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COUNTY COMMISSIONERS' OFFICE



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OCT 29 2008

REC'D BY \_\_\_\_\_ RESOLUTION NO. 2008-132

**TIME**  
A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY, COLORADO, PROVIDING FOR THE FORMATION OF BOULDER COUNTY CLEAN ENERGY OPTIONS LOCAL IMPROVEMENT DISTRICT; DESCRIBING THE PROPERTY TO BE INCLUDED IN THE DISTRICT, THE IMPROVEMENTS TO BE MADE ON SUCH PROPERTY, AND THE METHOD OF FINANCING SUCH IMPROVEMENTS; AND PROVIDING OTHER MATTERS RELATING THERETO.

WHEREAS, Boulder County, Colorado (the "County") is a Colorado county duly organized and operating under the Constitution and laws of the State of Colorado (the "State"); and

WHEREAS, pursuant to Part 6 of Article 20 of Title 30, Colorado Revised Statutes, as amended (the "Act"), the County is authorized to form a local improvement district for the purpose of encouraging, accommodating, and financing Renewable Energy Improvements and Energy Efficiency Improvements (both as defined in the Act); and

WHEREAS, the County desires to encourage, accommodate and provide financing for Renewable Energy Improvements and Energy Efficiency Improvements (collectively, "RE/EE Improvements") on residential and commercial properties in the County (the "Project") and accordingly desires to form a local improvement district to be known as Boulder County Clean Energy Options Local Improvement District (the "District") pursuant to the Act for the purpose of accomplishing the Project, including paying all costs necessary and incidental thereto; and

WHEREAS, coal and natural gas are the principal sources of generation of commercial quantities of electric energy for the power grid in the western United States, and home and business consumption accounts for 73% of the overall usage of electric energy; and

WHEREAS, although new building codes can impact energy usage in new structures, there is a vast quantity of existing structures with many years of remaining life before replacement, and these structures are not very energy efficient by today's standards, nor do they have renewable energy systems installed to provide some or all of their electric energy needs; and

WHEREAS, if the United States is serious about moving away from fossil fuels in order to limit the greenhouse gas effect leading to global warming, the existing occupied building stock must be retrofitted with energy efficiency materials and modalities, and significant progress towards provision of alternative electric energy for use in these structures must take place very soon; and

WHEREAS, solving this problem will require creative ways of financing that will provide incentives for property owners to seek to install RE/EE Improvements now rather than later; and



WHEREAS, existing homeowners, and to a certain extent business property owners, are highly leveraged on their properties currently. Even if there is equity available to further pledge for financing for RE/EE Improvements, a declining-value housing market would keep property owners from taking that plunge, for fear of being unable to realize sufficient resale value for these improvements. Since the average homeowner moves every 7-9 years, and the expected life of these improvements is 20 – 25 years, and the energy savings paybacks for at least some of these improvements will take around 20 – 25 years as well, these property owners are unlikely to undertake home equity financing that extends from 20 to 30 years; and

WHEREAS, the County and other local governments in Colorado and elsewhere have attempted to be creative in finding ways to make incentives for financing these improvements available now, and have created legal mechanisms, via Colorado House Bill 08-1350, that allow solar, wind, and other renewable energy and energy efficiency improvements to be financed by local governments with a repayment over 20 years through special assessments collected via the property tax collection system. The responsibility for repayment remains with the property, so that the property owner does not have to worry about covering the improvements costs in the resale price they get for the property. The payment responsibility remains with the person who is getting the benefit of the annual energy costs savings; and

WHEREAS, the County and other local governments will be able to offer, in part, below-market-rate financing through the creation of funding via issuance of double-tax-exempt bonds, and based upon various federal tax law considerations, may also issue taxable bonds to fund certain loans in this program; and

WHEREAS, the County has, in accordance with Section 30-20-603(6) of the Act, held a public hearing on the formation of the District at the meeting of the Board of County Commissioners of the County (the "Board") at which this Resolution is adopted following published notice thereof not less than 30 days prior to the date of such public hearing; and

WHEREAS, notice of the public hearing was published in the County's legal newspaper, the Daily Times-Call, on September 16, 2008, stating the date, time, location, and subject of the hearing and the other information required to be included therein by Section 30-20-603(6) of the Act; HOWEVER, THE PUBLISHED NOTICE DID NOT CONTAIN ALL OF THE INFORMATION SET FORTH IN SECTION 30-20-603(6) OF THE ACT BECAUSE THE DISTRICT WILL INCLUDE ONLY PROPERTY FOR WHICH THE OWNER HAS CONSENTED TO INCLUSION AND HAS ENTERED INTO A CONTRACT OR AGREEMENT WITH THE DISTRICT CONTAINING, AMONG OTHER THINGS, A WAIVER OF SUCH NOTICE; and

WHEREAS, the County has determined that it is not possible to mail notice of such public hearing to each address within the District pursuant to Section 30-20-603(2)(a) of the Act because the properties to be included in the District have, as contemplated by Section 30-20-603(11.5) of the Act, not yet been identified; and

WHEREAS, pursuant to the Act, the District will include only property for which the owner thereof shall have entered into a contract or agreement with the County for the inclusion of such property in the District; and



WHEREAS, the County may, pursuant to Section 30-20-603(12) of the Act, require in such contract or agreement that such owner waive such mailed notice and any other notice of the formation of the District otherwise required to be given to such owners; and

WHEREAS, the County has not received written protests to the formation of the District from any owners of property proposed to be included in the District because only property for which owners agree to include in the District will be so included; and

WHEREAS, financing the construction and acquisition of the RE/EE Improvements requires the issuance of special assessment bonds of the County and, pursuant to the requirements of the Act and Article X of Section 20 of the Colorado Constitution, voter approval is required prior to the issuance of such special assessment bonds; and

WHEREAS, the Board has the previously determined to submit a ballot issue authorizing the issuance of such bonds (the "Ballot Issue") to the eligible electors of the County at an election to be held on November 4, 2008; and

WHEREAS, the cities of Boulder, Lafayette, Longmont, Louisville, and Superior, and the towns of Jamestown, Lyons and Nederland, all located within the corporate boundaries of the County, have adopted resolutions indicating their intent to permit landowners whose land is located within those jurisdictions to include their property in the District, and the town of Erie has tabled its consideration of this issue for future action.

NOW, THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF BOULDER COUNTY, COLORADO HEREBY RESOLVES:

1. **Declaration of District.** Pursuant to and in accordance with the Act, the County hereby forms the "Boulder County Clean Energy Options Local Improvement District" (the "District") as a "District" within the meaning of the Act.

2. **Description of District.** The District will consist of, and shall only include, each property within the County (each, an "Included Property") for which the owner thereof (an "Included Owner") has executed an agreement with the County consenting to the inclusion of such property within the District (an "Improvement Agreement"), which Included Properties shall be added to the District by subsequent resolutions of the Board as provided in Section 30-20-603(11.5) of the Act; provided that, in accordance with Section 30-20-603(1)(a) of the Act, if any such property is located within any municipality in the County, such property may not be so included in the District as an Included Property unless such municipality shall have consented to the inclusion of property within its boundaries in the District.

3. **Description of Improvements.** The improvements to be financed by the County for properties within the District shall consist of, and shall be limited to, any improvements constituting RE/EE Improvements. The RE/EE Improvements to be constructed on each Included Property shall be as set forth in the Improvement Agreement or Improvement Agreements for such Included Property.

4. **Financing.** The cost of RE/EE Improvements undertaken by the County for properties within the District or undertaken by an Included Owner and financed by the County



shall be assessed on the related Included Property in the amount or amounts set forth in the Improvement Contract or Improvement Contracts for such Included Property in accordance with the Act, and shall be financed through the issuance of bonds by the County in one or more series, which bonds shall be payable from such assessments and other legally available funds of the County in accordance with the Act and the Ballot Issue, all as more fully set forth in the Improvement Contract or Improvement Contracts for such Included Property pursuant to Section 30-20-603(12) of the Act.

5. **Notice.** On September 16, 2008, in accordance with Section 30-20-603(6) of the Act, the County published notice of the public hearing conducted at the meeting at which this Resolution is adopted. Pursuant to Section 30-20-603(12) of the Act, each Improvement Contract shall contain a waiver by the Included Owner of any other notice of such public hearing or of the formation of the District, including, without limitation, any mailed notice thereof pursuant to Section 30-20-603(2)(b) of the Act.

6. **Authorization of County Officers and Employees.** The Board and all other County officers and employees are hereby authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

7. **Ratification of Prior Actions.** 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 the formation of the District for the purposes stated herein are hereby ratified, approved and confirmed.

8. **Repealer.** All prior acts, orders or resolutions, or parts thereof, by the County 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.

9. **Severability.** 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.

10. **Effective Date.** This Resolution shall take effect immediately upon its passage.



This Resolution has been adopted this 16<sup>th</sup> day of October, 2008.

(SEAL)



BOARD OF COUNTY COMMISSIONERS  
OF BOULDER COUNTY, COLORADO

Ben Pearlman, Chair

Will Toor, Vice-Chair

ATTEST:

Deputy Clerk of the Board

Cindy Domenico, Commissioner

# AFFIDAVIT OF PUBLICATION

RECEIVED  
COUNTY COMMISSIONERS' OFFICE

SEP 22 2008

REC'D BY

## DAILY TIMES-CALL

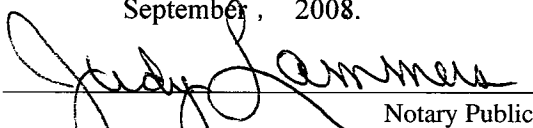
State of Colorado  
County of Boulder

I, the undersigned agent, do solemnly swear that the DAILY TIMES-CALL is a daily newspaper printed, in whole or in part, and published in the City of Longmont, County of Boulder, State of Colorado, and which has general circulation therein and in parts of Boulder and Weld Counties; that said newspaper has been continuously and uninterruptedly published for a period of more than six months next prior to the first publication of the annexed legal notice of advertisement, that said newspaper has been admitted to the United States mails as second-class matter under the provisions of the act of March 3, 1879, or any amendments thereof, and that said newspaper is a daily newspaper duly qualified for publishing legal notices and advertisements within the meaning of the laws of the state of Colorado; that a copy of each number of said newspaper, in which said notice of advertisement was published, was transmitted by mail or carrier to each of subscribers of said newspaper, according to the accustomed mode of business in this office.

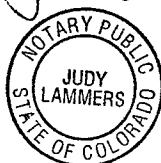
That the annexed legal notice or advertisement was published in the regular and entire edition of said daily newspaper once; and that one publication of said notice was in the issue of said newspaper date September 16, 2008.

  
Agent

Subscribed and sworn to before me this 16th day of September, 2008.

  
Notary Public

FEE \$ 54.78



MY COMMISSION EXPIRES  
OCTOBER 4, 2008  
637 RIDER RIDGE DR.  
LONGMONT  
COLORADO 80501

NOTICE OF PUBLIC HEARING

ON THE PROPOSED CREATION OF THE CLEAN ENERGY OPTIONS LOCAL IMPROVEMENT DISTRICT WITHIN THE COUNTY OF BOULDER, COLORADO, FOR THE PURPOSE OF CONSTRUCTING, ACQUIRING AND INSTALLING RENEWABLE ENERGY IMPROVEMENTS AND ENERGY EFFICIENCY IMPROVEMENTS FOR PROPERTY OWNERS THAT CONSENT TO BE INCLUDED IN THE DISTRICT.

All owners of real estate and property located within the boundaries of Boulder County, Colorado (the "County"), and all persons generally, are hereby notified that the County will hold a public hearing at its regular meeting at 10:00 a.m. on October 16, 2008 in the Board of County Commissioners' Hearing Room in the Boulder County Courthouse, 3rd Floor, 1325 Pearl Street, Boulder, Colorado 80302, on a resolution providing for the creation within the County of the Clean Energy Options Local Improvement District and authorizing the improvements described herein, and that:

1. The District will include only property for which the owner thereof has executed an agreement with the District consenting to the inclusion of such property within the District. A property owner may apply to have a property included in the District if such property is (a) located in an unincorporated portion of the County, or (b) located within any municipality in the County that consents to the inclusion of property within its boundaries in the District. A map of the County showing unincorporated areas and municipalities is on file in the office of the Boulder County Clerk and Recorder and may be seen and examined by any interested person at any time during regular business hours prior to the public hearing described above.

2. The kind of improvements proposed, and the extent of the District to be improved, will consist of the construction, acquisition and installation of Renewable Energy Improvements and Energy Efficiency Improvements, as defined in part 6 of article 20 of title 30, Colorado Revised Statutes, as amended, as more specifically provided in the agreements between consenting property owners and the District.

3. All or a portion of the cost of the improvements to be made on each property included in the District as described above is expected to be assessed against each such property in the District in the amount set forth in the agreement between the owner of such Property and the District. Such basis accurately reflects, in the judgment of the Board, the benefits that will accrue to the properties assessed. The final costs will be assessed pursuant to notice, hearing and resolution. The form of schedule showing approximate amounts to be assessed against each property included in the District is on file in the office of the Boulder County Clerk and Recorder and may be seen and examined by any interested person at any time during regular business hours prior to the public hearing described above;

however, because no properties have yet been identified for inclusion in the District, there are currently no entries in such schedule.

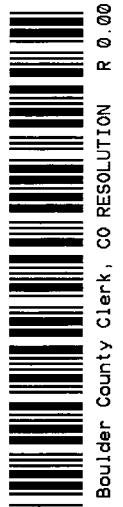
4. It is expected that assessments will be levied on all properties referred to in paragraph 2 above in 20 annual installments over a 20-year period; however, an alternate number of installments or lesser period of time may be provided for a particular property in the agreement between the property owner and the District.

5. In addition to all other documents referred to above, all resolutions and proceedings related to the formation of the District and the making of the improvements described above that have been adopted or taken by the County to the date hereof are on file in the office of the Boulder County Clerk and Recorder and may be seen and examined by any interested person at any time during regular business hours prior to the public hearing described above.

6. All complaints and objections concerning the proposed improvements in the District described above that are made in writing by the owners of any properties to be assessed will be heard and determined by the Board before final action is taken by the Board.

Board of County Commissioners of Boulder County, Colorado  
Published in the Times-Call, Longmont, Colorado, September 16, 2008.

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