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Agenda Item: ID17-194 (2-C)

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FRESNO CITY COUNCIL

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Supplemental Information Packet

Agenda Related Item(s) – ID17-194 (2-C)

Contents of Supplement: Staff Report

Item(s)

Approve the Amended and Restated Economic Incentive Agreement with ULTA, Inc., a Delaware Corporation, to incentivize the creation of at least 500 net new jobs in the City of Fresno.

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REPORT TO THE CITY COUNCIL

February 2, 2016

FROM: BRUCE RUDD
City Manager

BY: LARRY WESTERLUND
Director of Economic Development

SUBJECT

...Title

Approve the Amended and Restated Economic Incentive Agreement with ULTA, Inc., a Delaware Corporation, to incentivize the creation of at least 500 net new jobs in the City of Fresno.

...Body

RECOMMENDATION

Approve the Amended and Restated Economic Incentive Agreement between the City and ULTA, Inc. (ULTA) and approve the attached revised Economic Incentive Agreement. Per the City's Economic Expansion Act adopted in March 2016, this project is eligible for a revenue sharing incentive agreement for the purpose of job creation. The agreement provides performance-based job-creation incentives for the creation of at least 500 and potentially hundreds more net new jobs at a Distribution/Internet Fulfillment Center (i.e. Business Activity Center/s) to be located in Fresno.

EXECUTIVE SUMMARY

The Council previously approved offering an incentive agreement to ULTA for the purpose of incentivizing the creation of jobs in Fresno. This report updates Council on the Company's project plans and revises the agreement in accordance. The mechanics of administering the incentives have been reviewed and thus, the revised agreement includes refinements to streamline that process. The proposed agreement maintains the same cap on total incentives and per job incentives, as previously approved by Council. The Company would be a tenant, entering into a long-term lease for industrial property within the City. At earlier stages in the project's evolution, it was not clear to the City if the project would be an owner-occupied development or a lease. The City's intent is and always has been to incentivize significant job creation. Whether the company chooses to lease or build and own a facility is immaterial to, and not a factor in, our offer of job creation incentives.

Furthermore, Fresno County is considering entering into an incentive agreement to support the Project and the State has approved tax credits for the Project. To facilitate efficient administration by aligning the required reporting for the various incentives, the annual incentives administration process has been revised to align these contracts in regard to timing of various incentive calculations, reporting requirements and payment timing. Additionally, the revised agreement includes clarification of administration of the payments, the indemnity provisions, and basis for some of the incentive payments. For example, the previous draft agreement inadvertently indicated that ULTA would be reimbursed for real property taxes paid by ULTA. ULTA will not be owning land in the City and will not be paying real property taxes. As part of the negotiations, the Company has agreed to indemnify the City. This is a departure from

the City's standard practice and raised concerns for the Company. To help alleviate these concerns, the indemnity provision provides that if ULTA must cover a claim related to the agreement the amount of the subsidy may be increased to offset a portion of these costs to the Company. These revisions are minor in nature and do not alter the anticipated amount of the incentives.

The company still estimates that their workforce within 5 years would consist of 642 full time employees with up to 700 part time employees at peak times of the year.

The company conservatively projects retail sales of \$66,000,000 in the first year at the Fresno Business Activity Center and expects e-commerce sales to continue to grow each year starting with 20% growth in year 2019, 15% in year 2020, and 10% in year 2021 and then 5% thereafter. In the last two years, the Company reported Internet sales growth at 40-70%.

ULTA Inc., the legal entity that handles Distribution Centers and e-commerce, does not currently do business in California. They just recently registered with the California Secretary of State in October in association with this proposed Project, and this facility would be their first and only presence in the State.

The revised incentive agreement based on job-creation performance at the Center incentivizes the company to create at least 500 net, new full-time jobs and potentially hundreds more full- and part-time jobs in Fresno. The incentive agreement would not exceed the previously approved \$18 million over a thirty-year term and would be based entirely on the number of jobs created at the Fresno Business Activity Center(s).

BACKGROUND

ULTA Beauty is the largest beauty retailer in the United States, operating 926 stores across 48 states and the District of Columbia. The company offers more than 20,000 products from over 500 beauty brands across all categories and price points. ULTA offers full-service salons in every store.

The company has been approved for tax credits by the State of California through its CalCompetes program, received approval from PG&E for the Enhanced Economic Development rate and is in talks with the County of Fresno for additional assistance. Most of the conditions the company had hoped to achieve prior to a final decision to create the proposed jobs at the Business activity center in Fresno have been completed. Passage of this revised incentive agreement is one of the final steps in attracting these new jobs to Fresno.

As previously noted the amount of incentives offered by the City is unchanged. The incentive agreement is a job creation/performance-based economic incentive agreement on a net gain basis. If the company does not create the jobs and bring new revenues into the City to pay for the offered incentives there is no obligation on the City to pay the incentives under the agreement. To incentivize more full-time, company hired direct jobs, the agreement provides a graduated level of incentive amount per employee based upon their employment status.

Per the Economic Expansion Act, the incentives would not displace current revenues, but rather ensure incentives are exclusively funded through incremental revenues that would not have accrued to the City but for the Project. This includes the City share of sales tax, use tax and property tax generated as a result of the company's decision to locate these new jobs in Fresno over a period of time not to exceed the earlier of thirty years, or the period required to generate incentives commensurate with actual job creation, but not in any case to exceed \$18,000,000.

In summary, and as provided in Government Code Section 53083, the beneficiary of the economic development subsidy is ULTA Inc., located at 1000 Remington Blvd, Suite 120, Bolingbrook, IL 60440. The subsidy will begin on the effective date of the agreement and the end date will be no later than 30 years from the commencement of operations. Provided ULTA meets the eligibility requirements within the agreement, the subsidy will be paid annually. As described above, the subsidy is calculated based upon the number and types of jobs created and maintained by ULTA as more specifically described in the attached agreement. The total amount of the expenditure of public funds as a result of the economic development subsidy will not exceed \$18 million, unless certain provisions are triggered increasing it by \$4.5 million.

As previously described, the purpose of the subsidy is to ensure the creation of more than 600 permanent and 700 seasonal jobs in the City. The City has determined that the ULTA coming to Fresno will create new jobs, generate substantial revenue for the City, assist in revitalizing the City which has suffered a loss of jobs and businesses during the economic downturn of the mid-2000's, and result in community and public improvements that might not otherwise be available to the community for many years.

Further, bringing ULTA to the City has the additional public purpose of fostering a business and civic environment that may attract additional businesses and investment in the community due to the availability of the increased public and private services and economic activity resulting therefrom, thereby assisting the City in its goal of furthering the development of the community.

ENVIRONMENTAL FINDINGS

Council previously adopted a No Possibility Finding Assessment No. EA-16036 on November 17, 2016. An analysis has been performed pursuant CEQA Guidelines § 15162 to determine whether subsequent environmental review is required for this approval. Based upon this analysis the following findings are made to support the determination that no subsequent environmental review is required:

1. No substantial changes are proposed in the project which will require major revisions of the previous No Possibility Finding due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, there are no changes to the Project.
2. No substantial changes occur with respect to the circumstances under which the project is undertaken which will require major revisions of the previous No Possibility Finding due to the involvement of new significant environmental effects or a substantial increase in the severity of previously identified significant effects. In this case, there are no changes to the Project.
3. There is no new information, which was not known and could not have been known at the time of the previous No Possibility Finding that the project will have significant effect not discussed in the No Possibility Finding.

Furthermore, it has been determined that none of the mitigation measures and alternatives previously determined to be infeasible are now feasible. In addition, no new mitigation measures or alternatives that would substantially reduce one or more significant effect on the environment have been identified.

LOCAL PREFERENCE

Local preference was not considered because this is not a competitive bid.

FISCAL IMPACT

The Agreement is based upon a "Job Creation/Performance Based" net gain strategy through sales and property tax increment the City would not otherwise be realizing without this new job location decision.

Attachment: Attachment A – Environmental Finding of No Possibility of Significant Effect
 Environmental Assessment No. EA-16-036.
 Attachment B – Amended and Restated Economic Incentive Agreement