

Resolution No. R-022- 083

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

**RESOLUTION CALLING FOR AN ELECTION ON THE EXTENSION OF THE
EXISTING SALES TAX AND USE TAX IMPOSED FOR PARKS, TRAILS, HISTORIC
RESOURCES AND OPEN SPACE AND FOR THE ALLOWANCE OF MULTI-YEAR
INTERGOVERNMENTAL AGREEMENTS WITH MUNICIPALITIES WHOLLY
WITHIN THE COUNTY FOR SHAREBACKS OF SUCH TAX AND FOR SUCH
ADDITIONAL CHANGES AS DESCRIBED HEREIN.**

WHEREAS, at the general election held on November 8, 1994, the electors of Douglas County, Colorado (the "County") approved the following ballot question (the "1994 Sales and Use Tax Ballot Question"):

SHALL DOUGLAS COUNTY TAXES BE INCREASED UP TO \$2.5 MILLION ANNUALLY, BY THE IMPOSITION OF A COUNTYWIDE SALES TAX AND USE TAX, AT THE RATE OF 1.7 TENTHS OF ONE PERCENT (.17%), TO BE LEVIED AND IMPOSED, COMMENCING JANUARY 1, 1995, AND CONTINUING THEREAFTER UNTIL JANUARY 1, 2009, IN ACCORDANCE WITH THE FORM OF RESOLUTION CONCERNING A COUNTYWIDE SALES TAX AND USE TAX FILED WITH THE CLERK AND RECORDER OF DOUGLAS COUNTY ON MAY 20, 1994, WHICH RESOLUTION PROVIDES THAT THE TAXES COLLECTED SHALL BE EXPENDED FOR OPEN SPACE LANDS AND PARK PURPOSES; AND, IN CONNECTION THEREWITH SHALL DOUGLAS COUNTY BE ENTITLED TO COLLECT AND SPEND ALL REVENUES FROM SUCH TAXES REGARDLESS OF WHETHER THE ANNUAL REVENUES FROM SUCH TAXES IN ANY YEAR AFTER THE FIRST FULL YEAR IN WHICH THEY ARE IN EFFECT EXCEED THE ESTIMATED DOLLAR AMOUNT STATED ABOVE, AND WITHOUT ANY OTHER LIMITATION, OR CONDITION, AND WITHOUT LIMITING THE COLLECTION OR SPENDING OF ANY OTHER REVENUES OR FUNDS BY DOUGLAS COUNTY UNDER ARTICLE X, SECTION 20, OF THE COLORADO CONSTITUTION OR ANY OTHER LAW?

WHEREAS, Resolution R-994-099, referenced in the 1994 Sales and Use Tax Ballot Question was adopted by the Board of County Commissioners (the "Board") of Douglas County on May 20, 1994, was amended by resolutions of the Board adopted on September 13, 1994 and November 22, 1994 (the "Open Space and Parks Sales and Use Tax"), and was further amended by Resolution No. R-996-111 adopted by the Board on September 10, 1996 (the May 20, 1994 resolution as so amended being referenced herein as the "Open Space and Parks Sales and Use Tax Resolution"); and Resolution No. R-998-110 adopted by the Board on September 9, 1998; and

WHEREAS, in 1998, voters approved a Sales and Use Tax Ballot Question to extend the expiration of the Open Space and Parks Sales and Use Tax through 12:00 a.m. on January 1, 2024, when it is currently scheduled to expire; and

WHEREAS, there is continuing and vital need for the preservation of open space lands and for the provision of trails and parks in Douglas County (the "County"), and it is in the best interests of the present and future citizens of the County to have the option to continue the countywide sales and use tax of 1.7 tenths of one percent (0.17%) to finance the foregoing; and

WHEREAS, the Board seeks authorization from the electors of the County to extend the Open Space/Parks Sales and Use Tax to expire at 12:00 a.m. on January 1, 2039, and

WHEREAS, Article X, Section 20 of the Colorado Constitution requires voter approval of any new tax or extension of an expiring tax; and

WHEREAS, the Board has considered the form of ballot question by which the extension of the Open Space and Parks Sales and Use Tax, henceforth known as the Parks and Open Space Sales and Use Tax and for the allowance of multi-year Intergovernmental Agreements with Municipalities within the County for specified annual sharebacks of such tax shall be submitted to the voters of the County; and

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

1. Further *Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution*. Section 7 of the that Resolution is hereby amended to read as follows:

Exemptions.

There shall be exempt from sales taxation under the provisions of this Resolution all of the tangible personal property and services which are exempt under Section 39-26-114, C.R.S., Food for domestic home consumption §§ 39-26-707(1) (e) & 39-26-102(4.5), C.R.S.; Machinery and machine tools, other than those described in exemption (P) below § 39-26-709(1), C.R.S., Gas, electricity, and other specified fuels for residential use § 39-26-715(1)(a)(II), C.R.S., Low-volume sales by charitable organizations § 39-26-718(1)(b), C.R.S.; E Farm equipment, not including animal identification equipment unless expressly exempted by the city or county, §§ 39-26-716(1)(d), (2)(b), and (2)(c), C.R.S. See HB19-1162; Food, not including candy and soft drinks, sold through vending machines § 39-26-714(2), C.R.S.; Certain medium and heavy-duty vehicles, engines, motors, and conversion parts § 39-26-719(1), C.R.S.; Renewable energy components § 39-26-724, C.R.S.; Sales for the benefit of Colorado schools, school activities, and school organizations §§ 39-26-725 & 39-26-718(1)(c), C.R.S.; Property used in space flight § 39-26-728, C.R.S.; P Machinery or machine tools used in the processing of recovered materials by a business listed in the inventory prepared by the Department of Public Health & Environment § 39-26-709(1), C.R.S.; Sales on retail marijuana and retail marijuana products §§ 39-28.8-202 & 39-26-729, C.R.S. are also exempt from taxation under the provisions of this Resolution.

2. Further *Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution*. Section 16. of that Resolution is hereby amended to read as follows:

Definition.

For purposes of this Resolution, the term "construction and building materials" shall mean any tangible personal property which is used or consumed in the County, and which is intended to become a permanent part of a building or structure, in the County.

3. *Further Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution Section 20.a is repealed and amended to read as follows:*

The special fund, formerly known as the Douglas County Open Space Lands, Trails, and Parks Fund, is renamed the Douglas County Parks, Trails, Historic Resources and Open Space Fund. Funds shall be allocated to a Parks Account, an Open Space Account, and a Historic Resources account for Operations & Maintenance and Capital Improvement are to be created based on the allocations specified in this Section. These funds are to be used to account for the revenues derived from the 0.17% sales and use tax approved by the voters in November 1994, extended by the voters in November 1998, and further extended by the voters in November 2022. Sales and Use tax monies are designated for the acquisition, preservation, development, and maintenance of parks, trail systems, open space lands and easements, historic and archeological areas, and the operation and maintenance thereof, with funding as allocated to these purposes as designated in this Resolution. Incorporated municipalities wholly located within Douglas County are eligible for a share-back of these funds pursuant to the amendments to Section 20 a. 4, below.

Section 20.a.3) is repealed in its entirety.

Section 20.a.4) is repealed in its entirety and is amended to read as follows:

Municipal Sharebacks Twenty percent (20%) of that portion of the net proceeds from said sales tax and use tax shall be attributable to eligible municipalities wholly located within Douglas County as of 12:00 a.m. January 1, 2024 in accordance with the following formula: The amount payable to each eligible municipality shall be that amount which bears the ratio of 20% of the entire net proceeds from said sales and use tax times the population of that municipality divided by the total population of eligible municipalities except that no municipality shall receive less than \$15,000 in annual funding. In making the foregoing computations, the latest available population data from the Colorado Department of Local Affairs, State Demography Office shall be used.

Funds distributed to eligible municipalities shall be used for parks, trails, historic resources, and open space resources and property interests in fee simple partnerships for easement interests or the development or replacement of the infrastructure and facilities needed for the use and enjoyment of those interests by the public. Shareback funds shall be distributed upon request by the municipality and upon review and recommendation by the appropriate advisory board (County Open Space Advisory Committee (COSAC), Historic Preservation Board (HPB), or Parks Advisory Board (PAB) and appropriation by the Board of County Commissioners.

The Board in its discretion, and/or upon receipt of a recommendation by the appropriate Advisory Committee, may shareback funds for eligible purposes, including but not limited to by entering contracts, with similar terms and conditions to the IGA's with other municipalities addressed herein and subject to the provisions and limitations of Colorado law, with municipalities wholly within the County that incorporate in Douglas County on or after 12:01 a.m. on January

1, 2024.

Section 20.a.5) is repealed in its entirety:

Section 20.a. 6) is amended to read as follows: Trails and Open Space Account

Section 20.a.6)a. is repealed in its entirety and amended to read as follows: Twenty-eight percent (28%) of the proceeds from said sales and use tax shall be utilized by the County to obtain a fee simple ownership, partnership or easement interest for open spaces, and to obtain lands or interests in land for trails, access or open space lands access.

If the Board of County Commissioners approves establishment of a conservation easement, the cost to place a conservation easement with a third party, which will include funds for annual monitoring and enforcement, shall come from the Open Space Operation-Maintenance and Capital Improvement Account. All such properties protected by a conservation easement shall be inspected, as stipulated in the agreement, by the holder of the conservation easement to ensure compliance with the terms of the conservation easement. The third party shall provide a compliance report to COSAC and the Board. The Board, with review and recommendation by COSAC, shall affirm or take such measures as deemed appropriate to the Board to remedy any breach of the terms of the conservation easement.

Trail project funding may be provided to projects located on County open space, for regional trail systems, or trails that connect County open space properties.

Unused annual funding available from this allocation of the sales and use tax may be transferred, reserved or carried forward to any of the Open Space Accounts within the Parks, Trails, Historic Resource and Open Space Fund. Funds may be transferred, reserved or carried forward with approval by the Board of County Commissioners

Section 20.a.6)b)(6) is repealed in its entirety and amended to read as follows:

Open Space Account. Up to twenty percent (20%) of the net proceeds from said sales and use tax shall be utilized by the County to operate and maintain open space properties and trails located on open space properties or to provide capital improvements identified in a 5-Year Capital Improvement Plan after a recommendation by the COSAC and approval by the Board of County Commissioners.

Unused annual funding available from this allocation of the sales and use tax may be transferred, reserved or carried forward to any of the Open Space Accounts within the Parks, Trails, Historic Resources and Open Space Fund. Funds may be transferred, reserved or carried forward with approval by the Board of County Commissioners.

Section 20.a.7) is repealed in its entirety and amended to read as follows:

Parks Account. Up to twenty-eight percent (28%) of the net proceeds from said sales and use tax shall be expended by the County for park and trails purposes including administration, planning, development and construction, and maintenance for the benefit of the public.

Unused annual funding available from this allocation of the sales and use tax may be transferred, reserved or carried forward to any of the Accounts within the Parks, Trails, Historic Resources and Open Space Fund. Funds may be transferred, reserved or carried forward with approval by the Board of County Commissioners Section 20.a.8)

Historic Resource Account. Up to four percent (4%) of the net proceeds from the sales and use tax shall be utilized by the County to acquire, restore, maintain, and/or operate designated historical sites and structures within the County.

Unused annual funding available from this allocation of the sales and use tax may be transferred, reserved or carried forward to any of the Accounts within the Parks, Trails, Historic Resources and Open Space Fund. Funds may be transferred, reserved or carried forward with approval by the Board of County Commissioners

Section 20.a.6)b(11) is repealed in its entirety and amended to read as follows:

No terms of any conservation easement may be amended, or lands acquired through revenues provided by the sales and use tax or gifted to the County may be sold, leased, traded, or otherwise conveyed, nor may any exclusive license or permit with respect to such open space land be given, until consideration and recommendations are made by the appropriate advisory board the Board at a public hearing held with public notice.

Approval of any of the changes referenced in this Section may be given only by a majority vote of the full Board upon the completion of the hearing at which the recommendations and comments of COSAC, HPB, PAB, county staff, and the public are fully considered.

Public notice shall be designed to be appropriate for the level of change sought. Minimum notice shall include a notice published at least ten (10) days in advance in the official newspaper of the County, giving the location of the land in question and the intended disposal thereof. In addition, the Board shall also consider, at least 14 days prior to the Board hearing, requiring posting one or more notices regarding the intended disposal of such land under consideration and the County hearing date, time, and location for such hearing. Posted notice shall consist of at least one sign facing nearby abutting public or private street(s) open for travel, within 10 feet of the property line abutting such street, placed on posts at least four feet above ground level. In the event the County determines a sign cannot be placed abutting such street and be visible from such street or that there is no abutting public or private street open for travel, the County may require an alternate location for the sign(s). Each sign shall measure not less than 3'x4'. Letter size shall be a minimum of three inches high, and a minimum of six inches high for the sentence that reads, "For more information call Douglas County followed by information regarding how to contact the County for relevant information. While notice posting is within the Board's discretion, the Board will generally favor additional notice within the immediate vicinity of the proposed change, designed to reach persons that might have an interest in the subject of the hearing but for which the Board believes they might otherwise be uninformed.

4. Further *Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution.* Section 21. of that Resolution is hereby amended as follows:

Section 21. The terminology Open Space Lands, Trails and Parks Fund is changed to the Douglas County Parks, Trails, Historic Resources and Open Space Fund per

Section 20 above.

5. *Further Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution.* Section 22, of that Resolution is hereby amended to read as follows:

Section 22 is repealed in its entirety and amended to state: The members of the County's citizen advisory board, named the County Open Space Advisory Committee (COSAC) shall be appointed by the Board of County Commissioners; and shall be composed of five (5) members representing municipalities wholly within Douglas County, three (3) citizen members appointed at large and three (3) citizen members representing a Commissioner District selected by the County Commissioner representing that District.

The COSAC shall enact and maintain bylaws governing its actions.

The COSAC shall review open space and trail property interests annually and report to the Board that the properties and trails are adequately protected by a recorded conservation easement or other protective measures. If properties are not protected, COSAC will make a recommendation to the BCC for corrective action. The committee shall report the status of County open space and trail assets to the Board of County Commissioners as a part of the Section 23. Biennial Review.

6. *Further Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution.*

Section 23, of that Resolution is hereby amended to read as follows: COSAC, HPB, and PAB shall report the status of County assets purchased with Douglas County Parks, Trails, Historic Resources and Open Space Fund monies to the Board as a part of An Annual Review. The Annual Review shall include a review of ownership status, conservation easements, monitoring reports and other items of interest. The Annual Review shall also include a review and summarize revenues and expenditures accruing to the Douglas County Parks, Trails, Historic Resources and Open Space Fund during the preceding two (2) years and proposed expenditures to be made during the next succeeding two (2) years, with a view to establishing priorities for the County's open space, trails, historic resources programs. The Annual Report shall be presented and reviewed at a joint meeting of the Board, COSAC, HPB, and PAB and made available to the public.

7. *Further Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution.* Section 24, of that Resolution is hereby amended to read as follows:

Section 24 is repealed in its entirety and amended to read: Upon adoption by the electorate at the election on November 8, 2022, the sales tax and use tax provided herein shall become effective and in force at 12:01 a.m. on January 1, 2024, and shall expire at 12:00 a.m. on January 1, 2039, and upon said expiration all monies remaining in any of the Funds created hereunder may continue to be expended for the purposes set forth herein until completely exhausted.

8. *Further Amendment of the 1994 Open Space and Parks Sales and Use Tax Resolution.* Section 25 of that Resolution is hereby rescinded.

9. *Submission of Election Question.* The Board hereby authorizes the submission of the question of the extension of the Open Space & Parks Sales and Use Tax to the registered electors of the County, at the coordinated election to be conducted on November 8, 2022, by the Douglas County Clerk and Recorder.

10. *Certification of Election Question.* In accordance with Section 1-5-203(3), C.R.S., the Board hereby directs that the following ballot issue be certified herewith to the Douglas County Clerk and Recorder for inclusion in the ballot for said coordinated election:

WITHOUT INCREASING TAXES, SHALL THE EXISTING DOUGLAS COUNTY SALES AND USE TAX OF 1.7 TENTHS OF A PERCENT (.17%) FOR PARKS, TRAILS, HISTORIC RESOURCES AND OPEN SPACE, BE EXTENDED AND CONTINUE TO BE USED TO:

- PROTECT, MAINTAIN, AND ADD PARKS, TRAILS, HISTORIC RESOURCES, AND OPEN SPACES, WILDLIFE HABITATS, AND BUFFERS BETWEEN COMMUNITIES;
- CONSERVE LANDS ALONG STREAMS AND LAKES THAT ALSO HELP PROTECT WATER QUALITY;
- CONSERVE WORKING FARMS AND RANCHES;
- PRESERVE SCENIC VIEWS AND LANDMARKS;
- CREATE AND MAINTAIN RECREATIONAL AMENITIES;
- MAINTAIN AND CONSERVE HISTORIC PRESERVATION SITES;

BY EXTENSION FROM ITS CURRENT EXPIRATION OF JANUARY 1, 2024 THROUGH JANUARY 1, 2039 AND PROVIDE FOR A MODIFIED SHAREBACK FOR PARKS, TRAILS, AND OPEN SPACE SALES & USE TAX REVENUE TO MUNICIPALITIES THAT ARE LOCATED WHOLLY WITHIN DOUGLAS COUNTY, WHICH MAY BE APPROVED AS MULTIPLE FISCAL YEAR FINANCIAL OBLIGATIONS ALONG WITH OTHER ADMINISTRATIVE CHANGES TO THE TAX STRUCTURE AND IMPLEMENTATION AS SET FORTH IN COUNTY RESOLUTION NOS. R-22-XXX" AND R-994-099.

11. *Clerk to Conduct Election.* The name of the designated election official who will be responsible for conducting the election pursuant to the Uniform Election Code of 1992, as amended, is Merlin Klotz, Douglas County Clerk and Recorder.

12. *Uniform Election Code of 1992.* The election shall be held, conducted, and the results thereof shall be determined, so far as practicable, in conformity with the provisions of the Uniform Election Code of 1992, as amended.

13. *Publication of Resolution.* The County Clerk and Recorder is hereby authorized and directed to publish the full text of this Resolution four separate times, a week apart, in the *Douglas County News-Press* and in the official newspaper of each city and incorporated town in the County.

14. *Filing With, and Collection, Administration and Distribution By, Executive Director of the Colorado Department of Revenue.* Pursuant to Section 29-2-106, Colorado Revised Statutes, the Board shall, following the election on November 8, 2022, and prior to November 12, 2022, request the Executive Director of the Colorado Department of Revenue to administer, collect and distribute the sales tax hereby imposed and extended. The Board, at the time of making such request, shall provide the following documents to the Executive Director:

A. A copy of this Resolution and the Open Space and Parks Sales and Use Tax Resolution as amended by this Resolution, certified by the County Clerk and Recorder;

B. Affidavits of publication of this Resolution, as provided herein; and

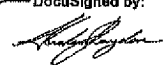
C. An Abstract of Election Results, certified as to the approval of the imposition and extension of the sales tax by a majority of the registered electors of the County voting thereon.


In the event that the Executive Director fails or refuses to collect the sales tax imposed and extended by this Resolution, the Board shall provide for the collection, administration, or enforcement of such sales tax to the extent permitted by law, or amend this Resolution to comply with the requirements of the Department of Revenue.

15. *Effective Date.* Sections 1 through 6 of this Resolution shall be effective upon approval of the ballot question certified in Section 8 of this Resolution by the electorate at the election on November 8, 2022. All other sections of this Resolution shall be effective immediately.

ADOPTED AND APPROVED this 23rd day of August 2022.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

DocuSigned by:

BY: _____
ABE LAYDON, Chair

DocuSigned by:

ATTEST: _____
KRISTIN RANDETT, Clerk to the Board

