

## **RESOLUTION 2020-481**

**A RESOLUTION CALLING AN ELECTION ON NOVEMBER 3, 2020 TO AUTHORIZE THE PERMANENT EXTENSION OF AN EXISTING COUNTYWIDE SALES TAX OF ONE-HALF OF ONE PERCENT (ONE-HALF PENNY PER DOLLAR) FOR THE CONTINUING PURPOSE OF IMPROVEMENTS TO OR THE BUILDING OF ROAD AND BRIDGE PROJECTS AND THE CONTINUING PURPOSE OF CONSTRUCTING, ACQUIRING, EQUIPPING, OPERATING, MAINTAINING AND EXPANDING EXISTING AND NEW ADAMS COUNTY GOVERNMENT FACILITIES; A PORTION OF WHICH TAX SHALL CONTINUE TO BE SHARED WITH THE INCORPORATED CITIES AND TOWNS IN ADAMS COUNTY; SETTING THE BALLOT TITLE AND TEXT OF THE BALLOT ISSUE FOR THE ELECTION; AND PROVIDING THE EFFECTIVE DATE OF SUCH RESOLUTION**

WHEREAS, the Board of County Commissioners (the “Board”) of Adams County, Colorado (the “County”), has determined that county transportation and county capital facilities are priorities to the residents of the County, and it is in the public interest to provide for improvements to or the building of road and bridge projects, and for constructing, acquiring, equipping, operating, maintaining, and expanding existing and new Adams County government facilities, to accommodate the continuing growth in population in the County; and,

WHEREAS, the Board has determined that there is and will be a deficiency in available funds for both the improvements to roadway infrastructure and constructing, acquiring, equipping, operating, maintaining, and expanding existing and new Adams County government facilities for the foreseeable future; and,

WHEREAS, there are not sufficient funds in the treasury of the County and the Board does not anticipate that existing sources of revenue will be sufficient to generate the moneys necessary for the desired improvements to or the building of road and bridge projects and existing and new Adams County government facilities; and,

WHEREAS, the County is authorized by law to impose a sales tax on the sale of tangible personal property at retail and the furnishing of services, subject to approval by a majority of the registered electors of the County voting thereon; and,

WHEREAS, in 1993 the voters of Adams County approved the one-half of one percent (one-half penny per dollar) sales tax for the construction of the Adams County Justice Center, the tax was extended in 1997 for the expansion of the Adams County Detention Facility, the tax was extended in 2001 to provide for the building of road and bridge projects, in 2006 the sales tax was extended to continue to provide for the building of road and bridge projects and for the construction of the Adams County Justice Center, a pre-trial holding facility and a centralized government center, and in 2014 the voters of Adams County authorized the sales tax to continue to provide for the building of road and bridge projects and to be used for constructing, acquiring, equipping, operating, maintaining, and expanding existing and new Adams County Government facilities; and,

WHEREAS, the Board has determined that the existing one-half of one percent countywide sales tax should be permanently extended, to provide the necessary funds to pay for the continuing purpose of improvements to or the building of road and bridge projects throughout the county and the continuing purpose of constructing, acquiring, equipping, operating, maintaining, and expanding existing and new Adams County government facilities; and,

WHEREAS, the Board has determined that a ballot issue regarding the permanent extension of the sales tax for the purposes enunciated herein should be submitted by the Board to the eligible electors of the County at the November 3, 2020 general election; and,

WHEREAS, the Board has determined to set the ballot title and ballot text for the ballot issue to be submitted at the election called by this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF ADAMS, STATE OF COLORADO:

1. An election shall be held on Tuesday, November 3, 2020, at which there shall be submitted to the eligible electors of the County a ballot issue authorizing the permanent extension of the sales tax imposed pursuant to County Resolution No. 93-1, and temporarily extended pursuant to County Resolutions No. 97-1, 01-1, and 06-01, and amended by County Resolution 2014-319 (the "Sales Tax"), the title of which issue shall be in substantially the following form:

ISSUE 1B

WITH NO INCREASE IN ANY COUNTY TAX RATE, SHALL ADAMS COUNTY'S EXISTING ONE-HALF OF ONE PERCENT (ONE-HALF PENNY PER DOLLAR) SALES TAX BE PERMANENTLY EXTENDED FOR THE CONTINUED PURPOSE OF IMPROVEMENTS TO OR THE BUILDING OF ROAD AND BRIDGE PROJECTS AND THE CONTINUED PURPOSE OF CONSTRUCTING, ACQUIRING, EQUIPPING, OPERATING, MAINTAINING, AND EXPANDING EXISTING AND NEW ADAMS COUNTY GOVERNMENT FACILITIES, WITH SUCH TAX TO BE IMPOSED, COLLECTED, ADMINISTERED, AND ENFORCED AS PROVIDED IN RESOLUTION 2020-481, AND WITH FORTY (40) PERCENT OF THE REVENUES FROM SUCH TAX TO CONTINUE TO BE SHARED AMONG THE COUNTY AND THE INCORPORATED CITIES AND TOWNS IN THE COUNTY FOR IMPROVEMENTS TO OR THE BUILDING OF ROAD AND BRIDGE PROJECTS AND SIXTY (60) PERCENT OF THE REVENUES FROM SUCH TAX TO CONTINUE TO BE USED FOR EXISTING AND NEW ADAMS COUNTY GOVERNMENT FACILITIES AS PROVIDED IN RESOLUTION 2020-481, AND WITH ALL REVENUES FROM SUCH TAX AND ANY EARNINGS THEREON, INCLUDING SHARED REVENUES, FOR THE DURATION OF THE TAX, TO CONSTITUTE A VOTER-APPROVED REVENUE CHANGE FOR THE PURPOSES OF ARTICLE X, SECTION 20 OF

THE COLORADO CONSTITUTION AND ANY OTHER REVENUE LIMITS  
IMPOSED BY THE LAWS OF THE STATE OF COLORADO?

YES \_\_\_\_\_

NO \_\_\_\_\_

2. The election shall be conducted by the Adams County Clerk and Recorder (“Clerk and Recorder”) in accordance with the Uniform Election Code, C.R.S. § 1-1-101, *et. seq.*, and other laws and regulations of the State of Colorado, including without limitation, the requirements of article X, section 20 of the Colorado Constitution (hereinafter “TABOR”).
3. All acts required or permitted by the Uniform Election Code relevant to conducting this election shall be performed by the Clerk and Recorder.
4. The Clerk and Recorder shall cause all notices of election to be provided in accordance with the laws of the State of Colorado, including but not limited to, the Uniform Election Code and TABOR.
5. Pursuant to C.R.S. § 29-2-104 (5), the Clerk and Recorder shall publish the text of this Resolution four separate times, a week apart, in the official newspaper of the County and each city and incorporated town within the County.
6. If a majority of the votes cast on the ballot issue of permanently extending the imposition of the Sales Tax are in favor of such ballot issue, the Sales Tax shall be permanently extended and shall apply to all taxable transactions, unless exempt, occurring on or after January 1, 2021, and shall be collected, administered and enforced in accordance with County Resolutions 93-1, 97-1, 01-1, 06-01, 2014-319, and this Resolution and the schedules set forth in the rules and regulations promulgated by the Colorado Department of Revenue.
  - (a) *Extension of the Imposition of the Sales Tax.* There is hereby permanently extended the imposition on all sales of tangible personal property at retail or the furnishing of services in the County, as provided in section 29-2-105, *et. seq.*, C.R.S., as amended, a tax equal to one-half of one percent of the gross receipts (the “Sales Tax”).
  - (b) *Transactions Subject to the Sales Tax.* The transaction subject to the sales tax shall be as set forth below and as required by Colorado state law.
    - (i) The tangible personal property and services taxable hereunder shall be the same as the tangible personal property and services taxable pursuant to section 39-26-104, C.R.S., except as provided herein, and shall be subject to the same exemptions as those specified in part 7 of article 26 of title 39, C.R.S., expressly including the exemption allowed by section 39-26-709 (1), C.R.S., for purchases of machinery or machine tools, 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., the exemption for sales of food specified in section 39-26-707 (1)(e), C.R.S., the exemption for vending machine sales of food set forth in section 39-26-714 (2), C.R.S., the exemption for occasional sales by a charitable organization set forth in section 39-26-718 (1)(b), C.R.S., the exemption for sales and purchases of farm equipment and farm equipment under lease or contract specified in sections 39-26-716 (1)(d), (2)(b) and (2)(c), C.R.S., and 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. Also expressly exempted are pesticides that are registered by the commissioner of agriculture for use in the production of agricultural and livestock products pursuant to the provisions of the "Pesticide Act," article 9 of title 35, C.R.S., and offered for sale by dealers licensed to sell such pesticides pursuant to section 35-9-115, C.R.S., all sales and purchases of parts used in the repair or maintenance of farm equipment, all shipping pallets or aids paid for by a farm operation, and aircraft designed or adapted to undertake agricultural applications, and all sales and purchases of dairy equipment. Also expressly exempted are the exemption for sales of machinery or machine tools specified in section 39-26-709 (1), C.R.S., used in the processing of recovered materials by a business listed in the inventory prepared by the department of public health and environment pursuant to section 30-20-122 (1)(a)(V), C.R.S.; the exemption for sales of wood from salvaged trees killed or infested in Colorado by mountain pine beetles or spruce beetles as specified in section 39-26-723, C.R.S.; 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.; the exemption for sales that benefit a Colorado school specified in section 39-26-725, C.R.S.; the exemption for sales by an association or organization of parents and teachers of public school students that is a charitable organization as specified in section 39-26-718 (1)(c), C.R.S.; the exemption for sales of property for use in space flight specified in section 39-26-728, C.R.S.; and the exemption for manufactured homes set forth in section 39-26-721 (3).

- (ii) The Sales Tax shall not be imposed on the sale of construction and building materials, as the term is used in section 29-2-109, C.R.S., if the purchaser of such materials presents to the retailer a building permit or other acceptable documentation that a local use tax has been paid or is required to be paid on the value thereof.

- (iii) The Sales Tax shall not be imposed on the sale of personal property on which a specific ownership tax has been paid or is payable if: (I) the purchaser is a nonresident of or has its principal place of business outside the County, and (II) such personal property is registered or required to be registered outside the limits of the County under the laws of the State of Colorado.
    - (iv) The Sales Tax shall not be imposed on the sale of tangible personal property at retail or the furnishing of services if the transaction has been 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 the amount imposed by Section 6 (a) hereof. A credit shall be granted against the Sales Tax payable with respect to such transaction equal in amount to the lawfully imposed sales or use tax previously paid by the purchaser or user to such other statutory or home rule county, provided that such credit shall not exceed the amount of the Sales Tax imposed by Section 6 (a) hereof.
  - (c) *Determination of Place at Which Sales are Consummated.* For the purpose of this Resolution, all retail sales are sourced as specified in section 39-26-104 (3), C.R.S. The amount subject to the Sales Tax shall not include the amount of any state sales and use tax imposed by article 26 of title 39, C.R.S.
  - (d) *Collection, Administration and Enforcement.* The collection, administration and enforcement of the Sales Tax shall be performed by the Executive Director of the Colorado Department of Revenue (the “Executive Director”) in the same manner as the collection, administration and enforcement of the Colorado state sales tax. The provisions of article 26 of title 39, C.R.S. and all rules and regulations promulgated thereunder by the Executive Director shall govern the collection, administration, and enforcement of the Sales Tax.
  - (e) *Vendor Fee.* No vendor fee shall be permitted or withheld with respect to the collection and remittance of the Sales Tax.
7. Distribution of Sales Tax Revenue. The proceeds from the collection of the Sales Tax shall be administered in the following manner:
- (a) Forty percent (40%) of all revenue collected pursuant to this resolution shall be distributed as follows: unless otherwise requested by a city or town, the forty percent allocated under this subsection shall be automatically remitted to the cities, towns and the County in the same proportion as is the ratio of Sales Tax collected within the city, town or unincorporated area of the County to the total County Sales Tax collections, as computed from information provided by the Colorado Department of Revenue. The revenue from the Sales Tax must be used by the jurisdiction for improvements to or the building of road and bridge projects within the jurisdiction. If a city or town does not wish to accept its

proportional share of revenue from the Sales Tax, that Sales Tax revenue shall be allocated to the County and must be used by the County for improvements to or the building of road and bridge projects within the County. All revenue received by the County under this sub-section shall be deposited in the County's road and bridge fund, and all revenue and expenditures from the Sales Tax shall be accounted for.

(b) Sixty percent (60%) of all revenue collected pursuant to this resolution shall be used by Adams County for use on existing and new Adams County government facilities. No portion of the sixty percent allocated under this sub-section will be distributed to cities or towns. All revenue received under this sub-section shall be deposited in the County's Capital Facilities Fund, and all revenue and expenditures from the Sales Tax shall be accounted for.

8. If a majority of the votes cast on the issue of permanently extending the Sales Tax are in favor of such ballot issue, the County Clerk and Recorder shall provide a notice of adoption of this Resolution, together with a certified copy of this Resolution, to the Executive Director of the Colorado Department of Revenue at least forty-five (45) days prior to January 1, 2021.
9. For the purposes of C.R.S. § 1-11-203.5, this Resolution shall serve to set the ballot title for the ballot issue set forth herein, and the ballot title for such ballot issue shall be the text of the ballot issue itself.
10. The officers and employees of the County are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.
11. The rate of the Sales Tax and the deposit of revenues collected from the Sales Tax as set forth in this Resolution shall not be amended, altered, or otherwise changed unless first submitted to a vote of the registered electors of the County for their approval or rejection. Other provisions of this Resolution may be amended as necessary to effectuate the purposes of this Resolution by resolution adopted by the Board of County Commissioners in accordance with law.
12. All actions not inconsistent with the provisions of this Resolution heretofore taken by the members of the Board and the officers and employees of the County and directed toward holding the election for the purposes stated herein are hereby ratified, approved and confirmed.
13. All prior acts, orders or resolutions, or parts thereof, by the County inconsistent or in conflict with this Resolution are hereby repealed to the extent only of such inconsistency or conflict.
14. If any section, paragraph, clause or provision of this Resolution shall be adjudged to be invalid or unenforceable, the invalidity or unenforceability of such section,

paragraph, clause or provision shall not affect any of the remaining sections, paragraphs, clauses or provisions of this Resolution, it being the intention that the various parts hereof are severable.

15. The cost of the election shall be paid from the County's general fund.
16. This Resolution shall take effect immediately upon its passage.