

**RESOLUTION APPROVING BUSINESS INCENTIVE FOR
DIA TECH CENTER HOTEL I, LLC
NO. 2012-89**

WHEREAS, on November 15, 2011, based on the results of the City of Commerce City's (the "City") prior economic development incentive program and recommendations from the Business Advisory Committee and the Citizen Advisory Committee, the City Council passed Resolution 2011-67, which adopted the City's "2012 Incentive Program;"

WHEREAS, DIA Tech Center Hotel I, LLC (the "Business"), has submitted a Business Incentive Application for Prospective Business, Job Creation and Strategic Business Incentives under the 2012 Incentive Program;

WHEREAS, the estimated combined value of capital improvements planned for the Business, including fixed value assets and new construction (collectively, the "Capital Improvements"), is Six Million Four Hundred Fifty Thousand dollars (\$6,450,000.00) (the "Capital Investment");

WHEREAS, the Business intends to create twenty-four (24) jobs, approximately eight (8) of which will be paid above the average wage for Adams County, Colorado; and

WHEREAS, the City Council has reviewed the application and staff report and finds that the information provided in the application supports the incentives detailed herein, currently estimated to be approximately Two Hundred Thirty-four Thousand Four Hundred Thirty-four dollars (\$234,434.00).

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

1. Approval. The following Incentives described in the attached Business Incentive Agreement (the "Agreement") are hereby approved: Prospective Business Incentives, Job Creation Incentives and Strategic Business Incentives.
2. Prospective Business Incentives.
 - a. The City shall rebate to the Business ten percent (10%) of the sales and/or use taxes remitted to the City, either directly by Business or indirectly through its vendors and/or contractors, in conjunction with construction-related Capital Improvements.
 - b. The City shall rebate to the Business fifty percent (50%) of City building permit and plan check fees associated with the Capital Investment.

3. Job Creation Incentives.
 - a. For each new FTE¹ job created, for which the pay is *above* the average wage for Adams County, Colorado, the City shall to the Business provide Five Hundred dollars (\$500.00) in tax rebates.
 - b. For each new FTE job created, for which the pay is *above* the average wage for Adams County, Colorado, AND the job position is filled by a Commerce City resident, the City shall to the Business provide an additional Five Hundred dollars (\$500.00) in tax rebates.
 - c. New jobs must be created and positions filled within twelve (12) months from completion of construction and/or commencement of business operations within the facility.
4. Strategic Business Incentives.
 - a. The City shall rebate to the Business fifty percent (50%) of the sales and/or use taxes remitted to the City, either directly by the Business or indirectly through its vendors and/or contractors, in conjunction with non-construction-related Capital Improvements.
 - b. The City shall rebate to the Business one hundred percent (100%) of taxes imposed pursuant to Article IX of Chapter 20 of the Commerce City Revised Municipal Code, which are remitted by Business to the City (the “Lodging Tax Rebate”). The Lodging Tax Rebate shall not exceed Two Hundred Thousand dollars (\$200,000.00) or extend beyond the first twenty-four (24) months of operation, whichever occurs first. In addition, the Lodging Tax Rebate shall not exceed the current tax rate of four percent (4%).
5. Notwithstanding the foregoing, in no event shall the amount of Incentives paid to the Business exceed the amount of applicable taxes and fees collected by the City in conjunction with the Capital Improvements. Additionally, in the event the Capital Investment actually made or the number of jobs actually created by the Business are more or less than estimated, the amount of the Incentives awarded shall be adjusted accordingly.

RESOLVED AND PASSED THIS 19th DAY OF NOVEMBER, 2012.

¹ “FTE” is calculated as follows: number of positions in the particular pay category earning above average wage multiplied by the total number of hours to be worked per week by all positions in such category, divided by 40 (hours).

CITY OF COMMERCE CITY

Sean Ford, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk