have had some issues with water rights. Mr. Hartman hopes to have everything finalized within a few weeks but is requesting a six month extension.

**Planning & Zoning Director Giordano** said this was approved in June 2012. The Division of Water Resources now requires that all applications for subdivision or land use applications go through their division as well. Mr. Hartman was the first applicant to have to complete this process. The final decision from the Division of Water Resources has now been received so it is appropriate to ask for an official extension. The extension would be granted back from December 2012 through December 2013.

**Commissioner Payne** moved to approve an extension of the contingency deadline through December 2013 for SRU 12-001 Eden West Ranch. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

4. Request: TUP 13-008 Colorado Trappers Association Convention  
Request approval of a Temporary Use Permit to allow a Trapper's Convention and Rendezvous to be held at the Spearman Ranch on County Road 5, by Daniel Gates. The event will provide trapping and hunting demos and seminars, Colorado Parks & Wildlife exhibits, and other related activities. The event will be August 31<sup>st</sup> and September 1<sup>st</sup> 2013 from 8:00 a.m. to 8: p.m. each day. Representative: Daniel Gates, Colorado Trappers Association Convention.

**Daniel Gates** said they are seeking a Temporary Use Permit for the 37<sup>th</sup> Annual Colorado Trappers Association Convention and Rendezvous. He said the event is held in a different location every year and Fremont County was selected this year. He hopes this will bring recognition and revenue to our area. Mr. Gates discussed the details of the event.

**Planning & Zoning Director Giordano** said the application is in order and they are in compliance with the regulations. The Board would need to accept the general liability insurance policy. The applicant is requesting a waiver of the surety bond for cleanup.

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**Ray Fallen** said he is a neighbor adjacent to the property the event will be held on. He will be directly impacted by the event. He has been in contact with Mr. Gates regarding the event and fully supports it.

**Jack Webb** said the event is being held on their property. He believes this will be a benefit to the community. Mr. Webb has no concerns with the event.

**Commissioner Payne** moved to approve TUP 13-008 Colorado Trappers Association Convention and Rendezvous accepting their liability insurance and waiving the surety bond for cleanup. Commissioner Norden seconded the motion. Upon Vote: Commissioner Payne, aye; Commissioner Norden, aye; Commissioner Bell, aye. The motion carried.

5. Request: LLA 13-001 Denbar Lot Line Adjustment No. 2. Request approval of a Lot Line Adjustment, Department file #LA 13-001 Denbar Lot Line Adjustment No. 2, by Carl L. Dennis and Barbra J. Dennis. The properties are located at 0086 West View Place (Lot A, Denbar Lot Line Adjustment, previously known as Lot 5, Block 11 Glen Vista Filing No. 5) and 6681 Fremont County Road #28 (Lot B, Denbar Lot Line Adjustment, previously known as Lot 3, Block 5, Glen Vista Filing No. 4) in the Glen Vista Area. Representative: Matt Koch, Cornerstone Land Surveying, Inc.

**Matt Koch** said the applicants had completed a lot line adjustment one year ago, and the lot size was non-conforming. The applicant had moved in a modular but due to the previous lot line adjustment the septic was not in the correct location. This will make the lot conforming.

**Planning & Zoning Director Giordano** said the regulations allow for an administrative approval as long as there is no increase in the degree of non-conformity, which is the case with this application. After discussion with County Attorney Jackson it was suggested this approval come from the Board of Commissioners.

**Commissioner Norden** moved to approve LLA 13-001 Denbar Lot Line Adjustment No. 2. Commissioner Payne seconded the motion. Upon Vote: Commissioner Norden, aye; Commissioner Payne, aye; Commissioner Bell, aye. The motion carried.

**PUBLIC HEARINGS SCHEDULED FOR 10:00 A.M.**

None.

**Chairman Bell** adjourned the meeting at 10:55 A.M.

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Clerk and Recorder

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 Katie E. Barr, Clerk and Recorder, Fremont County, CO

RESOLUTION NO. 35, SERIES OF 2013

**A PROPOSAL AND RESOLUTION CONCERNING AN INCREASE OF ONE CENT (1.00%) IN THE FREMONT COUNTY SALES AND USE TAX, RAISING THE SALES AND USE TAX FROM ONE AND ONE-HALF PERCENT (1.5%) TO TWO AND ONE-HALF PERCENT (2.50%) BEGINNING JANUARY 1, 2014 AND ENDING ON DECEMBER 31, 2023; SUCH PROCEEDS TO BE USED FOR FUNDING THE STATE-MANDATED LAW ENFORCEMENT AND EMERGENCY SERVICES PROVIDED BY THE FREMONT COUNTY SHERIFF'S OFFICE; UPON APPROVAL OF THE REGISTERED ELECTORS OF FREMONT COUNTY, COLORADO; AUTHORIZATION FOR THE COUNTY TO COLLECT AND EXPEND \$2,800,000.00 IN EACH YEAR ABOVE THE AMOUNT THE COUNTY IS OTHERWISE AUTHORIZED TO COLLECT AND EXPEND PURSUANT TO ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION AND §29-1-301, C.R.S., TOGETHER WITH ANY AND ALL SUCH ADDITIONAL AMOUNTS AS MAY BE GENERATED BY THE IMPOSITION OF THE ONE CENT SALES AND USE TAX, AND PROVIDING FOR THE SUBMISSION OF THIS PROPOSAL AND RESOLUTION TO A VOTE OF THE REGISTERED ELECTORS OF THE COUNTY AT THE ELECTION TO BE HELD ON NOVEMBER 5, 2013.**

**WHEREAS**, Fremont County, Colorado (the "County") is authorized pursuant to part 1 of Article 2 of Title 29, Colorado Revised Statutes, as amended ("CRS") to levy a county sales tax on the sale of tangible personal property at retail, and the furnishing of services, upon the approval of the registered electors of the County voting on such proposal, which shall be effective throughout the incorporated and unincorporated portions of the County; and

**WHEREAS**, the County is authorized by law to levy a county use tax on the privilege of using or consuming in the County any construction and building materials purchased at retail or for the privilege of storing, using or consuming in the County any motor and other vehicles purchased at retail on which registration is required upon the approval of the registered electors of the County voting on such proposal, which shall be effective throughout the incorporated and unincorporated portions of the County; and

**WHEREAS**, the Fremont County Sheriff's Office is in critical need of additional funding for operations, including management and operation of the jail, salaries for patrol deputies, and other public and community safety programs and services; and

**WHEREAS**, the additional funding which would be realized through the imposition of an additional one percent (1.00%) sales and use tax would allow the Fremont County Sheriff to provide an adequate level of services that are legally required and deemed necessary for Fremont County residents; and

**WHEREAS**, due to the revenue and spending limitations contained in Article X, Section 20 of the Colorado Constitution, approval of an additional one cent per one dollar sales and use tax for Sheriff's Office operations would be ineffective without removal of the revenue and spending limitations imposed upon such funding; and

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**WHEREAS**, Article X, Section 20, part 3(a) provides that a referred measure may be decided on the first Tuesday in November of odd-numbered years, or at an election held not less than thirty days nor more than ninety days after the adoption of the resolution referring such measure to the ballot; and

**WHEREAS**, the Board of County Commissioners of the County ("Board") finds that it is in the best interest of the present and future inhabitants of the County to submit a proposal for an increase of one percent (1.00%) on the sales and use tax to the registered electors of the County for the purpose of obtaining their approval of this Proposal and Resolution; and

**WHEREAS**, an election is scheduled for November 5, 2013, which is no more than 90 days from the date of adoption of this resolution; and

**WHEREAS**, part 1 of Article 2 of Title 29, Colorado Revised Statutes provides that the County Clerk and Recorder shall publish the text of such tax proposal four separate times, a week apart, in the official newspaper of the County and of each city and incorporated town within the County; and

**WHEREAS**, Article X, Section 20(3)(b), Colorado Constitution requires that certain additional election notices be published or posted as provided therein; and

**WHEREAS**, Articles 1 to 13, Title 1, C.R.S., requires that certain additional election notices be published or posted as provided therein; and

**WHEREAS**, part 1 of Article 2 of Title 29, Colorado Revised Statutes provides that the proposal shall contain certain provisions concerning the amount, levying and scope of such tax.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FREMONT COUNTY, COLORADO, AS FOLLOWS:**

**1. Definitions.** For the purpose of this Proposal and Resolution, the definition of words herein contained shall be as defined in Sections 39-26-102 and 39-26-201, C.R.S., and said definitions are incorporated herein by this reference.

**2. Sales Tax Imposed on Sales and Services.** Subject to voter approval as set forth herein, there is hereby levied and imposed and there shall be collected and paid a countywide sales tax of one percent (1.00%) of the gross receipts, upon the sale of tangible personal property at retail or the furnishing of certain services, as provided in Section 29-2-105 (1)(d), C.R.S., upon all taxable transactions in the County, bringing the total County sales tax to two and one-half percent (2.50%). The imposition of the tax on the sale at retail of tangible personal property and the furnishing of certain services subject to this tax shall be in accordance with schedules set forth in the rules and regulations of the Colorado Department of Revenue and in accordance with any regulations which may be enacted by separate resolution of the Board.

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**3. Place of Sale.** For the purpose of this Proposal and Resolution, all retail sales shall be 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 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 at which the retail sales are consummated for the purpose of the sales tax imposed by this Proposal and Resolution shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Colorado Department of Revenue.

**4. Property and Services Subject to Sales Tax - Exemptions and Limitations.**

a. The tangible personal property and services taxable pursuant to this Proposal and Resolution shall be the same as the tangible personal property and services taxable pursuant to the State of Colorado sales tax laws, Section 29-2-105 and Section 39-26-104, C.R.S. The tangible personal property and services taxable pursuant to this Proposal and Resolution are subject to the same sales tax exemptions as those specified in part 7, Article 26, Title 39, C.R.S. The sales and use tax imposed pursuant to this Resolution and Proposal, will be expressly subject to the following exemptions, as provided in §29-2-105(1)(d), C.R.S., and no others:

1. Exemption for sales of machinery or machine tools specified in §39-26-709, C.R.S.;
2. Exemption for sales of electricity, coal, wood, gas, fuel oil, or coke specified in §39-26-715(1)(a)(II), C.R.S.;
3. Exemption for sales of food, as specified in §39-26-707(1)(e), C.R.S.;
4. Exemption for vending machine sales of food specified in §39-26-714(2), C.R.S.;
5. Exemption for sales by a charitable organization specified in §39-26-718(1)(b), C.R.S.;
6. Exemption for sales of farm equipment and farm equipment under lease or contract specified in §39-26-716(2)(b) and (2)(c);
7. Exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in §39-26-724, C.R.S.;
8. Exemption for sales by an association or organization of parents and teachers of public school students that is a charitable organization as specified in §39-26-718(1)(c), C.R.S.;
9. Exemption for sales that benefit a Colorado school specified in §39-26-718(1)(c), C.R.S.

b. The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, C.R.S.

c. 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 this Proposal and Resolution when such sales meet both of the following conditions:

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1. The purchaser is a nonresident of, or has his principal place of business outside of the County; and

2. Such personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.

d. The sales tax imposed by this Proposal and Resolution shall not apply to the sale of construction and building materials, as the term is used in §29-2-109, C.R.S., 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 Fremont County evidencing that a local use tax has been paid or is required to be paid.

e. The sales tax imposed by this Proposal and Resolution 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 Fremont County. A credit shall be granted against the sales tax imposed by Fremont 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 by Fremont County.

f. The sales tax imposed by this Proposal and Resolution shall not apply to the sale of food purchased with food stamps. For the purposes of this exemption, "food" shall have the same meaning as provided in 7 U.S.C. §2012 (g), as such Section existed on October 1, 1987, or as thereafter amended.

g. The sales tax imposed by this Proposal and Resolution 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. §1786. For the purposes of this exemption, "food" shall have the same meaning as provided in 42 U.S.C. §1786 as such Section existed on October 1, 1987, or as thereafter amended.

##### **5. Collection, Administration and Enforcement.**

a. The collection, administration, and enforcement of the sales tax imposed by this Proposal and Resolution shall be performed by the Executive Director of the Department of Revenue of the State of Colorado (the "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 any amendment thereto enacted before or after the effective date of this Proposal and Resolution, together with all rules and regulations promulgated by the Executive Director shall govern the collection, administration, and enforcement of the sales tax imposed by this Proposal and Resolution.

b. The Vendor (retailer) shall be liable and responsible for the payment of the sales tax imposed by this Proposal and Resolution and shall remit such payment to the

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Executive Director in accordance with the applicable provisions of Title 39, article 26, C.R.S. The Vendor shall be entitled as collecting agent to withhold a collection fee in the same amount and in the same manner as authorized in Sections 39-26-105, C.R.S., and any amendment thereto enacted before or after the effective date of this Proposal and Resolution, for the total amount due by the Vendor to the Executive Director. Such Vendor shall not be entitled to retain the collection fee for each month that the Vendor is delinquent in remitting said tax, unless good cause is shown for the delinquent remittance.

**6. Deficiency Notice and Dispute Resolution.** In the event that the County asserts that sales or use taxes are due in an amount greater than the amount paid by a taxpayer, the State shall follow the procedure set forth in Section 29-2-106.1, C.R.S., including, but not limited to, the mailing of a deficiency notice to the taxpayer by certified mail. Such deficiency notice shall state the additional sales and use taxes due and must notify the taxpayer, in clear and conspicuous type, that the taxpayer has a right to elect a hearing on the deficiency pursuant to Section 29-2-106.1(3), C.R.S.

**7. Use Tax Imposed.** Subject to voter approval as set forth herein, there is hereby levied and imposed and there shall be collected and paid a countywide use tax of one percent (1.00%) of the gross receipts, upon the sale of tangible personal property at retail or the furnishing of certain services, as provided in Section 29-2-109 (1), C.R.S., upon all taxable transactions in the County, bringing the total County use tax to two and one-half percent (2.50%). The use tax shall be imposed only for the privilege of using or consuming in the County any construction and building materials purchased at retail or for the privilege of storing, using, or consuming in the County any motor and other vehicles purchased at retail on which registration is required, or both. The term "construction and building materials" shall not include parts or materials utilized in the fabrication, construction, assembly, or installation of passenger tramways, as defined in §25-5-702, C.R.S., by any ski area operator, as defined in §33-44-103(7), C.R.S., or any person fabricating, constructing, assembling, or installing a passenger tramway for a ski area operator.

**8. Use Tax Exemptions.** In no event shall the use tax imposed by this Proposal and Resolution apply:

a. To 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;

b. To 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 a business;

c. To 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 of Colorado by a nonresident to be used in the conduct of a business in this State;

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d. To 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 religious or charitable functions.

e. To 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;

f. To 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 statutory or home rule county equal to or in excess of that imposed by this Proposal and Resolution. A credit shall be granted against the use tax imposed by this Proposal and Resolution with respect to a person's storage, use or consumption in the County of tangible personal property previously purchased by him in another statutory or home rule county. The amount of the credit shall be equal to the tax paid by him by reason of the imposition of a sales or use tax of the previous statutory or home rule county on his purchase or use of the property. The amount of the credit shall not exceed the tax imposed by this Proposal and Resolution;

g. To 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;

h. To 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 purchased the vehicle outside of the County for use outside of the County and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled, and licensed said motor vehicle outside of the County;

i. To 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 imposed by this Proposal and Resolution;

j. 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 imposed by this Proposal and Resolution;

k. To the storage of construction and building materials.

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**9. Motor and Other Vehicle Use Tax Collection.**

a. The use tax provided for herein shall be applicable for every motor vehicle for which registration is required by the laws of the State of Colorado, and 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 or for a mobile home by the Department of Revenue of the State of Colorado or its authorized agent until any tax due upon the storage, use, or consumption thereof pursuant to this Proposal and Resolution has been paid.

b. The use tax imposed by this Proposal and Resolution applicable to motor and other vehicles shall be collected by the authorized agent of the Department of Revenue of the State of Colorado in the County.

c. The proceeds of the use tax imposed by this Proposal and Resolution applicable to motor and other vehicles shall be distributed to the County periodically as specified by law or by contract entered into with the Department of Revenue pursuant to Section 24-35-110, C.R.S.

**10. Collection of Construction and Building Materials Use Tax.** The collection of the use tax for construction and building materials shall be administered at the direction of the Board. The use tax may be paid by estimate through the payment of the tax at the time permits are issued for building and construction. As an alternative to the estimate procedure, and with the specific, written authorization of the Board, payment of this use tax may be made by the filing by any applicant for a building permit of an affidavit stating that the applicant intends to purchase all building and construction material necessary for the project described in the building permit application from a licensed retailer located within the County. Every building permit applicant who utilizes the alternative procedure provided above shall maintain and preserve detailed purchase and receipt records which shall be subject to inspection and audit by employees of the Board, and any unpaid taxes due shall be subject to collection. The collection and administration of the use tax imposed by this Proposal and Resolution shall be performed at the direction of the Board in substantially the same manner as the collection, administration and enforcement of the sales and use tax of the State of Colorado.

**11. Use of Tax Proceeds.** All proceeds collected from the additional 1.00% sales and use taxes authorized herein shall be used for the following and for no other purpose:

- A) Law Enforcement:
1. Hiring, employing, training, equipping, and retaining patrol deputies, investigators, animal control officer and civilian support staff;
  2. Replacing obsolete and failing communication equipment;
  3. Replenishing out of date and overused vehicles;
  4. Purchasing ammunition, fuel, and other operational supplies and equipment.

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B) Criminal Justice:

1. Hiring, employing, training, equipping, and retaining detention deputies, civilian support staff, and court transport deputies;
2. Conducting criminal extradition;
3. Replacing out of date secure electronics to include door control systems and camera systems;
4. Purchasing operational equipment and supplies;
5. Addressing additional security, safety, operations, and maintenance costs at the county jail.

**12. Submission to Electors.** Upon approval of this Proposal and Resolution by the Board, the sales and use tax proposal contained herein is hereby referred to the qualified and registered electors of the County for determination at the statewide election, which will be conducted as a mail ballot election in Fremont County, concluding on the fifth day of November, 2013, there shall be submitted to the vote of the registered electors of Fremont County the question herein authorized.

**13. Contents of the Ballot.** At said election the official ballot, including absentee and mail ballots, shall state the substance of the question to be voted upon and so stated shall constitute the ballot Title, designation and submission clause, and each registered elector voting at the election shall indicate his or her choice on the question submitted, which shall be in the following form:

SHALL FREMONT COUNTY SALES AND USE TAX BE INCREASED APPROXIMATELY \$2,800,000.00 ANNUALLY TO DIRECTLY FUND THE URGENT PUBLIC SAFETY NEEDS IDENTIFIED BY FREMONT COUNTY SHERIFF JIM BEICKER, THE CHIEF LAW ENFORCEMENT OFFICIAL SERVING ALL RESIDENTS OF THE CITIES, TOWNS AND UNINCORPORATED AREAS WITHIN THE BOUNDARIES OF FREMONT COUNTY, AS CRITICAL TO PERFORMING HIS STATUTORY OBLIGATIONS TO ALL FREMONT COUNTY RESIDENTS, BY INCREASING THE COUNTY'S SALES AND USE TAX RATE BY ONE CENT (\$0.01) PER DOLLAR, PURSUANT TO PART 1 OF ARTICLE 2 OF TITLE 29, COLORADO REVISED STATUTES; WHICH NEEDS ARE SPECIFICALLY IDENTIFIED IN THE AREAS OF LAW ENFORCEMENT AND CRIMINAL JUSTICE WITH ALL REVENUES GENERATED TO BE RESTRICTED TO THE FOLLOWING AND USED FOR NO OTHER PURPOSE:

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1. LAW ENFORCEMENT NEEDS: HIRE, EMPLOY, TRAIN AND EQUIP PATROL DEPUTIES, INVESTIGATORS, ANIMAL CONTROL OFFICER AND CIVILIAN SUPPORT STAFF; CONDUCT FIRE AND CRIMINAL INVESTIGATIONS; REPLACE OBSOLETE AND FAILING COMMUNICATION EQUIPMENT, PURCHASE AMMUNITION, FUEL AND OTHER OPERATIONAL SUPPLIES AND EQUIPMENT; AND

2. CRIMINAL JUSTICE NEEDS: HIRE, EMPLOY, TRAIN AND EQUIP DETENTION DEPUTIES, COURT TRANSPORT PERSONNEL AND CIVILIAN SUPPORT STAFF; CONDUCT CRIMINAL EXTRADITION; REPLACE OUTDATED SECURE ELECTRONICS INCLUDING DOOR CONTROLS AND CAMERAS TO ADDRESS ADDITIONAL SECURITY, SAFETY, OPERATIONS;

COMMENCING ON JANUARY 1, 2014 AND AUTOMATICALLY ENDING ON DECEMBER 31, 2023 (TEN YEAR SUNSET PROVISION), AND SHALL THE COUNTY BE AUTHORIZED TO COLLECT AND EXPEND ANY AND ALL SUCH PROCEEDS GENERATED BY THE ONE CENT (1.00%) SALES AND USE TAX WITHOUT STATUTORY OR CONSTITUTIONAL LIMITATION OR CONDITION, INCLUDING SECTION 29-1-301, COLORADO REVISED STATUTES AND ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

YES \_\_\_\_\_

NO \_\_\_\_\_

**14. Conduct of the Election.** The election shall be conducted under the provisions of the Colorado Election Code as set forth in C.R.S. Section 1-7-101, et seq.

**15. Notice of Ballot Issue.** The County Clerk and Recorder of Fremont County, State of Colorado, shall give public notice of the election on the question hereby submitted by causing a notice to be published in the Canon City Daily Record as provided by law, and by mailing to "All Registered Voters" at each address within Fremont County, Colorado, at which one or more electors is registered, within such time limits as permitted by law, a notice entitled, "Notice of Election on a Referred Measure". The notice shall include only (a) the election date and hours for voting, (b) the ballot Title, (c) the text of the measure to be voted upon, (d) the office address and the telephone number of the Fremont County Clerk and Recorder, (e) the estimated or actual total of County fiscal year spending for the current year and each of the past four years, and the overall percentage and dollar change, (f) for the first full fiscal year of the proposed County tax increase, County estimates of the maximum dollar

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amount of each increase and of County fiscal year spending without the increase and (g) two summaries, not more than five hundred words each, one for and one against the measure, of written comments filed with the County Clerk and Recorder by thirty days before the election. No summary shall mention names of persons or private groups, nor any endorsements of or resolutions against the measure to be voted upon. The County Clerk and Recorder shall maintain on file and accurately summarize all relevant written comments.

**16. Additional Publication of the Proposal and Resolution.** The County Clerk and Recorder is directed to publish the text of this Proposal and Resolution in full, four separate times, a week apart, in the Canon City Daily Record, the official newspaper of the county, and also in the official newspaper of each city and incorporated town within the county.

**17. Procedure after Election.** If a majority of all votes cast at the election shall be for the measure, the measure shall be deemed passed, the County Clerk and Recorder of the County shall, at least forty-five (45) days prior to January 1, 2014 (on or before November 17, 2013) submit notice of the adoption of the same to the Executive Director of the Department of Revenue, together with a certified copy of this Proposal and Resolution.

**18. Administration.** The Board may adopt such uniform rules and regulations as may be necessary for the administration and enforcement of this Proposal and Resolution, and the Board or their authorized representatives are hereby empowered to enter and execute on behalf of the County any agreements necessary for the administration and enforcement of this Proposal and Resolution.

**19. Repeal and Amendment.**

a. If this Proposal and Resolution is approved by a majority of the registered electors of the County at the statewide election (Fremont County mail ballot election) to be concluded on November 5, 2013, its provisions relating to the amount of tax imposed, specifically, the one cent (1.00%) sales tax specified in Paragraph 2 of this Proposal and Resolution and the one cent (1.00%) use tax specified in Paragraph 7 hereof, and the provisions relating to the distribution of revenue as set forth in Paragraph 11 hereof, shall not be repealed or amended except by resolution of the Board, approved by the vote of the people in the same manner as in the original adoption hereof.

b. Except as provided in subsection (a) hereof or as otherwise provided in Title 29, Article 2, part 1, C.R.S., the provisions of this Proposal and Resolution may be repealed or amended, subsequent to its adoption, by majority vote of the Board, and such repeal or amendment need not be submitted to the registered electors of the County for their approval.

**20. Effective Date.** Upon adoption by the registered electors voting thereon vote for approval of this County-wide sales and use tax proposal, such additional tax shall be effective and in force on January 1, 2014.

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**21. Ratification.** All action heretofore taken by the County and by the officers thereof not inconsistent herewith directed toward the imposition of a countywide sales and use tax is hereby ratified, approved and confirmed.

**22. Repealer.** All acts, orders, resolutions, ordinances, or parts thereof, taken by the County and in conflict with this Proposal and Resolution are hereby repealed, except that this repealer shall not be construed so as to revive any act, order, resolution or part thereof, heretofore repealed.

**23. Severability.** If any provision of this Proposal and Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Proposal and Resolution which can be given effect without the invalid provision or application, and to this end, the provisions of this Proposal and Resolution are declared to be severable.

ADOPTED AND APPROVED this 27<sup>th</sup> day of August, 2013.

Commissioner Norden moved the adoption of the foregoing Resolution with a second by Commissioner Payne.

Debbie Bell	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Edward H. Norden	<u>AYE</u>	NAY	ABSTAIN	ABSENT
Timothy R. Payne	<u>AYE</u>	NAY	ABSTAIN	ABSENT

The Resolution was declared to be duly adopted.

Debbie Bell  
Chairman

Attest: Hattie E. Bau  
Clerk