

RESOLUTION NO. 08272019 R008 ✓

A RESOLUTION DESCRIBING A PROPOSAL FOR THE IMPOSITION OF A 0.5% COUNTY-WIDE SALES AND USE TAX FOR THE PURPOSES OF ADDRESSING REGIONAL TRANSPORTATION AND PUBLIC FACILITY NEEDS, REFERRING A BALLOT ISSUE TO THE 2019 NOVEMBER ELECTION BALLOT FOR THE APPROVAL OF SUCH PROPOSAL, AND CALLING AN ELECTION.

I. RECITALS

WHEREAS:

A. General

1. The total population of Larimer County is projected to grow from approximately 354,000 currently to over 508,000 (an increase of 44%) by 2045 according to the state demographer.

2. This growth will place additional burdens on transportation systems throughout the County and on buildings and facilities which are necessary to provide public services.

B. Transportation

1. Traffic congestion has been identified by Larimer County residents and businesses as one of the most pressing concerns needing to be addressed within the County.

2. Without improvements to our regional transportation network, the hours of traffic delay on six major transportation corridors in Larimer County is projected to increase by 673% by 2045 compared to delays experienced in 2015.

3. Transportation and mobility options influence nearly every aspect of the quality of life for Larimer County residents and visitors.

4. The County recognizes the importance of broad community input from municipal partners, transportation experts and community members in developing and updating our regional transportation plans to improve our road, street, transit and multi-modal transportation infrastructure that will help prepare our County for the future.

5. Pursuant to §43-1-1101, Colorado Revised Statutes, "local government involvement in transportation planning is critical to the overall statewide transportation planning process."

6. Pursuant to §43-2-101 *et seq.*, Colorado Revised Statutes, the State of Colorado and local governments are encouraged and authorized to cooperate and contract with one another

for the construction and maintenance of State, County, and City highway systems, including the expenditure of funds designated for road purposes in a regional manner when the interests of the people will be subserved thereby.

7. Pursuant to §29-2-103.5, Colorado Revised Statutes, Larimer County is authorized to levy a county sales and use tax for mass transportation purposes.

C. Public Service Buildings/Facilities

1. The County serves the needs of the entire Larimer County community including residents of Fort Collins, Loveland, Wellington, Windsor, Berthoud, Estes Park, Timnath, Johnstown as well as unincorporated Larimer County by providing human and economic health services, public safety functions and assistance to veterans.

2. Alternative Sentencing and Community Corrections services are provided by the County to protect public safety, improve outcomes for offenders and manage jail incarceration demands and costs by diverting offenders away from incarceration where appropriate.

3. Veterans Services provided by the County assist veterans from all branches of military service in accessing benefits and supports they have earned through their service to our country

4. The County's Human and Economic Health services are critical to meeting the needs of our residents by providing family supports such as food assistance, child protection, public health services, adult protection and economic and workforce development.

5. Justice Center needs have grown for courtrooms, judges and support staff and functions for State Judicial District Eight and Larimer County, including specialty courts established to address community needs for offenders experiencing mental health challenges, substance use disorders or charged with DUI charges.

6. Existing public buildings and facilities are inadequate to serve the growing needs for these services.

D. Sales and Use Tax

1. Section 29-2-103, Colorado Revised Statutes, authorizes Larimer County to levy a countywide sales and use tax if approved by a majority of registered electors voting thereon, and upon approval such tax shall be effective throughout the incorporated and unincorporated portions of Larimer County.

2. It is in the best interests and welfare of Larimer County Citizens that they have the option of voting on the imposition of a sales and use tax at the rate of one-half of one percent (0.5%) for a period of 20 years to and including December 31, 2039, with the revenues from such tax to be generated and used in accordance with this Resolution.

3. Article 2 of Title 29, Colorado Revised Statutes, as amended, authorizes referral of a county-wide sales and use tax to the registered electors of a county either by resolution adopted by the Board of County Commissioners of such county or by petition initiated and signed by five percent of the registered electors of such county.

4. Pursuant to §29-2-104(3), Colorado Revised Statutes, as amended, the Board of County Commissioners of Larimer County ("County") in the State of Colorado ("State") desires to refer to the registered electors of the County a proposal for a county-wide sales and use tax at the next general election on November 5, 2019, a day which is within the next succeeding 120 days after the adoption of this Resolution.

5. Section 29-2-105, Colorado Revised Statutes, as amended, requires that a proposal for a county-wide sales and use tax contain certain provisions concerning the amount, levying and scope of such tax.

6. Article X, Section 20 of the State Constitution requires voter approval of the proposed county-wide sales and use tax.

II. RESOLUTION

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF LARIMER COUNTY that there shall be referred to the registered electors of the County at the election to be held on November 5, 2019, the following proposal:

Section 1. THAT a county-wide one-half of one percent (0.5%) sales tax beginning January 1, 2020 in accordance with the provisions of Article 2, Title 29, Colorado Revised Statutes, as amended, and ending December 31, 2039, shall be imposed on the sale of tangible personal property at retail and the furnishing of services in the County, as provided in §29-2-105(1)(d), Colorado Revised Statutes, as amended, and as is more fully hereinafter set forth.

- (a) For the purposes of this sales tax proposal, all retail sales are sourced as specified in §39-26-104(3), Colorado Revised Statutes, as amended.
- (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 §39-26-709(1), C.R.S.;

- (2) The exemption for sales of electricity, coal, wood, gas, fuel oil, or coke for residential use specified in §39-26-715 (1)(a)(II), C.R.S.;
 - (3) The exemption for sales of food for home consumption specified in §39-26-707 (1)(e), C.R.S.;
 - (4) The exemption for vending machine sales of food specified in §39-26-714 (2), C.R.S.;
 - (5) The exemption for occasional sales by a charitable organization specified in §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 §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 §39-26-719(1), C.R.S.;
 - (8) The exemption for sales of components for production of energy from renewable energy sources specified in §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 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.
- (e) The county-wide 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 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 county-wide 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 county-wide 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 county-wide 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 a county-wide one-half of one percent (0.5%) use tax beginning January 1, 2020 in accordance with the provisions of Article 2, Title 29, Colorado Revised Statutes, as amended, and ending December 31, 2039, shall be imposed for the privilege of using or consuming in the County any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in the County any motor and 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 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, 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 proposal;
- (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 non-resident of the County and he 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 he 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 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 as provided in §§39-26-208 and 29-2-102, Colorado Revised Statutes, as amended, 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 this 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 Planning and Building Services Director. 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, tangible personal property and taxable services 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 taxable materials and services.
- (b) The owner and/or contractor shall keep and preserve all invoices, receipts and statements showing such purchases of construction materials and supplies, tangible personal property, and taxable services 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, tangible personal property, and taxable services 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 the qualified electors voting thereon vote for approval of the county-wide sales and use tax, such county-wide sales and use tax shall be effective throughout the incorporated and unincorporated portions of the County beginning January 1, 2020 and ending 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 used only for the purposes set forth in this Resolution.

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 county-wide sales and use tax proposal that shall be referred to the registered electors of the County at the general election to be held on Tuesday, November 5, 2019, shall be as follows:

SHALL LARIMER COUNTY TAXES BE INCREASED \$39,000,000 DOLLARS ANNUALLY (ESTIMATED FIRST FISCAL YEAR DOLLAR INCREASE IN 2020), AND BY WHATEVER ADDITIONAL AMOUNT AS MAY BE RAISED ANNUALLY THEREAFTER, FOR A PERIOD OF 20 YEARS BY THE IMPOSITION OF A 0.5% (50 CENTS ON 100 DOLLARS) SALES AND USE TAX, WITH ALL REVENUE FROM SUCH TAX TO BE USED IN ACCORDANCE WITH THE BOARD OF COUNTY COMMISSIONERS RESOLUTION NO. 08272019R008 TO SERVE COMMUNITY MEMBERS IN FORT COLLINS, LOVELAND, WELLINGTON, WINDSOR, BERTHOUD, ESTES PARK, TIMNATH, JOHNSTOWN AND UNINCORPORATED AREAS OF LARIMER COUNTY AS FOLLOWS:

- \$10,000,000 FOR LOCAL MATCH TO FUND IMPROVEMENTS TO INTERSTATE HIGHWAY I-25 BETWEEN STATE HIGHWAY 402 AND STATE HIGHWAY 66 ALLOCATED FROM THE FIRST \$2,000,000 COLLECTED IN EACH OF THE FIRST FIVE (5) YEARS OF TAX COLLECTION;

AND WITH THE REMAINING PROCEEDS DISTRIBUTED AS FOLLOWS:

- BETWEEN 45% TO 50% TO DESIGN AND CONSTRUCT TRANSPORTATION CAPACITY EXPANSION PROJECTS ON MAJOR STREETS, HIGHWAYS, AND

ROADWAYS, WHICH MAY INCLUDE, WITHOUT LIMITATION, INTERSECTIONS, BICYCLE LANES, GRADE SEPARATED CROSSINGS, SIDEWALKS, SIGNALIZATION AND OTHER IMPROVEMENTS RELATED TO REGIONAL MOBILITY;

-BETWEEN 15% AND 20% TO PLAN, DESIGN, CONSTRUCT, EQUIP, AND OPERATE PUBLIC TRANSPORTATION DIRECTLY OR BY AGREEMENT; AND

- 35% TO PURCHASE, CONSTRUCT, EQUIP, OPERATE, MAINTAIN, IMPROVE, REMODEL, REPLACE, AND LEASE EXISTING AND FUTURE LARIMER COUNTY FACILITIES INCLUDING A CONSOLIDATED CENTER FOR HUMAN AND ECONOMIC HEALTH SERVICES AND VETERANS SERVICES, EXPANDED ALTERNATIVE SENTENCING AND COMMUNITY CORRECTIONS FACILITIES, EXPANDED NUMBER OF COURTROOMS AND ASSOCIATED SUPPORT SPACE FOR THE STATE 8TH JUDICIAL DISTRICT COURT AND LARIMER COUNTY COURT, AND FOR PUBLIC FACILITIES AS MORE PARTICULARLY DESCRIBED IN THE LARIMER COUNTY 2018 FACILITIES MASTER PLAN AS ADOPTED AND AS MAY BE AMENDED FROM TIME TO TIME AFTER PUBLIC HEARING;

AND SHALL THE COUNTY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND ALL PROCEEDS OF SUCH TAX WITHOUT LIMITATION BY ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION, AND FURTHER PROVIDED THAT AN ANNUAL REPORT SHALL BE PUBLISHED AND PROVIDED TO THE BOARD OF COUNTY COMMISSIONERS ON THE DESIGNATION OR USE OF THE REVENUES FROM THE TAX INCREASE IN THE PRECEDING CALENDAR YEAR CONSISTENT WITH ITS APPROVED PURPOSES?

_____ 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 §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 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 County Clerk and Recorder shall cause to be published the text of the proposal for a county-wide sales and use tax four separate times, a week apart, in the official newspaper of the County and each city and incorporated town within the County.

Section 15. THAT the County Clerk and Recorder shall cause to be published, at least twenty 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, at least ten days before the election and until two days after the election, as required by §1-5-205(1.3), Colorado Revised Statutes, as amended.

Section 16. THAT the 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 county-wide sales and use tax 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 at least 45 days prior to the effective date of such tax, together with a certified copy of this Resolution.

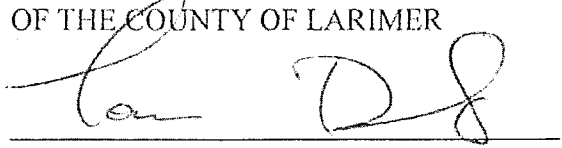
Section 18. THAT the County is authorized to adopt such uniform rules and regulations as may be necessary for the administration and enforcement of the sales and use tax; and the Board of County Commissioners or their authorized representatives are hereby empowered to enter into and execute on behalf of the county any agreements necessary for the administration and enforcement of the sales and use tax. The Board of County Commissioners 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 Board of County Commissioners 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 Larimer 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.

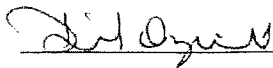
ADOPTED this 27 day of August, 2019.

BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF LARIMER

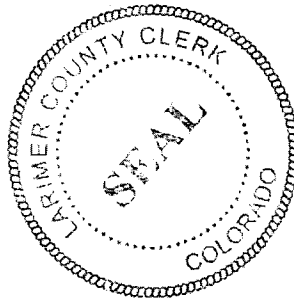


Chair

ATTEST:

By:  _____

Deputy Clerk of the Board



APPROVED AS TO FORM:

Date: 8-22-19



Deputy County Attorney