SUBJECT: RESOLUTION NO. 36, SERIES 2019 – A RESOLUTION APPROVING A BUSINESS ASSISTANCE AGREEMENT WITH MEDTRONIC, INC. FOR AN ECONOMIC DEVELOPMENT PROJECT IN THE CITY OF LOUISVILLE

DATE: OCTOBER 15, 2019

PRESENTED BY: HEATHER BALSER, CITY MANAGER, STAN ZEMLER, INTERIM ECONOMIC DEVELOPMENT DIRECTOR

SUMMARY:
Staff requests City Council action on a proposed Economic Development Business Assistance Package (BAP) for Medtronic, Inc. (the "Company") to relocate and expand a portion of the company’s business in Louisville. The proposed business assistance is similar in nature to others recently granted, including a partial rebate on the building permit fees, construction/building use taxes, and consumer use taxes for construction of new building at a future site in the City of Louisville.

DISCUSSION:
Since the late 1940's the Company has been working with others to alleviate pain, restore health and extend lives. Today the Company is a medical technology leader, employing more than 84,000 people worldwide and offering therapies and solutions that enable greater efficiency, access and value for healthcare systems, providers and the people they serve.

The Company is planning a relocation and expansion of some of the Company’s business within the State of Colorado. The Company has a significant footprint in the Metro Denver region already that supports 2,000 existing Colorado jobs. The Company’s site selection decision would result not only in the maintenance of existing jobs but also provide 500-1,000 net new full-time jobs for the state. Specifically in Louisville, this project estimates 2,300-2,500 jobs in Louisville by 2022, earning significantly higher than the Boulder County average wage at $100,000 to $150,000. The projected number of employees within the first five years of operation on the Louisville site is estimated to increase to 3,000 or more. The Company currently has approximately 500 employees located in existing facilities in the City of Louisville.

The Company, should it choose the Louisville site, would (itself or through its developer) build a new 450,000-500,000 square foot phased campus on approximately 90-100 acres, with construction of the initial phase anticipated to begin in 2020. Construction would be completed in 3 phases and the final phase of the project anticipated to be completed June-October 2022. The estimated costs for the construction of the campus
is to be $95,000,000. Tenant improvements are estimated to be $23,000,000 and furniture and fixtures and equipment are estimated to be $15,000,000.

Multiple states are currently under review by the Company, including Minnesota and Tennessee. If Colorado is chosen by the Company, the site within the City of Louisville has been identified as the previous ConocoPhillips Campus. The project is contingent upon receiving economic incentive assistance from the City of Louisville and State of Colorado (see attached letter from the State of Colorado).

The Company meets the general criteria by which assistance may be granted in accordance with the Business Assistance Policy in Section 3.24 of the Louisville Municipal Code. The main criteria this project meets are:

- additional and/or retained jobs and employment opportunities for city residents and others
- Facilitates a corporate campus location
- Encouraging the diversity of jobs or employment opportunities
- Project conforms to the comprehensive plan

The assistance would be funded by permit fees, construction use tax, and consumer use taxes from the construction of the tenant improvements and equipment purchases at the project location.

City staff estimates the Company will generate new revenue of approximately $3,486,400 from building permit fees, construction use taxes, and consumer use taxes directly to the City from the five-year project, given the anticipated investment. Approximately $481,000 of that amount is fees designated for Open Space, Historic Preservation and Rec Center purposes.

Based upon the estimated revenue projection, staff recommends the following:

<table>
<thead>
<tr>
<th>Proposed Assistance</th>
<th>Approximate Value</th>
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<tbody>
<tr>
<td>Building Permit-Fee Rebate</td>
<td></td>
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<tr>
<td>50% rebate on permit fees for tenant finish</td>
<td>$392,700</td>
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<tr>
<td>(Excludes tap fees)</td>
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<tr>
<td>Building Use Tax Rebate</td>
<td></td>
</tr>
<tr>
<td>50% rebate on Building Use Tax for Tenant finish</td>
<td>$885,000</td>
</tr>
<tr>
<td>(excludes 0.375% Open Space tax, 0.125% Historic</td>
<td></td>
</tr>
<tr>
<td>Preservation tax, and 0.15% Rec Center Tax)</td>
<td></td>
</tr>
<tr>
<td>Consumer Use/Sales Tax Rebate on durable goods</td>
<td>$180,000</td>
</tr>
<tr>
<td>40% rebate on Consumer Use Tax/Sales tax paid on</td>
<td></td>
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<tr>
<td>Durable goods through June 30, 2022</td>
<td></td>
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</tbody>
</table>

CITY COUNCIL COMMUNICATION
Capped at $200,000

Total Estimated Assistance $1,457,700

Staff suggests the assistance be provided at 50% of the actual Building Use Tax, and Building Permit Fees, and 40% for the consumer use/sales tax for the project. The agreement is void if the Company does not obtain a building permit and commence construction by May 1, 2025, and the Company must repay all monetary assistance received if it does not remain in business at the Louisville location for ten years.

FISCAL IMPACT:
The total fiscal impact would be a total of 50% of the City’s permit fees, 50% building use taxes paid (excluding the 0.375% open space tax, 0.125% Historic Preservation tax, and 0.15% Recreation Center tax, water and sewer tap fees, and impact fees) and 40% consumer use/sales tax based on the costs associated with the project.

RECOMMENDATION:
Staff recommends City Council approve the attached Resolution approving a Business Assistance Agreement with Medtronic, Inc.

ATTACHMENTS:
1. Resolution No. 36, Series 2019
2. Business Assistance Agreement
3. Staff Presentation
5. Metro Denver Support Letter
RESOLUTION NO. 36
SERIES 2019

A RESOLUTION APPROVING A BUSINESS ASSISTANCE AGREEMENT
WITH MEDTRONIC, INC. FOR AN ECONOMIC DEVELOPMENT PROJECT
IN THE CITY OF LOUISVILLE

WHEREAS, the successful attraction and retention of quality development to the City of Louisville provides employment opportunities and increased revenue for citizen services and is therefore an important public purpose; and

WHEREAS, it is important for the City of Louisville to create and retain high-quality jobs and remain competitive with other local governments in creating assistance for occupancy of commercial space in the City; and

WHEREAS, Medtronic, Inc. (either directly or through its developer) plans to construct a new building or buildings and employ a substantial number of people in Louisville; and

WHEREAS, the Business Assistance Agreement between the City and Medtronic, Inc. accompanies this resolution and is incorporated herein by this reference; and

WHEREAS, pursuant the Constitution of the State of Colorado, and the Home Rule Charter and ordinances of the City of Louisville, the City has authority to enter into the proposed Business Assistance Agreement; and

WHEREAS, the City Council finds that the proposed Business Assistance Agreement is consistent with and in furtherance of the business assistance policies of the City, and desires to approve the Agreement and authorize its execution and implementation;

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

1. The proposed Business Assistance Agreement between the City of Louisville and Medtronic, Inc. (the “Agreement”) is hereby approved in essentially the same form as the copy of such Agreement accompanying this Resolution.

2. The Mayor is hereby authorized to execute the Agreement on behalf of the City Council of the City of Louisville, except that the Mayor is hereby granted the authority to negotiate and approve such revisions to said Agreement as the Mayor determines are necessary or desirable for the protection of the City, so long as the essential terms and conditions of the Agreement are not altered.

3. City staff is hereby authorized to do all things necessary on behalf of the City to perform the obligations of the City under the Agreement, including but not limited to
funding and implementation of the Agreement in accordance with and upon performance of the terms thereof.

**PASSED AND ADOPTED** this 15th day of October, 2019.

ATTEST:

______________________________
Robert P. Muckle, Mayor

______________________________
Carol Hanson, Deputy City Clerk
BUSINESS ASSISTANCE AGREEMENT FOR
MEDTRONIC, INC. IN THE CITY OF LOUISVILLE

THIS AGREEMENT ("Agreement") is made and entered into as of the _____ day of October, 2019, between the CITY OF LOUISVILLE, a Colorado home rule municipal corporation (the "City"), and MEDTRONIC, INC., a Minnesota corporation (the “Company”).

WHEREAS, the City wishes to provide certain business assistance in connection with new construction and related tenant improvements, furniture, fixtures, and equipment associated with the Company’s operations (the “Project”) in the City of Louisville; and

WHEREAS, Company (either directly or through its developer) intends to construct a campus with new buildings and make related tenant improvements to such building or buildings, and make furniture, fixture, and equipment purchases for use at such building or buildings on property located within the boundaries of the ConocoPhillips Campus General Development Plan, recorded with the Boulder County Clerk and Recorder at Reception No. 03088779, as the same may be amended; and

WHEREAS, Company plans for the Project to retain and generate new quality jobs within the City; and

WHEREAS, City Council finds the execution of this Agreement will serve to provide benefit and advance the public interest and welfare of the City and its citizens by securing this economic development project within the City.

NOW THEREFORE, in consideration of the mutual promises set forth below, the City and Company agree as follows:

1. **Building Permit Fee Rebates.** The City shall rebate to Company 50% of the building related permit fees for the Project, required under Louisville Municipal Code, section 15.04.050 and section 108.2 of the International Building Code as adopted by the City, for a five-year period beginning May 1, 2020.

2. **Use Tax Rebate—Construction.** The City shall rebate to Company 50% of the Construction Use Tax on the construction materials for the Project, required under Louisville Municipal Code, section 3.20.300, excluding all revenues from the open space tax, historic preservation tax and recreation center tax, for a five-year period beginning May 1, 2020.

3. **Use Tax Rebate – Tangible Goods.** For tangible good purchases that are made by Company (either directly or through its developer) between May 1, 2020 and April 30, 2025, and to the extent that such purchases are for
the Company’s expansion of operations and used in Louisville at the final Company location in the City of Louisville, the City shall rebate to Company 40% of the Use Tax paid and collected on tangible goods purchased as required under Louisville Municipal Code, section 3.20.300, excluding all tax revenues from the open space tax, historic preservation tax and recreation center tax. No rebate shall be issued for goods purchased prior to May 1, 2020. Only those tangible goods purchased by Company (either directly or through its developer) for Company’s expansion of operations and use at the final Company location in the City of Louisville shall qualify for rebate consideration.

4. Payment of Rebates; Cap; Inspection. The maximum amount of the rebates payable pursuant to Sections 1 and 2 above shall in no event exceed the calculation of 50% of the fees or taxes described in Sections 1 and 2 paid to the City, by Company (either directly or through its developer). The maximum amount of the rebates payable pursuant to Section 3 above shall in no event exceed the calculation of 40% of the taxes described in Section 3 above; provided, further that the total maximum amount of rebates payable pursuant to Section 3 shall in no event exceed $200,000. The building permit fee and construction use tax rebates in Sections 1 and 2 pertaining to each phase of the Project shall be paid by the City to Company within 120 days following issuance of the certificate of occupancy or final inspection for the applicable portion of the Project work, as reasonably determined by the City, subject to Sections 5 and 6 below. The use tax rebate provided for in Section 3 above shall be paid by the City to Company in annual installments, on or before January 31 of the following year. At the end of each month, on or before the 20th of the following month, the Company shall be responsible to remit to the City its total monthly sales/use tax payment on the appropriate sales/use tax return form. All rebate payments will be remitted by the City to Company at the address set forth in Section 8. City payment shall be by check made payable solely to Company, and the City will not make payment to any other person or entity. Company may update its mailing address for rebate payments by written notice to City at least thirty (30) days prior to a rebate payment becoming due.

5. No Interest; Inspection and Disclosure of Records. No interest shall be paid on any amounts subject to rebate under this Agreement. Each party and its agents shall have the right to inspect and audit the applicable records of the other party to verify the amount of any payment under this Agreement, and each party shall cooperate and take such actions as may be necessary to allow such inspections and audits. The Company acknowledges that implementation of this Agreement requires calculations based on the amount of taxes collected and paid by the Company with respect to the term of this Agreement and issuance of rebate payment checks in amounts determined pursuant to this Agreement, and that the amounts of the rebate payment checks will be public information. The
Company, for itself, its successors, assigns, and affiliated entities, hereby releases and agrees to hold harmless the City and its officers and employees from any and all liability, claims, demands, and expenses in any manner connected with any dissemination of information necessary for or generated in connection with the implementation of rebate provisions of this Agreement.

6. **Use of Funds; Future Fees.** Funds rebated to Company pursuant to this Agreement shall be used, or shall have been used, by Company (directly or through its developer) solely for obligations and/or improvements permitted under Louisville Municipal Code section 3.24.060 (as enacted by Ordinance No. 1507, Series 2007), which includes, but is not limited to, expansion or creation of jobs in the City. The rebates provided for under this Agreement are solely for construction activities and purchases for the Project during the periods stated in Sections 1-3, above. Any previous or subsequent purchases and construction activities shall be subject to payment without rebate of all applicable building permit fees and construction use taxes.

7. **Effect of Change in Tax Rate.** Any increase or decrease in the City general sales, construction use, or consumer use tax rate above or below the applicable tax rate on the date of execution of this Agreement shall not affect the rebate payments to be made pursuant to this Agreement; rather, the amount of the rebate payments will continue to be based upon the general sales, construction use, or consumer use tax rate applicable on the date of execution of this Agreement (excluding the City’s 0.375% Open Space Tax, 0.125% Historic Preservation Tax, and 0.15% Recreation Center Tax). Any decrease in the City general sales, construction use, or consumer use tax rates shall cause the amount of the rebate payments made pursuant to this Agreement to be based on the applicable percentage of revenues actually received by the City from application of the tax rate affected (excluding said Open Space, Historic Preservation Taxes and Recreation Center Taxes).

8. **Entire Agreement; Notices.** This instrument shall constitute the entire agreement between the City and Company and supersedes any prior agreements between the parties and their agents or representatives, all of which are merged into and revoked by this Agreement with respect to its subject matter. Any notice or communication required or permitted hereunder shall be given in writing to the following address, or to such other address as hereafter designated in writing by the Company or City:

If to Company:
Medtronic, Inc.
710 Medtronic Parkway
Minneapolis, MN 55432
Attn: Real Estate Dept., MS LS-120
If to City:
Louisville City Hall
Attn: Economic Development
749 Main Street
Louisville, CO 80027
303.335.4531

9. Termination. This Agreement shall terminate and become void and of no force or effect upon the City if, by May 1, 2025, Company has not received a building permit and commenced construction at the Project Location, or should fail to comply with any City code.

10. Business Termination. In the event that, within ten (10) years of the completion of the first building improvements at the Project Location (as determined by the date of issuance of the certificate of occupancy or final inspection for the first phase of the Project), the Company ceases operations at the Project Location, Company shall repay to the City all funds received by the Company pursuant to this Agreement.

11. Subordination. The City’s obligations pursuant to this Agreement are subordinate to the City’s obligations for the repayment of any current or future bonded indebtedness and are contingent upon the existence of a surplus in sales and use tax revenues in excess of the sales and use tax revenues necessary to meet such existing or future bond indebtedness. The City shall meet its obligations under this Agreement only after the City has satisfied all other obligations with respect to the use of sales tax revenues for bond repayment purposes. For the purposes of this Agreement, the terms "bonded indebtedness," "bonds," and similar terms describing the possible forms of indebtedness include all forms of indebtedness that may be incurred by the City, including, but not limited to, general obligation bonds, revenue bonds, revenue anticipation notes, tax increment notes, tax increment bonds, and all other forms of contractual indebtedness of whatsoever nature that is in any way secured or collateralized by sales and use tax revenues of the City.

12. Annual Appropriation. Nothing in this Agreement shall be deemed or construed as creating a multiple fiscal year obligation on the part of the City within the meaning of Colorado Constitution Article X, Section 20 or any other constitutional or statutory provision, and the City’s obligations hereunder are expressly conditional upon annual appropriation by the City Council, in its sole discretion. Company understands and agrees that any decision of City Council to not appropriate funds for payment shall be without penalty or liability to the City and, further, shall not affect, impair, or invalidate any of the remaining terms or provisions of this Agreement.
13. **Governing Law: Venue.** This Agreement shall be governed and construed in accordance with the laws of the State of Colorado. This Agreement shall be subject to, and construed in strict accordance with, the Louisville City Charter and the Louisville Municipal Code. In the event of a dispute concerning any provision of this Agreement, the parties agree that prior to commencing any litigation, they shall first engage in a good faith the services of a mutually acceptable, qualified, and experienced mediator, or panel of mediators for the purpose of resolving such dispute. In the event such dispute is not fully resolved by mediation or otherwise within 60 days of a request for mediation by either party, then either party, as their exclusive remedy, may commence binding arbitration regarding the dispute through Judicial Arbiter Group. Judgment on any arbitration award may be enforced in any court of competent jurisdiction.

14. **Legal Challenge: Escrow.** The City shall have no obligation to make any rebate payment hereunder to Company during the pendency of any legal challenge to this Agreement. The parties covenant that neither will initiate any legal challenge to the validity or enforceability of this Agreement, and the parties will cooperate in defending the validity or enforceability of this Agreement against any challenge by any third party. Any funds appropriated for payment under this Agreement shall be escrowed in a separate City account in the event there is a legal challenge to this Agreement.

15. **Assignment.** This Agreement is personal to Company and Company may not assign any of the obligations, benefits or provisions of the Agreement in whole or in any part without the express written authorization of the City Council of the City. Any purported assignment, transfer, pledge, or encumbrance made without such prior written authorization shall be void. For purposes of this Section 15, the entity resulting from any merger involving Company and any other business entity or entities shall not be deemed to constitute any assignment by Company.

16. **No Joint Venture.** Nothing is this Agreement is intended or shall be construed to create a joint venture between the City and Company and the City shall never be liable or responsible for any debt or obligation of Company.
This Agreement is enacted this _____ day of October, 2019.

CITY OF LOUISVILLE

Company

By: ______________________
Name: ______________________
Title: ______________________

Robert P. Muckle
Mayor

ATTEST:

___________________________
Meredyth Muth, City Clerk
Business Assistance Package for Medtronic, Inc.

Heather Balser
City Manager
October 15, 2019

BAP Medtronic, Inc.

- Medtronic, Inc. is a medical technology leader, working to alleviate pain, restore health and extend lives
- Planning relocation and expansion of some of the Company’s business within Colorado
  - Currently 2,000 existing Colorado jobs, 500 employees in Louisville
  - 2,300-2,500 jobs in Louisville by 2022
  - 3,000 or more employees within the first 5 years
  - Wages above the Boulder County average
BAP Medtronic, Inc.

- Project would build new 450,000-500,000 square foot phased campus on 90-100 acres
- Build on previous ConocoPhillips site
- Anticipate construction to begin 2020
- Anticipate construction in 3 phases, with final phase to be completed June-October 2022
- Multiple states currently under review by the company including Minnesota and Tennessee

BAP Medtronic, Inc.

- $23,000,000 in tenant improvements
  - $2,940,000 paid in City Permit Fees and Building Use Tax
  - $383,000 of amount is for Open Space, Historic Preservation and Rec Center purposes
- $15,000,000 in equipment purchases
  - $548,000 in Consumer Use Tax
  - $98,000 of amount is for Open Space, Historic Preservation and Rec Center purposes
Proposed Assistance:
• 50% rebate of City Building Permit Fees
  – $392,000 value
• 50% rebate of Building Use Taxes
  – $885,000 value
• 40% rebate of Consumer Use Taxes
  – $180,000 value
• Total Proposed = $1,457,700

Action Requested:
Resolution approving a Business Assistance Package with
Medtronic, Inc.
City Council of Louisville, Colorado
Mayor Bob Muckle
Jay Keany
Dennis Maloney
Chris Leh
Jeff Lipton
Susan Loo
Ashley Stolzmann

October 7, 2019

Dear City Council Members;

It is my pleasure, on behalf of the Colorado Office of Economic Development and International Trade (OEDIT), to write this letter in support of Project X. We believe that the Project is a highly strategic and important one not only for Louisville but the entire state of Colorado.

This Project supports the state’s economic goals for several reasons. The Project would have the potential for significant economic spinoff, as the company is a prestigious Fortune 500 company considering expanding their footprint in the selected state, adding a large amount of high-paying jobs, and providing a substantial amount of capital expenditure. Second, the company is committed to implementing skills-based hiring and training practices. Third, the Project highlights Colorado’s continuing strength in R&D and innovation-based sectors.

In this light, our team would like to extend support for the Project’s team in their efforts to secure local incentives. The Colorado Economic Development Commission has already approved a Job Growth Incentive Tax Credit for this Project at OEDIT’s recommendation. This approval is indicative of the value that the broader state business community has placed on this Project.

Again, it is my sincere hope that we do all that we can to secure this Project for Louisville and Colorado. Please do not hesitate to reach out to our Global Business Development team with any further questions.

Best,

Michelle Hadwiger

Michelle Hadwiger

Director, Global Business Development, OEDIT
October 4, 2019

City Council
City of Louisville
749 Main Street
Louisville, Colorado 80027

Dear City Council Members,

The Metro Denver Economic Development Corporation (Metro Denver EDC) is pleased to support Project X’s consideration of the City of Louisville for this transformational economic development project. Project X supports long-term job creation and retention in the Metro Denver region and a significant capital investment opportunity for the City of Louisville. We ask for City Council’s support in approving Project X’s economic development request from the City of Louisville.

The Metro Denver EDC is a privately-funded and governed organization leading Colorado’s business recruitment, retention, and expansion efforts to attract new jobs and investments to our communities while expanding existing companies that call our state home. Our region is comprised of nine counties and over seventy diverse communities, including the City of Louisville and Boulder County, across Colorado’s Front Range.

Project X’s opportunity in the City of Louisville and Boulder County will support the retention of 2,000 existing jobs in the Metro Denver region while creating 1,000 new jobs in our state with average wages between $100,000 and $150,000 annually. In addition, the capital and real estate investments made by Project X will create meaningful and long-term taxable revenue for the City of Louisville, Boulder County, and the State of Colorado. Metro Denver EDC is working in partnership with the Colorado Office of Economic Development and International Trade (OEDIT) and the City of Louisville to support this economic development project.

As Project X continues to consider multiple states and communities for this job creation and capital investment opportunity, we ask for your support in approving Project X’s economic development request from the City of Louisville.

We believe that Project X will have positive and long-lasting economic benefits to this community, the Metro Denver region, and Colorado.

Thank you very much for your consideration.

Regards,

[Signature]

Sam Bailey
Vice President of Economic Development
Metro Denver Economic Development Corporation