

**RESOLUTION APPROVING ECONOMIC DEVELOPMENT BUSINESS INCENTIVES
FOR PERFORMANCE FOOD GROUP, INC.**

NO. 2021 - 105

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, Performance Food Group, Inc., whose principal business address is 12500 West Creek Parkway, Richmond, Virginia 23238 (“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 capital improvements planned for the relocation/expansion of the Business in the City, including fixed value assets and new construction (collectively, “Capital Improvements”), is \$64,000,000 and the Business anticipates retaining 168 jobs and creating up to an additional 145 net new full-time jobs in the City over a 10 year period;

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:

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.

Authorization. The City Manager is authorized to rebate to the Business the following amounts asincentives for the Capital Improvements:

Fifty percent (50%) 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 Capital Improvements; and

Fifty percent (50%) of the building permit fees and building plan review fees payable and remitted to the City in connection with the Capital 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.

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

All construction and improvements (other than equipment and hardware for business operations) must be completed by January 1, 2025, as supported by the issuance of Certificate of Occupancy on or before that date. Construction and improvements beyond this period will not be eligible for incentives.

Purchase of equipment and hardware for use at business operations in the City must begin within three (3) years of, and delivery must be completed by January 1, 2025. Hardware and equipment purchases beyond this period will not be eligible for incentives.

The Business shall create and fill at least seventy five (75) net new jobs within the City by January 1, 2027. Jobs with the same duties filled during these periods shall be treated as one job. Employees filling the jobs created must be direct employees of the Business.

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.

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 6TH DAY OF DECEMBER 2021.

CITY OF COMMERCE CITY, COLORADO

Benjamin A. Huseman, Mayor

ATTEST

Dylan A. Gibson, City Clerk