

RESOLUTION N23-001

A RESOLUTION DESCRIBING A PROPOSAL FOR A BALLOT ISSUE FOR THE NOVEMBER 2023 ELECTION TO EXTEND FOR TEN YEARS THE DISTRICT'S EXISTING AD VALOREM PROPERTY TAX MILL LEVY IMPOSED AT A RATE NOT TO EXCEED 1.85 MILLS FOR THE PURPOSES OF PAYING THE COSTS OF PROVIDING A REGIONAL TRANSPORTATION DISTRICT ECOPASS TO ALL DISTRICT RESIDENTS; AND TO SEEK ELECTOR AUTHORIZATION FOR THE DISTRICT TO ADMINISTER AN ECOPASS PROGRAM FOR NON-RESIDENT EMPLOYEES OF EMPLOYERS OPERATING WITHIN THE DISTRICT

Recitals

A. The Nederland Eco Pass Public Improvement District (the "District") was organized in accordance with Part 5, Article 20, Title 30, Colorado Revised Statutes, as amended, which provides that a public improvement district may be formed for the imposition of a district-wide ad valorem property tax upon approval of a majority of the registered electors of the district on such question.

B. Specifically, on November 5, 2013, the eligible electors voted to organize the District and authorized an ad valorem property tax mill levy imposed at a rate not to exceed 1.85 mills for ten years, as described in Resolution No. 2013-80, adopted September 3, 2013.

C. Resolution 2013-80 provided that if revenues remained after all the costs of providing an EcoPass to permanent residents in the district were paid, remaining revenues could be used to pay for additional or expanded transit service hours of existing bus routes, or transit related amenities, including but not limited to: bus stop pads, benches, bicycle racks and shelters, and sidewalk improvements.

D. The district includes the same properties as are currently in the Nederland Library District: those properties wholly located within that portion of Boulder County within a five-mile radius of the Nederland Town Hall, with the exception of properties that have been excluded from the Library District. This area shall include the Town of Nederland; Highway 72 north to approximately the University of Colorado Research Station Road (County Road 116); the Glacier Lake area, portions of upper Sugarloaf Road to approximately Silver Springs and Switzerland Park; Caribou Ranch; Cold Springs; Ridge Road, St. Anton Highlands and Bonanza Estates; portions of upper Magnolia Road and Lazy Z; portions of south Highway 72 to approximately Pinecliffe; Haul Road; Eldora and Eldora Ski Resort; Hessie and Fourth of July Road; Caribou Road and Beaver Valley Estates.

E. Because of the success of the program thus far, the community has expressed support for extending the District property tax and also for extending the purposes of the District to include administering a separate EcoPass program for non-resident employees of employers operating within the District without collecting additional revenues from District residents.

F. The Nederland Board of Trustees supports this extension, as does the Nederland Eco Pass Public Improvement District Advisory Committee.

G. It is the intent of the Board that any EcoPass program for non-resident employees of employers operating within the District would be partially or wholly paid for by participating employers and non-resident employees.

H. The Board desires to expand the purposes to which revenues remaining after all the costs of providing an EcoPass to District residents are paid to include administering and funding a separate EcoPass program for non-resident employees of employers operating within the District.

I. The Board desires to refer to the registered electors of the district, to be determined by a majority voting thereon, the question of whether the tax shall be extended to continue to fund a neighborhood EcoPass contract with RTD for residents of the District and whether the District shall be authorized to administer an EcoPass program for Non-Resident Employees of Employers Operating within the District.

J. It is the intent of the Board that, should the proposal to extend the existing tax and obtain a voter-approved revenue change for such tax and earnings proceeds, not be approved by the electorate in November, the existing tax and existing voter-approved revenue change shall not in any way be affected by such failed amendment and shall continue in full force and effect as if this Resolution had not been adopted.

K. Article X, section 20 of the Colorado Constitution provides for the submission of such a property tax to the registered electors of the County at an election called by resolution of the Board of County Commissioners; and Section 104 (3) of said Article provides that if no general election is scheduled within 120 days after adoption of such resolution, the Board of County Commissioners shall submit the property tax proposal to the registered electors at a special election, and therefore it is appropriate to refer this proposal to the odd-year election to be held on November 7, 2023, as required by Colo. Const., Art. X, Section 20(3)(a).

L. The said 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.

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

N. The said Article provides that the proposal shall contain certain provisions concerning the amount, levying and scope of said tax.

O. The election shall be conducted in a coordinated election in Boulder County in accordance with articles 1 to 13 of title 1, C.R.S. (the “Uniform Election Code”).

P. The Clerk and Recorder of Boulder County (the “County Clerk”) is the coordinated election official for the election pursuant to the Uniform Election Code, and is responsible for mailing the notice of election required by Article X, Section 20(3)(b) of the Colorado Constitution (the “TABOR Notice”).

Q. The County will assist the County Clerk in providing necessary information and notices for the conduct of the election.

Therefore, the Board resolves:

1. An election shall be held on Tuesday, November 7, 2023 (the “Election Date”) at which there shall be submitted to the eligible electors of the District the ballot issue as stated in Board Resolution N23-002.

2. The Board desires to refer to all electors of the District, to be determined by a majority voting thereon at the election to be held on Tuesday, November 7, 2023, the question of whether the existing District 1.85 mills ad valorem tax and revenue change proposal as originally stated in Resolution No. 2013-80 and as stated herein shall be extended to continue to fund a neighborhood EcoPass contract with RTD for residents of the District and whether the District shall be authorized to administer an EcoPass program for non-resident employees of employers operating within the District.

3. The Board has determined to place this extension measure on the November 2023 ballot because of the success of the program thus far and the community’s expressed support for extending the District property tax and also for extending the purposes of the District to include administering a separate EcoPass program for non-resident employees of employers operating within the District without collecting additional revenues from District residents.

4. The Board has determined that that any EcoPass program for non-resident employees of employers operating within the District would be partially or wholly paid for by participating employers and non-resident employees.

5. The Board desires to expand the purposes to which revenues remaining after all the costs of providing an EcoPass to District residents are paid to include administering and funding a separate EcoPass program for non-resident

employees of employers operating within the District so that remaining revenues may be used to pay for additional or expanded transit service hours of existing bus routes, or transit related amenities, including but not limited to: bus stop pads, benches, bicycle racks and shelters, sidewalk improvements, and administering and funding a separate EcoPass program for non-resident employees of employers operating within the District.

6. If the majority of the registered electors voting thereon vote for approval of this ad valorem tax extension proposal, such tax shall be in effect throughout the District until December 31, 2033, unless and until repealed or otherwise revised by a vote of the electors of the District.

7. If the majority of the registered electors voting thereon vote for approval of this District tax extension proposal, revenues collected from the imposition of said tax would be expended for the purposes and in accordance with the limitations of this Resolution.

8. The cost of the election shall be paid by the District.

9. The County Clerk and Recorder shall publish the text of this sales and use tax proposal four separate times, a week apart, in the official newspaper of the County and each city and incorporated town within this County.

10. The County Clerk and Recorder, as election officer, shall undertake all measures necessary to comply with the election provisions set forth in Colo. Const., Art. X, Section 20(3), including but not limited to the mailing of required election notices and ballot issue summaries.

11. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado.

12. Natalie Springett, Deputy to the Boulder County Board of Commissioners, is hereby designated as the “Designated Election Official” for the District. The Designated Election Official is hereby authorized and directed to proceed with any action necessary or appropriate to effectuate the provisions of this Resolution and comply with the Uniform Election Code, Article X, Section 20 of the Colorado Constitution (“TABOR”) and other applicable laws and election rules; provided that all acts required or permitted by the Uniform Election Code relevant to voting by early voters’ ballots, absentee ballots and emergency absentee ballots which are to be performed by the designated election official shall be performed by the County Clerk. The election shall be conducted in accordance with the Uniform Election Code, TABOR, and all other applicable laws.

13. If a majority of the votes cast on this ballot issue at the election shall be in favor of such ballot issue, the District acting through the Board shall be

authorized to proceed with the necessary action to levy taxes in accordance with the approved ballot issue. Any authority to levy ad valorem property taxes, if conferred by the results of the election, shall be deemed and considered a continuing authority to levy the taxes so authorized at any one time, or from time to time, and neither the partial exercise of the authority so conferred, nor any lapse of time, shall be considered as exhausting or limiting the full authority so conferred.

14. 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.

15. 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.

16. All prior acts, orders or resolutions, or parts thereof, by the District in conflict with this Resolution are hereby repealed, except that this repealer shall not be construed to revive any act, order or resolution, or part thereof, heretofore repealed.

17. 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.

18. If the proposal to extend the existing tax and obtain a voter-approved revenue change for such tax and earnings proceeds not be approved by the electorate in November, the existing tax and existing voter-approved revenue change shall not in any way be affected by such failed amendment and shall continue in full force and effect as if this Resolution had not been adopted.

19. Monies from the extended tax will be appropriated annually as determined by the Board in its sole discretion and in accordance with the terms of this Resolution.

20. Interest generated from the revenues of the tax shall be used for the purposes set forth in this Resolution.

21. For purposes of Colo. Const., Art. X, Section 20, the receipt and expenditure of revenues of the tax together with earnings on the investment of the proceeds of the tax shall constitute a voter-approved revenue change.

22. If any provision of this resolution or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other

provisions or applications of this resolution which can be given effect without the invalid provision or applications and to this end, the provisions of this resolution are declared to be severable.

23. The proposal as described in this Resolution shall take effect immediately upon the approval of the eligible electors.

24. The tax shall expire on December 31, 2033.

25. A notice of the adoption of this 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, together with a certified copy of this Resolution, at least 45 days prior to the effective date of the tax created herein.

26. The Board shall take action to set a ballot title for this issue.

27. This Resolution shall take effect immediately upon its passage.

IT IS HEREBY DECLARED by the Board of County Commissioners of the County of Boulder and State of Colorado that this resolution is necessary for the immediate preservation of the public health, safety and welfare, and that it shall become effective immediately upon its adoption.

A motion to approve this Resolution N23-001 was made by Board Member \_\_\_\_\_, seconded by Board Member \_\_\_\_\_, and passed by a \_\_\_\_\_ vote.

**ADOPTED** this 17th day of August, 2023.

BOARD OF DIRECTORS OF NEDERLAND ECO  
PASS PUBLIC IMPROVEMENT DISTRICT:

\_\_\_\_\_  
Claire Levy, Chair

\_\_\_\_\_  
Ashley Stolzmann, Vice Chair

\_\_\_\_\_  
Marta Loachamin, Commissioner

ATTEST:

Clerk to the Board: \_\_\_\_\_

