

# **City Council Economic Vitality Committee**

## **Meeting Agenda**

**Friday, July 31, 2023**

**City Hall**

**749 Main Street**

**1:30 PM**

*Members of the public are welcome to attend and give comments remotely; however, the in-person meeting may continue even if technology issues prevent remote participation.*

- You can call in to [+1 346 248 7799](tel:+13462487799) or [833 548 0282](tel:8335480282) (toll free) Webinar ID [#838 1396 0621](tel:83813960621)
- You can log in via your computer. Please visit the City's website here to link to the meeting: [www.louisvilleco.gov/council](http://www.louisvilleco.gov/council).

*The Board will accommodate public comments during the meeting. Anyone may also email comments to the Board prior to the meeting at [ABrown@LouisvilleCO.gov](mailto:ABrown@LouisvilleCO.gov).*

1. Call to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Meeting Minutes: June 16, 2023
5. Public Comments on Items Not on the Agenda
6. Staff Updates
7. Discussion – Concept Plan Review
8. Discussion/Direction – Proposed Amendments to Business Assistance Program (BAP)
9. Recent Articles

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Persons planning to attend the meeting who need sign language interpretation, translation services, assisted listening systems, Braille, taped material, or special transportation, should contact the City Clerk's Office at 303.335-4536 or [MeredythM@LouisvilleCO.gov](mailto:MeredythM@LouisvilleCO.gov). A forty-eight-hour notice is requested.

Si requiere una copia en español de esta publicación o necesita un intérprete durante la reunión, por favor llame a la Ciudad al 303.335.4536 o 303.335.4574.

10. Discussion Items for Next Meeting
11. Adjourn

***City Council***  
***Economic Vitality Committee***  
***Meeting Minutes***  
**Friday, June 16, 2023**  
**Regular Meeting**

1. **Call to Order:** Chair Leh called the meeting to order at 1:34 PM.
2. **Roll Call:** The following members of the City Council were present: Chair Leh, Mayor Pro Tem Fahey, and Councilmember Most. Also present were Community Development Director Rob Zuccaro, Economic Vitality Manager April Kroner, Economic Vitality Specialist Austin Brown, and City Manager Jeff Durbin. Four members of the public were present.
3. **Approval of Agenda:** Mayor Pro Tem Fahey made a motion to approve the agenda as presented. The motion was seconded by Councilmember Most. Motion passed.
4. **Approval of Meeting Minutes:** Mayor Pro Tem Fahey made a motion to approve the meeting minutes of May 19, 2023. The motion was seconded by Councilmember Most. Motion passed.
5. **Public Comments on Items Not on the Agenda:** Rick Kron voiced concern about the number of vacant buildings downtown and wondered if there was anything the EVC could do to help with this issue.
6. **Staff Updates:** Manager Kroner gave brief updates on the properties at 816 Main Street (former Empire Lounge), 833 Main Street (former Chase Bank), 804 Main Street (Wildwood Guitars), and 916 Main Street (Radiance MedSpa).

Manager Kroner continued her updates with a brief summary of the downtown ice rink. Chair Leh thanked Manager Kroner for her efforts in taking on this project and ensuring that Louisville will continue to have a winter ice skating rink.

Manager Kroner also mentioned that the new Dollar Tree (655 E South Boulder Rd) is expected to have its grand opening in late June or July. The EVC expressed excitement that this vacant property will be filled. Councilmember Most asked how many jobs Dollar Tree was going to create? Chair Leh mentioned that there may not be that many new jobs created, and asked if Staff

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**City of Louisville**

*City Manager's Office*    749 Main Street    Louisville CO 80027  
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had heard any feedback from the public. Manager Kroner confirmed that she had not heard any feedback.

She continued with an update on the revised draft dark sky lighting ordinance that will be going to Planning Commission on July 13. Councilmember Most asked if the revised ordinance includes changes to both the residential and commercial code. Director Zuccaro confirmed that the revision includes updates to both residential and commercial requirements. Chair Leh acknowledged staff for their work on the dark sky update.

Manager Kroner concluded her updates by announcing that staff will be hosting an open house in August to allow businesses to provide feedback on potential amendments to the energy code. Mayor Pro Tem Fahey asked whether this meeting will include an update on what the City has done through its own internal decarbonization plan. Manager Kroner responded that she was not sure yet as staff is still in the early ages of planning. Director Zuccaro added that the primary goal of the meeting is education on implementation, but the meeting will also include discussion on issues and barriers that could end up being amendments. He agreed that it would make sense to share what the City has been doing to make sure its facilities meet the current code requirements.

Answering a previous question from Councilmember Most, Director Zuccaro added that the former Empire Lounge (816 Main Street) has 30 feet of frontage on Main Street. Manager Kroner also added that the property is 5,000 SF.

Public comment from Mike Deborski: Mr. Deborski commented that previous processes around the building code and energy code have not properly considered input from the community. Rather than being involved in the process, Mr. Deborski feels that businesses are being told what the City is doing and expected to comply with the changes. He concluded that the process feels backward but hoped that this could change moving forward.

Chair Leh responded that the City seems to have a better grasp on these processes, citing the dark sky lighting ordinance, and that there will be amendments and opportunities to clean up the energy code. Director Zuccaro clarified that the residential code was adopted first without much public engagement, but the commercial code included some public outreach. He added that the City will strive for more public engagement in its processes.

Public Comment from Rick Kron: Mr. Kron stated that he agreed with Mr. Deborski's comments. He also commented that staff received quite a few comments from the previous iteration of the energy code, and that these comments should still apply.

- 7. Discussion/Direction- Economic Vitality Committee Work Plan Priorities:**  
Manager Kroner summarized previous discussion regarding the 2023 EVC

Work Plan and gave an overview of the new priorities for 2023 and possible actions. The six priorities are included below:

1. Conduct process improvement initiative for business-related services to improve efficiency and customer service.
2. Host semi-annual Business Forum to gather all stakeholders, review City priorities, and gather feedback.
3. Identify market gaps through analysis and by monitoring retail leakage to adjacent communities.
4. Conduct regular business retention visits to understand issues and address concerns.
5. Conduct Business Satisfaction Survey every other year to monitor changes and new ideas in the business community.
6. Identifying barriers to renewable energy participation and facilitate implementation of solutions.

Councilmember Most asked whether the first initiative includes the City permitting process. Manager Kroner confirmed that it does.

Director Zuccaro commented that the third initiative is included within the Comprehensive Plan. Councilmember Most asked whether the analysis will attempt to identify which types of retail are needed in the City. Director Zuccaro responded that it's difficult for the City to control the types of retail that operate in Louisville. He continued that the community input will be at a higher level. Manager Kroner concluded that this item will likely be carried over to the 2024 EVC Work Plan. The Committee asked who will be performing the analysis. Director Zuccaro responded that Economic & Planning Systems is the Comp Plan sub consultant that will be performing the study.

Councilmember Most asked whether staff will be working with Sustainability for the sixth initiative. Manager Kroner confirmed that Economic Vitality and Sustainability will be working together on this initiative. Councilmember Most mentioned that she was surprised how many renewable energy programs are available to both commercial and residential properties. Chair Leh added that EDI initiatives could also be added. Manager Kroner confirmed that staff will make revisions to the EVC Work Plan and include progress in future updates.

Public comment from Rick Kron: Regarding the sixth initiative, Mr. Kron commented that the current energy code has a bias against off-site energy and that community solar might be a better option. The Committee agreed and City Manager Durbin added that there will likely be some changes at the State regarding this requirement.

**8. Discussion/Direction- 2022 Business Satisfaction Survey Outcomes:**

Chair Leh gave an overview of the 2022 Business Satisfaction Survey and outlined the previous discussion around the results. He noted that there was also some concern that the EVC did not spend enough time discussing the

outcomes of the 2022 survey. He concluded that this input needs to be used to move towards objectives and focusing efforts.

Chair Leh continued that there may be a perception that government does too much setting of agendas, brainstorming solutions and framing questions, citing programs that were introduced during COVID as an example. Director Zuccaro added that there is good information in the survey, but it doesn't necessarily indicate what is wrong. He commented that adding a third party consultant may help create a process to identify what is wrong. He envisioned that this process could include stakeholder interviews, on which the consultant would prepare a report to be presented to staff.

Councilmember Most agreed that the way the survey is currently written makes it hard to identify actionable items. She added that there are two different categories in the existing survey, one on demographics and one on business experiences. City Manager Durbin agreed and added that the survey does not allow for additional follow up regarding business experiences. Manager Kroner added that the process would likely include business focus groups.

Public comment from Mike Deborski: Mr. Deborski commented that City Council could do a better job of understanding business issues and recognizing these issues as an opportunity to improve.

Chair Leh responded that having a consultant unaffiliated with either City Council or City Staff should help identify these issues and present the opportunities to Council.

Public comment from Mike Kranzdorf: Mr. Kranzdorf commented that the City used to do a facilitated forum and that bringing back this event could be very helpful. He also wondered whether this could be accomplished without relying on a third-party consultant.

Councilmember Most responded that demographic data can be captured through a survey and may not need to be included in the consultant's scope. The qualitative data will likely need to be collected by an experienced professional. Chair Leh stated that one of the purposes of government is to provide a platform for discussion.

City Manager Durbin commented that he appreciates the discussion and hopes that conversations between people that care very deeply about the community can continue. He also noted that while working with the business community is very important, there are other priorities that City Council will need to balance. He closed his comments by reminding the EVC that if they were to want to pursue this approach to the Business Satisfaction Survey, there are other priorities that will likely need to be reassessed or paused.

Public comment from Rick Kron: Mr. Kron added that some of the open-ended questions from the 2022 survey are important, and noted that these questions have already received responses.

9. **Recent Articles:** No comments.

10. **Next Meeting:** The next regular meeting has been rescheduled to July 31, 2023 @ 1:30 PM. Chair Leh requested that staff provide an update on the new proposed Sketch Plan process during the July meeting. Director Zuccaro confirmed that staff will include this update.

11. **Adjourn:** The meeting adjourned at 2:59 PM.

**SUBJECT: STAFF UPDATES**

**DATE: JULY 31, 2023**

**PRESENTED BY: APRIL KRONER, AICP, ECONOMIC VITALITY MANAGER  
AUSTIN BROWN, ECONOMIC VITALITY SPECIALIST**

**SUMMARY:**

In the following, staff provides updates on recent activity related to core economic vitality functions.

*Business Assistance Program (BAP) Updates*

City Council approved a Business Assistance Agreement with Parcel O Productions LLC (doing business as Relish) on July 11. Relish plans to open a community pickleball hub at 550 S McCaslin Boulevard. Their vision includes an eight-concept food hall with seventeen pickleball courts. At time of opening, Relish projects that it will have up to 16 full-time employees and up to 15 part-time employees. The average salary will be \$96,000 per year.

City Council approved a Business Assistance Agreement with Shamrock Foods Company on July 11. Shamrock plans to open a new grocery store that will occupy 28,190 SF of vacant space at 785 E South Boulder Road (the former Alfalfa's). Since the property has been vacant for more than a year, Shamrock also received a vacancy bonus incentive.

*Property Updates*

*816 Main Street (former Empire Lounge)*

*916 Main Street (Radiance MedSpa)*

The Louisville Revitalization Commission (LRC) approved a Façade Improvement Program application for exterior façade improvements at 916 Main Street. The applicant requested 50% reimbursement of the total anticipated cost of improvements. The owner's application for Direct Financial Assistance will return to the LRC for review in September. A contract with Environmental and Planning Systems for third-party financial review was approved by City Council on July 25 and will return to the LRC for approval at its August meeting.

*Ice Rink Update*

The City of Louisville entered into an agreement with Rocky Rinks for equipment purchase, equipment rental, and management services to conduct the City's annual wintertime outdoor ice skating rink. City Council reviewed and approved this agreement during its June 20 meeting.



*Business Openings and Closings*  
None.

*Dark Sky Lighting*

An updated draft of the dark sky lighting ordinance was reviewed by Planning Commission on July 13. The Commission did not make a recommendation on the ordinance, continuing it to the next Planning Commission meeting currently scheduled for August 10.

*Energy Code Update*

There will be an open house on August 29 from 6 – 8 PM to allow businesses to provide feedback on potential amendments to the energy code.

*Downtown Vision Plan*

The City of Louisville received six responses to its Downtown Vision Plan for Streetscapes and Public Places RFP. Staff has reviewed the six responses and scheduled interviews with two of the six consultants. Following the interviews, staff will enter into an agreement for consulting services with one of the consultants.

*Business Forum*

Staff is working with the Louisville Chamber of Commerce to begin planning the fall Business Forum. The Chamber will help coordinate with the business community to collect questions for discussion during the forum.

*EVC Work Plan*

During its June meeting, the EVC narrowed its 2023 Work Plan down to seven priorities as shown in *Attachment #1*. The seven priorities are:

- Process Improvement Initiatives for Business-Related Services
- Semi-Annual Business Forum
- Market Gap Analysis
- Business Retention Visits
- Business Satisfaction Survey
- Identify Barriers to Renewable Energy Participation and Possible Solutions
- Equity, Diversity, and Inclusion Initiatives

Staff will continue to update the 2023 Work Plan as needed.

**ATTACHMENT(S):**

1. 2023 EVC Work Plan

**ECONOMIC VITALITY COMMITTEE  
2023 Work Plan**



**2023 Priorities – June through December  
Updated 7.31.23**

Project	Possible Actions
Process Improvement Initiatives for Business-Related Services	<ul style="list-style-type: none"> <li>• Review availability of services and support online as well as presented in English &amp; Spanish; update and add as needed.</li> <li>• Brainstorm on barriers to entry (from business perspective).</li> <li>• Work with City departments, chamber, and use info from retention visits and prior business survey.</li> <li>• Prioritize processes for improvement initiatives (includes analyzing existing planning/zoning and building permit review processes for improvements).</li> </ul>
Semi-Annual Business Forum	<ul style="list-style-type: none"> <li>• Hold Fall 2023 Business Forum.</li> <li>• Ensure opportunity for questions and input from businesses.</li> <li>• Work with business community to identify topics of interest to address.</li> </ul>
Market Gap Analysis	<ul style="list-style-type: none"> <li>• Economic &amp; Planning Systems (EPS) will conduct market analysis including leakage/gap analysis.</li> <li>• Prioritize outcomes and develop new strategies for retail attraction.</li> <li>• Will be completed as part of the City’s Comprehensive Plan Process.</li> </ul>
Business Retention Visits	<ul style="list-style-type: none"> <li>• Conduct visits with existing businesses to develop relationships, identify issues and address concerns.</li> <li>• Work on strategy for a more formalized business retention program.</li> </ul>
Business Satisfaction Survey	<ul style="list-style-type: none"> <li>• Late 2023/24: draft RFP for consultant services to conduct focus groups.</li> <li>• Consultant will develop 3<sup>rd</sup> party report identifying business concerns, needs, etc and identify actionable items/opportunities for the City to implement to better support the business community.</li> </ul>
Identify Barriers to Renewable Energy Participation and Possible Solutions	<ul style="list-style-type: none"> <li>• Collaborate with City Sustainability office.</li> <li>• Energy Code Amendments.</li> <li>• Dark Sky Lighting Ordinance.</li> <li>• General Renewable Energy Enhancements.</li> <li>• Financing/Incentive opportunities (i.e. PACE).</li> </ul>
EDI Initiatives	<ul style="list-style-type: none"> <li>• Work with the EDI Manager Monai Myles to ensure EDI is integrated into EV efforts.</li> </ul>

**SUBJECT: DISCUSSION – CONCEPT PLAN REVIEW**

**DATE: JULY 31, 2023**

**PRESENTED BY: ROB ZUCCARO, AICP, COMMUNITY DEVELOPMENT  
DIRECTOR**

**SUMMARY:**

Attached for discussion is a draft ordinance to create a Concept Plan Review process as an optional pre-cursor to submitting certain zoning or comprehensive plan amendment applications. This would allow a property owner or applicant to get non-binding feedback from City Council on more complex proposals prior to developing a full application. This can help an applicant identify early in the review process if there are any particular areas of interest or areas of concern from Council. The 2023 City Council work plan includes consideration of a Concept Plan Review ordinance.

The Planning Commission is scheduled to hold a public hearing to review the draft ordinance on August 10<sup>th</sup>. City Council review is tentatively scheduled for first reading on September 19<sup>th</sup> followed by second reading and public hearing on October 2<sup>nd</sup>.

**BACKGROUND:**

Other local communities utilize optional or mandatory concept plan review processes as part of their development review process for certain application types. The ordinances from Arvada, Boulder, Broomfield, and Ft. Collins are attached for reference. Each of the example ordinances define the process and scope of the review and all have public notice requirements for the review.

**ATTACHMENTS:**

1. Draft Concept Plan Review Ordinance
2. Arvada Sketch Plan Code
3. Boulder Concept Plan Code
4. Broomfield Concept Plan Code
5. Ft. Collins Pre-Application Code

**ORDINANCE NO. XXXX  
SERIES 2023**

**AN ORDINANCE AMENDING TITLE 17 OF THE LOUISVILLE MUNICIPAL CODE BY  
CREATING A NEW SECTION 17.16.350 ESTABLISHING PROCEDURES AND  
CRITERIA FOR A CONCEPT PLAN REVIEW**

**WHEREAS**, the City of Louisville (the “City”), is a Colorado home rule municipal corporation duly organized and existing under laws of the State of Colorado and the City of Louisville Home Rule Charter (the “City Charter”); and

**WHEREAS**, the City desires to create a Concept Plan land use review process to allow the City Council the opportunity to provide nonbinding comments prior to submittal of a preliminary or final land use application; and

**WHEREAS**, such Concept Plan review process is limited to certain land use application types that may have complexities that would benefit from the early identification of potential opportunities, constraints, and policy considerations; and

**WHEREAS**, such Concept Plan review process will help identify whether a proposal may address certain adopted plans, policies and ordinances related to a potential application; and

**WHEREAS**, after a duly noticed public hearing held \_\_\_\_\_, where evidence and testimony were entered into the record, including the Louisville Planning Commission Staff Report dated \_\_\_\_\_, the Louisville Planning Commission has recommended the City Council adopt the amendments to the LMC set forth in this ordinance; and

**WHEREAS**, City Council has provided notice of a public hearing on said ordinance by publication as provided by law and held a public hearing as provided in said notice.

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

**Section 1.** Louisville Municipal Code Chapter 17.16 – General Regulations is hereby amended with the addition of a new Section 17.16.340 to read as follows:

**Section 17.16.350. – Concept Plan Review**

- A. Purpose. The purpose of the concept plan review is to provide an opportunity for an applicant to solicit comments from the City Council in the early stages of the development review process on relevant plans, policies and ordinances related to the proposal. Comments on a concept plan are not binding and are meant to inform any subsequent land

use application. A concept plan review shall not relieve an applicant of the burden to seek and obtain all necessary approvals under the Louisville municipal code.

- B. Projects eligible for concept plan review. A concept plan review is an optional review step prior to submitting an application for a preliminary or final land use application. The following application types shall be eligible for concept plan review.
1. General development plans pursuant to Chapter 17.72.
  2. Planned unit developments pursuant to Chapter 17.28 that cover multiple lots or that would require a waiver to a height or density standard.
  3. Special review use pursuant to Chapter 17.40.
  4. Comprehensive development plan amendments specific to a certain property, pursuant to Chapter 17.64 not initiated by the city or city staff.
  5. Zoning map, or text amendments specific to a certain property pursuant to Chapter 17.44 not initiated by the city or city staff.
- C. Application requirements. A concept plan application should provide sufficient and accurate information used to discuss applicable plans, policies and ordinances. An application shall be filed on a form provided by the city and shall include the following:
1. Written consent of the owners of all property included in the development.
  2. A written description of the proposal, including how the proposed development meets applicable plans, policies and ordinances, and addresses the following as applicable:
    - i. Description of any waivers sought to adopted development standards.
    - ii. How the development meets applicable public land dedication requirements.
    - iii. Proposed land uses, residential housing type mix, sizes, anticipated sales prices, percentage and type of affordable units.
  3. A vicinity map, drawn to scale, showing the site and surrounding area not less than a 300-foot radius around the site, including surrounding zoning, buildings, parking areas, streets, sidewalks, trails and other transportation connections, parks, public areas, and open spaces.
  4. A scaled and dimensioned schematic site plan that includes the following as applicable:
    - i. Property boundaries.
    - ii. Access points and circulation patterns for all modes of transportation, including connections to surrounding transportation infrastructure.
    - iii. Proposed land uses and approximate location of buildings, including anticipated number of units or building area.
    - iv. Location of major site elements such as natural features, watercourses, wetlands, trees, slopes, and floodplains.
    - v. Site data such as building and landscape coverage, residential density, parking ratios, and building size.
  5. Architectural character sketches showing building elevations and materials, as relevant.

6. Any additional information determined by the City Manager as necessary to assess the proposal against applicable plans, policies and ordinances.
- D. Review process. Following the acceptance of and determination by the city of a complete application for concept plan review, the City Manager shall schedule the review at a regular City Council meeting. Public notice shall be provided as set forth in Section 17.04.070. Staff may provide a staff report noting applicable plans, policies and ordinances to inform the City Council review.
- E. Guidelines for review and comment. The following will be used to guide the City Council's discussion regarding the concept plan review. Meeting minutes summarizing the discussion and comments will be provided to the applicant, but no vote shall be taken by the City Council regarding the application. The City Council is not required to provide any specific feedback regarding an application and a consensus or majority vote on discussion items shall not be required. All comments provided by the City Council are advisory in nature and shall not be binding on the City Council. Issues not identified below may be discussed if the City Council finds that such issues relate to a relevant plan, policy, or ordinance.
1. Applicable review criteria, procedures, supporting documentation and submission requirements relevant to the land use application.
  2. Policy considerations, including guidance on how a project would conform to plans and policies, including the comprehensive plan, transportation master plan, and any other adopted plan or policy relevant to the proposal.
  3. Characteristics of the site or neighborhood that would influence the plan development, such as potential offsite impacts, opportunities to enhance or coordinate development with surrounding properties, and opportunities to preserve view corridors and other natural features.
  4. Potential of any waivers to achieve applicable criteria or policy goals that would otherwise be unachievable by adherence to current standards.
  5. Opportunities and constraints related to the transportation system, including access, linkages, and transportation system capacity.
  6. The need for additional studies or analysis related to the proposal.
  7. Any other guidance related to appropriate or desired range of land uses, densities, and housing types.

**Section 2.** Louisville Municipal Code Section 17.04.070, Table 1, Public Notice Requirement is hereby amended by adding the following underlined text to the table:

Land Use Application	Mailing	Posting			Published Notice
		Public Facility (1)	City Website	Subject Property	
<u>Concept Plan review</u>	<u>All affected properties within 750' 15 days prior to hearing date</u>	<u>72 hours prior to hearing date</u>	<u>15 days prior to hearing date</u>	<u>All adjoining public ROW 15 days prior to hearing date</u>	<u>15 days prior to hear</u>

**Section 3.** 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 that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared invalid.

**Section 4.** 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 5.** 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 \_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Dennis Maloney, Mayor

ATTEST:

\_\_\_\_\_  
Meredyth Muth, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Kelly PC, City Attorney

**PASSED AND ADOPTED ON SECOND AND FINAL READING**, this \_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
Dennis Maloney, Mayor

ATTEST:

\_\_\_\_\_  
Meredyth Muth, City Clerk

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### **8-3-10-5. PUD sketch plan.**

- A. *Generally.* The PUD Sketch Plan is an optional step in the PUD process.
- B. *Disclaimer.* The PUD Sketch Plan is not part of a formal application for approval of a PUD and no comments made by the City with regard to a PUD Sketch Plan shall be binding on the City's consideration of any subsequent application, or result in the vesting of any rights under this LDC or state statute. The voluntary submission of a PUD Sketch Plan shall constitute a complete waiver of any and all legal claims that are based on, or arise from, Planning Commission or City Council review of, or comment upon, such PUD Sketch Plan.
- C. *Contents of PUD Sketch Plan.* At a minimum, the PUD Sketch Plan shall include the following information:
  - 1. Proposed land uses;
  - 2. Proposed density or intensity;
  - 3. General location of public and private open space;
  - 4. General location of existing and proposed buildings;
  - 5. General layout of existing and proposed street and pedestrian networks; and
  - 6. General layout of existing and proposed major utilities and public services for the development.
- D. *Review Considerations.* The review of a PUD Sketch Plan may address the following topics:
  - 1. Whether the PUD Sketch Plan appears to be consistent with the Comprehensive Plan, or reflects conditions that have changed since the adoption of the Comprehensive Plan;
  - 2. Whether the PUD Sketch Plan appears to outline a development that will address a unique situation, confer a substantial benefit to the City, or incorporate creative site design such that it achieves the purposes set out in Section 8-3-10-1, Purpose of Planned Development Zone, and represents an improvement in quality over what could have been accomplished through strict application of otherwise applicable zoning district or development standards;
  - 3. Whether the PUD Sketch Plan appears to represent a high-quality, functional design for the scale and type of land use that is proposed, provides for appropriate integration into the City's street, sidewalk and trail networks, and provides for appropriate transitions to adjoining property; and
  - 4. Whether the PUD Sketch Plan appears, to the extent reasonably feasible, to provide for mitigation of any foreseeable, material adverse impacts on adjoining properties or on the general community.

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### 9-2-13. Concept Plan Review and Comment.

- (a) Purpose of Concept Plan Review: The purpose of the concept plan review step is to determine a general development plan for the site, including, without limitation, land uses, arrangement of uses, general circulation patterns and characteristics, methods of encouraging use of alternative transportation modes, areas of the site to be preserved from development, general architectural characteristics, any special height and view corridor limitations, environmental preservation and enhancement concepts, and other factors as needed to carry out the objectives of this title, adopted plans, and other city requirements. This step is intended to give the applicant an opportunity to solicit comments from the reviewing authority early in the development process as to whether the concept plan addresses the requirements of the city as set forth in its adopted ordinances, plans, and policies. Comments on a concept plan are not binding, but are meant to inform any subsequent site review application. A concept plan review and comment shall not relieve the applicant of the burden to seek approvals for elements of the plan that require review and approval under the Boulder Revised Code.
- (b) Projects Required to Complete Concept Review and Comment: Any applicant for a development that exceeds the "Site Review Required" thresholds set forth in Paragraph 9-2-14(b)(1), B.R.C. 1981, shall complete the concept review process prior to submitting an application for site review.
- (c) Application Requirements: A concept plan should be a preliminary plan for the development of a site of sufficient accuracy to be used for discussing the plan's conformance with adopted ordinances, plans, and policies of the city. The concept plan provides the public, the city manager, and the planning board opportunity to offer input in the formative stages of the development. An application for a concept plan review and comment may be filed by a person having a demonstrable property interest in land to be included in a site review on a form provided by the manager and shall include the following:
  - (1) The written consent of the owners of all property to be included in the development;
  - (2) A context map, drawn to scale, showing the site and an area of not less than a 300-foot radius around the site, including streets, zoning, general location of buildings, and parking areas of abutting properties;
  - (3) A scaled and dimensioned schematic drawing of the site development concept and an area of not less than 200 feet around the site, showing:
    - (A) Access points and circulation patterns for all modes of transportation;
    - (B) Approximate locations of trails, pedestrian and bikeway connections, on-site transit amenities, and parking areas;
    - (C) Approximate location of major site elements, including buildings, open areas, natural features such as watercourses, wetlands, mature trees, and steep slopes; and
    - (D) Proposed land uses and approximate location;
  - (4) Architectural character sketches showing building elevations and materials; and
  - (5) A written statement that describes, in general, how the proposed development meets this title, city plans and policies, and addresses the following:
    - (A) Techniques and strategies for environmental impact avoidance, minimization, or mitigation;
    - (B) Techniques and strategies for practical and economically feasible travel demand management techniques, including without limitation, site design, land use, covenants, transit passes, parking restrictions, information or education materials, or programs that may reduce single-occupant vehicle trip generation to and from the site; and

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- (C) Proposed land uses and, if it is a development that includes residential housing type, mix, sizes, and anticipated sale prices, the percentage of affordable units to be included; special design characteristics that may be needed to assure affordability.
  - (d) Public Notice of Application: After receiving an application, the city manager shall provide public notification pursuant to Section 9-4-3, "Public Notice Requirements," B.R.C. 1981.
  - (e) Additional Information or Processes: Based on the concept plan submission, and to the extent that such requirements can be determined from the information provided by the applicant, the city manager will identify additional information or processes that may be needed prior to or concurrent with site review, such as:
    - (1) Variances and exceptions to existing standards necessary to achieve the defined objectives for the site, and the process and approving agency for the required changes;
    - (2) Processes, permits, and approvals that may be needed, including without limitation, wetland permits, floodplain permits, flood map revisions, special large water user or sanitary sewer pretreatment agreements, rezonings, or Boulder Valley Comprehensive Plan changes;
    - (3) Need for any further environmental studies or impact studies; and
    - (4) Public infrastructure improvements needed to serve the development, including without limitation, transportation improvements such as streets, alleys, transit stops, and shelters, other alternative mode facilities and connections, and acceleration and deceleration lanes, water, wastewater, and flood control.
  - (f) Review of and Comment on Concept Plans: Upon receipt of an application for a concept plan review, the city manager will review the submitted materials for general compliance with the requirements of this title, and prepare staff comments. The scope of staff comments will differ from application to application, at the discretion of the manager. Unless withdrawn, a concept plan shall be referred to the planning board pursuant to Paragraph (1) of this subsection and may be reviewed by the city council pursuant to Paragraph (2) of this subsection.
    - (1) Planning Board Review and Comment: The manager will forward the application, any comments received from neighbors and other interested persons, and any staff comments to the planning board. The planning board shall review the concept plan at a public meeting held pursuant to the provisions of Subsection 2-3-1(b), B.R.C. 1981. Planning board members may provide individual comments on the concept plan.
    - (2) City Council Call-Up: The city council may call up a concept plan application within thirty days of the board's review. The manager may extend the call-up period until the council's next regular meeting, if the manager finds in writing within the original call-up period that the council will not receive notice of the application in time to enable it to call up the application. Any application that it calls up, the city council will review at a public meeting within sixty days of the call-up vote or within such other time as the manager or council and the applicant mutually agree.
  - (g) Guidelines for Review and Comment: The following guidelines will be used to guide the planning board's discussion regarding the site. It is anticipated that issues other than those listed in this section will be identified as part of the concept plan review and comment process. The planning board may consider the following guidelines when providing comments on a concept plan:
    - (1) Characteristics of the site and surrounding areas, including without limitation, its location, surrounding neighborhoods, development and architecture, any known natural features of the site including without limitation, mature trees, watercourses, hills, depressions, steep slopes, and prominent views to and from the site;

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- (2) Community policy considerations, including without limitation, the review process and likely conformity of the proposed development with the Boulder Valley Comprehensive Plan and other ordinances, goals, policies, and plans, including without limitation, sub-community and sub-area plans;
  - (3) Applicable criteria, review procedures, and submission requirements for a site review;
  - (4) Permits that may need to be obtained and processes that may need to be completed prior to, concurrent with, or subsequent to site review approval;
  - (5) Opportunities and constraints in relation to the transportation system, including without limitation, access, linkage, signalization, signage and circulation, existing transportation system capacity problems serving the requirements of the transportation master plan, possible trail links, and the possible need for a traffic or transportation study;
  - (6) Environmental opportunities and constraints, including without limitation, the identification of wetlands, important view corridors, floodplains, and other natural hazards, wildlife corridors, endangered and protected species and habitats, the need for further biological inventories of the site, and at what point in the process the information will be necessary;
  - (7) Appropriate ranges of land uses; and
  - (8) The appropriateness of or necessity for housing.

Ordinance Nos. 5669 (1994); 5777 (1998); 5994 (1998); 6093 (1999); 7992 (2014)

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### 17-38-030 Concept plan review.

- (A) Prior to any official submittal of a PUD plan or site development plan or an amendment to a PUD or site development plan, the applicant shall submit a concept plan for initial concept review. Such concept plan shall be made available on a publicly available website for a minimum of thirty calendar days for review and comment by the public, land use review commission, and city council. The city manager may also, at their discretion, require the review of any concept plan at a public meeting of the city council. It is intended that the land use review commission or the city council discuss with the applicant any significant concern about the plan either through submitting comments in writing or during a public meeting. Comments received regarding the application shall be available for review on the public website for a minimum of thirty days. No official action is taken at this stage by either the land use review commission or the city council. Plan amendments that meet the criteria for administrative modifications as included in section 17-38-230, B.M.C., shall not be subject to concept plan review.
- (B) The city manager may administratively exempt a plan from the provisions of subsection (A) if the following criteria are met:
  - (1) The plan includes ten or fewer dwelling units;
  - (2) The plan provides for no more than two additional nonresidential building sites or the development of less than 5,000 square feet of nonresidential building;
  - (3) The proposed plan or use is in conformity with the master plan;
  - (4) The city manager determines that the plan will not result in significant traffic, visual, noise, odor, or other impact on neighboring properties;
  - (5) For PUD plan amendments, the plan represents a change in use of less than 10% of the land area incorporated within the plan; and
  - (6) The plan does not propose development requiring significant deviation from city code or administrative policy.
- (C) The property that is the subject of a concept plan review shall be posted in accordance with sections 17-52-040, B.M.C. and 17-52-050, B.M.C.
- (D) Any comment, suggestion, or recommendation made by any member of the land use review commission or by any council member on any concept review plan is gratuitous and does not bind or otherwise obligate either the land use review commission or the city council to any course of conduct or decision after an applicant makes an official submittal of a plan to the city.
- (E) Upon submission of an application for a concept review plan, an application fee of \$500.00 shall be paid to the city for a concept plan for ten acres or more of land and \$200.00 for a concept plan for less than ten acres of land.

(Ord. 725 §1, 1987; Ord. 1070 §1, 1994; Ord. 1111 §26, 1995; Ord. 1122 §1, 1995; Ord. 1183 §1, 1996; Ord. 1692 §2, 2002; Ord. 1935 §46, 2011)

( Ord. No. 2127 , § 3, 8-11-20; Ord. No. 2138 , § 46, 4-6-21)

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## 2.1.6 Optional Pre-Application Review

### (A) **Optional City Council Pre-Application Review of Complex Development Proposals:**

A potential applicant for development other than a PUD Overlay may request that the City Council conduct a hearing for the purpose of receiving preliminary comments from the City Council regarding the overall proposal in order to assist the proposed applicant in determining whether to file a development application or annexation petition. Only one (1) pre-application hearing pursuant to this Subsection (A) may be requested. The following criteria must be satisfied for such a hearing to be held:

- (a) The proposed development cannot have begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2.
- (b) The proposed application for approval of a development plan must require City Council approval of an annexation petition, an amendment to the City's Comprehensive Plan, or some other kind of formal action by the City Council, other than a possible appeal under this Land Use Code
- (c) The City Manager must determine in writing that the proposed development will have a community-wide impact.

### (B) **Optional Pre-Application PUD Overlay Proposal Review:**

This optional review is available to potential PUD applicants that have not begun any step of the Common Development Review Procedures for Development Applications set forth in Article 2, Division 2.2. Such review is intended to provide an opportunity for applicants to present conceptual information to the Planning and Zoning Board for PUD Overlays between 50 and 640 acres in size, or to City Council for PUD Overlays greater than 640 acres in size, regarding the proposed development including how site constraints will be addressed and issues of controversy or opportunities related to the development. Applicants participating in such review procedure should present specific plans showing how, if at all, they intend to address any issues raised during the initial comments received from staff and affected property owners. In order for a pre-application hearing to be held, the Director must determine in writing that the proposed PUD will have a community-wide impact. Only one (1) pre-application hearing pursuant to this Subsection (B) may be requested.

### (C) **Notice and Hearing Procedure.**

All preapplication hearings under above Subsections (A) or (B) this provision will be held in accordance with the provisions contained in Steps (6), (7)(B) and (7)(C) of the Common Development Review Procedures, except that the signs required to be posted under Step (6)(B) shall be posted subsequent to the scheduling of the session and not less than fourteen (14) days prior to the date of the hearing. At the time of requesting the hearing, the applicant must advance the City's estimated costs of providing notice of the hearing. Any amounts paid that exceed actual costs will be refunded to the applicant.

### (D) **Input Non-Binding, Record.**

The Planning and Zoning Board or City Council as applicable pursuant to above Subsections (A) or (B) may, but shall not be required to, comment on the proposal. Any comment, suggestion, or recommendation made by any Planning and Zoning Board or City Council member with regard to the proposal does not bind or otherwise obligate any City decision maker to any course of conduct or decision pertaining to the proposal. All information related to an optional review shall be considered part of the record of any subsequent development review related to all or part of the property that was the subject of the optional review.

(Ord. No. 091, 2018 , §6, 7/17/18)



**SUBJECT: PROPOSED AMENDMENTS TO BUSINESS ASSISTANCE PROGRAM (BAP)**

**DATE: JULY 31, 2023**

**PRESENTED BY: APRIL KRONER, AICP, ECONOMIC VITALITY MANAGER**

### **SUMMARY**

Economic Vitality staff is proposing amendments to the City's Business Assistance Program (BAP) in an effort to further support the retention and/or expansion of businesses in the aerospace industry within Louisville, to be known as '*Enhanced Assistance for the Aerospace Industry*'.

### **BACKGROUND**

This section provides background that is relevant to the items for discussion. The background includes:

- A recap of the city's current BAP program;
- Update on the importance of the aerospace industry in Colorado;
- Economic impact of high-wage jobs on the local economy;
- State tax structures and the impact on industry site selection; and
- Incentives to attract aerospace companies.

#### **BAP Recap**

The City established the BAP via ordinance in January of 2007 and is outlined in Section 3.24 of the Louisville Municipal Code. Since the first assistance package was approved in 2007, the City has engaged in a total of 107 BAP agreements. As of today, 27 agreements have been voided, 58 agreements have been completed, and 22 are currently active. Of the 107 agreements 39.3% have been for retail, 23.3% for offices, and 37.4% for industrial projects. To get an idea of general amount of business assistance awarded versus how much actually gets paid out, we evaluated the 58 'completed' agreements. We found that the total amount of assistance awarded was \$5.3M and the total amount of rebates paid out was \$4.1M, or approximately 77% of what was anticipated. This discrepancy is likely due to the applicants estimates on project costs and tax generation being greater than what actually happens, as rebates are only paid on actual amounts.

As it exists today, the BAP attempts to operate as both a retention/expansion and attraction tool. Applicants can be any business spanning the gamut from a small, independent retailer, to a multinational corporation and primary employer. To be eligible,



a company must be one of the following: a new business seeking to open in or relocate to Louisville; an existing business that proposes to expand substantially in the City; or an existing 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. It should also be highlighted that all of the incentives available through the BAP are rebate-based; no up-front incentives are offered by this program.

- Per the current program, the City can offer rebates on the following items for a period of up to 10 years or until a specified maximum amount is reached:
  - Building Permit Fees
  - Construction Use Tax
  - Consumer Use Tax
  - Sales and/or Use Tax

Historically, The City has issued rebates equal to approximately 50% of the above-listed fees and taxes for projects that participate in the BAP.

### **Aerospace Industry in Colorado**

Aerospace has long been a target industry for Colorado, and in more recent years the state has been gaining significant traction in supporting expansions of existing aerospace companies as well as attracting new ones. Employment in aerospace has grown by 30% over the past 5 years, outpacing the nationwide growth in the industry of 18%. As a result, it has become a crucial driver of Colorado's economic growth.

### **State of Colorado**

- Second largest aerospace economy in the nation #2. (California #1, Florida #3)
- Nine of the nation's top aerospace contractors have significant operations in the state.
- 240,270 direct and indirect jobs are supported by Colorado aerospace companies (Development Research Partners, 2021); approx. 35,000 employed by aerospace companies.
- There are 290 businesses classified as aerospace companies in Colorado, and more than 500 aerospace companies and suppliers provide space-related products and services in the state.

### **Metro Denver Region (nine-counties)**

- The Metro Denver Region ranks first in private sector aerospace employment out of the 50 largest metropolitan areas in the nation.
- The Metro Denver region represents 80% of all aerospace workers in Colorado, and comprises nearly 69% of the state's total companies within the aerospace cluster.

- The Metro Denver Economic Development Corporation (EDC) initiated the Colorado Space Coalition (CSC) which includes a broad range of public and private industry stakeholders who work to promote Colorado as a leading aerospace state both nationally and internationally, and to recruit new companies and expand existing aerospace companies in the state.  
*(Metro Denver EDC, Aerospace Industry Cluster Study, 2020)*

#### Boulder County

- Identifies Aerospace as one of 5 key industry clusters that drives the local economy.
  - Industry clusters include the interconnected businesses, suppliers, support organizations and professional service companies that are dedicated to the advancement of a particular industry sector.
- Aerospace in Boulder County dates back to the formation of Ball Aerospace & Technologies Corporation here in 1956.
- Boulder County has 12 times the national average of aerospace presence supporting approximately 5,800 professionals at 44 companies.  
*(Metro Denver EDC, 2019)*

#### Louisville, Colorado

- Louisville already supports a thriving aerospace cluster including companies such as Capella Space, EOI Space, Motion & Flow Control Products (MFCP), Orion Space Solutions, Sierra Space, and Tendeg. These companies are working on a variety of groundbreaking projects that are making impacts in the aerospace industry worldwide from antennae and satellites, to high-tech components required for space-related applications, to commercial space planes.
- Given the cluster of aerospace companies and related businesses already in place in the City, Louisville is well-positioned to be a valuable contributor to the retention and growth of this industry sector within the region, state, and nation.

#### **Economic Impact of High-Wage Jobs and Primary Employers**

Working pro-actively to support the retention, expansion and attraction of aerospace companies offers numerous benefits that contribute to the economic vitality of the city, Boulder County, the Metro Denver region and Colorado. In addition, it shows the city is committed to aligning with the regional and state economic prosperity goals by participating in efforts to grow key target industries.

It is important to explain the significant economic impact to a community (as well as overall region/state/nation) that is derived from retaining and/or attracting high-wage jobs and primary employers. According to the Colorado Dept of Labor and Employment Data (QCEW), the 2021 average annual wage for employees was \$84,411 for Boulder County

and \$71,538 for Colorado. Wages above the average are considered to be high-wage earning jobs.

The following information was prepared to provide an example of the overall economic impact to the Boulder Metropolitan Statistical Area (MSA)/Boulder County of adding a few hundred high-wage jobs. For purposes of the example, the impact is based on the addition of 400 employees performing scientific research and development activities earning \$100,000 each (salary and benefits) in Boulder County in 2023.

The model provided below was prepared by Mr. Brian Lewandowski, the Executive Director of the Business Research Division at the Leeds School of Business, University of Colorado Boulder. He utilized *IMPLAN*, an economic impact model that has been widely used for over 45 years and was awarded the Nobel Prize in Economics in 1973. The model relates the interconnectedness of economic activity (the 'ripple effect') through the industrial supply chain, labor market, consumer expenditures, tax revenues and public expenditures.

Economic Impact Model Definitions:

Direct Impacts

Employment, wages and output of the industry being analyzed. For this example, this included scientific research and development activities. Direct impacts stimulate the indirect and the induced impacts.

Indirect Impacts

Jobs, wages, and output created by the supply-chain businesses that provide the goods and services essential to the industry. These businesses range from suppliers of raw materials, utilities, equipment, transportation and other services such as legal, accounting, cleaning, etc. *Thus, the existence and operations of the main business supports other sectors throughout the economy.*

Induced Impacts

The result of the spending of wages and salaries of the direct and indirect employees on items such as food, housing, education, transportation, medical services, retail goods, and entertainment. This spending creates induced employment in nearly all sectors of the economy.

Employment

Number of jobs created.

Labor Income

Total employee compensation (including benefits) and proprietor income.

Value Added

Local impact to the GDP.

Output

Value of production by the industry.

**Economic Impact of 400 Employees Performing Scientific Research and Development Activities Earning \$100,000/year Each (salary and benefits) in Boulder County in 2023 using the IMPLAN Model**

<b>Impact</b>	<b>Employment</b>	<b>Labor Income \$M</b>	<b>Value Added \$M</b>	<b>Output \$M</b>
<b>Direct</b>	400	\$44.0	\$54.4	\$92.0
<b>Indirect</b>	198	\$16.6	\$23.1	\$42.3
<b>Induced</b>	147	\$8.6	\$16.2	\$26.8
<b>Total</b>	<b>745</b>	<b>\$69.3</b>	<b>\$93.7</b>	<b>\$161.2</b>

Note: The model uses conservative numbers as the \$100,000 earning includes benefits. A more realistic number would be arrived at using a base wage of \$100,000 + benefits.

In summary, the modeling identifies that the creation of 400 new jobs in the County having an annual compensation (salary & benefits) of \$100,000 each, would result in \$94M in sales in the local economy. If the jobs go elsewhere in the US, so too do those sales instead of coming into our community.

**State Tax Structures and the Impact on Industry Site Selection**

Aerospace is a highly sought-after industry sector throughout the nation due to the economic impacts the businesses generate within communities/states as well as the globally-important initiatives that it moves forward. As explained previously, the State of Colorado and the Metro Denver Region have made significant progress over the years to become a thriving aerospace hub and they continue to lead efforts to be the largest space economy in the nation. The City has the opportunity to contribute to this effort, and to consider creative mechanisms to further support the expansion and attraction of additional aerospace industry businesses.

In considering site locations, companies have to carefully explore numerous elements to result in making a decision that will have the most positive long-term financial and operational outcomes for success. Common considerations include access to talent, quality of life attributes, business climate of the community/state, supply chain needs, potential federal/state/local incentives, and overall tax burden, among other items.

As aerospace industry companies consider locations throughout the US, one area that can't be overlooked is the impact of the tax burden, especially given the capital-intensive needs of the aerospace manufacturers. In the Tax Foundation 2023 State Business Tax Climate Index (a widely-used and referenced annual study in the taxation world), Colorado has consistently ranked in the lower end of the spectrum relative to sales/use tax, and near middle-of-the-pack in overall business tax climate. In the 2023 index, Colorado ranks #40 out of the 50 states in climate for sales taxes, and ranks #21 in overall business tax climate. The publication also indicates, *'the evidence shows that states with the best tax systems will be the most competitive at attracting new businesses and most effective at generating economic and employment growth.'*

The following is an example of the impact taxation can have on a business that requires substantial capital investment. An aerospace company may spend up to \$100M outfitting equipment for a facility. *If the sales tax at the local level is applicable, such as it is in Colorado, and is at a rate of 4.5%, it adds \$4.5M to the project budget based on the local taxation alone.* This is a very significant consideration for the company as they evaluate locations in other states where items such as manufacturing equipment are exempt from taxation at both the state and local levels.

### **Incentives to Attract Aerospace Companies**

#### **Colorado**

The State of Colorado recognizes the impacts taxation can have on site selection for businesses and has taken steps to be more competitive, such as exempting sales/use tax on property used in space flight and manufacturing equipment in an effort to make the state more attractive for industries such as aerospace. In addition, the state offers the potential for companies to receive tax credits for the creation of numerous high-paying jobs. There are additional programs/incentives offered as well, but the job creation tax credit is by-far the largest incentive offered. Colorado has done a lot of work to position itself to attract and retain aerospace companies, however the impact of local tax structures, business climate, and potential incentives cannot be overlooked.

There are several aerospace-intensive states like Florida, Texas, and Virginia that offer extremely competitive incentive structures to lure aerospace companies.

#### **Florida**

Florida may be the most aggressive when it comes to aerospace incentives. The State has its own aerospace finance and development authority, Space Florida. Space Florida has many tools in its arsenal, including engaging with companies to position their project in Florida by essentially owning the land and conducting a sale-leaseback transaction with the Company. This avails the Company from most property tax and sales tax on equipment. In addition, Space Florida can offer competitive financing structures that can help a growing company achieve a broader project implementation. That, coupled with

Florida Department of Transportation funding for infrastructure, and State incentives like the Capital Investment Tax Credit (CITC) allow the aerospace industry to thrive. The CITC in particular can offer an income tax credit of 5% of the company's committed capital investment annually for a period of up to 20 years. So, if a company that meets the requirements of the CITC invests \$100M, they could be eligible for \$5M of nonrefundable income tax credits per year, for up to 20 years (\$100M in total).

### **Texas**

Texas offers a variety of different incentive tools to attract aerospace companies. The State has two main programs, the Texas Enterprise Fund (TEF) and the Texas Enterprise Zone (TEZ). The TEF is a closing fund that offers companies cash (usually in the range of \$3,000 - \$7,500 per job) to locate a project in Texas. The TEZ offers a sales tax rebate per full-time job created or retained of up to \$2,500 per job, which can result in \$1M+ in sales tax savings. In addition, localities offer county, city, and school district property tax rebates and abatements, cash grants for job creation, and Tax Increment Financing for infrastructure that all provide the necessary tools to offset capital and operating expenditures.

### **Virginia**

Virginia offers several cash grant programs, income tax credits, and infrastructure support tools at the State level. The cash grants are offered through the Commonwealth Opportunity Fund and Virginia Economic Development Incentive Grant (VEDIG). Both can provide significant cash influx to growing companies. Local opportunities exist largely through the State-enabled Technology Zone Program. Locales can designate projects or areas as Technology Zones and provide significant property tax rebates (some upwards of 90%+ on new capital investment for a period of usually 7-10 years).

*It is important to note that all of the above states have a manufacturing sales tax exemption that applies to state and local rates.*

In addition, incentives alone are not the reasons that business select a particular location, but they do show the interest of the local community to support theirs and other business opportunities. The role of the incentives in this particular instance for our community is mainly an effort to level the playing field with other communities in competing states which are less expensive to develop/operate in, and/or or to match incentives being provided elsewhere.

## **DISCUSSION - PROPOSED BAP AMENDMENTS**

### **'Enhanced Assistance for the Aerospace Industry'**

Based on the information provided in the background, EV staff proposes the BAP be amended to include a section to allow for 'Enhanced Assistance for the Aerospace Industry'. The enhanced assistance would result in increased rebates for three specific

taxation categories in an effort to allow the City of Louisville to be more competitive when it comes to retaining existing aerospace companies, supporting their expansions, and to attract new aerospace companies. Amending the BAP to allow the opportunity for enhanced incentives would help level the playing field for this targeted industry sector when companies are considering site expansions and/or new facilities throughout the United States.

The enhanced assistance is proposed to be limited specifically to the sales/use tax in the following three categories: property for use in space flight, purchases of machinery or machine tools for manufacturing, and software and associated maintenance agreements. The proposal would allow the City to consider providing up to a 100% rebate of sales/use tax for a period of up to 10 years for these categories.

In addition to meeting the current criteria established for eligibility in the BAP, it is proposed that projects to be considered for enhanced assistance would need to meet additional criteria/minimum targets. Each project would require a case-by-case analysis to justify the amount to be rebated based on the level of anticipated public benefit (e.g., quality jobs, economic vitality, etc.), with the greatest assistance being provided to those projects that result in the highest economic impact and are considered high-profile projects within the aerospace industry.

The following identifies criteria that would need to be met in order to have consideration for enhanced assistance:

- Must be an aerospace company (subject to verification of NAICS code).
- Creation of at least 100 jobs over a 5-year period.
- Average wage of jobs created must be a minimum of \$100,000 (without benefits).
- Minimum overall project investment (to be established).

These items would require the company to submit verification that these items are being met and will be checked by EV staff, such as review of capital investments as verified by receipts and new employee verification. In addition, a 'claw-back' clause should be included in the ordinance amendment so that in the chance a project does not meet the requirements (i.e., minimum job creation over 5-year period) the rebates would be returned.

### **Why Use These Specific Tax Categories?**

#### ***Property For Use in Space Flight***

The State of Colorado has enacted legislation creating a Sales and Use Tax Exemption for qualified property used in space flight. The legislative declaration of House Bill 14-1178 states, "Studies indicate that the state would benefit significantly from private-oriented and state-implemented incentives designed to stimulate private-sector

aerospace industry growth.” [House Bill 14-1178]. As such, it is considered that the direct beneficiaries of this exemption would be businesses within the private aerospace industry in Colorado, with the intent that encouraging aerospace industry growth would benefit the State’s economy.

This taxation category is very specific to the aerospace industry and in an effort to show its commitment and support to this important industry section, the City could follow suit with the State by rebating sales/use tax on this category (but not to exempt fully). Currently, the City/County of Broomfield exempts this category for City/County taxes.

#### Purchases of Machinery or Machine Tools for Manufacturing

Taxes on the purchase of machinery or machine tools for manufacturing are exempt or greatly reduced in many states and cities across the nation to support manufacturing in the US economy. The state of Colorado has an exemption in place for this tax category, as does Boulder County, however the City of Louisville charges local tax.

As indicated previously in this report, the states of Florida, Texas and Virginia *all have a manufacturing sales tax exemption that applies to both state and local rates*. In addition, there are communities across the state of Colorado that also exempt this category from local taxation, that offer rebates to reduce this cost to businesses, and/or that have lower tax rates. Examples include:

- Fort Collins offers a tiered rebate based on cost of the manufacturing equipment;
- Colorado Springs offers an alternative rate of tax on manufacturing equipment on a sliding scale ranging from 2.5% to No Tax based on the manufacturing purchase amount (the higher the purchase amount, the lower the tax, to requiring no tax at all);
- Grand Junction exempts manufacturing equipment from local tax;
- Centennial exempts manufacturing equipment from local tax;

#### Software and Associated Maintenance Agreements

There are 31 tax categories that exist pertaining to various software purchases and associated maintenance agreements. The City applies local taxation differently among these categories, charging tax on some and exempting tax on others. The taxes on software are an essential element to consider for aerospace manufacturers that often have to deal with very complex systems which have costs in the multi-millions of dollars. Offering a rebate on the sales/use taxes paid for software can result in making the community a more competitive location to do business by reducing the overall amount of tax burden on the company which in communities in other states is not as high. While many other communities across Colorado do charge a local tax on software, this is an opportunity for Louisville to be more competitive for site selection at the national level.



**SUBJECT: PROPOSED AMENDMENTS TO BAP**

**DATE: JULY 31, 2023**

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### **NEXT STEPS**

Draft an ordinance to amend the City's BAP and bring it forward to City Council for consideration. Ordinances require two readings. Staff anticipate bringing the ordinance amendment to Council Aug 15<sup>th</sup> (1<sup>st</sup> reading) and Sept 5<sup>th</sup> (2<sup>nd</sup> reading).

### **RECOMMENDATION**

Staff seeks to have discussion/dialogue relative to the proposed amendment to the BAP program and for the EVC to identify if additional information should be provided for City council consideration of the amendments.

### **ATTACHMENT(S)**

1. Current BAP Code Language
2. Property for Use in Space Flight Exemption Evaluation Summary, April 2022
3. 2023 Sales/Use Tax on Software, Louisville, CO

## Chapter 3.24 - TAX AND FEE BUSINESS ASSISTANCE PROGRAM

## Sec. 3.24.010. - Established.

There is established within the city a Tax and Fee Business Assistance Program ("BAP").

(Ord. No. 1507-2007, § 1, 1-16-2007)

## Sec. 3.24.020. - Purpose.

The purpose of the BAP created by this chapter is to encourage the recruitment, retention, establishment and/or substantial expansion of sales tax generating businesses and employers within the city, thereby stimulating the economy of and within the city, providing employment for residents of the city and others, further expanding the goods and services available for purchase and consumption by businesses and residents of the city, and further increasing the sales taxes and fees collected by the city, which increased sales 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, while at the same time providing public or public-related improvements at no cost, or at deferred cost, to the city and its taxpayers and residents.

(Ord. No. 1507-2007, § 1, 1-16-2007)

## Sec. 3.24.030. - Definitions.

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

*Applicant* means the owner(s) of real property upon which a business is operated or proposed, or the operator of a business located or proposed to be located within the city.

*Enhanced sales tax* means the amount of sales tax collected by the city over and above a base amount negotiated by, and agreed upon by, the applicant and the city, and which base amount shall never be lower than the amount of sales taxes collected by the city at the property in question in the previous 12 months.

*Fees* means the amount of building permit fees, sign permit fees, and construction use taxes collected by the city during the construction permitting process for initial construction of a project participating in the BAP created under this chapter.

*Operator* means the owner or potential owner of a business that is eligible for inclusion in the BAP created by this chapter.

*Owner* means the record owner or potential record owner of real property upon which one or more business is operated.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1571-2010, § 1, 5-4-2010; Ord. No. 1822-2021, § 1, 3-1-2022)

Sec. 3.24.040. - Basis for participation.

Any owner or operator of a proposed business, the owner or operator of an existing business who demonstrates to the city that they must relocate to a new premises due to nonrenewal of a lease or other unforeseen circumstance outside of the control of the owner or operator of the business, or the owner or operator of an existing business which proposes to expand substantially, may apply to the city for inclusion within the BAP, provided that the proposed new, relocated or expanded business is reasonably likely to generate enhanced or increased sales taxes, permit fees and/or construction use taxes within the city in the first year of operation, or maintain existing sales taxes when relocating due to an unforeseen circumstance. Application for inclusion in the BAP must be made prior to the proposed opening, acquisition or expansion.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1822-2021, § 1, 3-1-2022; Ord. No. 1850-2023, § 1, 2-21-2023)

Sec. 3.24.050. - Approval of agreement; conditions; effect.

Execution of an agreement by the city and an applicant implementing the BAP shall entitle the applicant to share in enhanced sales taxes and fees derived from the applicant's property or business in an amount which shall not exceed that amount specified in the agreement required by section 3.24.100; provided, however, that the applicant may use said amounts only for public or public-related improvements such as those specified in section 3.24.060. The time period in which said enhanced sales taxes or fees may be shared shall not commence until all public or public-related improvements are completed and meet city standards, and shall be limited to a specified time set forth in the agreement, which shall not exceed ten years, or until a specified maximum amount is reached.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1822-2021, § 1, 3-1-2022)

Sec. 3.24.060. - Permitted use of funds.

- A. The uses to which said shared enhanced sales taxes or fees may be put by an applicant shall be strictly limited to obligations and/or improvements which are public or public-related in nature, and which are specifically identified as eligible for BAP funding as part of the agreement required by section 3.24.100 and which, if required by the city, are subject to a subdivision agreement or development agreement executed pursuant to, respectively, section 16.12.100 or section 17.28.260 of this Code.
- B. By way of example and not limitation, eligible obligations and improvements which are public or public-related in nature include streets, sidewalks, curbs, gutters, pedestrian malls, street lights, drainage facilities, landscaping, decorative structures, redevelopment of existing properties, occupancy of existing vacant space, expansion or creation of jobs in the city, public art, fountains, identification and other signs, traffic safety devices, bicycle paths, off-street parking facilities,

benches, restrooms, information booths, public meeting facilities, and all necessary, incidental, building facades, architectural enhancements, and appurtenant structures and improvements, together with the relocation, extension, undergrounding or improvement of existing utility lines, and any other improvements of a similar nature which are specifically approved by the city council.

- C. Nothing in this chapter shall limit the city council from appropriating additional capital improvement funds for capital improvements directly or indirectly affecting the property in question as a part of the city's regular appropriation, capital improvement, or budget process.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1822-2021, § 1, 3-1-2022)

Sec. 3.24.070. - BAP payments.

- A. For BAP agreements utilizing enhanced sales tax incentives, payments shall be made no less than annually and no more than quarterly, as the city and applicant shall agree. For such payments, the base figure (which may be stated as a percentage or fixed dollar amount) shall be divided by the number of agreed-upon payments per year and adjusted for seasonal variations as the parties may agree. If in any period the agreed-upon base figure is not met by applicant and, thus, no enhanced sales taxes are generated for that period, then no funds shall be shared with the applicant for such period and no increment shall be shared until that deficit, and any other cumulative deficit, has been met, so that at the end of any 12-month cycle, funds in excess of those enhanced sales taxes agreed to be shared shall not have been shared with any applicant.
- B. For BAP agreements utilizing fees, payments shall be made in either incremental payments or a lump-sum payment as provided in the agreement approved by the city council. Such payments shall commence no earlier than issuance of a certificate of occupancy for the subject location and satisfaction of the requirements of this chapter and of the agreement.
- C. No interest shall be paid on any amounts shared pursuant to any BAP agreement.

(Ord. No. 1507-2007, § 1, 1-16-2007)

Sec. 3.24.075. - Vacancy bonus incentive.

In addition to the enhanced sales tax incentives and permit rebates, the agreement required by section 3.24.100 may provide a vacancy bonus incentive of a maximum \$1.00 per square foot of leased retail space, with a maximum amount of \$100,000.00. The city manager may approve a vacancy bonus incentive if the space to be occupied by the applicant was previously occupied by a licensed business, the space has been vacant for a period of one or more years immediately prior to the applicant taking occupancy, the applicant's business consists primarily of retail sales, and the total incentive package, including the vacancy bonus, is less than \$50,000.00 as provided in section 3.24.090. Applications for a vacancy bonus not meeting

all of the foregoing criteria may only be approved by the city council, acting in its discretion. A vacancy bonus incentive shall be payable only to the person or entity operating the retail business, and funds received by the applicant shall be restricted to those uses set forth in section 3.24.060.

(Ord. No. 1822-2021, § 1, 3-1-2022)

Sec. 3.24.080. - Existing tax revenue sources unaffected.

- A. It is an overriding consideration and determination of the city council that existing sources of city sales tax and fee revenues shall not be used, impaired or otherwise affected by the BAP. Therefore, it is conclusively determined that only enhanced sales taxes and fees generated by the properties or businesses described in an approved BAP application shall be subject to division under the BAP. It shall be the affirmative duty of the finance director of the city to collect and hold all such enhanced sales taxes and fees to be shared in a separate account apart from the sales taxes and fees generated by and collected from other sources in the city and to provide an accounting system which accomplishes the overriding purpose of this chapter. It is conclusively stated by the city council that this chapter would not be adopted or implemented but for the provision of this section.
- B. Without limiting the foregoing subsection A of this section, it is conclusively stated that there shall be excluded from the BAP and any BAP agreement all revenues from (i) the temporary three-eighths percent sales and use taxes imposed for the ten-year period beginning on January 1, 2004, to be used for open space and related purposes as authorized by the registered electors of the city and set forth in Chapter 3.20 of this Code; and (ii) the temporary one-eighth of one percent sales tax for historic preservation purposes imposed for the ten-year period beginning on January 1, 2009 as set forth in Section 3.20.605 of this Code. Such revenues shall not be used, impaired or otherwise affected by the BAP.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1571-2010, § 2, 5-4-2010)

Sec. 3.24.090. - Criteria for approval.

Approval of an application for inclusion in the BAP for 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 3.24.100 may be executed, by the city manager. Whether approved by the city council or the city manager, the decision to approve a BAP application shall be based upon consideration of the following criteria:

- A. The amount of enhanced sales taxes which are reasonably to be anticipated to be derived by the city—whether by retention of taxes, creation of new taxes, or a combination thereof—through the expanded or new retail sales tax generating business;
- B.

The public benefits which are provided by the applicant through public works, public or public-related improvements, additional and/or retained jobs and employment opportunities for city residents and others, etc.;

- C. The quality of the proposed development;
- D. Whether the proposal utilizes an existing building(s);
- 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 redevelopment to an area or building in the city;
- G. Whether the proposal represents job diversity in industry sectors and is part of a growing industry;
- H. The proposal's contribution to the diversity of retail or to the diversity of jobs or employment opportunities within the city;
- I. 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);
- J. The amount of the business assistance as a percentage of new revenue anticipated to be created by the proposal (for example, by relocation the company to the city);
- K. The amount of expenditures which may be deferred by the city based upon public or public-related improvements to be completed by the applicant;
- L. The conformance of the applicant's property or project with the comprehensive plan and zoning ordinances of the city; and
- M. Whether a proposed agreement required by section 3.24.100 has been reached, which agreement shall contain and conform to all requirements of said section 3.24.100.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1822-2021, § 1, 3-1-2022)

Sec. 3.24.100. - Agreement with city; required; contents.

Each application for inclusion in the BAP 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. A list of those public or public-related improvements which justify the application's approval, and the amount which shall be spent on such improvements;
- B. The maximum amount of enhanced sales taxes or fees to be shared, the timing of payment of any such shared taxes or fees, 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 to be shared has been reached) or the maximum amount to be shared (whether or not the maximum time set forth has expired);

- C. A statement that the agreement is a personal agreement which does not run with the land;
- D. 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;
- E. The base amount which is agreed upon and the timing of periodic payments of enhanced sales taxes to be shared and the fact that if, in any period as specified, sales taxes received from the property do not at least equal said base amount, there shall be no sharing of sales taxes for said period, and that any deficit for any such period shall be carried over to succeeding periods until the difference between the base amount and the amount of sale tax actually paid is recovered by the city;
- F. The base amount shall be agreed upon which shall consider the historic level of sales at the property in question, or a similar property within the area in the event of a new business, and a reasonable allowance for increased sales due to the improvements and upgrades completed as a result of inclusion within the BAP;
- G. A provision that any enhanced sales taxes or fees subject to sharing shall be escrowed in the event there is a legal challenge to the BAP or the approval of any application therefor;
- H. An affirmative statement that the obligations, benefits and provisions of the agreement may not be assigned in whole or in any part without the expressed 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;
- I. 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;
- J. 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
- K. Any other provisions agreed upon by the parties and approved by the city council.

(Ord. No. 1507-2007, § 1, 1-16-2007; Ord. No. 1822-2021, § 1, 3-1-2022)

Sec. 3.24.110. - Findings.

The city council has enacted this chapter as a joint benefit to the public at large and to private owners for the purposes of: providing the city with increased sales tax and fee revenues generated upon and by properties improved as a result of the BAP program; providing incentives for businesses to expand or create additional jobs within the city; providing for public and public-related improvements to be completed by private owners through no debt obligation being incurred on the part of the city, and allowing applicants an opportunity to improve properties which generate sales taxes, which improvements make those properties more competitive in the marketplace; and further providing to the applicant additional contingent sources of revenues for upgrading such properties. The city council specifically finds and determines that creation of the BAP 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 BAP, and the city shall never be liable or responsible for any debt or obligation of any participant in the BAP.

(Ord. No. 1507-2007, § 1, 1-16-2007)





# PROPERTY FOR USE IN SPACE FLIGHT EXEMPTION

EVALUATION SUMMARY | APRIL 2022 | 2022-TE23

TAX TYPE	Sales and use	REVENUE IMPACT	\$12,000
YEAR ENACTED	2014	(TAX YEAR 2019)	
REPEAL/EXPIRATION DATE	None	NUMBER OF TAXPAYERS	Could not determine

**KEY CONCLUSION:** Due to its minimal use, the exemption has not yet provided a significant benefit to the aerospace industry in the state. However, if space vehicle launches in Colorado increase in the future, the exemption would likely provide a more substantial benefit and industry stakeholders indicated that the exemption is important for the continued development of the aerospace industry in the state.

## WHAT DOES THE TAX EXPENDITURE DO?

The Property for Use in Space Flight Exemption (Space Flight Exemption) [Section 39-26-728, C.R.S.] exempts the sale, storage, and use of qualified property for use in space flight from sales and use tax. Statute defines space flight as “any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle,” and defines space vehicle as “any tangible personal property that has space flight capability and is intended for space flight. . .” [Section 39-26-728(2)(b)&(c), C.R.S.]. The exemption includes the space vehicle and any of its components, tangible personal property to be placed aboard the vehicle, and fuel intended for space flight.

## WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

The legislative declaration of House Bill 14-1178, which created the exemption, stated that, “Colorado has the potential to and should become a leader in the aerospace industry” and goes on to say “A sales and use tax exemption for qualified property for use in space flight will increase the availability of highly-skilled and highly-paid jobs in the state and will encourage capital investment in equipment, machinery, parts, and supplies used in aerospace manufacturing.”

## WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

We did not identify any policy considerations on this evaluation.

# PROPERTY FOR USE IN SPACE FLIGHT EXEMPTION

## EVALUATION RESULTS

### WHAT IS THE TAX EXPENDITURE?

The Property for Use in Space Flight Exemption (Space Flight Exemption) [Section 39-26-728, C.R.S.] exempts the sale, storage, and use of qualified property for use in space flight from sales and use tax. Statute defines space flight as “any flight designed for suborbital, orbital, or interplanetary travel by a space vehicle,” and defines space vehicle as “any tangible personal property that has space flight capability and is intended for space flight. . .” [Section 39-26-728(2)(b)&(c), C.R.S.]. The exemption includes the space vehicle and any of its components, tangible personal property to be placed aboard the vehicle, and fuel intended for space flight. Taxpayers cannot be denied the exemption because of a failure, postponement, destruction, or cancellation of a launch. Additionally, the exemption does not provide a unique tax expenditure for property sold to or used by government agencies because government agencies are already exempt from sales tax under a separate provision [Section 39-26-704(1), C.R.S.]. The Space Flight Exemption was created in 2014 by House Bill 14-1178 and has not been changed since.

In addition to providing a state-level sales and use tax exemption, under Section 29-2-105(1)(d)(I), C.R.S., local governments that have their sales taxes collected by the State have the option of adopting ordinances to apply the exemption to their sales taxes as well. As of January 1, 2022, three of 158 state-collected cities, and two of 53 state-collected counties have adopted this exemption. Under Article XX, Section 6 of the Colorado Constitution, home rule cities and counties that do not have their sales taxes collected by the State can set their own tax policies

independently from the State and are not required to provide a similar exemption. We did not identify any home rule cities and counties that have adopted a similar exemption.

Vendors apply the exemption at the time of purchase and report sales to the consumers on line 9 of Schedule B of the Colorado Retail Sales Tax Return [DR 0100] or the Itemized Deductions and Exemptions Schedules of the Retailer's Use Tax Return [DR 0173]. Taxpayers who qualify for a use tax exemption for eligible space property are generally not required to file any form with the Department.

#### WHO ARE THE INTENDED BENEFICIARIES OF THE TAX EXPENDITURE?

Based on the legislative declaration of House Bill 14-1178, we considered the direct beneficiaries of the exemption to be businesses within the private aerospace industry in Colorado, with the intent that encouraging aerospace industry growth would benefit the State's economy. Specifically, the legislative declaration states, "Studies indicate that the state would benefit significantly from private-oriented and state-implemented incentives designed to stimulate private-sector aerospace industry growth." [House Bill 14-1178].

According to a 2020 Metro Denver Economic Development Corporation report, the Colorado aerospace industry directly employs 33,460 workers at 290 companies, having the highest direct aerospace employment concentration in the U.S. Additionally, a report from the Brookings Institute determined that the Colorado aerospace industry reached an output of \$8.7 billion – 3.8 percent of Colorado's GDP in 2011. Further, several aerospace businesses in Colorado are active in developing vehicles and other equipment used in space flight and, in recent years, there have been efforts to establish Colorado as a location for launching space vehicles. Specifically, the Colorado Air and Space Port in Adams County, previously known as Front Range Airport, received Federal Aviation Administration designation as a spaceport in 2018, although it has not yet been used for this purpose.

### WHAT IS THE PURPOSE OF THE TAX EXPENDITURE?

The legislative declaration of House Bill 14-1178, which created the exemption, stated that, “Colorado has the potential to and should become a leader in the aerospace industry” and goes on to say “A sales and use tax exemption for qualified property for use in space flight will increase the availability of highly-skilled and highly-paid jobs in the state and will encourage capital investment in equipment, machinery, parts, and supplies used in aerospace manufacturing.”

### IS THE TAX EXPENDITURE MEETING ITS PURPOSE AND WHAT PERFORMANCE MEASURES WERE USED TO MAKE THIS DETERMINATION?

We found that the exemption has not yet achieved its purpose because it is not widely used. However, usage of the exemption could increase if Colorado becomes established as a launching place for space vehicles and stakeholders indicated that the exemption is important for the continued development of Colorado’s aerospace industry.

Statute does not provide quantifiable performance measures for this exemption. Therefore, we created and applied the following performance measures to determine the extent to which the exemption is meeting its purpose.

**PERFORMANCE MEASURE:** *To what extent has the Space Flight Exemption encouraged growth of the aerospace industry in Colorado?*

**RESULT:** This exemption has not provided a significant economic benefit to the aerospace industry in Colorado because it has not been widely used. Specifically, although the Department lacked data on the number of taxpayers that received the exemption because vendors are not required to report this information, the Department reported that taxpayers received a benefit of about \$12,000 from the exemption based on about \$414,000 in eligible sales during Tax Year 2019, the most recent year for which it had data. These are small figures relative to the high cost of property in the industry; a weather satellite, for instance, can cost nearly \$300 million. Further, some taxpayers may

have also been exempt from use tax under the exemption, for example, because they purchased qualifying space property in another state and brought it into Colorado for use or storage. While we could not determine the number of taxpayers that were exempt from use tax because taxpayers are generally not required to report use tax exemptions under the Space Flight Exemption to the Department, based on our conversations with stakeholders, it appears that few taxpayers use or store finished space property in the state such that it would be subject to use tax, regardless of the exemption.

Although industry stakeholders we contacted were aware of the exemption, currently, launches of space vehicles occur almost exclusively outside of Colorado. Therefore, while space vehicles and their components are often built in Colorado, they are typically sold to customers outside the state, meaning that most sales are not subject to sales tax in Colorado regardless of the exemption. Furthermore, the materials Colorado businesses purchase to build space vehicles are generally already exempt from sales tax under the Wholesale Sales Exemption [Section 39-26-102(20)(a), C.R.S.]. This appears to be similar to what was occurring in 2014 when the exemption was established, with the fiscal note of House Bill 14-1178 reporting that there were very few sales of completed space property occurring within the state.

If Colorado were to see an increased prevalence of launches, the exemption would likely be claimed considerably more frequently since more transactions that would otherwise be subject to sales tax would occur in the state. Similarly, stakeholders reported that they do not currently conduct much testing or storage of equipment used in space flight in Colorado, but this could become more common if Colorado becomes a location for launches. For these activities, businesses would likely benefit from being exempt from use tax which could otherwise apply to property that they purchase in another state but bring into Colorado.

We spoke with stakeholders, including an economic development representative, launch facility operations staff, and private businesses in the state, who reported that the exemption is important for the long-term effort to grow the aerospace and spaceflight industry in the state. With the establishment of the Colorado Air and Space Port, stakeholders indicated that Colorado has the potential to become a destination for launching space vehicles. Although the exemption is currently not frequently used, they felt the exemption is a key financial incentive in attracting businesses to Colorado who could benefit from it in the future, citing a lack of other cash incentives. However, stakeholders also acknowledged that other factors, in addition to the exemption, made Colorado an attractive place to do business, including having a well-educated and experienced work force and proximity to other companies in the aerospace industry.

We also found that the aerospace industry in Colorado has grown significantly since the implementation of the Space Flight Exemption, despite the limited use of the exemption. According to Metro Denver Economic Development Corporation reports, employment in the industry increased about 30 percent from 2015 to 2020 (12 percentage points above national average), with 10 percent of the growth being from Calendar Year 2019 to 2020 (6 percentage points above the national average). This is a significant increase from the Calendar Year 2009 through 2014 period, which saw a decrease in employment in the industry of 3.5 percent. Therefore, it appears that, although the exemption could encourage future aerospace industry growth within the space flight sector, the broader aerospace industry has grown without receiving a significant financial benefit from the exemption.

#### WHAT ARE THE ECONOMIC COSTS AND BENEFITS OF THE TAX EXPENDITURE?

According to the Department of Revenue's 2020 Tax Profile & Expenditure Report, the Space Flight Exemption resulted in \$12,000 in forgone state revenue and a corresponding benefit to claimants of the exemption in Tax Year 2019, the most recent year with available data.

The exemption also reduces local government sales tax revenue and provides a corresponding benefit to claimants in three cities and two counties for which the State collects sales taxes that have adopted the exemption, although we lacked information necessary to quantify this impact.

Due to the limited benefit it provides, the exemption currently has a relatively small economic impact. However, as mentioned above, the revenue impact could increase substantially if launch facilities in Colorado, such as the Colorado Air and Space Port located in Adams County, are used more frequently in the future. Further, as discussed, stakeholders indicated that the exemption could make Colorado a more attractive location for businesses that plan to conduct space flight operations.

#### WHAT IMPACT WOULD ELIMINATING THE TAX EXPENDITURE HAVE ON BENEFICIARIES?

Eliminating the Space Flight Exemption would subject the sale, transfer, or storage of property for use in space flight to the 2.9 percent state sales and use tax rate along with the sales and use taxes of any district, county, or city that has currently opted-in to the exemption. Although the exemption currently provides only a small benefit to its beneficiaries, eliminating it could have an impact on businesses considering establishing space flight operations in the state. Specifically, with increasing interest in the development of launching facilities in Colorado, stakeholders indicated that the exemption could become more frequently used in the future and that the exemption signaled that Colorado was welcoming of the aerospace industry and made Colorado a more attractive place to do business. Furthermore, equipment used in space flight tends to be expensive; therefore, if the exemption were no longer available, and businesses began purchasing or using more space flight property in the state, they could owe a substantial amount in sales or use tax. For example, the purchase of a \$300 million satellite would result in \$8.7 million in sales taxes. Additionally, other states offer similar exemptions for space flight property sales. Therefore, the

elimination of this exemption could discourage businesses from establishing operations in Colorado.

#### ARE THERE SIMILAR TAX EXPENDITURES IN OTHER STATES?

We found that a few other states that have a significant space flight industry offer a similar tax exemption. Specifically, stakeholders mentioned Florida, Texas, and California as having strong space flight industries and we reviewed the sales tax policies in those states. We found that:

- Florida offers an exemption for machinery and equipment used in semiconductor, defense, or space technology production.
- California, similar to Colorado, exempts sales and use taxes on qualified property for use in space flight.

We did not identify a sales or use tax exemption in Texas for property or materials used in space flight, but aerospace companies can apply for flexible, low-interest loans from the state.

#### ARE THERE OTHER TAX EXPENDITURES OR PROGRAMS WITH A SIMILAR PURPOSE AVAILABLE IN THE STATE?

We identified one other program and tax expenditure in the state that may also encourage private sector growth in Colorado's aerospace industry:

**ADVANCED INDUSTRIES ACCELERATION GRANT PROGRAM** [Section 24-48.5-117, C.R.S.]—Provides grants to advanced industries in Colorado, including aerospace. The program was established in 2013 by House Bill 13-1001, and provides several types of grants including advanced industries exports, early stage capital retention, and infrastructure funding. The program is administered by the Colorado Office of Economic Development and International Trade, and also includes an advanced industries investment tax credit, which provides taxpayers who invest in a qualified small advanced industry business with an



income tax credit equal to 25 percent of their investment, limited to a \$50,000 credit per investor for each small business.

#### WHAT DATA CONSTRAINTS IMPACTED OUR ABILITY TO EVALUATE THE TAX EXPENDITURE?

There were no data constraints that impacted our ability to evaluate the tax expenditure.

#### WHAT POLICY CONSIDERATIONS DID THE EVALUATION IDENTIFY?

We did not identify any policy considerations on this evaluation.

**2023 Sales/Use Tax on Software, Louisville, CO**

Software Category	Louisville Tax Rate
Canned Software Installation or Set-Up Fees (separately stated on invoices)	No Tax
Custom Software Installation or Set-Up Fees (separately stated on invoices)	No Tax
Customization of Canned Software	3.65% *
Mandatory Software Maintenance Agreement, separately stated charges for canned software updates	8.835%
Mandatory Software Maintenance Agreement, separately stated charges for services	5.185%
Mandatory computer software maintenance contracts with respect to non-prewritten (custom) computer software	No Tax
Mandatory computer software maintenance contracts with respect to non-prewritten (custom) software which is delivered electronically	No Tax
Mandatory computer software maintenance contracts with respect to non-prewritten (custom) software which is delivered via load and leave	No Tax
Mandatory computer software maintenance contracts with respect to prewritten computer software	8.835%
Mandatory computer software maintenance contracts with respect to prewritten computer software which is delivered electronically	3.65%
Mandatory computer software maintenance contracts with respect to prewritten computer software which is delivered via load and leave	3.65%
Non-prewritten (custom) computer software	No Tax
Non-prewritten (custom) computer software delivered electronically	No Tax
Non-prewritten (custom) computer software delivered via load and leave	No Tax
Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software provide updates or upgrades delivered via load and leave and support services to the software	No Tax
Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software that only provide support services to the software	No Tax
Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software that provide updates or upgrades delivered electronically and support services to the software	No Tax
Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software that only provide updates or upgrades delivered via load and leave with respect to the software	No Tax
Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software that only provide updates or upgrades with respect to the software	No Tax

Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software that provide updates or upgrades and support services to the software	No Tax
Optional computer software maintenance contracts with respect to non-prewritten (custom) computer software that provide updates or upgrades delivered electronically and support services to the software	No Tax
Optional computer software maintenance contracts with respect to prewritten computer software that only provide support services to the software	No Tax
Optional computer software maintenance contracts with respect to prewritten computer software that only provide updates or upgrades delivered electronically with respect to the software	3.65%
Optional computer software maintenance contracts with respect to prewritten computer software that only provide updates or upgrades delivered via load and leave with respect to the software	3.65%
Optional computer software maintenance contracts with respect to prewritten computer software that only provide updates or upgrades with respect to the software	8.835%
Optional computer software maintenance contracts with respect to prewritten computer software that provide updates and upgrades delivered electronically and support services to the software	3.65% *
Optional computer software maintenance contracts with respect to prewritten computer software that provide updates and upgrades delivered via load and leave and support services to the software	3.65% *
Optional computer software maintenance contracts with respect to prewritten computer software that provide updates or upgrades and support services to the software	8.835% *
Prewritten Computer Software	8.835%
Prewritten Computer Software Delivered Electronically	3.65%
Prewritten Computer Software Delivered Via Load and Leave	3.65%

**LOCAL NEWS**

# In Retrospect: New bicycle museum displays Colorado racing history



Davis Phinney poses with the Murray bicycle he rode in the 1984 Olympic Games. (TCP Bicycle Museum/Courtesy photo)

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By **CAROL TAYLOR** |

June 18, 2023 at 7:00 a.m.

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Bicycle racing shaped our community from the notable races held to the many cyclists who have trained and made their homes here. Visitors often remark on the cycling groups heading off to steep climbs in the foothills on sophisticated bikes wearing racer-style outfits. It's become part of Boulder's culture.



Carol TaylorIn Retrospect

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Racing took off with the Red Zinger Bicycle Classic in the 1970s. Certainly, local races had been held in earlier times, but nothing compared to the success of the

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Today, a brand-new museum is showcasing Colorado's bicycle racing history. Nick Martin, founder of The Pro's Closet and self-professed 'huge racing dork,' recently established The Pro's Closet Bicycle Museum.

In the process of helping cyclists sell used bikes and gear online, Martin literally scoured their garages, and discovered significant memorabilia that represented the story of competitive cycling. It was like being the "American Pickers" of cycling, Martin stated.

When The Pro's Closet moved to its new space, an impressive warehouse in Louisville, Martin had room to curate the historical artifacts. And former racers were happy to donate or loan pieces for display.

Winding its way through The Pro's Closet office spaces, the collection includes over 300 road and mountain bikes, some of which hang from high ceilings. The museum features significant photographs, race memorabilia, posters, banners, and jerseys as well.

According to Martin, nothing says Boulder cycling better than the Phinney-Carpenter duo and both are represented. Olympic gold medalist Connie Carpenter's bright green "Queen of the Mountains" jersey from the 1982 Coors Classic is on display as is Davis Phinney's 7-Eleven red Murray bike from the 1984 Olympic Games. Another important Boulder story is Juli Furtado's transition from ski racer to bicycle racer when she was a student at the University of Colorado Boulder in the 1980s. She won numerous titles in both road and mountain biking and her 1991 Yeti bicycle is on view at the museum.

During The Pro's Closet headquarters opening weekend in April, Martin and his staff held tours of the museum every 30 minutes. Each tour was packed with 40 or 50 guests and by the end about 1,500 people got a firsthand look at the world-class collection.

On one of the tours, visitors paused in awe of a group of three framed United States Postal Service yellow jerseys. Signed by Lance Armstrong to Tyler Hamilton, the items date from the years Hamilton rode as a domestique and recall the dark side of cycling including two of the most sensational scandals in sports. Martin found one jersey after it came through the door in a laundry bag of items to put up for sale. After the discovery, Hamilton dug out a couple more to complete the display.

The trip through Colorado’s bicycle racing past is filled with amazing tales and shared memories. For The Pro’s Closet Bicycle Museum, it’s just the beginning. Moving forward, Martin plans to transition the museum to a 501(c)(3) nonprofit. The possibilities are exciting, and as the museum’s tagline states, ‘history never gets old.’

*To schedule a tour, or to donate or loan artifacts, contact Nick Martin at [nick@thepros closet.com](mailto:nick@thepros closet.com)*

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Tags: [In Retrospect](#)

 Author **Carol Taylor**

Carol Taylor writes about history for the Daily Camera. Follow Carol’s Instagram @signsofboulderhistory. Email Carol at [boulderhistorylibrarian@gmail.com](mailto:boulderhistorylibrarian@gmail.com).

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**LOCAL NEWS**

# Louisville prioritizes Marshall Fire recovery, rebuilding



Trevor Schmidt, left, a project manager with Gen 3 Construction, walked through a home his company was in the process of rebuilding in the Harper Lake subdivision a year after the Marshall Fire on December 28, 2022 in Louisville.(Photo by Helen H. Richardson/The Denver Post)

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By **ANDREA GRAJEDA** | Prairie Mountain Media

June 21, 2023 at 4:52 p.m.

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Louisville's recovery from the devastating Marshall Fire continues nearly 18 months after the historic blaze, and city council members are resolved that language a proposed Parks and Open Space Sales Tax extension for November's ballot is made clear for voters.

Rob Zuccaro, director of community development, provided the council with a Marshall Fire recovery update at its Tuesday night session. He said that after the Dec. 30, 2021 fire, one of the city's priorities was streamlining its permit and rebuilding process. For the 549 homes lost within city limits, more than 260 permits have been issued, with 52 currently under review. There were also more than 1,600 insulation permits issued for smoke damaged homes.

There are in excess of 90 general contractors working in the city for the rebuilding effort, which can lead to storage, construction and traffic issues. Zucarro said that hopefully, many families will be moving back during the summer and that the city wants to make sure that neighborhoods are safe.

Cameron Fowlkes, city engineer and public property debris removal coordinator, said that debris removal started in April 2022 and took about five months to complete. He said the city has run water testing in 14 of 24 neighborhoods, with the remaining 10 being small areas or neighborhoods with higher water testing requirements. Louisville staff is also monitoring streets and sidewalks in burn areas as construction continues, with rehabilitation of most streets scheduled for 2025 and some subdivisions' streets targeted for 2024.

Parks, Recreation and Open Space Director Adam Blackmore said Enclave and Sunflower parks were severely damaged in the fire, and their reconstruction is anticipated for 2024. He added that 78 of 108 damaged trees have been removed, with the remaining 30 to be taken out this summer.

"All the trees that we can and that work within our current planting plan, are being replanted," Blackmore said.

Blackmore said that a full wildfire risk assessment was done on all Louisville public lands, and the full report and mitigation options will be available by the end of July.

Ryder Bailey, director of finance, said that the Marshall Fire will continue to significantly impact the city. He noted that the city's estimated disaster related expenses are \$29 million, but Louisville staff have worked to ensure that \$19.9

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Assistant City Manager Emily Hogan also said that Boulder County has begun to update the Community Wildfire Protection Plan, aimed at uniting mountain and plains communities, to help reduce and prevent wildfires.

The Parks and Open Space sales tax was first approved in 2002 and lasts for 10 years. The sales tax was approved again in 2012, and the will expire by the end of 2023. In November, Louisville residents can vote to extend the 0.375% sales tax for another 10 years.

Louisville City Council formed a Parks and Open Space Task Force during the Feb. 21 regular council meeting. The task force explored whether residents would vote to approve an extension and possible increase to the tax, on November's ballot. City Manager Jeff Durbin said that there is a strong consensus that the tax provides critical funding needed to maintain parks and open space.

"Renewal is very important for our operations," Durbin said.

Mayor Dennis Maloney said the tax extension ballot question will need clarifying language to ensure voter approval, and that the council approves of splitting the funding from the tax equally to fund both parks and open space. The council also approves of a 0.125% sales tax increase to be solely used for open space, Maloney said.

The first reading of the sales tax extension will be held at the City Council regular meeting July 11 and a more thorough reading will at its session scheduled for July 25.

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Tags: [East County](#)



**Andrea Grajeda**

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From the Denver Business Journal:

<https://www.bizjournals.com/denver/news/2023/06/27/regional-e-bike-sharing-program.html>

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Transportation

## Boulder, Longmont to study e-bike sharing program

CDOT funds feasibility study to look into a system that could help bridge the area's transportation needs.



Image: BCycle


Boulder's BCycle nonprofit bike share program is partnering with Commuting Solutions, a transit advocacy organization on a feasibility study to develop a regional e-bike sharing system.

BCYCLE



By [Bob Mook](#) – Senior Reporter, Denver Business Journal

Jun 27, 2023 **Updated** Jun 27, 2023 4:59pm MDT

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Two organizations will work with local governments and businesses to study the feasibility, costs and implementation of an e-bike share system that could ultimately connect Boulder with its neighbors. Those communities include Broomfield, Boulder County, Erie, Lafayette, Longmont, Louisville, Superior and Westminster.

Made possible through \$80,000 in funding from the Colorado Department of Transportation (CDOT), the feasibility study will be led by Commuting Solutions – a transit advocacy organization serving the northwest metro region – and Boulder BCycle, Boulder's nonprofit bike-share program.

The proposed system would utilize electric bikes provided by BCycle that could be checked out and used to travel within and between the communities.

“Commuting Solutions and its local government partners have been working for years to explore the possibility of creating a regional bike share program,” said Commuting Solutions Executive Director Audrey DeBarros in a news release. “I am very excited about this study and the potential it has to expand the Boulder BCycle bike-share system regionally.”

DeBarros pointed out that bike sharing was identified as an important solution in both the US 36 First and Final Mile Study and the CO 119 First and Final Mile Study. The idea is to ensure that employees, residents and visitors have access to a safe and connected transit system.

“We envision creating a regional network to enable the public to easily travel between communities and modes of transportation as we expand transit in the northwest metro region,” DeBarros added.

As part of the study, Commuting Solutions and BCycle are conducting a survey to allow the people in the community to share their opinions on having a bike-share program throughout the region. Additionally, the organizations will conduct a series of e-bike demonstrations at community events throughout the summer. They’ll give the public the opportunity to try out the e-bikes and learn more about the potential future of bike share in the region.

Upon the conclusion of the survey this fall, Commuting Solutions, BCycle and their partners will develop a proposal to implement a northwest regional bike share program.

DeBarros said a regional bike share program would be funded most likely through a mix of public and private money along with user fees and sponsorships.

“The cost of the program and funding is a part of the feasibility study purpose,” DeBarros told the Denver Business Journal. “A timeline would be included in the study for a possible rollout if local government elected officials approve it.”

She added that there are several barriers to bike sharing. First, safe cycling infrastructure locally and between communities is needed between communities. Then support from local elected officials and staff would be required for the expansion program. Having a “cycling culture” locally, and private-sector businesses fund and support such a program would also promote bike sharing, she said.

While inclement weather might discourage participants from using such a program throughout the year, DeBarros noted the Boulder program has sufficient ridership to warrant staying open year-round. However, it’s not clear if a similar approach would be pursued as part of the regional program.

DeBarros said she hopes to complete the study by the end of 2023.

Recently, Boulder County [received \\$25 million in federal funds](#) for multimodal upgrades including intersection safety improvements, a regional bikeway and rapid bus transit along CO 119 between Boulder and Longmont.

**LOCAL NEWS**

# Louisville business to host homecoming celebration for Marshall Fire survivors



Old Style Sausage owner Mike Deborski poses for a portrait in his 1956 Chevrolet pickup truck in Louisville on Friday. (Matthew Jonas/Staff Photographer)

By **ANDREA GRAJEDA** | Prairie Mountain Media

July 1, 2023 at 11:00 a.m.



Louisville is bringing back old traditions to welcome home Marshall Fire survivors.

Old Style Sausage in Louisville will host a welcome home celebration for Marshall Fire survivors on Independence Day at Community Park, 955 Bella Vista Drive, from noon to 3 p.m.

Free brats and sausage will be provided for Marshall Fire survivors, who can use the flier on [oldstylesausage.com/events](https://oldstylesausage.com/events) as their ticket. The celebration will also have drinks, pizza, snowcones, yard games and live music by The Crystal Swing Band and the Weld County Ramblers.

Volunteers, including current and former city elected officials, city staff, members of the police department, will help cook and serve the brats and sausage.

Old Style Sausage, 1219 Courtesy Road, has been open for over 50 years. According to owner Mike Deborski, the shop used to hold annual Fourth of July events that became a fixture for the community. That annual event stopped in the early 2010s, and was only brought back in 2022.

Deborski said the event is an opportunity for Old Style Sausage to show their respect and appreciation for those who lost their homes in the Marshall Fire. Deborski said the event is designed to welcome back those residents who were displaced and are slowly coming back despite the difficult of rebuilding.

“You can see some houses going up, which is a really exciting time for them,” Deborski said. “We think this is a great chance to bring the neighbors back together and reunite the community.”

City Manager Jeff Durbin reflected on how much Deborski and his family have given back to the community. After the Marshall Fire, Deborski gave boxes of sausages and various meat products to people who were displaced.

“That’s the kind of guy Mike is,” Durbin said.

Durbin also noted that the Old Style Sausage Independence Day event was a tradition for the city. So when Deborski approached him about bringing the event back, Durbin said that he knew he had to help out and support the community event.

Deborski’s family has been in Louisville for four generations, and the town is the landscape to his and his family’s life. He said he has a “custodial approach” to Louisville, and his family has always been involved in the community.

“We want to welcome home our returning neighbors,” Deborski said.

Tags: [East County](#)



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**BUSINESS**

# Restaurant supplier Shamrock eyes shuttered Louisville Alfalfa's Market

By **LUCAS HIGH** | BizWest / Daily Camera

PUBLISHED: July 10, 2023 at 7:15 p.m. | UPDATED: July 10, 2023 at 7:20 p.m.

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LOUISVILLE — You've probably seen the Shamrock Foods Co. delivery trucks — logo of a zippy chef carrying a four-leaf clover atop a serving tray emblazoned on the sides — on the highway bringing supplies to local restaurants. Now the company is considering opening a restaurant-supply retail operation in a Louisville building that [formerly housed an Alfalfa's Market Inc. grocery store.](#)

Arizona-based Shamrock has applied to the city for a business assistance incentive package — essentially a reduction in taxes and fees — to help it set up shop at the 28,190-square-foot storefront at 785 E. South Boulder Road. The Louisville City Council is set to vote on the incentives during its meeting Tuesday night. The council will also review a similar application from a company that hopes to transform the former Sam's Club location on McCaslin Boulevard into a pickleball center.





Shamrock “indicated that it will make a decision on the site this summer and hopes to have the project completed by winter 2023,” city documents show. “Shamrock estimates that the project will include \$1.8 million in tenant finish improvements and an additional \$10,000 in signage. The company estimates that it will collect and remit \$730,000 in new retail sales tax over the first five years of operation.”

The application, which city staffers have recommended for approval, seeks \$321,338.25 in total incentives over five years. That total comes from 50% reductions in building permit fees and construction use tax and signage permit fees and taxes.

Because Shamrock, representatives of which did not respond to requests for comment Monday, would be taking over a vacant business, it could be eligible for a vacancy bonus incentive of \$1 for each square foot of retail space. In this case, that total bonus would be \$28,190.

To be eligible for any incentive, Shamrock would have to be operational by the end of 2024, city documents show.

In its application, Shamrock did not indicate in its application how many employees it plans to hire.

Shamrock, according to its website, operates an existing, 30,000-square-foot “foodservice warehouse” in Denver, which opened in 2015. The retail operation “provides access to the restaurant-quality products customers want, where they want them, and exactly when they need them,” the site said. “Open to the public with no membership required, the store carries everything from high-quality meats and seafood to a variety of fresh produce and premium dairy. Plus, hundreds of items are Colorado-grown or manufactured.”

The building at 785 E. South Boulder Road, roughly the same size as Shamrock’s Denver warehouse, has been vacant since April 2011, when Alfalfa’s closed up shop amid a broader collapse of the grocery chain.

In the months leading up to the Louisville store closure, Alfalfa’s locations in Longmont and its flagship operation in Boulder were also shuttered.

As those stores were closing, BizWest [obtained internal documents](#) showing that the company owed hundreds of vendors more than \$4 million.

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# 155 insurance companies sue Xcel Energy over Marshall fire losses

The lawsuit does not specify how much money the insurance companies are seeking



An aerial photo shows destruction caused by the Marshall Fire in Superior on Jan. 2, 2022. (Photo by Helen H. Richardson/The Denver Post)

By **NOELLE PHILLIPS** | [nphillips@denverpost.com](mailto:nphillips@denverpost.com) | The Denver Post

PUBLISHED: July 11, 2023 at 6:00 a.m. | UPDATED: July 11, 2023 at 9:06 a.m.



More than 150 insurance companies are suing Xcel Energy over the Marshall fire in an attempt to reclaim money those insurers paid in settlements to the wildfire's victims.

The companies' joint lawsuit comes less than a month after the Boulder County sheriff and district attorney named the utility as one of two entities responsible for the deadly Dec. 30, 2021, fire, which caused more than \$2 billion in property damage.

A [17-month investigation determined](#) that the fire was started in part by a faulty Xcel Energy power line that arced and sent burning pieces of metal into dry brush at a county park. But the investigation also pinned blame on lingering embers from a debris fire that had been started a week earlier on property owned by the Twelve Tribes, [a religious cult](#).

The lawsuit, filed Thursday in Boulder County District Court, does not name the Twelve Tribes or its members as defendants. It also does not specify the amount of money the insurance companies are seeking from the utility.

Efforts to reach Xcel Energy officials on Monday were unsuccessful, but the company previously said it "strongly disagreed" with the conclusion that its power lines caused a second ignition point for the Marshall fire,

Lawyers representing the 155 insurance companies declined to comment.

But Carole Walker, executive director of the Rocky Mountain Insurance Information Association, an industry trade group, said such lawsuits by insurance companies are common when fault has been found with another person or business.

"This happens whenever it's a situation that isn't caused by Mother Nature," Walker said.

The insurance companies have an obligation to reclaim some of the money on behalf of their policyholders, she said. If the companies end up paying billions of dollars in claims, premiums for all Colorado homeowners will go up.

"If they don't recoup the dollars, those dollars are passed on," Walker said. "It is an

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These litigations are lengthy, and if a jury or judge rules in favor of the insurance companies, they will be last in line to receive payments from Xcel, she said.

A [similar lawsuit was filed by insurance companies](#) in Colorado after the 2012 Lower North Fork Fire, which started after a Colorado Department of Natural Resources prescribed burn got out of control and killed three people, destroyed 22 homes and burned 4,140 acres.

In that case, the Colorado General Assembly in 2014 passed legislation that eliminated liability caps for state government and created an \$18 million fund to pay victims.

And insurers have successfully sued utility companies in California to recoup their claims.

In 2021, Southern California Edison agreed to a \$2.2 billion settlement with insurance companies over the Woolsey fire, which killed three people and burned 1,600 homes and other buildings outside of Los Angeles, according to the [Insurance Journal trade magazine](#). Edison did not acknowledge wrongdoing in the settlement.

Already, dozens of homeowners have [sued Xcel Energy](#) over the Marshall fire. More are on the way [as lawyers have lined up](#) to take on class-action lawsuits.

The Marshall fire is the most costly fire in Colorado history, destroying more than [\\$2 billion in property](#). Two people — Robert Sharpe, 69, and Nadine Turnbull, 91 — died as an estimated 35,000 residents fled the flames. The fire destroyed more than 1,000 homes and businesses in Superior, Louisville and unincorporated Boulder County.

The fire started around 11 a.m. on Dec. 30, 2021, when strong winds blew dirt off a pile of smoldering embers on the Twelve Tribes property near the intersection of Colorado 93 and Eldorado Springs Road. Those embers blew onto dry brush and grass, and flames were fueled by the strong winds, the sheriff's investigation determined.

But the sheriff ruled that no criminal charges would be filed because fire and law enforcement authorities had visited the compound on Dec. 24 when members were burning wood and other debris. Those officials approved of the fire and the members' plans for burying it when they were finished.

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Boulder County District Attorney Michael Dougherty points a map of the damaged area during a press conference on the investigative outcome into the cause and origin of the 2021 Marshall Fire at the Boulder County Sheriff's Office on Thursday, June 8, 2023. (Photo by Hyoung Chang/The Denver Post)

A second fire sparked around 12:20 p.m. at an Xcel Energy electrical power distribution system near the Marshall Mesa trailhead, which is down the street from the Twelve Tribes property on Eldorado Springs Drive.

The sheriff's investigation determined the power lines were a potential source a few days after the fire when investigators reviewed video from a motion-activated trail camera and noticed a power line sagging. Other videos from that day showed the power line twisting and bouncing in the wind, and the sheriff's office took photos of the line that showed chunks of metal missing, according to [public documents](#) released once the investigation was concluded.

No criminal charges were filed against Xcel or its employees.

The lawsuit, however, says Xcel was negligent and is liable for damage because it did not properly maintain its equipment and knew that strong winter winds could damage its power lines.

The insurance companies' lawsuit cites the sheriff's investigation and says that the insureds' property destruction was "the inescapable and unavoidable consequence of Xcel Energy's Electrical Equipment as deliberately designed,

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Tags: [Marshall Fire](#), [Wildfire](#)



## Noelle Phillips | Reporter – The Denver Post

Noelle Phillips, a Nashville native and a Western Kentucky University journalism school grad, covers law enforcement and public safety for The Denver Post. She has spent more than 20 years in the newspaper world. During that time, she's covered everything from rural towns in the Southeast to combat in the Middle East. The Denver Post is her fifth newspaper and her first in the West.

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**BUSINESS**

# Pickleball concept could take over Louisville's long-languishing ex-Sam's Club location



Paul Aiken / Staff Photographer

The former Sam's Club building in Louisville is pictured in October of 2018.

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By **LUCAS HIGH** | BizWest / Daily Camera

PUBLISHED: July 11, 2023 at 9:20 a.m. | UPDATED: July 11, 2023 at 4:17 p.m.

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LOUISVILLE — The [long-shuttered Sam's Club building in Louisville](#), which has hosted church services for nearly a decade, could be transformed into a pickleball and food hall concept called Relish.

Parcel O Productions LLC, the company behind Relish, has applied to the city for a business assistance incentive package — essentially a reduction in taxes and fees — to make 79,000 square feet of the 127,000-square-foot retail building on 550 S. McCaslin Boulevard into a sports and hospitality “community hub” with eight food stalls and 17 pickleball courts, Louisville documents show.

Relish expects to spend about \$11.7 million on building and signage improvements, and projects sales tax payments to the city of \$770,500.

The incentives application, which city staffers have recommended for approval, seeks \$445,265.54 in total incentives over five years. That total comes from 50% reductions in building-permit fees and construction use tax, signage-permit fees and taxes and retail sales tax.

Relish, which could be open as early as winter 2024, expects to have 16 full-time employees and as many as 15 part-time employees when it opens, city documents show.

Pickleball, which is similar to tennis but with a smaller court and different rackets and balls, has taken the country by storm, with live events on television and venues sprouting up like weeds. In addition to outdoor courts at many public parks, there are several indoor pickleball facilities in the region, including the Pickleball Food Pub in Westminster and Boulder Pickleball in Boulder.

“Relish has indicated that they are familiar with some of the challenges of this location, but are committed to making it work and activating the space,” city documents said.

Walmart Inc.-operated (NYSE: WMT) Sam's Club closed its Louisville membership superstore in late 2010, leaving a gaping retail hole along McCaslin Boulevard and in the city's coffers, which relied on the store to generate nearly \$500,000 in annual sales tax revenue.

About four years later, the store and the roughly 13 acres it sits on were sold to

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Soon after the transaction, [Ascent Community Church took over a small portion](#) of the square footage for Sunday services, but a permanent tenant for the entirety of the space has been elusive for more than a decade.

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<https://www.bizjournals.com/denver/news/2023/07/11/xcel-energy-marshall-fire-lawsuit-filed-boulder.html>

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Energy

## Xcel Energy faces new Marshall Fire lawsuit, and there may be more coming

A law firm that has a track record against utilities in wildfire cases targets Xcel Energy's power line management in a new lawsuit filed Monday.



Image: Denver Business Journal

A for sale sign marks a cleaned property in the Sagamore neighborhood as crews work on clean up from the Marshall Fire on May 25, 2022, in Superior.

SETH MCCONNELL | DENVER BUSINESS JOURNAL



By **Greg Avery** – Senior Reporter, Denver Business Journal

Jul 11, 2023 **Updated** Jul 11, 2023 10:16am MDT

A Boulder County couple filed suit against Xcel Energy on Monday accusing the power company of negligence and not doing enough to prevent its power lines from sparking the Marshall Fire.

The couple's lawsuit is the second known to be filed against Xcel over the Dec. 30, 2021, blaze that destroyed 1,000 homes in Boulder County and killed two people.

The law firm, Edelson PC, representing John Uridil and Julia Uridil, won large monetary damages for clients in a similar wildfire case in Oregon last month. It says the complaint it filed Monday in state district court in Boulder County is likely the first of several it files against Xcel Energy over the Marshall Fire.

"This is an investor-owned utility that, we contend, failed to live up to its obligation to protect the community from fires started by its power lines," said Nicholas Rosinia, who leads Edelson's trial practice group, in a statement emailed to the Denver Business Journal.

The lawsuit says the Uridils' property was damaged in the fire and seeks damages from Xcel Energy.

The utility company, a division of Minneapolis-based Xcel Energy Inc., sells electricity to 1.5 million customers mostly in the Denver metro area. It did not reply to requests for comment about the lawsuit Monday.

The lawsuit filed Monday is being led by attorneys from the Chicago-based firm that helped represent plaintiffs that last month won a court victory in Oregon over the 2020 Labor Day fires there. PacifiCorp was accused of being similarly negligent in not shutting off power lines in a series of fires that damaged thousands of properties.

The Marshall Fire burned over 6,000 acres of foothills grassland and, pushed by winds regularly gusting at nearly 100 miles per hour that morning, raced into neighborhoods of Superior and Louisville where the inferno incinerated homes.

The area had seen little-to-no rain for months and the inferno quickly forced thousands to flee their home before an early morning storm dropped and doused the blaze less than 24 hours after it started.

The Uridils' lawsuit in Boulder County is the first filed since a report released June 8 by county sheriff's investigators **concluded that Xcel Energy power lines near Colorado Highway 93 likely provided the sparks to start one of two small blazes that became the wind-driven Marshall Fire inferno that morning.**

Boulder County Sheriff's investigators, assisted by state and federal fire experts and others, found physical evidence and video suggesting one Marshal Fire ignition source was within 111 feet of an Xcel power pole. There, a line had broken free and is believed to have been 'arcing' and creating sparks.

The investigation did not completely rule out the possibility that an underground coal seam smoldering nearby ignited at the surface, but that was considered unlikely.

Uridils' lawsuit focuses on Xcel Energy's management of the powerlines prior to the fire that morning, after high wind warnings had been issued for the area.

The utility did not preemptively de-energize its powerlines in high-risk parts of the Boulder County foothills, something utilities do in other fire-prone areas, which would have made them unable to spark, the lawsuit said.

The complaint also cites how Xcel's grid was set to have "reclosers" on local power lines try to re-set and make an electrical circuit 10 times after being disrupted. Such "recloser" mechanisms are often set by utilities during high-wind events to send electricity fewer times before locking out a damaged stretch of powerline, or to not "reclose" at all. That's to minimize or prevent the possibility of a fire being started by a line that is in contact with something or damaged, the lawsuit said.

Xcel Energy didn't change its recloser settings for the high-wind event on Dec. 30 but should have, the lawsuit contends.

Another class action lawsuit that includes allegations against Xcel Energy was filed months ago on behalf of George Kupfner and Lisa Kupfner, a Superior couple. That lawsuit in Boulder County district court is being heard by a judge from the Jefferson County district after all the judges in the Boulder district recused themselves from hearing the case.

## T H E L I S T

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<https://www.bizjournals.com/denver/news/2023/07/12/xcel-energy-marshall-fire-lawsuits-insurer-boulder.html>

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Energy

## Hundreds sue Xcel Energy over Marshall Fire in burst of new lawsuits

New legal filings follow an investigation that ID'd a power line as a likely source for a blaze that killed two and destroyed over 1,000 homes.



Burnt homes are seen in Louisville near Larkspur Court off Via Appia Way following the Marshall Fire.

DON IRELAND | SPECIAL TO DENVER BUSINESS JOURNAL



By [Greg Avery](#) – Senior Reporter, Denver Business Journal

Jul 12, 2023 **Updated** Jul 12, 2023 9:39am MDT

The number of people suing Xcel Energy over the destructive Marshall Fire is growing, with hundreds of people and insurance companies now seeking money and saying the utility's negligence is to blame.

Two lawsuits filed this week represent more than 200 individuals and small businesses seeking damages from Xcel Energy and at least 150 insurance companies that separately seek reimbursement for insurance claim payouts they made to policyholders after the Dec. 30, 2021 wildfire.

The wind-driven Marshall Fire destroyed over 1,000 homes and dozens of other structures in Boulder County, Superior and Louisville.

The lawsuits join one [filed Monday by a Boulder County couple against the utility](#) and a claim filed last year that has been recruiting plaintiffs for a class action.

Xcel Energy is the power company that supplies electricity to more than 1.6 million people in Colorado, mostly in the Denver metro area. The utility is the largest division of Minneapolis-based Xcel Energy Inc. (Nasdaq: XEL).

The burst of lawsuits comes a month after a multi-agency investigation led by the Boulder County Sheriff's Office publicly identified a power line disconnected from Xcel Energy's power poll as sparking one of two fires near Colorado Highway 93 south of Boulder that morning.

The two fires merged in winds gusting over 75 miles per hour to cause a larger blaze that raced across 6,000 acres of foothills grasslands into neighborhoods, forcing the evacuation of thousands and killing two people.

The lawsuit filed by residents and small businesses seeks compensation for the loss of property, emotional distress, and, among other things, the plaintiffs' lingering uncertainty about whether the area is a safe place to live in, the lawsuit said.

Xcel Energy's "conduct was a substantial factor in causing each plaintiff's harm and was a substantial factor in the cause, origin, and exacerbation of the Marshall Fire," the lawsuit said.

The insurance companies' lawsuit seeks reimbursement for an unspecified amount of money paid out to victims of the Marshall Fire.

The legal allegations include claims that Xcel Energy neglected to operate and maintain its powerlines in the area to reduce the risk of fire during windstorms, which are known to happen there and had been forecast for that morning.

"Despite Xcel Energy's familiarity and expertise with Colorado's wind patterns, and the warnings issued by the National Weather Service, Xcel Energy failed to take preventative measures in the face of known high-risk weather conditions and did not de-energize its electrical equipment prior to the onset of the windstorm," the lawsuit said.

Xcel Energy has not responded to the lawsuits filed this week.

When the first lawsuit was filed last year, prior to the sheriff's investigation conclusions being made public, Xcel said its "own investigation shows that our equipment in the area of the fire was properly maintained and inspected, consistent with our high standards,"

The utility also said at that time that it had seen no evidence that its equipment started the fire.

The sheriff's office investigation released last month could not conclude the utility's equipment definitely caused the Marshall Fire, but the report said evidence showed an Xcel Energy powerline was one of two likely ignition sources.

The evidence included visual evidence from a camera at a hiking trailhead parking lot off Colorado 93 that caught images of fire breaking out the morning of Dec. 30, 2021, near an Xcel power line that appears disconnected from a pole.

In an indication of just how broadly the fires affected the area, Boulder County District Court Senior Judge Ingrid Bakke on Tuesday recused all the judges in the district from both cases.

A judge from outside Boulder County and without personal connections to the fire or survivors of it is expected to be assigned to the lawsuits.

A Jefferson County judge has been hearing the preliminary stages of the lawsuit filed last year.

## THE LIST

# 2022 Colorado Public Companies

2021 revenue

Rank	Prior Rank	Business name
1	1	Arrow Electronics Inc.
2	2	Dish Network Corp.
3	3	Pilgrim's Pride Corp.

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From the Denver Business Journal:

<https://www.bizjournals.com/denver/news/2023/07/20/sierra-space-colorado-tax-credits.html>

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## Sierra Space gets green light for up to \$7M in Colorado tax credits

Colorado Economic Development Commission unanimously approves proposal that would help aerospace company create up to 500 new jobs in Boulder County.



Image: Denver Business Journal

Dream Chaser in the lobby at Sierra Space on Feb. 18 in Louisville

SETH MCCONNELL | DENVER BUSINESS JOURNAL



By **Bob Mook** – Senior Reporter, Denver Business Journal  
Jul 20, 2023 **Updated** Jul 20, 2023 5:00pm MDT

A Colorado-born space company recently got more reason to grow locally.

Sierra Space Corp. received approval for up to \$7.05 million in performance-based job growth tax credits over an eight-year period during the Economic Development Commission's July 20 meeting.

A privately held aerospace company, [Louisville-based Sierra](#) requested the incentive to help create up to 500 new full-time jobs at a minimum annual average wage of \$115,670 in Boulder County.

Sierra currently employs 1,800 people including 1,200 in Colorado. New jobs will include roles in production, support and management. The company maintains office space in Broomfield and an engineering location in the Highlands Ranch area that is focused on developing the Orbital Reef space stations they've partnered with Amazon founder Jeff Bezos' Blue Origin to develop for launch in 2028.

Identified only as "Project Tycho" in the EDC's project description, Sierra produces space systems and components while engaging in hundreds of missions.

Though the EDC did not identify the name of the company in the interest of confidentiality, Sierra is the only company known to be manufacturing spaceplanes (mentioned in the project description), which have been in development in the Denver area for more than 15 years.

The Denver Business Journal reached out to Sierra Space for comment.

The company will need to create at least 20 new jobs before the tax credits are issued. The project is contingent upon proximity to available talent, supply chain and incentive support.

In addition to Colorado, the company is considering Florida for its expansion.

#### **Other projects approved**

Along with Sierra, the EDC approved tax incentive proposals for four other unidentified companies during the July 20 meeting, including:

**Project Blanc:** A solar company headquartered in Switzerland with facilities in Germany and the United States is considering expansion to El Paso County. The EDC approved the company's request for up to \$4.94 million in performance-based job growth incentive tax credits over an eight-year period.

The company expects to create 380 new jobs at an average annual wage of \$77,842. The jobs will include project managers, operators, facility managers, process engineers and maintenance personnel. The company currently employs 1,400 workers, none of which are located in Colorado.

Project Blanc must create or maintain at least 20 new jobs before the credits are issued. The project summary notes that Project Blanc would support Colorado's economic goals by creating new high-wage jobs while supporting the state's transition to clean energy.

It also noted that the National Renewable Energy Lab has provided positive statements about the creation of this type of project in Colorado. In addition to Colorado, Project Blanc is also considering expansion in New York, Indiana and Arizona.

**Project Bullseye:** A women-owned aerospace and defense engineering company based in Colorado Springs got unanimous approval from the EDC for \$7.5 million in performance-based job growth incentive tax credits.

The incentive will be used to create up to 620 new jobs at a minimum average annual wage of \$60,151.

A summary said the company is in a high-growth mode through acquisitions and new government and commercial contracts with a goal to double in size over the next five to eight years. The unidentified company currently employs 400 workers, including 240 in Colorado.

Supporting the Colorado Office of Economic Development & International Trade, the EDC develops incentive packages to assist existing business expansions and encourage company relocations to grow jobs in all regions of the state.

The next EDC meeting is scheduled for Aug. 17, 2023.

*Denver Business Journal Senior Reporter Greg Avery contributed to this report.*