

RESOLUTION NO. 09052017R003

**A RESOLUTION DESCRIBING A PROPOSAL FOR THE EXTENSION OF
AN EXISTING COUNTYWIDE SALES AND USE TAX FOR THE LARIMER
COUNTY FAIRGROUNDS/THE RANCH; CALLING AN ELECTION ON NOVEMBER
7, 2017 FOR CONSIDERATION OF SUCH PROPOSAL; SETTING THE BALLOT
TITLE AND BALLOT TEXT FOR THE ELECTION; AND AUTHORIZING
EXPENDITURE OF ALL PROCEEDS OF THE SALES AND USE TAX**

WHEREAS, on November 2, 1999, a majority of eligible electors of Larimer County voting at the election held on that day approved a referred measure authorizing the imposition of a fifteen one-hundredths of one percent (.15%) Countywide Sales and Use Tax dedicated to an event center, 4-H, youth and community building, related fairgrounds facilities, and associated improvements ("Larimer County Fairgrounds"), with such tax to terminate on December 31, 2019, as described in further detail in Larimer County Board of County Commissioners Resolution No. R99-121g ("1999 Measure"); and

WHEREAS, fairground facilities within Larimer County have supported the local culture and heritage of northern Colorado for more than 130 years; and

WHEREAS, the Larimer County Fairgrounds, or "The Ranch" as many have come to know the facilities, supports the local economy and community by hosting 2,500 events annually within a community/4H facility, exposition hall, 7,200-seat events center, arena, pavilions, and outdoor event spaces; and

WHEREAS, the Larimer County Fairgrounds provides regional opportunities for youth development; community meetings; conferences, tradeshow, and exposition events; sports, music and entertainment events; and agricultural, livestock, rodeo and equestrian events; and

WHEREAS, the Larimer County Fairgrounds provides a resource for emergency response and community resiliency through multiple facilities and 220 acres of land that serve as temporary shelter space during evacuations and a base of operations for responses to local disasters; and

WHEREAS, Larimer County has developed a Master Plan to identify and guide future programs and site development of the Larimer County Fairgrounds over the next 20 years with the purpose of improving the facilities to remain a regionally significant events complex and accommodate the growing population in northern Colorado ("Larimer County Fairgrounds and Events Complex Master Plan"); and

WHEREAS, the Larimer County Board of County Commissioners ("County") believes it to be in the best interests of the residents of Larimer County that the Countywide Sales and Use Tax at the rate of fifteen one-hundredths of one percent (.15%) be extended from its current date of expiration of December 31, 2019, for a period of twenty (20) years to and including December 31, 2039, with

the revenues from such tax to be generated and used in accordance with this Resolution to construct, equip, operate, maintain, improve, remodel, and lease the existing and future Larimer County Fairgrounds as more particularly described in the Larimer County Fairgrounds and Events Complex Master Plan as adopted and as may be amended from time to time after public hearing; and

WHEREAS, pursuant to Article X, Section 20 of the Colorado Constitution, an extension of an expiring tax requires majority voter approval; and

WHEREAS, the County desires to refer to the registered electors of Larimer County a proposal for the extension of the Countywide Sales and Use Tax as described herein at the election on November 7, 2017, and such election date is within the next 120 days after adoption of this Resolution; and

WHEREAS, pursuant to Section 1-5-203(3), C.R.S., the County must certify ballot contents to the Larimer County Clerk and Recorder for said November 7, 2017 election on or before September 8, 2017, and by this Resolution certifies the ballot contents as set forth herein.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY that there shall be referred to the registered electors of Larimer County at the election to be held on November 7, 2017, the following proposal:

Section 1. THAT the Countywide Sales Tax of fifteen one-hundredths of one percent (.15%), approved by a majority of electors on November 2, 1999 and dedicated to the Larimer County Fairgrounds, be extended and continue to be imposed on the sale of tangible personal property at retail and the furnishing of services in Larimer County, as provided in Section 29-2-105(d)(1), C.R.S., as amended, and as is more fully hereinafter set forth.

- (a) For the purposes of this sales tax proposal, all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the retailer or his agent to a destination outside the limits of Larimer County or to a common carrier for delivery to a destination outside the limits of Larimer County. 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 of Title 39, Colorado Revised Statutes, as amended, regardless of the place to which delivery is made. If a retailer has no permanent place of business in Larimer County or has more than one place of business, the place or places at which the retail sales are consummated for the purpose of a sales tax imposed by this proposal shall be determined by the provisions of Article 26 of Title 39, Colorado Revised Statutes, as amended, and by rules and regulations promulgated by the State Department of Revenue.
- (b) The amount subject to tax shall not include the amount of any sales or use tax imposed by Article 26 of Title 39, Colorado Revised Statutes, as amended.
- (c) The tangible personal property and services taxable pursuant to this proposal shall be the same as the tangible personal property and services taxable pursuant to § 39-26-104, Colorado Revised Statutes, as amended, and subject to the same exemptions as those

specified in Part 7, Article 26, Title 39, Colorado Revised Statutes, as amended, and further subject to the exemptions for:

- (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 electricity, coal, wood, gas, fuel oil, or coke specified in Section 39-26-715 (1)(a)(II), C.R.S.;
 - (3) The exemption for sales of food for home consumption specified in Section 39-26-707 (1)(e), C.R.S.;
 - (4) The exemption for vending machine sales of food specified in Section 39-26-714 (2), C.R.S.;
 - (5) The exemption for occasional sales by a charitable organization specified in Section 39-26-718 (1)(b), C.R.S.;
 - (6) The exemption for sales of farm equipment and farm equipment under lease or contract specified in Section 39-26-716 (2) (b) and (2)(c), C.R.S.;
 - (7) The exemption for sales of low-emitting motor vehicles, power sources, or parts used for converting such power sources as specified in Section 39-26-719(1), C.R.S.;
 - (8) The exemption for sales of pesticides specified in Section 39-26-716(2)(e), C.R.S.; and
 - (9) The exemption for sales of components for production of energy from renewable energy sources specified in Section 39-26-724, C.R.S.
- (d) 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 Larimer County; and
 - (2) Such personal property is registered or required to be registered outside the limits of Larimer County under the laws of the State.
- (e) The Countywide Sales Tax shall not apply to the sale of construction and building materials, as the term is used in § 29-2-109, Colorado Revised Statutes, 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.
- (f) The Countywide Sales Tax will 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 already 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.

- (g) The Countywide Sales Tax will not apply to the sale of food purchased with food stamps. For purposes of this paragraph, "food" shall have the meaning as provided in 7 U.S.C. § 2012(g) as such section existed on October 1, 1987 or as such section is thereafter amended.
- (h) The Countywide Sales Tax will not apply to the sale of food purchased with funds provided by the special supplemental food program for women, infants and children, 42 U.S.C. § 1786. For purposes of this paragraph, "food" shall have the same meaning as provided in 42 U.S.C. § 1786 as such section existed on October 1, 1987 or as such section is thereafter amended.
- (i) Any person engaging in the business of selling tangible personal property at retail, or the furnishing of certain services as herein specified, is required to obtain a license therefore, which license shall be granted at no cost and issued by a designated official of the County Financial Administration Division. Such license shall be granted upon application stating the name and address of the person desiring such license, the name of such business and location, and such other facts as the said official may reasonably require. In case business is transacted at two (2) or more separate places by one person, a separate license for each place of business shall be required. Each license shall be posted in a conspicuous place in the place of business for which it is issued. No license shall be transferable. Any license may be revoked for cause as provided in § 39-26-103, Colorado Revised Statutes, as amended, and any amendment thereto enacted before the effective date of this proposal, which provision is incorporated herein by this reference. No license shall be required for any person engaged exclusively in the business of selling commodities which are exempt from taxation under this proposal.
- (j) The vendor (retailer) shall not be entitled as collecting agent to withhold a collection fee unless such a fee, and the amount thereof is established by the Board of County Commissioners. If such fee is established, it will be administered as specified in Section 39-26-105, C.R.S. No vendor shall be entitled to the collection fee for any month that the vendor is or remains delinquent.
- (k) The sales tax imposed shall be collected, administered and enforced by the Executive Director of the Department of Revenue in the same manner as the collection, administration and enforcement of the State sales tax, as provided by Article 26 of Title 39, Colorado Revised Statutes, as amended.

Section 2. THAT the Countywide Use Tax of fifteen one-hundredths of one percent (.15%), approved by a majority of electors on November 2, 1999 and dedicated to the Larimer County Fairgrounds, be extended and continue to be imposed for the privilege of using or consuming in Larimer County any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in Larimer County any motor or other vehicles, purchased at retail on which registration is required. The use tax shall not 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 Larimer 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 Larimer County by a non-resident thereof for his own storage, use, or consumption while temporarily within Larimer 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, 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 Larimer 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 proposal;
- (g) to the storage, use, or consumption of tangible personal property and household effects acquired outside of Larimer 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 non-resident of Larimer County and he purchased the vehicle outside of Larimer County for use outside of Larimer County and actually so used it for a substantial and primary purpose for which it was acquired and he registered, titled, and licensed said motor vehicle outside of Larimer 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 the effective date of this use tax;
- (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 the effective date of this use tax; or
- (k) to the storage of construction and building materials.

Section 3. THAT the 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 of any motor or other vehicle for which registration is required, and no certificate of title shall be issued for such vehicle by the Department of Revenue or its authorized agents until any tax due upon the use, storage, or consumption thereof pursuant hereto has been paid. The use tax imposed hereby shall be collected by the authorized agent of the Department of Revenue in

Larimer County. The proceeds of said use tax shall be paid to the County periodically in accordance with an agreement entered into by and between the County and the Department of Revenue.

Section 4. THAT distribution of all sales and use tax collected by the Director of Revenue, pursuant to this proposal, shall be to the County, which shall expend such moneys as described herein.

Section 5. THAT except as provided by § 39-26-208 Colorado Revised Statutes, as amended, any use tax imposed shall be collected, enforced and administered by the County:

- (a) Any person required to obtain a building permit within Larimer County and the owner of the real property shall be jointly and severally responsible for paying the Larimer County Sales and Use Tax. Prior to the issuance of a building permit, an amount of tax to be held on deposit shall be estimated by determining the building value for permit purposes and multiplying that value by a percentage prescribed by the Director of Community Development. The County through the owner or contractor shall collect this amount. Upon payment of such sales or use tax deposit, the County shall issue a sales or use tax receipt identifying the address for which the purchase is being made and the county building permit number. It shall be the duty of the owner and/or contractor and subcontractors who are hired to do the stated work or any portion thereof to submit a project cost report to the Financial Officer, on forms authorized by the Financial Officer, stating the actual amounts of any purchases of fixtures or any other construction materials and supplies or tangible personal property for such work and to remit any tax due in excess of the sales or use tax deposit. In any case, the general contractor and/or owner will be held liable for the payment of all taxes for such materials.
- (b) The owner and/or contractor shall keep and preserve all invoices, receipts and statements showing such purchases of construction materials and supplies and tangible personal property for a period of three (3) years after completion of construction. The County may, within that three-year period, conduct an audit of such records of the owner and/or contractor and any other relevant information to verify the actual cost of the construction materials and supplies and tangible personal property used therein to determine the actual tax due. If the actual tax due is more than that paid by the taxpayer, the Financial Officer shall serve a notice of determination, assessment and demand for payment on the taxpayer notifying him or her of the deficiency which may include penalty and interest.

Section 6. THAT if the majority of qualified electors voting thereon vote for approval of the extension of the Countywide Sales and Use Tax, such Countywide Sales and Use Tax shall be effective throughout the incorporated and unincorporated portions of Larimer County beginning January 1, 2020, and ending at 11:59 pm on December 31, 2039.

Section 7. THAT revenues received by the County from the sales and use tax authorized hereby, net of expenses of the County in collecting, administering and enforcing such sales and use tax (the "net sales and use tax revenues"), and earnings from the investment of the net sales and use tax revenues shall be deposited to a fund known as the "Larimer County Fairgrounds

Capital Improvement Fund” (the “Fund”). The Fund shall be used only in accordance with this Resolution to construct, equip, operate, maintain improve, remodel, and lease the Larimer County Fairgrounds as more particularly described in the Larimer County Fairgrounds and Events Complex Master Plan as adopted and as may be amended from time to time after public hearing.

Section 8. THAT for purposes of State Constitution Article X, Section 20, the receipt and expenditure of the sales and use tax revenues and earnings from the investment of sales and use tax revenues shall be accounted for, budgeted and appropriated separately from other revenues and expenditures of the County and outside of the fiscal year spending of the County as calculated under Article X, Section 20, and nothing in Article X, Section 20 shall limit the receipt and expenditure in each fiscal year of the full amount of such revenues, nor shall receipt and expenditure of such revenues affect or limit the receipt or expenditure of any and all other revenues of the County for any fiscal year.

Section 9. THAT the ballot title and ballot question on the extension of the Countywide Sales and Use Tax proposal shall be referred to the registered electors of Larimer County at the election to be held on Tuesday, November 7, 2017, and shall be as follows:

Larimer County Fairgrounds (also known as The Ranch)

WITHOUT INCREASING TAXES, SHALL THE EXISTING FIFTEEN ONE-HUNDREDTHS OF ONE PERCENT (.15%) LARIMER COUNTY SALES AND USE TAX PREVIOUSLY APPROVED AND DEDICATED TO AN EVENTS CENTER, 4-H, YOUTH AND COMMUNITY BUILDING, RELATED FAIRGROUNDS FACILITIES AND ASSOCIATED IMPROVEMENTS (“FAIRGROUNDS”) BE EXTENDED FOR A PERIOD OF TWENTY YEARS FROM ITS CURRENT EXPIRATION DATE OF DECEMBER 31, 2019; WITH THE REVENUES FROM SUCH TAX TO BE GENERATED AND USED IN ACCORDANCE WITH THE BOARD OF COUNTY COMMISSIONERS’ RESOLUTION NO. 09052017R003 TO CONSTRUCT, EQUIP, OPERATE, MAINTAIN, IMPROVE, REMODEL, AND LEASE THE FAIRGROUNDS AS MORE PARTICULARLY DESCRIBED IN THE LARIMER COUNTY FAIRGROUNDS AND EVENTS COMPLEX MASTER PLAN AS ADOPTED AND AS MAY BE AMENDED FROM TIME TO TIME AFTER PUBLIC HEARING, AND SHALL THE REVENUES FROM SAID TAX AND ANY INTEREST EARNINGS THEREON CONTINUE TO CONSTITUTE A VOTER APPROVED REVENUE CHANGE FOR PURPOSES OF ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION?

_____ YES

_____ NO

Section 10. THAT the approval of this resolution shall be considered Final Action for setting the ballot title and ballot question and final action for all other purposes under Section 1-11-203.5 Colorado Revised Statutes.

Section 11. THAT the conduct of the election shall conform, so far as practicable, to the general election laws of the State. The County hereby adopts the provisions of § 1-11-203.5, Colorado Revised Statutes, as amended, as the exclusive procedure for protesting or contesting the content of the ballot title set forth above.

Section 12. THAT the cost of the election shall be paid from the general fund of the County.

Section 13. THAT the Larimer County Clerk and Recorder is hereby designated as the County's "designated election official," as defined in § 1-1-104(8), Colorado Revised Statutes, as amended, as the person responsible for running the election, and is directed and authorized to take such action as may be necessary to call, hold and canvass the election in accordance with law.

Section 14. THAT pursuant to § 29-2-104(5), Colorado Revised Statutes, as amended, the Larimer County Clerk and Recorder shall cause to be published the text of the proposal for extension of the Countywide Sales and Use Tax four separate times, a week apart, in the official newspaper of Larimer County and each city and incorporated town within the County.

Section 15. THAT the Larimer County Clerk and Recorder shall cause to be published, at least ten days before the election and in the form and containing the information required by law, the notice required by § 1-5-205, Colorado Revised Statutes, as amended. Such notice shall also be posted as required by § 1-5-205(1.3), Colorado Revised Statutes, as amended.

Section 16. THAT the Larimer County Clerk and Recorder shall cause a notice to all registered electors of the County to be mailed in accordance with Article X, Section 20(3)(b) of the State Constitution and other applicable laws. Such notice shall be in the form and contain the information required by law.

Section 17. THAT a notice of the adoption of this Countywide Sales and Use Tax extension proposal by a majority of the registered electors voting thereon shall be submitted by the Larimer County Clerk and Recorder to the Executive Director of the Department of Revenue at least 45 days prior to the effective date of such tax, together with a certified copy of this Resolution.

Section 18. THAT the County is authorized to adopt such uniform rules and regulations as may be necessary for the administration and enforcement of the sales and use tax; and the County or its authorized representatives are hereby empowered to enter into and execute on behalf of the County any agreements necessary for the administration and enforcement of the sales and use tax. The County may change the procedures of collection of the sales and use tax, vendor fees, and the administration or enforcement of the sales and use tax, but may not add or eliminate exceptions without further voter approval, except the County may add, eliminate or change exemptions without further voter approval to reflect changes in the exemptions as set forth in state law.

Section 19. THAT the officers and employees of the County and the Larimer County Clerk and Recorder are authorized to take all action necessary to carry out this resolution pursuant to Colorado law.

Section 20. THAT if any provision of this proposal or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the provisions or applications of this proposal regarding the sales and use tax which can be given affect without the invalid provision or application and to this end, the provisions of this proposal are declared to be severable.

ADOPTED this 5th day of Sept., 2017.



**BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF LARIMER**

Steve Johnson
Chair Pro-Tem

ATTEST:

By: Jan Vally
Deputy Clerk of the Board

APPROVED AS TO FORM:

By: Wendy Beaman 8-30-17
County Attorney Date
Deputy