


BPPT Incentive Agreement Staff Report

DATE: MARCH 28, 2024
TO: DOUGLAS COUNTY BOARD OF COUNTY COMMISSIONERS
THROUGH: DOUGLAS J. DEBORD, COUNTY MANAGER
FROM: TERENCE T. QUINN, AICP, DIRECTOR OF COMMUNITY DEVELOPMENT 
CC: LAUREN PULVER, PLANNING SUPERVISOR
KATI CARTER, AICP, ASSISTANT DIRECTOR OF PLANNING RESOURCES
SUBJECT: **BUSINESS PERSONAL PROPERTY TAX INCENTIVE AGREEMENT EXTENSION
BETWEEN DOUGLAS COUNTY AND EDGECONNEX**

OWNER:
EDGECONNEX
8451 HIGHFIELD PARKWAY
ENGLEWOOD, CO 80112

REPRESENTATIVE:
TODD WORKMAN
8451 HIGHFIELD PARKWAY
ENGLEWOOD, CO 80112

BOARD OF COUNTY COMMISSIONERS MEETING:

April 9, 2024 @ 1:30 p.m.

I. EXECUTIVE SUMMARY

EdgeConneX has requested an extension of 25 years of its existing Business Personal Property Tax (BPPT) agreement to enable the company to benefit from the full 35-year rebate enabled by state statute. The proposed agreement extension provides a 100% BPPT rebate over a 35-year period. The project qualifies for economic development incentives, including BPPT rebates, based on eligibility defined in Colorado Revised Statute (C.R.S.) Sections 30-11-123 and 39-30-105.1.

II. REQUEST

A. Request

This request is for the approval of an amendment to extend the existing BPPT Incentive Agreement between Douglas County and EdgeConneX.

B. Background

EdgeConneX entered a 10-year BPPT agreement with Douglas County for the property at 8451 Highfield Parkway in 2019. EdgeConneX plans to bring additional infrastructure investments totaling \$170 million to the existing facility beginning in 2025. The company is requesting to amend the current agreement to provide for the maximum available tax rebate benefit for the additional investments. The agreement

will cover 100% personal property tax rebate for a total of 35 years. The estimated total rebate amount over the 35-year term is \$14 million.

C. Location

The business facility is located at 8451 Highfield Parkway in Englewood.

D. Project Description

EdgeConneX is an international data center solution company. It was founded in 2009 and provides data center and management services to its clients. The company has over 50 locations with operations across the world, including the Douglas County property. It is anticipated that this location will be leased to prospective customers, and a total of 6-8 employees will be located at the site.

E. Process

The Board of County Commissioners considers incentive requests based on C.R.S. Sections 30-11-123 and 39-30-105.1. C.R.S. Section 30-11-123 provides that the “health, safety, and welfare of the people of this state are dependent upon the attraction, creation, and retention of jobs,” and enables the County to use economic development incentives. C.R.S. Section 39-30-105.1 specifically provides defining characteristics of facilities eligible for BPPT rebate.

III. STAFF ASSESSMENT

Staff has evaluated the amendment to the incentive agreement with both the County Attorney’s Office and the County Assessor to ensure compliance with statute. The Board may approve the agreement amendment.

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January 2, 2024

Ms. Lauren Pulver
Planning Supervisor
Douglas County Department of Community Development
Planning Resources
100 Third St.
Castle Rock, CO 80104

Dear Ms. Pulver -

Thank you for the helpful guidance that you have provided in our recent discussions concerning the currently vacant data center at 8451 Highfield Parkway (the Site).

The Site is owned by EdgeConneX. Founded in 2009, EdgeConneX has built over 50 data centers across North America, Europe, Asia Pacific, and South America. EdgeConneX continues to move the Internet to where it is needed – into local markets across the country and around the globe.

The project under consideration would result in investment by EdgeConneX in infrastructure improvements in the range of \$170 million that would enable the Site to be transformed from its current shell state into a functional data center. This investment is dependent on customer commitments to the Site.

EdgeConneX is currently in discussions with two prospective customers that have interest in the Site. One prospective customer would bring investment in computer and related equipment to the Site that is expected to be in the range of \$800 million. The other customer would bring investment in computer equipment to the site in the range of \$200 million. Together with the above-mentioned building infrastructure improvements, total investment at the site would be in the range of \$1.2 billion.

Both prospective customers are giving consideration to sites outside of Douglas County and Colorado and are carefully evaluating the property tax and sales tax environments associated with their options. A personal property tax exemption would be very important to the financial viability of the EdgeConneX infrastructure investment and to the decision of the prospective Customers on whether or not to locate their computer equipment at the Site.

EdgeConneX and the County entered into a ten-year, 100% personal property tax rebate agreement on November 12, 2019. EdgeConneX respectfully requests either an amendment to the November 12, 2019 agreement or a revised agreement that would allow for all of its above referenced personal property investment would be eligible for the 100% rebate for the maximum available benefit period.

EdgeConneX also requests a commitment from the County that it will be willing to enter into similar rebate agreements related to customer equipment at the Site for the maximum available amount and duration allowable by the County, understanding that customers would be required to enter into their own rebate

agreements with the County. These commitments are critical to the decisions being made by the prospective customers and, hence, competitive and economic viability of the Project.

This matter is time sensitive, as we need to set reliable expectations with our prospective customers on this issue as soon as possible. I would be happy to engage in further discussions with you and your County Board of Commissioners to answer questions about the Project. I can be reached at 443-386-8328 or at todd.workman@altusgroup.com.

Thank you,
On behalf of EdgeConneX, Inc.

Todd Workman

Todd Workman
Authorized Representative

**AMENDMENT TO THE EXISTING AGREEMENT BETWEEN DOUGLAS COUNTY
AND EDGECONNEX HOLDINGS, LLC CONCERNING PERSONAL PROPERTY TAX
INCENTIVE PAYMENTS**

THIS AMENDMENT TO EXISTING AGREEMENT CONCERNING PERSONAL PROPERTY TAX INCENTIVE PAYMENTS (this “**Amendment**”) is made effective as of the 21st day of March 2024 (the “**Effective Date**”), by and between the Board of County Commissioners of the County of Douglas, Colorado (the “**County**”), and EdgeConneX Holdings, LLC (the “**Company**”). The Company and the County are referred to in this Amendment collectively as the “**Parties**” and individually, without differentiation, each as a “**Party**.”

WITNESSETH:

WHEREAS, the Parties are also the parties to that certain Agreement Concerning Personal Property Tax Incentive Payments, dated as of November 12, 2019 (the “**Agreement**”), related to the prospective development of a certain Facilities by the Company and the related payment of certain personal property tax rebates by the County to the Company pursuant to Section 30-11-123, C.R.S. (the “**Rebates**”); and

WHEREAS, all capitalized terms used in this Amendment without definition herein shall have the meanings ascribed to such terms by the Agreement, attached hereto and incorporated herein as Exhibit A; and

WHEREAS, this Amendment is intended to honor the full intent and benefit of the Agreement while still complying with the Company’s legal requirements; and

WHEREAS, as of the Effective Date, the Company has completed and occupied the Facilities pursuant to Section 1 of the Agreement and successfully performed all of the Company’s other performance obligations and measures pursuant thereto; and

WHEREAS, the Parties now wish to amend the Agreement to extend the term of the agreement .

NOW, THEREFORE, in consideration of the recitals, the covenants of the Parties contained in this Amendment and in the Agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties hereby agree that the Agreement is amended as follows:

1. Amendment to and Restatement of Section 3. The preexisting Section 3 of the Agreement is hereby deleted in its entirety and is now superseded and replaced by the following new Section 3:

For each of thirty-five (35) consecutive tax years, beginning for taxes levied in the 2020 tax year, County agrees to rebate to the Company One Hundred (100) percent of the County’s portion of BPPT levied by the County and paid by the Company, as applicable, on taxable personal property acquired on or after January 1, 2019 and located at or within the New Facility and appearing on the personal property declaration schedules submitted by the Company to the County Assessor for the New Facility for the applicable tax year. The total amount rebated by the County with respect to any tax year shall not exceed one

hundred (100) percent of the County's portion of the BPPT levied by Douglas County upon the Company's taxable personal property located within the New Facility and used in connection with the operation of such New Facility for the applicable tax year. The term "tax year" as used herein shall mean the year in which said personal property is assessed for tax purposes. Such personal property must be located at the Company's facility as of January 1 of the tax year in question in order to be assessed. Personal property that is moved to or acquired at the Company's New Facility subsequent to the assessment date of January 1 becomes assessable in the following tax year. Personal property taxes become due and payable on January 1 of the year following the year in which they are levied.

2. Deletion of Section 5(A) and Amendment to and Restatement of Section 5(B). The preexisting Section 5(A) of the Agreement is hereby deleted in its entirety, and the preexisting Section 5(B) of the Agreement is now superseded and replaced by the following new Section 5(B):

The Company is required to provide the County an annual report documenting the number of jobs added (net) during the thirty-five (35) year period of this Agreement. Annual report shall include number of full-time equivalents (total and net created annually), position titles, and annual average wage. Annual report is due to county no later than March 31 of each year of this agreement. Notwithstanding anything to the contrary, the Company shall not be required to provide the County with employee names, social security numbers, or any other personal identifying information.

3. Conflicts; Ratification. The Agreement is hereby amended as provided in this Amendment. Wherever a conflict exists between this Amendment and the Agreement, the provisions of this Amendment shall control; *provided, however, that* the terms used in this Amendment are intended to modify the Agreement in a manner that fully implements the Agreement's intent, unless the context clearly requires otherwise. Except as amended herein, the Agreement remains in full force and effect, and is hereby ratified and confirmed in its entirety.
4. Counterparts; Electronic Signatures. This Amendment may be executed in one or more counterparts, each of which shall be an original, but together shall be deemed one and the same instrument. Signatures appearing on signature pages transmitted by electronic means shall be deemed original signatures for purposes of this Amendment.

EdgeConneX Holdings, LLC

By: Jenny Zhan *jenny zhanje*
Title: CAO
Date: March 19, 2024

ATTEST:

By: *Todd Workman*
Title: Independent Advisor
Date: March 21, 2024

VIRGINIA
STATE OF ~~COLORADO~~)
 FAIRFAX) ss.
COUNTY OF ~~DOUGLAS~~)

The foregoing instrument was acknowledged before me this 26th day of March, 2024, by
Jenny Zhan

Jennifer M. Johnson
Notary Public
8/31/2026
Commission Expiration

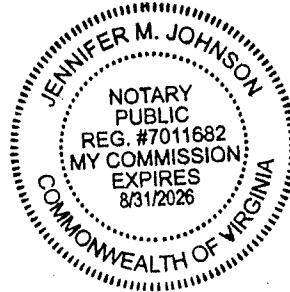


Exhibit A

**AGREEMENT BETWEEN DOUGLAS COUNTY AND EDGECONNEX HOLDINGS,
LLC CONCERNING PERSONAL PROPERTY TAX INCENTIVE PAYMENTS**

This Agreement concerning personal property tax incentive payments (the "Agreement") is entered into this 12 day of November 2019 between the Board of County Commissioners of the County of Douglas, Colorado (the "County") and EdgeConneX Holdings, LLC (the "Company").

WHEREAS, the welfare of the citizens of Douglas County is dependent, in part, upon the attraction of new businesses into the County and the expansion of existing businesses in the County; and

WHEREAS, tax incentives are sometimes necessary in order to attract new businesses; and

WHEREAS, such incentives stimulate economic development in the County and create new jobs and retain jobs; and

WHEREAS, Section 30-11-123, C.R.S., authorizes counties to negotiate for incentive payments for the County's portion of any Business Personal Property Taxes (BPPT) for any taxpayer who establishes a new business facility or expands an existing facility in the County; and

WHEREAS, the County and the Company desire to enter into an agreement for incentive payments in accordance with the provisions of Section 30-11-123, C.R.S. granting specified incentives to the Company for the County's portion of BPPT as otherwise detailed herein;

NOW, THEREFORE, for and in consideration of the mutual promises hereinafter set forth, the County and the Company agree as follows:

1. On or before December 31, 2019, the Company shall occupy a new business facility located at 8451 Highfield Parkway (the "New Facility"). For the New Facility, the County will assign to the Company a new parcel identification number, which shall be used to report the personal property acquired by the Company in connection with the new investment (and treated as part of a new business facility under Section 30-11-123, C.R.S.).
2. Company represents, certifies, and warrants to the County that the New Facility qualifies as a new or expanded business facility under the provisions of Section 30-11-123(1)(b), C.R.S. and is eligible for business personal property tax incentives authorized by the County.
3. For each of ten (10) consecutive tax years, beginning for taxes levied in the 2020 tax year, County agrees to rebate to the Company One Hundred (100) percent of the County's portion of BPPT levied by the County and paid by the Company, as applicable, on taxable personal property acquired on or after January 1, 2019 and located at or within the New Facility and appearing on the personal property declaration schedules submitted by the Company to the

County Assessor for the New Facility for the applicable tax year. The total amount rebated by the County with respect to any tax year shall not exceed one hundred (100) percent of the County's portion of the BPPT levied by Douglas County upon the Company's taxable personal property located within the New Facility and used in connection with the operation of such New Facility for the applicable tax year. The term "tax year" as used herein shall mean the year in which said personal property is assessed for tax purposes. Such personal property must be located at the Company's facility as of January 1 of the tax year in question in order to be assessed. Personal property that is moved to or acquired at the Company's New Facility subsequent to the assessment date of January 1 becomes assessable in the following tax year. Personal property taxes become due and payable on January 1 of the year following the year in which they are levied.

4. The Company must provide a list of tenants to the Douglas County Assessor's Office annually, which shall include company name, mailing address, and phone number.

5. The Company represents that it projects that the Company will meet specified performance measures as follows:

A. Company projects that it will add up to 8 jobs within Douglas County during the ten years covered by this Agreement.

B. The Company is required to provide the County an annual report documenting the number of jobs added (net) during the ten (10) year period of this Agreement. Annual report shall include number of full time equivalents (total and net created annually), position titles, and annual average wage. Annual report is due to county no later than March 31 of each year of this agreement. Notwithstanding anything to the contrary, the Company shall not be required to provide the County with employee names, social security numbers, or any other personal identifying information.

6. Said rebate payment shall be made to the Company by the County within sixty (60) days of the County Manager's receipt of evidence reasonably satisfactory to the County Manager of the full payment by the Company of all property taxes due and owing with respect to said personal property, and the Company's *written waiver (must be executed once a year upon payment of taxes)*, in a form provided by the County, of any rights to seek a refund of all or any part of said taxes. In the event the Company decides to seek an abatement or refund of all or any portion of the taxes levied on said personal property, no rebate payment shall be made by the County to the Company until such abatement or refund proceeding has been finally concluded and any personal property taxes found to be due are paid in full.

7. Such rebate payment shall be made only if the Company is eligible to receive this incentive payment under the provisions of Section 30-11-123, C.R.S., in each year for which a rebate payment is requested.

8. In the event of any dispute as to the amount of any rebate payment to be made to the Company hereunder, the Company and the County shall meet and confer in good faith to resolve such dispute. In the event the parties are unable for any reason to resolve such dispute

within a period of 60 days after notice of a dispute has been given by one party hereunder to the other, the decision of the Board of County Commissioners shall be final and conclusive.

9. Acceptance by the Company of a rebate payment shall be full and final satisfaction of any obligation of the County to make said payment for the tax year for which the payment is made.

10. This Agreement is subject to and shall be interpreted under the laws of the State of Colorado. Court jurisdiction for any dispute concerning this Agreement shall be exclusively in the District Court in and for Douglas County, Colorado.

11. The County reserves the right for the Douglas County Assessor to perform an annual physical inspection of the facility to verify assets listed by the Company on the Commercial Personal Property Declaration Schedule filed by the Company for each New Facility for the applicable tax year. Written notice of the physical inspection will be provided.

12. All notices under this Agreement shall be effective when mailed by regular mail, postage prepaid, to the following addresses:

A. If intended for the Company:

EdgeConneX Holdings, LLC
c/o Joe Harar, CFO
2201 Cooperative Way, Suite 400
Herndon, VA 20171
Re: Economic Development Agreement

with copy to:

RSM US LLP
Kevin Foral, Senior Manager
1299 Farnam Street, Suite 530
Omaha, NE 68102
Re: Economic Development Agreement

B. If intended for the County:

Douglas County
c/o County Manager
100 Third Street
Castle Rock, CO 80104
Re: Economic Development Agreement

Or to such other address as either party may hereafter from time to time designate by written notice to the other party given in accordance with this paragraph.

13. Any potential expenditure for this Agreement outside the current fiscal year is

subject to future annual appropriation of funds for any such proposed expenditure, pursuant to section 29-1-110, C.R.S.


14. This Agreement, as to its subject matter, exclusively and completely states the rights, duties and obligations of the parties and supersedes all prior and contemporaneous representations, letters, proposals, discussions, and understandings by or between the parties. This Agreement may only be amended in writing and signed by both parties.

Executed and agreed to effective as of the date first set forth above.

**THE BOARD OF COUNTY COMMISSIONERS
OF THE COUNTY OF DOUGLAS, COLORADO**

BY: Roger Partridge
ROGER A. PARTRIDGE, Chair
Date: 11/19/2019

ATTEST:
Kristin Randlett
KRISTIN RANDLETT, Deputy Clerk to the Board
Date: 11/19/2019

DocuSigned by:


APPROVED AS TO CONTENT:
Doug DeBord
Doug DeBord, County Manager
Date: 11/16/2019

APPROVED AS TO FORM:
Lance Ingalls
Lance Ingalls, County Attorney
Date: 11/12/2019

APPROVED AS TO FISCAL
CONTENT:
Andrew Copland
Andrew Copland, Director of Finance
Date: 11/12/2019

EdgeConneX Holdings, LLC

By: Harar
Title: Chief Financial Officer
Date: 10/1/2019

ATTEST:

By: Stacey Ginty
Title: Manager, Treasury & Accounting Operations
Date: 10/1/19

Virginia
STATE OF COLORADO)
Fairfax) ss.
COUNTY OF DOUGLAS)

The foregoing instrument was acknowledged before me this 1 day of October, 2019, by

Joseph Harar

Alexander M. Dymersky
Notary Public

December 31, 2023
Commission Expiration

