

**TOWN OF OPHIR  
RESOLUTION 2015 - 6**

**A RESOLUTION OF THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR, COLORADO, CALLING AN ELECTION ON NOVEMBER 3, 2015 TO AUTHORIZE A MILL LEVY INCREASE IN THE AMOUNT OF UP TO 15.5 MILLS IN ORDER TO GENERATE APPROXIMATELY \$45,000.00 IN ADDITIONAL REVENUES IN IN THE FIRST FULL FISCAL YEAR AFTER ENACTMENT (2016), WITH A MINIMUM OF \$10,500.00 TO BE ALLOCATED TO THE OPHIR MUNICIPAL BROADBAND FUND EACH YEAR UNTIL THE PURPOSES OF SUCH FUND ARE ACHIEVED AND REMAINING REVENUES TO BE ALLOCATED TO THE GENERAL FUND, CAPITAL FUND OR RESERVES AS DETERMINED BY THE GENERAL ASSEMBLY EACH YEAR, AND REPEALING THE BALLOT ISSUE "A" ADOPTED ON NOVEMBER 1, 2011 THAT RESTRICTED THE GENERAL FUND MILL LEVY BASED ON THE PREVIOUS YEAR'S REAL ESTATE TRANSFER TAX REVENUE; SETTING THE BALLOT TITLE AND CONTENT FOR THE BALLOT ISSUE; AND PROVIDING FOR OTHER MATTERS RELATING TO THE BALLOT ISSUE.**

**WHEREAS**, the Town of Ophir (the "Town"), is a municipal corporation duly organized and existing as a home rule municipality under Article XX of the State Constitution and laws of the State of Colorado and its Home Rule Charter (the "Charter"); and

**WHEREAS**, the members of the General Assembly of the Town (the "General Assembly") have been duly qualified in accordance with State law and the Charter; and

**WHEREAS**, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for the creation of any debt, the imposition of any new tax, the extension of an expiring tax, and for collecting, retaining and expending certain moneys above limits established by TABOR; and

**WHEREAS**, the interest of the Town and public interest and necessity demand and require that the General Fund obtain adequate revenues in order to administer the laws of the Town; and

**WHEREAS**, TABOR requires the Town to submit ballot issues (as defined in TABOR) to the Town's electors on limited election days before action can be taken on such ballot issues; and

**WHEREAS**, November 3, 2015, is one of the election dates at which ballot issues may be submitted to the eligible electors of the Town pursuant to TABOR and the Town's recently amended Charter; and

**WHEREAS**, the County Clerk and Recorder in San Miguel County (the "County Clerk") will conduct the election on November 3, 2015, as a coordinated election (the "election"); and

**WHEREAS**, Article II, Section 4 of the Charter states that elections of the Town shall be conducted to conform to the Colorado Municipal Election Law, being Title 31, Article 10, C.R.S, unless such Colorado Municipal Election Law is conflicted by a contrary or more specific provision of the Charter; and

**WHEREAS**, the Town has determined to utilize the requirements of the Colorado Municipal Election Law and to coordinate a regular municipal election with San Miguel County; and

**WHEREAS**, by its adoption of Resolution 2015-1, Taking Formal Action Authorizing Municipal Broadband Related Actions, and by adoption of Ordinance No. 2015-01, Amending the Town of Ophir 2015 Budget to Address Provision of Municipal Broadband Services and Establishing a Restricted Fund for Donations, the Town has evidenced its strong intention and purpose to facilitate the provision of municipal broadband (high speed internet service) to the residences and property owners within the Town; and

**WHEREAS**, the Town needs to generate additional revenues that will enable the Town to pay toward, and possible finance, a local match for grant funding to extend "middle-mile" and possibly "last-mile" municipal broadband facilities to and within the Town; and

**WHEREAS**, the General Assembly has determined that it should put a ballot issue forward to the Ophir electorate in the November 3, 2015 election, to consider authorizing a mill levy increase in the amount of up to 15.5 mils in order to generate approximately \$45,000 in additional revenues in 2016, with a stipulation that a minimum of \$10,500 be allocated to the Ophir municipal broadband fund from such revenues until the purposes of the municipal broadband fund are achieved; and

**WHEREAS**, on November 1, 2011 the Ophir electorate approved ballot issue "A" that restricted the general fund mill levy based on the previous year's real estate transfer tax revenue, and that such mill levy restriction has proved difficult to administer, and THE General Assembly finds ballot issue "A" has created a cap on Ophir property tax revenues that is no longer appropriate, and determines that the Ophir electorate should be asked as part of the question of whether to increase the Ophir mill levy, whether ballot issue A should be repealed in its entirety; and

**WHEREAS**, if approved, the increased mill levy would generate approximately \$45,000 per year based on anticipated 2016 valuations, but if such valuations increase or decrease, such new property tax revenues would correspondingly increase or decrease; and

**WHEREAS**, a portion of increased property tax revenues, except for the \$10,500 minimum annual allocation to the Ophir Municipal Broadband Fund, may also be allocated

to the general fund, reserves, or capital fund as the General Assembly may annually determine; and

**WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of the regular municipal election.

**NOW, THEREFORE, BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR THAT:**

**SECTION 1. Ballot Issue Generally.**

The General Assembly hereby determines to refer a ballot question to the electors of the Town at a regular municipal election to be conducted on November 3, 2015, pursuant to the Municipal Election Code. The General Assembly hereby determines that there shall be submitted to the eligible electors of the Town the question set forth in Section 2 hereof. Because this election will be held as part of the coordinated election, the General Assembly hereby determines that the County Clerk shall conduct the election on behalf of the Town and act as Coordinated Election Official. The officers of the Town are authorized to enter into an intergovernmental agreement with the County Clerk for the coordinated election pursuant to Section 1-7-116, C.R.S. Any such intergovernmental agreement heretofore entered into in connection with the election is hereby ratified, approved and confirmed.

**SECTION 2. Ballot Issue Authorized.**

SHALL THE TOWN OF OPHIR TAXES BE INCREASED \$45,000 ANNUALLY, COMMENCING IN 2016, OR BY SUCH GREATER OR LESSER ANNUAL AMOUNT AS MAY BE DERIVED FROM AN AD VALOREM MILL LEVY NOT IN EXCESS OF 15.5 MILLS ANNUALLY (PROVIDED THAT SUCH MAXIMUM MILL LEVY SHALL BE ADJUSTED UP OR DOWN TO ACCOUNT FOR CHANGES IN LAW OR THE METHOD BY WHICH ASSESSED VALUATION IS CALCULATED OCCURRING AFTER 2016, SO THAT TO THE EXTENT POSSIBLE, THE ACTUAL TAX REVENUES GENERATED BY THE MILL LEVY, AS ADJUSTED, ARE NEITHER DIMINISHED NOR ENHANCED AS A RESULT OF SUCH CHANGES), THE REVENUES THEREFROM TO BE USED FOR THE PURPOSE OF FUNDING THE OPHIR MUNICIPAL BROADBAND FUND TO THE MINIMUM AMOUNT OF \$10,500 PER YEAR UNTIL THE PURPOSES OF SUCH FUND ARE ACHIEVED, WITH ALL REMAINING REVENUES FROM THE TAX INCREASE AND ALL REVENUES REMAINING IN THE BROADBAND FUND AFTER THE PURPOSES OF THE FUND HAVE BEEN ACHIEVED, BEING ALLOCATED TO THE OPHIR GENERAL FUND, CAPITAL FUND OR RESERVES AS DETERMINED BY THE OPHIR GENERAL ASSEMBLY EACH YEAR AND FOR PAYING THE TOWN'S OPERATIONS, MAINTENANCE, AND OTHER EXPENSES; AND SHALL THE PROCEEDS OF SUCH TAXES AND INVESTMENT INCOME THEREON BE

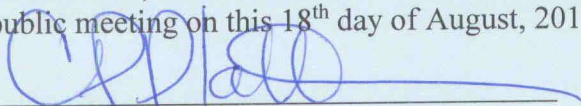
COLLECTED AND SPENT BY THE TOWN AS A VOTER-APPROVED REVENUE CHANGE IN 2016 AND IN EACH YEAR THEREAFTER, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, OR SECTION 29-1-301, COLORADO REVISED STATUTES, AND WITHOUT LIMITING IN ANY YEAR THE AMOUNT OF OTHER REVENUES THAT MAY BE COLLECTED AND SPENT BY THE TOWN?

**Section 3.** The Town Clerk is hereby appointed as the designated election official of the Town for purposes of performing acts required or permitted by law in connection with the election.

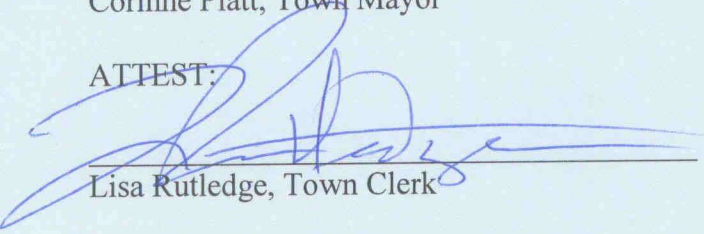
**Section 4.** If a majority of the votes cast on the question to authorize the levy of taxes submitted at the election shall be in favor of the levy of taxes as provided in such question, the Town acting through the General Assembly shall be authorized to proceed with the necessary action to levy the taxes in accordance with such question. Any authority to levy the taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to levy the taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

**Section 5.** If a majority of the votes cast on the question authorize the levy of taxes as described in the question set forth in Section 2 above, the Town shall take all further action which is necessary or desirable in connection therewith. The officers, employees and agents of the Town shall take all action necessary or reasonably required to carry out, give effect to and consummate the transactions contemplated hereby and shall take all action necessary or desirable to otherwise carry out the transactions contemplated by the Ordinance. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced by petition filed with the proper court within five days after the title of the ballot issue or ballot question is set or within five days after the ballot order is set.

**RESOLVED, APPROVED AND ADOPTED** by the Town of Ophir General Assembly at a public meeting on this 18<sup>th</sup> day of August, 2015.

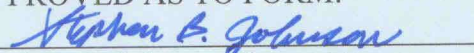
  
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Corinne Platt, Town Mayor

ATTEST:

  
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Lisa Rutledge, Town Clerk

(SEAL)

APPROVED AS TO FORM:

  
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Stephen B. Johnson, Town Attorney