



City Council of Commerce City

Regular Meeting Agenda

Council Chambers, 7887 E. 60th Ave.

Monday, June 27, 2011, 6:30 p.m.

(TIMES INDICATED NEXT TO AGENDA ITEMS ARE AN APPROXIMATE START TIME ONLY)

1. Call to Order/Roll Call - 6:30

2. Pledge of Allegiance

3. Audience Introduction - 6:35

4. Presentations & Proclamations

a) 6:40 Play Day Proclamation

Tab 1

5. Citizen Communication - 6:45

Two Public Comment Rosters are available immediately inside the Council Chambers. Anyone who would like to address Council will be given the opportunity after signing one of the rosters. Speakers should limit their comments to three minutes.

6. Approval of Minutes - 7:00

a) Regular Meeting Minutes of May 2, 2011

Tab 2

b) Regular Meeting Minutes of May 9, 2011

6. Approval of Minutes - 7:00

- c) Regular Meeting Minutes of June 6, 2011

7. Resolution

- a) 7:05 **Resolution 2011-27** RESOLUTION APPROVING INCENTIVE AGREEMENT FOR ONEIDA COLD STORAGE COMPANY, LLP **Tab 3**

- b) 7:10 **Resolution 2011-39** RESOLUTION APPROVING INCENTIVE AGREEMENT FOR CONTINENTAL WORLD LEASING REAL ESTATE, LLC **Tab 4**

- c) 7:15 **Resolution 2011-32** RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF COMMERCE CITY AND ADAMS SCHOOL DISTRICT 14 REGARDING THE "FLAT 14ERS INITIATIVE" **Tab 5**

- d) 7:20 **Resolution 2011-38** RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF COMMERCE CITY AND BRIGHTON SCHOOL DISTRICT 27J REGARDING THE "FLAT 14ERS INITIATIVE" **Tab 6**

8. Ordinance on 1st Reading

- a) 7:25 **Ordinance 1865** AN ORDINANCE AMENDING THE 2011 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO, BY APPROPRIATING A PORTION OF THE UNENCUMBERED FUND BALANCE OF THE GENERAL FUND IN THE AMOUNT OF \$309,900 AND TRANSFERRING A PORTION OF THE UNENCUMBERED FUND BALANCE IN THE GENERAL FUND TO THE FOLLOWING: FACILITY SERVICES FUND IN THE AMOUNT OF \$80,607; FLEET MANAGEMENT FUND IN THE AMOUNT OF \$35,000; CIPP FUND IN THE AMOUNT OF \$1,626,179; GRANT FUND IN THE AMOUNT OF \$25,000; AND THE GOLF **Tab 7**

8. Ordinance on 1st Reading

ENTERPRISE FUND IN THE AMOUNT OF \$67,380 AND TRANSFERRING \$1,289,240 FROM THE CIPP FUND TO THE IMPACT FEES FUND, \$364,366 FROM THE IMPACT FEES FUND TO THE CIPP FUND AND APPROPRIATING A PORTION OF THE UNENCUMBERED FUND BALANCE IN THE URBAN RENEWAL AUTHORITY FUND IN THE AMOUNT OF \$109,273; FLEET MANGAGEMENT FUND IN THE AMOUNT OF \$45,255; INFORMATION TECHNOLOGY FUND IN THE AMOUNT OF \$15,292 AND TRANSFERRING \$67,840 TO THE GENERAL FUND; APPROPRIATING A PORTION OF THE UNENCUMBERED FUND BALANCE IN THE POLICE DONATION FUND IN THE AMOUNT OF \$34,485 FOR A TOTAL AMOUNT OF \$4,069,817 AND REAFFIRMING PRIOR APPROPRIATIONS AND AUTHORIZING THE EXPENDITURE THEREOF.

9. Study Items

- a) 7:40 Presentation regarding 2010 financial statements by independent auditor **Tab 8**
- b) 7:55 Presentation by Xcel Energy Regarding Xcel's pipeline integrity management program **Tab 9**
- c) 8:40 Long Range Financial Plan Strategic Planning Update **Tab 10**

10. Executive Session - 9:10

- a) 9:10 An executive session pursuant to C.R.S. 24-6-402(4)(b) for the purpose of receiving legal advice regarding the placement of a gas line by Xcel Energy.

11. Administrative Council Business - 9:30

12. Reports - 9:45

13. Adjourn - 10:00



Council Communication

City Council Meeting: 27 Jun 2011

Prepared:

Number of Attachments: 1

Subject: Proclamation declaring July 3, 2011 as Play Day

Presenter: Carolyn J. Keith

Recommended City Council Action:

Adopt the Play Day Proclamation

Summary Statement:

Playful City USA is a national recognition program honoring cities and towns across the nation who are creating an agenda for play. Through the Playful City USA application process, communities create a framework based on five commitments. The Playful City USA program is a unique self-assessment tool that assists communities in identifying the local play assets and play deficits, and in developing a rigorous action plan driven towards increasing quality, quantity, and access for play in our city.

The City of Commerce City received the Playful City USA designation in 2009, 2010, and has applied once again in 2011. A requirement of the Playful City USA application process is the adoption of a Play Day Proclamation as well as Play Day activities.

Next Steps: Continue with application process.

Expenditure Required: n/a

Source of Funds: n/a

Policy Issue: n/a

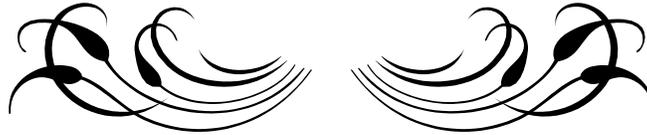
Alternative: n/a

Background Information:
See above.

Office of the Mayor

Commerce City, Colorado

Proclamation



WHEREAS, *play is a valuable part of a child's healthy development and is a crucial factor in the overall well-being of children as well as people of all ages; and*

WHEREAS, *a productive, healthy and physically fit child becomes a socially competent and productive adult; and*

WHEREAS, *children who play do better in school and develop cognitive skills that are linked to learning and academic performance; and*

WHEREAS, *unstructured, unplanned, spontaneous and self-motivated play is on the decline, and it is important to reverse that trend; and*

WHEREAS, *the City of Commerce City acknowledges that children are one of our most important resources, and that we must promote and ensure safe and accessible play spaces for all children as well as people of all ages; and*

WHEREAS, *we encourage children as well as people of all ages to spend time outside at parks, trails and playgrounds with their families and friends; and*

WHEREAS, *the City of Commerce City will join Playful Cities USA in celebrating Play Day and special Play Day Activities will be held throughout the City including 4th Fest at Dick's Sporting Goods Park on July 3rd.*

NOW, THEREFORE, I, Paul Natale, Mayor of the City of Commerce City, Colorado, do hereby proclaim Sunday, July 3rd, 2011, as a PLAY DAY in the City of Commerce City and encourage all citizens to participate on this Play Day in an effort to continue to support and maintain playspaces and playgrounds for the well-being of this and future generations in an effort to preserve a Quality Community for a Lifetime and promote active living and healthy lifestyles.

Dated, at Commerce City, Colorado this 27th day of June 2011.

Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

MINUTES
REGULAR MEETING OF
COMMERCE CITY COUNCIL

May 2, 2011

CALL TO ORDER

A regular meeting of the City Council of the City of Commerce City was called to order by Mayor Natale on May 2, 2011, at 6:30 p.m.

ROLL CALL

Present:

Mayor Natale – presiding
Councilman Benson
Councilman Bullock
Councilman McEldowney
Councilman Moreno
Councilwoman Teter

Absent:

Mayor Pro-Tem Snyder
Councilwoman Carson
Councilman Johnson

Staff Reporting:

City Manager Jerry Flannery
City Attorney Bob Gehler

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

AUDIENCE INTRODUCTION

The audience members introduced themselves.

AMENDED AGENDA

Council members Teter and Bullock moved and seconded to add an additional proclamation to the agenda regarding Municipal Clerk's Week in Commerce City.

VOICE VOTE: Unanimous; all present affirmed

PRESENTATIONS AND PROCLAMATIONS

Building Safety Month Proclamation

Mayor Natale read a proclamation declaring May as Building Safety Month in Commerce City.

Council members McEldowney and Teter moved and seconded to approve the proclamation.

VOICE VOTE: Unanimous; all present affirmed

National Day of Prayer Proclamation

Mayor Natale read a proclamation declaring Thursday May 5, 2011 as National Day of Prayer in the City of Commerce City.

Council members Teter and Bullock moved and seconded to approve the proclamation.

VOICE VOTE: Unanimous; all present affirmed

Municipal Clerks Week Proclamation

Mayor Natale read a proclamation declaring May 1st through May 7th as Municipal Clerk's Week in the City of Commerce City.

Council members Moreno and Bullock moved and seconded to approve the proclamation.

VOICE VOTE: Unanimous; all present affirmed

Mayor Natale presented City Clerk Laura Bauer with the proclamation.

CITIZEN COMMUNICATION

Charlotte Bender, 6300 E. 88th, discussed the Summer Education Academy for at risk teens.

Jocelyn Hernandez, PO Box 297, Dupont, an Adams City High School student, requested donations for a student trip.

Gene Leffel, 6530 Brighton Blvd., spoke about a household chemical round up.

CONSENT AGENDA

Council members McEldowney and Teter moved and seconded to approve the consent agenda as presented.

City Attorney Gehler read the title of Ordinance Z-895-11: *AN ORDINANCE APPROVING THE PUD ZONE DOCUMENT ATTACHED HERETO AS EXHIBIT A AND MADE A PART HEREOF WHICH REZONES THE PROPERTY DESCRIBED THEREIN, WHICH IS LOCATED AT 6120 EAST 58TH AVENUE, COMMERCE CITY, COLORADO, FROM I-1 TO PUD ZONE DISTRICT AND*

AMENDING THE ZONING MAP OF THE CITY OF COMMERCE CITY, COLORADO TO REFLECT SAID REZONING

City Attorney Gehler read the title of Ordinance 1856: *AN ORDINANCE AMENDING THE 2011 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY THE RECOGNITION OF THE COLORADO DEPARTMENT OF TRANSPORTATION GRANT IN THE AMOUNT OF \$6,000 FOR THE POLICE SEATBELT ENFORCEMENT OF THE CLICK IT OR TICKET PROGRAM AND AUTHORIZATION OF THE EXPENDITURE THEREOF*

City Attorney Gehler read the title of Ordinance 1857: *AN ORDINANCE AMENDING THE 2011 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO BY THE RECOGNITION OF THE GOVERNOR'S ENERGY OFFICE SPECIAL EVENT GRANT IN THE AMOUNT OF \$500 TO PURCHASE TREE SEEDLINGS AND PRINTED MATERIAL PROMOTING EFFECTIVE WATER USAGE AND THE AUTHORIZATION OF THE EXPENDITURE THEREOF*

ROLL CALL VOTE: 6 aye

ADMINISTRATIVE COUNCIL BUSINESS

Councilman Moreno proposed holding a strategic planning meeting in June before the CML meeting to discuss alternative funding to possibly include ballot issues. Councilman McEldowney suggested clearing a Monday Council meeting and beginning the meeting at 3:00 p.m. or a full day on a Friday.

Council consensus was to hold the meeting on Monday, June 13th.

Mayor Natale asked City Manager Jerry Flannery to coordinate a meeting with Council, staff, and Canopy Parking for a tour.

Mayor Natale expressed concern regarding outside meetings after the November election and urged Council to come up with a plan so that there is still a Council presence at these events.

REPORTS

City Manager Jerry Flannery discussed past and upcoming economic development events.

Deputy City Manager Tom Acre reported on upcoming I-70 meetings.

Councilman Moreno reported on a volunteer project he worked on.

Councilman Benson reported that CDOT is considering widening the eastbound tunnel of the Eisenhower Tunnel.

Councilman McEldowney reported on attending the 27J School District meeting.

Councilman Bullock reported on attending numerous meetings and events.

Mayor Natale reported on attending numerous meetings and events and read the calendar.

ADJOURNMENT:

The meeting adjourned at 7:45 p.m.

Paul Natale, Mayor

Cheryl Scott, Deputy City Clerk

MINUTES
REGULAR MEETING OF
COMMERCE CITY COUNCIL

May 9, 2011

CALL TO ORDER

A regular meeting of the City Council of the City of Commerce City was called to order by Mayor Natale on May 9, 2011, at 6:30 p.m.

ROLL CALL

Present:

Mayor Natale – presiding
Mayor Pro-Tem Snyder
Councilman Benson
Councilman Bullock
Councilman McEldowney
Councilman Moreno
Councilwoman Teter
Councilwoman Carson

Absent:

Councilman Johnson

Staff Reporting:

City Manager Jerry Flannery
Deputy City Manager Tom Acre
City Attorney Bob Gehler
Communications Director Michelle Halstead
Intergovernmental Relations Manager Mizraim Cordero

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

AUDIENCE INTRODUCTION

The audience members introduced themselves.

PROCLAMATIONS AND PRESENTATIONS

Consul General Arnal Proclamation

Mayor Natale read a proclamation recognizing Consul General Arnal.

Council members Snyder and Teter moved and seconded to approve the proclamation.

VOICE VOTE: Unanimous; all present affirmed

EXECUTIVE SESSION

Council members Snyder and Teter moved and seconded to enter into an executive session for the purpose of determining positions relative to matters that may be subject to negotiations concerning the Xcel and United Power franchise agreements CRS 24-6-402(4)(e).

VOICE VOTE: Unanimous; all present affirmed

Council reconvened the regular meeting at 6:55 p.m.

CITIZEN COMMUNICATION

Albert Cordova, 6945 Colorado Boulevard, and Guillermo Serna, 14122 E. 102nd Place, provided Council with a list of names for information purposes regarding Commerce City Veterans.

Michael Cheney, 7980 Olive Street, addressed the lack of entryways to the bike paths.

John Prestwich, 10684 Belle Creek Boulevard, expressed concern with a recent stabbing within the city and asked what steps the police department and the city were taking to deter crime.

Joy Bishop, 6491 Glencoe Street, spoke about her opposition to the special events permit that the Commerce City Community Enterprise applied for to host a beer tent at the Derby Daze event.

APPROVAL OF MINUTES

March 28, 2011

Council members Teter and Snyder moved and seconded to approve the minutes of the March 28, 2011, meeting.

VOICE VOTE: Unanimous; all present affirmed

RESOLUTIONS

Resolution 2011-22

Council members Moreno and McEldowney moved and seconded to approve Resolution 2011-22.

City Attorney Gehler read the title of Resolution 2011-22: *A RESOLUTION APPROVING BUSINESS INCENTIVE FOR HARVEST ASIAN CUISINE RESTAURANT, INC. D/B/A YUM ASIAN FUSION CUISINE & SUSHI*

VOICE VOTE: Unanimous; all present affirmed

Resolution 2011-23

Council members McEldowney and Snyder moved and seconded to approve Resolution 2011-23.

City Attorney Gehler read the title of Resolution 2011-23: *A RESOLUTION APPROVING BUSINESS INCENTIVE FOR BARPAL INVESTMENTS, LLC*

VOICE VOTE: Unanimous; all present affirmed

Resolution 2011-25

Council members Moreno and Snyder moved and seconded to approve Resolution 2011-25.

City Attorney Gehler read the title of Resolution 2011-25: *A RESOLUTION APPROVING BUSINESS INCENTIVE FOR SUMMIT RENEWABLE, LLC*

VOICE VOTE: Unanimous; all present affirmed

ORDINANCES ON FIRST READING

Ordinance 1861

Council members McEldowney and Teter moved and seconded to introduce Ordinance 1861 by Council as seated and approve the ordinance as an emergency ordinance.

Councilman Moreno asked staff how much the City collected in franchise fees for 2010.

Deputy City Manager Tom Acre replied that the franchise fee collected is mandated by Colorado State Statute and the City collected \$436,000 from United Power and \$1.8 million from Xcel Energy.

City Attorney Gehler read the title of Ordinance 1861: *AN EMERGENCY ORDINANCE AMENDING THE FRANCHISE BETWEEN THE CITY OF COMMERCE CITY AND UNITED POWER, INC. TO EXTEND THE TERM OF THE FRANCHISE*

ROLL CALL VOTE: 8 aye

Ordinance 1862

Council members Teter and Snyder moved and seconded to introduce Ordinance 1862 by Council as seated and approve the ordinance as an emergency ordinance.

City Attorney Gehler read the title of Ordinance 1862: AN EMERGENCY ORDINANCE AMENDING THE FRANCHISE BETWEEN THE CITY OF COMMERCE CITY AND PUBLIC SERVICE COMPANY OF COLORADO D/B/A XCEL ENERGY TO EXTEND THE TERM OF THE FRANCHISE

ROLL CALL VOTE: 8 aye

STUDY ITEMS

Xcel Energy, Cherokee Power Plant 24” Natural Gas Pipeline

Preston Gibson, with Xcel Energy, stated that Xcel Energy has implemented a clean air/clean jobs program to provide clean and affordable power. Xcel had presented a number of options for energy sources to the Public Utilities Commission and found that natural gas fit both criteria. Mr. Gibson presented Xcel’s plan to install 34 miles of 24” steel natural gas transmission pipeline from a new facility they are building in Fort Lupton to the Cherokee Power Plant near I-270 and York Street.

Council expressed concern with installation of the line along 104th Avenue between Potomac Avenue and Gun Club Road, because it would run through a residential neighborhood.

Mr. Gibson stated that this project is still in its preliminary stages and the line path is the preferred route, however, the line path is not set in stone and could change based upon discussions and comments with all those involved.

Update from the Neighborhood Identification Project – Lead by Community Enterprise of Commerce City

Executive Director of Community Enterprise Christie Jophlin, stated that members of the Commerce City community have come together to help identify neighborhoods in the historic parts of Commerce City. Ultimately, the goal is to have all the neighborhoods in the historic part of the City identified. A sub-group is working with the City Attorney's office to prepare an action item for City Council where Council will be asked to establish a formal process by which they identify and partner with neighborhood groups for the benefit of a specific neighborhood and the City at large.

Presentation of 2011 Citizen Survey Results

Communications Director Michelle Halstead presented the results from the 2011 Citizen Survey. The goal of the survey was to better understand perceptions of and satisfaction with city services and facilities. In addition, the research aimed to better understand residents’ opinions about the city’s needs in terms of growth and development in the future.

The 2011 Citizen Survey information was conducted in April 2011 by a telephone survey of adults in Commerce City using a random digit dialing sampling approach. Key topic areas evaluated included:

- Reasons for living in Commerce City
- Perceptions of Commerce City
- Perceptions of government
- Desired improvements
- City communication
- Geographic differences

While there is room for improvement in the areas of customer service and communication, survey data indicates respondents' highest priorities for city improvements clearly involve economic development. For those in the northern areas of the city, this takes the form of convenient access to shopping and services, while in the South, this is simply in the form of job creation. Regardless of the area, however, the economy is clearly on residents' minds as they evaluate their overall level of satisfaction with living in Commerce City.

ADMINISTRATIVE COUNCIL BUSINESS

Councilman Bullock requested Council bring forth a proclamation to recognize the Commerce City Rotary for 50 years of service to the community. Councilman Moreno requested that the city provide a plaque.

Councilwoman Snyder stated that she received calls on noise/music at Pioneer Park and requested that staff look further into the issue.

LEGISLATIVE UPDATE

Intergovernmental Relations Manager Mizraim Cordero provided Council with a summary of bills that he is tracking at the Capitol.

REPORTS

City Manager Jerry Flannery reported on upcoming meetings and events.

Councilman Bullock reported on attending numerous meetings and events.

Councilman Benson reported on upcoming meetings.

Mayor Pro Tem Snyder thanked all those who expressed concern on her medical condition and reported on attending numerous meetings and events.

Mayor Natale reported on attending numerous meetings and events and read the calendar.

ADJOURNMENT:

The meeting adjourned at 9:35 p.m.

Paul Natale, Mayor

Cheryl Scott, Deputy City Clerk

MINUTES
REGULAR MEETING OF
COMMERCE CITY COUNCIL

June 6, 2011

CALL TO ORDER

A regular meeting of the City Council of the City of Commerce City was called to order by Mayor Natale on June 6, 2011, at 6:00 p.m.

ROLL CALL

Present:

Mayor Natale – presiding
Mayor Pro-Tem Snyder – arrived after roll call
Councilman Benson
Councilman Bullock
Councilwoman Carson
Councilman McEldowney
Councilman Moreno
Councilwoman Teter

Staff Reporting:

City Attorney Bob Gehler
City Clerk Laura Bauer

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

AMEND AGENDA

Council members Teter and Carson moved and seconded to amend the agenda by deleting audience introduction, citizen communication, administrative Council business, and reports, continue the proclamation and approval of minutes to June 20, 2011, and instruct the city clerk to prepare a verbatim transcript of the sections of the March 28, 2011, meeting pertaining to the Rocky Mountain Arsenal Wildlife Refuge Visitors' Center.

ROLL CALL VOTE: 6 aye, 2 nay (McEldowney, Moreno)

COUNCIL BUSINESS

Discussion of Interview Process

Council discussed the interview format they wanted to use and the questions they wanted to ask each candidate.

Council members Carson and Teter moved and seconded that instead of picking three questions to ask each candidate, the candidates would be allowed a specific amount of time to talk to Council.

ROLL CALL VOTE: 3 aye, 5 nay (Moreno, Benson, Snyder, McEldowney, Bullock)

Council members Moreno and McEldowney moved and seconded to pick three (3) questions, sequester the candidates while three questions are asked, and proceed to the interviews.

VOICE VOTE: Unanimous; all present affirmed

Council reached a consensus on asking each candidate the following five questions:

- (1) What is the main reason you are seeking this position?
- (2) Please explain what you see as the most pressing matter for the City Council in the near term, and what you think you can contribute during the remainder of the term you are seeking to fill in order to help solve/overcome this issue?
- (3) The city's image was one of the most concerning issues in recent surveys taken by our citizens. What, if anything, would you do to continue to improve Commerce City's image?
- (4) What would you like to see accomplished short-term and long-term in the north and south parts of the city?
- (5) Please provide us with a brief description of the city budget and Council role in the budgetary process as you understand it; also, please include total budget in dollar amounts, example of key sources of revenue and expenditures.

City Council Vacancy Interviews

Council interviewed the following candidates:

- Tonia Johnson
- Gene Leffel
- Robert Toavs
- Crystal Elliott
- Andrew Hahn
- Paolo Diaz
- Dr. Kristine Sumner
- John Connell
- Joseph Sandoval, Jr.
- Daniel Alire
- E. Michael Formili
- Ellen Haug
- Gordon Hamby
- Lanny Cook
- Kristi Douglas
- Steve Douglas

Council completed a written review of the candidates interviewed and gave the results to the City Clerk to tabulate and determine the top three (3) candidates to be considered for a final vote at the June 13th meeting.

ADJOURNMENT:

The meeting adjourned at 9:30 p.m.

Paul Natale, Mayor

Laura Bauer, City Clerk



Council Communication

City Council Meeting: 27 Jun 2011

Prepared: 14 Jun 2011

Number of Attachments: 4

Subject: Resolution Approving Incentive Agreement for Oneida Cold Storage Company, LLP

Presenter: Brittany Morris

Recommended City Council Action:

Staff recommends City Council approve Resolution No. 2011-27 - Existing Business and Job Creation Incentives for a project of economic development significance for Oneida Cold Storage Company, LLP.

Summary Statement:

Oneida Cold Storage Company, LLP is requesting Existing Business and Job Creation Incentives for a project of economic development significance pursuant to the Commerce City Incentive Program approved by Resolution 2010-33. Approval is being requested for incentives totaling an estimated \$31,849.

Next Steps: Following approval, this incentive application will be forwarded to the Finance Department for appropriate processing.

Expenditure Required: Estimated expenditure is \$31,849, based on the stated estimated investment of \$1,648,500. Actual expenditure will be based on actual sales and/or use tax and fees and number of employees.

Source of Funds: Incentive funding will be a rebate of actual sales and/or use tax and fees remitted and/or paid.

Policy Issue: This incentive request is consistent with the Commerce City Incentive Program initially approved by City Council in 2010 and extended until September 1, 2011.

Alternative: NA

Background Information:

Oneida Cold Storage Company, LLP (Oneida) operates a cold food warehouse and distribution business at 8001 E 88TH Ave. The facility is owned by Continental World Leasing Real Estate, LLC (CWL). CWL is expanding the existing facility by approximately 141,000 Sq. Ft. and Oneida will expand its operations to use a significant portion of this space. The total capital investment of the two companies is estimated at nearly \$15 Million. Oneida's capital improvements of approximately \$1,648,500 will include: forklifts and other mobile equipment, blast freezer, storage racks, computer equipment, office furniture and lockers. In addition, the company plans to hire eight (8) new employees. As a project of economic development significance, the company is eligible for a 50% rebate of City sales and/or use taxes associated with these capital improvements. In addition, the company is eligible for a tax rebate for creating new jobs. If the actual combined total of capital improvements for both Oneida and CWL is less than \$10 Million, the rebate of sales and use tax will be decreased to a 25% rebate of City sales and/or use taxes associated with these capital improvements.

**RESOLUTION APPROVING INCENTIVE AGREEMENT FOR
ONEIDA COLD STORAGE COMPANY, LLP**

NO. 2011-27

WHEREAS, the City Council considers quality economic development in the City of Commerce City (the "City") necessary to sustain long-term economic vitality for the City;

WHEREAS, experience has shown that development incentives are beneficial for attracting desirable economic development for the City;

WHEREAS, Oneida Cold Storage Company, LLP, as part of a joint economic development project with Continental World Leasing Real Estate, LLC, has committed to the purchase of new equipment related to the expansion and re-development of an existing facility on property within the City;

WHEREAS, the City Council is agreeable to providing incentives to assist in the expansion and re-development of the existing facility; and

WHEREAS, the City Council has reviewed the attached economic development incentive agreement and has determined that such agreement is and will be in the best interests of the citizens of the City of Commerce City.

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

1. The form, terms and provisions of the attached Incentive Agreement, including, but not limited to, the financial incentives contained therein, are hereby approved in substantially the form presented at this meeting, with such minor insertions, omissions and changes as approved by the City Manager and City Attorney, the execution of such document being conclusive evidence of such approval.
2. The City Manager and the City Clerk are hereby authorized and directed to execute and attest the attached Incentive Agreement on behalf of the City of Commerce City.

RESOLVED AND PASSED THIS 27th DAY OF JUNE, 2011.

CITY OF COMMERCE CITY

Tracey Snyder, Mayor Pro-Tem

ATTEST:

Laura J. Bauer, CMC, City Clerk

BUSINESS INCENTIVE AGREEMENT

THIS BUSINESS INCENTIVE AGREEMENT (the "Agreement") is made and entered into effective this ___ day of _____, 2011, by and between the CITY OF COMMERCE CITY, COLORADO, a home rule municipality whose address is 7887 East 60th Avenue, Commerce City, Colorado 80022 (the "City"), and ONEIDA COLD STORAGE COMPANY, LLP [sic], a Colorado limited liability limited partnership, whose principal business address is 8001 East 88th Avenue, Henderson, CO 80640 ("Oneida").

WHEREAS, as part of a joint economic development project, Oneida and Continental World Leasing Real Estate, LLC ("CWL"), have partnered together to make various improvements on property located within the City at 8001 East 88th Avenue, Henderson, Colorado (the "Property");

WHEREAS, CWL has committed to the construction and installation, on or after March 1, 2011, of certain capital improvements on the Property (the "Capital Improvements");

WHEREAS, Oneida has committed to the purchase and installation, on or after March 1, 2011, of new equipment related to the Capital Improvements;

WHEREAS, Oneida and CWL estimate that the Capital Improvements and purchase of new equipment (hereinafter collectively referred to as the "Capital Investment") will equal approximately Fifteen Million dollars (\$15,000,000.00);

WHEREAS, Oneida estimates that the purchase of new equipment related to the Capital Improvements will equal approximately One Million Six Hundred Forty-eight Thousand Five hundred dollars (\$1,648,500.00);

WHEREAS, Oneida intends to create approximately eight (8) new full time jobs, four (4) of which will be paid above the average wage, and four (4) of which will be paid below the average wage, for Adams County, Colorado;

WHEREAS, the City has established various Business Incentive Programs to encourage business development and expansion within the City;

WHEREAS, because the Capital Investment is being made in furtherance of a joint economic development project by Oneida and CWL, the City Council, upon the recommendation of City staff, has determined that Economic Development Incentives should be made available to both Oneida and CWL based on the entire project; and

WHEREAS, Oneida has applied for one or more incentives under the Business Incentive Programs, and the City has agreed to provide one or more incentives to Oneida as provided herein.

NOW, THEREFORE, in consideration of the mutual promises and conditions herein contained, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereby agree as follows:

1. **INCENTIVES.** Subject to the provisions, terms and conditions of this Agreement, the City shall provide the following economic incentives (collectively, the "Incentives") to Oneida in accordance with the applicable Business Incentive Program(s):

a. Incentives for Job Creation.

i. For each new FTE employee Oneida adds to its payroll in conjunction with the Capital Investment, for which the pay is *above* the average wage for Adams County, Colorado, the City shall provide to Oneida Five Hundred dollars (\$500.00) in tax rebates; and

ii. For each new FTE employee Oneida adds to its payroll in conjunction with the Capital Investment, for which the pay is *at or below* the average wage for Adams County, Colorado, the City shall provide to Oneida Two Hundred Fifty dollars (\$250.00) in tax rebates.

iii. Oneida shall add such new employees to its payroll within 12 months from City Council approval of the Incentive.

iv. For the purposes of this Agreement, the term, "FTE employee" shall mean the equivalent of one (1) employee working forty (40) hours per week.

c. Incentives for Projects of Economic Development Significance.

i. Because the combined estimated Capital Investment exceeds Ten Million Dollars (\$10,000,000.00), the City shall rebate to Oneida fifty percent (50%) of sales and use taxes remitted, either directly by Oneida or indirectly through its vendors and/or contractors, to the City in conjunction with the Capital Investment; provided, however, that any sales or use taxes remitted to the City by or through Oneida's lessees shall not constitute or be considered sales and use taxes remitted by Oneida or its vendors and/or contractors.

ii. As set forth in Section 2 of this Agreement, prior to payment of the Incentive provided for in this subsection, the actual amount of the Capital Investment will be verified by the City through sales and use tax audits or other means determined by the City's Finance Department at its sole discretion.

iii. In the event the amount of the Capital Investment is ultimately determined to be less than Ten Million Dollars (\$10,000,000.00), the Incentive provided for in this subsection c shall be reduced to twenty-five percent (25%) of sales and use taxes remitted to the City.

2. PAYMENT OF INCENTIVES. The City shall pay the Incentives to Oneida within thirty (30) days after satisfaction of the following conditions by both Oneida and CWL (including any and all appeals thereof):

a. Oneida and CWL, either directly or indirectly through their vendors and/or contractors, have timely paid to the City all applicable sales and use taxes and City fees related to the Capital Investment, and payment of the taxes has been verified through the appropriate sales and use tax audits or such other means as determined by the City Finance Department; provided, however, that any sales or use taxes remitted to the City by or through Oneida's lessees shall not constitute or be considered sales and use taxes remitted by Oneida or its vendors and/or contractors.

b. Purchase of the new equipment shall be completed no later than December 31,

2011.

c. If required by the City, final approval of the Capital Improvements has been made by the City confirming that installation thereof is in compliance with all City building codes.

d. A final determination has been made by the City's Finance Department, through applicable sales and use tax audits by the City or such other means as determined by the City's Finance Department, of the amount of sales and use taxes remitted to the City as set forth above.

e. Oneida has fulfilled or satisfied all other obligations and/or debts owed to the City, whether monetary or otherwise, including, but not limited to, any and all fees, fines, taxes, judgments, liens and dedications, whether or not related to the Capital Investment.

f. Notwithstanding anything in this Agreement to the contrary, in the event Oneida is awarded by Adams County, Colorado, an economic development incentive in conjunction with the Capital Investment (the "County Incentive"), the amount of the City's Incentives shall be no less than the amount of the County Incentive.

g. In no event shall the amount of the Incentives paid to Oneida exceed actual fees paid and taxes remitted to the City.

h. This Agreement sets forth only the terms and conditions under which the Incentives will be paid and does not constitute an agreement by Oneida to meet the terms and conditions set forth herein.

3. NOTICES. A notice, demand or other communication under this Agreement by either party to the other shall be in writing and sufficiently given if delivered in person or if it is delivered by Certified Mail, Return Receipt Requested, postage prepaid, or by facsimile transmission with a confirmation thereof as follows:

To the City:

Economic Development Director
City of Commerce City
7887 E. 60th Avenue
Commerce City, Colorado 80022

To Oneida:

Stanley Averch, General Partner
Oneida Cold Storage Company, LLP
8001 E. 88th Ave.
Henderson, CO 80640

4. GENERAL TERMS AND CONDITIONS.

a. Governing Law and Venue; Recovery of Costs. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in Adams County, Colorado. In the event legal action is brought to resolve any dispute among the parties related to this Agreement, the prevailing party in such action shall be entitled to recover reasonable court costs and attorney fees from the non-prevailing party.

b. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

c. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, neither the City nor Oneida shall be deemed or constituted a partner or joint venture of the other. Neither the City nor Oneida shall be the agent of the other, and any actions taken pursuant to this Agreement shall be deemed actions as an independent contractor of the other.

d. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the parties. It is the express intention of the parties that no person other than the City and Oneida shall be deemed to be a beneficiary under this Agreement.

e. No Waiver. No waiver by either party of any covenant, term, condition or agreement contained herein shall be deemed or construed as a waiver of any other covenant, term, condition or agreement nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach whether of the same or of a different provision of this Agreement.

f. Integrated Contract; Amendments. This Agreement is intended as the complete integration of all understandings among the parties concerning the subject matter hereof. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever unless in writing and signed by both parties.

g. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

h. Authority. Each party represents and warrants that it has taken all actions that are necessary or required by its procedures, bylaws or applicable law to legally authorize the undersigned signatory to execute this Agreement on behalf of the parties and to bind the parties to its terms.

IN WITNESS WHEREOF, the City and Business have caused this Agreement to be duly executed as of the day first above written.

[The remainder of this page intentionally left blank – signature page(s) follow(s)]

CITY OF COMMERCE CITY

Gerald M. Flannery, City Manager

ATTEST:

Laura J. Bauer, CMC, City Clerk

Approved as to form:

Gregory D. Graham, Assistant City Attorney

Recommended for approval:

Brittany Morris, Economic Development Director

ONEIDA COLD STORAGE COMPANY, LLP

Signature

[Signature must be notarized]

Printed Name & Title

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2011, by _____, _____, of _____.

Witness my hand and official seal.

My Commission Expires _____.

Notary Public



CITY OF COMMERCE CITY
 7887 EAST 60TH AVENUE
 COMMERCE CITY, CO 80022

ECONOMIC DEVELOPMENT DIVISION
 Telephone: 303.289.3620
 Fax: 303.289.3688
 Website: <http://www.c3ed.com>

BUSINESS INCENTIVE APPLICATION

PLEASE TYPE OR PRINT LEGIBLY

COMPANY INFORMATION

Company Name: Aneida Cold Storage Co., LP Contact Person: Stan Averch
 Address: 801 E 88th Ave Henderson CO 80640 E-Mail: stan@aneidacoldstorage.com
Street Number City State Zip Code
 Telephone: 303-388-1211 Cell or Other #: _____ Fax: 303-281-1911
 Company Website Address (if applicable): _____

Property Address/General Location (if different from above): _____

PARENT COMPANY INFORMATION (if different from Company Information)

Company Name: _____ Contact Person: _____ E-Mail: _____
 Address: _____
Street Number City State Zip Code
 Telephone: _____ Cell or Other #: _____ Fax: _____
 Parent Company Website Address (if applicable): _____

APPLICATION FOR: (check all that apply)	TYPE OF INDUSTRY: (brief description)
<input checked="" type="checkbox"/> Existing Business Incentives	<u>Food warehousing/distributions</u> <u>Food processing</u>
<input type="checkbox"/> Prospective Business Incentives	
<input type="checkbox"/> Existing Retailer Incentives	
<input type="checkbox"/> New Retailer Incentives	
<input checked="" type="checkbox"/> Job Creation Incentives	
<input checked="" type="checkbox"/> Green Businesses and Green Building Practices	BUSINESS LICENSE No.: <u>21539</u>
<input checked="" type="checkbox"/> Projects of Economic Development Significance	COMPANY'S PRIMARY NAICS:

EMPLOYMENT:

Current total number of employees?	<u>147</u>
Number of planned new employees?	<u>60</u>
How many current employees live in Commerce City? (Note that some Commerce City residents have a Henderson, zip code 80640, or Brighton, zip code 80603, mailing address.)	<u>6</u>
Number of planned new employees with salaries/annual wages over \$41,747?	<u>25</u>

CAPITAL EXPENDITURES		FACILITY IMPROVEMENTS	
Value of Fixed Assets to be Purchased for Commerce City Facilities <small>(computers, office furniture, equipment, etc.)</small>		Value of New Construction, Expansion, or Remodelling of Company's Commerce City Facility	
\$ 1,500,000		\$ 12,000,000 +/-	
DESCRIPTION OF CAPITAL EXPENDITURES AND/OR FACILITY IMPROVEMENTS (please identify if "Green" and/or energy efficient)			
<u>Capital Expenditures: Pallet making, forklifts, office furniture</u> <u>RF system, telephone system, fiber cable</u> <u>Facility Improvements: The improvements will consist of an</u> <u>expansion to the current facility of approximately 141,150</u> <u>gross square feet. The new facility will consist of</u> <u>freezer areas, refrigerated truck dock and general</u> <u>office facilities. The improvements will be general design</u> <u>and conform with the existing facility</u>			

GENERAL ELIGIBILITY REQUIREMENTS

To maximize the positive economic and social impacts of the City of Commerce City Business Incentive Program, certain requirements and guidelines have been established. Businesses applying for incentives must comply with these requirements.

By checking each requirement, you are confirming the company agrees to comply with each one:

- Be a **licensed business entity located in Commerce City, Colorado.** For new businesses, a business license must be obtained prior to the rebate being paid.
- Be **current on all fees and taxes** owed to the City of Commerce City.
- Agree to **maintain a business presence in Commerce City for a minimum of three years from receipt of incentive.** If the business moves out of Commerce City within that period, the applicant agrees to reimburse the City for the total amount of the incentive received.
- Meet the requirements of each of the programs for which the business is applying.

CERTIFICATION

By signing below, I certify that I represent the organization identified above and have the authority to enter into agreements on behalf of the organization. I further certify that all information submitted on this application is true and correct to the best of my knowledge. I understand that City staff may require additional information to complete the application process and that all application materials are public record and subject to public inspection. I further understand that an incentive agreement may be subject to approval by the City Council. I give permission to the City of Commerce City to use the company's name and the amount of any rebate granted to illustrate the success of this incentive program.

Name: Stanley Averch Title: owner/partner
Printed
Stanley Averch Signature Date: 10-01-2010
Signature

INTERNAL USE ONLY			
Project Reviewed:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	ED Director Review:
Referred to Sales Tax:			Date Letter Sent:
Information Requested:			Rebate Disbursed:

**RESOLUTION APPROVING INCENTIVE AGREEMENT FOR
ONEIDA COLD STORAGE COMPANY, LLP**

NO. 2011-27

WHEREAS, the City Council considers quality economic development in the City of Commerce City (the "City") necessary to sustain long-term economic vitality for the City;

WHEREAS, experience has shown that development incentives are beneficial for attracting desirable economic development for the City;

WHEREAS, Oneida Cold Storage Company, LLP, as part of a joint economic development project with Continental World Leasing Real Estate, LLC, has committed to the purchase of new equipment related to the expansion and re-development of an existing facility on property within the City;

WHEREAS, the City Council is agreeable to providing incentives to assist in the expansion and re-development of the existing facility; and

WHEREAS, the City Council has reviewed the attached economic development incentive agreement and has determined that such agreement is and will be in the best interests of the citizens of the City of Commerce City.

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

1. The form, terms and provisions of the attached Incentive Agreement, including, but not limited to, the financial incentives contained therein, are hereby approved in substantially the form presented at this meeting, with such minor insertions, omissions and changes as approved by the City Manager and City Attorney, the execution of such document being conclusive evidence of such approval.
2. The City Manager and the City Clerk are hereby authorized and directed to execute and attest the attached Incentive Agreement on behalf of the City of Commerce City.

RESOLVED AND PASSED THIS 27th DAY OF JUNE, 2011.

CITY OF COMMERCE CITY

Tracey Snyder, Mayor Pro-Tem

ATTEST:

Laura J. Bauer, CMC, City Clerk

BUSINESS INCENTIVE AGREEMENT

THIS BUSINESS INCENTIVE AGREEMENT (the "Agreement") is made and entered into effective this ___ day of _____, 2011, by and between the CITY OF COMMERCE CITY, COLORADO, a home rule municipality whose address is 7887 East 60th Avenue, Commerce City, Colorado 80022 (the "City"), and ONEIDA COLD STORAGE COMPANY, LLP [sic], a Colorado limited liability limited partnership, whose principal business address is 8001 East 88th Avenue, Henderson, CO 80640 ("Oneida").

WHEREAS, as part of a joint economic development project, Oneida and Continental World Leasing Real Estate, LLC ("CWL"), have partnered together to make various improvements on property located within the City at 8001 East 88th Avenue, Henderson, Colorado (the "Property");

WHEREAS, CWL has committed to the construction and installation, on or after March 1, 2011, of certain capital improvements on the Property (the "Capital Improvements");

WHEREAS, Oneida has committed to the purchase and installation, on or after March 1, 2011, of new equipment related to the Capital Improvements;

WHEREAS, Oneida and CWL estimate that the Capital Improvements and purchase of new equipment (hereinafter collectively referred to as the "Capital Investment") will equal approximately Fifteen Million dollars (\$15,000,000.00);

WHEREAS, Oneida estimates that the purchase of new equipment related to the Capital Improvements will equal approximately One Million Six Hundred Forty-eight Thousand Five hundred dollars (\$1,648,500.00);

WHEREAS, Oneida intends to create approximately eight (8) new full time jobs, four (4) of which will be paid above the average wage, and four (4) of which will be paid below the average wage, for Adams County, Colorado;

WHEREAS, the City has established various Business Incentive Programs to encourage business development and expansion within the City;

WHEREAS, because the Capital Investment is being made in furtherance of a joint economic development project by Oneida and CWL, the City Council, upon the recommendation of City staff, has determined that Economic Development Incentives should be made available to both Oneida and CWL based on the entire project; and

WHEREAS, Oneida has applied for one or more incentives under the Business Incentive Programs, and the City has agreed to provide one or more incentives to Oneida as provided herein.

NOW, THEREFORE, in consideration of the mutual promises and conditions herein contained, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereby agree as follows:

1. INCENTIVES. Subject to the provisions, terms and conditions of this Agreement, the City shall provide the following economic incentives (collectively, the "Incentives") to Oneida in accordance with the applicable Business Incentive Program(s):

a. Incentives for Job Creation.

i. For each new FTE employee Oneida adds to its payroll in conjunction with the Capital Investment, for which the pay is *above* the average wage for Adams County, Colorado, the City shall provide to Oneida Five Hundred dollars (\$500.00) in tax rebates; and

ii. For each new FTE employee Oneida adds to its payroll in conjunction with the Capital Investment, for which the pay is *at or below* the average wage for Adams County, Colorado, the City shall provide to Oneida Two Hundred Fifty dollars (\$250.00) in tax rebates.

iii. Oneida shall add such new employees to its payroll within 12 months from City Council approval of the Incentive.

iv. For the purposes of this Agreement, the term, "FTE employee" shall mean the equivalent of one (1) employee working forty (40) hours per week.

c. Incentives for Projects of Economic Development Significance.

i. Because the combined estimated Capital Investment exceeds Ten Million Dollars (\$10,000,000.00), the City shall rebate to Oneida fifty percent (50%) of sales and use taxes remitted, either directly by Oneida or indirectly through its vendors and/or contractors, to the City in conjunction with the Capital Investment; provided, however, that any sales or use taxes remitted to the City by or through Oneida's lessees shall not constitute or be considered sales and use taxes remitted by Oneida or its vendors and/or contractors.

ii. As set forth in Section 2 of this Agreement, prior to payment of the Incentive provided for in this subsection, the actual amount of the Capital Investment will be verified by the City through sales and use tax audits or other means determined by the City's Finance Department at its sole discretion.

iii. In the event the amount of the Capital Investment is ultimately determined to be less than Ten Million Dollars (\$10,000,000.00), the Incentive provided for in this subsection c shall be reduced to twenty-five percent (25%) of sales and use taxes remitted to the City.

2. PAYMENT OF INCENTIVES. The City shall pay the Incentives to Oneida within thirty (30) days after satisfaction of the following conditions by both Oneida and CWL (including any and all appeals thereof):

a. Oneida and CWL, either directly or indirectly through their vendors and/or contractors, have timely paid to the City all applicable sales and use taxes and City fees related to the Capital Investment, and payment of the taxes has been verified through the appropriate sales and use tax audits or such other means as determined by the City Finance Department; provided, however, that any sales or use taxes remitted to the City by or through Oneida's lessees shall not constitute or be considered sales and use taxes remitted by Oneida or its vendors and/or contractors.

b. Purchase of the new equipment shall be completed no later than December 31, 2011.

c. If required by the City, final approval of the Capital Improvements has been made by the City confirming that installation thereof is in compliance with all City building codes.

d. A final determination has been made by the City's Finance Department, through applicable sales and use tax audits by the City or such other means as determined by the City's Finance Department, of the amount of sales and use taxes remitted to the City as set forth above.

e. Oneida has fulfilled or satisfied all other obligations and/or debts owed to the City, whether monetary or otherwise, including, but not limited to, any and all fees, fines, taxes, judgments, liens and dedications, whether or not related to the Capital Investment.

f. Notwithstanding anything in this Agreement to the contrary, in the event Oneida is awarded by Adams County, Colorado, an economic development incentive in conjunction with the Capital Investment (the "County Incentive"), the amount of the City's Incentives shall be no less than the amount of the County Incentive.

g. In no event shall the amount of the Incentives paid to Oneida exceed actual fees paid and taxes remitted to the City.

h. This Agreement sets forth only the terms and conditions under which the Incentives will be paid and does not constitute an agreement by Oneida to meet the terms and conditions set forth herein.

3. NOTICES. A notice, demand or other communication under this Agreement by either party to the other shall be in writing and sufficiently given if delivered in person or if it is delivered by Certified Mail, Return Receipt Requested, postage prepaid, or by facsimile transmission with a confirmation thereof as follows:

To the City:

Economic Development Director
City of Commerce City
7887 E. 60th Avenue
Commerce City, Colorado 80022

To Oneida:

Stanley Averch, General Partner
Oneida Cold Storage Company, LLP
8001 E. 88th Ave.
Henderson, CO 80640

4. GENERAL TERMS AND CONDITIONS.

a. Governing Law and Venue; Recovery of Costs. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in Adams County, Colorado. In the event legal action is brought to resolve any dispute among the parties related to this Agreement, the prevailing party in such action shall be entitled to recover reasonable court costs and attorney fees from the non-prevailing party.

b. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

c. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, neither the City nor Oneida shall be deemed or constituted a partner or joint venture of the other. Neither the City nor Oneida shall be the agent of the other, and any actions taken pursuant to this Agreement shall be deemed actions as an independent contractor of the other.

d. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such enforcement shall be strictly reserved to the parties. It is the express intention of the parties that no person other than the City and Oneida shall be deemed to be a beneficiary under this Agreement.

e. No Waiver. No waiver by either party of any covenant, term, condition or agreement contained herein shall be deemed or construed as a waiver of any other covenant, term, condition or agreement nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach whether of the same or of a different provision of this Agreement.

f. Integrated Contract; Amendments. This Agreement is intended as the complete integration of all understandings among the parties concerning the subject matter hereof. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever unless in writing and signed by both parties.

g. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

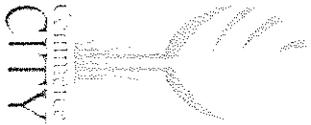
h. Authority. Each party represents and warrants that it has taken all actions that are necessary or required by its procedures, bylaws or applicable law to legally authorize the undersigned signatory to execute this Agreement on behalf of the parties and to bind the parties to its terms.

IN WITNESS WHEREOF, the City and Business have caused this Agreement to be duly executed as of the day first above written.

[The remainder of this page intentionally left blank – signature page(s) follow(s)]

CITY OF COMMERCE CITY
 7887 EAST 60TH AVENUE
 COMMERCE CITY, CO 80022

ECONOMIC DEVELOPMENT DIVISION
 Telephone: 303.289.3620
 Fax: 303.289.3688
 Website: <http://www.c3ed.com>



BUSINESS INCENTIVE APPLICATION

PLEASE TYPE OR PRINT LEGIBLY

COMPANY INFORMATION

Company Name: Deirda Cold Storage Co, LP Contact Person: Stan Averch
 Address: 801 E 88th Ave Henderson CO 80640
Street Number City State Zip Code
 Telephone: 303-288-1211 Cell or Other #: _____ Fax: 303-284-7911
 Company Website Address (if applicable): _____

Property Address/General Location (if different from above): _____

PARENT COMPANY INFORMATION (if different from Company information)

Company Name: _____ Contact Person: _____
 Address: _____ E-Mail: _____
Street Number City State Zip Code
 Telephone: _____ Cell or Other #: _____ Fax: _____
 Parent Company Website Address (if applicable): _____

APPLICATION FOR: (check all that apply)

- Existing Business Incentives
- Prospective Business Incentives
- Existing Retailer Incentives
- New Retailer Incentives
- Job Creation Incentives
- Green Businesses and Green Building Practices
- Projects of Economic Development Significance

TYPE OF INDUSTRY: (brief description)

Food warehousing/distributions
Food processing

BUSINESS LICENSE NO.:

21539

COMPANY'S PRIMARY NAICS:

EMPLOYMENT::

Current total number of employees?	<u>47</u>
Number of planned new employees?	<u>60</u>
How many current employees live in Commerce City? (Note that some Commerce City residents have a Henderson, zip code 80640, or Brighton, zip code 80603, mailing address.)	<u>6</u>
Number of planned new employees with salaries/annual wages over \$41,747?	<u>25</u>

CAPITAL EXPENDITURES		FACILITY IMPROVEMENTS	
Value of Fixed Assets to be Purchased for Commerce City Facilities <small>(computers, office furniture, equipment, etc.)</small>		Value of New Construction, Expansion, or Remodeling of Company's Commerce City Facility	
\$ 1,500,000		\$ 12,000,000 +/-	
DESCRIPTION OF CAPITAL EXPENDITURES AND/OR FACILITY IMPROVEMENTS (please identify if "Green" and/or energy efficient)			
<u>Capital Expenditures: Pallet racking, forklifts, office furniture</u> <u>RF system, telephone system, fiber cable</u> <u>Facility Improvements: The improvements will consist of an</u> <u>expansion to the current facility of approximately 141,150</u> <u>gross square feet. The new facility will consist of</u> <u>freezer areas, refrigerated truck dock and general</u> <u>office facilities. The improvements will be general design</u> <u>and conform with the existing facility</u>			

GENERAL ELIGIBILITY REQUIREMENTS

To maximize the positive economic and social impacts of the City of Commerce City Business Incentive Program, certain requirements and guidelines have been established. Businesses applying for incentives must comply with these requirements.

By checking each requirement, you are confirming the company agrees to comply with each one:

- Be a licensed business entity located in Commerce City, Colorado. For new businesses, a business license must be obtained prior to the rebate being paid.
- Be current on all fees and taxes owed to the City of Commerce City;
- Agree to maintain a business presence in Commerce City for a minimum of three years from receipt of incentive. If the business moves out of Commerce City within that period, the applicant agrees to reimburse the City for the total amount of the incentive received;
- Meet the requirements of each of the programs for which the business is applying.

CERTIFICATION

By signing below, I certify that I represent the organization identified above and have the authority to enter into agreements on behalf of the organization. I further certify that all information submitted on this application is true and correct to the best of my knowledge. I understand that City staff may require additional information to complete the application process and that all application materials are public record and subject to public inspection. I further understand that an incentive agreement may be subject to approval by the City Council. I give permission to the City of Commerce City to use the company's name and the amount of any rebate granted to illustrate the success of this incentive program.

Name: Stanley Averch Title: owner/partner
Stanley Averch Printed
Stanley Averch Signature Date: 10-01-2010

INTERNAL USE ONLY			
Project Reviewed:	<input type="checkbox"/> Yes <input type="checkbox"/> No	ED Director Review:	Date:
Referred to Sales Tax:		Date Letter Sent:	
Information Requested:		Rebate Dispersed:	

Business Incentive Program Worksheet - ED Significant

Applicant: Oneida Cold Storage
Address: 8001 E 88TH AVE, HENDERSON, CO 80640

Projects of Economic Development Significance

50% Rebate of sales and/or use tax for capital improvements See below

Est. Value of Fixed Assets	1,648,500.00	
Est. Value of New Construction		
Total Est. Value	1648500	
Est. Sales and/or Use Tax	57697.50	(3.5% of Est. Total Value)
Est. Sales &/or Use Tax Rebate Amount	28848.75	(50% of sales and/or use tax)

Existing Business Incentives

50% Rebate of City Fees associated with capital improvements

Est. Building Permit Fee		
Est. Plan Check Fee		
Total Est. Fees	0	
Est. Fee Rebate Amount	0.00	(50% of fees)

Job Creation Incentives (Average county wage is: \$41,747)

# of new jobs created above avg. wage	4	
	x \$500	
	2000	
# of new jobs created below avg wage	4	Total Job Creation Incentives:
	x \$250	
	1000	3000

Total Est. Amount of Business Incentive: \$ 31,849

Notes:

Project Construction and Fixed Assets Estimates:

Mobile Equipment (forklifts, etc.)	90000
Computer Equipment	35000
R F System	8500
Phone, Internet Wiring	20000
Office furniture and lockers	9000
Racks	1300000
Blast Freezer	176000
Security System/cameras	10000
	1,648,500.00

Notes (cont.):

this is part of a large project between two closely held entities of Stan Averch - Oneida Cold Storage Company, LLP and Continental World Leasing Real Estate, LLC. Continental owns the building that is being expanded and Oneida is the primary leasee/operator. The total capital investment of Stan's business entities is just under \$15 Million. Since this is one project, the increased incentives for a project of economic development significance will apply to both companies.

company plans to create 8 new jobs - 4 with salaries above the 2010 county average, the remainder below the county average

company also applied for "Green" incentives - per Brittany 2/28, 50% of sales/use tax includes green, if actual total capital investment is < \$10 Mil, sales/use tax will be decreased to 25% - 10% + 15% for "Green"

company also plans to apply for county incentives - submission for approval delayed significantly waiting for this. Decision made to proceed without county matching incentive amount and adjust to match later if needed. This is reflected in the agreement.



Council Communication

City Council Meeting: 27 Jun 2011

Prepared: 21 Jun 2011

Number of Attachments: 4

Subject: Resolution Approving Incentive Agreement for Continental World Leasing Real Estate, LLC

Presenter: Brittany Morris

Recommended City Council Action:

Staff recommends City Council approve Resolution No. 2011-39 - Existing Business Incentives for a project of economic development significance for Continental World Leasing Real Estate, LLC.

Summary Statement:

Continental World Leasing Real Estate, LLC is requesting Existing Business Incentives for a project of economic development significance pursuant to the Commerce City Incentive Program approved by Resolution 2010-33. Approval is being requested for incentives totaling an estimated \$181,055.

Next Steps: Following approval, this incentive application will be forwarded to the Finance Department for appropriate processing.

Expenditure Required: Estimated expenditure is \$181,055, based on the stated estimated investment of \$13,280,670. Actual expenditure will be based on actual sales and/or use tax and fees.

Source of Funds: Incentive funding will be a rebate of actual sales and/or use tax and fees remitted and/or paid.

Policy Issue: This incentive request is consistent with the Commerce City Incentive Program initially approved by City Council in 2010 and extended until September 1, 2011.

Alternative: NA

Background Information:

Continental World Leasing Real Estate, LLC (CWL) owns the cold food warehouse and distribution facility at 8001 E 88TH Ave. CWL is expanding the existing facility by approximately 141,000 Sq. Ft. The new construction, estimated at a value of nearly \$13.3 Million will include freezer areas, refrigerated truck dock and general office facilities. Oneida Cold Storage Company, LLP, the primary lessee and operator, will expand its operations to use a significant portion of the new space and will purchase new equipment. The total capital investment of the two companies is estimated at nearly \$15 Million. As a project of economic development significance, CWL is eligible for a 50% rebate of City sales and/or use taxes associated with these capital improvements, as well as a 50% rebate of the city building and permit fees associated with this capital improvement. If the actual combined total of capital improvements for both Oneida and CWL is less than \$10 Million, the rebate of sales and use tax will be decreased to a 25% rebate of City sales and/or use taxes associated with these capital improvements.

**RESOLUTION APPROVING INCENTIVE AGREEMENT FOR
CONTINENTAL WORLD LEASING REAL ESTATE, LLC**

NO. 2011-39

WHEREAS, the City Council considers quality economic development in the City of Commerce City (the "City") necessary to sustain long-term economic vitality for the City;

WHEREAS, experience has shown that development incentives are beneficial for attracting desirable economic development for the City;

WHEREAS, Continental World Leasing Real Estate, LLC, as part of a joint economic development project with Oneida Cold Storage Company, LLP, has committed to certain capital improvements related to the expansion and re-development of an existing facility on property within the City;

WHEREAS, the City Council is agreeable to providing incentives to assist in the expansion and re-development of the existing facility; and

WHEREAS, the City Council has reviewed the attached economic development incentive agreement and has determined that such agreement is and will be in the best interests of the citizens of the City of Commerce City.

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

1. The form, terms and provisions of the attached Incentive Agreement, including, but not limited to, the financial incentives contained therein, are hereby approved in substantially the form presented at this meeting, with such minor insertions, omissions and changes as approved by the City Manager and City Attorney, the execution of such document being conclusive evidence of such approval.
2. The City Manager and the City Clerk are hereby authorized and directed to execute and attest the attached Incentive Agreement on behalf of the City of Commerce City.

RESOLVED AND PASSED THIS 27th DAY OF JUNE, 2011.

CITY OF COMMERCE CITY

Tracey Snyder, Mayor Pro-Tem

ATTEST:

Laura J. Bauer, CMC, City Clerk

BUSINESS INCENTIVE AGREEMENT

THIS BUSINESS INCENTIVE AGREEMENT (the "Agreement") is made and entered into effective this ___ day of _____, 2011, by and between the CITY OF COMMERCE CITY, COLORADO, a home rule municipality whose address is 7887 East 60th Avenue, Commerce City, Colorado 80022 (the "City"), and CONTINENTAL WORLD LEASING REAL ESTATE, LLC, a Colorado limited liability company, whose principal business address is 8001 East 88th Avenue, Henderson, CO 80640 ("CWL").

WHEREAS, as part of a joint economic development project, CWL and Oneida Cold Storage Company, LLP ("Oneida"), have partnered together to make various improvements on property located within the City at 8001 East 88th Avenue, Henderson, Colorado (the "Property");

WHEREAS, CWL has committed to construction and installation, on or after March 1, 2011, of certain capital improvements on property located at 8001 East 88th Avenue, Henderson, Colorado (the "Capital Improvements");

WHEREAS, Oneida has also committed to the purchase, on or after March 1, 2011, of new equipment associated with the Capital Improvements;

WHEREAS, CWL and Oneida estimate that the Capital Improvements and purchase of new equipment related thereto (hereinafter collectively referred to as the "Capital Investment") will equal approximately Fifteen Million dollars (\$15,000,000.00);

WHEREAS, CWL estimates that the Capital Improvements will equal Thirteen Million Two Hundred Eighty Thousand Six Hundred Seventy dollars (\$13,280,670.00);

WHEREAS, the City has established various Business Incentive Programs to encourage business development and expansion within the City;

WHEREAS, because the Capital Investment is being made in furtherance of a joint economic development project by CWL and Oneida, the City Council, upon the recommendation of City staff, has determined that Economic Development Incentives should be made available to both CWL and Oneida based on the entire project; and

WHEREAS, CWL has applied for one or more incentives under the Business Incentive Programs, and the City has agreed to provide one or more incentives to the CWL as provided herein.

NOW, THEREFORE, in consideration of the mutual promises and conditions herein contained, the receipt and sufficiency of which are hereby expressly acknowledged, the parties hereby agree as follows:

1. INCENTIVES. Subject to the provisions, terms and conditions of this Agreement, the City shall provide the following economic incentives (collectively, the "Incentives") to CWL in accordance with the applicable Business Incentive Program(s):

a. Incentives for Existing Business. The City shall rebate to CWL fifty percent (50%) of City building and plan check fees associated with the Capital Investment.

b. Incentives for Projects of Economic Development Significance.

i. Because the combined estimated Capital Investment exceeds Ten Million Dollars (\$10,000,000.00), the City shall rebate to CWL fifty percent (50%) of sales and use taxes remitted, either directly by CWL or indirectly through its vendors and/or contractors, to the City in conjunction with the Capital Investment; provided, however, that any sales or use taxes remitted to the City by or through CWL's lessees shall not constitute or be considered sales and use taxes remitted by CWL or its vendors and/or contractors.

ii. As set forth in Section 2 of this Agreement, prior to payment of the Incentive provided for in this subsection, the actual amount of the Capital Investment will be verified by the City through sales and use tax audits or other means determined by the City's Finance Department at its sole discretion.

iii. In the event the amount of the Capital Investment is ultimately determined to be less than Ten Million Dollars (\$10,000,000.00), the Incentive provided for in this subsection c shall be reduced to twenty-five percent (25%) of sales and use taxes remitted to the City.

2. PAYMENT OF INCENTIVES. The City shall pay the Incentives to CWL within thirty (30) days after CWL's satisfaction of the following conditions (including any and all appeals thereof):

a. CWL and Oneida, either directly or indirectly through their vendors and/or contractors, have timely paid to the City all applicable sales and use taxes and City fees related to the Capital Investment, and payment of the taxes has been verified through the appropriate sales and use tax audits or such other means as determined by the City Finance Department; provided, however, that any sales or use taxes remitted to the City by or through CWL's lessees shall not constitute or be considered sales and use taxes remitted by CWL or its vendors and/or contractors.

b. The Capital Improvements shall be completed no later than December 31, 2011.

c. If required by the City, final approval of the Capital Improvements has been made by the City confirming that installation thereof is in compliance with all City building codes.

d. A final determination has been made by the City's Finance Department, through applicable sales and use tax audits by the City or such other means as determined by the City's Finance Department, of the amount of sales and use taxes remitted to the City as set forth above.

e. CWL has fulfilled or satisfied all other obligations and/or debts owed to the City, whether monetary or otherwise, including, but not limited to, any and all fees, fines, taxes, judgments, liens and dedications, whether or not related to the Capital Investment.

f. In order to expand its operations and make the Capital Investment, CWL may be required to seek certain land development approvals, including, but not limited to, one or more variances. CWL understands that any such approvals are likely to contain conditions, requirements and restrictions. As a condition precedent to the City providing the Incentives set forth herein, CWL shall comply with all conditions, requirements and restrictions placed on the granting of any land development approvals. Notwithstanding the foregoing, CWL

acknowledges and agrees that such approvals are subject to certain City procedures and hearings, the results of which cannot be guaranteed, and nothing in this Agreement is intended or shall be deemed or construed as an agreement, pledge or guaranty by the City that any such land development approvals will be granted.

g. Notwithstanding anything in this Agreement to the contrary, in the event CWL is awarded by Adams County, Colorado, an economic development incentive in conjunction with the Capital Investment (the "County Incentive"), the amount of the City's Incentives shall be no less than the amount of the County Incentive.

h. In no event shall the amount of the Incentives paid to CWL exceed actual fees paid and taxes remitted to the City.

i. This Agreement sets forth only the terms and conditions under which the Incentives will be paid and does not constitute an agreement by CWL to meet the terms and conditions set forth herein.

3. NOTICES. A notice, demand or other communication under this Agreement by either party to the other shall be in writing and sufficiently given if delivered in person or if it is delivered by Certified Mail, Return Receipt Requested, postage prepaid, or by facsimile transmission with a confirmation thereof as follows:

To the City:

Economic Development Director
City of Commerce City
7887 E. 60th Avenue
Commerce City, Colorado 80022

To CWL:

Stanley Averch, Managing Member
Continental World Leasing Real Estate, LLC
8001 E. 88th Ave.
Henderson, CO 80640

4. GENERAL TERMS AND CONDITIONS.

a. Governing Law and Venue; Recovery of Costs. This Agreement shall be governed by the laws of the State of Colorado, and venue shall be in Adams County, Colorado. In the event legal action is brought to resolve any dispute among the parties related to this Agreement, the prevailing party in such action shall be entitled to recover reasonable court costs and attorney fees from the non-prevailing party.

b. Governmental Immunity Act. No term or condition of this Agreement shall be construed or interpreted as a waiver, express or implied, of any of the immunities, rights, benefits, protections or other provisions of the Colorado Governmental Immunity Act, C.R.S. §§ 24-10-101, *et seq.*

c. No Partnership or Agency. Notwithstanding any language in this Agreement or any representation or warranty to the contrary, neither the City nor CWL shall be deemed or constituted a partner or joint venture of the other. Neither the City nor CWL shall be the agent of the other, and any actions taken pursuant to this Agreement shall be deemed actions as an independent contractor of the other.

d. No Third-Party Beneficiaries. It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement and all rights of action relating to such

enforcement shall be strictly reserved to the parties. It is the express intention of the parties that no person other than the City and CWL shall be deemed to be a beneficiary under this Agreement.

e. No Waiver. No waiver by either party of any covenant, term, condition or agreement contained herein shall be deemed or construed as a waiver of any other covenant, term, condition or agreement nor shall a waiver of any breach hereof be deemed to constitute a waiver of any subsequent breach whether of the same or of a different provision of this Agreement.

f. Integrated Contract; Amendments. This Agreement is intended as the complete integration of all understandings among the parties concerning the subject matter hereof. No prior or contemporaneous addition, deletion or other amendment hereto shall have any force or effect whatsoever unless in writing and signed by both parties.

g. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties, their successors and assigns.

h. Authority. Each party represents and warrants that it has taken all actions that are necessary or required by its procedures, bylaws or applicable law to legally authorize the undersigned signatory to execute this Agreement on behalf of the parties and to bind the parties to its terms.

IN WITNESS WHEREOF, the City and CWL have caused this Agreement to be duly executed as of the day first above written.

[The remainder of this page intentionally left blank – signature page(s) follow(s)]

CITY OF COMMERCE CITY

Gerald M. Flannery, City Manager

ATTEST:

Laura J. Bauer, CMC, City Clerk

Approved as to form:

Gregory D. Graham, Assistant City Attorney

Recommended for approval:

Brittany Morris, Economic Development Director

CONTINENTAL WORLD LEASING REAL ESTATE, LLC

Signature

[Signature must be notarized]

Printed Name & Title

STATE OF COLORADO)
) ss.
COUNTY OF _____)

The foregoing Agreement was acknowledged before me this ____ day of _____, 2011,
by _____, _____, of _____.

Witness my hand and official seal.

My Commission Expires _____.

Notary Public

CITY OF COMMERCE CITY
7887 EAST 60TH AVENUE
COMMERCE CITY, CO 80022

ECONOMIC DEVELOPMENT DIVISION
Telephone: 303.289.3620
Fax: 303.289.3688
Website: <http://www.c3ed.com>



BUSINESS INCENTIVE APPLICATION

PLEASE TYPE OR PRINT LEGIBLY

COMPANY INFORMATION

Company Name: Continental World Leasing Real Estate, LLC **Contact Person:** Stan Averch

Address: 8001 E. 88th Ave., Suite A. Henderson, CO 80640 **E-Mail:** ben@oneidacoldstorage.com

Telephone: 303-288-7211 **Cell or Other #:** _____ **Fax:** 303-287-7911

Company Website Address (if applicable): _____

Property Address/General Location (if different from above): _____

PARENT COMPANY INFORMATION (if different from Company information)

Company Name: _____ **Contact Person:** _____

Address: _____ **E-Mail:** _____

Street Number _____ City _____ State _____ Zip Code _____

Telephone: _____ **Cell or Other #:** _____ **Fax:** _____

Parent Company Website Address (if applicable): _____

APPLICATION FOR: (check all that apply)

<input type="checkbox"/> Existing Business Incentives <input type="checkbox"/> Prospective Business Incentives <input type="checkbox"/> Existing Retailer Incentives <input type="checkbox"/> New Retailer Incentives <input type="checkbox"/> Job Creation Incentives <input type="checkbox"/> Green Businesses and Green Building Practices <input type="checkbox"/> Projects of Economic Development Significance	TYPE OF INDUSTRY: (brief description) _____ _____ _____	
		BUSINESS LICENSE NO.:
		COMPANY'S PRIMARY NAICS:

EMPLOYMENT:

Current total number of employees? _____

Number of planned new employees? _____

How many current employees live in Commerce City?
 (Note that some Commerce City residents have a Henderson, zip code 80640, or Brighton, zip code 80603, mailing address.) _____

Number of planned new employees with salaries/annual wages over \$41,747? _____

CAPITAL EXPENDITURES Value of Fixed Assets to be Purchased for Commerce City Facilities (computers, office furniture, equipment, etc.)	FACILITY IMPROVEMENTS Value of New Construction, Expansion, or Remodeling of Company's Commerce City Facility
	13,280,670.00
DESCRIPTION OF CAPITAL EXPENDITURES AND/OR FACILITY IMPROVEMENTS. (please identify if "Green" and/or energy efficient)	
Expansion of existing warehouse building being constructed as "green" as available/	

GENERAL ELIGIBILITY REQUIREMENTS

To maximize the positive economic and social impacts of the City of Commerce City Business Incentive Program, certain requirements and guidelines have been established. Businesses applying for incentives must comply with these requirements.

By checking each requirement, you are confirming the company agrees to comply with each one:

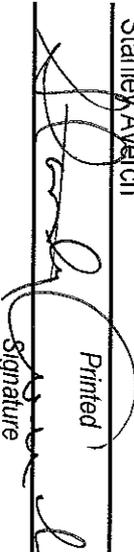
- Be a **licensed business entity located in Commerce City, Colorado.** For new businesses, a business license must be obtained prior to the rebate being paid.
- Be **current on all fees and taxes** owed to the City of Commerce City;
- Agree to **maintain a business presence in Commerce City for a minimum of three years from receipt of incentive.** If the business moves out of Commerce City within that period, the applicant agrees to reimburse the City for the total amount of the incentive received;
- Meet the requirements of each of the programs for which the business is applying.

CERTIFICATION

By signing below, I certify that I represent the organization identified above and have the authority to enter into agreements on behalf of the organization. I further certify that all information submitted on this application is true and correct to the best of my knowledge. I understand that City staff may require additional information to complete the application process and that all application materials are public record and subject to public inspection. I further understand that an incentive agreement may be subject to approval by the City Council. I give permission to the City of Commerce City to use the company's name and the amount of any rebate granted to illustrate the success of this incentive program.

Name: Stanley Averch **Title:** Operating Member

Printed

 **Signature**

Date: 06/21/2011

INTERNAL USE ONLY			
Project Reviewed:	<input type="checkbox"/> Yes	<input type="checkbox"/> No	ED Director Review:
Referred to Sales Tax			Date Letter Sent
			Date:

Business Incentive Program Worksheet - ED Significant

Applicant: Continental World Leasing Real Estate, LLC
Address: 8001 E 88TH AVE, HENDERSON, CO 80640

Projects of Economic Development Significance

50% Rebate of sales and/or use tax for capital improvements See below

Est. Value of Fixed Assets		
Est. Value of New Construction	7,968,402.00	(60% of total)
Total Est. Value	7968402	
Est. Sales and/or Use Tax	278894.07	(3.5% of Est. Total Value)
Est. Sales &/or Use Tax Rebate Amount	139447.04	(50% of sales and/or use tax)

Existing Business Incentives

50% Rebate of City Fees associated with capital improvements

Est. Building Permit Fee	50434	
Est. Plan Check Fee	32782.36	
Total Est. Fees	83216.36	
Est. Fee Rebate Amount	41608.18	(50% of fees)

Job Creation Incentives (Average county wage is: \$41,747)

# of new jobs created above avg. wage			
	x \$500		
	0		
	0		
		Total Job Creation Incentives:	
# of new jobs created below avg wage			
	x \$250		
	0		
	0		0

Total Est. Amount of Business Incentive: \$ 181,055

Notes:

Project Construction and Fixed Assets Estimates:

General Contractor Price	13217819	
Public Service Utility Service Charge Const	45841	
Landscaping	17010	
TOTAL	13,280,670.00	

Notes (cont.):

this is part of a large project between two closely held entities of Stan Averch - Oneida Cold Storage Company, LLP and Continental World Leasing Real Estate, LLC. Continental owns the building that is being expanded and Oneida is the primary leasee/operator. The total capital investment of Stan's business entities is just under \$15 Million. Since this is one project, the increased incentives for a project of economic development significance will apply to both companies.

company also applied for "Green" incentives - per Brittany 2/28, 50% of sales/use tax includes green, if actual total capital investment is < \$10 Mil, sales/use tax will be decreased to 25% - 10% + 15% for "Green"

company also plans to apply for county incentives - submission for approval delayed significantly waiting for this. Decision made to proceed without county matching incentive amount and adjust to match later if needed. This is reflected in the agreement.

Other Information

4 businesses operate out of facility:

Oneida - 47 employees currently --- created flash freeze system that uses significantly less energy -- new structure will have space & design for on-site processing

Roma - est. 200 employees & wants more space --- company takes ownership of product & resells

JP Swift -

Blue Bell Ice Cream - newly introduced to CO market, est. 35 employees - 14 trucks (green? - plug in) - Oneida had to add 2 customized doors to accommodate, Blue Bell expects to need more space soon, but will not remain in this facility long term



Council Communication

City Council Meeting: 27 Jun 2011

Prepared: 30 May 2011

Number of Attachments: 2

Subject: Resolution Authorizing Joint Memorandum of Understanding with Adams 14 School District re: Flat 14er Initiative

Presenter: Carolyn Keith

Recommended City Council Action:

Approve/authorize Joint Memorandum Agreement with Adams 14 School District

Summary Statement:

The "Flat 14er Initiative" is an obesity fighting program partnering Tri-County Health Department with school districts and parks & recreation agencies in Adams, Arapahoe and Douglas counties. According to "Health Policy Solutions," Colorado's childhood obesity rate is increasing faster than in every other state except for one, the State of Nevada. Childhood obesity in Colorado increased 23 percent between 2003 and 2007.

This joint effort is intended as a multi-year initiative which encourages students of Adams 14 School District to increase their level of physical activity by virtually climbing the majestic mountains of Colorado using our parks and trails. Colorado offers 58 mountains rising above 14,000 feet, and specific Commerce City trail segments will be measured, designated and nicknamed for a particular mountain climb in partner with targeted schools as specified by the Adams 14 School District. In 2011, the program would begin with Pioneer Park, the Prairie Gateway Open Space, Kearney Middle School, and Adams City Middle School. The Parks & Recreation Department will work cooperatively with the District and a student work group, and an annual summit will measure the success of the previous year's progress before each new school year.

Next Steps: Continue working with partners on the Flat 14er Initiative.

Expenditure Required: n/a

Source of Funds:

Policy Issue: n/a

Alternative: n/a

Background Information:
See above

**RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF COMMERCE CITY AND ADAMS SCHOOL DISTRICT 14
REGARDING THE “FLAT 14ERS INITIATIVE”**

NO. 2011-32

WHEREAS, according to “Health Policy Solutions,” a project of the Buechner Institute for Governance at the School of Public Affairs at the University of Colorado Denver, childhood obesity rates are increasing faster in Colorado than in any state other than Nevada;

WHEREAS, the City Council hereby finds and determines that reducing childhood obesity rates is critical to the health, safety and well-being of the residents of Commerce City and the State;

WHEREAS, the “Flat 14ers Initiative” is an obesity fighting program partnering Tri-County Health Department with school districts and parks & recreation agencies in Adams, Arapahoe and Douglas Counties;

WHEREAS, the Flat 14ers Initiative is intended to encourage students to increase their level of physical activity by “virtually” climbing Colorado’s 14,000 foot mountains using parks and trails;

WHEREAS, the City Council further finds and determines that if established, the Flat 14ers Initiative is likely to have a positive impact on the obesity rates of school children within the City; and

WHEREAS, the City of Commerce City (the “City”) has agreed to enter into a Memorandum of Understanding with Adams 14 School District (“Adams 14”) to implement the Flat 14ers Initiative within the City and to establish the responsibilities of the City and Adams 14 with respect thereto.

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

1. The attached Memorandum of Understanding between the City and Adams 14 is hereby approved.
2. The Mayor and the City Clerk are hereby authorized and directed to sign and attest the attached Memorandum of Understanding on behalf of the City of Commerce City.

RESOLVED AND PASSED THIS ___ DAY OF _____, 2011.

CITY OF COMMERCE CITY

Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk



City of Commerce City Contract Cover Sheet

Date: 5/5/11
 Title or Purpose of Contract: MOU – Partnership for Flat 14er Initiative
 Amount (total or annual): \$ N/A Contract Termination Date: Approx June 2016
 Contractor's Name: Adams 14 School District
 Contractor's Address: 5291 E. 60th Avenue, CO 80022
 Authorizing Resolution: pending 2011-32 Responsible Department: PR
 Contract Initiator: Traci Ferguson, Parks Planner III Phone: 303-289-8788
 Contract Administrator: Lori Rodcay, Executive Administrative Supervisor Phone: 303-289-3766

Type of Contract

Intergovernmental Agreement Construction
 Professional Services Contractual Services
 Public Improvement Lease
 Maintenance Memorandum of Understanding (MOU)
 Other (specify) _____

Does Contract involve or capture spatial/location data generation? (i.e., X,Y data)
 (If Yes, include IT/GIS review/approval below.) Yes No
 Do Contract deliverables need to be in electronic format? Yes No

Reviews/Approvals (Obtain BEFORE routing for signatures)	INITIAL & DATE	
	PRIMARY REVIEW	Additional Review (if needed)
<input checked="" type="checkbox"/> Contracting Parties Department Staff (specify)	Sent e-version to review 5/12 - <i>OK by email 5/22/11</i>	
<input checked="" type="checkbox"/> Traci Ferguson		
<input checked="" type="checkbox"/> City Attorney		
<input checked="" type="checkbox"/> Department Head		
<input type="checkbox"/> IT Dept. / GIS Division (if needed)		
<input type="checkbox"/> Finance Director (over \$10K)		
<input checked="" type="checkbox"/> DCM (over \$5K)		

Signatures (Final routing only AFTER all approvals are given and comments addressed)	INITIAL & DATE	Copies (if any) & form (paper or electronic)
<input type="checkbox"/> Department Staff (specify)		
<input checked="" type="checkbox"/> Contracting Parties		Paper original
<input type="checkbox"/> Department Head		
<input checked="" type="checkbox"/> City Attorney		
<input type="checkbox"/> City Manager (over \$50K)		
<input checked="" type="checkbox"/> Mayor		
<input checked="" type="checkbox"/> City Clerk		Paper original

Next review date: June 2013 By: Lori Rodcay/Traci Ferguson or Recreation Manager
(Contract Administrator)

Comments: This program initiated by TriCounty Health Dept. and a copy will be provided to them after execution. Resolution to Council 6/27.

Memorandum of Understanding

Partnership between Adams 14 School District and City of Commerce City

This Memorandum of Understanding (this "MOU") describes and confirms the expectations and responsibilities of the City of Commerce City, 7887 E. 60th Ave., Commerce City, CO, which operates a Parks and Recreation Department ("Park") and Adams 14 School District ("District"), 5291 E. 60th Ave., Commerce City, CO related to the "Flat 14er Initiative" (the "Initiative") as described in this MOU. The term of this MOU will be from the date of final signature(s) through the following five (5) years for the involved school sites (Attachment A), unless partially or wholly terminated earlier pursuant to Section II. Colorado Revised Statute §22-32-118 allows for off hour use of School District open-air playgrounds.

I. DESCRIPTION OF PROJECT RESPONSIBILITIES

A. Mutual Responsibilities:

- a. District and Park will identify trails to be use for the purposes of this Initiative ("Flat 14er Trails") and will determine steps/time to complete the distance of each Flat 14er trail within and surrounding identified schools. Identified schools within a District will "adopt" a Park and/or Recreation Center. (See Exhibit A).
- b. The student work group (described below) will meet at least annually to monitor this Initiative and will hold conference calls or meetings, as appropriate, to review the performance of this Initiative.
- c. Park and District will establish proper signage to be posted along each Flat 14er trail and the partner school's Flat 14er Trail to measure the distance(s) traveled.
- d. Park and District will assess whether a community is underserved and lacks access to neighborhood parks, which unmet needs this Initiative might meet.
- e. Park and District will review and evaluate the Initiative prior to the beginning of each school year to review successes and plan for expansion of the Initiative.
- f. Park and District will establish an operational and managerial agreement involving use and accessibility of space.
- g. Subject to the terms and conditions of this MOU, Park and District staff will cooperate and use reasonable efforts to do, or cause to be done, all things reasonably necessary or advisable to carry out the purposes of this MOU.
- h. All involved will meet annually to acknowledge successes and plan for the future (the "Annual Summit").

B. Park Responsibilities:

- a. Obtain approval of this Initiative and the parameters herein by its City Council.
- b. Designate a responsible person to:
 1. participate in meetings with the appointed student work group.
 2. promote and monitor park activity levels relating to the Initiative within the Park.
 3. work in collaboration with District in determining a recognition system for students as milestones are met.
- c. Identify a Flat 14er Trail and nickname the trail a 14,000 foot mountain name (e.g., "Mount Evans")
- d. Participate in the Annual Summit.

C. District Responsibilities:

- a. Gain approval of this Initiative and the parameters herein by District's School Board.
- b. The Assistant Superintendent of schools or other designee will have the following responsibilities:
 1. Facilitate annual meeting with appointed student work group.
 2. Promote, monitor and evaluate the Initiative within the District.
 3. Facilitate designation of School Team names.
 4. Work in collaboration with the Park in determining a recognition system for students as milestones are met.
 5. Participate in the Annual Summit.
- c. Appoint student work groups within a designated school and at the District level.
- d. Create a Flat 14er Trail around and within school grounds.

II. TERMINATION

This MOU may be wholly or partially terminated at any time during this Initiative with 48 hours written notice by either party.

III. NOTICE TO ALL PARTIES

All notices to be given by the parties hereto shall be in writing and served by depositing the same in the United States Post Office, postage prepaid and addressed, as follows:

TO DISTRICT: Assistant Superintendent or designee, Adams 14 School District, 5291 E. 60th Avenue, Commerce City, CO 80022

TO PARK: Recreation Manager, Commerce City Parks & Recreation, 6060 E Parkway Drive, Commerce City, CO 80022

IV. MISCELLANEOUS

- A. Except as expressly provided to the contrary, all approvals, consents and determinations to be made by Park hereunder shall be at its sole and absolute discretion, and all approvals, consents and determinations to be made by District hereunder shall be at its sole and absolute discretion.
- B. This instrument contains the entire agreement between the parties with respect to the matters set forth herein, and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.
- C. The section and other headings of this MOU are for convenience of reference only and shall be disregarded in the interpretation of this MOU.
- D. The sole remedy for the failure of either party to fully comply with the provisions of this MOU shall be the termination hereof. This MOU is not intended to create, nor shall this MOU ever be construed or interpreted as creating, a binding and legally enforceable contract between the parties. No legal or equitable remedies are available to either party under this MOU in the event the other party fails to comply with any provision herein.

V. PARTY SIGNATURES TO MOU

IN WITNESS WHEREOF, Park and District have executed this MOU as of the date of final signature below.

City of Commerce City

Paul Natale, Mayor

Date

Attest:

Approved as to form:

Laura Bauer, City Clerk

Gregory Graham, Assistant City Attorney

Adams 14 School District



Jeannette Lewis, Board of Education President

Date

EXHIBIT A

For the 2011-2012 school year, there are four (4) sites on which the Flat 14er Initiative will focus - two Adams 14 schools, one City-owned park and one City-owned open space.

The two schools are: Kearney Middle School and Adams City Middle School

The two City-owned sites are: Pioneer Park and the Prairie Gateway Open Space

Other sites may be designated in future by mutual agreement of City of Commerce City and Adams 14 School District.



Council Communication

City Council Meeting: 27 Jun 2011

Prepared: 15 Jun 2011

Number of Attachments: 2

Subject: Joint Memorandum Agreement with Brighton 27J School District re: Flat 14er Initiative

Presenter: Carolyn Keith / Traci Ferguson

Recommended City Council Action:

Approve/authorize Joint Memorandum Agreement with Brighton 27J School District

Summary Statement:

The "Flat 14er Initiative" is an obesity fighting program partnering Tri-County Health Department with school districts and parks & recreation agencies in Adams, Arapahoe and Douglas counties. According to "Health Policy Solutions," Colorado's childhood obesity rate is increasing faster than in every other state except for one, the State of Nevada. Childhood obesity in Colorado increased 23 percent between 2003 and 2007.

This joint effort is intended as a multi-year initiative which encourages students of Brighton 27J School District to increase their level of physical activity by virtually climbing the majestic mountains of Colorado using our parks and trails. Colorado offers 58 mountains rising above 14,000 feet, and specific Commerce City trail segments will be measured, designated and nicknamed for a particular mountain climb in partner with targeted schools as specified by the Brighton 27J School District. In 2011, the program would begin with Second Creek Greenway, River Run Park, Stewart Middle School, and Second Creek Elementary School. The Parks & Recreation Department will work cooperatively with the District and a student work group, and an annual summit will measure the success of the previous year's progress before each new school year.

Next Steps: Continue working with partners on Flat 14er Initiative.

Expenditure Required: None

Source of Funds: N/A

Policy Issue: N/A

Alternative: N/A

Background Information:
See Above

**RESOLUTION APPROVING MEMORANDUM OF UNDERSTANDING BETWEEN
THE CITY OF COMMERCE CITY AND BRIGHTON SCHOOL DISTRICT 27J
REGARDING THE “FLAT 14ERS INITIATIVE”**

NO. 2011-38

WHEREAS, according to “Health Policy Solutions,” a project of the Buechner Institute for Governance at the School of Public Affairs at the University of Colorado Denver, childhood obesity rates are increasing faster in Colorado than in any state other than Nevada;

WHEREAS, the City Council hereby finds and determines that reducing childhood obesity rates is critical to the health, safety and well-being of the residents of Commerce City and the State;

WHEREAS, the “Flat 14ers Initiative” is an obesity fighting program partnering Tri-County Health Department with school districts and parks & recreation agencies in Adams, Arapahoe and Douglas Counties;

WHEREAS, the Flat 14ers Initiative is intended to encourage students to increase their level of physical activity by “virtually” climbing Colorado’s 14,000 foot mountains using parks and trails;

WHEREAS, the City Council further finds and determines that if established, the Flat 14ers Initiative is likely to have a positive impact on the obesity rates of school children within the City; and

WHEREAS, the City of Commerce City (the “City”) has agreed to enter into a Memorandum of Understanding with Brighton School District 27J (“Brighton 27J”) to implement the Flat 14ers Initiative within the City and to establish the responsibilities of the City and Brighton 27J with respect thereto.

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

1. The attached Memorandum of Understanding between the City and Brighton 27J is hereby approved.
2. The Mayor and the City Clerk are hereby authorized and directed to sign and attest the attached Memorandum of Understanding on behalf of the City of Commerce City.

RESOLVED AND PASSED THIS ___ DAY OF _____, 2011.

CITY OF COMMERCE CITY

Paul Natale, Mayor

ATTEST:

Laura J. Bauer, CMC, City Clerk

Memorandum of Understanding

Partnership between Brighton School District 27J and City of Commerce City

This Memorandum of Understanding (this "MOU") describes and confirms the expectations and responsibilities of the City of Commerce City, 7887 E. 60th Ave., Commerce City, CO, which operates a Parks and Recreation Department ("Park") and Brighton School District 27J ("District"), 18551 E. 160th Ave., Brighton, CO, related to the "Flat 14er Initiative" (the "Initiative") as described in this MOU. The term of this MOU will be from the date of final signature(s) through the following five (5) years for the involved school sites (Attachment A), unless partially or wholly terminated earlier pursuant to Section II. Colorado Revised Statute §22-32-118 allows for off hour use of School District open-air playgrounds.

I. DESCRIPTION OF PROJECT RESPONSIBILITIES

A. Mutual Responsibilities:

- a. District and Park will identify trails to be used for the purposes of this Initiative ("Flat 14er Trails") and will determine steps/time to complete the distance of each Flat 14er trail within and surrounding identified schools. Identified schools within a District will "adopt" a Park and/or Recreation Center. (See Exhibit A).
- b. The student work group (described below) will meet at least annually to monitor this Initiative and will hold conference calls or meetings, as appropriate, to review the performance of this Initiative.
- c. Park and District will establish proper signage to be posted along each Flat 14er trail and the partner school's Flat 14er Trail to measure the distance(s) traveled.
- d. Park and District will assess whether a community is underserved and lacks access to neighborhood parks, which unmet needs this Initiative might meet.
- e. Park and District will review and evaluate the Initiative prior to the beginning of each school year to review successes and plan for expansion of the Initiative.
- f. Park and District will establish an operational and managerial agreement involving use and accessibility of space.
- g. Subject to the terms and conditions of this MOU, Park and District staff will cooperate and use reasonable efforts to do, or cause to be done, all things reasonably necessary or advisable to carry out the purposes of this MOU.
- h. All involved will meet annually to acknowledge successes and plan for the future (the "Annual Summit").

B. Park Responsibilities:

- a. Obtain approval of this Initiative and the parameters herein by its City Council.
- b. Designate a responsible person to:
 1. participate in meetings with the appointed Flat 14ers subcommittee.
 2. promote and monitor park activity levels relating to the Initiative within the Park.
 3. work in collaboration with District in determining a recognition system for students as milestones are met.
- c. Identify a Flat 14er Trail and nickname the trail a 14,000 foot Colorado mountain name from the Elk Mountain Range (e.g., "Castle Peak")
- d. Participate in the Annual Summit.

C. District Responsibilities:

- a. Gain approval of this Initiative and the parameters herein by District's School Board.
- b. The Chief Operating Officer of HR for District or the Wellness Coordinator or other designee will have the following responsibilities:
 1. Facilitate annual meeting with appointed Flat 14ers subcommittee.
 2. Have signs placed at schools explaining distance to Park trail head.
 3. Work in collaboration with the Park in determining a recognition system for students as milestones are met.
- c. Appoint Wellness Committee members within a designated school and at the District level.
Designees will:

1. Promote, monitor and evaluate the Initiative within the District.
2. Facilitate Designation of School Team names.
3. Participate in "Annual Summit"
4. Identify steps around schools and within school grounds.

II. TERMINATION

This MOU may be wholly or partially terminated at any time during this Initiative with 48 hours written notice by either party.

III. NOTICE TO ALL PARTIES

All notices to be given by the parties hereto shall be in writing and served by depositing the same in the United States Post Office, postage prepaid and addressed, as follows:

TO DISTRICT: Assistant Superintendent or designee, Brighton School District 27J, 18551 E. 160th Ave., Brighton, Colorado 80601

TO PARK: Recreation Manager, Commerce City Parks & Recreation, 6060 E Parkway Drive, Commerce City, CO 80022

IV. MISCELLANEOUS

A. Except as expressly provided to the contrary, all approvals, consents and determinations to be made by Park hereunder shall be at its sole and absolute discretion, and all approvals, consents and determinations to be made by District hereunder shall be at its sole and absolute discretion.

B. This instrument contains the entire agreement between the parties with respect to the matters set forth herein, and all prior written or oral negotiations, discussions, understandings and agreements are merged herein.

C. The section and other headings of this MOU are for convenience of reference only and shall be disregarded in the interpretation of this MOU.

D. The sole remedy for the failure of either party to fully comply with the provisions of this MOU shall be the termination hereof. This MOU is not intended to create, nor shall this MOU ever be construed or interpreted as creating, a binding and legally enforceable contract between the parties. No legal or equitable remedies are available to either party under this MOU in the event the other party fails to comply with any provision herein.

V. PARTY SIGNATURES TO MOU

IN WITNESS WHEREOF, Park and District have executed this MOU as of the date of final signature below.

City of Commerce City

Paul Natale, Mayor

Date

Attest:

Approved as to form:

Laura Bauer, City Clerk

Gregory Graham, Assistant City Attorney

Brighton School District 27J

[Name, Title]

Date

EXHIBIT A

For the 2011-2012 school year, there are four (4) sites on which the Flat 14er Initiative will focus - two Brighton 27J schools, one City-owned park and one City-owned trail.

The two schools are: Second Creek Elementary School and Stewart Middle School

The two City-owned sites are: Second Creek Greenway Trail and River Run Park

Other sites may be designated in future by mutual agreement of City of Commerce City and School District 27J.



Council Communication

City Council Meeting: 27 Jun 2011

Prepared:

Number of Attachments: Two

Subject: Re-appropriation Ordinance amending 2011 Budget

Presenter: Roger Tinklenberg

Recommended City Council Action:

Staff recommends approval of Ordinance 1865 amending the 2011 Budget by appropriating new funds and re-appropriating funds obligated in 2010.

Summary Statement:

- There are funds appropriated in the General Fund in 2010 that were not all spent.
- There are requests for \$110,152 in new, one-time appropriations from the unencumbered fund balance in the General Fund.
- There are requests for \$36,000 in new recurring appropriations from the unencumbered fund balance in the General Fund.
- The General Fund requests for re-appropriation of existing money total \$52,300.
- The General Fund re-appropriation requests for one-time appropriations total \$111,448.
- There are requests for a new, one-time appropriations totaling \$29,085 of General Fund money for Facility Services and \$51,522 in new recurring appropriations for a total of \$80,607 in Facility Services.
- There are requests for \$80,255 in new one-time appropriations in the Fleet Fund using \$45,255 from the unencumbered fund balance in the Fleet Fund and \$35,000 to be transferred from the General Fund to the Fleet Fund for equipment replacements.
- In the Grant Fund there is a request to appropriate \$25,000 from the General Fund of one-time money for the Station Area FasTracks City grant match.

- There is a request to transfer \$67,380 from the General Fund to the Golf Fund for repairs of hail damage on the golf course (\$39,180 – one-time), building safety upgrades (\$10,000 – one-time), and Buffalo Run monument sign (\$18,200 – one-time).
- There is a request to re-appropriate \$34,485 of existing money in the Police Donation Account.
- There is a request to transfer \$1,289,240 of one-time money from the General Fund to the CIPP and then to the Park Impact Fee Fund to pay off the Pioneer Park loan. (It is necessary to run it through the CIPP due to the way the receivables accounting was set up.)
- In the Urban Renewal Fund there is a request to re-appropriate \$64,273 and appropriate \$45,000 from fund balance for a total of \$109,273 for the Derby Redevelopment, Commercial Catalyst Funds.
- There are requests to transfer \$271,646 from the unencumbered fund balance in the General Fund to the CIPP Fund for new one-time appropriations for capital projects:
 - 120th Ave. project cost share with Adams County – \$46,646
 - Median work on Chambers Road – \$150,000
 - Chambers Road Bike Path – \$75,000
- There is a request for a one-time re-appropriation in Information Technology of \$15,292 for the GoEnforce Code Enforcement software.
- There are requests to transfer one-time money in the amount of \$364,366 from the Impact Fee Fund to the CIPP Fund for the 96th & Hwy 2 project (this is money paid by GCC as under their development agreement for improvements on 96th Avenue) and to transfer \$67,840 from the IT Fund to the Communications Division in the General Fund for one employee and related operating costs.
- There is a request to a one-time transfer of \$65,293 from the unencumbered fund balance in the General Fund to the CIPP Fund of PEG fee revenue restricted to use on Channel 8 equipment.

Expenditure Required:

- Total appropriations and transfers are \$4,069,817 (Actual appropriated expenditures net of the second Pioneer Park loan transfer is \$2,780,577).

Source of Funds:

- Appropriation of fund balance in the General Fund = \$309,900
- Transfers from the General Fund (including restricted PEG Fees = \$65,293) = \$1,834,166

- Appropriation of fund balance in the Fleet Fund = \$45,255
- Appropriation of fund balance in the Police Donation Fund = \$34,485
- Appropriation of fund balance in the URA Fund = \$109,273
- Appropriation of fund balance in the IT Fund = \$15,292
- Transfer from the IT Fund = \$67,840
- Transfer from Impact Fee Fund = \$364,366
- TOTAL: \$2,780,577.

Next Steps: Second reading of Ordinance

Expenditure Required: Net total re-appropriations, appropriations and transfers is \$2,780,577.

Source of Funds: See above.

Policy Issue: Each year the City re-appropriates funds budgeted but not expended in prior year and appropriates a portion of "excess" revenues from the prior year for items not budgeted in the current year.

Alternative: • Decline to pass the ordinance.

- Modify the ordinance.

Background Information:

- Each year staff brings a recommendation to re-appropriate unspent funds and approve new appropriations.
- The City ended 2010 without having spent approximately \$3 million of appropriated funds.
- Those 2010 appropriations would have been taken from fund balance in the General Fund.

INTRODUCED BY: _____

AN ORDINANCE AMENDING THE 2011 BUDGET OF THE CITY OF COMMERCE CITY, COLORADO, BY APPROPRIATING A PORTION OF THE UNENCUMBERED FUND BALANCE OF THE GENERAL FUND IN THE AMOUNT OF \$309,900 AND TRANSFERRING A PORTION OF THE UNENCUMBERED FUND BALANCE IN THE GENERAL FUND TO THE FOLLOWING: FACILITY SERVICES FUND IN THE AMOUNT OF \$80,607; FLEET MANAGEMENT FUND IN THE AMOUNT OF \$35,000; CIPP FUND IN THE AMOUNT OF \$1,626,179; GRANT FUND IN THE AMOUNT OF \$25,000; AND THE GOLF ENTERPRISE FUND IN THE AMOUNT OF \$67,380 AND TRANSFERRING \$1,289,240 FROM THE CIPP FUND TO THE IMPACT FEES FUND, \$364,366 FROM THE IMPACT FEES FUND TO THE CIPP FUND AND APPROPRIATING A PORTION OF THE UNENCUMBERED FUND BALANCE IN THE URBAN RENEWAL AUTHORITY FUND IN THE AMOUNT OF \$109,273; FLEET MANGAGEMENT FUND IN THE AMOUNT OF \$45,255; INFORMATION TECHNOLOGY FUND IN THE AMOUNT OF \$15,292 AND TRANSFERRING \$67,840 TO THE GENERAL FUND; APPROPRIATING A PORTION OF THE UNENCUMBERED FUND BALANCE IN THE POLICE DONATION FUND IN THE AMOUNT OF \$34,485 FOR A TOTAL AMOUNT OF \$4,069,817 AND REAFFIRMING PRIOR APPROPRIATIONS AND AUTHORIZING THE EXPENDITURE THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

The prior appropriations in the General Fund are hereby reaffirmed into the 2011 Budget as per the following:

Capital Outlay	Public Safety – Community Justice	\$ 94,500
Outside Services	City Manager – Economic Development	\$ 30,000
Operating Expenses	Legislative	\$ 4,556
Operating Expenses	City Manager – Communications	\$ 17,300
Outside Services	City Manager – Communications	\$ 5,000
Outside Services	City Manager’s Office	\$ 12,392

There is hereby appropriated from the unencumbered fund balance in the General Fund an amount of \$12,547 for Career Development in Human Resources; \$5,000 for ACCESS Housing homeless study; \$47,605 for Victory Crossing Mitigation in Engineering; \$10,000 for Outside Services in Resource Development; \$26,000 for Police Substation lease in the Northern Range; and \$45,000 Plant Material replacement (104th Avenue) in Parks Maintenance.

There is hereby transferred from the General Fund to the following:

Facility Service Fund:	\$80,607
Recreation Center Pool Lift (\$15,285)	
City Manager’s Office Remodel (\$6,000)	
Civic Center Recycling (\$7,800)	
Beacon Security Services Contract (\$51,522)	
Fleet Management Fund:	\$35,000
Van Accessible Lift (Replacement) P&R (\$35,000)	
CIPP Fund:	\$1,626,179
120 th Avenue Cost Share – Adams County (\$46,646)	
Chambers Road Median Work (\$150,000)	
Channel 8 PEG Fees (\$65,293)	
Chambers Bike Path (\$75,000)	
Pioneer Park Loan (\$1,289,240)	
Grants Fund:	\$25,000

Station Area Plan FasTracks – City Match (\$25,000)	
Golf Enterprise Fund:	\$67,380
Operations (\$49,180)	
Monument Sign (\$18,200)	

There is hereby transferred from the CIPP Fund to the Impact Fees Fund for the Pioneer Park Loan \$1,289,240.

There is hereby transferred from the Impact Fees Fund to the CIPP Fund \$364,366 for 96th Avenue and Highway 2 project.

The prior appropriation in the Urban Renewal Fund is hereby reaffirmed into the 2011 Budget as per the following:

Commercial Catalyst Funds	\$109,273
---------------------------	-----------

The prior appropriation in the Fleet Management Fund is hereby reaffirmed into the 2011 Budget as per the following:

Equipment Replacement (Tractor/Mower)	\$45,255
---------------------------------------	----------

The prior appropriation in the Information Technology Fund is hereby reaffirmed into the 2011 Budget as per the following:

GoEnforce Code Enforcement Web-based Solution	\$15,292
---	----------

There is hereby transferred from the Information Technology Fund to the General Fund \$67,840 for the Web Development Coordinator position.

The prior appropriation in the Police Donation Fund is hereby reaffirmed into the 2011 Budget as per the following:

Crime Prevention Program	\$ 269
Scared Safe Program	\$ 62
School Resource Program	\$ 3,920
Explorer’s Program	\$ 14,735
Special Services Program	\$ 14,076
Emergency Management Program	\$ 423
General Donations	\$ 1,000

Total Appropriations and Transfers:	\$4,069,817
-------------------------------------	-------------

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 27th DAY OF JUNE, 2011.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THIS 25th DAY OF JULY, 2011.

CITY OF COMMERCE CITY, COLORADO

By: _____
PAUL NATALE, MAYOR

ATTEST

Laura J. Bauer, City Clerk

2011 City Re-appropriation List by Fund - Management Recommended

No	Department	Description	Account Number	Cost	Funding
General Fund - New Money (One-time)					
1	Parks & Recreation	104th Avenue Plant Material Replacement - Hail damage (Not CIRSA covered)	010-16-552-622-017	45,000	General
2	Human Resources	Tuition Reimbursement Shortage from 2010	010-12-244-732-011	12,547	General
3	Legislative	Access Housing Homeless Study	010-21-201-731-000	5,000	General
4	Public Works	Victory Crossing Mitigation	010-15-409-731-000	47,605	General
General Fund - New Money (One-Time) Subtotal				110,152	
General Fund - New Money (Recurring)					
5	Resource Dev	eCivis Grant Network	010-10-231-731-190	10,000	General
6	Public Safety	Northern Range Sub Station Lease (was not budgeted for 2011)	010-14-301-731-181	26,000	General
General Fund - New Money (Recurring) Subtotal				36,000	
General Fund - Re-appropriation of existing money (Recurring)					
7	Communications	ED Collateral (CIG Contract) - ED carry-over	010-10-234-731-106	30,000	General
8	Communications	Contracted Graphic Design Activities (CIG Contract) - Comm Carryover	010-10-234-731-106	5,000	General
			010-10-234-744-001		
			010-10-234-744-002		
9	Communications	City News Printing, Postage, and Translation	010-10-234-744-003	6,000	General
10	Communications	2011 Annual Report	010-10-234-744-012	7,500	General
11	Communications	Council Events	010-10-234-731-168	3,800	General
General Fund - Re-appropriation of existing money (Recurring) Subtotal				52,300	
General Fund - Re-appropriation of existing money (One-Time)					
12	Public Safety	Court Software (Carry-over)	010-14-306-801-007	94,500	General
13	CMO	Sustainability Project (Carry-over)	010-10-241-731-180	12,392	General
14	Legislative	Community Enterprise	010-21-201-732-004	432	General
15	Legislative	Historical Society Expenses	010-21-201-731-191	4,124	General
General Fund - Re-appropriation of existing money (One-time) Subtotal				111,448	
Facility Services Fund- New Money (One-Time)					
16	Public Works	Recreation Center Pool Lift	660-15-660-801-002	15,285	General
19	Public Works	Civic Center Recycling	660-15-660-623-003	7,800	General
18	Public Works	Civic Center Office Changes/Repair	660-15-660-801-002	6,000	General
Facility Services Fund- New Money (One-Time) Subtotal				29,085	

2011 City Re-appropriation List by Fund - Management Recommended

No	Department	Description	Account Number	Cost	Funding
Facility Services Fund- New Money (Recurring)					
20	Public Works	Beacon Security Services Contract	660-15-660-731-063	51,522	General
Facility Services Fund- New Money (Recurring) Subtotal				51,522	
Fleet Management Fund- New Money (One-Time)					
21	Public Works	Tractor - Mower Replacement - Buffalo Run GC	630-15-630-801-003	45,255	Fleet
22	Fleet Management	Replacement of accessible lift for Blue P&R Van		35,000	General
Fleet Mangement Fund- New Money (One-Time) Subtotal				80,255	
Grant Fund - New Money (One-Time)					
23	Community Developm	Station Area Plan FasTracks City Grant Match	TBD	25,000	General
Grant Fund - New Money (One-Time) Subtotal				25,000	
Golf Course Fund - New Money (One-Time)					
24	P&R Golf	CIRSA deductible account	TBD	39,180	General
Golf Course Fund - New Money (One-Time) Subtotal				39,180	
Golf Course Fund - New Money (One-Time)					
25	Public Works	Buffalo Run Audit Upgrades	800-18-800-731-000	10,000	General
Golf Course Fund - New Money (One-Time) Subtotal				10,000	
Golf Course Fund - Re-appropriating Money (One-Time)					
26	P&R - Golf	Buffalo Run Monument Sign (Carry-over)	800-18-800-731-000	18,200	General
Golf Course Fund - Re-appropriating Money (One-Time) Subtotal				18,200	
Police Donation Fund - Re-appropriation of existing money					
27	Finance	Carry forward PD Donation Account balances	See Below	34,485	Donation
Police Donation Fund- Re-appropriation of existing money Subtotal				34,485	
<ul style="list-style-type: none"> *Crime Prevention (\$269.31) 170-731-028 *Scared Safe (\$62.20) 170-731-145 *School Resource (\$3,920.31) 170-731-143 *Explorers (\$14,734.83) 170-731-038 *SSU (\$14,075.81) 170-731-140 *Emergency Mgmt (\$423.13) 170-731-170 *General Donations (\$1,000.00) 170-731-142 					

2011 City Re-appropriation List by Fund - Management Recommended

No	Department	Description	Account Number	Cost	Funding
Impact Fees Fund - New Money (One-Time)					
28	Parks & Recreation	Pioneer Park Loan payment in full	TBD	1,289,240	CIPP
Impact Fees Fund - New Money (One-Time) Subtotal				1,289,240	
Urban Renewal Fund- Re-appropriation of existing money					
29	Comm Dev	Derby Catalyst Funds (64,273 carry-over & 45,000 new)	285-731-000	109,273	URA
Urban Renewal Fund- Re-appropriation of existing money Subtotal				109,273	
CIPP Fund - New Money (One-Time)					
30	Parks & Recreation	Pioneer Park Loan payment in full	TBD	1,289,240	General
31	Public Works	Cost Share 120th Ave project with Adams County (shortage)	395-15-750-302	46,646	General
32	Public Works	Median work on Chambers Road	TBD	150,000	General
33	Public Works	Chambers Road Bike Path (Heartland to 112th Ave)	TBD	75,000	General
CIPP Fund - New Money (One-Time) Subtotal				1,560,886	
Information Technology Fund- Re-appropriation of existing money (One-Time)					
34	IT	GoEnforce Code Enforcement hosted web-based solution (Carry-over)	650-17-654-801-004	15,292	IT
Information Technology Fund- Re-appropriation of existing money (One-Time) Subtotal				15,292	
Transfers - Existing Money (One-Time)					
35	Public Works	GCC Money transfer from Impact Fee to CIPP (96th & Hwy 2)	395-15-750-313	364,366	Impact
36	Communications	Web related costs transferred from IT Fund to GF Communications Division	See Below	67,840	IT
			\$51,126.26 010-10-234-601-000		
			\$1,040 010-10-234-601-000		
			\$3,067.58 010-10-234-604-003		
			\$3,169.83 010-10-234-604-006		
			\$741.33 010-10-234-604-007		
			\$75.00 010-10-234-622-000		
			\$25.00 010-10-234-623-000		
			\$1,000.00 010-10-234-731-131		
			\$5,000.00 010-10-234-731-132		
			\$1,245.00 010-10-234-732-002		
			\$1,150.00 010-10-234-732-003		
			\$75.00 010-10-234-732-004		
			\$125.00 010-10-234-732-005		
37	Finance	Transfer of PEG fees from GF to CIPP	TBD	65,293	General
Transfers - Existing Money (One-Time) Subtotal				497,499	

2011 City Re-appropriation List by Fund - Management Recommended

No	Department	Description	Account Number	Cost	Funding
		2011 Re-appropriation Requests Grand Total (ORD 1865)		4,069,817	



Council Communication

City Council Meeting: 27 Jun 2011

Prepared:

Number of Attachments: None (2010 Comprehensive Annual Financial Report will be delivered to Council)

Subject: Presentation regarding 2010 financial statements by independent auditor

Presenter: Kim Higgens of Eide Bailey

Recommended City Council Action:

Accept report of independent auditor.

Summary Statement:

The City's annual financial statements are audited each year by an independent auditor. Eide Bailey has provided this service for 2004 through 2010. This firm was formerly known as Gordon, Hughes & Banks.

Next Steps: None.

Expenditure Required: None.

Source of Funds: N.A.

Policy Issue: None.

Alternative: N.A.

Background Information:

The Finance Department prepares the annual financial statements. The annual financial statements are then audited by an independent audit firm. The financial statements, the auditor's summary letter, management's discussion and analysis and supplementary information is combined into the Comprehensive Annual Financial Report (CAFR).



Council Communication

City Council Meeting: 27 Jun 2011

Prepared: 21 Jun 2011

Number of Attachments: 2

Subject: Presentation by Xcel Energy Regarding Xcel's pipeline integrity management program

Presenter: Xcel Energy - Preston Gibson and Pipeline Integrity Management Staff

Recommended City Council Action:

This is an informational item for City Council and no formal action is required.

Summary Statement:

- Xcel Energy has proposed to route a new 24-inch high pressure gas pipeline through portions of Commerce City.
- The gas pipeline is to support the transformation of the Cherokee Electric Plant from coal fired to gas fired operation.
- Currently Xcel has indicated two potential routes for the gas pipeline (see attached map from June 7, 2011 public meeting announcement).
- Xcel's preferred route includes an alignment generally described as being within Xcel Energy's right-of-way south of 104th Ave, along Highway 2 and down 80th Avenue.
- Xcel Energy staff will present information regarding their pipeline integrity management program.
- A copy of their outreach presentation is attached to this council communication.
- The following web site has additional information about Xcel Energy's Cherokee project: www.xcelenergycherokeepipeline.com.

Next Steps: Xcel Energy will be hosting additional public meetings regarding their proposed pipeline project. The next public meeting is June 29, 2011 at Stuart Middle School from 5:00 p.m. to 8:00 p.m.

Expenditure Required: No Expenditure is Required

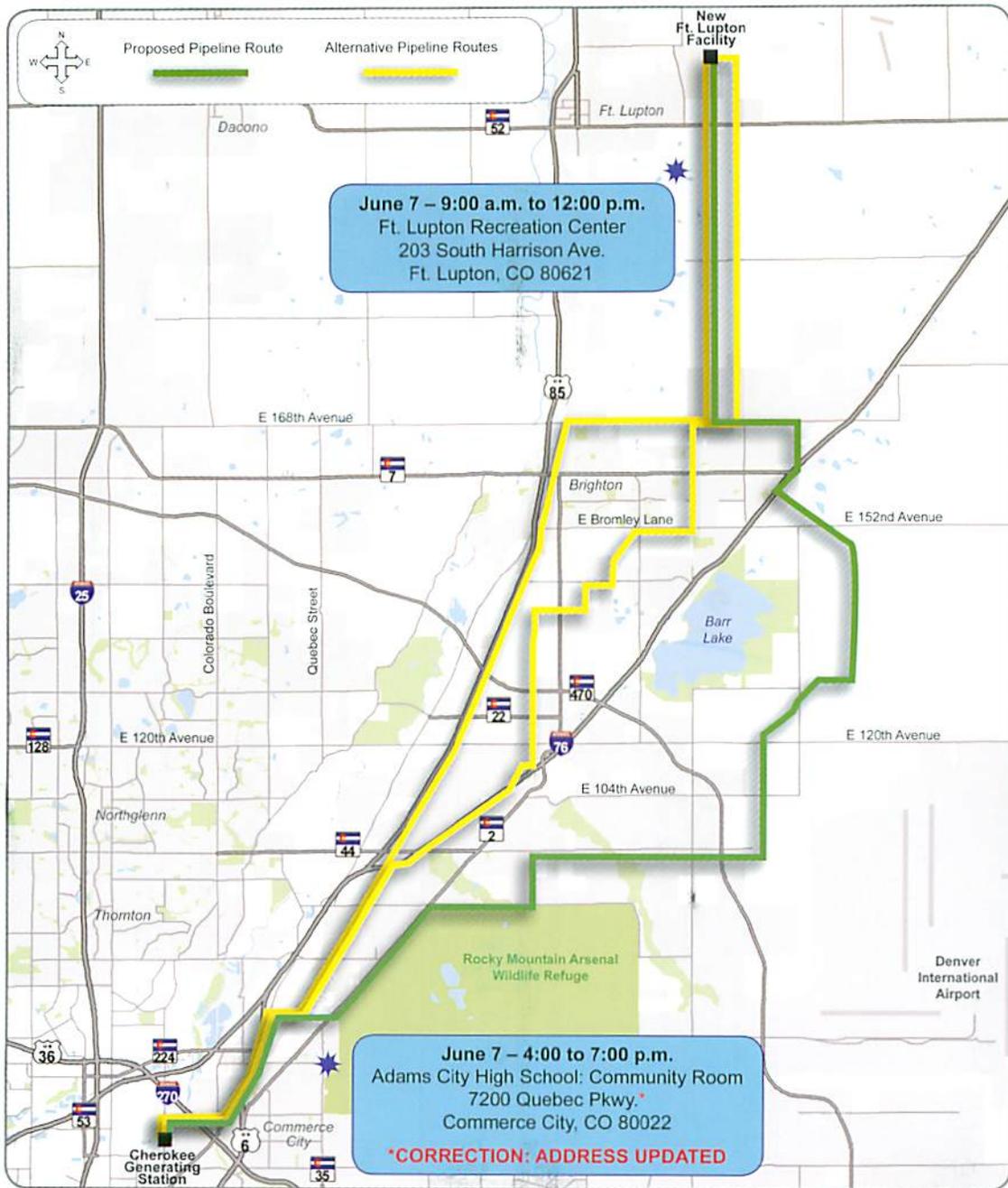
Source of Funds: N/A

Policy Issue: Protection of public health and safety is important to City Council and additional information regarding gas pipeline safety and route alternatives has been requested by City Council.

Alternative: N/A

Background Information:

Xcel Energy has previously presented information to City Council and held a public meeting on June 7, 2011 at Adams City High School regarding their proposed Cherokee Gas Pipeline Project. Several members of City Council have requested additional information regarding the safety aspects of the gas pipeline.



**YOU'RE INVITED TO OPEN HOUSES
ABOUT A NATURAL GAS PIPELINE PROJECT**



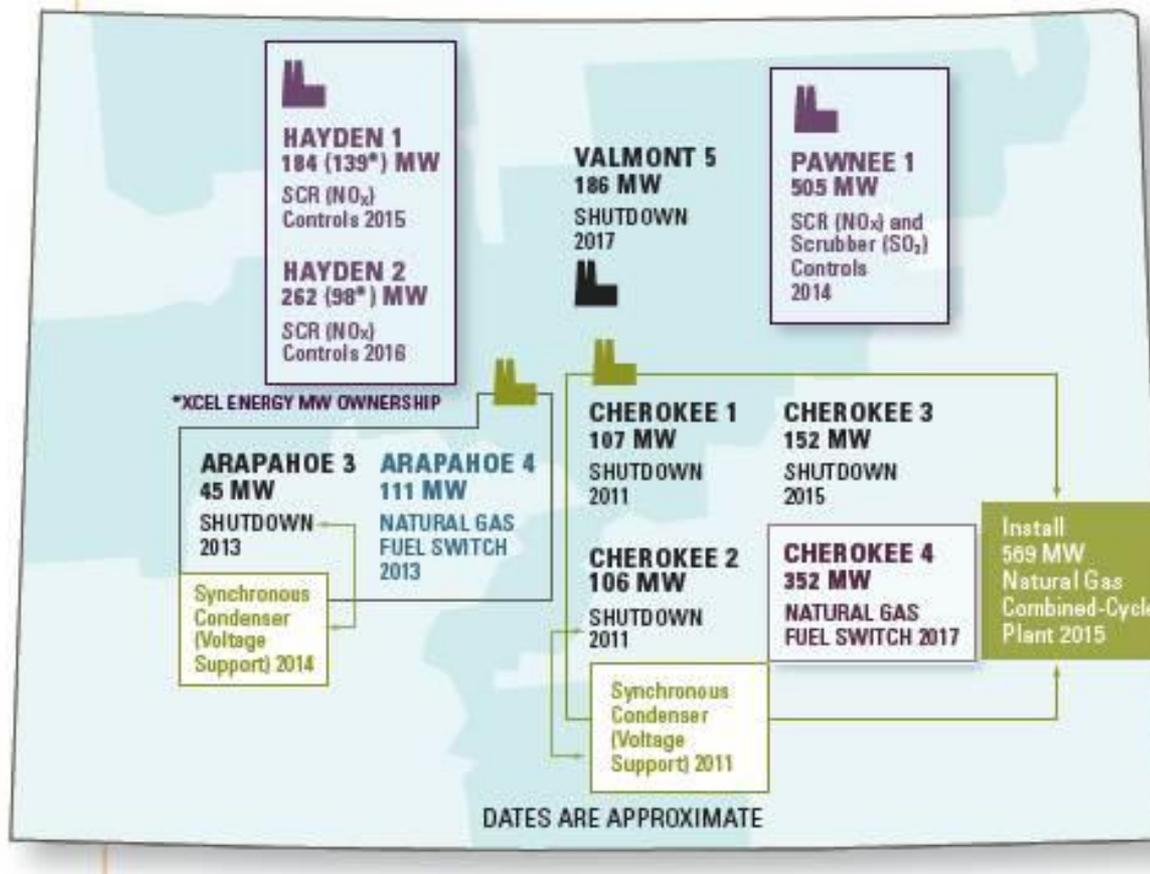
Cherokee Natural Gas Pipeline Project

Commerce City • May 9, 2011

Project Background

- **Needed as part of Clean Air-Clean Jobs Act**
 - **Passed by legislature April 2010**
 - **Addresses air quality mandates**
 - **Creates pathway for emissions-reduction plan**
- **PUC approved Xcel Energy's Clean Air-Clean Jobs plan on Dec. 15, 2010**

Clean Air-Clean Jobs Plan



Cherokee Pipeline Specifics

- **New 24” natural gas transmission pipeline**
- **34-miles from a new facility in Ft. Lupton to Cherokee Power Plant in metro Denver**
- **Communities impacted include:**
 - **Adams County**
 - **Ft. Lupton**
 - **Lochbuie**
 - **Weld County**
 - **Brighton**
 - **Commerce City**

Project Benefits

- **Cleaner air – full implementation of CACJ results in 80% to 90% reduction in CO₂, NO_x, SO_x**
- **Reinforces natural gas system, especially for future downtown Denver needs**
- **Potential to serve future gas needs of communities along route**

Pipeline Safety – Design

- Meet and exceed federal, state standards and safety requirements
- Includes extra mainline valves and shut-offs
- Valve shut-offs are remotely operated
- Continuous monitoring

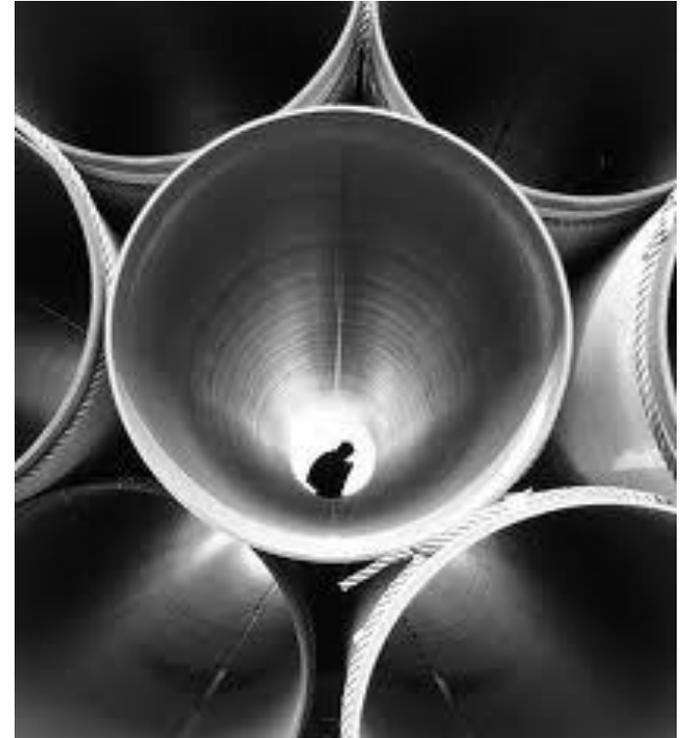


Pipeline Safety – Construction Integrity Management

- **During installation:**
 - **Corrosion prevention program used to eliminate metal loss during life of pipeline**
 - **Third party inspects all welds with x-ray**
- **Before put into service pipeline:**
 - **Undergoes hydrostatic pressure test**
 - **Inspected internally with state-of-the-art inspection equipment**

Pipeline Safety – Long-Term Integrity Management

- Pipeline patrolled on annual, semi-annual and quarterly intervals, based on location and population density
- Pipeline's entire structural integrity will be inspected at least every 7 years with in-line inspection tools.



Route Selection

- **Analysis by engineers and planners**
- **Considerations:**
 - **Wetlands, parks, rivers, and creeks**
 - **High population areas**
 - **Endangered species**
 - **Rights-of-Way**
 - **Utility Easements**

Project Schedule

- **March 2011 – Route analysis, preferred route chosen**
- **April 2011 – Aerial survey work complete**
- **May 2011 – Preliminary engineering nearing completion**
- **May/June 2011 – Public open houses on project**
- **Summer 2011 – Detailed engineering begins**
- **September 2011 – Apply for permits**
- **Spring 2013 – Construction starts**
- **Summer/Fall 2014 – Pipeline testing**
- **Oct. 1, 2014 – Pipeline fully operational**

Public Outreach

■ Objectives:

- **Ensure all stakeholders are fully informed about the project**
- **Collect feedback from, work with stakeholders about potential obstacles and develop community support**
- **Provide opportunities for stakeholders to ask questions, voice concerns and gain assistance when needed**

Public Outreach Methodology

■ Multi-Channel approach:

- Public meetings
- Direct mail
- Email
- Website
- Hotline
- News Media
- Advertising
- PSAs



Contact Information

■ **Preston Gibson, Area Manager at 303-425-3944**
preston.e.gibson@xcelenergy.com

■ **Todd Anderson, Area Manager at 303-245-2285**
todd.anderson@xcelenergy.com





Council Communication

City Council Meeting: 27 Jun 2011

Prepared: 21 Jun 2011

Number of Attachments: None

Subject: Long Range Financial Plan Strategic Planning Update

Presenter: Roger Tinklenberg

Recommended City Council Action:

For information and discussion.

Summary Statement:

At the retreat on June 13, 2011, the Council reached consensus on the following:

- The priority for existing capital funding is:
 - Transportation Funds – Tower Road & 96th Avenue (Buckley/Nucla Street to Tower Road)
 - Open Space, Parks & Trails Funds – Trails
- City to continue using Lottery & Open Space pass-through revenues for capital maintenance & repair projects for Open Space, Parks & Trails
- Key-pad Polling (voting results or weighted average of votes are in parenthesis):
 - Revenues
 - Move vulnerable revenues out of General Fund to Capital Improvements & Preservation Plan Fund (78%)
 - Staff is to bring refuse collection fee to Council for action (100%)
 - Staff is to bring stormwater utility fee to Council for action (100%)
 - Increase revenues (100%); Fees & Taxes (57.14%), Taxes only (42.86%)
 - Evaluate Bonding & Other Financing (77.78%)
 - Fee Options to address by November (weighted average

of 3 votes):

- Increasing Court Fines (21% w. a.) (55.56% 1st choice)
- Political Sign Permit Fee (13% w. a.)
- Park/Road Improvement Fee (8% w. a.)
- Additional Cell Tower (8% w. a.)
- Additional Red Light Camera (8% w. a.)
- Additional Traffic Officer (8% w. a.)
- Fee Options off the table (weighted average of 3 votes):
 - Toll on Tower Road (14.46% w. a.)
 - Park/Road Improvement Fee (10.18% w. a.)
 - Advertising on City Vehicles (10.18% w. a.)
- Fee Options for next year (weighted average of 3 votes):
 - Parking Fee dedicated to Tower (12.85% w. a.)
 - Increasing Court Fines (12.04% w. a.)
 - Additional Cell Tower (11.29% w. a.)
- Top 3 Tax Options to address by November (weighted average of 3 votes)
 - Medical Marijuana Tax (25.93% w. a.)
 - Sales Tax Increase (22.22% w. a.) (55.56% 1st choice)
 - Form new GID (14.81% w. a.)
- Top 3 Tax Options off the table (weighted average of 3 votes)
 - Property Tax Increase (31.02% w. a.)
 - Sales Tax on Food (23.62% w. a.)
 - Form Recreation District (19.44% w. a.)
- Top 3 Tax Options for next year (weighted average of 3 votes)
 - Sales Tax Increase (25.93% w. a.) (66.67% 1st choice)
 - Form new GID (15.74% w. a.)
 - Medical Marijuana Tax (14.81% w. a.)
- Capital Projects (weighted average of 3 votes)
 - Roads/Infrastructure (29.63% w. a.) (44.44% 1st choice)
 - ED/Community Partnerships (29.63% w. a.) (11.11% 1st choice)
 - Increased Recreation Facilities & Staff (22.22% w. a.) (22.22% 1st choice)
 - Increased Public Safety (18.52% w. a.) (22.22% 1st choice)
- Council members requested staff evaluate the following projects:

- Senior Center
 - Boys & Girls Club
 - City take-over of Highway 2
 - Recreation Center in northern range
 - Police Substation
- Council members requested staff evaluate the following funding sources on the potential funding sources list for Public Safety:
 - #18 Additional Red Light Camera
 - #19 Use Speed Control Vans
 - #22 Increase Court Fines (also listed as a priority above)
 - #24 Additional Traffic Officer

Next Steps: City staff will move forward by including those items that are appropriate in the 2012 budget and will evaluate projects and funding sources for future consideration. Staff will need to meet with Council in the next several months to provide updates and obtain clarification of Council direction.

Expenditure Required: None at this time.

Source of Funds: N.A.

Policy Issue: None.

Alternative: N.A.

Background Information:

The Long Range Financial Plan is essential to keeping the City on a solid financial basis and to providing for major capital investments for building a "Quality Community for a Lifetime."

Presentations have been made to Council regarding the City's revenues and expenditures, capital investment needs and on fiscal policy and strategy recommendations. The Council then met in a retreat on June 13 to discuss the project priorities and funding sources.