

**TOWN OF OPHIR  
RESOLUTION 2015-7**

**A RESOLUTION OF THE GENERAL ASSEMBLY OF THE TOWN OF OPHIR,  
COLORADO, CALLING AN ELECTION ON NOVEMBER 3, 2015 TO  
AUTHORIZE INCURRING DEBT IN THE AMOUNT OF UP TO \$150,000.00 TO  
BE UTILIZED FOR OPHIR MUNICIPAL BROADBAND FUND-RELATED  
PURPOSES AND TO BE SECURED BY A PLEDGE OF GENERAL FUND  
AND/OR OPHIR MUNICIPAL BROADBAND FUND REVENUES AND  
BALANCES, 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 of Ophir 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 of Ophir; and

**WHEREAS**, the Ophir General Assembly has provided for a ballot issue on the November 3, 2015 election which may result in an additional property tax that if adopted, will be used in part to promote the provision of municipal broadband (high speed internet) services to the Town of Ophir residences and property owners; and

**WHEREAS**, whether or not such property tax increase ballot issue passes, the Ophir General Assembly finds that the Town of Ophir may need to enter into a loan agreement and borrow up to \$150,000 for the purposes of providing municipal broadband; and

**WHEREAS**, the Ophir General Assembly desires to place before the Ophir electorate at the November 3, 2015 election, the question of whether or not to incur up to \$150,000 in debt for municipal broadband fund-related purposes as more fully described below, with the expectation that if the Ballot issue passes, the Ophir General Assembly will subsequently consider an ordinance to approve the specific terms and conditions of the loan.

**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'S DEBT BE INCREASED \$150,000, WITH A TOTAL REPAYMENT COST NOT TO EXCEED \$228,000; SUCH DEBT TO CONSIST OF GENERAL OBLIGATION BONDS OR OTHER OBLIGATIONS ISSUED OR INCURRED TO PAY THE COSTS TO CARRY OUT THE PURPOSES FOR WHICH THE TOWN'S MUNICIPAL BROADBAND FUND WAS ESTABLISHED AS SET FORTH IN TOWN OF OPHIR RESOLUTION 2015-1, SUCH DEBT TO BE PAID FROM ANY LEGALLY AVAILABLE MONEYS OF THE TOWN, OR THE PROCEEDS OF AD VALOREM PROPERTY TAXES IMPOSED ON ALL TAXABLE PROPERTY OF THE TOWN, WITHOUT LIMITATION OF RATE OR WITH SUCH LIMITATIONS AND ON SUCH TERMS AND CONDITIONS, INCLUDING PROVISIONS FOR REDEMPTION PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF PREMIUM AS MAY BE DETERMINED BY THE OPHIR GENERAL ASSEMBLY AND SHALL THE PROCEEDS OF THE DEBT, TAXES, AND REVENUE USED TO PAY SUCH DEBT, AND INVESTMENT INCOME THEREON, BE COLLECTED AND SPENT BY THE TOWN AS A VOTER-APPROVED REVENUE CHANGE, WITHOUT REGARD TO ANY SPENDING, REVENUE-RAISING, OR OTHER LIMITATION CONTAINED WITHIN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, 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.

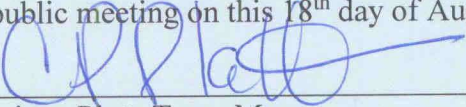
**SECTION 4.** If a majority of the votes cast on the question to authorize the levy of taxes submitted at the election shall be in favor of the levy of taxes as provided in such question, the Town acting through the General Assembly shall be authorized to proceed with the necessary action to levy the 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

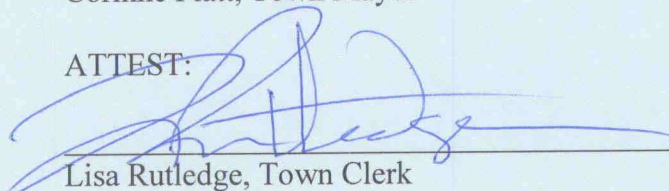


necessary or desirable to otherwise carry out the transactions contemplated by the Ordinance. Pursuant to Section 1-11-203.5, C.R.S., any election contest arising out of a ballot issue or ballot question election concerning the order of the ballot or the form or content of the ballot title shall be commenced 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.

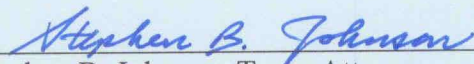
  
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Corinne Platt, Town Mayor

ATTEST:

  
\_\_\_\_\_  
Lisa Rutledge, Town Clerk

(SEAL)

APPROVED AS TO FORM:

  
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Stephen B. Johnson, Town Attorney