

**RESOLUTION APPROVING BUSINESS INCENTIVE FOR A. R. WILFLEY &  
SONS, INC.**

**NO. 2014-101**

WHEREAS, on December 17, 2012, the Council of the City of Commerce City (the “City Council”) adopted Resolution No. 2012-82, which adopted the 2013 Commerce City Business and Development Incentives Program (the “Program”);

WHEREAS, A. R. Wilfley & Sons, Inc. (“Business”), has submitted under the Program a Business Incentive Application for Prospective Business Incentives, Job Creation Incentives and Commerce City Vendor/Contractor Incentives for capital improvements on and job creation at property located at 5850-5870 East 56<sup>th</sup> Avenue within the City of Commerce City (the “Property”);

WHEREAS, the estimated combined value of capital improvements planned for Business, including fixed value assets and new construction (collectively, the “Capital Improvements”) is one million twenty thousand dollars (\$1,020,000.00);

WHEREAS, Business is moving its operations into the City of Commerce City (the “City”) and intends to bringing into the City approximately eighty (80) new FTE<sup>1</sup> jobs and to create an additional ten (10) new FTE jobs, all of which will be paid *above* the average wage for Adams County, Colorado, eleven (11) of which will be filled by Commerce City residents;

WHEREAS, Business has committed to using Commerce City vendors and/or contractors to make the Capital Improvements; and

WHEREAS, the City Council has reviewed the application and staff report and finds that the information provided in the application supports the incentives set forth herein, currently estimated to be fifty-nine thousand eight hundred sixty-nine dollars (\$59,869.00).

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 Business Incentive Application are hereby approved:
  - Prospective Business Incentives
  - Job Creation Incentives
  - Commerce City Vendor/Contractor Incentives

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<sup>1</sup> FTE is calculated as follows: number of positions in the particular pay category (earning below average wage or 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).

2. Prospective Business Incentives.
  - a. The City of Commerce City (the “City”) shall rebate to 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 Business fifty percent (50%) of City building permit and plan check fees associated with the Capital Improvements.
3. Job Creation Incentives.
  - a. For each new FTE employment position filled, the pay for which is *above* the average wage for Adams County, Colorado, the City shall provide to Business five hundred dollars (\$500.00) in tax rebates.
  - b. For each new FTE employment position filled by a Commerce City resident, for which the pay is above the average wage for Adams County, Colorado, the City shall provide to Business an additional five hundred dollars (\$500.00) in tax rebates.
  - c. All new employment positions must be filled within 12 months after issuance of a certificate of occupancy or temporary certificate of occupancy for the Property. Only non-temporary employment positions created in furtherance of Business’s ongoing operations, and located at or based out of Business’s location within the City, will qualify for the Job Creation Incentive.
4. Commerce City Vendor/Contractor Incentives. Upon verification of the value of the capital improvements actually made, the Economic Development Division is hereby authorized and directed to provide to Business, in accordance with Program terms and conditions, an additional rebate of ten percent (10%) of Use Tax and City Fees collected.
5. Incentives not to Exceed Taxes and Fees Collected; 3.5% Tax Rate.
  - a. Notwithstanding the foregoing, in no event shall the amount of Incentives paid to Business exceed the amount of applicable taxes and fees collected by the City in conjunction with the Capital Improvements. Additionally, in the event the cost of the Capital Improvements actually made, or the number of employment positions actually filled, are more or less than estimated, the amount of the Incentives awarded shall be adjusted accordingly.

- b. All Sales and Use Tax Rebates shall be calculated on a sales and use tax rate of 3.5%<sup>2</sup>.
- 6. Expiration. The approval of Incentives as set forth herein shall expire upon forty-eight (48) months after the date of this Resolution.

RESOLVED AND PASSED THIS 15<sup>TH</sup> DAY OF SEPTEMBER, 2014.

CITY OF COMMERCE CITY

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Sean Ford, Mayor

ATTEST:

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Laura J. Bauer, CMC, City Clerk

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<sup>2</sup> In 2013, the City's voters approved an increase in the City's sales and use tax rate from 3.5% to 4.5%, which increase would be dedicated to the construction of identified parks, recreation amenities and roads. Thus, while Business must remit taxes to the City at the current 4.5% tax rate, only the original 3.5% tax rate is subject to rebate.