

**** Revised ****

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1. Meeting Commencement

1A. Pledge of Allegiance

1B. Review and Approval of Agenda

2. Petitions and Communications

3. Councilmember Reports

4. Public Comment

5. Reports

5A. Manager's Report

2025 Community Survey - At Council's direction, staff has prepared proposed language to gauge public support to increase taxes to fund housing, transportation/mobility related services and projects, and library services/building.

6. Consent Items

6A. Proposed Resolution for Social Services Expenditures 2024 Q3

(Board of Social Services - BSS)

This report provides information on human services programs along with the related revenue and expenditures for the period in question.

— Resolution No. 2024-171-BSS Acknowledging Review of Expenditures and Electronic Benefit Transfers for July, August, and September 2024

6B. Proposed Resolution for a Revocable Permit for Interlocken Owners' Association, Inc., for the installation of Traffic Security Cameras

Resolution 2024-169

6C. Ordinance Approving A Business Incentive Agreement with Peak Energy- First Reading

— Ordinance 2262 Approving A Business Incentive Agreement with Peak Energy Technologies, Inc.

6D. Proposed Resolution Authorizing the First Amendment Between Broomfield and Almost Home, Inc.

— Resolution No. 2024-173 approving a First Amendment between the City and County of Broomfield and Almost Home, Inc. for Severe Weather Activation Program Services

7. Action Items

7A. Public Hearing - Ordinance Village of Westview Tax Sharing Reimbursement Agreement - Second Reading

— Ordinance 2259 approving a Sales and Use Tax Reimbursement Agreement for the Village of West View

7B. Public Hearing - Ordinance Tree Preservation Second Reading

— Ordinance No. 2240 to add Chapter 17-71 to the Broomfield Municipal Code to establish Tree Preservation and Mitigation Measures During Land Development and Redevelopment

7C. Ordinance Amending and Restating Certain Agreement Related to the 2005 BURA Bonds - First Reading

— Ordinance 2261 amending and restating certain documents related to the Broomfield Urban Renewal Authority, Tax Increment Bonds (Broomfield Event Center Project), Series 2005, and providing other determinations, covenants and details in connection therewith.

7D. Proposed Resolution Approving Council Event Sponsorship Policy

— Resolution No. 2024-134 approving Council’s Event Sponsorship Policy

8. Mayor and Councilmember Requests for Future Action

8A. Mayor Castriotta's Request for Future Action Regarding the Creation of a Human Rights Ordinance

8B. Councilmembers Henkel and Cohen's Request for Future Action Regarding Steps Toward Creating an Immigrant-Inclusive Environment in Broomfield

8C. Councilmember Ward's Request for Future Action Regarding the Creation of a Structure of Governance Committee

9. Adjournment

The City and County of Broomfield operates without regard to race, color, national origin, ethnicity, citizenship, immigration status, gender, age, sex, sexual orientation, gender identity, gender expression, marital status, source of income, military status, or disability in all programs and activities.

Individuals with disabilities requiring accommodation or persons needing a language interpreter must submit such a request to the City Clerk no later than noon on Thursday prior to the scheduled Council meeting to allow adequate time to make arrangements. Please call 303.438.6332 or TDD 303.465.5411 or write cityclerk@broomfield.org to make your request.

During the meeting, individuals can click the “CC” button on Live Council meeting video feeds to view closed captioning. Auxiliary hearing aid equipment can be requested on the night of the meeting with our AV team located at the back of the Council Chambers.





City and County of Broomfield

City Council Regular Meeting

Proposed Resolution for Social Services Expenditures 2024 Q3

This report provides information on human services programs along with the related revenue and expenditures for the period in question.

Meeting	Agenda Group
Tuesday, December 10, 2024, 6:00 PM	Consent Items Item: 6B.
Voted By Board	Presented By
Board of Social Services - BSS	Christopher Dewhurst
Community Goals	
<input checked="" type="checkbox"/> Thriving, Diverse, Safe and Welcoming Community	

Overview

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Resolution No. 2024-171-BSS acknowledges review of expenditures and electronic benefit transfers for the period July 1 to September 30, 2024. The attached memo provides the Board of Social Services financial and statistical information related to trends in human services programs that Broomfield operates on behalf of the State of Colorado. In the third quarter of 2024 the Broomfield Department of Human Services saw a decline in the number of overall estimated unduplicated households and individuals served as compared to the same time frame in 2023. This decrease was attributable primarily to the decrease in Medicaid household served as not all Medicaid households that were locked in throughout the pandemic remained eligible for the program at redetermination. Other Human Services program areas such as Colorado Works/TANF, Food Assistance/SNAP, Child Care Assistance Program, Adult Protective Services and Child Welfare saw increases in households and individuals served in the third quarter of 2024 as compared to the third quarter of 2023.

Attachments

[Memo for Electronic Benefit Transfers for 3rd Quarter 2024.pdf](#)

[Resolution No. 2024-171-BSS.pdf](#)

[Attachment 1 TANF 9.30.24.pdf](#)

[Attachment 2 SNAP 9.30.24.pdf](#)

[Attachment 3 Medicaid 9.30.24.pdf](#)

[Attachment 4 CCCAP 9.30.24.pdf](#)

[Attachment 5 LEAP 9.30.24.pdf](#)

Summary

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Each quarter, Human Services staff report to the Board of Social Services financial and statistical activity to inform the Board of the Department of Human Services (DHS) programmatic trends. This report provides information on Human Services programs along with the related revenue and expenditures for 2024 with special emphasis on activity throughout the state fiscal year 24/25 (July 2024 to June 2025) and in the first nine months of 2024. Graphics of programmatic and financial activity are shown in Attachments 1 to 6 of this memo.

DHS administers the following programs on behalf of the State of Colorado:

1. Colorado Works/Temporary Assistance to Needy Families (TANF)
2. Food Assistance - Supplemental Nutrition Assistance Program (SNAP)
3. Health First Colorado (Medicaid)
4. Colorado Child Care Assistance Program (CCCAP)
5. Adult Financial Programs
6. Child Support Services
7. Child Welfare
8. Adult Protective Services

In addition, DHS staff report benefit payments and unduplicated households served for Broomfield residents who participate in the Low Income Energy Assistance Program (LEAP). Administrative functions during the LEAP season are now handled by Goodwill.

TRENDS IN HUMAN SERVICES PROGRAMS

DHS provides assistance to Broomfield families to meet their daily needs with human services benefits including food and medical benefits, cash assistance through the CO Works/TANF program, child care assistance, unemployment and job search assistance, health and wellness resources, and rent and housing support. Please note this report contains information on clients served and electronic benefit transfer expenditures for state fiscal year 2024/2025 (SFY 24/25) as well as activity through the 3rd quarter of 2024.

Colorado Works (a/k/a TANF)

As one of human services' most flexible funding sources, CO Works/TANF funding is available to Human Services case managers to assist eligible low-income families to meet a variety of basic needs. DHS staff closely monitor CO Works/TANF clients' cases providing access to needed goods and services and assisting clients to become self-sufficient by finding sustainable employment. The top dual-axis graph in Attachment 1 provides a look at the number of distinct households served and the monthly expenditures including EBT client benefits and operating expenditures to run the CO Works/TANF program for a rolling twelve month period, October 2023 to September 2024. CO Works/TANF households served fluctuated monthly from a high of 75 households in November 2023 and a low of 60 households in March and August 2024.

For the calendar year, DHS saw a small increase of 1.42% in the number of unduplicated households served in the first nine months of 2024. DHS staff served 143 unique TANF households through September 30, 2024 with \$360,667 in cash and supportive services benefits as compared to serving 141 unique TANF households for the same time period in 2023 with \$312,542 in cash and supportive services benefits.

DHS received a slight increase of 3.78% in its CO Works/TANF allocation in SFY 24/25 to \$777,069. The Colorado Department of Human Services (CDHS) provided American Rescue Plan Act (ARPA) funding to counties for additional client support as required by [House Bill 22-1259](#) (HB22-1259). These ARPA funds were exhausted prior to September 30, 2024. The bottom dual-axis graph in Attachment 1 shows the cumulative TANF EBT client benefit payments and cumulative unduplicated households served the first three months of SFY 24/25. DHS received \$18,653 in ARPA funds in July, August, and September 2024 which were used to provide additional support to CO Works/TANF clients in those months. State and county staff continue to closely monitor the impact of HB22-1259 as counties absorb increased expenditures required by the bill particularly as ARPA funds are now exhausted.

Food Assistance (SNAP)

Broomfield continues to see increases in the number of Food Assistance/SNAP households. Food Assistance/SNAP unduplicated households served increased 8.82% from 2,585 unique households served in the first nine months of 2023 to 2,813 unique households served in the same period in 2024. The top dual-axis graph shown in Attachment 2 illustrates the distinct Food Assistance households served each month for a rolling 12 months from October 2023 to September 2024. SNAP benefits have averaged \$650,113 for the past 12 months although you will notice a spike in SNAP benefits to \$1,089,121 in July 2024 when summer EBT payments for children were processed to the counties by CDHS. The bottom dual-axis graph shown in Attachment 2 illustrates cumulative SNAP benefits paid in the first three months of SFY 24/25 and the increase in unique households served during the same period.

Health First Colorado (Medicaid)

As anticipated, DHS saw a decrease in qualifying Medicaid clients as the Public Health Emergency (PHE) Unwind period closed in April 2024. DHS staff have focused on the high level of redetermination work affecting the vast number of Medicaid clients that were “locked in” to medical coverage during the PHE. DHS received funding through HCPF of \$138,071 for the PHE unwind. The unique number of Medicaid households that continued to qualify for coverage decreased 8.78% in the first nine months of 2024 to 6,491 from 7,116 unique households in the same time period in 2023. Attachment 3 demonstrates the high number of distinct households “locked-in” to coverage in SFY 22/23 when Medicaid cases that should have closed were locked in an open status due to a federal mandate. Distinct Medicaid households served began to decrease in SFY 23/24 as clients were redetermined for eligibility and no longer qualified for the program.

Food Assistance/SNAP and Medicaid eligibility functions are funded by the combined County Administration allocations through CDHS and HCPF. DHS received \$1,139,815 in combined County Administration funding for SFY 24/25. As required by [Senate Bill 22-235](#) (SB22-235), a funding model for County Administration was developed by an outside consultant, North Highland. The model, which determined that County Administration is underfunded by almost \$30 million statewide, was recently shared with the Joint Budget Committee. Both HCPF and CDHS have funding requests in the Governor’s budget of a combined \$25.2 million for SFY 25/26 for increased County Administration funding. North Highland will continue to modify the funding model in future years with input from state and county partners. State departments plan to work with the JBC to educate them on human services eligibility programs and the need for increased funding to remain in federal compliance for programs administered by Colorado counties.

CO Child Care Assistance Program (CCCAP)

DHS’ Colorado Child Care Assistance Program (CCCAP) continued to see significant increases in unduplicated households and children served in the first nine months of 2024 as compared to the same time period in

2023. DHS staff assisted 124 unduplicated households from January 1 to September 30, 2024 with 188 children receiving care. This increase represents a 34.78% increase in CCCAP households served and a 41.94% increase in children receiving care in 2024 as compared to 2023.

Since 2021, federal ARPA stimulus funds allowed the CCCAP program to decrease parent copays, expand child care slots, and make investments to support the child care infrastructure. New federal rules for the CCCAP program will impact DHS' ability to continue to serve an increasing number of CCCAP children. The CCCAP program will continue funding infant-toddler payments based on enrollment rather than attendance. This measure provides compensation to child care providers when holding a CCCAP spot open for a child that does not attend consistently. Colorado will also maintain the lower parental fees for the CCCAP program initiated by the stimulus funds. Colorado's required increases to provider payments went into effect October 1, 2024; these increases are expected to raise DHS' provider costs significantly while funding remains limited. As a result, DHS will freeze participation in the program for new participants in November 2024 in order to remain within its CCCAP allocation of \$922,467 for SFY 24/25.

The dual-axis graphs shown in Attachment 4 reflect the continuing increases to the unique CCCAP households served along with increasing monthly direct provider payments. The top graph shows distinct CCCAP households served for a rolling 12-month period from October 2023 to September 2024 while the bottom graph reflects the monthly and cumulative direct provider payments for the first three months of SFY 24/25. Of the \$284,114 paid to providers from July to September 2024, over \$100,000 was federal ARPA stimulus funds which have now been exhausted.

Child Welfare

DHS' Child Adult and Family Services (CAFS) staff continue their work to enhance the use of prevention services to assist families at risk of entering the child welfare system. In the continuing spirit of enhancing prevention, CAFS staff applied for and received the second of two Family First grants through the Colorado Department of Human Services. The award was \$175,000. With this second round of funding, CAFS staff will implement a multidisciplinary team (MDT) to bring together a diverse group of community organizations, share resources, and focus on children and families who are struggling with basic needs such as food, shelter, and clothing. The MDT will consist of DHS CAFS, Self Sufficiency, and Workforce staff. Broomfield FISH will continue to be an important MDT partner along with a variety of community partners to include A Precious Child, Joyful Journeys, SPAN, faith-based partners, and school districts. This grant can also be used to provide tangible goods and financial relief to families in crisis to prevent further penetration into the system.

CDHS made adjustments to the child welfare block allocation model in SFY 22/23. The adjustments effectively increased DHS' child welfare block allocation \$94,742 in SFY 23/24 and SFY 24/25. In addition, DHS received a \$201,444 increase for SFY 24/25 in its child welfare block allocation to \$2,582,291. The increase was related to appropriations attached to [Senate Bill 24-008](#) (SB24-008), Concerning Increasing Support for Kinship Foster Care Homes and [House Bill 24-1038](#) (HB24-1038), Concerning Addressing the High-Acuity Crisis for Children and Youth in Need of Residential Care. The Department has seen increased costs of care in the 3rd quarter of 2024 related to HB24-1038.

In addition to the funding allocations discussed in this report, DHS also received funding of \$104,826 for the [Collaborative Management Program](#) (CMP) in August 2024. CMP counties receive funding each year to deliver the program. DHS has worked with outside partners to manage this program for the past year and now plans to bring the program back in house for more effective program service delivery to improve outcomes for children, youth, and families.

Low Income Energy Assistance Program (LEAP)

DHS continues to provide outreach to Broomfield residents to educate the community that funds remain available to assist low income households with home energy bills from October to April. For the federal fiscal year to date, October 2023 to September 2024, 411 unduplicated Broomfield households received \$184,187 in LEAP benefits. The dual-axis graph shown in Attachment 5 illustrates this activity.

3rd QUARTER 2024 IN SUMMARY

In the first nine months of 2024, DHS served 8,618 estimated unduplicated households as compared to serving 9,130 households in the first nine months of 2023, a 5.61% decrease. The decrease is largely attributable to the 8.78% decrease in Medicaid households served during the year as not all Medicaid households continued to be eligible for the program once the public health emergency ended. DHS staff saw increases in households served in CO Works/TANF, Food Assistance, the Child Care Assistance Program, and Adult Protection.

Financial Considerations

As shown in the sources and uses of funds summary below in Table A, DHS shows an increase in its sources of funds of 2.99% in the third quarter of 2024 as compared to the same time period in 2023. DHS's total sources of funds totaled \$5,094,567 in the third quarter while uses of funds totaled \$4,973,662; uses of funds show a 16.70% increase as compared to the third quarter of 2023. For the period January to September, DHS's total sources of funds increased 5.71% to \$13,472,315 over the same time period in 2023. DHS use of funds increased by 3.79% from January to September 2024 as compared to the same time period in 2023. Uses of funds totaled \$12,387,607 from January to September 2024. Following the end of the federal waiver, Food Assistance/SNAP benefits returned to per-household, pre-pandemic levels which has evened out sources and uses of funds when comparing 2024 to 2023. Both actual sources and uses of funds are well within budgeted amounts for 2024.

Table A

CITY AND COUNTY OF BROOMFIELD								
HUMAN SERVICES - SOURCES AND USES OF FUNDS BY PROGRAM								
Sources and Uses of Funds	Actual Q3 Jul - Sep 2023	Actual Q3 Jul - Sep 2024	% Change	Actual Jan - Sep 2023	Actual Jan - Sep 2024	% Change	Original Budget 2024	Amended Budget 2024
Beginning Balance	\$ 4,254,075	\$ 5,658,808	33.02%	\$ 4,129,391	\$ 4,695,006	13.70%	\$ 1,430,666	\$ 1,430,666
TOTAL HUMAN SERVICES								
Sources of Funds								
State & Federal Reimbursements	\$ 1,632,978	\$ 1,073,710	-34.25%	\$ 3,262,399	\$ 2,868,892	-12.06%	\$ 4,106,446	\$ 4,085,142
State & Federal Share of Electronic Benefit Transfers (EBT's)	2,684,529	3,316,445	23.54%	7,026,049	7,474,968	6.39%	11,531,198	11,531,198
Other Revenues & Taxes	629,122	704,412	11.97%	2,455,865	3,128,455	27.39%	3,351,385	3,401,385
Total Sources of Funds	\$ 4,946,629	\$ 5,094,567	2.99%	\$ 12,744,313	\$ 13,472,315	5.71%	\$ 18,989,029	\$ 19,017,725
Uses of Funds								
State & Federal Share of Electronic Benefit Transfers (EBT's)	\$ 2,607,332	\$ 3,230,161	23.89%	\$ 6,946,792	\$ 7,394,471	6.44%	\$ 11,417,072	\$ 11,417,072
County Share of Electronic Benefit Transfers (EBT's)	68,070	76,832	12.87%	190,548	206,426	8.33%	315,516	315,516
Operations	1,586,594	1,666,669	5.05%	4,797,656	4,786,710	-0.23%	6,577,637	6,683,483
Total Uses of Funds	\$ 4,261,996	\$ 4,973,662	16.70%	\$ 11,934,996	\$ 12,387,607	3.79%	\$ 18,310,225	\$ 18,416,071
Balance - TOTAL HUMAN SERVICES	\$ 684,633	\$ 120,905	-82.34%	\$ 809,317	\$ 1,084,708	34.03%	\$ 678,804	\$ 601,654
Ending Balance	\$ 4,938,708	\$ 5,779,713	17.03%	\$ 4,938,708	\$ 5,779,714	17.03%	\$ 2,109,470	\$ 2,032,320

REVENUES AND EXPENSES THAT FLOW THROUGH THE STATE ARE ONE MONTH IN ARREARS

Prior Council or Other Entity Actions

The Board of Social Services reviews quarterly human services expenditures.

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If the Board desires to acknowledge the review of social services' expenditures for the period January 1 to September 30, 2024, as presented, the appropriate motion is...

That Resolution 2024-171-BSS be adopted.

Alternatives

As desired by the Board.

RESOLUTION NO. 2024-171-BSS

A Resolution Acknowledging Review of Expenditures and Electronic Benefit Transfers for July, August, and September 2024

Be it resolved by the Board of Social Services of the City and County of Broomfield, Colorado:

Section 1.

The Board of Social Services hereby acknowledges the review of expenditures from the social services fund from January 1, 2024 through September 30, 2024 summarized in Table A, incorporated into the attached memorandum.

Section 2.

This resolution is effective upon its approval by the Board of Social Services.

Approved on December 10, 2024

BOARD OF SOCIAL SERVICES OF THE CITY AND
COUNTY OF BROOMFIELD, COLORADO

Chair

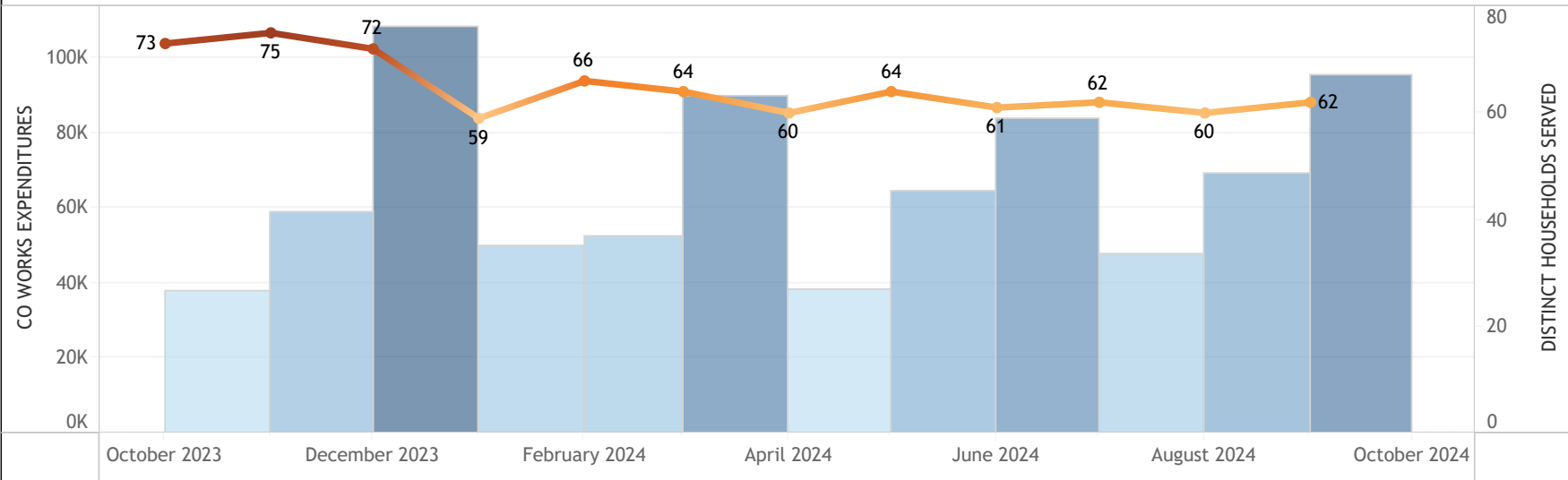
Attest:

Office of the City and County Clerk

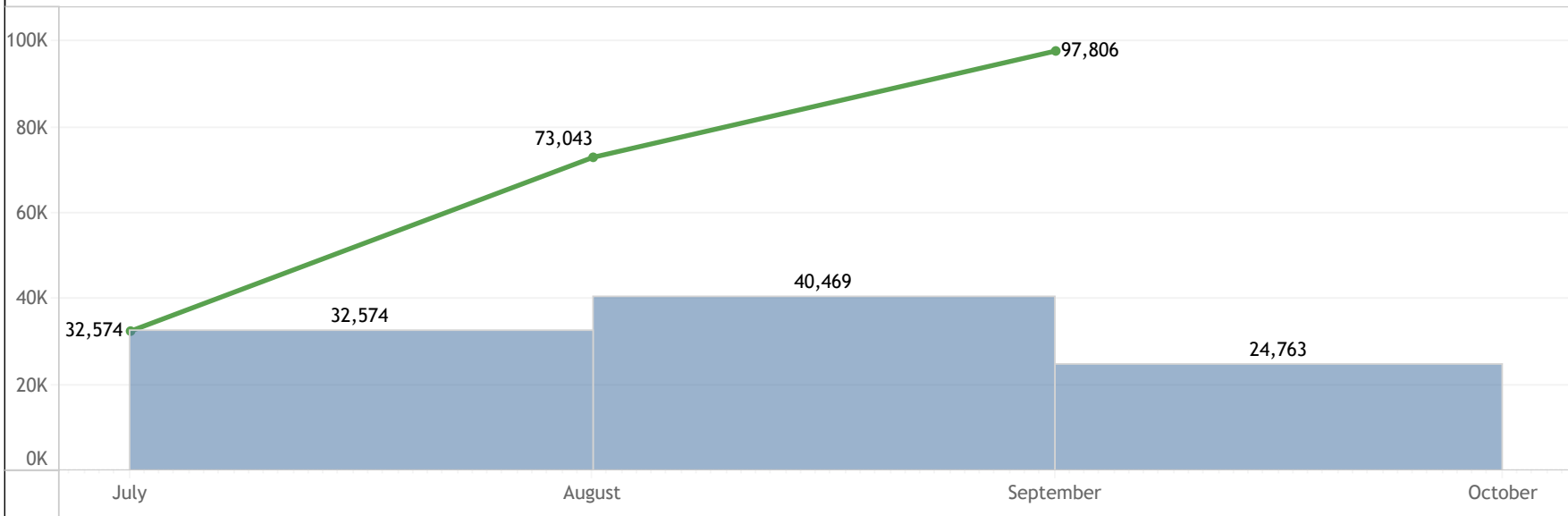
Approved as to form:

City and County Attorney

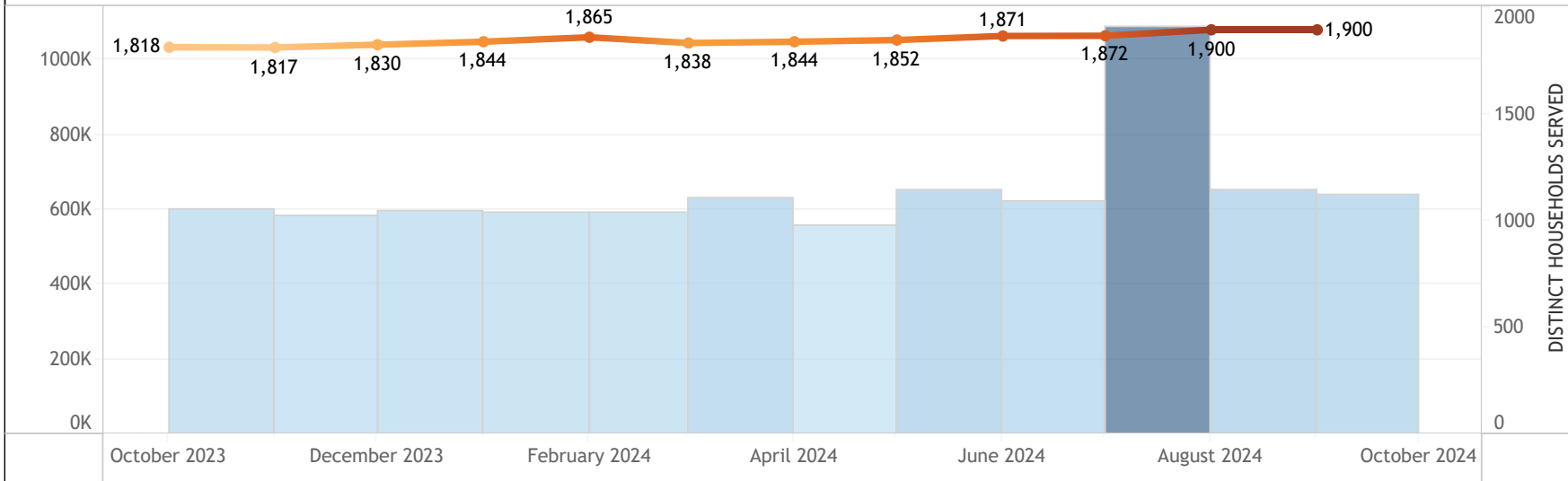
TANF/Colorado Works Expenditures Against Allocation and Distinct Households Served Rolling 12 Months



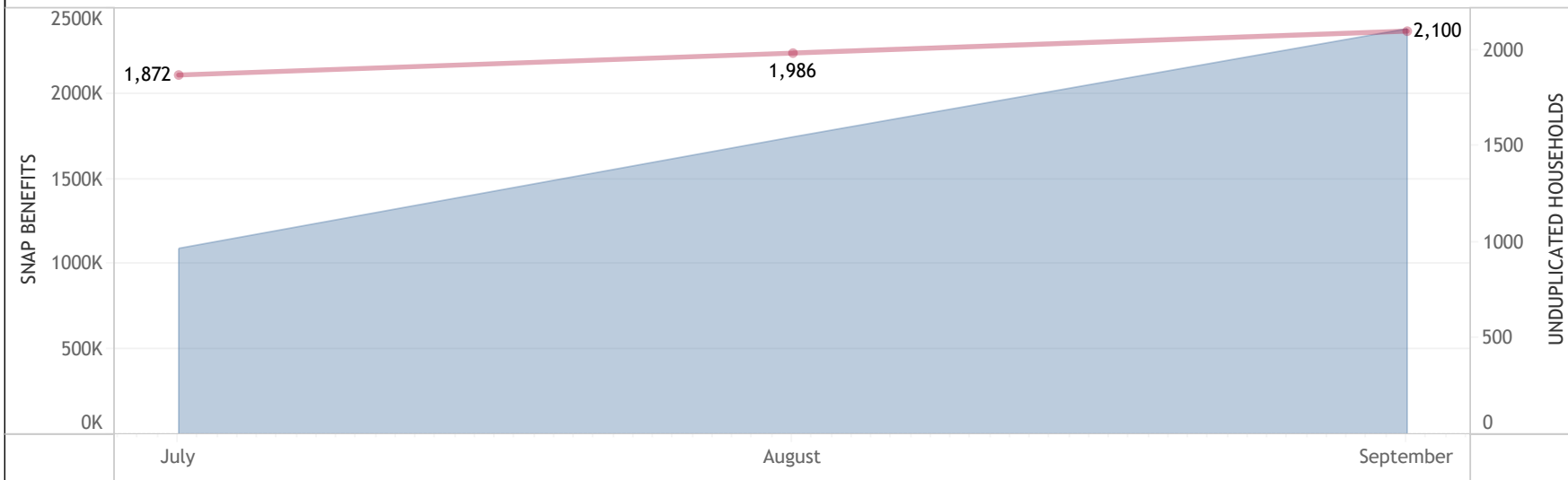
TANF Basic Cash Assistance State Fiscal Year 2024/2025 Actuals & Cumulative



Food Assistance (SNAP) Monthly SNAP Benefit Expenditures & Households Served Rolling 12 Months



Food Assistance (SNAP) Cumulative SNAP Benefit Expenditures & Unduplicated Households Served State Fiscal Year 2024 / 2025



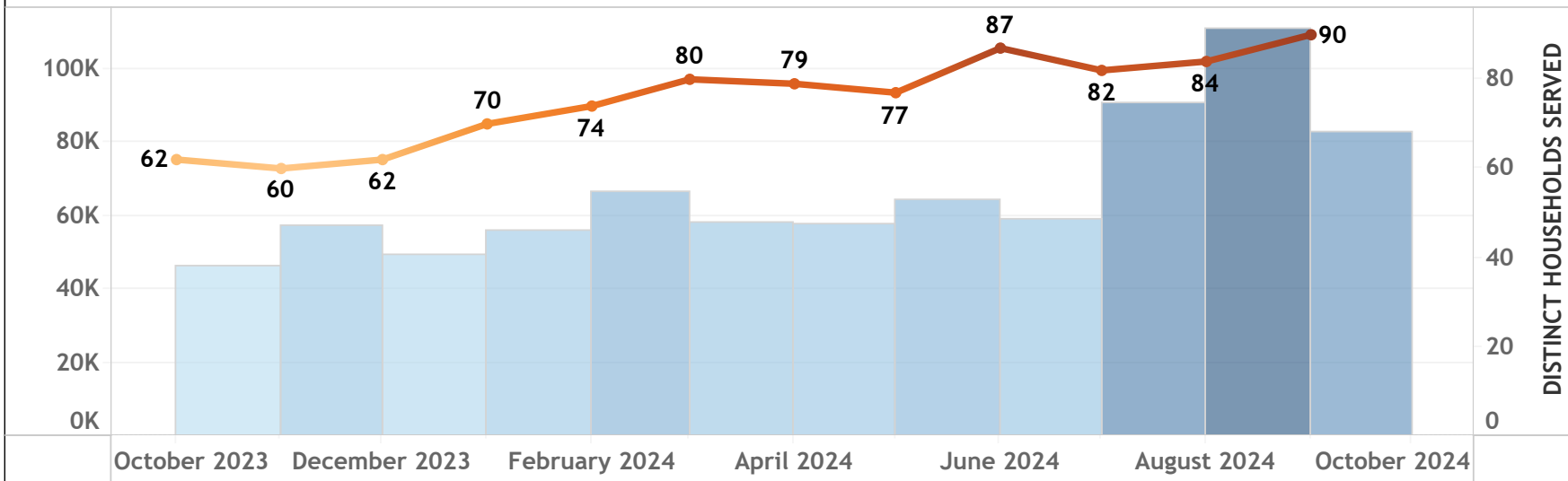
Medical Assistance Households Served State Fiscal Year - 3 Year Comparison



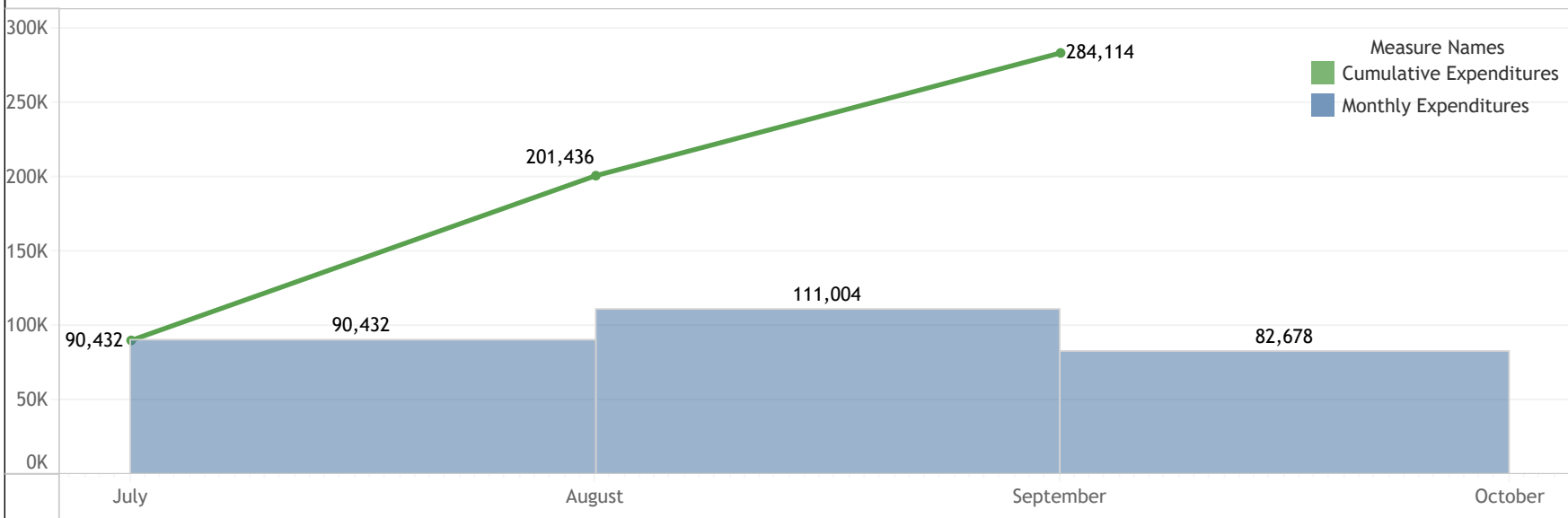
State Fiscal Year

■ 2022/2023
 ■ 2023/2024
 ■ 2024/2025

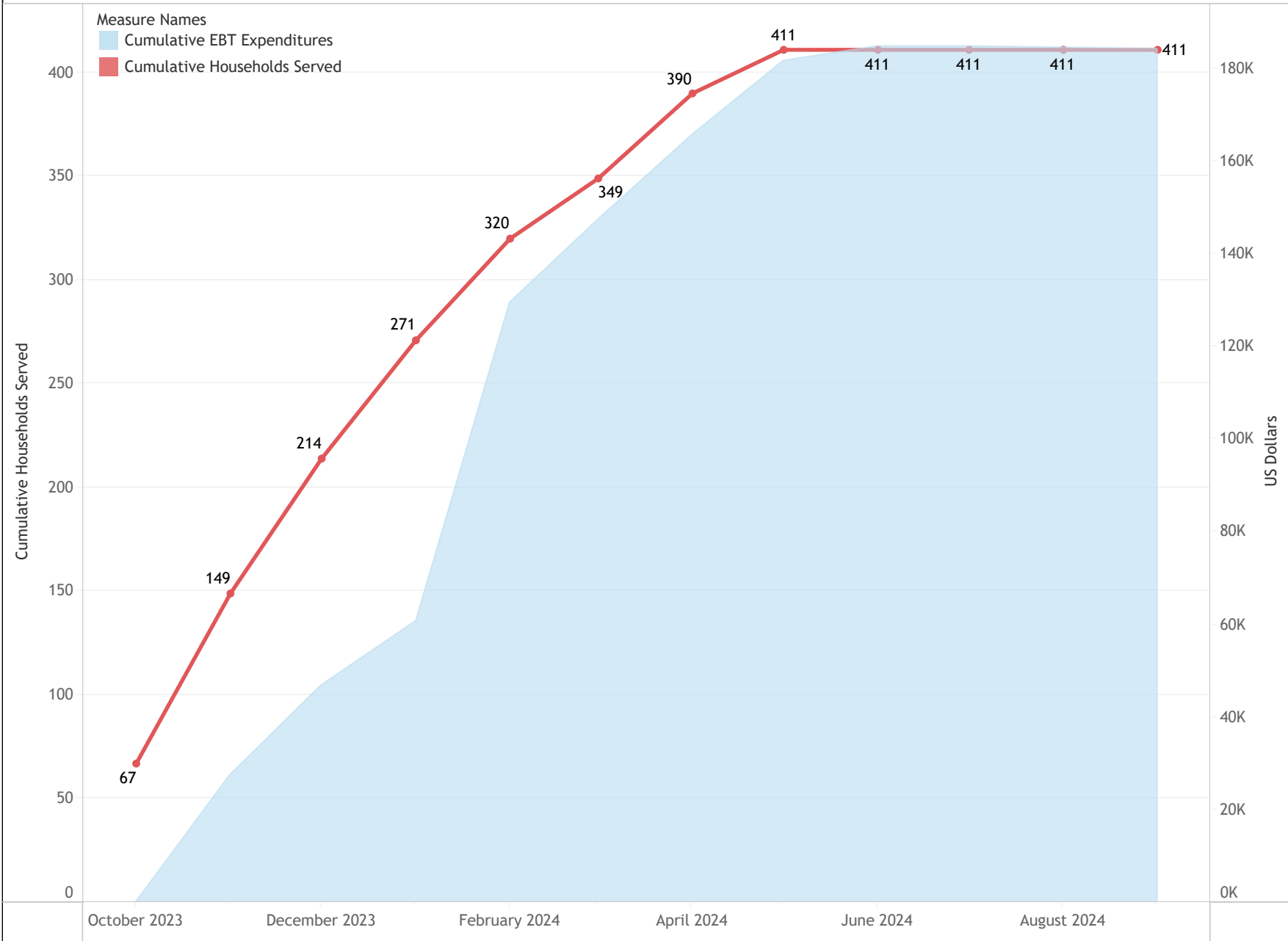
CO Child Care Assistance Program (CCCAP) Monthly Direct Provider Payments & Households Served Rolling 12 Months



CCCAP Direct Provider Payments State Fiscal Year 2024/2025 Actuals & Cumulative



Federal Fiscal Year 23/24 LEAP Season Cumulative Expenditures & Households Served





C. Proposed Resolution for a Revocable Permit for Interlocken Owners' Association, Inc., for the installation of Traffic Security Cameras

Resolution 2024-169

Meeting	Agenda Group
Tuesday, December 10, 2024, 6:00 PM	Consent Items Item: 6C.
Presented By	
Katie Allen	
Community Goals	

Overview

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The Applicant, Interlocken Owners' Association, Inc., is requesting a revocable permit for the installation of Flock safety cameras in public right-of-way in the Interlocken Subdivision.

Chapter XVII, Section 17.9 - Revocable Permits of the Broomfield Charter gives the City Council the ability to grant a permit at any time for the temporary use or occupation of any street, alley, or City-owned place, provided such permit shall be revocable by the Council at its pleasure. City Council has previously approved revocable permits for private landscaping in Broomfield County Club Filing No. 4, a temporary fire station near the Water Reclamation Facility, and a monument sign at the Rocky Mountain Metropolitan Airport.

Attachments

[Memo for Interlocken Owners Association Traffic Security Cameras Revocable Permit.pdf](#)

[Res 2024-169 Interlocken Owners Association Traffic Security Cameras Permit.pdf](#)

[Revocable Permit - Interlocken Owners Assoc - Traffic Cameras.pdf](#)

Summary

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The Applicant, Interlocken Owners' Association, Inc., is requesting a revocable permit for the installation of Flock safety cameras in public right-of-way in the Interlocken Subdivision.

Chapter XVII, Section 17.9 - Revocable Permits of the Broomfield Charter gives the City Council the ability to grant a permit at any time for the temporary use or occupation of any street, alley, or City-owned place, provided such permit shall be revocable by the Council at its pleasure. City Council has previously approved revocable permits for private landscaping in Broomfield County Club Filing No. 4, a temporary fire station near the Water Reclamation Facility, and a monument sign at the Rocky Mountain Metropolitan Airport.

Interlocken Owners' Association is requesting a revocable permit for the installation of traffic security cameras that provide license plate identification for vehicles traveling in the Interlocken subdivision. The Interlocken Owners' Association is a nonprofit organization that exists to govern and address matters of common concern, and the mission is to promote the health, safety, and welfare of the owners and users. In recent years, there has been a surge in crime and several of the building sites within the Association have been victims of blatant and repeated theft. Strategically placed Flock safety cameras provide law enforcement with the ability to investigate crimes that occur within the Association and to receive notifications in real time should any flagged license plate be picked up by the software, which seems to be extremely helpful for law enforcement. The approximate locations of the proposed cameras are shown in this [map](#). The Applicant is proposing the use of cameras by Flock Safety, but the revocable permit is not specific to a single company and allows the Applicant to use any company of their choosing.

The Applicant reviewed the proposed camera locations with the Broomfield Police Department (BPD) which has experience placing these types of cameras in locations to ensure the cameras are able to capture the necessary information. BPD reviewed the proposed locations and requested the cameras be moved onto private property when possible. The approximate locations approved with this revocable permit have been approved by BPD.

If the revocable permit is approved, the Applicant will be responsible for obtaining right-of-way permits through the Engineering Division of Community Development. These permit applications will require detailed drawings and traffic control plans, as required. The cameras are not expected to have a negative impact on public right-of-way and, per the revocable permit, the Applicant is responsible for all maintenance and repair of the cameras. Broomfield is not responsible for any damage or maintenance of the facilities. The applicant must remove the cameras within 30 days following notification from Broomfield.

Proposed Resolution No. 2024-169 would approve the revocable permit for the traffic security cameras in the Interlocken subdivision.

Financial Considerations

There is no financial impact to Broomfield.

Prior Council or Other Entity Actions

N/A

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If Council desires to approve the Revocable Permit, the appropriate motion is...
That Resolution 2024-169 be adopted.

Alternatives

Do not approve the revocable permit agreement.

RESOLUTION NO. 2024-169

A resolution approving a Revocable Permit between the City and County of Broomfield and Interlocken Owners' Association, Inc. for the installation of cameras in the right-of-way

Be it resolved by the City Council of the City and County of Broomfield, Colorado:

Section 1.

Pursuant to the provisions of Section 17.9 of the Broomfield Charter, Council hereby approves the Revocable Permit by and between the City and County of Broomfield and Interlocken Owners' Association, Inc., for the installation of cameras located in the right-of-way within the Interlocken Subdivision.

Section 2.

The Mayor or Mayor Pro Tem is authorized to sign the Revocable Permit, with such technical additions, deletions and variations as the City and County Attorney may deem necessary and appropriate and not inconsistent with this Resolution. The Office of the City and County Clerk is authorized to attest the Agreement if needed.

Section 3.

This resolution is effective upon its approval by the City Council.

Approved on December 10, 2024.

The City and County of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved as to form:

KKH

City and County Attorney

AGREEMENT FOR REVOCABLE PERMIT FOR THE USE AND OCCUPY CITY
OWNED PROPERTY LOCATED WITHIN THE INTERLOCKEN SUBDIVISION FOR
THE INTERLOCKEN OWNERS' ASSOCIATION, INC.

1.0 PARTIES. The parties to this Agreement for Revocable Permit (this "Agreement") are the City and County of Broomfield, a Colorado municipal corporation and body politic and corporate of the State of Colorado (the "City"), and the Interlocken Owners' Association, Inc., a Colorado nonprofit corporation (the "Permittee"), collectively, the "Parties," or individually, a "Party."

2.0 RECITALS AND PURPOSE.

2.1. The City owns that certain property as more particularly described on **Exhibit A** (the "Property") which represents right-of-way located within the Interlocken Subdivision.

2.2. The Permittee desires to access the City property for the purpose of constructing and installing automated license plate recognition devices as indicated on **Exhibit B**, attached hereto and incorporated herein (the "Facilities").

2.3. The City desires to grant a revocable permit to the Permittee under the terms and conditions as provided in this Agreement.

3.0 TERMS AND CONDITIONS. For and in consideration of the mutual covenants and promises contained herein, the sufficiency of which is acknowledged, the Parties agree as follows:

3.1. Grant of Permit. The City hereby grants to the Permittee a revocable permit for right to construct, maintain, operate, repair, inspect, remove and replace the Facilities, as depicted on **Exhibit B** within the Property as described herein until such permit is terminated as provided herein (the "Revocable Permit"). The Permittee acknowledges and agrees that the City currently uses and intends to continue to the use the Property for right-of-way purposes, and the rights granted to the Permittee for use of the Property are subject to the rights of the City to use the Property for a public road, shoulder, snow or material storage, drainage, or other purposes as permitted by law which the City expressly reserves.

3.2. Construction and Alterations. The Permittee agrees to construct and install the Facilities on the Property at the expense of the Permittee. The Permittee shall not begin any construction or installation of the Facilities on the Property until the Permittee first provides the City with plans and specifications, and such plans and specifications have been approved by the City. In addition, the Permittee shall obtain any other permits required

for the construction or repair, including but not limited to a Public/Private Improvement Permit, as applicable. If the Permittee's construction and installation requires any deviation in any manner from the approved plans and specifications, the Permittee shall notify and obtain prior written approval from the City for any changes in advance of any construction or alteration. Any damage to existing facilities located on the Property as a result of the Permittee's construction or alteration of the Facilities shall be paid for by or repaired at the expense of the Permittee. These provisions shall also apply to any other work involving the maintenance, operation, repair, inspection, removal, replacement, or relocation of the Facilities on the Property. After initial construction of the Facilities and thereafter, in the event of resettling, the Permittee shall restore the surface of the Property by grading and compacting any irregularities, reseeding, and/or revegetation as required to restore original conditions, as applicable.

- 3.3. Maintenance and Repair. The Permittee agrees to maintain and repair the Facilities placed on the Property at the expense of the Permittee and in accordance with Section 3.2 above. The Permittee agrees that the City is not and will not assume any liability, responsibility, or costs for any damage or maintenance to any Facilities erected by the Permittee on the Property under this Agreement.
- 3.4. Prior Rights. This Agreement and the revocable permit is issued subject to any prior permits, easements, leases or other rights granted by the City, or its predecessors, for improvements of other parties. The City reserves the right to permit others to install improvements in, on, under, or along the Property. The Permittee acknowledges that utilities may be located in and under the Property. The Permittee is advised to contact the Utility Notification Center of Colorado (1-800-922-1987) at least two (2) working days prior to the commencement of construction on the Property to arrange for field locating of utility facilities which may affect the Property.
- 3.5. Termination. The use and occupancy described herein shall continue from the date of this Agreement to the time that this Agreement is terminated. The City may terminate this Agreement at any time by giving written notice to the Permittee ten days in advance of the effective date of termination and specifying the date of termination therein. Upon termination of this Agreement by the City pursuant to this section, Permittee shall, at its expense and within thirty (30) days after the specified termination date, remove the Facilities from the Property and restore the general surface of the Property, as nearly as may reasonably be, to the grade and conditions it was immediately prior to the placement of the Facilities on the Property. The Permittee shall obtain any permits required for the removal of the Facilities, including but not limited to a Public/Private Improvement Permit, as applicable. If the Permittee fails to promptly remove all of its Facilities from the Property within sixty (60) days after termination of this

Agreement, the City may, but is not required to, remove the Facilities from the Property after fifteen (15) days prior written notice to the Permittee (without any liability to the Permittee for any damage to such Facilities which may result from reasonable efforts at removal), and the Permittee shall pay to the City on demand any and all reasonable costs incurred by the City in removing such Facilities. The City has no obligation to store any of the Facilities, if applicable, and the Permittee shall have no claim if the City destroys the Facilities if it is not removed by the Permittee as provided herein.

- 3.6. Release. The Permittee agrees that it will never institute any action or suit at law or in equity against the City or any of its officers or employees, nor institute, prosecute, or in any way aid in the institution or prosecution of any claim, demand, or compensation for or on account of any damages, loss, or injury either to person or property, or both, known or unknown, past, present or future, arising from this Agreement and the Revocable Permit granted to Permittee. The Permittee hereby releases and absolves the City, its agents and employees, from any liability for any damage to any of the Facilities on the Property that may be caused by City construction or maintenance operations, or any other reason, including, but not limited to, removal, piling and plowing of snow, and from any liability for any injury or damage incurred by the Permittee in their use of the Facilities on the Property. This release is part of the consideration for this Agreement.
- 3.7. Indemnification. The Permittee expressly agrees to indemnify, defend and hold harmless the City and any of its officers or employees from any and all claims, demands, damages, court awards, including any costs and attorney's fees, that are or may be awarded as a result of any loss, injury or damage sustained or claimed to have been sustained by anyone, or any liability whatsoever from or, arising out of, the execution of this Agreement by the Parties, or the presence of the Facilities or the use of the Facilities by the Permittee, its employees or agents.
- 3.8. Insurance. To assure the City that the Permittee is always capable of fulfilling specified indemnification obligations, the Permittee shall purchase and maintain insurance of the kind and in the amounts required by the City, from an insurer with an AM Best FSR rating of A- or higher as more particularly set forth on **Exhibit C**. To the extent the Permittee has another party perform any of its obligations under this Agreement, the Permittee shall require the same insurance of such contractor, consultant or other party completing the work. Current proof of such insurance is attached at **Exhibit C**, incorporated by this reference. However, proof of insurance attached as **Exhibit C** shall not be deemed to limit or define obligations of Permittee as provided elsewhere in this Agreement, and Permittee should

4.0 ASSIGNMENT. This Agreement shall not be assigned by Permittee without the prior written consent of the City, which may withhold its consent for any reason.

5.0 NOTICES. Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by certified mail or registered mail, postage and fees prepaid, addressed to the party to whom such notice is to be given at the address set forth below, or at such other addresses as have been previously furnished in writing, to the other party or parties.

If to the City:

City and County of Broomfield
Attn: City Manager
Address: One DesCombes Drive, Broomfield, CO 80020

If to the Permittee:

Interlocken Owners' Association, Inc.
Attn: Kevin Holdren
Address: 11002 Benton St, Westminster, CO 80020

Such notice shall be deemed to have been given when deposited in the United States Mail.

6.0 INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect. The City and County Manager is delegated authority to enter into amendments to this Agreement.

7.0 COMPLIANCE WITH THE LAWS. The Permittee shall observe and comply with all applicable laws, including but not limited to federal, state and local laws, regulations, rules or ordinances that affect this Agreement and those employed or engaged by the Permittee.

8.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado. Venue for any legal action related to this Agreement shall lie in the District Court, Broomfield County, Colorado.

9.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be constructed as a waiver of any subsequent breach by either Party.

10.0 BINDING EFFECT. This Agreement shall inure to the benefit or, and be binding upon, the Parties, their respective legal representatives, successors, heirs, and

- 8.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado. Venue for any legal action related to this Agreement shall lie in the District Court, Broomfield County, Colorado.
- 9.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.
- 10.0 BINDING EFFECT. This Agreement shall inure to the benefit or, and be binding upon, the Parties, their respective legal representatives, successors, heirs, and assigns; provided, however, that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.
- 11.0 EXHIBITS. All exhibits referred to in this Agreement are by reference incorporated herein for all purposes.
- 12.0 PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.
- 13.0 ADDITIONAL DOCUMENTS OR ACTION. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.
- 14.0 NO THIRD PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a party hereto.
- 15.0 NO PRESUMPTION. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.
- 16.0 EXECUTION; ELECTRONIC SIGNATURES. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument. This Agreement shall not be binding upon any Party hereto unless and until the Parties have executed this Agreement. The Parties approve the use of electronic signatures for execution of this Agreement.

[The remainder of this page is intentionally left blank.]

This Agreement is executed by the Parties hereto in their respective names as of December 10, 2024.

THE CITY AND COUNTY OF BROOMFIELD,
a Colorado municipal corporation & body politic
and corporate of the State of Colorado

Mayor

ATTEST:


City and County Clerk

APPROVED AS TO FORM:

City and County Attorney's Office

PERMITTEE:


Interlocken Owners' Association, Inc., a
Colorado nonprofit corporation

By:  *For the
Interlocken
Board of Directors*
Name: Kevin Holden
Its: Community Manager

STATE OF COLORADO)
) ss
COUNTY OF)

The foregoing instrument was acknowledged before me this 25th day of November, 2024 by Kevin Holden as manager of the Interlocken Owners' Association, Inc.

Witness my hand and official seal.



Notary Public

[SEAL]

KRISTEN N KENNEDY
NOTARY PUBLIC
STATE OF COLORADO
NOTARY ID 20194021134
MY COMMISSION EXPIRES JUNE 05, 2027

Exhibit A

Legal Description of Revocable Permit Area

See Next Page for Legal Descriptions/Locations

flock safety

C0 - Interlocken 0A

LICENSE PLATE READER CAMERA INSTALLATION

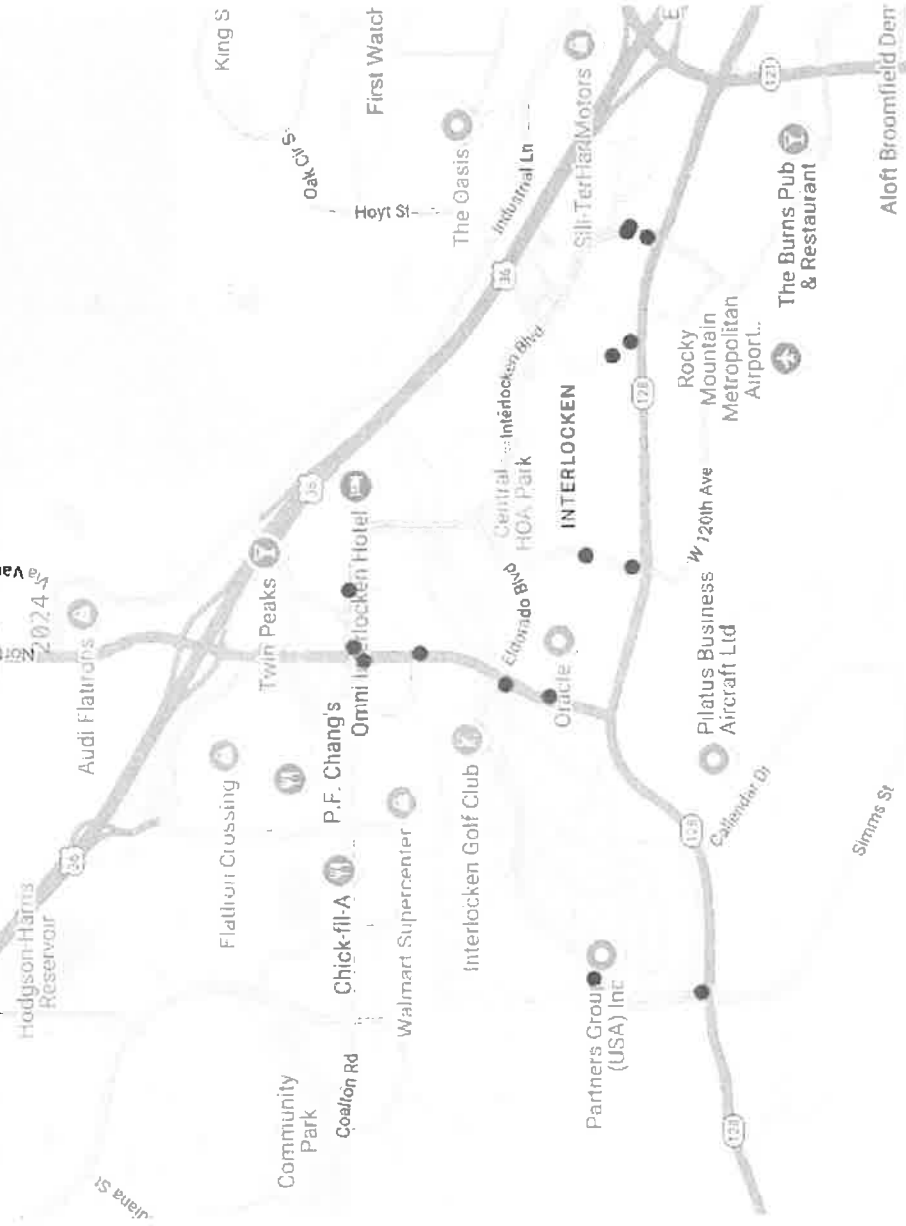


Exhibit A
Installation Locations

Google

Map data ©2024 Google Report a map error

EXHIBIT B

Facilities

[See attached.]

Exhibit B Facilities

DESIGN NOTES

- POLE AND FOUNDATIONS ARE DESIGNED IN ACCORDANCE WITH THE FOLLOWING CODES
 - 2009/01/20/15/2018/2021 INTERNATIONAL BUILDING CODE
 - ASBESTO-FIBROUS FIBERGLASS REINFORCED PLASTIC (FRP) SUPPORT FOR HIGHWAY SIGNS, LUMIN, TRAFFIC SIGNALS, 2016 EDITION
- POLE ANALYSIS AND FOUNDATION DESIGN ARE BASED ON THE FOLLOWING CRITERIA
 - DESIGN WIND SPEED (WSP) (SEE SECTION 2.0)
 - RISK CATEGORY: II
 - EXPOSURE CATEGORY: C
 - TOPOGRAPHIC CATEGORY: I
 - SEISMIC DESIGN CRITERIA
 - SOIL SITE CLASS: D (ASSUMED)
 - SPECTRAL RESPONSE SK: 1.0000 (MAXIMUM)
 - SPECTRAL RESPONSE ST: 0.4075 (MAXIMUM)
 - SEISMIC DESIGN CATEGORY: B
 - STRUCTURE BASE REACTIONS ARE CALCULATED AS FOLLOWS:

DESIGN WIND SPEED (WSP)	WIND DIRECTION	WIND SPEED	WIND DIRECTION	WIND SPEED
115	195°	270	345°	0.100
115	195°	315	170°	0.100
115	195°	135°	345°	0.100

- SHOULD ANY OF THE SITE-SPECIFIC PARAMETERS BE HIGHER THAN WHAT IS NOTED ABOVE, THE EOR SHALL BE CONTACTED TO PROVIDE A REVISED DESIGN.
- CONTRACTOR IS RESPONSIBLE FOR VERIFYING SOIL CONDITIONS PRIOR TO INSTALLATION.
- FOUNDATION TO CONSIST OF CONCRETE SURROUNDING THE PROPOSED POLE WITH A MINIMUM OF 3,000-PSI COMPRESSIVE STRENGTH.

GENERAL & CONSTRUCTION NOTES

- CONTRACTOR SHALL CONTACT DESIGNATED AGENCY TO LOCATE ALL UNDERGROUND UTILITIES PRIOR TO CONSTRUCTION.
- CONTRACTOR SHALL APPLY AND OBTAIN AN APPROVED TRAFFIC CONTROL PLAN IN ACCORDANCE WITH MUTCD AND LOCAL JURISDICTION STANDARDS.
- CONTRACTOR SHALL RESTORE ALL DISTURBED AREAS TO ORIGINAL SITE CONDITION TO THE SATISFACTION OF STATE DEPARTMENT OF TRANSPORTATION AND LOCAL JURISDICTION.
- ALL WORK SHALL CONFORM TO APPLICABLE ELECTRICAL CODES EXCEPT WHEN STATE DEPARTMENT OF TRANSPORTATION OR LOCAL JURISDICTION STANDARDS SUPERSEDE.
- ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH SPECIFICATIONS DERIVED BY THE STATE DEPARTMENT OF TRANSPORTATION OR LOCAL JURISDICTION, UNLESS SPECIFICALLY STATED OR SHOWN OTHERWISE HEREIN.

ADA COMPLIANCE NOTES

- ALL SIDEWALK CONSTRUCTION SHALL BE IN ACCORDANCE WITH ADA TITLE II, STATE DEPARTMENT OF TRANSPORTATION, AND LOCAL JURISDICTION STANDARDS.
- STATE DEPARTMENT OF TRANSPORTATION CURRENT EDITION STANDARDS SHALL BE USED FOR PEDESTRIAN CONTROL PLANS WHEN CLOSURE OF SIDEWALK IS REQUIRED FOR CONSTRUCTION.
- MINIMUM CLEAR PEDESTRIAN ACCESS ROUTE (PAR) SHALL BE 6' WIDE.
- NO CONSTRUCTION IS PERMITTED ALONG THE WIDTH OF THE SIDEWALK UP TO AN ELEVATION OF 7'-0" ABOVE GRADE.

1 POLE ELEVATION DETAIL
SCALE: N/A

THIS SHEET IS A PERMANENT RECORD SHEET.

CO - Interlocken Owners Association
00403164

Flock Safety
1170 HOWELL MILL ROAD SUITE 210
ATLANTA, GA 30318

REV	DATE	BY	DESCRIPTION
0	11/14/2024	FLK	PRELIM

THIS SHEET IS A PERMANENT RECORD SHEET. IT IS THE RESPONSIBILITY OF THE USER TO VERIFY ALL DATA AND EXISTING SURROUNDING FACILITIES TO VERIFY A CONFLICTS ABOVE & BELOW GRADE. ALL CONSTRUCTION TO FOLLOW COLORADO DEPARTMENT OF TRANSPORTATION AND LOCAL JURISDICTION STANDARDS. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH SPECIFICATIONS DERIVED BY THE STATE DEPARTMENT OF TRANSPORTATION OR LOCAL JURISDICTION, UNLESS SPECIFICALLY STATED OR SHOWN OTHERWISE HEREIN.

LINE SCALE: 1" = 10'-0" (VERTICAL) 1" = 10'-0" (HORIZONTAL)

LICENSE PLATE READER CAMERA INSTALLATION
CASE NUMBER: 08403164
PERMITTING JURISDICTION: Boulder (City of), Right-of-Way

COVER SHEET & LOCATION MAPS
SHEET: 0
SPEC: 0

THIS DOCUMENT HAS BEEN DOWNLOADED OFF THE MOST RECENT AVAILABLE DATA. A FURTHER MAINTENANCE FIRM INCLUDES IN THE RIGHT OF WAY, EXISTING UTILITIES, A PRIVATE PROPERTY LABEL, IT REMAINS THE RESPONSIBILITY OF THE USER TO VERIFY ALL DATA AND EXISTING SURROUNDING FACILITIES TO VERIFY A CONFLICTS ABOVE & BELOW GRADE. ALL CONSTRUCTION TO FOLLOW COLORADO DEPARTMENT OF TRANSPORTATION AND LOCAL JURISDICTION STANDARDS. ALL CONSTRUCTION SHALL BE IN ACCORDANCE WITH SPECIFICATIONS DERIVED BY THE STATE DEPARTMENT OF TRANSPORTATION OR LOCAL JURISDICTION, UNLESS SPECIFICALLY STATED OR SHOWN OTHERWISE HEREIN.

EXHIBIT C
Insurance Requirements

**CITY and COUNTY of BROOMFIELD INSURANCE REQUIREMENTS - Including
GL/Auto/WC**

1. All insurers must be licensed or approved to do business within the State of Colorado.
2. Contractor/Vendor's insurance carriers should have an A.M. Best Company rating of at least A- VII.
3. Additional Insured - City and County of Broomfield, its officers, board members, agents, employees and volunteers acting within the scope of their duties for the City and County of Broomfield shall be named as Additional Insured on all Commercial General Liability and Automobile Liability Insurance policies (construction contracts require Additional Insured coverage for completed operations).
4. Primacy of Coverage – Coverage required of Contractors and Subcontractors shall be primary and non-contributory to any insurance carried by the City and County of Broomfield.
5. All subcontractors must meet the same insurance requirements for the Contract or Purchase Order unless Risk Management has approved a deviation.
6. Subrogation Waiver – All insurance policies required under this Contract maintained by Contractor or its Subcontractors shall waive all rights of recovery against City and County of Broomfield, its officers, board members, agents, employees and volunteers acting within the scope of their duties for the City and County of Broomfield.
7. Cancellation, Change in Coverage or Limits– The above insurance policies shall include provisions preventing cancellation, non-renewal, or reduction in coverage or limits of any insurance, without at least 30 days prior notice to Contractor/Vendor and Contractor/ Vendor shall forward such notice to within seven days of receipt of such notice.
8. Certificates – Contractor and all Subcontractors shall provide certificates showing insurance coverage required hereunder to the City and County of Broomfield within 5 days of:
 - a. the effective date of the Contract
 - b. the expiration date of any coverage
 - c. a request by the City and County of Broomfield
9. Separation of Insureds. All insurance policies shall include coverage for cross liability and contain a "Separation of Insureds" provision in the general liability policy.
10. City and County of Broomfield in no way warrants that the limits required herein are sufficient to protect the Contractor/Vendor from liabilities that may arise out of the performance of the work under this Contract by the Contractor, its agents, representative, employees or subcontractors. The Contractor is not relieved of any liability or other obligations assumed or pursuant to the Contract by reason of its failure to obtain or maintain insurance in sufficient amounts, duration or type.
11. All parties understand and agree that the City and County of Broomfield is relying on, and does not waive or intend to waive by any provision of this Contract, the monetary limitations, immunities, protections or any other rights provided by the Colorado Governmental Immunity Act.
12. The City and County of Broomfield reserves the right to negotiate additional specific insurance requirements at the time of the Contract.
13. The City and County of Broomfield and Contractor shall cooperate with each other in the collection of any insurance proceeds which may be payable in the event of any loss, including the execution and delivery of any proof of loss or other actions required to effect recovery.

Vendor/Contractor/Subcontractor shall obtain and maintain, at its own expense and for the duration of the contract including any warranty periods under which the Contract are satisfied, the following:

Insurance Requirements - GL/Auto/WC		
	COVERAGES AND LIMITS OF INSURANCE	Required
1.	<p>Commercial General Liability</p> <ul style="list-style-type: none"> Commercial General Liability insurance covering all operations by or on behalf of the contractor/vendor on an occurrence basis against claims for bodily injury, property damage (including loss of use), advertising liability, products and completed operations, and contractual liability. <p>Note: For contracts involving vendor/contractor contact with minors or at risk adults Sexual Abuse and Misconduct Coverage should be included in the coverage requirements.</p>	<p>Minimum Limits:</p> <ul style="list-style-type: none"> \$1,000,000 Each Occurrence \$2,000,000 General Aggregate (Per project aggregate for construction contracts) \$2,000,000 Products/Completed Operations Aggregate (for construction projects, this coverage should be maintained for a minimum of 3 years from the end of the project)
2.	<p>Automobile Liability</p> <ul style="list-style-type: none"> Automobile Liability Insurance covering any auto (including owned, hired and non-owned autos). 	<p>Minimum Limit:</p> <ul style="list-style-type: none"> \$1,000,000 each accident combined single limit. If hazardous materials are transported, an MCS 90 form shall be included on the policy.
3.	<p>Workers' Compensation</p> <ul style="list-style-type: none"> Workers' Compensation Insurance as required by State statute, covering all Vendors/Contractors employees acting within the course and scope of their employment. <p>Employer's Liability with:</p> <p>Note: This requirement shall not apply when a contractor or subcontractor is exempt under the Colorado Workers' Compensation Act AND when such contractor or subcontractor provides an appropriate sole proprietor letter.</p>	<p>Employer's Liability with Minimum Limits:</p> <ul style="list-style-type: none"> \$100,000 Each Accident \$100,000 Each Employee by Disease \$500,000 Disease Aggregate
<p>Additional Insured - The following shall be named an Additional Insured: The City and County of Broomfield, its officers, board members, agents, employees and volunteers acting within the scope of their duties for the City and County of Broomfield shall be named as Additional Insured on all Commercial General Liability, Umbrella Liability and Automobile Liability Insurance policies (construction contracts require Additional Insured coverage for completed operations). A Waiver of Subrogation is provided in favor of the Additional Insureds as respects to all policies.</p> <p>Certificate Holder is: City and County of Broomfield One DesCombes Drive Broomfield, CO 80020-2495 certificates@broomfield.org</p>		

Any deviations below the standards given above must be approved by the City and County of Broomfield's Risk Management office. Please direct any questions to RiskManagement@broomfield.org



D. Ordinance Approving A Business Incentive Agreement with Peak Energy- First Reading

Meeting	Agenda Group
Tuesday, December 10, 2024, 6:00 PM	Consent Items Item: 6D.
Presented By	
Jeffrey Schreier	
Community Goals	
<input checked="" type="checkbox"/> Financial Sustainability and Resilience	

Overview

[View Correspondence](#)

[View Presentation](#)

Broomfield has built and maintained a strong, balanced tax base (Community Goal 1: Financial Sustainability and Resilience, Indicator 1.D), through balancing residential and business development and growth. To support business success and growth, efforts range from supporting and growing a productive, talented workforce, supporting commercial development matching current demands and next-generation needs for workspace, and maintaining a focus on reasonable, reliable business costs in providing quality services and effective infrastructure. Ordinance No. 2262 would approve a Business Incentive Agreement for Peak Energy Technologies Inc.

Attachments

[Memo for Ordinance No 2262 Approving A Business Incentive Agreement with Peak Energy-1st Reading.pdf](#)

[Ordinance No. 2262 - Approving A Business Incentive Agreement With Peak Energy - 1st Reading.pdf](#)

[Peak Energy Business Investment Agreement \(1\).pdf](#)

Summary

[View Correspondence](#)

[View Presentation](#)

[Peak Energy Technologies Inc.](#), is planning to expand with a \$1.2 million capital investment at a new location within Broomfield at 100 Technology Drive. The expansion and the anticipated growth will increase job opportunities, deepen private investment, further diversify the local economy, and grow the tax base; and thus, increase annual tax revenues. Ordinance 2262 would approve a business incentive agreement with Peak Energy Technologies Inc. The agreement is limited to total reimbursement of tax revenues paid by the business for the location and establishment of the research and development facility, with a maximum amount of up to \$50,000.

Broomfield has built and maintained a strong, diversified tax base ([Community Goal 1: Financial Sustainability and Resilience, Indicator 1.D](#)), through balancing residential and business development and growth. To support business success and growth, our continuing efforts range from developing a productive, talented workforce, supporting commercial development matching current demands and next-generation needs for workspace, and maintaining a focus on reasonable, reliable business costs in providing quality services and effective infrastructure.

Businesses are facing several challenges as they strive to meet customer demands, innovate new products and services, and support their employees and their families. Business decisions, on where and when to locate and grow, are increasingly being influenced by preferences and behavior choices of future employees. Broomfield programs and services align with these factors, including ensuring a range of housing choices (access, location, and costs), transportation mobility, workforce development, education programs, and opportunity. The staff works closely with commercial developers to encourage new and redeveloped workspaces to increase the amount and type of spaces. These work efforts include work with the owners and developers of Simms Technology Park, Baseline, and existing buildings and spaces around West Midway and Interlocken.

Balancing the cost of doing business while making strategic investments in infrastructure and services continues to be a primary goal and outcome for Broomfield, area, and state leaders. Like other communities in the Denver metro, Broomfield occasionally provides business incentive agreements to specific businesses in targeted business sectors as a means to maintain and strengthen our local economy and tax base.

Earlier in 2024 Council approved incentive agreements for La Belle Bakery and SiNaptic Tech, bringing the total number of business incentive agreements to fourteen ([2024 Budget, Table 19M](#), page 92), with six expiring (four receiving final payment) this year. These previous agreements range from supporting Ball Aerospace's new Technology and Research facility and operations (approved in 2020, a total commitment of \$2.65M) to the Residence Inn/Fairfield Suites (approved in 2016, a total commitment of \$52,590).

Broomfield's approach to business incentive agreements has followed a consistent model, with the terms of the agreement requiring specific performance related to new investment, employment, and taxes generated, which is demonstrated through employment certification and tax payments. Upon receipt of the tax payment, a portion of the generated taxes are then remitted to the company. Both the specific application of taxes (sales and use, real (Ad Valorem) property, and business personal property) and the shares are prescribed in the agreement.

Broomfield has generally capped the share of the tax revenue remitted in a direct business incentive agreement to less than fifty percent (50%) of the new taxes generated, and generally limits the agreements to a 10-year reimbursement period. As a note, development support agreements (such as the Baseline Managed Growth and Development Agreement (MGDA) and the Broomfield Town Square Redevelopment and Reimbursement Agreement (BTS RRA)) may have different approaches and terms.

Incentive Agreement for Peak Energy Technologies

Ordinance 2262 would approve a business incentive agreement with [Peak Energy Technologies Inc.](#), who will expand into and grow in Broomfield. The expansion and the anticipated growth will increase job opportunities, deepen private investment, further diversify the local economy, and grow the tax base; and thus, increase annual tax revenues.

Peak Energy Technologies Inc., has signed a lease for roughly 13,000 square feet of space at 100 Technology Drive for a research and development facility. This is the first phase in their plan to expand their business, with the company also searching for sites to locate their full-scale production facility in Colorado after securing \$55 million in Series A funding. Peak Energy Technologies Inc. is a developer of low cost, sodium-ion batteries to be utilized for storage on the grid for various green energy applications like solar and wind energy. Peak Energy has assembled a team that has decades of expertise scaling giga-level innovation at Tesla, Northvolt, Sunpower, Fluence, and Enovix. The business will host 20 employees in Broomfield at their research and development facility. The current capital investment is projected to be \$1.2 million at this location along with improvements to the facility.

The proposed business investment agreement is limited to total reimbursement of tax revenues paid by the business for the location and establishment of the research and development facility, with a maximum amount of up to \$50,000. The agreement is structured to support the company's opportunity to receive support from Colorado's Office of Economic Development and International Trade (OEDIT), and thus is for a 5-year tax payment period (2025-2029). This agreement includes:

- partial reimbursement of fifty percent (50%), of company's payments made for permit fees relating to the site improvements;
- partial reimbursement of seventy five percent (75%), of the company's payment made for the general fund portion (3.5%) of Broomfield's use tax remitted by the company, or its contractors; and
- partial rebate, sixty-six percent (66%), of the business personal property taxes remitted by the company for the City and County of Broomfield portion of the business personal property taxes.

Business support (incentive) agreements are approved by ordinance. The agreement is a pledge by Broomfield to reimburse a business all or a portion of the sales, use, and personal property taxes generated by the taxable activity of the business over multiple years, thereby creating an indebtedness requiring approval by ordinance, per the City and County Attorney.

Financial Considerations

As shown in the sources and uses of funds summary below, the sources of funds are taxes owed to and paid to the City and County of Broomfield (does not include any taxes collected by the City and County of Broomfield Treasurer on behalf of and paid to other governmental organizations). The payments will be authorized and made, per the agreement, under the approval of the annual budgets.

Sources and Uses of Funds	Amount
Peak Energy Technologies Inc. Use Tax, Real and Business Personal Property Tax Payments (estimated 2025-2029)	\$175,000
Peak Energy Technologies Inc. (sharing agreement, maximum)	\$50,000
Projected Balance	\$125,000.00

Prior Council or Other Entity Actions

N/A

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If Council desires to proceed with the incentive agreement and provide business support through reimbursement of a share of added property, sales/use taxes, and some permit fees derived from the location and expansion of the specific business, it is recommended...

That Ordinance 2262 be adopted on first reading and ordered published in full.

If adopted on first reading, a second reading and public hearing for Ordinance 2262 will be scheduled for January 14, 2025.

Alternatives

Do not approve Ordinance 2262, to provide business support through reimbursement of a share of added property and sales/use taxes derived from the location and expansion of the specific businesses.

ORDINANCE NO. 2262

An Ordinance Approving A Business Incentive Agreement with Peak Energy Technologies, Inc.

Recitals.

Whereas, Broomfield has built and maintained a strong, balanced tax base through balancing residential and business development and growth.

Whereas, in order to attract, grow and retain businesses within the community, Broomfield occasionally provides business incentives to specific businesses in targeted business sectors.

Whereas, the benefits of expanding and relocating businesses within Broomfield include an increase in employment and wage earning opportunities for residents and an increase to local tax revenue from real and personal property, lodgers and sales and use taxes.

Whereas, Broomfield is intentionally limited in its use of business incentives to support businesses. Business incentive agreements are performance based, with a reimbursement to the recipient company from collected revenues resulting from the business's taxable activity over a period of up to ten years.

Whereas, the revenues subject to reimbursement pursuant to a business incentive agreement may include sales taxes, use taxes and personal property taxes paid by the business to Broomfield. Business incentives do not include tax revenues collected by Broomfield on behalf of other governmental entities.

Whereas, the City has determined that supporting the growth of local businesses and the relocation or expansions of selected businesses to Broomfield is in the best interest of the City, serves the public interest, and benefits the public.

Whereas, pursuant to Section 6.4 of the Home Rule Charter, every act making an appropriation, creating an indebtedness, authorizing borrowing of money, levying a tax, establishing any rule or regulation for the violation of which a penalty is imposed, or placing a burden upon or limiting the use of private property, shall be by ordinance.

Whereas, Chapter 3-40 of the Broomfield Municipal Code authorizes the City Council to enter into an agreement to provide all or a portion of Broomfield's retail sales and use tax revenue generated by taxable activity to be used to provide incentives to attract individual retail or commercial businesses to Broomfield.

Whereas, the pledge by Broomfield to reimburse a business all or a portion of sales, use and personal property taxes generated by the taxable activity of the business over multiple years creates an indebtedness requiring approval by ordinance.

Whereas, City Council has determined it appropriate to enter into business incentive agreements to Peak Energy Technologies Inc.; a form of which is on file with the City Clerk.

Now, therefore, be it ordained by the City Council of the City and County of Broomfield, Colorado:

Section 1.

The business incentive agreement, by and between the City and County of Broomfield and Peak Energy Technologies Inc., in substantially the form presented to the City Council and on file with the City Clerk, is hereby approved.

Section 2.

The Mayor or Mayor Pro Tem is authorized to sign and the Office of the City and County Clerk to attest the business incentive agreement, in a form approved by the City and County Attorney.

Section 3.

This ordinance shall be effective seven days after public notice following final passage.

Introduced and approved after first reading on December 10, 2024, and ordered published in full.

Introduced a second time and approved on January 14, 2025, and further ordered published.

The City And County Of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved As To Form:

City and County Attorney

KF

**INVESTMENT AGREEMENT BETWEEN
THE CITY AND COUNTY OF BROOMFIELD AND
PEAK ENERGY TECHNOLOGIES INC**

1.0 PARTIES. The parties to this Agreement (hereinafter referred to as the "Agreement") are the City and County of Broomfield, a Colorado municipal corporation and county, (hereinafter referred to collectively as the "City") and Peak Energy Technologies Inc (hereinafter referred to as "Peak Energy") and provided that City and Peak Energy may be individually referred to herein as a "Party" and together may be referred to as the "Parties."

2.0 RECITALS.

2.1 Peak Energy is a renewable energy storage business which will be located within Broomfield, Colorado.

2.2 Currently, Peak Energy's research and development operations are located in a smaller facility, and is experiencing market opportunities resulting in the need for expanded workspace, additional investment in equipment, and increased employment. This level of business expansion requires a combined office and work space of 13,000 square feet.

2.3 Peak Energy desires to grow and invest in a facility located in Broomfield, and has options to increase the work space through future expansion.

2.4 Peak Energy will relocate research and development equipment, and will continue to invest in their operations in the City. The capital investment is expected to be more than \$1.2 million, for equipment and other investments in one or more facilities locally. The projected job growth from the facility is 20 full time jobs over the next 5 years, with an average annual salary above \$121,950.

2.5 It is the policy of the City to support its local businesses and to encourage the creation and retention of local jobs.

2.6 The City finds and determines that the development proposed by Peak Energy is in the best interest of the City, serves the public interest, and benefits the public.

3.0 THE OBLIGATIONS OF PEAK ENERGY. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged Peak Energy agrees as follows:

3.1 Peak Energy shall maintain a research and development facility(s) by occupying no less than 13,000 square feet of commercial and office space in the City. This space may be company-owned or company-leased. Evidence of meeting this requirement will

be:

3.1.1 By an existing lease, future lease, and/or building ownership, and

3.1.2 Property tax records, *Ad Valorem* Property and/or Business Personal Property, showing the location, tax liability, and payment by Peak Energy as an entity within the City and with taxes owed to the City.

3.2 Peak Energy may operate in multiple work spaces, including but not limited for the purpose of research, engineering and design, and manufacturing. All space located within the City and used for these purposes will be included in any calculations for qualifying for business support under this Agreement.

3.3 In exchange for the receipt of any tax rebates from the City, Peak Energy shall employ no less than 10 full time employees in the Broomfield location(s) beginning January 1, 2026 through December 31, 2029.

4.0 THE OBLIGATIONS OF THE CITY. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the City agrees as follows:

4.1 Use Tax Rebate. The City agrees to rebate and pay to Peak Energy an amount equal to seventy-five percent (75%) of the City's 3.50% use tax, which percentage excludes 0.25% presently allocated for open space and 0.40% presently allocated for the county functions, levied and collected on building construction materials used in the initial construction of the proposed development (hereinafter referred to as the "Use Tax Rebate"). The City estimates the amount of the Use Tax Rebate to be a total of \$29,880.

4.2 Personal Property Tax Rebate. The City agrees to rebate and pay to Peak Energy an amount equal to sixty-six percent (66%) of the city and county personal property taxes paid by Peak Energy and retained by the City, after any pre-existing development support agreements, for taxable personal property located within all Peak Energy occupied and operating facilities in the City beginning on January 1st of the tax year (such as 2024, paid in 2025) following the establishment of the Peak Energy facility within the City, and for the duration of this agreement as long as the facility remains located and operating in the City. Said rebate will be paid by the City for a period of five years. No rebate will be paid for any year in which Peak Energy fails to maintain the required full time employment minimums pursuant to Section 3.3 above. Peak Energy shall certify to the City in writing on or before July 15th of each year that it has maintained the necessary number of employees for the previous 365 days. Payment of the rebate shall be submitted to Peak Energy by the City within forty-five (45) days of the City's receipt from Peak Energy of its certification. The City estimates the amount of the personal property tax to be rebated to be a total of \$18,715 over a five year period.

4.3 **Permitting Fees Rebate.** The City agrees to rebate and pay to Peak Energy an amount equal to fifty percent (50%) of the City's permit fees, levied and collected on space buildout and improvements used in the initial construction of the proposed development (hereinafter referred to as the "Permitting Fees Rebate"). The City estimates the amount of the Permit Fee Rebate to be less than \$5,000.

4.4 **Total Tax and Fee Rebate.** The City agrees to rebate and pay to Peak Energy the amount determined by the above Sections on an annual basis, with the total maximum amount of the rebated payments not to exceed \$50,000 over the term of this agreement.

5.0 **Repayment Conditions.** During the term of the agreement, year one to year five, if in any year Peak Energy fails to maintain the required full time employment minimums pursuant to Section 3.3 above, no rebate for that year shall be made to Peak Energy.

6.0 **Miscellaneous.**

6.1 The City shall calculate and pay Peak Energy any rebate authorized by the Agreement based upon the actual taxes and fees levied and collected and not the amounts of tax or fees estimated herein.

6.2 The City's obligations pursuant to this Agreement terminate if Peak Energy does not maintain a physical presence (including a research and development facility) in the City following the commencement of this agreement. The City agrees to use its best efforts, including but not limited to, assigning a senior level staff person to assist Peak Energy with the process necessary for obtaining the permits and approvals required for the development and operation of the facility.

7.0 **ASSIGNMENT.** This Agreement shall not be assigned by the other Party without the prior written consent of the City, provided, however, that Peak Energy shall have the right to assign this Agreement to any wholly owned affiliate of Peak Energy without prior written consent of the City, but with prior written notice to the City.

8.0 **NOTICES.** Any notice required or permitted by this Agreement shall be in writing and shall be deemed to have been sufficiently given for all purposes if personally served or if sent by electronic or registered mail, postage and fees prepaid, addressed to the Party to whom such notice is to be given at the address set forth on the signature page below, or at such other address as has been previously furnished in writing, to the other Party or Parties. Such notice shall be deemed to have been given when received if sent electronically, or when deposited in the mail of the United States Postal Service.

9.0 **EXHIBITS.** All exhibits referred to in this Agreement, if any, are by reference incorporated herein for all purposes.

10.0 DELAYS. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused if such delays or failure are a result of acts of God, fires, floods, strikes, labor disputes, accidents, acts of terrorism, regulations or order by civil or military authorities, shortages of labor or materials, or other causes, similar or dissimilar, which are beyond the control of such Party.

11.0 DEFAULT. Time is of the essence. If any payment or any other material condition, obligation, or duty is not timely made, tendered, or performed by either Party within ten (10) business days following receipt of notice to the non-performing Party, then this Agreement, at the option of the Party who is not in default, may be terminated by the non-defaulting Party, in which case, the non-defaulting Party may recover such damages as may be proper. If the non-defaulting Party elects to treat this Agreement as being in full force and effect, the non-defaulting Party shall have the right to an action for damages that is limited to the amount of use and personal property taxes rebated under this Agreement.

12.0 PARAGRAPH CAPTIONS. The captions of the paragraphs are set forth only for the convenience and reference of the Parties and are not intended in any way to define, limit, or describe the scope or intent of this Agreement.

13.0 ADDITIONAL DOCUMENTS OR ACTION. The Parties agree to execute any additional documents or take any additional action that is necessary to carry out this Agreement.

14.0 INTEGRATION AND AMENDMENT. This Agreement represents the entire agreement between the Parties and there are no oral or collateral agreements or understandings. This Agreement may be amended only by an instrument in writing signed by the Parties. If any other provision of this Agreement is held invalid or unenforceable, no other provision shall be affected by such holding, and all of the remaining provisions of this Agreement shall continue in full force and effect.

15.0 WAIVER OF BREACH. A waiver by any Party to this Agreement of the breach of any term or provision of this Agreement shall not operate or be construed as a waiver of any subsequent breach by either Party.

16.0 GOVERNING LAW. This Agreement shall be governed by the laws of the State of Colorado.

17.0 BINDING EFFECT. This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns, provided that nothing in this paragraph shall be construed to permit the assignment of this Agreement except as otherwise expressly authorized herein.

18.0 EXECUTION IN COUNTERPARTS. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

19.0 NO THIRD-PARTY BENEFICIARIES. This Agreement is intended to describe the rights and responsibilities only as to the Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

20.0 FINANCIAL OBLIGATIONS OF THE CITY. All financial obligations of the City under this Agreement are subject to appropriation, budgeting, and availability of funds to discharge such obligations. In the event the City fails to appropriate funds for this Agreement beyond the current fiscal year, the City shall have no obligations for rebates for future fiscal years. Nothing in this Agreement shall be deemed to pledge the City's credit or faith, directly or indirectly, to the other Party.

21.0 NO PRESUMPTION. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

22.0 SEVERABILITY. If any provision of this Agreement as applied to either Party or to any circumstance shall be adjudged by a court to be void or unenforceable, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole.

23.0 EXECUTION REQUIRED. This Agreement shall not be binding upon any Party hereto unless and until the Parties have executed this Agreement.

24.0 MINOR CHANGES. The Parties executing this Agreement are authorized to make non-substantive corrections to this Agreement and attached exhibits, if any, as the Parties mutually consider necessary; provided, however, that a copy of any correction made to this Agreement and attached exhibits, if any, by a Party shall immediately be provided to the other Party and, further, no such correction shall be effective unless the other Party has indicated its agreement with such correction

25.0 DAYS. If the day for any performance or event provided for herein is a Saturday, Sunday, or a day on which national banks are not open for the regular transactions of business, or a legal holiday pursuant to section 24-11-101(1), C.R.S., such day shall be extended until the next day on which such banks and state offices are open for the transaction of business.

26.0 GOOD FAITH OF PARTIES. In the performance of this Agreement or in

considering any requested approval, acceptance, extension of time, or appropriation, budgeting, or payment action, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

27.0 PARTIES NOT PARTNERS. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint venturers, and neither Party shall be deemed to be partners or joint venturers, and neither Party shall be responsible for any debt or liability of the other Party.

28.0 PRIOR AGREEMENTS. By entering into this Agreement, the Parties terminate any prior existing agreements entered into between the Parties.

[Remainder of Page Intentionally Blank]

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto in their respective names as of _____, 2024.

THE CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation and county

Mayor

ATTEST:

Office of the City & County Clerk

APPROVED AS TO FORM:

KF

City & County Attorney

Peak Energy Technologies Inc.

By:
As:

State of Colorado)
) ss.
County of Broomfield)

The foregoing instrument was acknowledged before me this _____ day of
_____, 2024 by _____ as
_____ of Peak Energy Technologies Inc.

Notary Public

My Commission expires: _____



E. Proposed Resolution Authorizing the First Amendment Between Broomfield and Almost Home, Inc.

Meeting	Agenda Group
Tuesday, December 10, 2024, 6:00 PM	Consent Items Item: 6E.
Presented By	
Christopher Dewhurst	
Community Goals	
<input checked="" type="checkbox"/> Thriving, Diverse, Safe and Welcoming Community	

Overview

[View Correspondence](#)

[Almost Home, Inc.](#) has provided emergency assistance through its [Severe Weather Activation Plan \(SWAP\) Program](#) to Broomfield County since October 2022. SWAP is an extreme weather hotel/motel voucher program that provides temporary housing for persons experiencing unsheltered homelessness during severe weather. Unsheltered homelessness is defined as a “primary nighttime residence that is a public or private place not designed for human habitation.” ([U.S. Department of Housing and Urban Development](#)) Severe weather is defined as at or below 32°F and wet, or 20°F and dry.

DHS entered into an [agreement](#) with Almost Home in 2024 for \$200,000 for SWAP services. This First Amendment will add additional funding in the amount of \$36,000 to cover possible December 2024 costs. The anticipated funding is based on the average number of activations and hotel vouchers issued. This assumes 35 vouchers needed per activation and 12 forecasted activations remaining for 2024 at \$100 per night. The Department of Human Services (DHS) has an additional \$36,000 in their current 2024 DHS budget to cover any potential overage above the \$200,000 (up to \$236,000).

Attachments

[Memo for Almost Home First Amendment 2024 2024-12-10.pdf](#)

[Resolution 2024-173.pdf](#)

[Almost Home Amendment 1 2024 \(SWAP\).pdf](#)

Summary

[View Correspondence](#)

[Almost Home, Inc.](#) has provided emergency assistance through its [Severe Weather Activation Plan \(SWAP\) Program](#) to Broomfield County since October 2022. SWAP is an extreme weather hotel/motel voucher program that provides temporary housing for persons experiencing unsheltered homelessness during severe weather. Unsheltered homelessness is defined as a “primary nighttime residence that is a public or private place not designed for human habitation.” ([U.S. Department of Housing and Urban Development](#)) Severe weather is defined as at or below 32° F and wet, or 20° F and dry.

DHS entered into an [agreement](#) with Almost Home in 2024 for \$200,000 for SWAP services. The First Amendment will add funding of \$36,000 as a contingency to cover December 2024 costs that may exceed the original agreement of \$200,000. The anticipated funding is based on the average number of activations and hotel vouchers issued. This assumes 35 vouchers needed per activation and 12 forecasted activations remaining for 2024 at \$100 per night. The Department of Human Services (DHS) has \$36,000 in its current 2024 DHS budget to cover any potential overage above \$200,000 (up to \$236,000).

Financial Considerations

As shown in the sources and uses of funds summary below, the project can be completed within the budgeted amount.

Sources and Uses of Funds	Amount
Human Services Fund: Operations & Admin-Professional Services-Misc (08-40100-53170)	\$200,000
Human Services Fund: Operations & Admin-Trng & Trvl-Dept Spec (08-40100-53210)	\$10,000
Human Services Fund: Child Welfare-Trng & Trvl-Dept Spec (08-40200-53210)	\$5,000
Human Services Fund: Public Assistance-Trng & Trvl-Dept Spec (08-40300-53210)	\$5,000
Human Services Fund: Public Assistance-Provider Contracts (08-40300-53163)	\$8,000
Human Services Fund: TANF Admin-Provider Contracts (08-40350-53163)	\$8,000
Almost Home (08-40100-53170) - 2024 Agreement	-\$200,000
Almost Home (08-40100-53210) - Proposed Resolution 2024-173 for Amendment 1	-\$10,000

Sources and Uses of Funds	Amount
Almost Home (08-40200-53210) - Proposed Resolution 2024-173 for Amendment 1	-\$5,000
Almost Home (08-40300-53210) - Proposed Resolution 2024-173 for Amendment 1	-\$5,000
Almost Home (08-40300-53163) - Proposed Resolution 2024-173 for Amendment 1	-\$8,000
Almost Home (08-40350-53163) - Proposed Resolution 2024-173 for Amendment 1	-\$8,000
Projected Balance	\$0

Prior Council or Other Entity Actions

- Oct. 31, 2022: Original [agreement](#) with Almost Home.
- June 13, 2023: [Resolution 2023-83 for First Amendment](#)
- Oct. 24, 2023: [Resolution 2023-149 for Second Amendment](#)

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If the Council desires to approve the First Amendment to the contract with Almost Home, Inc., the appropriate motion is...

That Resolution 2024-273 be adopted.

Alternatives

Do not approve the contract amendment. The original Agreement with a cap of \$200,000 will remain in effect.

RESOLUTION NO. 2024-173

A resolution approving a First Amendment between the City and County of Broomfield and Almost Home, Inc. for Severe Weather Activation Program Services

Be it resolved by the City Council of the City and County of Broomfield, Colorado:

Section 1.

The First Amendment attached hereto between the City and County of Broomfield and Almost Home, Inc., increasing the not-to-exceed price to \$236,000, for Severe Weather Activation Program services is hereby approved.

Section 2.

The Mayor or Mayor Pro Tem is authorized to sign and the Office of the City and County Clerk to attest the First Amendment, in form approved by the City and County Attorney.

Section 3.

This resolution is effective upon its approval by the City Council.

Approved on December 10, 2024.

The City and County of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved as to form:

NCR

City and County Attorney

FIRST AMENDMENT TO THE AGREEMENT FOR SEVERE WEATHER ACTIVATION PROGRAM SERVICES
BETWEEN THE CITY AND COUNTY OF BROOMFIELD AND ALMOST HOME, INC.

1. PARTIES. The parties to this First Amendment (this “Amendment”) are the City and County of Broomfield, a Colorado municipal corporation and county (the “City”), and Almost Home, Inc., a Colorado nonprofit corporation (the “Contractor”) collectively, the “Parties”, or individually, a “Party.”
2. RECITALS. The Recitals to this First Amendment are incorporated herein by this reference as though fully set forth in the body of this First Amendment.
 - 2.1. The Parties entered into a service Agreement for Severe Weather Activation Program Services, dated January 1, 2024 (the “Agreement”).
 - 2.2. The Parties to this First Amendment desire to amend the Agreement to increase the amount of funding for the services provided in 2024.
 - 2.3. In 2025, the City and Adams County are exploring an alternate arrangement where Adams County will enter into an agreement with the Contractor which will provide services to both jurisdictions and the City will pay Adams County for the services. That agreement is still pending at the time of execution of this Amendment.
3. THE AMENDMENT. In consideration of the mutual covenants and promises of the Parties contained herein, and other valuable consideration, the receipt and adequacy of which are hereby acknowledged, the Parties agree as follows:
 - 3.1. The Term of Agreement remains unchanged and shall continue until December 31, 2024. The Contractor agrees to continue to provide all services required in accordance with the Agreement throughout this Term.
 - 3.2. The not-to-exceed price for the 2024 term of the Agreement shall be increased by Thirty-Six Thousand dollars (\$36,000.00) from Two Hundred Thousand dollars (\$200,000.00) to Two Hundred and Thirty-Six Thousand dollars (\$236,000.00).
4. DIGITAL ACCESSIBILITY STANDARDS. In 2021, the State of Colorado adopted HB21-1110 relating to the digital accessibility standards required to be implemented under the Colorado Anti-Discrimination Act which makes it unlawful to discriminate against individuals with a disability. The Contractor shall ensure that all digital deliverables and digital technology provided pursuant to the terms of this Agreement shall comply with at least the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA, or such updated standard as the Colorado Governor’s Office of Information Technology may adopt from time-to-time.
5. AGREEMENT IN FULL FORCE AND EFFECT. Except as amended herein, all other terms, conditions, and provisions of the Agreement shall remain in full force and effect and are hereby ratified and reaffirmed by the Parties in their entirety.

[The remainder of this page is intentionally left blank.]

This First Amendment is executed by the Parties hereto in their respective names as of December 10, 2024.

THE CITY AND COUNTY OF BROOMFIELD,
a Colorado Municipal Corporation and County

Mayor, City and County of Broomfield

APPROVED AS TO FORM:

NCR

City and County Attorney's Office

CONTRACTOR:

Almost Home, Inc.

By: _____

Name: _____

Address: 22 S. 4th Ave., Suite 102, Brighton, CO
80601



City and County of Broomfield

City Council Regular Meeting

Public Hearing - Ordinance Village of Westview Tax Sharing Reimbursement Agreement - Second Reading

Meeting	Agenda Group	
Tuesday, December 10, 2024, 6:00 PM	Action Items	Item: 7A.
Presented By		
Jeff Romine, Economist & Director		
Community Goals		
<input checked="" type="checkbox"/> Financial Sustainability and Resilience <input checked="" type="checkbox"/> Thriving, Diverse, Safe and Welcoming Community		

Overview

[View Correspondence](#)

[View Presentation](#)

Proposed Ordinance No. 2259, if approved by Council, would approve a Sales and Use Tax Reimbursement Agreement between the City and County of Broomfield and the developer for a reimbursement of use and sales tax from the development area. The maximum reimbursement is up to \$2.1 million.

Attachments

[Village of West View Reimbursement Agreement - City Council Memo - 2nd Reading \(1\).pdf](#)

[Ordinance 2259 Reimbursement Agreement for Village of West View - 2nd Reading.pdf](#)

[Village at Westview - Sales Use Tax Reimbursement Agreement - Final Draft 110424 .pdf](#)

Summary

[View Correspondence](#) and [BroomfieldVoice Page](#)
[View Presentation](#)

A Sales and Use Tax Reimbursement Agreement between the City and County of Broomfield and Village of West View, LLC. is proposed to support the attraction and establishment of retail and restaurant businesses and fund public improvements. The agreement proposes a maximum reimbursements of up to \$2.1M over the initial ten-year period of the development. The reimbursements will be generated through a fifty percent (50%) share of the use tax paid and up to thirty-two percent (32%) of any sales tax generated from retail and restaurant activity within the project.

The proposed development will address a number of site conditions and development considerations, which is requiring additional investments to infrastructure and development costs. These additional development costs have resulted in limiting interest by businesses to invest in this location (as a development opportunity or for business location and operations). To encourage a community-focused, successful development a Development Support reimbursement agreement is proposed to share a portion of the sales and use tax generated from the development.

The Sales and Use Tax Agreement, which must be approved by ordinance, was approved on first reading on November 12, 2024. Proposed Ordinance No. 2259, if approved by Council, would approve the Sales and Use Tax Reimbursement Agreement on second and final reading.

Development Support Reimbursement Agreement

The proposed reimbursement (tax sharing) agreement has three key elements. First, the CCOB real and business property tax will remain unencumbered to the development agreement and flow to the general fund and the pledged funding areas (Human Services and Broomfield Public Library) to fund the programs and services demanded by, and accessed by, the residents and others. Second, the sales and use tax revenues will be shared by Broomfield and the developer (approximately in a ratio of 2.5:1). Third, the approach for sharing sales tax revenues is varied to provide an incentive for the developer, and its tenants, to invest and grow sales in the future.

The development support agreement will be in place for the first ten (10) years of the proposed development, and any delay in the development (or lower level of performance) will have a direct impact on the total reimbursement funds. As noted, the development support agreement has been designed to provide a positive financial benefit to both the City and County and the developer - if the developer exceeds their planned level of sales. The developer, and their tenants through the developer, are incentivized to produce and grow sales and activity at a higher rate.

Additionally, this approach does not impact Jefferson County Schools nor North Metro Fire and Rescue District revenues.

Village of West View Planned Development

Village of West View, LLC has proposed a mixed-use development on properties within the Great Western Park PUD Plan area. The properties are located at the northwest corner and southwest corner of Skyestone Pkwy and Simms Street, and total 13.3 acres.



Site Plan - North is to Left

The northern property will feature a restaurant/event space with an outdoor courtyard with additional seating and lawn games. The site will include a total of 12 pickleball courts. The southern property will include both commercial and residential uses. The residential uses will be 78 condo units; comprising 14 buildings with 5 units per building and 8 condo style units above the 1st floor commercial spaces in 4 mixed-use buildings.

The commercial portion of the development includes 30,000 sq ft of space, along with outdoor serving space and recreation courts. The businesses will include a dining/recreation business on the northern property and the mixed-use buildings home to smaller neighborhood offices and retail offerings located on the southern portion of the development. It is anticipated that 5-10 businesses will be located and operating in the development resulting in neighborhood offerings to nearby Broomfield and Westminster families and residents. The dining/recreation business will likely draw from a greater area (including central and western Broomfield, Superior, Westminster and beyond).

The total estimated private investment will exceed \$60M through development, building and business investment. Annual receipts are estimated to reach over \$10M annually. The businesses are anticipated to employ about 60-75 FTEs (full-time equivalents), or as many as 100-125 full-time/part-time individuals. The resident population is projected to total between 150-200 persons.

On November 12, 2024, City Council approved the Planned Unit Development (PUD) Plan Amendment, Final Plat, Site Development Plan and Comprehensive Plan land use map amendment for the property. City Council also approved an IGA with Westminster for infrastructure improvements, with initial funding for the improvements coming from Village of West View, LLC.

Financial Considerations

The development fiscal impact is anticipated to be net positive, estimated to be \$225,000 annually, from the residential and commercial development and the proposed business activities. This estimate is based on (a) revenues from a combination of real and business personal property tax, use tax, and degenerated sales tax revenue from located business, (2) expenses related to providing COOB public services and programs (to residents, businesses, and business employees and customers), and (3) the proposed development support reimbursement and the Broomfield/Westminster IGA contribution.

The modeled outcomes from the proposed development, and the development agreement, is for an estimated \$2.6M in property tax revenues over the ten year period. The sales and use tax revenues, over ten years, is estimated to be \$5.6 to \$6.0M in revenue. The maximum reimbursements are up to \$2.1M over the initial ten-year period and will be generated through a fifty percent (50%) share of the use tax paid and up to thirty-two percent (32%) of any sales tax generated from retail and restaurant activity within the project.

Prior Council or Other Entity Actions

February 10, 2009 - City Council approved the Great Western Park PUD Plan second amendment to revise land uses with the subject properties designated for neighborhood commercial uses (Resolution 2009-5)

[December 18, 2018](#) - City Council reviewed a concept plan for a 130-unit (180,000 square feet) senior independent living community on the southern parcel (10795 Simms)

[March 26, 2019](#) - City Council reviewed a concept plan for a 140-unit, 150,000 square foot assisted living building on the northern parcel (10803 Simms)

[May 18, 2021](#)- Council reviewed a concept plan for a 240-unit affordable multi-family development on the subject properties

[March 1, 2022](#) - Council reviewed a concept plan for a mixed use development on the subject properties (current proposal)

[November 12, 2024](#) - Council approved the land use application for this property and the Intergovernmental Agreement with the City of Westminster.

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If Council wishes to approve the Sales and Use Tax Sharing Agreement it is recommended that...

That Ordinance No. 2259 (Sales and Use Tax Reimbursement Agreement) be adopted on 2nd and Final Reading.

Alternatives

Reject Ordinance No. 2259 and do not enter into the Reimbursement Agreement. The prior approvals for the development application and IGA with Westminster will remain in place, although the applicant may decide to revisit negotiations.

ORDINANCE NO. 2259

An ordinance approving a Sales and Use Tax Reimbursement Agreement for the Village of West View

Recitals.

Whereas, Village of West View, LLC seeks to develop certain real property located at 10795 and 10803 Simms Street, in the City and County of Broomfield, State of Colorado (the “Property”).

Whereas, the proposed development provides for retail and restaurant commercial uses at the entrance to the Skystone neighborhood and is anticipated to generate substantial new sales and use tax revenues for the City.

Whereas, the proposed development requires significant capital investment by the Developer for public infrastructure and other improvements benefiting the public.

Whereas, Chapter 3-40 of the Broomfield Municipal Code (BMC) permits, in connection with the development of property containing retail or commercial businesses which are expected to generate substantial new sales and use tax revenues, the use of a portion of city sales and use tax revenues from such businesses to assist in financing public improvements or to attract such businesses to the city.

Whereas, Section 6.4 of the City’s Charter requires that any action creating an indebtedness be approved by ordinance.

Whereas, the City wishes to reimburse Village of West View, LLC a portion of the sales and use taxes collected from the Property for certain public improvements that are necessary to develop the Property.

Now, therefore, be it ordained by the City Council of the City and County of Broomfield, Colorado:

Section 1.

The Reimbursement Agreement by and between the City and County of Broomfield and Village of West View, LLC is hereby approved.

Section 2.

The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk’s Office to attest the Reimbursement Agreement in a form approved by the City and County Attorney.

Section 3.

This ordinance is effective seven days after publication following final passage.

Introduced and approved after first reading on November 12, 2024, and ordered published in full.

Introduced a second time and approved on December 10, 2024, and ordered published.

Approved on December 10, 2024

The City and County of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved as to form:

NCR

City and County Attorney

A SALES AND USE TAX REIMBURSEMENT AGREEMENT BY AND BETWEEN
THE CITY AND COUNTY OF BROOMFIELD AND VILLAGE OF WESTVIEW, LLC

This Sales and Use Tax Reimbursement Agreement (“Agreement”) is made and entered into as of the 10th day of December, 2024 (“Effective Date”), by and between the CITY AND COUNTY OF BROOMFIELD, a Colorado municipal corporation and county, (the “City”) and VILLAGE OF WEST VIEW, LLC (the “Developer”), collectively, the “Parties,” or individually, a “Party.”

RECITALS

WHEREAS, the Developer seeks to construct a mixed-use development on Lots 1 and 2 of Block 19 in Great Western Park Filing No. 4, located at the entrance to the Skystone residential community (the “Property”). The proposed development will feature up to 30,000 sq ft of commercial uses and activity, including a restaurant with recreation facilities and outdoor gathering spaces, and 78 condominium style residential units. The commercial space will consist of approximately 14,500 sq ft in free standing building or first-floor space in mixed-use buildings.

WHEREAS, the proposed development provides for the retail and restaurant commercial uses at the entrance to the Skystone neighborhood that the residents desire.

WHEREAS, the proposed development requires significant capital investment by the Developer for public infrastructure and other improvements benefiting the public.

WHEREAS, Chapter 3-40 of the Broomfield Municipal Code (BMC) permits, in connection with the development of property containing retail or commercial businesses which are expected to generate substantial new sales and use tax revenues, the use of a portion of city sales and use tax revenues from such businesses to assist in financing public improvements or to attract such businesses to the city.

WHEREAS, the City has determined the proposed mixed-use development serves a public purpose as the anticipated restaurant and retail businesses will generate substantial new sales and use tax revenues and extraordinary public benefits for the city.

WHEREAS, the Parties desire to enter into this Agreement to assist the Developer in financing certain public improvements and to attract the proposed restaurant and retail activity to the development.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, the Parties’ undertaking to perform their respective obligations, covenants and agreements pursuant to this

Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

ARTICLE 1 GENERAL PROVISIONS

1.1 Recitals. The Recitals are incorporated herein by this reference as though fully set forth in the body of this Agreement.

1.2 Term. This Agreement will be effective commencing on the Effective Date above and will automatically terminate on December 31, 2037 (“Term”).

1.3 Purpose. The purpose of this Agreement is to: (i) assist the Developer in financing certain public improvements and to attract the proposed restaurant and retail activity to the development; and (ii) further the City’s policies as generally described in, *inter alia*, Chapter 3-40 BMC in connection with the proposed development.

1.4 Reimbursement Agreement. This Agreement constitutes a written agreement by the City to reimburse the Developer pursuant to Sections 3.1 and 3.2 of this Agreement up to a maximum reimbursable amount of **Two Million One Hundred Thousand Dollars (\$2,100,000.00)**.

ARTICLE 2 OBLIGATIONS OF DEVELOPER

2.1 The Improvements. The Developer desires to construct the Improvements described in the Site Development Plan for Great Western Park Filing No. 4, Block 19, Lots 1 and 2 (Village of West View) as approved by the City on November 12, 2024, or as amended (the “Improvements”).

2.2 No Obligation to Develop. This Agreement shall not be construed to create an implied obligation upon the Developer or any successor owners of the Property to develop any or all of the Property. The timing of any future development of the Property is at the sole discretion of the Developer or any successor owners of the Property. Developer acknowledges that any reimbursement that is owed to Developer by the City pursuant to Section 1.4 of this Agreement will terminate on December 31, 2037 and that payment of the reimbursement by the City is dependent upon the development of the Improvements on the Property. Furthermore, the Developer acknowledges that any delay in the development of the Property may result in less than 100% of the reimbursement being paid by the City.

**ARTICLE 3
OBLIGATIONS OF THE CITY**

3.1 Pledge of Sales Tax. The City agrees to pay into the Special Fund as described in Section 3.4 herein a portion of the municipal sales tax revenues generated on the Property during the Term and collected by the City from a levy of three and one-half percent (3.50%) on the sale or lease of tangible personal property at retail or the furnishing of taxable services as defined in Chapter 3-04 BMC. Said reimbursement amount shall not include 0.25% that is presently allocated for open space and 0.40% presently allocated for county functions.

The portion of the municipal sales tax revenues that are pledged to the Special Fund shall be calculated as follows:

- A base rate of twenty-five percent (25%) of all sales taxes generated from a levy of three and one-half percent (3.5%) from the Property shall be paid in year 1 and in each subsequent year within the Term.
- In the event that year over year sales tax collections from the Property achieve a growth of three percent (3%) or greater, the pledged rate shall increase to twenty-nine percent (29%) for that year.
- In the event that year over year sales tax collections from the Property achieve a growth of greater than four and one-half percent (4.5%), the pledged rate shall increase to thirty-two percent (32%) for that year.

3.2 Pledge of Use Tax. The City agrees to pay into the Special Fund as described in Section 3.4 herein fifty percent (50%) of the revenue collected by the imposition of the City's use tax at the rate of three and one-half percent (3.5%), which percentage excludes 0.25% presently allocated for open space and 0.40% presently allocated for county functions, levied and collected on construction and building materials delivered and used in the construction of the Improvements upon the Property during the Term solely from the initial construction of the Improvements on the Property. Available pledged use tax revenue shall not include use tax generated in connection with subsequent repair, additions to, replacement of or rehabilitation of any improvements on the Property after issuance of an initial certificate for occupancy, including, without limitation, subsequent tenant improvements or other build to suit leasehold improvements.

3.3 No Interest on the Maximum Reimbursable Amount. No interest shall accrue on the maximum reimbursable amount set forth in Section 1.4 over the Term of this Agreement. The total amount paid by the City pursuant to this Agreement will not exceed \$2,100,000.00.

3.4 Special Fund. The City agrees to create a Special Fund into which the pledged sales and use tax will be deposited (the "Special Fund"). Subject to the terms and conditions set forth in this Agreement, including, without limitation Section 3.5 and Section 3.6, the City agrees to make disbursements from the Special Fund to the Developer in accordance with the

procedure set forth in Section 3.5. The Special Fund and any contributions made in accordance with Sections 3.1 and 3.2 shall be the sole and exclusive source of payment of the Reimbursement Obligation. It is the intention of the Parties that there be no double compensation paid to the Developer. If the Developer receives payment in whole or in part from any public source other than the Special Fund, the Reimbursement Obligation shall be reduced by a like amount. At all times while it is holding and maintaining the Special Fund, the City will earn interest on (and credit interest to) the Special Fund in accordance with its normal practices and procedures.

3.5 Reimbursement Procedure. The Reimbursement Obligation shall be promptly payable solely from: (a) the amounts in the Special Fund, and (b) any prepayment or third-party contributions made in accordance with Section 3.6, as follows:

On or before December 31st of each year during the Term, the City shall disburse by wire transfer to the account designated by the Developer all funds that have been deposited into the Special Fund (including any interest thereon) to the Developer. If the Developer fails to designate an account prior to December 31 of the applicable year, then the City shall make the annual disbursement via check to the Developer and mail said check to the address identified in Section 6.18 below.

3.6 Pre-Payment Rights. The City shall have the right to prepay the Reimbursement Obligation in whole or in part at any time. If the City receives a payment from a third party for all or part of the Reimbursement Obligation, the City shall cause such payment (if any) to be deposited in the Special Fund and reimbursed to the Developer in accordance with the terms of this Agreement.

3.7 Obligations Subject to Charter and Chapter 3-40 BMC. The obligations of the City under this Agreement are subject to the requirements of the Charter for the City and Chapter 3-40 BMC.

3.8 Books and Accounts; Financial Statements. During the Term, the City will keep, or cause to be kept, proper and current books and accounts in which complete and accurate entries shall be made of the amount of pledged revenue received by the City; the amounts deposited into and paid out from the Special Fund; and such other calculations, allocations and payments required by this Agreement. Additionally, the City shall prepare a complete financial statement on an annual basis in reasonable detail covering the above information, certified by a public accountant selected by the City, and shall furnish a copy of such statement to the Developer upon request.

3.9 Limitation. During the Term, the City shall not enter into any agreements or transactions that impairs the rights of Developer under this Agreement, including, without limitation, the right to receive the Reimbursement Obligation in accordance with the procedures established in this Agreement.

**ARTICLE 4
REPRESENTATIONS AND WARRANTIES**

4.1 Representations and Warranties by the City. The City represents and warrants that:

(a) The City is a Colorado municipal corporation and county and has the power to enter into and has taken all actions to date required to authorize this Agreement and to carry out its obligations hereunder;

(b) The City knows of no litigation, proceeding, initiative, referendum, investigation or threat of any of the same contesting the powers of the City or its officials with respect to this Agreement that has not been disclosed in writing to Developer;

(c) The execution and delivery of this Agreement and the documents required hereunder and the consummation of the transactions contemplated by this Agreement will not (i) conflict with or contravene any law, order, rule or regulation applicable to the City or its governing documents, (ii) result in the breach of any of the terms or provisions or constitute a default under any agreement or other instrument to which the City is a party or by which it may be bound or affected;

(d) This Agreement constitutes a valid and binding obligation of the City, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors rights and by equitable principles, whether considered at law or in equity. The City will defend the validity of this Agreement in the event of any litigation arising hereunder that names the City as party or which challenges the authority of the City to enter into or perform its obligations hereunder.

**ARTICLE 5
DEFAULT AND REMEDIES**

5.1 Events of Default. If any Party fails in the performance of any covenant or promise in this Agreement and such failure continues for thirty (30) days after written notice specifying such default and requiring the same to be remedied is given by a non-defaulting Party to the defaulting Party, it shall be considered an event of default. If such default is not of a type which can reasonably be cured within such 30 day period and the defaulting Party commences such cure within such 30-day period, the defaulting Party shall have a reasonable period of time given the nature of the default following the end of such 30-day period to cure such default, provided that such defaulting Party is at all times within such additional time period actively and diligently pursuing such cure in good faith.

5.2 Remedies. Upon the occurrence and continuation of any default hereunder, the non-defaulting Party's remedies shall consist of:

(a) Recovery of its actual damages as of the time of entry of judgment, plus all attorney costs and fees that the non-defaulting party expends resulting from a default under this Agreement, regardless of whether a default under this Agreement is litigated in a court of law. No Party shall be entitled to claim damages for special,

consequential and/or exemplary damages. No commissioner, official, employee, attorney or agent of the City shall be personally liable to Developer under the Agreement or in the event of any Default by the City or for any amount that may become due to Developer under the Agreement, except for fraud, conversion or intentional acts; and

(b) Any other remedy available at law, in equity or under the terms of this Agreement, including, without limitation, specific performance.

5.3 **Limitation of Liability.** The City's liability under this Agreement is limited to the maximum reimbursable amount as set forth in Section 1.4 above.

ARTICLE 6 MISCELLANEOUS PROVISIONS

6.1 **Delays; Force Majeure.** Subject to the following provisions, time is of the essence. Any delays in or failure of performance by any Party of its obligations under this Agreement shall be excused and an equitable extension of time for performance shall be provided to such party if such delays or failure are a result of any one or more of the following events or circumstances that, alone or in combination, directly or indirectly, adversely affects such Party's performance of such obligation: fire, earthquake, storm or other casualty; strikes, lockouts, or other labor interruptions or shortages; war, rebellion, riots, acts of terrorism, or other civil unrest; acts of God; disruption to local, national, or international transport services; shortages of materials or equipment, epidemics; adverse weather; any other event beyond the applicable Party's reasonable control it being the purpose and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the Parties with respect to the terms of the Agreement, as the case may be, shall be extended for a reasonable period because of the enforced delay; provided, that the Party seeking the benefit of the provisions of this section shall, within 30 days after such Party gains actual knowledge of such enforced delay, notify the other Parties thereof in writing in the manner provided for herein of the cause or causes thereof, and claim the right to an extension for the period of the enforced delay.

6.2 **Assignment; Binding Effect.** This Agreement shall inure to the benefit of and be binding upon the Parties and their respective legal representatives, successors, heirs, and assigns. The signatories to this Agreement affirm and warrant that they are fully authorized to enter into and execute this Agreement, and all necessary actions, notices, meetings and/or hearings pursuant to any law required to authorize their execution of this Agreement have been made.

6.3 **Titles of Sections.** Any titles of the several parts and sections of this Agreement are inserted for convenience or reference only and shall be disregarded in construing or interpreting any of its provisions.

6.4 Amendment. This Agreement may be amended only by an instrument in writing signed by the Parties.

6.5 Waiver Of Breach. A waiver by any party to this Agreement of the breach of any term or provision of this Agreement must be in writing and shall not operate or be construed as a waiver of any subsequent breach by any Party.

6.6 Governing Law. This Agreement shall be governed by the laws of the State of Colorado and exclusive venue for any litigation shall be the District Court of Broomfield County.

6.7 Execution In Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which shall constitute but one and the same instrument.

6.8 No Third-Party Beneficiaries. This Agreement is intended to describe the rights and responsibilities only as to Parties hereto. This Agreement is not intended and shall not be deemed to confer any rights on any person or entity not named as a Party hereto.

6.9 No Presumption. The Parties to this Agreement and their attorneys have had a full opportunity to review and participate in the drafting of the final form of this Agreement. Accordingly, this Agreement shall be construed without regard to any presumption or other rule of construction against the Party causing the Agreement to be drafted.

6.10 Severability. If any provision of this Agreement as applied to any Party or to any circumstance shall be adjudged by a court to be illegal, invalid or unenforceable, in whole or in part, under present or future laws effective during the Term, the same shall in no way affect any other provision of this Agreement, the application of any such provision in any other circumstances or the validity, or enforceability of the Agreement as a whole. Furthermore, to the extent it does not materially alter the rights and obligations of the Parties, in lieu of such illegal, invalid or unenforceable provision, there shall be added automatically as part of this Agreement, a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and still be legal, valid and enforceable and this Agreement shall be deemed reformed accordingly. Without limiting the generality of the foregoing, if all or any portion of the payments required by the terms of this Agreement are determined, by a court of competent jurisdiction in a final non-appealable judgment, to be contrary to public policy or otherwise precluded, the Parties shall utilize their reasonable best, good faith efforts to promptly restructure and/or amend this Agreement, or to enter into a new agreement, and to assure, to the extent legally permissible, that all payments shall be made to WRG as specified in this Agreement.

6.11 Minor Changes. This Agreement has been approved substantially in the form submitted to the governing bodies of the Parties. The officers executing this Agreement are

authorized to make and may have made, minor changes to this Agreement and attached exhibits as they have considered necessary. So long as such changes were consistent with the intent and understanding of the Parties at the time of approval by the governing bodies, the execution of the Agreement shall constitute the approval of such changes by the respective Parties.

6.12 Days. If the day for any performance or event provided for herein is a Saturday, a Sunday, a day on which national banks are not open for the regular transaction of business, or a legal holiday pursuant to Section 24-11-101(1), C.R.S., such day shall be extended until the next day on which such banks and state offices are open for the transaction of business.

6.13 Good Faith of Parties. In the performance of this Agreement or in considering any requested approval, consent, acceptance, or extension of time, the Parties agree that each will act in good faith and will not act unreasonably, arbitrarily, capriciously, or unreasonably withhold, condition, or delay any approval, acceptance, or extension of time required or requested pursuant to this Agreement.

6.14 Parties Not Partners. Notwithstanding any language in this Agreement or any other agreement, representation, or warranty to the contrary, the Parties shall not be deemed to be partners or joint ventures, and no Party shall be responsible for any debt or liability of any other Party.

6.15 No Waiver of Immunity. Nothing contained in this Agreement constitutes a waiver of sovereign immunity or governmental immunity by any Party under applicable state law.

6.16 Financial Obligations of the City. All financial obligations of the City under this Agreement, are subject to appropriations, budgeting and availability of funds to discharge such obligations. Nothing in this Agreement shall be deemed to pledge the City's credit or faith, directly or indirectly, to the Developer.

6.17 Additional Documents or Action. The Parties agree to execute any additional documents or take any additional action, including but not limited to estoppel documents requested or required by lenders, that is necessary to carry out this Agreement or is reasonably requested by any Party to conform or clarify the intent of the provisions of this Agreement and to effectuate the agreements and the intent. Notwithstanding the foregoing, however, no Party shall be obligated to execute any additional document or take any additional action unless such document or action is reasonably acceptable to such Party. If all or any portion of this Agreement, or other agreements approved in connection with Agreement are asserted or determined to be invalid, illegal or are otherwise precluded, the Parties, within the scope of their powers and duties, will cooperate in the joint defense of such documents and, if such defense is unsuccessful, the Parties will use reasonable, diligent good faith efforts to amend, reform or replace such precluded items to assure, to the extent legally permissible, that each Party substantially received the benefits that it would have received under this Agreement.

6.18 Notices. Any notice required or permitted by this Agreement shall be in writing and shall be sufficiently given for all purposes if delivered by email to the authorized representative identified below. Such notice shall be deemed to have been given when the email was sent and received. The Parties each have designated an authorized representative as follows but may change their designated authorized representative and address by sending notice to the remaining Parties:

(a) The City designates the City and County Manager as the authorized representative of the City under this Agreement. Email address is manager@broomfield.org;

(b) Developer designates _____ as the authorized representative of the Developer under this Agreement. Email address is _____. Physical address: _____;

(d) If the Developer is alleging that the City is in breach of this Agreement or has violated any term of this Agreement, Legal Notice shall be made by making the notice above with a copy to citycountyattorney@broomfield.org.

6.19 Incorporation of Exhibits. All exhibits, if any, attached to the Agreement are incorporated into and made a part of this Agreement.

6.20 Entire Agreement. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof and replaces in their entirety any prior agreements, understandings, warranties or representations between the Parties on the matters specifically covered in this Agreement. This provision shall not apply to any separate, supplemental or other agreement required by BURA or the City pursuant to its rules and regulations.

6.21 Recording. This Agreement shall be recorded in the real property records of Broomfield County, Colorado.

[Signature Page to Follow]

IN WITNESS WHEREOF, this Agreement is executed by the Parties hereto in their respective names as of December 10, 2024.

THE CITY AND COUNTY OF BROOMFIELD,
a Colorado municipal corporation and county

Mayor

ATTEST:

Office of the City and County Clerk

APPROVED AS TO FORM:

NCR

City and County Attorney

VILLAGE OF WEST VIEW, LLC

By: _____

Name:

Title:



City and County of Broomfield

City Council Regular Meeting

Public Hearing - Ordinance Tree Preservation Second Reading

Meeting	Agenda Group	
Tuesday, December 10, 2024, 6:00 PM	Action Items	Item: 7B.
Presented By		
Kate Mack, Senior Landscape Architect		
Community Goals		
<input checked="" type="checkbox"/> Growing Greener <input checked="" type="checkbox"/> Thriving, Diverse, Safe and Welcoming Community		

Overview

[View Correspondence](#) and visit BroomfieldVoice.com

[View Presentation](#)

Staff is bringing forth an ordinance that proposes to amend Title 17, Zoning of the Broomfield Municipal Code, to include the addition of Tree Preservation as Chapter 17-71.

The proposed 2024 Open Space, Parks, Recreation, and Trails Master Plan (the “OSPRT Plan”) encourages the adoption of Tree Preservation Standards. This proposed Tree Preservation Code incorporates the intent of this OSPRT Plan tree preservation standards, and expands on the preservation requirements and applicability. By updating this code, Broomfield is able to not only promote tree preservation, but help guide the aesthetics and design of new development for the well-being of both the environment and the community.

Attachments

[Ordinance No. 2240 2nd Reading Council Memo.pdf](#)

[Ordinance 2240_ Tree Preservation Code 12.10.2024 - Second Reading.pdf](#)

Summary

[View Correspondence](#)

[View Presentation](#)

BroomfieldVoice.com

Staff is bringing forth an ordinance that proposes to amend Title 17, Zoning of the Broomfield Municipal Code, to include the addition of Tree Preservation as Chapter 17-71.

The proposed [2024 Open Space, Parks, Recreation, and Trails Master Plan](#) (the “OSPRT Plan”) encourages the adoption of Tree Preservation Standards. This proposed Tree Preservation Code incorporates the intent of the OSPRT Plan tree preservation standards, and expands on the preservation requirements and applicability. By updating this code, Broomfield is able to not only promote tree preservation, but help guide the aesthetics and design of new development for the well-being of both the environment and the community.

The proposed code would utilize best forestry practices and establish guidelines for tree preservation while facilitating responsible land development in the City and County of Broomfield. This includes both the addition of trees wherever feasible and the utmost effort in maintaining the existing tree population.

These measures aim to achieve multiple benefits for the community, such as:

- *Canopy Preservation:* Sustaining the tree canopy throughout the community to enhance and preserve the air quality. Trees filter air pollutants and replenish the atmosphere with oxygen.
- *Noise Reduction:* Trees act as natural barriers, reducing noise levels and creating a quieter environment.
- *Energy Efficiency:* Properly placed trees on properties serve as windbreaks and provide shade, contributing to the reduction of energy consumption.
- *Soil Protection:* Tree roots help prevent topsoil erosion, reducing stormwater runoff and preserving the quality of the soil.
- *Wildlife Habitat:* Trees offer habitat and food sources for birds and other wildlife, contributing to the preservation and enhancement of nesting areas and aiding in natural insect control.
- *Public Resource:* Trees are recognized as a valuable public resource that enriches the quality of life, maintains the unique character of the community, and contributes to its historical and aesthetic appeal. Additionally, they play a role in economic stability by attracting visitors and businesses.

On [May 21, 2024 study session](#), a study session was held to introduce an overview of the proposed Tree Preservation requirements and provide recommendations on changes to the Broomfield Municipal Code.

If approved, Ordinance No. 2240 would make the following changes to the Broomfield Municipal Code:

- Provide requirements related to tree preservation, mitigation, relocation and removal
- Protect significant or exceptional specimen trees with Broomfield
- Apply to new construction (residential or non-residential) and remodels over 65% gross

- floor or parking lot increases over 50%
- Apply to all properties within CCOB including city-owned properties, Parks and Open Spaces and public land dedications*

* City-owned properties and other government infrastructure projects (such as Colorado Department of Transportation or Mile High Flood District) are limited to on-site tree replacement or relocation of viable trees and any required payments of tree inch value lost are waived.

On [November 12, 2024](#), staff presented proposed Ordinance No. 2240 for first reading, and council approved the ordinance on first reading and scheduled a public hearing and second reading.

Proposed Ordinance No. 2240 if adopted on second reading would approve the proposed changes to the Broomfield Municipal Code.

Financial Considerations

Management of the Program: The management of the proposed tree preservation code amendments are not anticipated to have a significant impact on the City and County of Broomfield's finances. It is anticipated that there will be a need for additional staff resources in the future when considering this proposed code amendment together with the administration of the drought tolerant landscape requirements adopted in 2023 and the anticipated wildland urban interface requirements that will be mandated by [State Bill SB 23-166](#) by October 2025.

Costs to Broomfield for CCOB Projects: The tree preservation requirements will apply to future Broomfield projects that may impact existing trees. The tree preservation requirements would specify what the financial impact will be early in the process since there would be a standard fee and practice that could be included when estimating projects. Since each project is individual and has unique impacts, there is no method for being able to estimate the overall impact on city projects.

Revenue for CCOB: The proposed ordinance would create a fee that would be collected if it is not feasible for an owner/developer to place required replacement trees onsite, on another site or on public lands and/or relocation of existing trees is not possible. This fee would be placed in an existing account under a dedicated project code and then could be utilized by Parks.

Prior Council or Other Entity Actions

- [August 22, 2023](#) City Council approved [Ordinance No. 2215](#), which repealed and replaced BMC 17-70 Residential Landscape Requirements with Chapter 17-70 Landscape Requirements for New Development.
- [May 21, 2024](#) City Council Study Session regarding the tree preservation code.
- [November 12, 2024](#) City Council approved Ordinance No. 2240 on first reading.

Boards and Commissions Prior Actions and Recommendations

- On March 11, 2024 the draft of the proposed tree preservation code was presented to the Advisory Committee for Environmental Sustainability (ACES). ACES is in support of adopting the tree preservation code.
- On April 25, 2024 the draft of the proposed tree preservation code was presented to the Open Space & Trails Advisory Committee (OSTAC). OSTAC is in support of adopting the tree preservation code.
- On May 15, 2024 the draft of the proposed tree preservation code was presented to the Parks, Recreation & Senior Services Advisory Committee (PRSSAC). PRSSAC is in support of adopting the tree preservation code.

Proposed Actions / Recommendations

Based on the above, it is recommended that Council approves the ordinance and the appropriate motion is:

That Ordinance No. 2240 be adopted on second reading and be published by title.

Alternatives

Make no changes to the Broomfield Municipal Code.

Project Website

<https://www.broomfieldvoice.com/treepreservation>

Public Comment

[Correspondence Folder](#)

How to Submit Public Comments on this Proposal

Email directly to planning@broomfield.org

Staff Memorandum from the First Reading

The [staff memorandum from the first reading of Ordinance No. 2240](#) on November 12, 2024 includes a detailed discussion of the proposed code changes. A minor typographical error in the ordinance was corrected in 17-71-060, but otherwise no other changes were made after first reading.

Public Engagement

A Broomfield Voice page has been created. This page provides information regarding the proposed tree preservation requirements. Broomfield Voice provides a venue for comments and concerns regarding the proposed amendments to Chapter 17 of the Broomfield Municipal Code, where community engagement is encouraged. Comments received will be gathered and summarized as part of the public hearing process. This webpage also includes visual

Second Reading - Ordinance No. 2240 Tree Preservation Code
Prepared By: Kate Mack, PLA - Senior Landscape Architect

renderings of examples of tree preservation. Staff has utilized the weekly community update and social media posts to encourage engagement with the [Broomfield Voice page](#).

Ordinance No. 2240

Proposed Ordinance No. 2240 amends Title 17, Zoning of the Broomfield Municipal Code, to include the addition of Tree Preservation as Chapter 17-71. If approved on second reading, proposed Ordinance No. 2240 will be published by title, and will become effective January 1, 2025.

ORDINANCE NO. 2240

An ordinance to add Chapter 17-71 to the Broomfield Municipal Code to establish Tree Preservation and Mitigation Measures During Land Development and Redevelopment

Be it ordained by the City Council of the City and County of Broomfield, Colorado:

Section 1.

Chapter 17-71, Tree Preservation and Mitigation Measures During Land Development and Redevelopment, is hereby added to the Broomfield Municipal Code as follows:

Chapter 17-71 - Tree Preservation and Mitigation Measures During Land Development and Redevelopment

17-71-010 - Purpose. The purpose of this chapter is to establish requirements for tree preservation while facilitating responsible land development in the City and County of Broomfield. This includes both the addition of trees wherever feasible and the utmost effort in maintaining the existing tree population. These measures aim to achieve multiple benefits for the community, including:

- (A) *Canopy Preservation:* Sustaining the tree canopy throughout the community to enhance and preserve the air quality. Trees filter air pollutants and replenish the atmosphere with oxygen.
- (B) *Noise Reduction:* Trees act as natural barriers, reducing noise levels and creating a quieter environment.
- (C) *Energy Efficiency:* Properly placed trees on properties serve as windbreaks and provide shade, contributing to the reduction of energy consumption.
- (D) *Soil Protection:* Tree roots help prevent topsoil erosion, reducing stormwater runoff and preserving the quality of the soil.
- (E) *Wildlife Habitat:* Trees offer habitat and food sources for birds and other wildlife, contributing to the preservation and enhancement of nesting areas and aiding in natural insect control.
- (F) *Public Resource:* Trees are recognized as a valuable public resource that enriches the quality of life, maintains the unique character of the community, and contributes to its historical and aesthetic appeal. Additionally, they play a role in economic stability by attracting visitors and businesses.

17-71-020 - Applicability.

- (A) *General.* The tree preservation requirements of this chapter 17-71 shall apply to the following properties:

- (1) All new construction, including residential and non-residential and on properties owned by the City and County of Broomfield, that are to be constructed by a developer, property owner or their contractors;
- (2) All construction projects that cumulatively increase the gross floor area of the lot by sixty-five percent (65%) or more;
- (3) The partial or total redevelopment of a parcel, including demolition and new construction;
 - (i) Redevelopment of a parcel means the demolition of an existing structure or building including any site disturbance, such as earthwork or grading, in anticipation of new development.
- (4) Expansion of parking lots by more than 50% of the existing parking lot area;
- (5) All public land dedications as required by the 2024 Open Space, Parks, Recreation and Trails (OSPRT) Plan and public lands dedications in accordance with B.M.C. 16-28-120, as amended.

This tree preservation chapter is intended only to cover properties during construction and post-construction until final acceptance in accordance with Broomfield Standards and Specifications.

- (B) *Exempt Properties.* The following properties are exempt from the requirements of this chapter 17-71:
- (1) Accessory Dwelling Unit (ADU) construction on single-unit residential properties.
 - (2) Public land dedications or city and county owned property with specific Open Space characteristics of the subject property may be exempt if approved by the City and County Manager or their designee.
 - (3) Site development plans, urban renewal site plans, building permits or other development process approved prior to the effective date of this chapter 17-71 shall follow the plans as approved, without complying with the mitigation standards set forth below.

17-71-030 - Definitions. As used in this chapter, unless the context clearly requires otherwise, the following words and terms shall have the meanings set forth in this section:

- (A) *Aggregate Diameter* means the combined diameter of a multiple trunk tree measured at breast height.

- (B) *Caliper* means the diameter of a tree trunk six inches (6”) above the existing grade or proposed planted grade. Caliper is usually used in reference to nursery stock.
- (C) *Critical Root Zone (CRZ)* means the distance from the trunk that equals one and one half foot (1.5’) for every inch of the tree’s diameter.
- (D) *City and County Forester* means Broomfield’s Forestry Division responsible for trees and shrubs in public parks, parkways, and other public property. Broomfield’s right-of-way and street trees are under regulation of the City and County Forester.
- (E) *Development Process* means the intent to construct upon, improve, or modify any property within the City and County of Broomfield, whether governed by a Site Development Plan (SDP) or Urban Renewal Site Plan (URSP) or not.
- (F) *Diameter at Breast Height (DBH)* means the standard measurement used in forestry and tree studies to assess the size of a tree trunk. DBH is determined by measuring the diameter of the tree trunk at a standardized height, which is typically four and one half (4.5) feet above the ground level. This measurement is taken using a tape measure or calipers and is commonly used as an indicator of a tree’s size, growth, and maturity.
- (G) *Drip Line* means the outermost edge of the tree’s canopy or branch spread. The area within a tree’s drip line is all the ground under the total branch spread.
- (H) *Intent* means having the mind, attention, or will to develop, modify, construct or improve real property within the City and County of Broomfield.
- (I) *Mitigation* means the replacement of trees removed from a site, the relocation of existing trees, the planting of new trees to compensate for caliper inches lost, or cash payments to the Tree Preservation Account as directed in this section when trees are impacted due to the development process.
- (J) *Preservation* means the act of keeping existing trees safe from injury, harm or destruction during the development process.
- (K) *Relocation* means the practice of moving an existing tree to another site or other location within the same site.
- (L) *Significant Trees*. Significant Trees includes all of the following:
 - (1) Private protected tree, which is any tree with:
 - (i) A DBH of six inches (6”) or more located on any lot within twenty feet of a street right-of-way (including an approved private street or other access easement), or

- (ii) A tree with a DBH of eight inches (8”) or more located within ten feet of any other property line, or
 - (iii) A tree with a DBH of twelve inches (12”) or more located elsewhere on the lot or tract.
- (2) Public protected tree, which is any tree located on lands owned by the city, or other governmental agencies or authorities, or any land upon which easements are imposed for the benefit of the city, or other governmental agencies or authorities, or upon which other ownership control may be exerted by the city, or other governmental agencies or authorities. This includes rights-of-way and privately maintained trees within the public right-of-way, parks, open space, public areas and easements for drainage, sewer, water and other public utilities, with:
 - (i) A DBH of six inches (6”) or more located within a city or other governmental right-of-way, or
 - (ii) A DBH of six inches (6”) or more and located on any lot within twenty feet (20’) of a street right-of-way, or
 - (iii) A DBH of eight inches (8”) or more located on any lot within ten feet (10’) of any other property line, or
 - (iv) A DBH of twelve inches (12”) or more located elsewhere on the lot.
 - (v) Exceptional specimen tree, which is any tree which is determined by the City and County Forester to be of unique and intrinsic value to the general public because of its size, age, historic association or ecological value or any tree designated a Colorado State Champion, United States Champion or World Champion by the American Forestry Association. The City and County Forester shall keep a record of all specimen trees so designated and their location.
- (M) *Tree Preservation Account* means an account established for the City and County of Broomfield for the purposes of furthering tree maintenance and tree replacement. The monies received as fees in lieu of mitigation, as described in B.M.C. 17-71-060(E) below, shall be forwarded to the director of finance for deposit in the tree preservation account. Except as provided in this section, under no circumstances shall the funds collected by the director of finance for the tree preservation account be directed to any other account to be used for any other purposes other than for tree planting (including but not limited to tree support such as maintenance, installation of drip lines and drainage) and

preservation programs (including the creation of new woodland areas, underplantings as part of a tree planting program, and other planting activities that support the purposes of this chapter), public education programs regarding trees, and other activities in support of the administration of this chapter.

- (N) *Tree Protection Zone (TPZ)* means the area above and below grade around each tree where construction activities are limited or restricted to prevent injury to preserved trees.
- (1) The Tree Protection Zone shall extend at a minimum one and one half foot (1.5') from the base of the trunk for every one inch (1") of tree diameter.
 - (2) For areas with groups or groupings of trees, if the distance between trees is less than thirty feet (30'), the Tree Protection Zone may be combined and treated as one contiguous Tree Protection Zone to create a more clearly defined and manageable Tree Protection Zone.

17-71-040 - Submittals.

- (A) *Tree Preservation Plan.* Concurrent with the submission of Site Development Plans, Urban Renewal Site Plans, building permits or other projects in the development process, properties subject to this chapter 17-71 shall submit a tree preservation plan for approval by the City and County Landscape Architect, City and County Forester, or their designee. Applicants shall make all feasible attempts to accommodate existing trees within their design. The tree preservation plan shall be submitted and approved prior to any site activity or disturbances and shall include:
- (1) Identification of all existing trees four inches (4") DBH and larger on the site and within fifty feet (50') of the site boundaries and specifically note any significant trees.
 - (2) A chart specifying size, species, condition (as described in subsection B below - Condition Rating for Tree Preservation) and disposition for each existing tree.
 - (3) Mitigation actions as noted in B.M.C. 17-71-060 below, including identification of the trees that are proposed to comply with mitigation requirements, the location of removed trees, replacement trees, and the location of trees that are proposed for relocation.
 - (4) Proposed methods and schedule for implementing tree and other plant preservation measures as noted in B.M.C. 17-71-070 below.
 - (5) Proposed methods, materials, and schedule for root pruning, branch

pruning, and other tree maintenance as noted in B.M.C. 17-71-070 below.

- (6) A construction schedule which includes a time frame for work near existing plants and trees.
 - (7) A maintenance schedule for the preservation of the trees during construction.
 - (8) A watering plan and schedule that details watering of trees on the project site during construction including the following:
 - (i) Area of the project site to be watered and how watering will be phased based on construction.
 - (ii) Number of trees to be watered and total caliper inches. Identify the amount of water to be applied based on total caliper inches.
 - (iii) Schedule for watering during the duration of the project.
- (B) *Condition Rating for Tree Preservation.* The tree preservation plan submittals shall include an evaluation of tree health and structural issues consistent with the condition ratings in this section, with condition rating 1 being the highest rating, and condition rating 6 being the lowest rating of tree health and structure. Tree ratings shall be completed by a certified/registered arborist or forester, or a licensed landscape architect.
- (1) *Tree Rating Characteristics.*
 - (i) *Condition 1: Excellent* - The tree is typical of the species, has less than ten percent (10%) deadwood in the crown that is attributable to normal causes, has no other observed problems, and requires no remedial action.
 - (ii) *Condition 2: Good* - The tree is typical of the species and/or has less than twenty percent (20%) deadwood in the crown, only one or two (2) minor problems that are easily corrected with normal care.
 - (iii) *Condition 3: Fair* - The tree is typical of the species and/or has less than thirty percent (30%) deadwood in the crown, one or two (2) minor problems that are not eminently lethal to the tree, and no significant decay or structural problems, but the tree may need remedial care in order to minimize the impact of future stress and to ensure continued health.

- (iv) *Condition 4: Fair to Poor* - The tree is typical of the species but has some problems such as thirty percent (30%) to fifty percent (50%) deadwood in the crown, decay or structural defects, insects, disease or other problems that can be eminently lethal to the tree or create a hazardous tree if not corrected in a short period of time or if the tree is subjected to additional stress.
- (v) *Condition 5: Poor* - The tree is not typical of the species and/or has over fifty percent (50%) deadwood in the crown, major decay or structural problems, is hazardous or is severely involved with insects, disease, or other problems, that even if aggressively corrected, would not result in the long-term survival of the tree.
- (vi) *Condition 6: Dead* - Less than ten percent (10%) of the tree shows signs of life.

17-71-050 - Tree Preservation Requirements - General.

- (A) *Tree Preservation Requirements.* Properties required to comply with this chapter 17-71 must comply with the following:
 - (1) *Trees with Ratings of 1 through 4.* Trees identified in the tree preservation plan as having characteristic ratings of 1 through 4 must be preserved or mitigated as set forth in this chapter 17-71.
 - (2) *Trees with Ratings of 5 or 6 and Non-Desirable Trees.* Trees identified in the tree preservation plan as having characteristic ratings of 5 or 6 and non-desirable trees do not need to be mitigated or replaced.
 - (3) *Replacement Trees and Mitigation Measures.* The tree preservation plan required in Section 17-71-040(A) above shall show the mitigation actions that will equal the replacement of tree inches lost on site due to the construction activities as required by this chapter.
 - (4) *Interruption and Maintenance of Drainageways.* Drainage plans for individual sites shall not alter the supply of water to existing stands of trees if the longevity of those trees is dependent upon the flows. If the drainage of the site requires altering the existing supply of water, some alternative form through the use of irrigation shall be available from the time the existing watering source is eliminated.
 - (i) This requirement shall not preclude standard maintenance of drainageways necessary to ensure the free flow of stormwater. It will, however, protect those trees that do not interfere with the flow of storm drainage. Drainageways shall be maintained at the density of trees for which they were designed and future

drainageways shall be designed, as far as economically feasible, to consider preservation of mature stands of trees. If preservation is not possible, mitigation and/or replacement shall be accomplished, as outlined in B.M.C. 17-71-060.

- (5) *Compliance with Tree Preservation Plan.* At all times during construction the property owner, developer and their contractor(s) shall comply with the terms of the approved tree preservation plan and this chapter 17-71.
- (6) *Watering Log.* Upon completion of construction and/or prior to certificate of occupancy, a tree water log shall be submitted that provides the following information:
 - (i) Tree(s) watered, identified by the site identification number.
 - (ii) Number of gallons of water applied to each tree during every watering period.
 - (iii) Soil moisture level readings, on a scale of one to ten (1 - 10) throughout the Critical Root Zone for each tree.
 - (iv) Dates of each watering.

Projects on city and county-owned property where city and county maintained irrigation is available are exempted from watering log requirements of this section.

- (B) *Tree Preservation Plan Amendments.* The City and County Forester, the City and County Landscape Architect or their designee may amend any approved tree protection plan after receipt of an application for amendment from a property owner or authorized representative. The amendment shall be approved if staff determines that the proposed amendment complies with the requirements of this chapter 17-71.

17-71-060 - Mitigation Requirements.

- (A) *Replacement Trees.* No tree proposed for replacement shall be less than two inches (2") or more than three inches (3") in caliper and shall be of no less quality species than the tree removed, as determined by the Tree Appraisal Guidelines published by the International Society of Arboriculture (ISA), as amended.

For example: Two nine inch (9") DBH trees are removed because of site constraints; the tree inches lost equals 18 inches. These inches can be replaced

by planting nine two inch (2") caliper trees or six three inch (3") caliper trees. Evergreen trees (i.e. Fir, Juniper, Pine and Spruce) are to be replaced with trees with the same level of quality by the ISA Guidelines, unless an equivalent substitute is approved by the City and County Landscape Architect.

(B) *Relocation On-Site.* If tree relocation within the site is attempted, it shall be performed by a professional forester or nursery operator. All measures shall be taken to ensure the life and good health of the tree(s).

(C) *Mitigation Off-Site.* If on-site tree replacement or relocation is not feasible, tree replacement or relocation shall take place through any or all of the following methods :

(1) Replacement of equal tree inch lost on another site within the City and County of Broomfield.

(2) Replacement of equal tree inch lost on public lands within the City and County of Broomfield.

(3) Relocation of trees to public lands within the City and County of Broomfield.

(4) If the mitigation measures in B.M.C. 17-71-060(1), (2), or (3) above are not feasible, payment of value of tree inches lost to the Tree Preservation Account described below is permitted as a mitigation measure.

(i) City and county owned properties and other government infrastructure projects (such as Colorado Department of Transportation or Mile High Flood District) are limited to on-site tree replacement or relocation of viable trees to public lands. If on-site tree replacement or relocation of trees to other public lands is not able to equal the replacement of tree inches lost due to site constraints, then the remaining required payment of tree inch value lost shall be waived.

(D) *Timing for Tree Mitigation Activities.*

(1) Tree preservation and/or mitigation may be accomplished at any time during the development process. However, the timing of these activities is especially critical when moving trees from one location to another. The City and County Landscape Architect, City and County Forester, or their designee, shall determine the conditions that will ensure the optimal success for tree relocation, preservation or mitigation and such conditions shall be detailed in the approved tree preservation plan.

- (2) When feasible, the decision on when to relocate trees will be made after all planning processes are complete. In cases where conditions necessitate the relocation of trees before all planning processes and approvals are complete, the applicant acknowledges that these activities do not guarantee project approval and that these activities are undertaken at the property owner's own risk.
- (E) *Payment in Lieu of Mitigation.* The property owner or their authorized representative shall pay a per tree payment in lieu of mitigation for each tree that is removed from the site during construction and not relocated or replaced. The payment in lieu of mitigation fee per tree is determined by the City and County Forester or their designee based on current market rates as set forth in the Fee Schedule found in the City and County of Broomfield Landscape Reference Manual and such fees may be adjusted annually based on market changes. Payment must be submitted prior to the construction permit issuance or other required permits.
- (F) *Standard Landscape Requirements.* Mitigation shall be in addition to standard landscape requirements established by the B.M.C. Trees planted to comply with standard landscape requirements may not be counted as satisfying tree mitigation requirements. In the case of tree removals, the location, species, and caliper of trees to be removed and their replacements shall be included on the landscape/site plan. In the case of tree relocations on site, the placement of the relocated trees shall be included on the landscape/site plan.
- (G) *Prohibited Plant Species.* Nothing in this chapter permits the planting of any prohibited plant species set forth in chapter 17-70, as amended, of the B.M.C.

17-71-070 - Tree Protection Measures During Construction.

- (A) *Protection of Existing Trees During the Construction Process.* Site construction shall take into account the life and good health of trees preserved on the site. The following procedures shall be followed for tree protection, unless alternate mitigation measures are approved in the tree preservation plan:
 - (1) Tree protection fencing shall be installed prior to any site activity and shall remain in place and be maintained in the condition in which they were installed for the duration of the construction activity. Protective fencing or barriers shall be set up to visibly show the tree protection zone. Chain link fencing six feet (6') high, with steel posts driven into the ground at not more than ten foot (10') intervals is required, but other barriers may be approved in the tree preservation plan based on site conditions.
 - (2) All equipment, including foot traffic shall remain outside of the tree protection zone.

- (3) If roots greater than one-inch (1") in diameter require removal, a clean cut shall be accomplished using a sharp hand tool. A maximum of two, three-inch (3") diameter roots per tree are permitted for removal. The removal of additional roots three-inches (3") or greater in diameter requires approval of the City and County Landscape Architect, City and County Forester, or their designee.
- (4) Limb removal shall be accomplished under the direction of a certified/registered arborist, forester or licensed landscape architect before construction begins.
- (5) Concrete washout areas shall be designated on the property, and such areas shall not flow into or across the tree protection zone.
- (6) No excavation is permitted within the tree protection zone. If excavation is required within the tree protection zone, the City and County Forester, the City and County Landscape Architect or their designee must be notified prior to start of excavation activities.
- (7) No branches or bark are to be damaged within the tree protection zone. If it appears any work may cause damage to the branches of a tree, the property owner or their contractor shall contact the City and County Forester or the City and County Landscape Architect, or their designee for a determination as to whether such damage is likely and pruning is necessary.
- (8) No stockpiling of soil, materials, or supplies of any kind are permitted within the tree protection zone.
- (9) No vehicle parking is permitted within the tree protection zone.
- (10) The soil shall not be compacted within the tree protection zone.

17-71-080 - Injuries to Existing Trees During or Due to Construction - Damage Fines.

- (A) *Injuries to Existing Trees - Repairs and Mitigation.* Existing trees damaged through the construction process shall be immediately repaired and if damaged beyond repair, replaced per the mitigation specifications in B.M.C. 17-71-060 and a damages fine as set forth in this section will be applied. The restoration of damaged trees shall follow the approved measures set forth in the tree preservation plan and this chapter 17-71.
- (B) *Damages.* Any trees designated as requiring retention or protection that are partially injured or lost due to construction activities on-site will result in a fine as determined by the City and County Landscape Architect, City and County Forester, or their designee, as described in this B.M.C. 17-71-080.

- (1) *Tree Appraisal.* All trees that are damaged during construction will be evaluated and appraised by the City and County Landscape Architect, the City and County Forester, or their designee in order to set the damages fine. Documentation for appraisals will consist of:
 - (i) Measurement of plant size.
 - (ii) Identification by common and botanical names.
 - (iii) Current condition (overall health, injuries, overt hazard status, etc.).
 - (iv) Location factors as described in the most current edition of "Guide for Plant Appraisal." Photographs may be taken of certain trees and shrubs to document debilitating condition factors.

The full value of the tree will be used in calculations to determine damage fines or proportionate reductions for partial injuries, as applicable.

- (C) *Notice of Damages Fine.* The City and County Landscape Architect, the City and County Forester, or their designee shall notify the property owner and any authorized representatives listed on the application of the total damages fine incurred for violations of this chapter, and if such persons fail within ninety (90) days after the date of notification to pay the damage fine including any appeals as described below, then such damage fine may become a lien against and running with the property as set forth in B.M.C. 17-71-080(E). The damages fines described in this section are independent of any applicable penalty for violations of this chapter as provided below and are intended to address damages for injuries to trees during construction only. Assessed damages fines shall be placed in the Tree Preservation Account and used accordingly.
- (D) *Appeals.* Upon receipt of a notice of damages fine issued pursuant to this section, the property owner or their authorized representative may appeal to decisions to City and County Manager by filing a written notice of appeal within thirty days of the date of the notice of damages fine. The request for a hearing on appeal shall set forth the reasons for and the amount of the requested changes in fine amount. The City and County Manager, or a designee thereof, shall conduct an informal administrative hearing and make a final determination on the damages fine assessment. The City and County Manager, or a designee, shall notify the property owner and their authorized representative in writing of the time and place for the hearing on appeal. The decision of the city and county manager, or their designee, shall be final.
- (E) *Liens.* A failure by the property owner to pay the damage fines or other sums

due under this chapter constitutes a debt due and owing the city and county. In the event any sums due to the city and county remain unpaid for more than ninety days, the director of finance in conjunction with the City and County Landscape Architect, City and County Forester, or their designee shall certify such amounts to the county treasurer for collection in the same manner as general property taxes are collected in accordance with applicable law. The amount certified by the director of finance to the county treasurer for collection shall include any charges of the county treasurer for such collection. In addition, the city and county has the right to recover the amounts due and payable as provided by law in any court of competent jurisdiction.

17-71-090 - Authority and Penalties.

- (A) *Authority.* All plantings, preservation and mitigation measures described herein shall be subject to inspection by Broomfield. The city and county shall have the authority to enforce provisions of this chapter and to impose fines for violations of this chapter. These tree preservation regulations are enforced by the city and county, and nothing in the tree preservation code is intended to create a private cause of action.

- (B) *Penalty For Violations.* Any person found in violation of any provision of this chapter shall be subject to a civil penalty per violation, per day. Each violation may be fined up to the fine amount permitted in chapter 1-12 of the B.M.C. to be assessed and collected through a summons into Broomfield Municipal Court.

Section 2.

This ordinance shall be effective January 1, 2025.

Introduced and approved after first reading on November 12, 2024, and ordered published in full.

Introduced a second time and approved on December 10, 2024, and ordered published.

The City and County of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved as to form:

KKH

City and County Attorney



C. Ordinance Amending and Restating Certain Agreement Related to the 2005 BURA Bonds - First Reading

Meeting	Agenda Group
Tuesday, December 10, 2024, 6:00 PM	Action Items Item: 7C.
Presented By	
Jeff Romine, Economist & Director	
Community Goals	

Overview

[View Correspondence](#)

[View Presentation](#)

As directed, staff is working to modify the 2005 bonds that were issued to construct the Broomfield Event Center to convert the bonds from a variable interest rate to a fixed interest rate. This effort is necessary as the original bonds are subject to an annual letter of credit and the bank that issues the letter of credit has advised BURA that they will not be renewing the letter of credit as of March 1, 2025. The current outstanding principal balance of the 2005 bonds is approximately \$31.23 million dollars with annual debt service of approximately \$4.73 million dollars. The bonds are scheduled to be paid in full in 2030. The restructuring of the 2005 bonds is a multi-step process. To assist with this effort, staff has engaged the services of Butler Snow as bond counsel and RBC Capital Markets (“RBC”) as financial advisor. Additionally, Stifel Nicolaus & Company (“Stifel”) has been selected to serve as underwriter and remarketing agent. Staff is now pursuing the next step toward achieving the refinancing of the 2005 bonds. Proposed Ordinance No. 2261, if approved, will authorize an Amended and Restated Cooperation Agreement and an Amended and Restated Reimbursement Agreement with BURA as they relate to the planned 2025 refinancing of the 2005 bonds. This is the first reading of Ordinance No. 2261.

Attachments

[Memo - Amending Certain Agreements Related to the 2005 BURA Bonds FIRST READING 12-10-2024.pdf](#)

[UPDATED Ordinance 2261 Amending and Restating Certain Agreement Related to the 2005 BURA Bonds.pdf](#)

[UPDATED Amended and Restated Cooperation Agreement 2025 BURA Bonds 12-10-2024.pdf](#)

[UPDATED Amended and Restated Reimbursement Agreement 2025 BURA Bonds 12-10-2024.pdf](#)

Summary

[View Correspondence](#)

[View Presentation](#)

In May 2023, the Broomfield Urban Renewal Authority (“BURA”) made the decision for the redevelopment and activation of the former event center property (11450 and 11492 Broomfield Ln, Broomfield, CO), by taking the initial step for a closure and demolition of the Broomfield Event Center (previously the 1STBANK Center) by authorizing the termination of the operator agreement with Peak Entertainment, LLC. The Event Center was officially closed to the public in December 2023.

On September 24, 2024, BURA approved a demolition contract with Colorado Cleanup Corporation for the demolition of the former Broomfield Event Center. That same night BURA approved a loan agreement with the City and County of Broomfield for up to \$4 million to fund the demolition. Demolition activities are currently underway.

As directed, staff is working to modify the 2005 bonds that were issued to construct the Broomfield Event Center to convert the bonds from a variable interest rate to a fixed interest rate. This effort is necessary as the original bonds are subject to an annual letter of credit and the bank that issues the letter of credit has advised BURA that they will not be renewing the letter of credit as of March 1, 2025. The current outstanding principal balance of the 2005 bonds is approximately \$31.23M with annual debt service of approximately \$4.73M. The bonds are scheduled to be paid in full in 2030.

The restructuring of the 2005 bonds is a multi-step process. To assist with this effort, staff has engaged the services of Butler Snow as bond counsel and RBC Capital Markets (“RBC”) as financial advisor. Additionally, Stifel Nicolaus & Company (“Stifel”) has been selected to serve as underwriter and remarketing agent.

On [October 22, 2024](#) BURA completed the first step of the refinancing process when it ratified the selection of Stifel as the underwriter for the bond refinancing and removed RBC as the remarketing agent of the current bonds and appointed Stifel into that role. Staff is now pursuing the next step toward achieving the refinancing of the 2005 bonds.

Proposed Ordinance No. 2261, if approved, will authorize an Amended and Restated Cooperation Agreement and an Amended and Restated Reimbursement Agreement with BURA as they relate to the planned 2025 refinancing of the 2005 bonds. In general, the amended agreements mirror those approved in 2005 while updating the referenced bond issuance from the 2005 bonds to the planned 2025 bonds. Critical to the update is the retention of the City’s moral obligation pledge to supplement BURA’s revenues in the event BURA has insufficient revenue available to make its bond payments in any given year. Any payment made by the City pursuant to the moral obligation is subject to annual appropriation.

Coordinated with the 2nd reading of proposed Ordinance No. 2261 scheduled for January 14, 2024, BURA will be asked to approve a resolution authorizing the amended agreements together with a series of documents related to the planned 2025 bonds. Anticipated documents include an escrow agreement, indenture of trust and continuing disclosure certificate. Staff and Bond counsel is currently working on these documents with input from RBC and Stifel.

As a reminder, the planned 2025 bonds will be issued by BURA in an anticipated amount of approximately \$22.83M. The refinancing by BURA achieves the following benefits: (1) converts the 2005 debt from a variable rate to a fixed rate; (2) reduces the overall debt by accelerating funds currently held in reserve;

and (3) allows the flexibility to sell the former Event Center site while the bonds remain outstanding. The issuance cost for the refinancing will be approximately \$500,000. These issuance costs are included into the amount being refinanced, and will result in achieving an overall net savings. Additionally, the refunding and refinancing will not change the timing of the debt term - with the scheduled pay off remaining no later than December 2030.

It is important to note, due to the expiring letter of credit, a restructuring of the 2005 bonds are required. BURA does not have an option to remain in the status quo under the current 2005 bonds.

Financial Considerations

The refinance of the 2025 bonds will be issued by BURA in an amount of approximately \$22.83M at a fixed interest rate. The issuance cost for the refinancing is anticipated to be approximately \$500,000. These issuance costs are included into the refinanced amount. The semi-annual payments will be due at the same time. The timing of the debt term has not changed, with scheduled defeasement no later than December 2030.

Prior Council or Other Entity Actions

[June 28, 2005](#) - Resolution 2005-90 and Ordinance No. 1808 authorized and approved the “Urban Renewal Plan for Wadsworth Interchange Urban Renewal Project”, as an urban renewal plan. Ordinance No 1808 and Resolution No. 2005-90 have not been amended, modified, or repealed since their adoption. The Plan has not been amended or modified since its authorization and approval.

[September 13, 2005](#) - Resolution No. 2005-126-UR authorized the issuance of BURA Tax Increment Revenue Bonds to finance the construction of the Broomfield Event Center.

[May 23, 2023](#) - BURA authorized the termination of the Management and Operations Agreement for the Event Center effective as of November 30, 2023.

[December 5, 2023](#) - BURA directed its Executive Director to pursue the solicitation of a contract for the demolition of the Event Center.

April 30, 2024 - [Ordinance No. 2231](#) and [Resolution No. 2024-53-UR](#) authorized certain agreements related to Arista Parking Garage Bonds (2024).

[September 24, 2024](#) - BURA amended the 2024 budget and authorized a loan agreement and demolition contract related to the demolition of the Event Center.

[October 22, 2024](#) - BURA ratified the selection of Stifel as underwriter for a proposed 2025 refinancing and approved a remarking agreement.

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If Council desires to proceed with the approval of the amended and restated agreements related to the 2005 Event Center BURA bonds, it is recommended...

That Ordinance 2261 be adopted on first reading and order published in full.

If adopted on first reading, a second reading and public hearing for Ordinance No. 2261 will be scheduled for January 14, 2025.

Alternatives

Refinancing is needed. There may be limited alternatives related only to the timing of refinancing. The bank holding the letter of credit has indicated they would not renew the letter of credit, which expires March 1, 2025. The non-renewal will require refinancing at that time.

ORDINANCE NO. 2261

An ordinance amending and restating certain documents related to the Broomfield Urban Renewal Authority, Tax Increment Bonds (Broomfield Event Center Project), Series 2005, and providing other determinations, covenants and details in connection therewith.

Recitals.

Whereas, the City and County of Broomfield (the “City”) is a political subdivision of the State of Colorado (the “State”) a body corporate and politic, a home-rule city and county pursuant to Article XX of the constitution and a city and county pursuant to Sections 10, 11, 12 and 13 of Article XX of the constitution (the “Constitutional Amendment”).

Whereas, the Broomfield Urban Renewal Authority (the “Authority”) is a public body corporate and politic duly established by the City of Broomfield, Colorado (the “City”) on December 9, 1986, under and pursuant to the Colorado Constitution and laws of the State of Colorado (the “State”) and Resolution No. 155-86 adopted by the City Council of the City on December 9, 1986 (“Resolution 155-86”).

Whereas, pursuant to Section 14.4 of the City’s Home Rule Charter (the “Charter”), the City, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, or otherwise acquiring, extending or improving any capital improvements.

Whereas, Chapter 3-40 of the City’s municipal code (the “Code”) authorizes the City Council to enter into an agreement to provide that all or a portion of the City’s retail sales and use tax revenue generated by taxable activity on the developed property be used to assist in the financing of public improvements.

Whereas, the Authority has previously issued \$59,785,000 of its Tax Increment Revenue Bonds (Broomfield Event Center Project) Series 2005 (the “Series 2005 Bonds”) and \$2,000,000 of its Subordinate Convertible Capital Appreciation Revenue Note (Broomfield Event Center Project), Series 2005 (the “2005 Note”) pursuant to an Indenture of Trust dated as of October 1, 2005 (the “2005 Indenture”), between the Authority and American National Bank, now known as UMB Bank, n.a., as trustee (the “Trustee”).

Whereas, the City has previously entered into a Cooperation Agreement dated September 13, 2005 (the “2005 Cooperation Agreement”), that contained provisions relating to the issuance of the Series 2005 Bonds and the allocation and payment to the Authority of property tax increment revenues from the Urban Renewal Area (the “Property Tax Increment Revenue”) and a portion of the sales tax increment revenue collected within the Urban Renewal Area (the “Sales Tax Increment Revenue”).

Whereas, the City has previously entered into an annually renewable Sales Tax Reimbursement Agreement, dated September 13, 2005 (the “2005 Sales Tax Reimbursement Agreement”), that provided, under certain circumstances, after any draws on a reserve fund established for the payment of the Series 2005 Bonds, the City would, on an annually renewable basis from available City funds, replenish draws on the reserve fund.

Whereas, the 2005 Bonds may be called for prior redemption, in whole or in part, on the first Business Day of any month while in a weekly mode, without prepayment penalty.

Whereas, the Authority desires to refund, pay and defease in whole all of the outstanding Series 2005 Bonds (the “Refunding Project”).

Whereas, the Authority has heretofore determined that it is in the best interests of the Authority and the citizens and taxpayers of the City that, for the purpose of refunding the Series 2005 Bonds, the Authority issue its Taxable Tax Increment Revenue Refunding Bonds (Broomfield Event Center Project), Series 2025 (the “Series 2025 Bonds”), which Series 2025 Bonds are payable from the Trust Estate (as defined below).

Whereas, the Series 2005 Bonds, like the Series 2025 Bonds, are secured by the Property Tax Increment Revenue and the Sales Tax Increment Revenue.

Whereas, the City County has determined and hereby determines that it is in the best interest of the City to amend and restate the 2005 Cooperation Agreement and the 2005 Sales Tax Reimbursement Agreement to apply to the Series 2025 Bonds.

Whereas, there have been presented to the City the proposed form of the Amended and Restated Cooperation Agreement (the “2025 Cooperation Agreement”) and the Amended and Restated Sales Tax Reimbursement Agreement (the “2025 Reimbursement Agreement”).

Whereas, the City Council has determined that it is necessary and advisable to make certain findings and authorize the execution and delivery of the 2025 Cooperation Agreement and the 2025 Reimbursement Agreement.

Now, therefore, be it ordained by the City Council of the City and County of Broomfield, Colorado:

Section 1.

In addition to the terms defined throughout this Ordinance, the terms defined in this section, except where the context requires otherwise, shall have the following meanings:

- A. “Authority” means the Broomfield Urban Renewal Authority, an urban renewal authority duly organized and existing under the Act, and its successors and assigns.

- B. “Bonds” or “Series 2025 Bonds” means the Broomfield Urban Renewal Authority, Taxable Tax Increment Revenue Bonds (Broomfield Event Center Project), Series 2025, that are authenticated and delivered by the Trustee under and pursuant to Article II hereof, including any bonds issued in exchange or in lieu thereof.
- C. “2025 Cooperation Agreement” means the Amended and Restated Cooperation Agreement between the Authority and the City and County, and any supplements or amendments thereto.
- D. “Fiscal Year” means the twelve months commencing January 1 of any year and ending December 31 of the same year.
- E. “Plan” means the Urban Renewal Plan for the Wadsworth Interchange Urban Renewal Project approved by the City Council on June 28, 2005, as may be amended or supplemented in accordance with the Act.
- F. “Project” means the costs of acquiring, constructing, financing, reimbursing and otherwise providing for the Broomfield Event Center, including the acquisition of the site for the Project.
- G. “Property Tax” means ad valorem property taxes on the property in the Urban Renewal Area.
- H. “Property Tax Increment Revenues” means all ad valorem property tax increment from the Urban Renewal Area, less revenue to be transferred to other governmental entities, under and pursuant to the Colorado Urban Renewal Law, Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the “Act”).
- I. “2025 Reimbursement Agreement” means the Amended and Restated Annual Appropriation Sales Tax Reimbursement Agreement between the Authority and the City and County, and any supplements or amendments thereto.
- J. “Reserve Fund” means the debt service reserve fund created in connection with the issuance of the Series 2025 Bonds.
- K. “Sales Tax” means the 3.5% sales tax of the City imposed by Chapters 3.04 and 3.10 of the Broomfield Municipal Code.
- L. “Sales Tax Increment Revenues” means that portion of the sales tax revenues collected each year in the Urban Renewal Area from the Sales Tax as in effect from time to time in excess of zero dollars, less the proportional share of reasonable and necessary costs and expenses of collecting the Sales Tax attributable to sales in the Urban Renewal Area, as further defined in Section 4 hereof.
- M. “Urban Renewal Area: means the area described in the Plan.

- N. "Termination Date" means the date upon which the Reimbursement Agreement and the obligations of the City thereunder shall terminate, which date shall be not later than the last maturity of the Series 2025 Bonds.

Section 2.

All actions heretofore taken (not inconsistent with the provisions of this Ordinance) by the City Council and other officers of the City with respect to the Urban Renewal Area, the Project, the 2025 Cooperation Agreement and the 2025 Reimbursement Agreement are ratified, approved and confirmed.

Section 3.

The City Council hereby determines pursuant to the Plan that a portion of the Sales Tax Increment Revenue consisting of 10% of the Sales Tax in the Urban Renewal Area shall be made available and applied to payment of the Series 2025 Bonds as provided in the Act.

Section 4.

This Ordinance constitutes the determination of sales tax increment referred to in the Plan. This Ordinance shall not constitute an amendment to the Plan or Ordinance No. 1808 approving the Plan.

Section 5.

Pursuant to the terms of the 2025 Reimbursement Agreement, in the event that the funds in the Reserve Fund have been withdrawn to pay the principal of or interest on the Series 2025 Bonds and the Reserve Fund has not been replenished, the City shall replenish the Reserve Fund from legally available funds. The obligation of the City to replenish the Reserve Fund under the 2025 Reimbursement Agreement shall not constitute the creation of indebtedness or authorize the borrowing of money by the City within the meaning of any constitutional, home rule charter or statutory limitation or provision. The obligation of the City under the 2025 Reimbursement Agreement shall be from year to year only and shall not constitute a mandatory obligation of the City in any fiscal year beyond the current fiscal year. The 2025 Reimbursement Agreement shall not directly or indirectly obligate the City to make any payments into the Reserve Fund beyond those appropriated for any fiscal year in which the 2025 Reimbursement Agreement shall be in effect. The decision as to whether to appropriate such amounts shall be in the sole discretion of the City Council.

Section 6.

Pursuant to Article XX of the Colorado Constitution and the Charter, all statutes of the State that might otherwise apply in connection with the 2025 Cooperation Agreement and the 2025

Reimbursement Agreement are hereby superseded. All orders, bylaws, ordinances, and resolutions of the City, or parts thereof, inconsistent or in conflict with this Ordinance, are hereby repealed to the extent of such inconsistency or conflict.

Section 7.

The 2025 Reimbursement Agreement and the 2025 Cooperation Agreement (together the “Agreements”) are hereby approved. Changes or amendments to the Agreements are authorized as may be approved by City and County Attorney and bond counsel provided the changes are not substantially inconsistent with the overall intent of the Agreements and this Ordinance.

Section 8.

The Mayor or Mayor Pro Tem is authorized to sign and the City Clerk’s Office to attest the Agreements in a form approved by the City and County Attorney.

Section 9.

This ordinance is effective seven days after publication following final passage.

Introduced and approved after first reading on December 10, 2024, and ordered published in full.

Introduced a second time and approved on January 14, 2025, and ordered published.

Approved on January 14, 2025

The City and County of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved as to form:

NCR

City and County Attorney

**AMENDED AND RESTATED COOPERATION AGREEMENT
ALLOCATION OF 10% OF CITY AND COUNTY SALES TAX
WADSWORTH INTERCHANGE URBAN RENEWAL PROJECT**

This Agreement (the “Cooperation Agreement”) is made as of [____], 2025, by and between the CITY AND COUNTY OF BROOMFIELD, COLORADO (the “City”) and the BROOMFIELD URBAN RENEWAL AUTHORITY (the “Authority”).

RECITALS

A. The City is a political subdivision of the State of Colorado (the “State”), a body corporate and politic, a home rule city and county pursuant to Article XX of the State Constitution and a city and county pursuant to Sections 10, 11, 12 and 13 of Article XX of the State Constitution (the “Constitutional Amendment”).

B. The Constitutional Amendment provides that the charter provisions and procedures shall supersede any constitutional or statutory limitations and procedures regarding financial obligations.

C. The Constitutional Amendment provides that it shall be construed so as to supersede any conflicting constitutional or statutory provision that would otherwise limit any of the provisions of the Constitutional Amendment.

D. Section 14.4 of the Home Rule Charter of the City (the “Charter”) provides that the City, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, otherwise acquiring, extending or improving any capital improvement.

E. Chapter 3-40, Sales and Use Tax Reimbursement of the Broomfield Municipal Code, authorizes the City Council to enter into an agreement to provide that all or a portion of the City’s retail sales tax revenues generated by taxable activity on the developed property be used to assist in financing public improvements.

F. The Authority is authorized to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constitution Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the “Act”). The Authority is a public body corporate and politic duly organized by the City on December 9, 1986, by Resolution No. 155-86 adopted by the City Council of the City on December 9, 1986.

G. The Act provides that an urban renewal plan may contain a provision that taxes levied after the effective date of the approval of the plan upon taxable property in an urban renewal area each year or that municipal sales taxes collected within said area or both such taxes, shall be divided for a period of not to exceed 25 years after the effective date of the adoption of such a plan and that a portion of said property taxes or any portion of said sales taxes shall be paid into a special fund of the Authority to pay the principal of and interest on, and any premium due in connection with bonds of, loans or advances to, or indebtedness incurred by, an authority.

H. The City Council of the City, by Resolution 2005-90, approved and adopted on June 28, 2005, and by Ordinance No. 1808, approved and passed on second reading on June 28, 2005, has authorized and approved the “Urban Renewal Plan for Wadsworth Interchange Urban Renewal Project”, as an urban renewal plan under the Act (the “Plan”) for the area described therein (the “Urban Renewal Area”). Ordinance No 1808 and Resolution No. 2005-90 have not been amended, modified, or repealed since their adoption. The Plan has not been amended or modified since its authorization and approval.

I. The Plan provides for the undertaking of the “Wadsworth Interchange Urban Renewal Project” as an urban renewal project (that included the Broomfield Event Center) within the meaning of the Act (the “Project”) pursuant to and in accordance with the Act and the Plan.

J. The Plan contains provisions allocating the property taxes and the sales taxes.

K. Pursuant to Section 31-25-109 of the Act, the Authority has the power and authority to issue and finance the activities or operations of the Authority permitted and authorized under the Act to be undertaken in connection with the accomplishment of the Project.

L. In order to finance the Project, the Authority has previously issued \$59,785,000 of its Tax Increment Revenue Bonds (Broomfield Event Center Project) Series 2005 (the “Series 2005 Bonds”) and \$2,000,000 of its Subordinate Convertible Capital Appreciation Revenue Note (Broomfield Event Center Project), Series 2005 (the “2005 Note”) pursuant to an Indenture of Trust dated as of October 1, 2005 (the “2005 Indenture”), between the Authority and American National Bank, now known as UMB Bank, n.a., as trustee (the “Trustee”).

M. Authority has determined that it is in the best interests of the Authority and the citizens and taxpayers of the City that, for the purpose of refunding the Series 2005 Bonds, the Authority issue \$[_____] of its Taxable Tax Increment Revenue Refunding Bonds (Broomfield Event Center Project), Series 2025 (the “Series 2025 Bonds”), which Series 2025 Bonds are payable from certain sales tax revenue and property tax revenue.

N. The City and the Authority have previously entered into a Cooperation Agreement dated as of September 13, 2005 (the “2005 Cooperation Agreement”), relating to the allocation of 10% of the City’s sales and use tax to the payment of the 2005 Bonds.

O. The City and the Authority have determined that it is in the best interest of the City and the Authority to amend and restate the 2005 Cooperation Agreement to apply to the Series 2025 Bonds.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the City and the Authority agree as follows:

1. Allocation of a Portion of Sales Tax Increment from Urban Renewal Plan Area. The City agrees to divide, allocate and pay into a special fund (the "Special Fund") established by the Authority (or the City on behalf of the Authority) pursuant to the Act, municipal sales tax revenue calculated in accordance with Section 31-25-107(9)(a) of the Act, as follows:

(a) An amount equal to that portion of municipal sales tax revenues collected on all transactions subject to municipal sales taxes within the boundaries of the Urban Renewal Area in the twelve-month period ending on the last day of the month prior to June 28, 2005 (that is, a period from June 1, 2004 through May 31, 2005), (the "Base Amount", which Base Amount is \$0) and all municipal sales tax revenues in excess of the Sales Tax TIF described in subsection (b) of this Section 1, shall be paid into the funds of the City as are all other sales taxes collected by the City.

(b) Ten percent (10%) of municipal sales tax revenues collected from a levy of 3.5% on all transactions subject to municipal sales taxes within the boundaries of the Urban Renewal Area after June 28, 2005 (the "Sales Tax TIF") shall be allocated to, and when collected by the City, paid monthly into the Special Fund to be used in accordance with this Cooperation Agreement; provided, however that the Sales Tax TIF shall not include (i) any sales taxes produced from transactions in the Excluded TIF Parcels, as described in Exhibit A, attached to and made part of this Cooperation Agreement, and any improvements thereon, and (ii) the proportional share of the reasonable and necessary costs and expenses of enforcing and collecting the Sales Tax TIF in the Urban Renewal Area.

2. Collection of Sales Tax TIF. The City agrees to pursue all lawful procedures and remedies available to it in collecting and depositing into the Special Fund the Sales Tax TIF revenues. To the extent lawfully possible, the City shall not decrease, or consent to decrease, the municipal sales tax levy to less than 3.5% and will take no action that would have the effect of reducing the Sales Tax TIF from the Urban Renewal Area in accordance with this Cooperation Agreement.

3. The Authority's Obligations. The Authority agrees as follows:

(a) The Authority agrees to enter into and carry out all agreements incidental to the issuance of the Series 2025 Bonds and any refundings thereof in accordance with the requirement of the Act and such agreements.

(b) The Authority has established the Special Fund pursuant to the terms of the 2005 Cooperation Agreement and has and will continue to deposit the Sales Tax TIF revenues into the Special Fund. The revenues in the Special Fund shall be used by the Authority

to satisfy its obligations under the Series 2025 Bonds and any refundings thereof, any Additional Bonds as defined in the Indenture executed by the Authority and UMB Bank, n.a., as Trustee, authorizing the issuance of the Series 2025 Bonds (the “Indenture”), governing the Series 2025 Bonds, the Indenture and any related agreements.

(c) The Authority will keep and maintain accurate records of the receipts and expenditures of the Sales Tax TIF revenues in which complete entries shall be made in accordance with standard principals of accounting, and, upon request, shall make such records available for inspection and copying by the Trustee and the City during regular business hours.

4. Obligations Subject to Charter and Constitution. The covenants, duties and actions required of the parties under this Cooperation Agreement shall be subject to and performed in accordance with the provisions and procedures required and permitted by the City Charter, the Act, and any other applicable provisions of law and the Colorado Constitution. The parties represent that there is no conflict between the foregoing and their respective obligations hereunder.

5. Enforced Delay. Neither the City nor the Authority shall be considered in breach of, or in default in, its obligations with respect to this Cooperation Agreement in the event of delay in the performance of such obligations due to causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of public enemy, acts of federal or state government, acts of the other party, acts of third parties, acts of courts, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors or materialmen due to such causes, it being the purpose and intent of this provision that if such delay occurs, the time or times for performance by either party affected by such delay shall be extended for the period of the delay. The party seeking the benefit of this provision shall give written notice of any such delay to the other party within thirty (30) days after such party knows of such delay.

6. No Third-Party Beneficiaries; Exceptions. Neither the City nor the Authority shall be obligated or liable under the terms of this Cooperation Agreement to any person or entity not a party hereto; except that the rights of the Authority hereunder maybe pledged to or assigned to the Trustee for the Series 2025 Bonds or any parity obligation as security for the Series 2025 Bonds without further consent of the City. The Trustee is a third-party beneficiary and may seek enforcement of this Cooperation Agreement against the parties hereto.

7. Severability. In case any one or more of the provisions contained in this Cooperation Agreement or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Cooperation Agreement, or any other application thereof, shall not in any way be affected or impaired thereby.

8. Governing Law. This Cooperation Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado.

9. Headings. Section headings in this Cooperation Agreement are for convenience or reference only and shall not constitute a part of this Cooperation Agreement for any purpose.

10. Additional or Supplemental Agreements; Amendments. The parties mutually covenant and agree that they will execute, deliver and furnish such other instruments, documents, materials, and information as may be reasonably required to carry out the Plan and agreements required to implement the Plan, including, without limitation, this Cooperation Agreement. This Cooperation Agreement may only be amended in writing and with the consent of the Trustee.

11. Minor Changes. This Cooperation Agreement has been approved in substantially the form submitted to the governing bodies of the parties. The officers executing the Cooperation Agreement have been authorized to make, and may have made, minor changes in this Cooperation Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the parties at the time of approval by the governing bodies, the execution of the Cooperation Agreement shall constitute conclusive evidence of the approval of such changes by the respective parties.

[Signature Pages to Follow]

IN WITNESS WHEREOF, the parties hereto have caused this Cooperation Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY AND COUNTY OF BROOMFIELD,
a Colorado municipal corporation and county

(SEAL)

Mayor

ATTEST:

Office of the City and County Clerk

APPROVED AS TO FORM:

KF

City and County Attorney

BROOMFIELD URBAN RENEWAL
AUTHORITY

Chair

(SEAL)

ATTEST:

Secretary

APPROVED TO FORM:

City and County Attorney

Exhibit A

Legal Description of Excluded TIF Parcels

Lot 1, Block 10, Broomfield Urban Transit Village Filing No. 1, City and County of Broomfield, State of Colorado

Tract D, Broomfield Urban Transit Village Filing No. 1, City and County of Broomfield, State of Colorado

The parcel of real property described in instrument recorded at Reception No. 2002019609 in the records of the Clerk and Recorder of Jefferson County, Colorado, now in the City and County of Broomfield, Colorado.

The parcel of real property described in instrument recorded at Reception No. 85059163 in the records of the Clerk and Recorder of Jefferson County, Colorado, now in the City and County of Broomfield, Colorado.

**AMENDED AND RESTATED ANNUAL APPROPRIATION SALES TAX
REIMBURSEMENT AGREEMENT/REPLENISHMENT RESERVE FUND
WADSWORTH INTERCHANGE URBAN RENEWAL PROJECT**

This Agreement (the “Sales Tax Reimbursement Agreement”) is made as of [____], 2025, by and between the CITY AND COUNTY OF BROOMFIELD, COLORADO (the “City”) and the BROOMFIELD URBAN RENEWAL AUTHORITY (the “Authority”).

RECITALS

A. The City is a political subdivision of the State of Colorado (the “State”), a body corporate and politic, a home rule city and county pursuant to Article XX of the State Constitution and a city and county pursuant to Sections 10, 11, 12 and 13 of Article XX of the State Constitution (the “Constitutional Amendment”).

B. The Constitutional Amendment provides that the charter provisions and procedures shall supersede any constitutional or statutory limitations and procedures regarding financial obligations.

C. The Constitutional Amendment provides that it shall be construed so as to supersede any conflicting constitutional or statutory provision that would otherwise limit any of the provisions of the Constitutional Amendment.

D. Section 14.4 of the Home Rule Charter of the City (the “Charter”) provides that the City, pursuant to ordinance, and without an election, may borrow money, issue bonds, or otherwise extend its credit for purchasing, constructing, condemning, otherwise acquiring, extending or improving any capital improvement.

E. Chapter 3-40, Sales and Use Tax Reimbursement of the Broomfield Municipal Code, authorizes the City Council to enter into an agreement to provide that all or a portion of the City’s retail sales tax revenues generated by taxable activity on the developed property be used to assist in financing public improvements.

F. The Authority is authorized to transact business and exercise its powers as an urban renewal authority, all under and pursuant to the Colorado Urban Renewal Law, constitution Part 1 of Article 25 of Title 31, Colorado Revised Statutes (the “Act”). The Authority is a public body corporate and politic duly organized by the City on December 9, 1986, by Resolution No. 155-86 adopted by the City Council of the City on December 9, 1986.

G. The City Council of the City, by Resolution 2005-90, approved and adopted on June 28, 2005, and by Ordinance No. 1808, approved and passed on second reading on June 28, 2005, has authorized and approved the “Urban Renewal Plan for Wadsworth Interchange Urban Renewal Project”, as an urban renewal plan under the Act (the “Plan”) for the area described therein (the “Urban Renewal Area”). Ordinance No 1808 and Resolution No. 2005-90 have not been amended, modified, or repealed since their adoption. The Plan has not been amended or modified since its authorization and approval.

H. The Plan provides for the undertaking of the “Wadsworth Interchange Urban Renewal Project” as an urban renewal project (that included the Broomfield Event Center) within the meaning of the Act (the “Project”) pursuant to and in accordance with the Act and the Plan.

I. Pursuant to Section 31-25-109 of the Act, the Authority has the power and authority to issue and finance the activities or operations of the Authority permitted and authorized under the Act to be undertaken in connection with the accomplishment of the Project.

J. In order to finance the Project, the Authority has previously issued \$59,785,000 of its Tax Increment Revenue Bonds (Broomfield Event Center Project) Series 2005 (the “Series 2005 Bonds”) and \$2,000,000 of its Subordinate Convertible Capital Appreciation Revenue Note (Broomfield Event Center Project), Series 2005 (the “2005 Note”) pursuant to an Indenture of Trust dated as of October 1, 2005 (the “2005 Indenture”), between the Authority and American National Bank, now known as UMB Bank, n.a., as trustee (the “Trustee”).

K. Authority has determined that it is in the best interests of the Authority and the citizens and taxpayers of the City that, for the purpose of refunding the Series 2005 Bonds, the Authority issue \$[_____] of its Taxable Tax Increment Revenue Refunding Bonds (Broomfield Event Center Project), Series 2025 (the “Series 2025 Bonds”), which Series 2025 Bonds are payable from certain sales tax revenue and property tax revenue.

L. The Series 2025 Bonds will be secured by certain pledged revenues and other security, including a debt service reserve fund in the approximate amount of \$[_____] (the “Reserve Fund”).

M. The City Council, by Ordinance No. 1812, Amended, approved and passed on second reading on June 28, 2005, execution and delivery of the Sales Tax Reimbursement Agreement relating to the Series 2005 Bonds (the “2005 Reimbursement Agreement”).

N. The City and the Authority have determined that it is in the best interest of the City and the Authority to amend and restate the 2005 Reimbursement Agreement to apply to the Series 2025 Bonds.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing, the City and the Authority agree as follows:

1. City Agreement to Replenish the Reserve Fund; Annual Appropriation. If the funds in the Reserve Fund have been withdrawn to pay the principal of or interest on the Series 2025 Bonds and the Reserve Fund has not been replenished, the City shall replenish the Reserve Fund from legally available funds. The obligation of the City to replenish the Reserve Fund shall not constitute the creation of indebtedness, or authorize borrowing of money by the City within the meaning of any constitutional, home-rule, charter, or statutory limitation or provision. The

obligation of the City shall be from year to year only and shall not constitute a mandatory obligation of the City in any fiscal year beyond the present fiscal year. This Sales Tax Reimbursement Agreement shall not directly or indirectly obligate the City to make any payments into the Reserve Fund beyond those appropriated for any fiscal year in which this Sales Tax Reimbursement Agreement shall be in effect. The decisions as to whether to appropriate such amounts shall be in the discretion of the City Council.

2. Direction of City Manager. The City Council agrees to direct the City Manager (or other party obligated to prepare the proposed annual budgets of the City) to include in the budget proposal submitted to the City Council, in each year while the obligation to replenish the Reserve Fund is in effect, the total amount of legally available funds required to replenish the Reserve Fund each year as a line item in its annual budget, and to act in good faith in considering the appropriation of the annual payment to or for the account of the Authority under the Cooperation Agreement; it being the intent, however that the decision as to whether to appropriate such amounts shall be at the sole discretion of the City Council.

3. The Authority's Obligations. The Authority agrees as follows:

(a) The Authority agrees to enter into and carry out all agreements incidental to the issuance of the Series 2025 Bonds and to issue the Series 2025 Bonds in accordance with the requirements of the Act and such agreements.

(b) The Authority agrees to make all deposits required by any applicable agreements relating to the Series 2025 Bonds into the Special Fund that must be deposited into such Special Fund. The revenues in the Special Fund shall be used by the Authority to satisfy its obligations under the Series 2025 Bonds, any Additional Bonds as defined in the Indenture between the Authority and UMB Bank, n.a., as trustee, relating to the issuance of the Series 2025 Bonds (the "Indenture"), and any related implementing and parity agreements.

(c) The Authority will keep and maintain accurate records of the receipts and expenditures of revenues in the Special Fund in which complete entries shall be made in accordance with standard principles of accounting and, upon request, shall make such records available for inspection and copying by the Trustee and the City for the Series 2025 Bonds, during regular business hours.

4. Obligations Subject to Charter and Constitution. The covenants, duties and actions required of the parties under this Sales Tax Reimbursement Agreement shall be subject to and performed in accordance with the provisions and procedures required and permitted by the City Charter, the Act, and any other applicable provisions of law and the Colorado Constitution. The parties represent that there is no conflict between the foregoing and their respective obligations hereunder.

5. Enforced Delay. Neither the City nor the Authority shall be considered in breach of, or in default in, its obligations with respect to this Sales Tax Reimbursement Agreement in the event of delay in the performance of such obligations due to causes beyond its control and without its fault or negligence, including, but not limited to, acts of God, acts of public enemy,

acts of federal or state government, acts of the other party, acts of third parties, acts of courts, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather or delays of subcontractors or materialmen due to such causes, it being the purpose and intent of this provision that if such delay occurs, the time or times for performance by either party affected by such delay shall be extended for the period of the delay. The party seeking the benefit of this provision shall give written notice of any such delay to the other party within thirty (30) days after such party knows of such delay.

6. No Third-Party Beneficiaries; Exceptions. Neither the City nor the Authority shall be obligated or liable under the terms of this Sales Tax Reimbursement Agreement to any person or entity not a party hereto; except that the rights of the Authority hereunder may be pledged to or assigned to the Trustee for the Series 2025 Bonds or any parity obligation as security for the Series 2025 Bonds without further consent of the City. The Trustee is a third-party beneficiary and may seek enforcement of this Sales Tax Reimbursement Agreement against the parties hereto.

7. Severability. In case any one or more of the provisions contained in this Sales Tax Reimbursement Agreement or any application thereof, shall be invalid, illegal or unenforceable in any respect, the validity, legality and enforceability of the remaining provisions of this Sales Tax Reimbursement Agreement, or any other application thereof, shall not in any way be affected or impaired thereby.

8. Governing Law. This Sales Tax Reimbursement Agreement shall be governed by, and construed in accordance with, the laws of the State of Colorado.

9. Headings. Section headings in this Sales Tax Reimbursement Agreement are for convenience or reference only and shall not constitute a part of this Sales Tax Reimbursement Agreement for any purpose.

10. Additional or Supplemental Agreements; Amendments. The parties mutually covenant and agree that they will execute, deliver and furnish such other instruments, documents, materials, and information as may be reasonably required to carry out the Plan and agreements required to implement the Plan, including, without limitation, this Sales Tax Reimbursement Agreement. This Sales Tax Reimbursement Agreement may only be amended in writing and with the consent of the Trustee.

11. Minor Changes. This Sales Tax Reimbursement Agreement has been approved in substantially the form submitted to the governing bodies of the parties. The officers executing the Sales Tax Reimbursement Agreement have been authorized to make, and may have made, minor changes in this Sales Tax Reimbursement Agreement as they have considered necessary. So long as such changes were consistent with the intent and understanding of the parties at the time of approval by the governing bodies, the execution of the Sales Tax Reimbursement Agreement shall constitute conclusive evidence of the approval of such changes by the respective parties.

IN WITNESS WHEREOF, the parties hereto have caused this Sales Tax Reimbursement Agreement to be duly executed and delivered by their respective officers thereunto duly authorized as of the date first above written.

CITY AND COUNTY OF BROOMFIELD,
a Colorado municipal corporation and county

(SEAL)

Mayor

ATTEST:

Office of the City and County Clerk

APPROVED AS TO FORM:

KF

City and County Attorney

BROOMFIELD URBAN RENEWAL
AUTHORITY

Chair

(SEAL)

ATTEST:

Secretary

APPROVED AS TO FORM:

City and County Attorney



D. Proposed Resolution Approving Council Event Sponsorship Policy

Meeting	Agenda Group
Tuesday, December 10, 2024, 6:00 PM	Action Items Item: 7D.
Community Goals	

Overview

[View Correspondence](#)

[View Presentation](#)

At part of Council's April 2, 2024 Special Study Session, Council discussed a desire to restructure their approach to annual nonprofit event sponsorships through the creation of a written policy. Resolution 2024-134 would adopt that policy.

Attachments

[Memo for Resolution Re_ Council Event Sponsorships.pdf](#)

[Resolution No. 2024-134 Approving Council's Sponsorship Policy.pdf](#)

Summary

[View Correspondence](#)

[View Presentation](#)

As part of Council's April 2, 2024 Special Study Session, Council discussed a desire to restructure their approach to annual nonprofit event sponsorships and event attendance requests, with the goal to remain within the budgeted amount each year. Council directed staff to create a written policy and procedure for nonprofit event sponsorship requests to Council with an effective date of January 1, 2025. Resolution No. 2024-134 contains the following criteria:

- Limit of one event sponsorship per nonprofit organization per calendar year.
- Nonprofits must be based in Broomfield or directly serve Broomfield residents.
- Funding will be capped at \$3,500 per event.
- A reserve will be built in Council's event sponsorship budget in case a new event arises that hasn't been sponsored in the past. That reserve should be held until Nov. 1 of each year, but Council can decide to use the funds sooner if need be.
- The procedure for event sponsorships requests and approvals will be as follows:
 - Upon receiving event sponsorship requests from nonprofits, staff will send the requesters a form to solicit information such as the event details and available sponsorship levels. Included in this form will be a checkbox to confirm whether or not the nonprofit has applied for nonprofit grant funding through Human Services, and information related to the Human Services nonprofit grant funding program will be linked.
 - Staff can administratively deny the request if the nonprofit does not meet the requirements or if there are no funds left in the sponsorship budget.
 - Council will consider and approve or deny the request(s) at a Council meeting.
 - Early in 2025 and each following year, staff will prepare a memo that contains a slate of event sponsorship opportunities for the year consistent with prior Council event sponsorships or based upon current known requests for Council's review and consideration.
 - If a new event comes up that was not previously considered as part of the slate, that item will come to Council for formal consideration as part of the consent agenda.
 - Once approved, staff will forward the event information to Council at the appropriate time. As an administrative matter, Council can RSVP and determine who will attend the event. If there are time constraints, this step can take place prior to Council approval so long as the actual event sponsorship remains subject to Council approval.

Outreach regarding this policy and procedure will be communicated to the nonprofit groups Council routinely sponsors events for early in January, 2025.

Event sponsorships will continue to be tracked in [Council's sponsorship spreadsheet](#).

Financial Considerations

This policy does not change the budgeted amount for Council event sponsorships, which remains at \$40,000. Nothing in this policy locks in \$40,000 or any amount for event sponsorship. This amount is subject to the annual budget process and annual appropriation.

Prior Council or Other Entity Actions

[April 2, 2024](#) Council discussion regarding Rules and Procedures

Boards and Commissions Prior Actions and Recommendations

N/A

Proposed Actions / Recommendations

If Council desires to approve this policy, the appropriate motion is...

That Resolution 2024-134 be adopted.

Alternatives

Do not approve the policy, and provide direction to staff on modifications or edits so that staff can return with a modified revised version for Council's consideration.

RESOLUTION NO. 2024-134

A resolution approving Council's Event Sponsorship Policy

Recitals.

Whereas, on April 2, 2024, Council discussed a desire to restructure their approach to annual nonprofit event sponsorships.

Whereas, for many years, Council has approved specific funding which Council can use for nonprofit event sponsorship requests, including purchasing of event tickets. Currently the budgeted amount is \$40,000. This amount can be changed through the annual budget process and is subject to annual appropriations.

Whereas, Council's practice has been to support those nonprofit programs or events they have supported in the past, as well as allow for new requests for those entities serving Broomfield's residents.

Whereas, however, there is no formal written policy for event sponsorships or ticket purchases, and both the quantity of event sponsorship requests and requested event costs are increasing.

Whereas, Council desires to create a formal written policy that would continue the practice of supporting events of Broomfield-focussed nonprofits without exceeding the budgeted amount for annual event sponsorships and tickets.

Whereas, if sponsorship is approved, Council's intention is that staff would send out a request for Council to timely RSVP and indicate if they want to attend; for school district events with restricted seating or ticket numbers, Council intends that those members whose wards are within those school districts be given the first opportunity to RSVP for the event.

Whereas, this event sponsorship policy would go into effect January 1, 2025, and would stay in effect until modified by a resolution approved by Council.

Now, therefore, be it resolved by the City Council of the City and County of Broomfield, Colorado:

Section 1.

The Event Sponsorship Policy for City Council stated below is hereby adopted.

Section 2.

- A. Limit of one event sponsorship, including a group ticket purchase (collectively “event sponsorship”), per nonprofit organization per calendar year.
- B. Nonprofits must be based in Broomfield or directly serve Broomfield residents.
- C. Funding will be capped at \$3,500 per event.
- D. A 10% reserve will be built in Council’s event sponsorship budget in case a new event or opportunity arises that hasn’t been sponsored or attended in the past. If not used by November 1 of each year, the reserve funds can be used for any Council-approved event sponsorship. Council, by majority vote, can approve the use of funds in the reserve earlier in the year if need be.
- E. Council will not exceed their annual budgeted amount for event sponsorships.
- F. The procedure for event sponsorships requests and approvals will be as follows:
 - 1. Upon receiving event sponsorship requests from nonprofits or based on knowledge of an ongoing annual event, the City and County Manager or her designee will send the event host a simple form which will be used to explain the sponsorship requirements and solicit information such as the event details and available sponsorship levels. Included in this form will be a checkbox to confirm whether or not the nonprofit has applied for nonprofit grant funding through Human Services, and information related to the Human Services nonprofit grant funding program will be linked.
 - a. If the nonprofit does not meet the requirements of A and B above or if there are no funds left in the sponsorship budget, then the City and County Manager or her designee can administratively deny the request.
 - 2. Council will consider and approve or deny the request(s) at a Council meeting.
 - a. Staff will prepare a memo early in each year that contains a slate of event sponsorship opportunities that is consistent with prior Council event sponsorships and/or based upon current known requests for Council’s review and consideration. If approved, staff can move forward throughout the year on those event sponsorships.
 - b. If a new event comes up that was not previously considered, that item will come to Council for formal consideration as part of the consent agenda.
 - 3. Once approved, the City and County Manager or her designee will forward the event information to Council at the appropriate time, who can then RSVP and determine, if applicable, which Councilmembers will attend the event. If there are time constraints, this step can take place prior to Council approval so long as the actual event sponsorship remains subject to Council approval.

- G. The City and County Manager or her designee is directed to keep an updated spreadsheet on all funded event sponsorships, which will be included with the staff memo for any funding requests.

Section 3.

This resolution is effective upon its approval by the City Council.

Approved on December 10, 2024

The City and County of Broomfield, Colorado

Mayor

Attest:

Office of the City and County Clerk

Approved as to form:

NCR

City and County Attorney