

# BRYAN COUNTY COMMISSIONERS

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**BRYAN COUNTY CLERK**  
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**DISTRICT NO. 1**  
MONTY MONTGOMERY

**DISTRICT NO. 2**  
TONY SIMMONS

**DISTRICT NO. 3**  
JAY PERRY

## RESOLUTION# 2011-2012/056

Bryan County Clerk On the 7<sup>th</sup> day of April 2009 the Bryan County Fire Chiefs Association (BCFCA) agreed to ask the Bryan County Board of Commissioners to accept a one quarter percent (0.25%) sales tax resolution, for all Bryan County Fire Departments, to be placed before the Voters of Bryan County. On the 3rd Day of October 2011, as presented in a regular Board Meeting, this Resolution shall be known and may be cited as the Bryan County, Oklahoma Fire Sales Tax Resolution Number 2011-12/056, and is hereinafter referred to as the "Resolution". The Funds will be divided in accordance to the agreement of the County Fire Chiefs in BCFCA. This tax will be a permanent sales tax in Bryan County. Once passed the BCFCA executive board plus Three (3) Appointees from the Bryan County Commissioner will, and the Kiamichi Technology Center Durant Campus Director or his/her designee will form the Board of Directors that oversees any issues concerning the fire sales tax money. Each Commissioner will appoint 1 person from their District and the appointee shall not be a member of any fire department in Bryan County. Hereinafter referral to the BCFCA will refer to the board of directors. The Money will be divided in the following way:

### Section 1

**A.** All sales tax money will go to the Bryan County Treasurers Office and be set up in a General Ledger Account in Bryan County. The sales tax money will be divided monthly as it is received from the Oklahoma Tax Commission (OTC). In order for a fire department to access the sales tax money, a Purchase Order must be issued by the Bryan County Clerk's Office and be subject to final approval by the Bryan County commissioners to assure that the money is being used in accordance with this resolution.

**B.** All collected money will be divided on an equal share. All money collected can be used by the Fire Department for new vehicle acquisition or upgrade existing vehicles, equipment, training, training related expenses, personnel expenses (not to include salaries), maintenance, Fire/EMS daily operations, planning, new building constructions and improvements on existing facilities. All money spent is subject to review by the Bryan County Treasurer's Office and the Bryan County Board of Commissioners.

5% of all collected money will go to the Bryan County Communications Center to be used for equipment, training, maintenance, and facility improvements that will sustain, improve or benefit the operations of the Bryan County Communications Center.

All money spent is subject to review by the Bryan County Treasures Office and the Bryan County Board of Commissioners.

5% of all collected money will go to the Bryan County Fire Chiefs Association to be used for expenses on County Wide initiatives concerning the Bryan County Fire Departments. This includes but not limited to, communications, training, canteen services, rehab Service (for fire operations), Medical Director for Emergency Medical Responder Departments, Administrative costs, and EMS Supplies. All money spent from the Association will be agreed upon by a majority vote at the regular or special scheduled meetings of the Bryan County Fire Chiefs Association.

All Bryan County Fire Departments, The Bryan County Communications Center and the BCFCA must turn in a standard financial and activities report to the BCFCA at their regular scheduled meetings. There will be a report turned in for each calendar month. The report will be combined and the BCFCA will then report to the Bryan County Board of Commissioners at their next regular scheduled meeting.

C. If a Department fails to exist, the balance of the money in the Bryan County Sales Tax Ledger for that department will be divided equally to all remaining fire departments, not to be divided with the Bryan County Communications Center or the Bryan County Fire Chiefs Association. All tax money collected after a department fails to exist will be divided equally with all parties remaining in accordance to this resolution.

D. All Firefighters in Bryan County will be trained to the minimum of Intermediate firefighter within 5 years of this resolution being passed by the citizens of Bryan County. New firefighters will have 3 years from their start date on the department. Training levels will be based on the current Oklahoma Council of Firefighter Trainings Professional development plan for all Oklahoma Firefighters.

A list of firefighters with Department Name, Firefighter Name, Firefighters Date of Birth and Start date with the fire department will be provided to the County Commissioners within 90 days of this resolution passing. All new Firefighters must turn in the same information within 90 days of starting with a Fire Department in Bryan County.

All non-firefighting positions inside a department will not be held to the above standard.

## **Section 2**

### **Subsisting State Permits**

All valid and subsisting permits to do business by the OTC pursuant to the Oklahoma Sales Tax Code as set out in Title 68, Oklahoma Statutes 1991, Section 1350, et seq., as amended from time to time (hereinafter referred to as the "Oklahoma Sales Tax Code") are, for the purpose of this Resolution hereby ratified, confirmed and adopted in lieu of any requirement for any additional permit for same purpose.

## **Section 3**

### **Effective Date and Duration**

The sales tax levied pursuant to this shall become permanent and be effective on and after, subject to approval of a majority of the voters of Bryan County, Oklahoma, voting on the same in the manner prescribed by law.

## **Section 4**

### **Division of Funds**

100% of the one quarter percent sales tax shall be divided equally between the Bryan County fire departments, Bryan County Fire Chiefs Association and the Bryan County Communications Center. All existing Departments will be included. If a department ceases to exist the money will be divided equally between the remaining departments.

All new Fire Departments must be recognized as an established department under the State of Oklahoma statutes and the main station and business address must be located in Bryan County, Oklahoma and must be voted on as needed by at least  $\frac{3}{4}$  vote of the existing departments to be included in the tax.

## **Section 5**

### **Sales Subject to Tax**

There is hereby imposed an additional tax of one-quarter percent (.25%) to be levied upon the gross proceeds or gross receipts derived from sales of services in the County taxable under the Oklahoma Sales Tax Code, as set out therein.

## **Section 6**

### **Exemptions**

There is hereby specifically exempt from the tax levied by this Resolution the gross receipts or gross proceeds exempted from the Oklahoma Sales Tax Code, as set out therein.

## **Section 7**

### **Other Exempt Transfers**

Also there is hereby specifically exempted from the tax levied by the Resolution the transfer of tangible personal property exempted from the Oklahoma Sales Tax Code, as set out therein.

## **Section 8**

### **Tax Due When – Returns – Records**

The Tax Levied hereunder shall be due and payable at the time and in the manner and form prescribed for payment of then state sales tax under the Oklahoma Sales Tax Code.

## **Section 9**

### **Payment of Tax**

The tax herein levied shall be paid to the Tax Collector at the time in form and manner provided for payment of state sales tax under Oklahoma Sales Tax Code.

## **Section 10**

### **Tax Constitutes Debt**

Such taxes, penalty and interest due hereunder shall be at all times constitute a prior, superior and paramount claim as against the claims of unsecured creditors, and may be collected by suit as any other debt.

## **Section 11**

### **Classification of Taxpayers**

For the Purpose of this Resolution, the classification of taxpayers hereunder shall be as prescribed by State Law for the purpose of the Oklahoma Sales Tax Code.

## **Section 12**

### **Vendor's Duty to Collect Tax**

- A. The levies hereunder shall be paid by the consumer or user to the vendor, or user to the vendor, and it shall be the duty of each and every vendor in this county by this to collect from the consumer or user, the full amount of the tax levied Resolution, or an amount equal as nearly as possible or practicable to the average equivalent thereof.
- B. Vendors shall add the tax imposed hereunder to the average equivalent thereof, to the sales price, charge, consideration, gross receipts or gross proceeds of the sale of tangible personal property or services taxed by this Resolution and when added such tax shall constitute a part of such price or charge, shall be a debt from the consumer or user to the vendor until paid, and shall be recoverable at law in the same manner as other debts, according to Oklahoma law.
- C. A vendor willfully or intentionally fails, neglects or refuses to collect the full amount of the tax levied herein, or willfully or intentionally Omits, neglects or refuses to comply with the provisions hereunder, or remits or rebates to a consumer or user, either directly or indirectly, and by whatsoever means, all any part of the tax levied by this Resolution, or makes in any form of advertising, verbally or otherwise, any statement which implied that he/she is absorbing the tax, or paying the tax for the consumer or user by an adjustment or prices or at a price including the tax, or in any manner whatsoever, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be fined not more than One Hundred Dollars (\$100.00), and upon conviction for a second or other subsequent offense

shall be fined not more than Five Hundred Dollars(\$500), or incarcerated for not more than sixty (60) days or both. Provided sales by vending machines may be made at a stated price which includes state and any municipal sales tax, or in any manner whatsoever, according to Oklahoma Law.

**D.** Any sum or sums collected or required to be collected hereunder shall be deemed to be held in trust for the State of Oklahoma, and, as trustee the collecting vendor shall have a fiduciary duty to the State of Oklahoma in regards to such sums and shall be subject to the trust laws of this state. Any vendor who willfully or intentionally fails to remit the tax, after the tax levied by this article was collected from the consumer or user, and appropriates the tax held in trust to his/her own use, or to the use of any person not entitled thereto, without authority of law, shall be guilty of embezzlement.

### **Section 13**

#### **Returns, Remittances- Discounts**

Returns and remittances of the tax levied herein collected shall be made to the Tax Collector at the time, and in the manner, form and amount as for returns and remittances required by the Oklahoma Sales Tax Code; and remittances of tax collected hereunder shall be subject to the same discount as may be allowed by said Code for the collection of state sales taxes.

### **Section 14**

#### **Tax Collector Defined**

The term "Tax Collector" as used herein means the department of the County government or the official agency of the State duly designated according to law be contract and authorized by law to administer the collection of the tax herein levied.

### **Section 15**

#### **Definition**

The definitions of words, terms and phrases contained in the Oklahoma Sales Tax Code, Title 68, Oklahoma Statutes 1991, Section 1352, as amended, are hereby adopted by reference and made a part of this Resolution.

### **Section 16**

#### **Interest and Penalties- Delinquency**

Section 217 of Title 68, Oklahoma Statutes 1991, as amended, is hereby adopted and made part of this Resolution and interest and penalties at the rates and in the amounts as therein specified are hereby levied and shall be applicable in cases of delinquency in reporting and paying the tax levied by this Resolution. Provided, that the failure or refusal of any taxpayer to make and transmit the reports and remittances of tax in the time and manner required by this Resolution shall cause such tax to be delinquent.

### **Section 17**

#### **Waiver of interest and Penalties**

The interest or penalty or any portion thereof accruing by reason of taxpayer's failure to pay the tax herein levied may be waived or remitted in the same manner as provided for said waiver or remittance as applied in administration of the state sales tax provided in title 68, Oklahoma Statutes 1991, Section 22, as amended and to accomplish the purposes of this sections the applicable provisions of said Section 220 are hereby adopted by reference and made part of this Resolution.

### **Section 18**

#### **Erroneous Payments – Claims for Refund**

Refund for erroneous payment of the sales tax herein levied may be made to any taxpayer making such erroneous payment in the manner and pursuant to the procedures, and under the same limitations of time, as provided for administration of the state sales tax as set forth in Title 68, Oklahoma Statutes 1991, Section 227, as amended, and to accomplish the purposes of this section, the applicable provisions of said Section 227 are hereby adopted by reference and made a part of this Resolution.

### **Section 19**

#### **Fraudulent Returns**

In addition to all civil penalties provided by this Resolution, the willful failure or refusal of any taxpayer to make reports and remittances herein required, or the making of any false or fraudulent report for the purpose of avoiding or escaping payment of any tax or portion thereof rightfully due under this Resolution shall be an offense, and upon conviction thereof, the offending taxpayer shall be subject to such fines as set out under Title 68, Oklahoma Statutes 1991, Section 241, as amended.

## **Section 20**

### **Records Confidential**

The confidential and privileged nature of the records and files concerning the administration of this sales tax is legislatively recognized and declared, and to protect the same, the provisions of Title 68, Oklahoma Statutes 1991, Section 205, as amended and each subsection thereof is hereby adopted by reference and made fully effective and applicable to administration of this sales tax as if herein set forth.

## **Section 21**

### **Provisions Severable**

The provisions hereof are hereby declared to be severable, and if any section, paragraph, sentence or cause of this Resolution is for any reason held invalid or inoperative by any court of competent jurisdiction, such decision shall not affect any other section, paragraph, sentence or clause hereof.

## **Section 22**

### **Amendments**

The people of Bryan County, Oklahoma, by their approval of this Resolution at the election herein above provided for, hereby authorize the Board of County Commissioners of Bryan County, Oklahoma, by Resolutions duly enacted, to make such administration and enforcing this Resolution as may be necessary or proper for efficiency and fairness, except that the rate of tax herein provided shall not be changed without approval of the qualified electors of the County as provided by law.

## **Section 23**

### **Provisions Cumulative**

The provisions hereof shall be cumulative and in addition to any and all other taxing provisions adopted by Bryan County, Oklahoma.

## **Section 24**

### **Date of Election**

The election shall be held on the 26th day of June, 2012, and said election shall be held at the same place and in the same manner prescribed for the conduct of the state and county elections, and polling places open from 0700 hours (7:00 am) to 1900 hours (7:00 pm).

## **Section 25**

### **The Propostion**

#### **BRYAN COUNTY FIRE SALES TAX PROPOSITION**


Shall a One Quarter Percent (0.25%) sales tax increase be approved, for all Bryan County Fire Departments, Bryan County Communications Center and the Bryan County Fire Chiefs Association by: Levying and assessing a sales tax upon the gross proceeds of receipt from all sales taxable under the Oklahoma sales tax code, in addition to all the city, county and state sales tax currently being levied or assessed in Bryan County? This sales tax is to become a permanent tax.


This sales tax, if approved by a majority of the voters in Bryan County, shall be used and dedicated for the purpose of Fire protection, prevention, communications, training related expenses (not to include salaries), and Fire/EMS/Rescue operations. This includes maintenance/construction of buildings and facilities both current and future, the purchase and maintenance of current and future apparatus, vehicles and supplies for all current Bryan County Fire Departments, Bryan County Communications Center and the Bryan County Fire Chiefs Association. Said sales tax funds shall be divided among said entities on an equal share in accordance to Resolution 2011-12/056 filed with the Board of Commissioners of Bryan County, Oklahoma.


FOR the proposition - YES

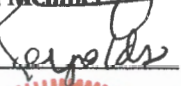
AGAINST the proposition - NO

PASSED AND APPROVED BY THE BOARD OF COUNTY COMMISSIONERS BRYAN COUNTY,  
OKLAHOMA ON THIS THE 9<sup>th</sup> DAY OF April, 20 12

  
\_\_\_\_\_  
Jay Perry, Chairman

  
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Tony Simmons, Vice Chairman

  
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Monty Montgomery, Member

  
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Tammy Reynolds,  
Bryan County Clerk



## BRYAN COUNTY FIRE SALES TAX PROPOSITION

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FOR the proposition - YES

AGAINST the proposition - NO