

BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF THE COUNTY OF BOULDER,

STATE OF COLORADO

RESOLUTION NO. 2006 – 100

A RESOLUTION DESCRIBING A PROPOSAL FOR THE IMPOSITION OF AN ADDITIONAL 0.20% COUNTY-WIDE SALES AND USE TAX TO BE USED TO FUND REGIONAL TRANSIT AND TRAILS PROJECTS, DECLINING TO 0.05% AFTER DECEMBER 31, 2020, FOR THE APPROVAL OF A VOTER-APPROVED REVENUE CHANGE, AND TO SET THE BALLOT TITLE FOR THE NOVEMBER 7, 2006 GENERAL ELECTION.

WHEREAS, 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; and

WHEREAS, the Boulder County Consortium of Cities adopted the Boulder and Broomfield Counties Transit Enhancement Plan in April 2006 that identifies transit service improvements to fixed-route transit, specialized transit, call-n-Ride and mountain community transit, transit awareness and incentive programs, and transit pass programs, and recommended both an allocation of future transit funding and a specific list of prioritized services to most effectively enhance the transit system in Boulder County; and

WHEREAS, the Boulder County Regional Trails Committee adopted a prioritized list of Regional Trails improvements in March 2003 that was adopted by the Board of County Commissioners in May 2003 and remains under-funded; and

WHEREAS, the US36 Draft Environmental Impact Statement identifies the need for a hard-surface bikeway along the entire length of the planned expansion of US36, including 7 miles in Boulder County that will require matching local funds to complete; and

WHEREAS, implementation of the Regional Trails Plan and the addition of 70 miles of regional trail to the County’s system will significantly increase the operations and maintenance needs of the county, including the need for ranger patrol, trailhead patrol and maintenance, ongoing trail maintenance and repair, and plowing, sweeping and maintenance of the US36 Bikeway; and

WHEREAS, the revenue limitations contained in Colo. Const., Art. X, Section 20 (TABOR) notwithstanding, the voters of Boulder County have approved County Issue 1A (2005), exempting Boulder County’s revenues, spending, and property tax revenues from the limitations of TABOR; therefore, although it may not be necessary to obtain a voter-approved revenue change, nonetheless

at any future date at which it may become relevant, the additional revenues engendered by approval of this proposed sales and use tax increase are a voter-approved revenue change; and

WHEREAS, this Board finds that the imposition of an additional County-wide sales and use tax at the rate of 0.20% to be effective commencing January 1, 2007 to and including December 31, 2020, and at the rate of 0.05% thereafter, with revenues of such sales and use tax to be utilized for the purposes set forth in this resolution, and the exemption of such tax revenues and the interest thereon from the fiscal year spending limitations of Colo. Const., Art. X, Section 20, will permit additional facilities, programs, and services, as set forth in this resolution, to be provided now and into the future, where the inefficient use of petroleum products to fuel single-occupancy vehicles cannot continue to be sustained at its current levels; and

WHEREAS, the Article provides for the submission of such a County-wide 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; and

WHEREAS, 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 voting thereon, the question of whether such taxes and voter-approved revenue change shall be approved or disapproved; and

WHEREAS, a general election is scheduled within no more than 120 days from the date of adoption of this resolution, for November 7, 2006; and

WHEREAS, the 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; and

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

WHEREAS, Articles 1 to 13, Title 1, Colorado Revised Statutes, as amended, requires that certain additional election notices be published or posted as provided therein, and

WHEREAS, the Article provides that the proposal shall contain certain provisions concerning the amount, levying and scope of said tax; and

WHEREAS, a public hearing to discuss a proposed ballot title for the ballot issue noted below was held on July 25, 2006, after proper public notice, pursuant to Section 31-11-111, C.R.S., by the Board of County Commissioners; and

WHEREAS, this Board reviewed the proposed ballot title according to the following guidelines as set forth in §31-11-111(3), C.R.S.: consider the public confusion that might be caused by a misleading title; avoid titles for which the general understanding of the effect of a "yes" or "no" vote would be unclear; no conflict with titles selected for any other measure that will appear on the County ballot in the same election; and the title shall correctly and fairly

express the true intent and meaning of the measure; and

WHEREAS, the Board finds that the ballot title set forth below meets the statutory guidelines.

NOW, THEREFORE, BE IT RESOLVED THAT there shall be referred to the registered electors of the County of Boulder at the general election to be held on Tuesday, November 7, 2006, the following proposal:

1. THAT a County-wide sales tax is imposed in accordance with the provisions of the Article at the rate of two-tenths of one percent (0.20%) commencing January 1, 2007, to and including December 31, 2020, and at the rate of one twentieth of one percent (0.05%) thereafter, on the sale of tangible personal property at retail or the furnishing of services in the County of Boulder as provided in Paragraph (d) of Subsection (1) of Section 29-2-105, Colorado Revised Statutes, as amended, and as is more fully hereinafter set forth. 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 the County of Boulder or to a common carrier for delivery to a destination outside the limits of the County of Boulder. 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. In the event a retailer has no permanent place of business in the County of Boulder 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 Department of Revenue. 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. 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 Section 39-26-104, Colorado Revised Statutes, as amended, and subject to the same sales tax exemptions as those specified in Part 7, Article 26, Title 39, Colorado Revised Statutes, as amended, and further subject to the exemption for sales of food specified in Section 39-26-707(1)(e), Colorado Revised Statutes, as amended, the exemption for purchases of machinery and machine tools specified in Section 39-26-709(1), Colorado Revised Statutes, as amended, and the exemption of sales and purchases of those items in Section 39-26-715(1)(a)(II), Colorado Revised Statutes, as amended. 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 of Boulder when such sales meet both of the following conditions:

- (a) The purchaser is a non-resident of or has his principal place of business outside of the County of Boulder; and
- (b) Such personal property is registered or required to be registered outside the limits of the County of Boulder under the laws of the State of Colorado.
- (c) The County-wide sales tax shall not apply to the sale of construction and

building materials, as the term is used in Section 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.

(d) 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 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 of Boulder. A credit shall be granted against the sales tax imposed by the County of Boulder 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 of Boulder.

(e) The County-wide 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 Colorado State sales tax, as provided by Article 26 of Title 39, Colorado Revised Statutes, as amended, or as otherwise may be provided by law.

2. THAT a County-wide use tax is imposed in accordance with the provisions of the Article at the rate of two-tenths of one percent (0.20%) to and including December 31, 2020, and at the rate of one-twentieth of one percent (0.05%) thereafter, for the privilege of using or consuming in the County of Boulder any construction and building materials purchased at retail and for the privilege of storing, using, or consuming in the County of Boulder 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 of Boulder;

(b) To the storage, use, or consumption of any tangible personal property purchased for resale in the County of Boulder 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 of Boulder 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 of Boulder. A credit shall be granted against the use tax imposed by the County of Boulder with respect to a person's storage, use, or consumption in the County of Boulder 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 of Boulder and brought into it by a non-resident 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 of Boulder and he purchased the vehicle outside of the County of Boulder for use outside of the County of Boulder 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 of Boulder;

(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 January 1, 2007; and

(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 January 1, 2007.

3. THAT 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.

4. THAT, if the majority of the registered electors voting thereon vote for approval of this County-wide sales and use tax proposal, such additional County-wide sales and use tax shall be effective on January 1, 2007 throughout the incorporated and unincorporated portions of the County of Boulder up to and including December 31, 2020 at the rate of 0.20%, and thereafter, shall continue to be effective throughout the incorporated and unincorporated portions of the County of

