



City of Boulder City Council

Mayor Aaron Brockett Mayor Pro Tem Rachel Friend

Council Members: Matt Benjamin, Lauren Folkerts, Junie Joseph,
Nicole Speer Mark Wallach, Tara Winer, Bob Yates

April 13, 2022

The Honorable Jared Polis
Governor of Colorado
136 State Capitol
Denver, CO 80203

Re: Request for Veto of HB22-1024, Sales and Use Tax Exemption for Municipal Public School Construction

Dear Governor Polis:

The City of Boulder respectfully requests your veto of House Bill 22-1024, “Sales and Use Tax Exemption Municipal Public School Construction.” On April 5, 2022, the Colorado Municipal League sent you a veto request, arguing that this bill violates home rule authority under the Colorado Constitution. The city agrees with the legal analysis put forth by the League; this bill is unconstitutional under the Colorado Constitution and the opinions authored by the Colorado Supreme Court.

As a general matter, the city believes that local problems need local solutions and that the current authority and powers of municipal governments to make decisions on matters related to taxation should not be eroded. Allowing HB 22-1024 to be signed into law would infringe on the city’s local control and erode its authority to levy taxes, a fundamental part of the city’s operations.

The city imposes a tax upon the final consumer of construction materials used in construction projects in the city. The final consumer is traditionally the general contractor hired to perform the construction activity, which is not a tax-exempt entity. The imposition is not upon the school district although they may bear the economic burden should its contractor elect to pass that along. Although the school district is a tax-exempt entity, the hired contractors do not step into the shoes of the district to receive exempt status by virtue of its contract. Should the district seek to avail

itself of its tax-exempt status, a remedy under the tax law exists; the district could operate as its own contractor and use its own employees to exempt its direct purchase and use of construction materials.

The city directs the revenue it collects from these taxes to a general account established for overall city needs including, among other things, transportation connections, street lighting, parks and other critical infrastructure that schools rely on. Boulder places great value on the services provided by the Boulder Valley School District and its relationship with district leadership. It is actively involved in numerous partnerships that provide mutual benefits to the city, BVSD's schools, and the students who rely on both. Rejecting this bill says nothing about the city's commitment to schools and students and everything about the city's interest in allowing tax policy decisions to remain at the local level. We hope that you will agree.

Thank you in advance for considering the city's request.

Sincerely,

A handwritten signature in black ink, appearing to read 'Aaron Brockett', with a long horizontal line extending to the right.

Aaron Brockett
Mayor

Cc: Senator Fenberg
Representative Hooton
Representative Amabile