

RESOLUTION NO. 2022-052

A RESOLUTION DESCRIBING A PROPOSAL TO IMPOSE AN ADDITIONAL 0.10% COUNTY-WIDE SALES AND USE TAX, DECLINING TO 0.05% AFTER DECEMBER 31, 2027, FOR THE PURPOSE OF FUNDING EMERGENCY SERVICES IN BOULDER COUNTY, INCLUDING BUT NOT LIMITED TO THE FOLLOWING: CAPITAL, INCLUDING FACILITIES AND EQUIPMENT, AND OPERATIONAL COSTS OF SEARCH AND RESCUE ORGANIZATIONS; SUPPLEMENTAL FUNDING FOR THE NEEDS OF FIRE DEPARTMENTS IN MOUNTAINOUS AND RURAL AREAS; AMBULANCE SERVICES IN AREAS NOT COVERED BY MUNICIPAL OR FIRE DISTRICT AMBULANCE SERVICES; WILDLAND FIREFIGHTING STAFFING; AND TRAIL AND TRAILHEAD SAFETY SERVICES; AND A VOTER APPROVED REVENUE CHANGE

RECITALS

A. Article 2, Title 29, Colorado Revised Statutes, (hereinafter the “Article”) as amended, provides for the imposition of a county-wide sales and use tax upon approval of a majority of the registered electors of the County voting on such question.

B. It is imperative to protect lives and property in areas of Boulder County that are not covered by municipal emergency response providers.

C. There are 200 miles of foothills trails and 110,000 acres of open space in Boulder County, and the County is a local, national, and international destination for outdoor recreation enthusiasts. Each year, there is a significant need for rescue services for individuals who become injured or otherwise need to be rescued while recreating. Each year the County’s volunteer search and rescue organizations respond to approximately 200 calls for emergency assistance on incidents such as missing hikers, fallen climbers, avalanches, and water rescues, and the number of rescue calls continues to increase. These volunteer organizations also assist the Sheriff’s Office on additional larger-scale disaster and emergency response efforts.

D. Recreation visitation to open space and public lands in Boulder County continues to increase. This has caused trail and trailhead safety issues that include the need for parking, traffic, and accident control measures like increased public safety staffing and trailhead shuttles. Trailheads must be managed to ensure emergency services have proper access to trails and trailheads and the public utilizing our trails and trailheads have the ability to escape natural disasters like wildfires.

E. The County contracts with volunteer search and rescue (SAR) organizations to provide assistance to those individuals. While those SAR organizations provide the volunteer labor for rescue operations, those organizations have significant capital and equipment costs and needs. The County desires to provide financial support for these organizations so that they have the equipment, training, and resources needed to provide SAR and emergency response.

F. There is an urgent need to construct a building to serve as the base for the County Sheriff Office’s search and rescue volunteer organizations. The building is needed to house

equipment and protect equipment from the elements and provide training and response facilities for SAR organizations to be most efficient and prepared for emergency response.

G. The County works with several volunteer search and rescue organizations that assist the Sheriff's Office and the Boulder Office of Disaster Management (also known as the Boulder Office of Emergency Management) to respond to emergencies. These volunteer groups currently include, for example, the Rocky Mountain Rescue Group (RMRG), which is the County's primary search and rescue contractor; the Boulder Emergency Squad, which performs a range of rescue services, including water rescue; Front Range Rescue Dogs, which assists with search and rescue efforts; and Mounted Search and Rescue, which provide horse-back searchers and assist with large animal evacuations.

H. There are over 20 fire departments throughout Boulder County that serve as the first line of defense for mountain and rural areas of the County not located within a municipality. These fire departments across the County respond to a total of over 13,000 calls per year.

I. The County's rural and mountain communities, and the residents within unincorporated Boulder County, rely upon the County to provide ambulance services. The Unincorporated County ambulance service responds to approximately 1,500 emergency calls per year.

J. The Board finds that the most appropriate solution to these emergency response needs is to impose a County-wide sales and use tax of 0.10%, declining to 0.05% after December 31, 2027, in order to provide revenue to fund equipment, facilities, programs and operations that address these service needs. The Board further finds that this is an on-going need for which there is not now nor will there be an adequate alternative funding source, necessitating that this sale and use tax be permanent.

K. The Board finds that if such tax is approved, revenues collected from the imposition of said 0.10%, declining to 0.05% after December 31, 2027, countywide sales and use tax would be expended for the purposes and in accordance with the limitations set forth herein, effective for revenues collected from the imposition of said 0.10%, declining to 0.05% after December 31, 2027, countywide sales and use tax on and after January 1, 2023.

L. The Board finds that the imposition of this permanent 0.10%, declining to 0.05% after December 31, 2027, and the exemption of such tax revenues and the interest thereon from the fiscal year spending limitations of Article X, Section 20 of the Colorado Constitution, would provide additional revenues to be utilized to meet critical needs.

M. Said Article provides for the submission of such a countywide sales and use tax proposal to the registered electors of the County at a general election scheduled within 120 days after adoption of such resolution, or if no general election is to be held within 120 days, at a special election to be held for the purpose of voting thereon.

N. A General Election is scheduled for November 8, 2022.

O. The Board of County Commissioners of the County of Boulder, State of Colorado, desires to refer to the registered electors of the County of Boulder, State of Colorado, to be determined by a majority of voters voting thereon, the question of whether such taxes and voter-approved revenue change shall be approved or disapproved.

P. The said Article provides that the County Clerk and Recorder shall publish the text of such tax proposal four separate times, a week apart, in the official newspaper of the County and of each city and incorporated town within the County.

Q. Colo. Const., Art. X, Section 20(3)(b), requires certain election notices to be mailed to all registered voters of the County.

R. The said Article provides that the proposal shall contain certain provisions concerning the amount, levying and scope of said tax.

NOW, THEREFORE, BE IT RESOLVED THAT: There shall be referred to the registered electors of the County of Boulder at a General Election to be held on Tuesday, November 8, 2022, the following proposal:

1.(a) The imposition, by extension, and collection of a countywide 0.10% (10 hundredths of one percent), declining to 0.05% (5 hundredths of one percent) after December 31, 2027, sales and use tax in accordance with the provisions of the Article upon the sale at retail of tangible personal property and the furnishing of certain services in the County as provided in paragraph (d) of Subsection (1) of Section 29-2-105, Colorado Revised Statutes (“C.R.S.”), as amended, and as is more fully hereinafter set forth.

(b) For the purpose of this sales tax, all retail sales are consummated at the retailer’s place of business unless the tangible personal property sold is delivered by the retailer or his agent outside the County’s limits. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax imposed by article 26, title 39, C.R.S., regardless of the place to which delivery is made. If a retailer has no permanent place of business in the County, the place at which the retail sales are consummated for the purpose of this sales tax shall be determined by the provisions of article 26, title 39, C.R.S., and by rules and regulations promulgated by the Colorado Department of Revenue. Without limiting the broad application of this sales tax and recognizing that mobile telecommunications services are subject to particular legal requirements, this sales tax shall apply to mobile telecommunications services to the greatest extent permitted under Section 29-2-105(1.5), C.R.S.

(c) The amount subject to tax shall not include the amount of any sales or use tax imposed by article 26 of title 39, C.R.S., as amended.

(d) The sales of tangible personal property and services taxable under this sales tax shall be the same as the sales of tangible personal property and services taxable pursuant to Section 39-26-104, C.R.S., as amended, except as otherwise provided herein. There shall be exempt from taxation under the provisions of this proposed countywide sales and use tax extension, the

tangible personal property and services which are exempt under the provisions specified in Part 7 of Article 26 of title 39, C.R.S., as amended, except that only those local exemptions identified in Section 29-2-105(d)(I), C.R.S., listed below in (1) through (4), and when legally recognized, the local exemptions listed below in (5) through (7) shall apply to this County sales and use tax. The following exemptions are consistent with exemptions contained in various existing Boulder County sales and use tax resolutions:

- (1) The exemption for sales of machinery or machine tools specified in Section 39-26-709(1), C.R.S.
- (2) The exemption for sales of food specified in Section 39-26-707(1)(e), C.R.S. For the purposes of this subsection, “food” is defined in Section 39-26-102(4.5), C.R.S.
- (3) The exemption for sales of components used in the production of energy, including but not limited to alternating current electricity, from a renewable energy source specified in Section 39-26-724, C.R.S.
- (4) The exemption for sales of electricity, coal, wood, gas, fuel, oil, or coke specified in Section 39-26-715(1)(a)(II), C.R.S.
- (5) The exemption for sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles specified in Section 39-26-723, C.R.S.
- (6) The exemption for sales that benefit a Colorado school specified in Section 39-26-725, C.R.S.
- (7) The exemption for sales by an association or organization of parents and teachers of public school students that is a charitable organization specified in Section 39-26-718(1)(c), C.R.S.

(e) 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 the 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 the County; and
- (2) Such personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.

(f) The countywide 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., as amended, 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.

(g) The countywide sales tax shall not apply to 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 by the County. A credit shall be granted against the sales tax imposed by the 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 by the County.

(h) Notwithstanding any other provision of this sales tax regarding the taxation of food, this sales tax shall not apply to the following:

- (1) Sales of food purchased with food stamps. For the purposes of this subsection (a), “food” has the same meaning as provided in 7 U.S.C. § 2012, as currently in effect and subsequently amended.
- (2) Sales of food purchased with funds provided by the special supplemental food program for women, infants, and children, 42 U.S.C. § 1786. For the purposes of this subsection (b), “food” has the same meaning as provided in 42 U.S.C. § 1786, as currently in effect and subsequently amended.

(i) This sales tax shall not apply to the sales of cigarettes.

(j) This sales tax shall not apply to sales to a telecommunications provider of equipment used directly in the provision of telephone service, cable television service, broadband communications service, or mobile telecommunications service. It is the policy of this County that this exemption be applied in a uniform and nondiscriminatory manner to the telecommunications providers of telephone service, cable television service, broadband communications service, and mobile telecommunications service.

(k) All terms used in this ordinance shall have the same meaning as provided for in Section 39-26-102, C.R.S. Unless otherwise provided in this sales tax, any amendments thereto, or article 2, title 29, C.R.S., the provisions of article 26, title 39, C.R.S., shall govern the collection, administration, and enforcement of this sales tax.

2. The imposition, by extension, of a countywide 0.10% (10 hundredths of one percent) sales and use tax is hereby extended and imposed in accordance with the provisions of the Article for the privilege of using or consuming in the County any construction and building materials purchased at retail and for storing, using, or consuming in the County any motor and other vehicles on which registration is required, purchased at retail. Subject to the provisions of Section 39-26-212, C.R.S., as amended, the use tax shall not extend or apply:

(a) To the storage, use, or consumption of any tangible personal property the sale of which is subject to a retail sales tax imposed by the County;

(b) To the storage, use, or consumption of any tangible personal property purchased for resale in the County either in its original form or as an ingredient of a manufactured or compounded product, in the regular course of a business;

(c) To the storage, use, or consumption of tangible personal property brought into the County by a non-resident 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 non-resident to be used in the conduct of a business in this State;

(d) To the 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;

(e) To the storage, use, or consumption of tangible personal property by a person engaged in the business of manufacturing or compounding for sale, profit, or use 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;

(f) To the 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 sales or use tax of another statutory or home rule county equal to or in excess of that imposed by the County. A credit shall be granted against the use tax imposed by the County with respect to a person's storage, use, or consumption in the 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 resolution;

(g) To the storage, use, or consumption of tangible personal property and household effects acquired outside of the County and brought into it by a nonresident acquiring residency;

(h) To the storage or use of a motor vehicle if the owner is or was, at the time of purchase, a nonresident of the County and purchased the vehicle outside of the County for use outside of the County and actually so used it for a substantial and primary purpose for which it was acquired and registered, titled, and licensed said motor vehicle outside of the County;

(i) To the 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 November 6, 2001;

(j) To the 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 November 6, 2001.

3. The 0.10%, declining to 0.05% after December 31, 2027, use tax provided for herein 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 for any motor 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.

4. The definition of words herein contained shall be as said words are defined in Section 39-26-102, C.R.S., as amended, and said definitions are incorporated herein.

5. Except as provided by Section 39-26-208, Colorado Revised Statutes, as amended, any use tax imposed shall be collected, enforced and administered by the County of Boulder. The use tax on construction and building materials will be collected by the County building inspector 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.

6. If the majority of the registered electors voting thereon vote for approval of this County-wide sales and use tax imposition proposal, the additional 0.10%, declining to 0.05% after December 31, 2027, County-wide sales and use tax shall continue to be effective throughout the incorporated and unincorporated portions of the County of Boulder in perpetuity and shall not expire, unless and until repealed or otherwise revised by a vote of the citizens of Boulder County.

7. If the majority of the registered electors voting thereon vote for approval of this County-wide sales and use tax extension proposal, revenues collected from the imposition of said 0.10%, declining to 0.05% after December 31, 2027, county-wide sales and use tax would be expended for the purposes and in accordance with the limitations of this Resolution No. 2022-052, effective for revenues collected from the imposition of said 0.10%, declining to 0.05% after December 31, 2027, county-wide sales and use tax on and after January 1, 2023.

8. The cost of the election shall be paid from the general fund of the County of Boulder.

9. The County Clerk and Recorder shall publish the text of this sales and use tax proposal four separate times, a week apart, in the official newspaper of the County of Boulder and each city and incorporated town within this County.

10. The County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colo. Const., Art. X, Section 20(3), including but not limited to the mailing of required election notices and ballot issue summaries.

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

12. The net proceeds from the sales and use tax received by the County during the extended period authorized hereby shall be expended by the County for the purpose of funding emergency services in Boulder County, including but not limited to:

- (a) Capital, including facilities and equipment, and operational costs of search and rescue organizations;
- (b) Supplemental funding for the needs of fire departments in mountainous and rural areas;
- (c) Ambulance services in areas not covered by municipal or fire district ambulance services;

(d) Wildland firefighting staffing; and

(e) Trail and trailhead safety services.

13. Interest generated from the revenues of the sales and use tax shall be used for the purposes set forth in this Resolution.

14. For purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of revenues of the sales and use tax, together with earnings on the investment of the proceeds of the tax, shall constitute a voter-approved revenue change.

15. Upon the effective date of the imposition of the 0.10% county-wide sales and use tax proposed herein, the county-wide total sales and use tax rate of 0.9850%, when added to state and municipal sales and use tax rates existing as of the date hereof which are non-exempt under the provisions of Section 29-2-108, C.R.S., as amended, results in a total sales and use tax rate in excess of the 6.9 percent limit stated in said statute as follows: Boulder: 8.945%; Boulder (retail food service): 9.095%; Erie: 8.585%; Lafayette: 8.585%; Longmont: 8.615%; Louisville: 8.735%; Lyons: 8.585%; Nederland: 9.085%; Superior: 8.545%; Ward: 7.085%. Because the tax declines to 0.05% after five years, as of January 1, 2028, the county-wide total sales and use tax rate of 0.9850%, when added to state and municipal sales and use tax rates existing as of the date hereof which are non-exempt under the provisions of Section 29-2-108, C.R.S., as amended, results in a total sales and use tax rate in excess of the 6.9 percent limit stated in said statute as follows: Boulder: 8.895%; Boulder (retail food service): 9.045%; Erie: 8.535%; Lafayette: 8.535%; Longmont: 8.565%; Louisville: 8.685%; Lyons: 8.535%; Nederland: 9.035%; Superior: 8.495%; Ward: 7.035%.

16. If any provision of this resolution or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this resolution which can be given effect without the invalid provision or applications and to this end, the provisions of this resolution are declared to be severable.

17. The proposal as described in this Resolution shall take effect immediately upon the approval of the electorate.

18. The sales and use tax shall not expire.

19. A notice of the adoption of this county-wide sales and use tax addition proposal by a majority of the registered electors voting thereon shall be submitted by the County Clerk and Recorder to the Executive Director of the Department of Revenue, together with a certified copy of this Resolution at least 45 days prior to the effective date of the sales and use tax created herein.

20. The Board of County Commissioners of Boulder County shall take action to set a ballot title for this issue.

IT IS HEREBY DECLARED by the Board of County Commissioners of the County of Boulder and State of Colorado that this resolution is necessary for the immediate preservation of the public health, safety and welfare, and that it shall become effective immediately upon its adoption.

A motion to approve this Resolution 2022-052 was made by Commissioner _____, seconded by Commissioner _____, and passed by a _____ vote.

ADOPTED this 4th day of August, 2022.

BOARD OF COUNTY COMMISSIONERS
OF BOULDER COUNTY:

Marta Loachamin, Chair

Claire Levy, Vice Chair

Matt Jones, Commissioner

ATTEST:

Clerk to the Board: _____