

**A RESOLUTION APPROVING ECONOMIC DEVELOPMENT BUSINESS
INCENTIVES FOR ARDENT MILLS LLC**

NO. 2024-080

WHEREAS, the City Council of the City of Commerce City (“City Council”), by Resolution No. 2014-56, adopted the Commerce City Economic Development Incentives Program (“Incentive Program”), effective January 1, 2015;

WHEREAS, Ardent Mills LLC, whose principal business address is 1875 Lawrence St., Suite 1400, Denver, Colorado 80202 (“Business”), has submitted a Business Incentive Application under the Incentive Program in connection with proposed new development and business expansion operations in the City of Commerce City (“City”);

WHEREAS, the estimated combined value of facility improvements planned for the relocation/expansion of the Business in the City, including fixed value assets and new construction (collectively, “Facility Improvements”), is \$105,000,000 and the Business anticipates retaining 75 jobs and creating up to an additional 2 net new full-time jobs in the City by December 31, 2026;

WHEREAS, the City Council has reviewed the Business Incentive Application and staff report.

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

Section 1. Findings. The City Council finds and determines that granting incentives to the Business, subject to conditions to be established by an Incentive Agreement consistent with this Resolution and applicable law, will serve a public purpose and public need and be in the public interest.

Section 2. Authorization. The City Manager is authorized to rebate to the Business the following amounts as incentives for the Facility Improvements:

- a. **Fifty percent (40%)** of the City’s non-dedicated sales and use taxes (at the 3.5% rate) payable and remitted to the City in connection with the Facility Improvements; and
- b. **Fifty percent (50%)** of the building permit fees and building plan review fees payable and remitted to the City in connection with the Facility Improvements.

Such incentives shall apply whether the taxes and fees are paid to the City directly by Business or through vendors or contractors, but shall not apply to any future improvements. No other fees or amounts will be subject to any incentives.

Section 3. Conditions. Incentives provided to Business are subject to the following conditions and any additional conditions established in an Incentive Agreement:

- a. The Facility Improvements must be completed by December 31, 2026, as evidenced by the issuance of Certificate of Occupancy on or before that date. Except in accordance with subsection v. Construction and improvements after this deadline will not be eligible for incentives. If a delay is due to the City and in no part due to the Business, the City will extend the deadlines noted herein in proportion to the length of such delay.
- b. All equipment for the Business's operations in the Facility related to the Project must be purchased and delivered by December 31, 2026. Except in accordance with Subsection v, equipment purchased after this deadline will not be eligible for incentives.
- c. Business must employ at least 77 persons in full-time positions at the Facility by December 31, 2026, subject to any extensions granted in accordance with subsection v., which would include 2 new full-time positions resulting from an expansion.
- d. Business must create at least 2 new full-time positions at the Facility by December 31, 2026, unless such deadline is extended pursuant to Subsection v. below, and the average wage paid by Business at the Facility must exceed the County average wage of \$65,312. Employees filling the positions created must be direct employees of Business. Temporary, leased, and contract employees are not to be included or considered when determining compliance with this requirement.
- e. All dates deadlines referenced above are eligible for a potential one-time extension of six (6) months. A written notice of request to extend must be submitted to the City Manager at least thirty (30) days prior to the original deadline, and the notice must include an explanation for the request. The City Manager will have sole discretion to approve or decline requests.
- f. Business must complete quarterly progress reports ("Exhibit A" to Incentive Agreement) indicating its progress on the construction of the Facility Improvements and employment and submit such reports to the City Manager.
- g. The Business must engage with the City by November 1, 2025, to discuss potential sponsorships for community programs or initiatives, such as the sponsorship of public murals, community festivals, or other initiatives that would benefit the City's residents. The Business must sponsor or contribute to a community initiative by March 1, 2026.

Section 4. Incentive Agreement. The City Manager is authorized to negotiate and execute an Incentive Agreement with the Business consistent with the Incentive Program and this Resolution to establish any additional conditions that the City Manager deems necessary and in the City's best interests, which conditions shall govern and be conditions to the payment of any incentives. Such conditions shall address, without limitation, timing of payments, procedure for requesting rebates, and provisions deemed necessary by the City Manager for reimbursement to the City for the failure to meet any conditions and overpayments. Nothing in this resolution shall

be construed to obligate the City to provide any incentives except as provided in an Incentive Agreement in a form acceptable to the City Manager and approved as to form by the City Attorney.

Section 5. Limitation. The City's obligation to pay any incentive is subject to all commitments to pay any City bonds and any restrictions in such bonds. Nothing in this resolution or any Incentive Agreement shall be construed to create a multiple fiscal year debt or financial obligations to pay the incentive or reimburse taxes to any person or entity without prior City-wide voter approval. Any incentive payable in accordance with this resolution shall be subject to annual appropriations that are a legislative decision of the City Council for the City. No portion of the 1.0% sales and use tax approved by voters on November 5, 2013, or any future increase will be used to provide any incentive under this resolution. All sales and use taxes must be remitted to the City at the current rate, as amended. All incentives provided to Businesses shall be conditioned on verification of the City sales and/or use tax and fee payments received by the City and shall be payable solely from sales and uses taxes, for the sales and use tax rebate, and building permit and building plan review fees, for the fee rebate, collected in connection with the Capital Improvements.

RESOLVED AND PASSED THIS 1ST DAY OF JULY 2024.

CITY OF COMMERCE CITY, COLORADO

Steven J. Douglas, Mayor

ATTEST

Dylan A. Gibson, City Clerk