

**RESOLUTION 2012- 06**

**A RESOLUTION APPROVING AN ELECTION CALLED BY THE NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY FOR APRIL 3, 2012.**

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**WHEREAS**, the Town of Nederland, Colorado (the “Town”) is a municipal corporation duly organized and existing as a statutory town under the laws of the State of Colorado (the “State”); and

**WHEREAS**, the Nederland Downtown Development Authority, in the Town of Nederland, State of Colorado (the “Authority”), is a body corporate duly organized and existing under laws of the State of Colorado; and

**WHEREAS**, the Town Board (the “Board”) of the Town has heretofore approved the Plan of Development (the “Plan”) for the Authority; and

**WHEREAS**, the interest of the Authority and the public interest and necessity demand and require the financing of certain development projects described in the Plan (the “Project”); and

**WHEREAS**, Article X, Section 20 of the Colorado Constitution (“TABOR”) requires voter approval for the creation of any debt; and

**WHEREAS**, the Plan contemplates the use of tax increment revenues as provided in Section 31-25-807(3), C.R.S., to finance the costs of development projects described in the Plan; and

**WHEREAS**, pursuant to Section 31-25-807(3)(b), C.R.S., the Town may irrevocably pledge such tax increment revenues to the payment of bonds, loans, advances or indebtedness if a question of issuing same is first submitted for approval to the qualified electors of the Authority at a special election held for those purposes; and

**WHEREAS**, Section 31-25-807(3)(b) C.R.S. further provides that such election shall be called by resolution of the Authority and approved by the Board at least 30 days prior to the election; and

**WHEREAS**, Section 31-25-816(2)(b) C.R.S. provides the operations of the Authority may be financed by an ad valorem tax, not exceeding five mills on the valuation for assessment of property located within the Authority; and

**WHEREAS**, TABOR requires elections on ballot issues (as defined in TABOR) to be held on limited election days; and

**WHEREAS**, April 3, 2012 is one of the election dates at which ballot issues may be

submitted pursuant to TABOR; and

**WHEREAS**, it is necessary for the Board to approve the election called by the Authority.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE TOWN OF NEDERLAND, COLORADO:**

**Section 1.** All actions heretofore taken (not inconsistent with the provisions of this resolution) by the Town and the officers thereof, directed towards the election and the objects and purposes herein stated are hereby ratified, approved and confirmed. All terms used herein and not otherwise defined shall have the meanings set forth in Title 31, Article 25, Part 8, C.R.S. (the "Act") or Title 1, Articles 1 to 13, C.R.S., (the "Election Code").

**Section 2.** The Town hereby approves the holding of the election by the Authority in the manner prescribed by resolution of the Authority attached hereto as **Exhibit A**, such election held to authorize the issuance of financial obligations by the Town for the Authority and the pledging of tax increment revenues to the payment of such financial obligations by the Town for the Authority and increasing the tax rate pursuant to the ballot issues set forth in the resolution of the Authority attached hereto as **Exhibit A**.

**Section 3.** If any section, subsection, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall in no manner affect any remaining provisions of this resolution, the intent being that the same are severable.

**Section 4.** All orders, resolutions, bylaws, ordinances or regulations of the Town, or parts thereof, inconsistent with this resolution are hereby repealed to the extent only of such inconsistency.

**Section 5.** The Town Board finds and declares that this Resolution is promulgated and adopted for the public health, safety and welfare and this Resolution bears a rational relation to the legislative object sought to be obtained.

**Introduced and passed by a vote of \_\_\_\_ for and \_\_\_\_ against, this 17<sup>th</sup> day of January, 2012.**

TOWN OF NEDERLAND, COLORADO

By   
Mayor

ATTEST:

  
Town Clerk



Exhibit A



**RESOLUTION NDDA2012-1**

**A RESOLUTION SUBMITTING TO THE QUALIFIED ELECTORS OF THE TOWN OF NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY, AT THE ELECTION TO BE HELD APRIL 3, 2012, BALLOT ISSUES AUTHORIZING DEBT AND A MILL LEVY EXTENSION.**

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**WHEREAS**, the Nederland Downtown Development Authority, in the Town of Nederland, State of Colorado (the "Authority"), is a body corporate duly organized and existing under laws of the State of Colorado; and

**WHEREAS**, the members of the Board of the Authority (the "Board") have been duly appointed and qualified; and

**WHEREAS**, the Board of Trustees (the "Board") of the Town of Nederland (the "Town") has heretofore approved the Plan of Development (the "Plan") for the Authority; and

**WHEREAS**, the interest of the Authority and the public interest and necessity demand and require the financing of certain development projects described in the Plan (the "Project"); and

**WHEREAS**, Article X, Section 20 of the Colorado Constitution ("TABOR") requires voter approval for the creation of any debt or mill levy increase; and

**WHEREAS**, pursuant to Section 31-25-807(3)(b), C.R.S., the Board may call an election on the question of issuing bonds or otherwise providing for loans, advances or indebtedness ("Financial Obligations") and pledging the tax increment revenues to the payment of such Financial Obligations; and

**WHEREAS**, the estimated cost of the Project is approximately \$915,589; and

**WHEREAS**, Section 31-25-816(2)(b), C.R.S. provides the operations of the Authority may be financed by an ad valorem tax, not exceeding five mills on the valuation for assessment of property located within the Authority; and

**WHEREAS**, TABOR requires elections on ballot issues (as defined in TABOR) to be held on limited election days; and

**WHEREAS**, April 3, 2012 is one of the election dates of the Town at which ballot issues may be submitted pursuant to TABOR; and

**WHEREAS**, it is necessary to set forth certain procedures concerning the conduct of the election; and

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY:**

**Section 1.** All actions heretofore taken (not inconsistent with the provisions of this Resolution) by the Authority and the officers thereof, directed towards the election and the objects and purposes herein stated are hereby ratified, approved and confirmed. All terms used herein and not otherwise defined shall have the meanings set forth in Title 31, Article 25, Part 8, C.R.S. (the "Act") or Title 1, Articles 1 to 13, C.R.S., (the "Election Code").

**Section 2.** Pursuant to TABOR, the Election Code and the Act, the Board hereby determines to call an election to be conducted on April 3, 2012, as an independent polling place election (the "Election"). The Board hereby determines that at the Election to be held on April 3, 2012, there shall be submitted to the qualified electors of the Authority the question set forth in Section 3 hereof. Because the Election will be held as an independent polling place election, the Authority hereby determines that the Town Clerk shall conduct the Election on behalf of the Authority and act as designated election official.

**Section 3.** The Board hereby authorizes and directs the designated election official to submit to the qualified electors of the Authority at the Election two ballot questions in substantially the following forms:

**TAX QUESTION:**

SHALL TOWN OF NEDERLAND TAXES BE INCREASED \$26,723 IN TAX COLLECTION YEAR 2013 AND BY SUCH AMOUNT AS MAY BE RAISED ANNUALLY THEREAFTER THROUGH COLLECTION YEAR 2019 (SEVEN YEARS), BY EXTENDING THE AD VALOREM PROPERTY TAX RATE OF NOT MORE THAN 5.00 MILLS ON TAXABLE REAL AND PERSONAL PROPERTY WITHIN THE BOUNDARIES OF THE DOWNTOWN DEVELOPMENT AUTHORITY, FOR THE PURPOSES SET FORTH IN TITLE 31, ARTICLE 25, PART 8, C.R.S.; WHICH CURRENT LEVY IS SET TO EXPIRE ON DECEMBER 31, 2012; AND SHALL THE TOWN AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE REVENUES COLLECTED FROM SUCH TOTAL PROPERTY TAX RATE, INVESTMENT INCOME THEREON AND ANY OTHER LAWFUL SOURCE AS A VOTER-APPROVED REVENUE CHANGE AND EXCEPTION TO THE LIMITS WHICH WOULD OTHERWISE APPLY UNDER ARTICLE X, SECTION 20 OF THE COLORADO CONSTITUTION (TABOR), OR ANY OTHER LAW, AND AS A PERMANENT WAIVER OF THE 5.5% LIMITATION UNDER SECTION 29-1-301, C.R.S.?

**DEBT QUESTION:**

SHALL TOWN OF NEDERLAND DEBT BE INCREASED \$915,589 WITH A REPAYMENT COST OF \$1,325,000 , FOR THE PURPOSE OF FINANCING OR REFINANCING THE COSTS OF DEVELOPMENT PROJECTS TO BE UNDERTAKEN BY OR ON BEHALF OF THE NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY PURSUANT TO THE NEDERLAND DOWNTOWN DEVELOPMENT AUTHORITY PLAN OF DEVELOPMENT, AS IT MAY BE AMENDED FROM TIME TO TIME, AND APPLICABLE

PROVISIONS OF COLORADO LAW; SUCH PROJECTS MAY INCLUDE BUT ARE NOT LIMITED TO:

- DESIGN AND CONSTRUCTION OF SIDEWALKS PHASE I, INCLUDING MAINTENANCE AND PROJECT MANAGEMENT AND ACQUISITION OF A TRACTOR FOR CLEARING SIDEWALKS;
- MASTER PLANNING, BEAUTIFICATION AND ENHANCEMENT OF THE DOWNTOWN AREA; AND

SUCH DEBT AND THE INTEREST THEREON TO BE PAYABLE FROM AND SECURED BY A PLEDGE OF THE SPECIAL FUND OF THE TOWN WHICH SHALL CONTAIN TAX INCREMENT REVENUES OF THE AUTHORITY LEVIED AND COLLECTED WITHIN THE BOUNDARIES OF THE AUTHORITY; SUCH DEBT BE EVIDENCED BY BONDS, NOTES, LOANS OR OTHER INDEBTEDNESS TO BE SOLD IN ONE SERIES OR MORE, ON TERMS AND CONDITIONS, AND WITH SUCH MATURITIES AS PERMITTED BY LAW AND AS THE TOWN MAY DETERMINE, INCLUDING PROVISIONS FOR REDEMPTION OF THE DEBT PRIOR TO MATURITY WITH OR WITHOUT PAYMENT OF A PREMIUM OF NOT MORE THAN 3% OF THE PRINCIPAL AMOUNT SO REDEEMED; AND SHALL THE TOWN AND THE AUTHORITY BE AUTHORIZED TO COLLECT, RETAIN AND SPEND THE TAX INCREMENT REVENUES, THE BOND PROCEEDS AND INVESTMENT INCOME THEREON 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 (TABOR), OR ANY OTHER LAW?

Section 4. The officers of the Authority and the Town shall be, and they hereby are, authorized and directed to take all action necessary or appropriate to effectuate the provisions of this Resolution.

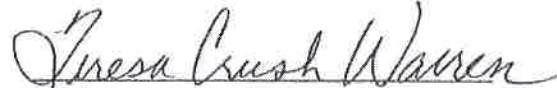
Section 5. If a majority of the votes cast on the questions of increasing Town debt and taxes for the purposes specified in the Plan submitted at the Election shall be in favor of same, the Town, acting on behalf of the Authority, shall be authorized to proceed with the necessary action to comply with such questions.

Section 6. Any authority to increase Town debt and increase taxes, if conferred by the results of the Election, shall be deemed and considered a continuing authority to increase Town debt and taxes, 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.

Section 7. If any section, subsection, paragraph, clause, or provision of this resolution shall for any reason be held to be invalid or unenforceable, the invalidity or unenforceability of such section, subsection, paragraph, clause, or provision shall in no manner affect any remaining provisions of this resolution, the intent being that the same are severable.


Section 7. All orders, resolutions, bylaws, ordinances or regulations of the Authority, or parts thereof, inconsistent with this resolution are hereby repealed to the extent only of such inconsistency.

ADOPTED AND APPROVED this January 10, 2012.

  
Chairperson

(SEAL)

Attest:

  
Secretary  
ATTESTING FOR  
STEVE CULVER,  
SECRETARY