After recordation please return document to
Terri Maulik, Clerk to the Board

STATE OF COLORADO
COUNTY OF ARAPAHOE } *ss.*

At the regular meeting of the Board of County Commissioners for Arapahoe County, Colorado held at the Administration Building, Littleton, Colorado on Tuesday, the 30th day of August, 2011, there were present:

Rod Bockenfeld, Chair	Present
Nancy Sharpe, Chair Pro-Tem	Present
Susan Beckman, Commissioner	Present
Nancy Jackson, Commissioner	Present
Frank Weddig, Commissioner	Present
Kathryn L. Schroeder, County Attorney	Present
Jack Bush, Deputy County Attorney	Present
Nancy A. Doty, Clerk to the Board	Absent and Excused
Terri L. Maulik, Assistant Clerk to the Board	Present

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

RESOLUTION NO. 110637 It was moved by Commissioner Jackson and duly seconded by Commissioner Weddig to adopt the following Resolution:

WHEREAS, the Board of County Commissioners, on June 17, 2003, adopted Resolution Number 030381, which authorized the submission of a ballot issue to the eligible electors of Arapahoe County, regarding the proposed imposition of a one quarter of one percent (0.25%) sales and use tax for open space and trails purposes, as described in further detail in Resolution Number 030381; and

WHEREAS, on November 4, 2003, a majority of the eligible Arapahoe County electors voting at the election held on that day approved the ballot issue authorizing the sales and use tax as specified in Resolution Number 030381; and

WHEREAS, pursuant to Resolution Number 030381, the sales and use tax is set to expire on December 31, 2013; and

WHEREAS, substantial input has been received from the public, and from various interested parties including municipalities, recreation districts and special districts, regarding whether it is in the best interests of the residents of Arapahoe County to extend the sales and use tax past Dec. 31, 2013, and the input has been overwhelmingly in favor of extending the sales and use tax; and

WHEREAS, based upon input received, the Board of County Commissioners has determined that it is in the best interests of the residents of the County that the county-wide sales and use tax at the rate of one quarter of one percent (0.25%) be extended from its current date of expiration for a period of ten (10) years to December 31, 2023, the receipts from which will shall continue to be used for open space and trails purposes in the manner set forth in Resolution Number 030381; and

CERTIFIED TO BE A FULL, TRUE, AND CORRECT COPY OF THE RECORDED DOCUMENT IN MY CUSTODY. DATE 12/5/11
NANCY A. DOTY, ARAPAHOE COUNTY CLERK & RECORDER
BY
ARAPAHOE COUNTY

WHEREAS, based upon input received, and the County's experience administering and distributing the sales and use tax, the Board of County Commissioners has also determined that it would be in the best interests of the County, without increasing the tax, to adopt amendments to Resolution Number 030381 in order to increase the allocation of funding from the sales and use tax that is available to the municipalities for maintenance, and to the County for administration and for heritage areas, and to make some other minor clarifications to the County's open space program, as set forth in further detail below; and,

WHEREAS, pursuant to Colorado Constitution Article X, Section 20, an extension of an expiring tax requires voter approval; and,

WHEREAS, pursuant to Section IX. A. of Resolution Number 030381, the proposed amendments are permitted if approved by a vote of the registered electors of Arapahoe County; and,

WHEREAS, the Board of County Commissioners has determined that a ballot issue regarding the extension of the sales and use tax, and permitting amendments to Resolution Number 030381, should be submitted by the Board of County Commissioners to the eligible electors of the County at the November 1, 2011 election; and

WHEREAS, the Board of County Commissioners has reviewed the proposed ballot issue to be considered at the November 1, 2011 election; and

WHEREAS, pursuant to Section 1-5-203(3) C.R.S., the Board of County Commissioners must certify ballot contents to the Arapahoe County Clerk and Recorder for said November 1, 2011 election.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Arapahoe, State of Colorado, as follows:

I. A Ballot Issue/Question is hereby certified to the Arapahoe County Clerk and Recorder for inclusion in the November 1, 2011 election, as follows:

A. <u>Ballot Title</u>

Water, Wildlife, Open Space, Trails and Parks Measure

<u>Ballot Issue</u>

Shall the existing one quarter of one percent (0.25% or 25 cents for every 100 dollars) county-wide sales and use tax for water, wildlife, open space, trails and parks, which is currently set to expire on December 31, 2013, be extended for a period of ten years to and including December 31, 2023, and shall Arapahoe County Resolution Number 030381 be amended to provide for such extension, for the same purposes including to:

- Preserve urban and rural open space and natural areas;
- Protect lands that preserve water quality in rivers, lakes and streams;

- Provide, maintain and improve neighborhood parks, open space, sports fields, picnic facilities, and biking, walking and multi-use trails;
- Protect wildlife habitat and corridors;
- Protect views, vistas and ridgelines;
- Preserve agricultural and ranch lands; and
- Enhance and maintain designated heritage areas;

With the continued requirements that the County's program expenditures for projects and grants be first submitted to a citizen advisory board for a recommendation to the County Commissioners, and that the County program be subject to an annual independent audit, and subject to such other requirements as are set forth in Resolution Number 030381 and any authorized amendments thereto, and continuing these funds as a voter approved revenue change; and,

Further, shall Arapahoe County Resolution Number 030381 be amended to: 1) reduce the allocation available to Arapahoe County Government to acquire open space and develop trails from 28.16% to 26.66%, and 2) clarify that such percentage may also be used for the restoration, improvement and protection of open space and other related uses, and 3) change the allocation available to Arapahoe County Government for administration of the open space program from 3% to 4%, and 4) change the allocation available to Arapahoe County Government for designated heritage areas from 3.6% to 4.1%, and 5) with respect to the 50% shareback of open space sales and use tax revenues allocated to municipal governments in Arapahoe County, change the percentage of such shareback funds that may be used for maintenance of open space, trails, parks and ball fields from 10% to 20%, and 6) clarify that such shareback funds may be used for regional parks as well as neighborhood parks, all as specified in Resolution Number 110637.

B. Conduct of Election. The conduct of the election shall conform so far as is practicable to the election laws of the State of Colorado.

II. Subject to approval of the above-referenced ballot issue by a majority of the registered Arapahoe County electors voting at the November 1, 2011 election, Arapahoe County Resolution Number 030381 shall be amended as follows:

A. Sections I. A. and IV. are amended to state that the sales and use tax shall expire at 11:59 p.m. on December 31, 2023.

B. Section VIII. A. is amended to reduce the percentage of County Open Space Program Funds available for the "Acquisition of open space and/or interests in open space to include for the development of multi-use trails" from 28.16% to 26.66%.

C. Section VIII. A. is amended to increase the percentage of County Open Space Program Funds available for "Designated Arapahoe County Heritage Areas" from 3.6% to 4.1%.

D. Section VIII. A. is amended to increase the percentage of County Open Space Program Funds available for "County Administrative Costs" from 3% to 4%.

E. Section VIII. C. 3. e. is amended in its entirety to read as follows: "Further, an incorporated municipality may use up to twenty percent (20%) of its Shareback Funds distributed by the County annually to maintain existing or new open space properties, trails, neighborhood and regional parks, and sports fields."

F. The first sentence of Section VIII. D. 4. is amended to in its entirety to read as follows: "The County shall use the percentage of the Fund, as specified in Section VIII (A) above, to acquire open space or interests in open space, to restore, improve and protect open space, to acquire and develop trails, and for such other uses set forth in Section VIII.E. 1, excepting that such percentage shall not be used for administration or maintenance, and subject to any other applicable restrictions on the use of funds set forth herein."

G. Section VIII. C. 3. d. is amended in its entirety to read as follows: "In addition, Shareback Funds may be used to purchase and/or develop and/or improve neighborhood and regional parks and/or sports fields."

III. If any section, paragraph, clause or provision of this Resolution, or the ballot issue certified by 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 or said ballot issue. It is the intention of the Board that the various parts of this Resolution and said ballot issue are severable.

The vote was:

Commissioner Beckman, Yes; Commissioner Bockenfeld, No; Commissioner Jackson, Yes; Commissioner Sharpe, Yes; Commissioner Weddig , Yes.

The Chair declared the motion carried and so ordered.

I, Nancy A. Doty, 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 Arapahoe County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Littleton, Colorado this 5th day of December, 2011.

Nancy A. Doty, Clerk to the Board

Nancy A. Doty

Arapahoe County Clerk & Recorder, Nancy A. Doty
Reception #: B4138558
Receipt #: 5210547
Pages Recorded: 17
Recording Fee: $0.00
Date Recorded: 8/4/2004 1:01:43 PM
RECEIVED
AUG 30 2004
ARAPAHOE COUNTY
PWD - ENGINEERING

STATE OF COLORADO
COUNTY OF ARAPAHOE } *ss.*

At a regular meeting of the Board of County Commissioners for Arapahoe County, Colorado held in the Administration Building, Littleton, Colorado on Tuesday the 17th day of June 2003, there were present:

Debra A. Vickrey, Chair	Present
Susan Beckman, Chair Pro-Tem	Present
Marie Mackenzie, Commissioner	Present
Lynn Myers, Commissioner	Present
Bernard L. Zimmer, Commissioner	Present
Kathryn L. Schroeder, County Attorney	Present
Tracy K. Baker, Clerk to the Board	Absent & Excused
Jennifer Gayer, Deputy Clerk	Present

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

RESOLUTION NO. 030381 It was moved by Commissioner Mackenzie and duly seconded by Commissioner Zimmer to adopt the following Resolution:

WHEREAS, the Board of County Commissioners and the Open Space and Trails Advisory Group have determined that there is a need to plan and develop an approach for the preservation of open space in Arapahoe County; and

WHEREAS, the County does not have the funds in its treasury sufficient to finance acquisitions of open space without curtailing to an unacceptable level other services which the County is obligated to provide; and

WHEREAS, the County is authorized by law to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services and a use tax for the privilege of using or consuming any construction and building materials purchased at retail and the privilege of storing, using or consuming any motor and other vehicle, purchased at retail on which registration is required, subject to approval of the registered electors of the County; and

WHEREAS, the Board of County Commissioners has determined that it is in the interest of the residents of the County to impose a County-Wide sales and use tax at the rate of one quarter of one percent (0.25%) for the period beginning January 1, 2004 through December 31, 2013, and the receipts from which will be restricted in application to the Open Space objectives as set forth more fully herein; and

WHEREAS, the Board of County Commissioners has determined that a question regarding the imposition of a sales and use tax for the purposes enunciated herein should be

submitted by the Board of County Commissioners to the eligible electors of the County; and

WHEREAS, the Board of County Commissioners has reviewed the proposed ballot question to be considered at the November 2003 election; and

WHEREAS, pursuant to Section 1-5-203(3) C.R.S., the Board of County Commissioners must certify ballot contents to the Arapahoe County Clerk and Recorder for said November 2003 election; and

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of the County of Arapahoe, State of Colorado, as follows:

I. General Provisions

A. Purpose. The purpose of this Resolution is, upon the approval of a majority of registered electors voting on such proposal, to impose a sales tax of one quarter of one percent (0.25%) upon the sale at retail of tangible personal property and the furnishing of certain services in the County, and to impose a use tax of one quarter of one percent (0.25%) for the privilege of use or consuming in the County any 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, all in accordance with the provisions of Article 2 of Title 29, C.R.S., which provisions are incorporated herein by this reference. The sales and use tax shall become effective on January 1, 2004 and cease at 11:59 p.m. on December 31, 2013.

B. Statutory Definitions Incorporated. For purposes of this Resolution, the definitions of the words contained herein shall be as defined in Sections 39-26-102 and 39-26-201, C.R.S., which definitions are incorporated herein by this reference.

II. Imposition of Sales Tax. There is hereby imposed a County-Wide one-quarter of one percent (0.25%) sales tax on all sales of tangible personal property at retail or the furnishing of services in Arapahoe County, as provided in Section 29-2-105(1)(d), C.R.S., effective throughout the incorporated and unincorporated portions of Arapahoe County, subject to the following terms and conditions:

A. Transactions Subject to the Sales Tax.

1. The tangible personal property and services taxable hereunder shall be the same as the tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., subject to the same exemptions as those specified in Section 39-26-114, C.R.S.,

including, specifically, and not by way of limitation, the exemption for sales of food (as the term "food" is defined in Section 39-26-102(4.5), C.R.S.), as exempted from the Colorado state sales tax pursuant to Section 39-26-114(1)(a)(XX); the exemption for vending machine sales of food, as described in Section 39-26-114(7.5), C.R.S., the exemption for purchases of machinery and machine tools specified in Section 39-26-114(11), C.R.S.; the exemption for sales and purchases of those items listed in Section 39-26-114(1)(a)(XXI); the exemption for occasional sales by a charitable organization, as provided in Section 39-26-114(18), C.R.S.; the exemption for sales and purchases of farm equipment or farm equipment under lease or contract exempted from the Colorado state sales tax, pursuant to Section 39-26-114(20), C.R.S., excepting from the definition of "farm equipment" parts used in the repair or maintenance of farm equipment, all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural operations; and the exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources, as specified in Section 39-26-114(22), C.R.S.

2. Such sales tax shall not apply to pesticides that are registered by the Colorado Commissioner of Agriculture for use in the production of agricultural and livestock products, pursuant to the provisions of the "Pesticide Act" Article 9 of Title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides, pursuant to Section 35-9-115, C.R.S., notwithstanding the removal of such pesticides from the Colorado state sales tax base, pursuant to House Bill 99-1381, enacted at the first regular session of the Sixty-Second General Assembly.

3. Such sales tax shall not apply to the sale of construction and building materials, as the term is used in Section 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 the County evidencing that a local use tax has been paid or is required to be paid.

4. 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 Arapahoe County when such sales meet both of the following conditions: (1) the purchaser is a non-resident of or has his principal place of business outside of Arapahoe County, and (2) such personal property is registered or required to be registered outside the limits of Arapahoe County under the laws of the State of Colorado.

5. Such sales tax will not be imposed upon the sale of tangible personal property at retail or the furnishing of services if the transaction was previously subjected to a sales or use tax lawfully imposed on the purchaser or user by another statutory or home rule county equal to or in excess of that sought to be imposed hereunder by Arapahoe County. A credit shall be granted against the sales tax imposed hereunder by Arapahoe County with respect to such transaction equal in amount to the lawfully imposed local sales or use tax previously paid by the purchaser or user to the previous statutory or home rule county. The amount of the credit shall not exceed the sales tax imposed hereunder by Arapahoe County.

6. Such sales tax will not apply to the sale of food purchased with food stamps. For purposes of this section, "food" shall have the meaning as provided in 7 U.S.C. Section 2012(g) as such section exists on October 1, 1987, or is thereafter amended.

7. Such sales tax will not apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. Section 1786. For purposes of this section, "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.

B. Determination of Place at Which Sales are Consummated. For the purposes of this Resolution, all retail sales shall be considered consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of Arapahoe County or to a common carrier for delivery to a destination outside the limits of Arapahoe County. The gross receipts from such sales shall include delivery charges when such charges are subject to the Colorado state sales and use tax imposed by Article 26 of Title 39, C.R.S., regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in Arapahoe County, or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by this Resolution shall be determined by the provisions of Article 26 of Title 39, C.R.S., and by rules and regulations promulgated by the Department of Revenue. The amount subject to the sales tax imposed hereunder shall not include any Colorado state sales or use tax imposed by Article 26 of Title 39, C.R.S.

C. Collection, Administration, and Enforcement. The sales tax imposed hereunder shall be collected, administered and enforced by the Executive Director of the Colorado Department of Revenue ("Executive Director") in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of Article 26 of Title 39, C.R.S., and all rules and regulations promulgated thereunder by the Executive Director shall govern the collection, administration, and enforcement of the sales tax

imposed hereunder. Distribution of all sales tax collected by the Executive Director, pursuant to this Resolution, shall be to Arapahoe County.

D. Vendor's Fee. At the time of making a monthly return of the sales taxes required by this Resolution, every retailer shall be entitled to withhold a vendor's fee in the amount, as authorized by state law, of the sales tax remitted to cover the retailer's expenses in the collection and remittance of said taxes. If any retailer is delinquent in remitting said taxes, other than in unusual circumstances shown to the satisfaction of the Executive Director of the Department of Revenue of the State of Colorado (the "Executive Director"), the retailer shall not retain any amounts to cover his expenses in collecting and remitting said taxes. If any retailer, during any reporting period, shall collect as a tax an amount in excess of one percent of the total taxable sales, the retailer shall remit to the Executive Director the full amount of the tax herein imposed and also the full amount of said excess.

E. Application of Section 29-2-108, C.R.S. The 6.9% limitation on amount of sales tax provided for in Section 29-2-108, C.R.S., shall be exceeded by 0.80% in the City of Aurora; and by 0.05% in the Cities of Cherry Hills Village, Columbine Valley and Littleton; and by 0.55% in the Cities of Englewood, Glendale and Sheridan. The County sales tax does not exceed the 1% rate permitted by Section 29-2-108, C.R.S.

III. Imposition of Use Tax. There is hereby imposed a County-Wide one-quarter of one percent (0.25%) use tax in accordance with the provisions of Article 2, Title 29, C.R.S., for the privilege of using or consuming in Arapahoe County any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in Arapahoe County any motor and other vehicles, purchased at retail on which registration is required, effective throughout the incorporated and unincorporated portions of Arapahoe County, subject to the following terms and conditions:

A. Exemptions from the Use Tax.

1. Storage, use, or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by Arapahoe County.

2. Storage, use or consumption of any tangible personal property purchased for resale in Arapahoe County either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business.

3. Storage, use or consumption of tangible personal property brought into Arapahoe 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 this State by a nonresident to be used in the conduct of a business in this State.

4. 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.

5. Storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for profit, or the use of 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.

6. 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 sale or use tax of another statutory or home rule county equal to or in excess of that imposed by Arapahoe County. A credit shall be granted against the use tax imposed by Arapahoe County with respect to a person's storage, use, or consumption in Arapahoe County of tangible personal property purchased in another 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 other 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 proposal.

7. Storage, use, or consumption of tangible personal property and household effects acquired outside of Arapahoe County and brought into it by a non-resident acquiring residency.

8. Storage or use of a motor vehicle if the owner is or was, at the time of purchase, a non-resident of Arapahoe County and he purchased the vehicle outside of Arapahoe County for use outside of Arapahoe 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 Arapahoe County.

9. 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 this use tax resolution.

10. 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 any time prior to the effective date of the use tax imposed hereunder.

B. The use tax imposed hereunder shall be applicable to 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 by the Department of Revenue or its authorized agents until any tax due upon the use, storage, or consumption thereof pursuant to this Resolution has been paid.

C. Collection, Administration, and Enforcement. Except as provided by Section 39-26-209, C.R.S., the use tax imposed hereunder shall be collected, enforced and administered by Arapahoe County, consistent with Arapahoe County's guidelines, policies and procedures, which exist or may hereafter be promulgated not inconsistent with this Resolution. The use tax on construction and building materials shall be collected by the County's Building Division of the Development Services & Infrastructure Management Department, by each municipality or, as may be otherwise provided by intergovernmental agreement, based upon an estimate of building and construction materials costs submitted by the owner or contractor at the time a building permit application is made. All use tax collected on construction and building materials pursuant to this Resolution shall be distributed to Arapahoe County. All use tax collected on motor or other vehicles pursuant to this Resolution shall be distributed to Arapahoe County.

IV. Effective Date-Expiration Date. Upon adoption by the electorate at the election on November 4, 2003, the sales and use tax provided herein shall become effective and in force at 12:01 a.m. on January 1, 2004, and shall expire at 11:59 p.m. on December 31, 2013, and upon said expiration, all monies remaining in any of the Funds created hereunder may continue to be expended for the purposes set forth herein until completely exhausted. The effective date of this Resolution and the date upon which the imposition of the sales and use taxes referred to herein begins shall be January 1, 2004.

V. Necessity for Election. The sales and use taxes imposed hereunder shall not become effective until and unless a majority of the registered electors voting thereon, pursuant to Sections 29-2-103(1) and 29-2-104(5), C.R.S., approve the ballot question.

A. Ballot Title/Question. The Ballot Title/Question on the County-Wide Sales and Use Tax Resolution that shall be referred to the registered electors of Arapahoe County at the general election to be held on Tuesday, the 4th day of November, 2003, shall be, in substantially the following form, with only such changes as may be determined by the Board of County Commissioners:

BALLOT TITLE: WATER, WILDLIFE, OPEN SPACE, TRAILS AND NEIGHBORHOOD PARK MEASURE

BALLOT QUESTION:
SHALL ARAPAHOE COUNTY TAXES BE INCREASED $17 MILLION ($17,000,000.00) ANNUALLY, AND BY WHATEVER AMOUNTS ARE RECEIVED THEREAFTER, BY A COUNTY-WIDE SALES AND USE TAX OF ONE-QUARTER OF ONE PERCENT (0.25% OR 25 CENTS FOR EVERY 100 DOLLARS, WHICH WILL NOT BE COLLECTED ON SALES OF FOOD OR PRESCRIPTION DRUGS), AND WHICH WILL AUTOMATICALLY EXPIRE IN 10 YEARS, IN ORDER TO:

- PRESERVE URBAN AND RURAL OPEN SPACE AND NATURAL AREAS;
- PROTECT LANDS THAT PRESERVE WATER QUALITY IN RIVERS, LAKES AND STREAMS;

- PROVIDE, MAINTAIN AND IMPROVE NEIGHBORHOOD PARKS, OPEN SPACE, SPORTS FIELDS, PICNIC FACILITIES AND BIKING, WALKING AND MULTI-USE TRAILS;
- PROTECT WILDLIFE HABITAT AND CORRIDORS;
- PROTECT VIEWS, VISTAS AND RIDGELINES;
- PRESERVE AGRICULTURAL AND RANCH LANDS; AND
- ENHANCE AND MAINTAIN DESIGNATED HERITAGE AREAS;

WITH THE REQUIREMENTS THAT EVERY INCORPORATED MUNICIPALITY IN ARAPAHOE COUNTY RECEIVE A PRO-RATA SHARE OF THESE REVENUES BASED ON POPULATION (WITH THE TOTAL SHARE OF ALL MUNICIPALITIES BEING 50% OF REVENUES COLLECTED); THAT EACH MUNICIPALITY SHALL SPEND FUNDS SUBJECT TO AN INTERGOVERNMENTAL AGREEMENT WITH ARAPAHOE COUNTY CONSISTENT WITH THIS BALLOT ISSUE; THAT NO MORE THAN 3% OF THE TOTAL ANNUAL REVENUES BE USED FOR COUNTY ADMINISTRATIVE COSTS; THAT THE COUNTY'S PROGRAM EXPENDITURES FOR PROJECTS AND GRANTS WILL FIRST BE SUBMITTED TO A CITIZENS ADVISORY BOARD FOR A RECOMMENDATION TO THE COUNTY COMMISSIONERS; AND THAT THE COUNTY PROGRAM WILL BE SUBJECT TO AN ANNUAL INDEPENDENT AUDIT, ALL AS SPECIFIED IN RESOLUTION 030381.

AND SHALL THE COUNTY BE PERMITTED TO COLLECT, RETAIN AND EXPEND ALL REVENUES DERIVED FROM SUCH SALES AND USE TAX AS A VOTER APPROVED REVENUE CHANGE AND AN EXCEPTION TO LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

B. Cost of Election. The entire cost of the election shall be paid from the general fund of Arapahoe County.

C. Notice by Publication. The Arapahoe County Clerk and Recorder shall publish the text of this Open Space Sales and Use Tax Resolution four separate times, a week apart, in the official newspaper of Arapahoe County and each incorporated municipality within Arapahoe County.

D. Election Officer. The Arapahoe County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colorado Constitution, Article X, Section 20(3), including, but not limited to, the mailing of required election notices and ballot issue summaries.

E. Conduct of Election. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado.

VI. Creation of the Arapahoe County Open Space Fund. A separate fund, to be known as the "Arapahoe County Open Space Fund" (the "Fund"), shall be created and

100% of the revenue derived from the sales and use tax imposed on the incorporated and unincorporated areas of Arapahoe County shall be deposited thereto to be used solely for the purposes stated herein and as further described more fully below.

A. For purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of revenues of the sales tax and use tax shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of Arapahoe County and outside of the fiscal year spending of the County as calculated under Art. X, Section 20, and nothing in Art. X, Section 20, shall limit the receipt and expenditure in each fiscal year of the full amount of such revenues of the sales tax and use tax, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of Arapahoe County for any fiscal year.

B. Interest from Revenues and Income Generated from Acquired Lands. Interest generated from the revenues of the sales and use taxes imposed herein shall be used for the purposes stated herein. Income generated from the use or lease of preserved lands, natural areas, wildlife habitats, and parks acquired with the sales and use taxes imposed herein shall be used for the purposes stated herein.

VII. Open Space and Trails Advisory Board. If said sales and use tax is approved, the Board of County Commissioners shall appoint an Open Space and Trails Advisory Board ("OSTAB") within ninety (90) days following approval of the election question.

A. OSTAB shall consist of seven members.

B. Each County Commissioner shall appoint one resident of his/her commissioner district to serve as an OSTAB member.

C. The Board of County Commissioners shall appoint two Arapahoe County residents as at-large members.

D. OSTAB members shall serve three-year terms of office, except the initial term of three of the seven members shall be for two years. Members may be re-appointed to no more than two successive terms.

E. OSTAB members shall serve at the pleasure of the Board of County Commissioners.

F. Members shall not be compensated for their services.

G. Members shall act in accordance with law, including Colorado conflict of interest laws applicable to public bodies. No member shall vote or participate in the application process regarding an acquisition or expenditure

in which he or she has a financial or ownership interest, or where he or she has an ownership interest in an adjacent property.

H. OSTAB shall meet quarterly, beginning the first quarter of 2004, or as necessary, to review proposed projects and perform other duties in accordance with this Resolution.

I. OSTAB shall make recommendations to the Board of County Commissioners regarding the distribution of revenue collected from the Open Space Sales and Use Tax, in accordance with the guidelines set forth in this Resolution.

VIII. Distribution of Sales and Use Tax Revenue. The revenue collected from the Open Space Sales and Use Tax shall be distributed and administered in the following manner and subject to the definitions and conditions as set forth in this Resolution:

A. The annual revenue from the Open Space Sales and Use Tax shall be distributed according to the percentages as set forth below. Expenditure of said revenue is governed by the provisions set forth in Section VIII.

Shareback to all incorporated municipalities or portions thereof based on the population of the incorporated municipality or portions thereof in Arapahoe County versus total population of incorporated areas in Arapahoe County		50%
County Open Space Program funds to be used as follows:		
County Administrative Costs	3%	
Available as grants to incorporated municipalities and special districts within Arapahoe County	12%	
Designated Arapahoe County Heritage Areas	3.6%	
Maintenance of County Open Space	3.24%	
Acquisition of open space and/or interests in open space to		

include for the development of multi-use trails	28.16%	50%
Total distribution by percentages of Open Space Fund created by Open Space Sales and Use Tax		100%

B. County Administrative Costs are those costs necessary for the County to administer the distribution of funds, to include distribution of Shareback Funds; development, creation, oversight and monitoring of and compliance with Intergovernmental Agreements ("IGAs"); grant review and distribution of grant funds; site reviews for grants and review of certified Annual Municipal Reports, as well as to administer the County's own Open Space Program, excluding maintenance, as set forth more fully below.

C. Shareback Funds are those monies distributed to the incorporated municipalities wholly and/or partially in Arapahoe County for open space uses as more fully set forth below.

1. These funds will be distributed to each incorporated municipality within or partially within Arapahoe County based on the population within said jurisdiction in Arapahoe County and the total incorporated population of Arapahoe County.

2. The population figures will be updated annually based on the official figures provided by the Demography Section of the Colorado Department of Local Affairs or any state agency which takes over the duties and responsibilities of said Demography Section.

3. The Shareback Funds will be distributed on an annual basis to each incorporated municipality, wholly or partially within Arapahoe County, provided that:

   a. The incorporated municipality has entered into an Intergovernmental Agreement (IGA) with the Board of County Commissioners.

   b. Such required IGA reflects the terms, conditions, intent and purpose of this Resolution consistent with the guidelines as set forth in Section VIII (C) and (E) below.

   c. Shareback Funds may be used for the open space uses as set forth in Section VIII (E) below.

d. In addition, Shareback Funds may be used to purchase and/or develop and/or improve existing neighborhood parks and/or sports fields.

e. Further, an incorporated municipality may use up to ten percent (10%) of its Shareback Funds distributed by the County annually to maintain existing or new open space properties, neighborhood parks and sports fields.

f. Incorporated municipalities may bank Shareback Funds from year to year as long as such funds are expended in accordance with the purposes set forth in this Resolution, and such is noted in the Annual Municipal Expenditure Report as set forth in Section VIII (C)(3)(g).

g. Every December 31st, each incorporated municipality, which received Shareback Funds, must certify and submit in writing, to the Board of County Commissioners, that the funds were used in conformance with this Resolution and must detail the expenditures of its Shareback Funds. Such submission shall be called the Annual Municipal Expenditure Report.

h. If Shareback Funds are not used in accordance with the provisions and guidelines set forth in this Resolution and/or are used in violation of the terms and conditions of the IGA, the offending incorporated municipality will be ineligible for future Shareback Funds, unless and until a compliance plan is submitted by the offending municipality to and approved by the Board of County Commissioners.

i. If the offending municipality fails to submit a compliance plan approved by the Board of County Commissioners or fails to meet the requirements of the Board of County Commissioners' approved compliance plan, then the Share of the non-complying entity will be distributed, based on annual population figures, among the other participating incorporated municipalities.

D. The County Open Space Program shall have the following components:

1. Grant Program. The County shall have funds, as specified above in Section VIII (A), available for distribution in the form of grants to incorporated municipalities; special districts, which provide recreational services or amenities; and recreation districts. Said

grants shall be used for the purposes specified in Section VIII(C)(3)(d) or VIII(E)(1), and in accordance with the guidelines set forth in this Resolution.

a. Those entities having proposals consistent with the guidelines as set forth in this Resolution may submit their grant applications to OSTAB.

b. OSTAB and County staff shall review the grant applications and make recommendations to the Board of County Commissioners regarding the approval, conditional approval or denial of each application.

c. The Board of County Commissioners then shall approve, conditionally approve or deny the grant application.

d. If the County distributes less than 12% of the Open Space Sales and Use Tax as designated for grants, the remaining portion shall be retained by the County to be used for purposes set forth in Section VIII (D) (5) below.

2. Designated Heritage Areas. The Board of County Commissioners shall authorize expenditure of funds for Designated Arapahoe County Heritage Areas ("Designated Heritage Areas") located in unincorporated Arapahoe County.

a. A Designated Heritage Area is defined as lands or structures which have a cultural or historical significance to Arapahoe County, such as a historic property or a future fairgrounds.

b. The Board of County Commissioners shall consider designating land or a structure as a Designated Heritage Area after OSTAB and County staff have reviewed and made recommendations on a proposal for such an area.

c. Before it designates a Designated Heritage Area, the Board of County Commissioners shall conduct a public hearing on the proposal.

d. Funds allocated to Designated Heritage Areas may be used for maintenance of structures and grounds, as well as for future improvements and operations. Funds may not be used for construction of new buildings.

e. If the County uses less than the allocated funds for Designated Heritage Areas, the remaining portion shall be retained by the County as set forth in Section VIII (D) (5) below.

3. Open Space Maintenance. The County may use funds, as specified in Section VIII (A), for maintenance of County Open Space, to include trails.

a. Open Space maintenance funds may not be used for maintenance of Designated Heritage Areas if said areas' maintenance is funded under the Designated Heritage Areas portion of the County's program.

b. If the County uses less than the allocated amount in the Fund for maintenance, the remaining portion shall be retained by the County as set forth in Section VIII (D) (5) below.

4. Acquisition of Open Space and Trail Development. The County shall use the percentage of the Fund, as specified in Section VIII (A) above, to acquire open space or interests in open space and develop trails. Monies in this category may be banked for future acquisitions and/or projects, consistent with Section VIII (D) (5).

5. If the allocated funds for the County administrative costs, grants, Designated Heritage Areas, County open space maintenance and/or acquisition of open space or interests in open space or trail development are not expended by December 31st of each year, County staff shall bank such funds according to the aforementioned uses. At any time, County staff shall recommend to OSTAB the use of such banked funds for the purposes so designated and/or for acquisition of open space or interests in open space and/or trail purposes. OSTAB and County staff shall make recommendations on the use of the unexpended funds to the Board of County Commissioners. The Board of County Commissioners then will accept or reject OSTAB's and/or County staff's recommendations and/or designate the monies to be expended in a manner consistent with this Resolution.

6. On an annual basis, the County will hire an independent auditor to audit the County's expenditures of the Fund.

E. Additional Guidelines for Use of Funds:

1. Revenues collected from the Open Space Sales and Use Tax may be used in the following manner:

   a. To acquire fee title interest in real property for the purposes provided herein;

   b. To acquire less than fee interests in real property for the purposes provided herein; such as easements (including conservation and agricultural), future interests, covenants, development rights, subsurface rights and contractual rights, either on an exclusive or nonexclusive basis;

   c. To acquire water rights for use in connection with the purposes provided herein;

   d. To acquire lands that preserve urban and rural open space; natural areas; agricultural and ranch lands; water quality; lakes; rivers; streams; corridors of rivers and streams; views; vistas; ridgelines; wildlife habitat and movement corridors; trail corridors; flood plains and wetlands;

   e. To acquire lands that are buffers maintaining community identity;

   f. To acquire lands for outdoor recreation purposes limited to passive recreational use, including but not limited to hiking, snowshoeing, photography, nature studies, and if specifically designated, bicycling, horseback riding, hunting and fishing;

   g. To acquire lands with other important values such as historic sites that contribute to the County's and County municipalities' natural and cultural heritage;

   h. To acquire rights-of-way and easements for trails and access to public lands, and to build and improve such trails and access ways;

   i. To allow expenditure of funds, consistent with the guidelines set forth in this Resolution, for joint projects between counties and municipalities, special districts which have a recreational component, recreation districts, or other governmental entities in the County;

   j. To improve, restore and/or protect open space lands as provided herein;

k. To manage, patrol and maintain those lands as provided herein;

l. To pay for related acquisition, construction, equipment, and/or improvements;

m. To allow for construction of picnic facilities in a manner consistent with the purposes of this Resolution;

n. To allow for the funding of environmental education programs in a manner consistent with the purposes of this Resolution;

o. To implement and effectuate the purposes of the Open Space Program.

2. No land or interests acquired with the revenues of the Open Space Sales and Use Tax may be sold, leased, traded, or otherwise conveyed, nor may an exclusive license or permit on such land or interests be given, without such approval by the governing body of the entity having received any portion of the Fund, after conducting a public hearing.

3. If the Board of County Commissioners sells land or interests as specified in paragraph 2 above, the proceeds shall be deposited with the Open Space Fund.

4. If any incorporated municipality; special district, which provides recreational services or amenities; or recreation district, sells land or interests as specified in Paragraph 2 above, the proceeds shall be deposited in a fund to be used for purposes consistent with this Resolution.

IX. Repeal and Amendment

A. If this Resolution is approved by a majority of the registered electors of Arapahoe County at the election to be held on November 4, 2003, its provisions relating to the amount of tax imposed, specifically the one-quarter of one percent (0.25%) sales tax specified in Section II and one-quarter of one percent (0.25%) use tax specified in Section III, the provisions relating to the deposit and expenditure of revenue as set forth in Section VI, and the provisions of Sections VII and VIII, shall not be repealed or amended except by a vote of the registered electors of the County.

B. Except as provided in subsection A. hereof, or as otherwise provided in Article 2 of Title 29, C.R.S., the provisions of this Resolution may be repealed or amended, subsequent to its adoption of the sales and use tax by a majority of the voters of Arapahoe County, by a majority vote of the Board of County Commissioners, and such repeal or amendment need not be submitted to the registered electors of the County for their approval.

X. Miscellaneous

A. Limitation on Amount of Tax. In the event the 6.9% percent limitation provided in Section 29-2-108, C.R.S., were to be exceeded in any incorporated municipality within the County by the sales and use tax imposed by this Resolution, such limitation shall be exceeded by no more than one percent in said incorporated municipality.

B. Severability. If any section, paragraph, clause, or provision of this Resolution, or the ballot question submitted to the registered electors at the election provided in Section V above, shall be adjudged to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses, or provisions of this Resolution or said ballot question. It is the intention of the Board that the various parts of this Resolution and said ballot question are severable.

The vote was:

Commissioner Mackenzie, Yes; Commissioner Vickrey, Yes; Commissioner Myers, Yes; Commissioner Beckman, Yes; Commissioner Zimmer, Yes.

The Chair declared the motion carried and so ordered.

I, Nancy A. Doty, 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 Arapahoe County, now in my office.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the seal of said County, at Littleton, Colorado this 12th day of July 2004.

Nancy A. Doty, Clerk to the Board

by: Jennifer Gayer

Jennifer Gayer, Deputy Clerk