

**RESOLUTION NO. 2008-2**

**A RESOLUTION SUBMITTING TO THE REGISTERED ELECTORS OF THE TOWN OF PONCHA SPRINGS, COLORADO, AT A REGULAR MUNICIPAL ELECTION HELD ON APRIL 1, 2008, A BALLOT ISSUE CONCERNING THE ADOPTION OF A USE TAX.**

**WHEREAS**, the Town of Poncha Springs, in the County of Chaffee and State of Colorado (the “Town”), is a statutory municipal corporation duly organized and existing under laws of the State of Colorado (the “State”); and

**WHEREAS**, the members of the Board of Trustees of the Town (the “Board”) have been duly elected and qualified; and

**WHEREAS**, revenue which would normally come to the Town is not collected unless a use tax is in place, and the Town of Poncha Springs estimates it is currently losing \$90,000/year to other communities; and

**WHEREAS**, the use tax replaces the sales tax and is not on top of the municipal sales tax, so it does not present additional costs for the buyer or builder; and

**WHEREAS**, the use tax will be assessed on building materials at the time of issuance of a building permit; and

**WHEREAS**, it is important that growth within the Town pay for the increased Town services such growth requires; and

**WHEREAS**, a fiscal impact study of the Friend Ranch annexation showed that the Town will incur additional expenses with the annexation, and the imposition of a 2% use tax on building materials was recommended to cover much of the anticipated impact; and

**WHEREAS**, the Board hereby finds and determines that it is in the public interest to adopt a two percent (2%) use tax in the Town on the storing, using and/or consuming any construction and/or building materials purchased at retail inside or outside of the Town; and

**WHEREAS**, Article X, Section 20 of the Colorado Constitution, also referred to as the Taxpayer’s Bill of Rights (“TABOR”), requires voter approval for any new tax, any increase in any tax rate, the creation of any debt, and the spending of certain funds above limits established by TABOR; 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**, the Town will hold its regular municipal election on April 1, 2008 (the "Election"); and

**WHEREAS**, April 1, 2008, is one of the election dates at which ballot issues may be submitted to the Town's electors pursuant to TABOR; and

**WHEREAS**, the Board of Trustees hereby determines that the Election shall be held and conducted as a polling place election in accordance with Article 10 of Title 31, Colorado Revised Statutes ("C.R.S.") (the "Municipal Election Code"); and

**WHEREAS**, the Board is of the opinion that the Town should seek voter approval to increase taxes for the purpose provided in this resolution; and

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

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF TRUSTEES OF THE TOWN OF PONCHA SPRINGS, COLORADO:**

Section 1. Unless otherwise defined herein, all terms used herein shall have the meanings defined in TABOR and in Section 31-10-102, C.R.S.

Section 2. Pursuant to Section 31-10-105, C.R.S., the Town Clerk of the Town shall perform all acts required or permitted by law in connection with the Election, which Election shall be held and conducted as an independent polling place election.

Section 3. Pursuant to the applicable laws of the State, the Board hereby determines that the following ballot issue is hereby referred to the registered electors of the Town and shall appear on the ballot of the Town of Poncha Springs, Colorado, at the Election:

SHALL THE TOWN OF PONCHA SPRINGS' TAXES BE INCREASED BY \$90,000 IN FISCAL YEAR 2008/2009, AND BY WHATEVER ADDITIONAL AMOUNTS ARE RAISED ANNUALLY THEREAFTER, THROUGH THE ADOPTION OF A USE TAX, PAID AT THE TIME OF ISSUANCE OF A BUILDING PERMIT ON THE STORING, USING AND/OR CONSUMING IN THE TOWN OF PONCHA SPRINGS ANY CONSTRUCTION AND/OR BUILDING MATERIALS PURCHASED AT RETAIL INSIDE OR OUTSIDE THE TOWN, AT THE RATE OF TWO PERCENT (2%) OF THE RETAIL COST OF SUCH MATERIALS AND SHALL THE TOWN BE AUTHORIZED TO COLLECT, RETAIN AND SPEND SUCH REVENUES, INCLUDING ANY INTEREST AND INVESTMENT INCOME THEREON, AS A VOTER APPROVED REVENUE CHANGE NOTWITHSTANDING ANY REVENUE OR EXPENDITURE LIMITATION, INCLUDING THOSE CONTAINED IN ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

Yes

No

Section 4. If a majority of the votes cast on the question to levy a use tax submitted at the Election shall be in favor of issuance of the levy of the use tax as provided in such question, the effective date of said tax shall be July 1, 2008, and the Town, acting through the Board, shall be authorized to adopt an ordinance levying the tax in accordance with such question and to provide for the administration and collection of the tax.

Section 5. The officers and employees of the Town are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this resolution.

Section 6. All actions heretofore taken (not inconsistent with the provisions of this resolution) by the Town and the officers thereof, directed towards the Election and the objects and purposes herein stated are hereby ratified, approved and confirmed.

Section 7. If any section, paragraph, clause or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, paragraph, clause or provision shall in no manner affect any remaining provisions of this resolution, the intent being that the same are severable.

**PASSED AND ADOPTED**, at a regular meeting of the Poncha Springs Board of Trustees, this 28th day of January, 2008.

/s/ \_\_\_\_\_  
Mark F. Thonhoff, Mayor

ATTEST:

/s/ \_\_\_\_\_  
Diana K. Heeney, Town Clerk