City of Louisville
COLORADO ▪ SINCE 1878

CITY COUNCIL COMMUNICATION
AGENDA ITEM 11B

SUBJECT: ORDINANCE NO. 1888, SERIES 2024 – AN ORDINANCE AMENDING THE LOUISVILLE MUNICIPAL CODE TO ADD A NEW CHAPTER 3.25 REGARDING ENHANCED ASSISTANCE FOR TARGETED BUSINESSES – 1st READING, SET PUBLIC HEARING FOR 12/03/24

DATE: NOVEMBER 19, 2024

PRESENTED BY: VANESSA ZARATE, CECD, ECONOMIC VITALITY MANAGER

SUMMARY:

In 2007, the Louisville City Council adopted Chapter 3.24 of the Louisville Municipal Code establishing the City's Tax and Fee Business Assistance Program (BAP), which authorizes rebates of certain taxes and fees to businesses to encourage the recruitment, retention, establishment and/or expansion of sales tax generating businesses and employers within the City. The intent of the program is to provide financial rebates to businesses that provide employment opportunities, provide goods and services and positively contribute to the economy and quality of life for Louisville.

The BAP has proven to be quite successful over the years. The BAP allows businesses to take advantage of multiple rebates to include building permit and sign permit fee rebates, construction and use tax rebates and sales tax rebates. If and where applicable, an applicant can receive a vacancy bonus. All incentives are performance based and rebates are determined based on true costs incurred for the project. As of October 2024, there are 35 active BAPs that include retail, office and industrial users. In addition, there are 76 completed BAPs.

The BAP is the only city-wide attraction, retention and expansion incentive available to businesses looking to locate, relocate or expand in Louisville. Businesses of all sizes and industries can apply for a BAP incentive through the Economic Vitality team. To be eligible, a company must be one of the following: a new business seeking to open in or relocate to Louisville; an existing Louisville business which proposes to expand in the City; or an existing Louisville business that must relocate to a new premises due to non-renewal of a lease or other unforeseen circumstance outside of the business owner's control. Application for inclusion in the BAP must be made prior to the proposed opening, acquisition or expansion. All agreements are structured as rebates, no up-front incentives are offered through this program.

- Through the current program, the City can offer rebates on the following items for a period of time or until a specified maximum amount is reached:
    - Building Permit Fees
    - Sign Permit Fees
    - Construction Use Tax
    - Consumer Use Tax or Retail Sales Tax

Historically, the City's most used parameters are to issue rebates equal to approximately 50% of the above-listed fees and taxes for projects that are awarded an incentive through the BAP. The 50% rebate is from 3% of the taxes charged and eligible for rebate, 0.775% of the taxes are not rebate-able as they are dedicated to various funds within the City (Historic Preservation, Parks and Open Space).

In 2010, the City adopted a tax for using, storing, distributing or otherwise consuming tangible personal property or taxable services inside the City, aka 'consumer use tax', which became effective following voter approval. In 2023, the City approved an amendment to the Business Assistance Program to codify the practice of rebating a portion of the City's consumer use tax under a BAP agreement. A definition of "consumer use tax" has been added to the Business Assistance Program and the definition of "fees" has been expanded to include the amount of consumer use taxes collected. As part of this amendment, new language requires that businesses remain open for 5 years following the issuance of a certificate of occupancy or pay back 10% of assistance for each year out of the 5 that they failed to remain open.

Staff is proposing a new amendment to the BAP to allow for additional assistance for Boulder County's targeted industries. This enhanced support would exempt software, machinery, machinery tools and property used in space flight from sales and use tax.

Boulder County's Targeted Industries

Boulder County's Targeted Industries are currently Aerospace, Bioscience, Cleantech, IT/Software, Natural Products and Outdoor Recreation. Targeted industries are industries that have been identified as providing significant economic benefits, including the creation of high-paying employment opportunities, the expansion of the tax base, and/or the elevation of the community's quality of life. Communities can pick their own targeted industries and targeted industries can be identified on the municipal, county and state-wide level. Boulder County's targeted industries, for this purpose, are those identified by the Boulder Economic Council. As economies change, industries can be added to or removed from the targeted industry list.

Colorado's Office of Economic Development and International Trade (OEDIT) is the state's economic development arm and identifies their priorities by Key Industries. Their key industries are Advanced Manufacturing, Aerospace, Bioscience, Creative Industries, Defense & Homeland Security, Electronics, Energy & Natural Resources, Financial Services, Food & Agriculture, Health & Wellness, Infrastructure Engineering, Technology & Innovation, Tourism, Outdoor Recreation and Transportation & Logistics. OEDIT creates programs to assist community's targeted industries across the state to include targeted incentives, workforce programming, technical support and more.

Louisville operates within a larger ecosystem that includes neighbors in Boulder County and largely across the Denver Metro. The City needs to be competitive to attract and retain businesses while setting the stage for expansion for businesses within Louisville, Colorado and elsewhere. Incentives are a way to remain competitive and ensure that the business climate and operating environment can support business sustainability and growth.

Louisville is located in a prime location with easy access to Boulder, Denver and other communities across the metro and state. Some key advantages for all industries locating in Louisville include proximity and access to a highly educated workforce, partnerships with institutions such as University of Colorado Boulder, hospitals, research institutions, national and federal labs and agencies and access to vast open space and outdoor recreation amenities.

Aerospace Industry

Aerospace is an identified targeted industry for both Boulder County and the State of Colorado. Aerospace thrives in Colorado for many reasons including concentration of commercial and academic space assets and concentration of military and government partners. Colorado has the second largest space economy in the U.S. and Colorado's central location within the United States provides one-bounce satellite communications to Europe and Asia in the same day. The aerospace industry also benefits from the success of Denver International Airport and other regional airports across the state.

Colorado's aerospace cluster is made up of over 350 businesses that employ over 37,000 and have a yearly economic output of $12.7M. The average wage for an aerospace employee is $135,550. 80% of the state's aerospace employment is in the nine-county Denver metro region. Over 60% of Colorado's aerospace companies have 10 or fewer employees, while nearly 10% have over 250 employees.

The state of Colorado passed legislation creating a Sales and Use Tax exemption for qualified property used in space flight. There are also multiple state incentives that aerospace companies in Louisville can take advantage of such as a job growth incentive tax credit, a Procurement Technical Assistance Center, accelerator programs and advanced industry accelerator programs.

Bioscience Industry

Bioscience is a target industry for both Boulder County and the State of Colorado. The Denver/Boulder metro was ranked 11th among the top metros in 2022 for bioscience support and growth. We have also been ranked second highest for density of bioengineers and biomedical engineers. Similarly to other industries, the bioscience industry benefits from access to highly educated workers, science and research institutions and quality of life components to support their business missions.

The nine-county metro is home to over 950 companies and more than 20,220 bioscience employees. The average wage for a bioscience employee, in 2022, was $117,220. From 2019-2023, the bioscience cluster grew over 20%, adding nearly 3,500 jobs. A majority of bioscience businesses, 75%, have 10 or fewer employees. Colorado raised $1.6 billion in capital across the life science ecosystem in 2022.

OEDIT's Advanced Industries Accelerator has awarded over 500 grants to more than 80 life science companies, resulting in over 1,000 new jobs and over $1 billion in follow-on capital. At the end of 2022, it was estimated that the demand for commercial life-science space was responsible for nearly 3 million feet of construction in the Denver/Boulder metro. Bioscience companies partner with federal agencies, labs, the Colorado Bioscience Association, universities, K-12 school systems and health care facilities to advance life science research, education, and breakthroughs.

Louisville is a partner within the US 36 Collaborative with the Health for Hub Impact Campaign, a national campaign promoting bioscience and other high-tech businesses. Sub-sectors include Pharmaceuticals, Biotechnology and Medical Devices & Instruments.

Cleantech Industry

Cleantech is a targeted industry in Boulder County and the State of Colorado has a key industry of Energy and Natural Resources (natural and renewable energy). Colorado was the first state to pass clean energy standards at the ballot and is 4th in the nation in terms of cleantech employment concentration. Colorado is home to many top-tier universities, labs and research institutions, resulting in being 8th, and climbing, in terms of cleantech capital investment according to the Colorado Cleantech Industries Association. In Colorado, Energy and Natural Resources has over 10,000 companies and more than 88,000 employees with an average wage of $104,700.

Colorado is a top 10 state for renewable energy and is in the top-5 for states with most LEED-certiied energy efficient buildings. Colorado is second in the nation for sustainability startups, with Boulder ranking the number one city for sustainability in the nation. The state of Colorado has energy goals to include a 50% reduction of emissions by 2030 and 90% reduction by 2050. Colorado ranked 5th in the nation in 2022 for top cleantech innovation hub.

Louisville continues to expand on its commitment to clean technology and energy standards locally with clean energy building codes, a bag tax, all electric trash service and a decarbonization plan. Louisville has aligned with partners in Boulder County to continue to elevate cleantech and support innovation within the industry, and innovation that can be integrated into other industries.

IT/Software Industry

IT/Software are two industries that took a predominant hold on the coasts, and a few select areas internal to the United States, to include Colorado. Many companies view Colorado as a finalist for a location decision due to the access to talent and access to other markets from the airport. Many employees within the IT/Software industry are younger than some of their industry counterparts, making Colorado a prime location for businesses wanting to reach the young, smart talent that has been flocking to Colorado for many years.

IT/Software is a targeted industry in Boulder County and a key industry for the State of Colorado. Colorado is home to over 8,200 businesses and nearly 90,000 employees with an average wage of $148,310. Colorado's IT/Software industry is a leader within startups, venture capital, second-stage growth, and rapid expansion. From 2017 to 2022, the IT/Software industry grew in Colorado by over 50%, twice that of the national average. Growth has been so significant in Colorado that growth just within this industry has outpaced US employment growth for nearly a decade. Almost 90% of the employees in IT/Software in Colorado are in the nine-county metro.

Natural Products

Natural and organic product companies are a targeted industry in Boulder County and Food and Agriculture are a key industry in the State of Colorado. Boulder county is often the epicenter of clean and natural foods, leading the county in highest per capital consumption of organic foods.

Businesses in the natural products realm generally research products, make and sell products, and conduct marketing and awareness campaigns.

Boulder is home to the nation's largest concentration of natural and organic product companies. According to a 2020 Naturally Boulder Economic Impact Study done by CU-Boulder's Business Research Division, the natural and organic food industry in Colorado contributes $3.1 billion to the state's economy and supports over 22,000 jobs across the state.

Outdoor Recreation

Outdoor recreation is a targeted industry in Boulder County and a key industry for the State of Colorado. This is often the most readily known asset residents and visitors associate with Colorado. Residents, visitors and businesses all benefit from access to a wide variety of open space and outdoor recreation amenities and options. In addition to participating in the industry, Colorado often leads in cutting-edge technology as well as preservation and support for our outdoor spaces. In 2022, the outdoor recreation industry accounted for $13.9 billion in value-added GDP annually and 130,000 direct jobs. Nearly 7,500 businesses statewide conduct over $25 billion in annual sales each year.

The Outdoor Industry Association is based in Boulder, serving more than 4,000 manufacturers, distributors, suppliers, sales representatives and retailers- and is the leading trade association representing the nearly $650 billion outdoor recreation industry in the United States. Trade shows, gear summits, and outdoor festivals often host their annual events in Colorado, creating an environment where business and recreation come together.

Louisville has dedicated 26% of the city's land area to open space, parks and public spaces. There are 32 miles of trails within the community that connect Louisville to other parts of the region and beyond. Louisville is also proud to have a wide array of bike lanes and advisory bike lanes to connect neighborhoods, commercial centers and people.

Jobs

Economic Vitality works with businesses and our partners to attract, retain and expand businesses in Louisville. The census reports that as of 2022, the median income in Louisville was $135,000, 51% higher than the state average of $89,300. Over 65% of Louisville's population has at least a bachelor's degree. Louisville's 1,600 businesses employ over 20,000 people, providing a diverse offering of services and employment opportunities.

The median income for Boulder County is $102,200, with many of the targeted industries paying an average wage above this figure. Qualified employees are essential to business success and growth. Jobs provide direct and indirect benefit to the person employed and the community at large. Local jobs provide an opportunity for people to live and work in the same community, spending time, energy and money within that community.

Incentive Impact

Businesses have a lot of factors and inputs to consider when making location and expansion decisions. Businesses want to be in a place that is sustainable in the short through long term and in a community that provides them the ability to attract and retain talent and grow as needed to meet demand and company goals. Some vital inputs include availability of labor, availability of land/building, construction timeframe, business-friendliness of the community and cost of the project. One way for Louisville to impact the competitive nature of our available site opportunities is to impact the cost of the project through available incentives.

All things comparable, a location decision will come down to cost and ability to get a project completed in a timely manner. Not all costs are related to City policy or can be influenced by the City but the City having a clear and easy to engage with incentive policy is crucial for business attraction and retention.

Some of the costs associated with business operations include salaries, overhead, property taxes, sales and use taxes, insurances, unemployment insurance, marketing, operational costs, building and tenant finish costs, permit fees, additional employee costs (health insurance), and local, county, state and federal fees/taxes. In order to be competitive, Louisville should work to positively influence the costs that are within their jurisdiction and control.

The State of Colorado has exempted sales/use tax on property used in space flight and manufacturing equipment to remain competitive with other states.

In some cases, businesses are paying costs that they would not have to pay elsewhere in Colorado or in the nation, making us no longer a competitive location. Louisville needs to be competitive to continue to attract, expand and support a robust and diverse economy. Below are some examples of current sales and use tax exemptions.

Entity	**Exemption**
State of Colorado	Property used in space flight and manufacturing equipment
Boulder County	Purchases of machinery or machine tools for manufacturing
Lafayette, CO	Manufacturing/wholesale purchases
Broomfield, CO	Property used in space flight
Centennial, CO	Manufacturing equipment
Lakewood, CO	Manufacturing equipment
Ft. Collins, CO	Tiered rebate for manufacturing equipment
Colorado Springs, CO	Alternative tax rate for manufacturing equipment
Grand Junction, CO	Manufacturing equipment
Texas	Manufacturing machinery and equipment
Florida	Machinery and equipment,

PROPOSED BUSINESS ASSISTANCE PROGRAM AMENDMENTS

Staff is proposing the Business Assistance Program be amended to allow for additional assistance for Boulder County's targeted industries. This additional assistance would be in the form of a rebate, up to 100%, of the sales and use taxes collected on machinery, machinery tools, software and property used in space flight.

The following criteria would need to be met in order for a business to be considered for enhanced assistance:

- Must be a targeted industry (subject to verification of operations).
- New business, qualified expansion or retention
- The average wage of jobs must be at least 80% of the annual wage of Boulder County (not including benefits).

A qualified expansion could include an increase in personnel, production and/or product lines. The company must provide proof of ability and intent to expand at the Louisville location to be considered a qualified expansion. The BAP will not be retroactive, and must be applied for before machinery or software is purchased.

The BAP is also a retention tool that can be used to keep companies in Louisville that may be exploring location options elsewhere. To qualify for an incentive as a retained business, the business would need to provide ample proof and due diligence that they are looking at relocating to a different community, as well as the location factors being considered. This can be due to costs, expansion, business changes, lease expiration, or other business factors, but proof must be provided showing the need to look for different sites and the competing sites.

All BAP applications will continue to follow the existing application process that includes requiring the company to submit all needed information and verifications. Economic Vitality staff will review all applications for completeness and, verify supplemental information and confirm that all qualifications have been met. To ensure the stability of the program, a ‘claw-back’ clause is included in the ordinance amendment so that in the event a project does not remain in Louisville, a proportional portion of the rebates would be returned to the City.

This BAP amendment focuses on machinery, machinery tools, space flight property, and software due to the high-cost nature of these business components, even more so for specialized industries, product lines and business operations. The enhanced assistance would align Louisville’s competitiveness with many of our direct competitors and continue to support a strong economy.

Future Considerations for the BAP

The City may want to consider additional amendments to the BAP program in the future as market and industry trends evolve. Regular review of the BAP program is crucial to ensure we are offering incentives that are needed, relevant and competitive in the market. All of the components of the Business Assistance Program are rebates. There is no up-front cost to the City and a rebate program ensures performance measures are met before any rebate is dispersed. Competitive and clear incentive programs help attract, retain and expand businesses within the City of Louisville while showcasing our business community and providing a supportive environment for businesses and employees to thrive.

FISCAL IMPACT:
Financial assistance through the Business Assistance Program is all provided on a case-by-case basis and rebated from taxes and fees paid by the business for the specified project. Incentives are paid from the revenues received by the City from the business and are anticipated to be additionally offset by the increase in fees and taxes received from the new, retained or expanding entity.

As part of the application, the business must also include project costs, community impact and growth factors to highlight how the businesses will positively impact Louisville.

RECOMMENDATION:
Staff recommends that City Council adopt the proposed Business Assistance Program amendment for enhanced assistance for Boulder County's targeted industries.

ATTACHMENT(S):

1. Ordinance No. 1888, Series 2024

STRATEGIC PLAN IMPACT:

☐	**Financial Stewardship & Asset Management**	☐	**Reliable Core Services**
☒	**Vibrant Economic Climate**	☐	**Quality Programs & Amenities**
☐	**Engaged Community**	☐	**Healthy Workforce**
☐	**Supportive Technology**	☐	**Collaborative Regional Partner**

ORDINANCE NO. 1888
SERIES 2024

AN ORDINANCE AMENDING THE LOUISVILLE MUNICIPAL CODE TO ADD A NEW CHAPTER 3.25 REGARDING ENHANCED ASSISTANCE FOR TARGETED BUSINESSES

WHEREAS, the Boulder Chamber Economic Council has identified certain targeted industries that provide significant economic benefits to local communities, including creating high-paying employment opportunities, expanding the tax base, and enhancing the community's quality of life; and

WHEREAS, the targeted industries in Boulder County are currently aerospace, bioscience, cleantech, IT/software, natural products, and outdoor recreation; and

WHEREAS, offering incentives to businesses within these targeted industries is a way for the City to attract and retain businesses, to encourage business sustainability and growth, and to expand and support a robust and diverse economy; and

WHEREAS, the City Council previously adopted Chapter 3.24 of the Louisville Municipal Code, which established a Tax and Fee Business Assistance Program ("BAP") that authorizes the rebate of certain taxes and fees to businesses; and

WHEREAS, the City's practice under the BAP has been to rebate up to fifty (50%) of eligible taxes and fees, thus preserving the remainder for City purposes; and

WHEREAS, the City Council finds it appropriate to offer enhanced assistance to targeted businesses in order to increase the probability such businesses will locate and keep their operations in Louisville; and

WHEREAS, the City Council further finds that the enhanced assistance for targeted businesses should take the form of a rebate of sales and use tax collected on machinery, machinery tools, software, and property used in space flight due to the high-cost and specialized nature of these items; and

WHEREAS, the City Council, therefore, desires to amend Title 3 of the City Code to add a new Chapter 3.25 concerning enhanced assistance for targeted businesses.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LOUISVILLE, COLORADO:

Section 1. Title 3 of the Louisville Municipal Code is hereby amended by the addition of a new Chapter 3.25 to read as follows:

CHAPTER 3.25
ENHANCED ASSISTANCE FOR TARGETED BUSINESSES

Sec. 3.25.010. Established.
Sec. 3.25.020. Findings, intent, and purpose.
Sec. 3.25.030. Definitions.
Sec. 3.25.040. Basis for participation.
Sec. 3.25.050. Approval of agreement; conditions; term.
Sec. 3.25.060. EAP payments.
Sec. 3.25.070. Criteria for approval.
Sec. 3.25.080. Agreement with City; required contents.

Sec. 3.25.010. Established.

There is established within the City an Enhanced Assistance Program for Targeted Businesses ("EAP").

Sec. 3.25.020. Findings, intent, and purpose.

A. The purpose of the EAP created by this chapter is to encourage the recruitment, retention, establishment, and/or substantial expansion within the City of certain targeted businesses, including businesses in the industries of aerospace, bioscience, cleantech, IT/software, natural products, and outdoor recreation.

B. The City Council specifically finds and determines these targeted businesses have a greater-than-average potential to create a large number of jobs with high earning potential for residents of the City and others, and to otherwise stimulate the City's economy, and following the period of assistance under this chapter, the potential to increase the taxes and fees collected by the City, which increased tax and fee collections will enable the City to provide expanded and improved municipal services to and for the benefit of the residents of the City.

C. The City Council further specifically finds and determines that creation of the EAP is consistent with the City's powers as a home rule municipal corporation, and that exercise of said powers in the manner set forth in this chapter is in furtherance of the public health, safety and welfare. Notwithstanding any provision of this chapter, the City shall never be a joint venturer in any private entity or activity which participates in the EAP, and the City shall never be liable or responsible for any debt or obligation of any participant in the EAP.

Sec. 3.25.030. Definitions.

As used in this chapter and all sections thereof, the following terms and phrases shall have the following meanings:

Applicant means the owner(s) of a targeted business located or proposed to be located within the City.

Enhanced assistance means a rebate of up to one hundred percent (100%) of sales and use taxes on machinery, machinery tools, software, and property used in space flight collected by the City from a targeted business. *Enhanced assistance* shall exclude all revenues derived from: (i) the City's temporary 0.375% sales and use tax for open space and parks approved at the November 7, 2023 election; (ii) the temporary 0.125% sales tax for historic preservation approved at the November 7, 2017 election; (iii) the temporary 0.125% sales and use tax for open space approved at the November 7, 2023 election; (iv) the 0.15% sales and use tax for the Louisville Recreation & Senior Center approved at the November 8, 2016 election; and (v) any future special sales or use taxes imposed following the effective date of the EAP agreement between the City and the applicant.

Targeted business means a business engaged in an industry identified as a key or targeted industry by the Boulder Chamber Economic Council. Currently, the targeted industries are aerospace, bioscience, cleantech, IT/software, natural products, and outdoor recreation, but the Boulder Chamber of Commerce may change its list of targeted industries from time to time without further action required by City Council.

Sec. 3.25.040. Basis for participation.

A. Any owner of a proposed targeted business, or the owner of an existing targeted business which proposes to expand substantially, may apply to the City for inclusion within the EAP, provided that the proposed new or expanded business meets the eligibility criteria set forth in subsection B. Application for inclusion in the EAP must be made prior to the proposed opening, acquisition, or expansion.

B. To be eligible for enhanced assistance under this section, a targeted business must meet the following criteria:

1. The average annual wage of the business's employees must be at least eighty percent (80%) of the annual average wage for Boulder County, not including the value of any employee benefits.

2. An expanding business must show expansion in terms of personnel, production, or product lines.

C. Enhanced assistance may be used by a targeted business only for machinery, machinery tools, software, and property used in space flight.

D. Enhanced assistance may be provided to targeted businesses meeting the above-listed criteria in lieu of or in addition to the BAP assistance authorized under chapter 3.24.

E. Targeted businesses not meeting the above-listed criteria are not eligible for enhanced assistance, but may apply for BAP assistance pursuant to chapter 3.24.

Sec. 3.25.050. Approval of agreement; conditions; term.

A. Execution of an agreement by the City and an applicant implementing the EAP shall entitle the applicant to enhanced assistance in an amount not to exceed the amount specified in the agreement required by section 3.25.080.

B. The time period for enhanced assistance shall not commence until all public or public-related improvements are completed and meet City standards (where applicable) and until the targeted business has commenced its operations or completed its expansion within the City.

C. The time period for enhanced assistance shall be limited to a specified time set forth in the agreement or until a specified maximum amount is reached.

Sec. 3.25.060. EAP payments.

A. Enhanced assistance payments shall be made no less than annually and no more than quarterly, as the City and applicant shall agree.

B. Payments under this section shall commence no earlier than issuance of a certificate of occupancy or completion of a qualified expansion for the subject location and satisfaction of the requirements of this chapter and of the agreement.

C. No interest shall be paid on any enhanced assistance amounts.

Sec. 3.25.070. Criteria for approval.

Approval of an application for EAP incentives totaling $50,000.00 or more shall require the affirmative vote of four members of the City Council. Incentives totaling less than $50,000.00 may be approved, and the agreement required by section 3.25.080 may be executed, by the City Manager. Whether approved by City Council or the City Manager, the decision to approve an EAP application shall be based upon consideration of the following criteria:

A. The applicant’s total investment in its Louisville operation, including the cost of construction, expansion, and hiring;

B. The total number of jobs created over the five year period immediately following commencement of the targeted business’s operation in Louisville;

C. The average annual wage of the targeted business’s employees;

D. The quality of the proposed development;

E. Whether the proposal complements existing Louisville businesses (i.e. a buyer or supplier that serves an existing business in the City);

F. Whether the proposal represents job diversity in industry sectors and is part of a growing industry;

G. The proposal’s contribution to the diversity of jobs or employment opportunities within the City;

H. Whether the proposal brings a value added result to the City or a development within the City (for example, by moving the company's corporate headquarters to the City);

I. The amount of the enhanced assistance as a percentage of new revenue anticipated to be created by the proposal (for example, by relocation of the company to the City);

J. The conformance of the applicant's property or project with the comprehensive plan and zoning ordinances of the City; and

K. Whether a proposed agreement required by section 3.25.080 has been reached, which agreement shall contain and conform to all requirements of said section 3.25.080.

Sec. 3.25.080. Agreement with City; required contents.

Each application for inclusion in the EAP submitted to the City shall be considered solely on its own merits. Approval of an application shall require that an agreement be executed by the applicant and the City, which agreement shall, at a minimum, contain:

A. The maximum amount of enhanced assistance, the timing of payment of any enhanced assistance, and the maximum time during which the agreement shall continue, it being expressly understood that any such agreement shall expire and be of no further force and effect upon the occurrence of the earlier to be reached of the maximum time of the agreement (whether or not the maximum amount of enhanced assistance has been reached) or the maximum amount of enhanced assistance (whether or not the maximum time set forth has expired);

B. A statement that the agreement is a personal agreement which does not run with the land;

C. A statement that the agreement shall never constitute a multi-year fiscal obligation, debt or other obligation of the City within the meaning of any constitutional or statutory provision;

D. A provision that, in the event the applicant, and/or its successors and assigns, ceases business operations in the City within five (5) years after the certificate of occupancy has been received or the qualified expansion was completed for the business location, the applicant, or its permitted successors and assigns, shall pay to the City ten percent (10%) of the enhanced assistance rebated by the City under the EAP agreement for each full year that the applicant, and/or its successors and assigns, cease operations at the business location.

E. A provision that any enhanced assistance subject to sharing shall be escrowed in the event there is a legal challenge to the EAP or the approval of any application therefor;

F. An affirmative statement that the obligations, benefits and provisions of the agreement may not be assigned in whole or in any part without the express written authorization of the City Council, and further that no third party shall be entitled to rely upon or enforce any provision of the agreement;

G. A statement that the agreement shall be subject to the annual appropriation of sufficient funds for payments as provided in this chapter, pursuant to Section 20, Article X of the Colorado Constitution;

H. A statement that the applicant shall have no right, claim, lien or priority in or to the City's sales or use tax revenue superior to or on parity with the rights, claims or liens of the holders as any sales or use tax revenue bonds, notes, certificates or debentures payable from or secured by any sales or use taxes, existing or hereafter issued by the City; and that all rights of the successful applicant are, and at all times shall be, subordinate and inferior to the rights, claims and liens of the holders of any and all such existing or hereafter issued sales and use tax revenue bonds, notes, certificates or debentures, payable from or secured by any sales or use taxes issued by the City; and

I. Any other provisions agreed upon by the parties and approved by the City Council.

Section 4. If any portion of this ordinance is held to be invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares it would have passed and approved this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

Section 5. The repeal or modification of any provision of the Municipal Code of the City of Louisville by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

Section 6. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

INTRODUCED, READ, PASSED ON FIRST READING, AND ORDERED PUBLISHED this 19th day of November 2024.

____
Christopher M. Leh, Mayor

ATTEST:

____
Genny Kline, Interim City Clerk

APPROVED AS TO FORM:

____
Kelly PC
City Attorney

PASSED AND ADOPTED ON SECOND AND FINAL READING, this ____ day of _______________, 2024.

____
Christopher M. Leh, Mayor

ATTEST:

____
Genny Kline, Interim City Clerk