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RESOLUTION NO. 21-11

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS FOR CUSTER COUNTY REFERRING A BALLOT QUESTION TO THE REGISTERED VOTERS OF THE COUNTY FOR THE ELECTION SCHEDULED FOR NOVEMBER 2, 2021, TO WIT: WHETHER A TWO PERCENT (2%) COUNTYWIDE SALES AND USE TAX SHOULD BE APPROVED TO FUND THE CONSTRUCTION AND OPERATION OF A JUSTICE CENTER

Whereas, Custer County is a duly organized political subdivision of the State of Colorado under the Constitution and the laws of the State of Colorado pursuant to C.R.S. §30-5-116; and

Whereas, §30-11-104, C.R.S., states that each county, at its own expense, *shall* provide a suitable courthouse and *shall* provide a sufficient jail and *shall* keep them in good repair; and

Whereas, following an extensive and detailed needs assessment by the Board of Custer County Commissioners (“the Board”), with the assistance of a Justice Center Committee composed of private citizens and representatives from the Custer County Court and from the Custer County Sheriff’s Office, the Board has determined that the current court facilities are *not suitable* for the safe and efficient administration of justice and that the current county jail is *not adequate* to ensure the safety of the inmates housed there, of the law enforcement officers and other personnel who work there, or of the citizens of Custer County in general; and

Whereas, the Board has further determined that there is an urgent and immediate need to construct a new Custer County Justice Center to replace the current court facilities and the current county jail and Sheriff’s Office facilities, said needs including but not limited to, the following:

1. A single-point entry court facility to provide adequate courtroom safety and space;
2. Secure space to assure safety for the judicial officers and the court personnel who work in the court facility and to give them sufficient office space and storage space to allow them to carry out the requirements of their judicial duties;
3. A jury deliberation room;
4. A private room for attorney-client meetings;

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5. Office space for the District Attorney;
6. Office space for the Public Defender;
7. A secure Probation Office;
8. Secure and safe space for witnesses and victims and also for the movement of prisoners to and from the attached detention facility without exposing them to the general public;
9. An 18-bed detention facility to improve facility safety, to provide holding cells, to isolate inmates from exposure to the community, and to provide the County the ability to house female prisoners;
10. A law enforcement facility designed to serve as a Sheriff's Office, with the necessary security, office space, and secure areas to enable deputies and other employees to serve the general public in a safe and secure manner, with the ability to assure isolation of the inmates from the public in common areas;

Whereas, C.R.S. § 29-2-103 authorizes counties to levy a countywide sales and use tax upon the approval of a majority of the registered electors voting on such proposal; and

Whereas, the County currently imposes a countywide sales and use tax at a rate of two percent (2%) and the Board believes it is in the best interest of the residents of the County that an increase of the countywide sales and use tax at a rate of two percent (2%) be imposed for a limited 25-year period (bringing the total countywide sales and use tax to four percent (4%) during said limited period), and that the revenues from said rate increase of two percent (2%), net of the costs of collection, be used to help meet the statutory obligations of Custer County to provide, operate, and maintain a suitable courthouse and an adequate county jail and Sheriff's Office; and

Whereas, the Board believes it would be economically prudent to combine the courthouse and the county jail and Sheriff's Office in a single complex known as the Custer County Justice Center; and

Whereas, pursuant to Article X, Section 20 of the Colorado Constitution, the creation of any new tax requires voter approval; and

Whereas, pursuant to C.R.S. 30-11-103.5, the Board desires to refer to the registered voters of Custer County a proposal for the creation of a countywide sales and use tax for the purposes set forth herein at the next coordinated election on November 2, 2021; and

Whereas, pursuant to C.R.S. § 1-5-203 (3), the Board of County Commissioners must certify proposed ballot contents for the November 2, 2021, election to the Clerk and Recorder for Custer County.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS
FOR CUSTER COUNTY AS FOLLOWS:**

Section 1. General Provisions.

- A. Purpose. The purpose of this Resolution is, upon approval of a majority of registered electors voting on such proposal, to create a countywide sales tax rate increase of two percent (2%) upon the sale at retail of tangible personal property and the furnishing of certain services in Custer County, and a use tax rate increase of two percent (2%) upon storage or acquisition charges or costs for the privilege of storing, using, or consuming in the County, with such taxes to be imposed and collected in the same manner as, and subject to, all applicable mandated and adopted exemptions currently provided for the County's existing two percent (2%) sales and use tax, in accordance with the provisions of Article 2 of Title 29 and Article 26 of Title 39, C.R.S. Such sales and use tax shall be dedicated to meeting the statutory obligations of Custer County to provide, operate, and maintain a suitable courthouse and an adequate county jail and Sheriff's Office. The sales and use tax increases, if approved, shall terminate at midnight on December 31, 2047.
- B. Statutory Definitions Incorporated. Unless the context requires otherwise, the terms used in this Resolution shall have the meaning set forth in the Colorado Revised Statutes, which definitions are incorporated herein by reference. If not defined therein, the terms shall have their ordinary and common meaning.

Section 2. Election Called. It is hereby determined that an election shall be held on November 2, 2021, as part of the coordinated election, for the purpose of submitting to the registered electors of Custer County the question set forth hereafter.

Section 3. Cost of the Election. The cost of the election shall be paid from the general fund of the County as required by C.R.S. §29-2-104 (5). The conduct of the election shall conform, so far as practicable, to the general election laws of the State of Colorado.

Section 4. Election Official. The Custer County Clerk and Recorder is designated as the County's "Designated Election Official" as defined in C.R.S. §1-1-104 (8) 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.

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Section 5. Ballot Issue. For purposes of C.R.S. §1-11-203.5, this Resolution shall serve to set the ballot title and content for the following Ballot Issue, which is hereby certified to the Custer County Clerk and Recorder for inclusion in the November 2, 2021, election.

A. Ballot Title: For the purpose of C.R.S. §1-11-203.5, this Resolution shall serve to set the ballot title for the Ballot Issue as follows:

CUSTER COUNTY JUSTICE CENTER SALES AND USE TAX

B. Ballot Issue:

SHALL CUSTER COUNTY TAXES BE INCREASED 1.25 MILLION DOLLARS (\$1,250,000) (FIRST FULL FISCAL YEAR DOLLAR INCREASE) FOR A LIMITED 25-YEAR PERIOD TO FUND URGENT HEALTH, SAFETY, AND WELFARE NEEDS REGARDING STATUTORY OBLIGATIONS OF CUSTER COUNTY TO PROVIDE A SUITABLE COURTHOUSE AND AN ADEQUATE COUNTY JAIL AND SHERIFF'S OFFICE IN A COMBINED JUDICIAL FACILITY TO BE KNOWN AS THE CUSTER COUNTY JUSTICE CENTER, SUCH TAX INCREASE TO CONSIST OF A COUNTYWIDE SALES AND USE TAX IMPOSED AT A RATE OF TWO PERCENT (2%), WHICH REPRESENTS TWO CENTS OF EACH DOLLAR PURCHASE, BEGINNING JANUARY 1, 2022, AND ENDING ON DECEMBER 31, 2047; SHALL ALL REVENUES GENERATED BY THE TAX, NET OF THE COSTS OF COLLECTION, BE DEPOSITED INTO A SEPARATE FUND AND RESTRICTED AS TO USE TO FINANCE, CONSTRUCT, INSTALL, COMPLETE, OPERATE, AND MAINTAIN A NEW COMBINED JUDICIAL FACILITY TO BE KNOWN AS THE CUSTER COUNTY JUSTICE CENTER, SAID FACILITY TO INCLUDE:

- A NEW 18-BED COUNTY DETENTION FACILITY TO IMPROVE FACILITY SAFETY, TO PROVIDE HOLDING CELLS, TO ISOLATE INMATES FROM EXPOSURE TO THE COMMUNITY, AND TO PROVIDE THE COUNTY THE ABILITY TO HOUSE FEMALE PRISONERS;
- A LAW ENFORCEMENT OFFICE DESIGNED TO SERVE AS A SHERIFF'S OFFICE WITH THE NECESSARY SECURITY, OFFICE SPACE, AND SECURE AREAS TO ENABLE DEPUTIES AND OTHER EMPLOYEES TO SERVE THE GENERAL PUBLIC IN A SAFE AND SECURE MANNER, WITH ISOLATION FROM INMATES IN COMMON AREAS; AND

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- A SINGLE-POINT ENTRY COURTROOM TO PROVIDE ADEQUATE COURTROOM SAFETY AND SPACE FOR JUDICIAL OFFICERS AND STAFF; TO PROVIDE A JURY DELIBERATION ROOM; TO PROVIDE A SECURE PROBATION OFFICE; TO PROVIDE A ROOM FOR ATTORNEY-CLIENT MEETINGS; TO PROVIDE OFFICES FOR THE DISTRICT ATTORNEY AND THE PUBLIC DEFENDER, AND TO PROVIDE SUFFICIENT SECURE AND SAFE SPACE FOR WITNESSES AND VICTIMS AND ALSO FOR THE SAFE MOVEMENT OF PRISONERS TO AND FROM THE DETENTION FACILITY WITHOUT EXPOSURE TO THE GENERAL PUBLIC;

SHALL THIS BALLOT ISSUE FOR THE IMPOSITION OF A SALES AND USE TAX FOR A LIMITED PERIOD OF TIME BE APPROVED, AND SHALL ALL REVENUE GENERATED FROM THE SALES AND USE TAX RATES AUTHORIZED HEREIN AND FROM ANY EARNINGS FROM THE INVESTMENT OF SUCH REVENUES CONSTITUTE A VOTER-APPROVED REVENUE CHANGE?

YES/FOR _____

NO/AGAINST _____

Section 6. Notices of Election.

- A. Pursuant to C.R.S. §29-2-104 (5), the Custer County Clerk and Recorder shall cause to be published the text of the proposal for a countywide sales and use tax four separate times, a week apart, in the official newspaper of Custer County and each city and town incorporated within Custer County.
- B. The Custer County Clerk and Recorder shall cause to be published, at least twenty (20) days before the election, the notice required by C.R.S. §1-5-205. Such notice shall be in the form and contain the information required by law. The notice shall also be posted at least ten (10) days before the election as required by C.R.S. §1-5-205 (1.3).
- C. The Custer 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 Colorado Constitution and other applicable law. Such notice shall be in the form and contain the information required by law.

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Section 7. Conduct of Election. The conduct of the election shall conform so far as is practicable to the general election laws of the State of Colorado. Custer County hereby adopts the provisions of C.R.S. §1-11-203.5 as amended, as the exclusive procedure for protesting the content of the ballot title set forth above.

Section 8. Voter Approved Revenue Change. The full amount of revenues, and any investment earnings thereon, derived from the sales and use tax may be collected, retained and expended by Custer County as a voter-approved revenue change and an exception to the limits which would otherwise apply under Article X, Section 20 of the Colorado Constitution or any other law.

Section 9. Sales and Use Tax Administration. The collection, administration, and enforcement of the countywide sales and use tax authorized pursuant to the ballot issue and this Resolution shall be performed by the Executive Director of the Colorado Department of Revenue in the same manner as the collection, administration, and enforcement of the Colorado state sales tax. Custer 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 consistent with the sales and use tax currently imposed by the County, and the Board of County Commissioners or its authorized representative is hereby authorized to enter into and execute on behalf of the County any agreements necessary for the administration and enforcement of the sales and use tax rate increase. 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 exemptions without further voter approval, except the Board of County Commissioners may add, eliminate, or change exemptions without further voter approval to reflect exemptions as set forth in state law. Pursuant to C.R.S. 29-2-106, the Board shall, following the election on November 2, 2021, and prior to November 16, 2021, request the Executive Director to administer, collect, and distribute the sales and use tax hereby imposed. The Board, at the time of making such request, shall provide the following documents to the Executive Director at the Department of Revenue:

- A. Final copy of this Resolution
- B. The Ballot question or sample ballot
- C. The election results (certified)
- D. Proof of publication
- E. The abstract of the votes cast

Section 10. Collection and Enforcement. The collection and enforcement of the sales and use tax imposed by this Resolution shall be performed by the Executive Director in the same manner as the collection and

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enforcement of the existing County sales and use tax. Unless otherwise provided in Article 2 of Title 29, C.R.S., the provisions of Article 21 and 26 of Title 39, C.R. S., and all rules and regulations promulgated by the Executive Director thereunder, are incorporated herein by this reference and shall govern the collection and enforcement of the sales and use tax imposed by this Resolution. In the event the Executive Director fails or refuses to collect the sales and use tax imposed by this Resolution, the Board shall provide for the collection, administration, and enforcement of such sales and use tax to the extent permitted by law, or shall amend this Resolution to comply with the requirements of the Department of Revenue.

Section 11. Deposit and Expenditure of Tax Revenues. A special fund, to be known as the Custer County Justice Center Fund (the "Fund"), shall be created, and all revenues from the sales and use tax two percent (2%) rate increase, net of the costs of collection, shall be deposited into the Fund and used solely for the purpose of constructing, installing, completing, operating and maintaining the Custer County Justice Center, including without limitation the payment of annual base rentals relating to a lease-purchase financing and issuance of related certificates of participation for the capital financing of the Custer County Justice Center project.

Section 12. Repeal and Amendment.

- A. If a majority of the registered electors of Custer County approve the question at the election to be held on November 2, 2021, its provisions relating to the amount of tax imposed, specifically the two percent (2%) sales and use tax rate specified herein, and the provisions relating to the expenditure of revenue as set forth in Section 12 herein, shall not be repealed or amended except by Resolution of the Board approved by a vote of the registered electors of Custer County.
- B. Notwithstanding the provisions of subsection A hereof, so long as there are outstanding financial obligations of the County which are secured in whole or in part by all or any portion of said sales and use tax, including without limitation a lease-purchase financing subject to annual appropriation, said taxes shall not be repealed, nor shall the application of the proceeds from said taxes be changed, if such repeal or change would adversely affect the security for said financial obligations.
- C. Except as provided in subsections A or B herein, or as otherwise provided in Article 2 of Title 29, C.R.S., the provisions of this Resolution may be repealed or amended, subsequent to its adoption, by a majority vote of the Board of County Commissioners, and such repeal or amendment need not be submitted to the registered electors of the County for their approval.

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Section 13. Severability. If any section, paragraph, clause, or provision of this Resolution, or the ballot issue certified by 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 or said ballot issue. It is the intention of the Board that the various parts of this Resolution and Ballot issue are severable.

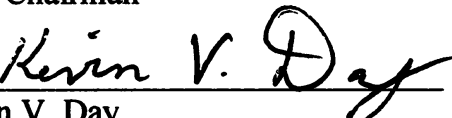
Passed by roll call vote: 3 in favor, 0 against.

APPROVED AND ADOPTED THIS 18th DAY OF AUGUST 2021, BY THE BOARD OF COUNTY COMMISSIONERS FOR CUSTER COUNTY, COLORADO.

Signed:


William R. Carida
Chairman

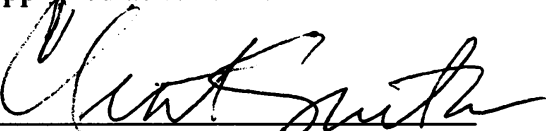

Tommy G. Flower
Vice-Chairman


Kevin V. Day
Commissioner

Attest:


Kelley S. Camper
County Clerk and Recorder

Approved as to form:


Clint Smith, County Attorney

Date: 8/20/21

