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ATTACHMENT B

**CITY OF FRESNO
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**

BY AND BETWEEN

**THE CITY OF FRESNO,
A CALIFORNIA MUNICIPAL CORPORATION**

AND

**NORDSTROM, INC.
A WASHINGTON CORPORATION**

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CITY OF FRESNO
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

THIS CITY OF FRESNO ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") is entered into this _____ day of December, 2015 ("Execution Date") by and between THE CITY OF FRESNO, a California municipal corporation ("City") and NORDSTROM, INC., a Washington corporation ("Company"). City and Company may be referred to collectively as the "Parties" and individually as a "Party."

RECITALS

The Parties enter into this Agreement with reference to the following circumstances:

- A. The Company is currently seeking approximately 55 to 75 acres in the City of Fresno for a West Coast E-Commerce Fulfillment Center ("Site"). The Company also operates numerous other sites in California, throughout the United States, and outside of the United States.
- B. The purpose of this Agreement is to provide certain incentives and guarantees to Company to create certain jobs in the City of Fresno (collectively, "Business Activities").
- C. City wishes to provide Company with incentives to locate and increase over time its business activities that are likely to result in substantial public benefits to the City, including job creation and the increase of property taxes and Local Sales and Use Tax Revenues (defined below).
- D. The Company wishes to locate its Business Activities in a City offering operational advantages including, but not limited to, a qualified workforce, cost advantages, and access to customers, and to create a certain number of jobs in said City.
- E. City wishes to encourage Company's location and growth of Business Activities because City expects that Business Activities will promote the stability and growth of City taxes and other revenues, create jobs, further the City's economic development, particularly in the eCommerce fulfillment sector, and promote a sound and healthy local economy.

TERMS AND CONDITIONS

NOW, THEREFORE, FOR VALUABLE CONSIDERATION, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

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1. DEFINITIONS

For purposes of this Agreement, and in addition to certain terms defined elsewhere in this Agreement, the following capitalized terms shall have the following meanings:

“Company's Taxable Products” means all taxable personal property subject to the Bradley-Burns Uniform Local Sales and Use Tax Law (Cal. Rev. & Tax. Code §§ 7200-7212, 7221 -7226).

“Full-time Equivalent Position” means a position of employment in the City of Fresno at which an employee is expected to work no fewer than 2,000 hours during any consecutive 365-day period of time, inclusive of paid sick days or vacation days.

“Local Sales and Use Tax Revenues” means that portion of the sales and use taxes, if any, levied under the authority of the Sales Tax Law, paid by Company, which are finally and irrevocably allocated and paid to City by the California Board of Equalization (“BOE”) pursuant to the Sales Tax Law.

“New Job” means a filled Full-time Equivalent Position of employment within Company's payroll in the City of Fresno.

“Sales Tax Law” means California Revenue and Taxation Code Section 6001 et seq., and any successor law thereto, including the Bradley-Burns Uniform Local Sales and Use Tax Law (Rev. & Tax Code § 7200 et seq.), and any successor law thereto, and all regulations of the BOE and other binding rulings and interpretations relating thereto.

“Taxable Sales” means Company's sales of Company's Taxable Products within the City's jurisdiction, which the BOE finally and irrevocably determines that the reported “point of sale” is the City. “Taxable Sales” does not include sales made and reported to jurisdictions in California other than the City.

“Term” shall mean the term of this Agreement as described in Section 3.

2. ECONOMIC INCENTIVES

2.1 Eligibility: Requirements. The Parties agree that growth of tax revenue generated by Company and received by City as a result of Company's business activities is central to this Agreement. Accordingly, to be eligible to receive the economic incentives (“Incentives”) described in this Agreement, Company shall fulfill all of the following eligibility requirements:

Business Activities.

(a.) Establish operations. Establish and increase Business Activities that are likely to result in the increase of tax revenues for the City. Such activities include, but are not limited to, purchase of land, construction of improvements, and operation of an eCommerce fulfillment

center, among other functions; and

(b.) **New Job Creation.** Creation of a minimum of 700 and a maximum of 1,875 New Jobs in the City of Fresno.

Company will provide information, as commercially reasonable, to City, from time to time, in order to implement the terms of the Agreement, including, without limitation, completed employment surveys, in the format of Exhibit 1, certifying the new job creation in the City within sixty (60) days of the Effective Date and sixty (60) days after each anniversary of the Effective Date during the Term of this Agreement.

2.2 Calculation and Payment of Incentives. City shall provide Incentives to Company, so long as Company continues to comply with the eligibility requirements set forth above. Company shall be eligible to receive Incentives following completion of the first full calendar year in which Company's annual average meets or exceeds 700 Full-time Equivalent Positions ("Eligibility Year"). No Incentives shall be paid in any year in which the annual average Full-time Equivalent Positions is less than 700. The Incentives shall be \$10,000 per Full-time Equivalent Position, as follows:

West Coast E-Commerce Fulfillment Center. Company intends to employ up to 1,000 Full-time Equivalent Positions at a West Coast E-Commerce Fulfillment Center ("Fulfillment Center"). The Fulfillment Center Incentives Cap is \$10,000,000.

Expansion. Company may, in its sole discretion, expand its Fulfillment Center or build a new facility within the City of Fresno ("Expansion"). The Expansion may employ up to an additional 875 Full-time Equivalent Positions. The Expansion Incentives Cap is \$8,750,000.

The total Incentives payable under this Agreement shall be up to \$10,000 per Full-time Equivalent Position (calculated based on annual average) up to the maximum of 1,875 Full-time Equivalent Positions, including 1,000 at the Fulfillment Center and 875 at the Expansion, for a total of \$18,750,000 ("Incentives Cap").

To ensure that Incentives shall not exceed incremental revenues to the City generated as a result of Company activities, incentives shall be calculated to include:

Local Sales and Use Tax Revenues. 75% of the Local Sales and Use Tax Revenues paid by Company on or after January 1, 2016 through December 31, 2018 in connection with the purchase of taxable tangible personal property placed into service within the City of Fresno, as long as such tax is reported and allocated to the City, and 50% of the Local Sales and Use Tax Revenues paid by Company thereafter.

Local Sales Tax. 75% of the Local Sales and Use Tax Revenues attributable to Company's Taxable Sales paid by Company and reported to the City, in accordance with the Sales Tax Law, for the initial 3 years following the Eligibility Year; 50% of the Local Sales and Use Tax Revenues, attributable to Company's Taxable Sales paid by Company

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and reported to the City, in accordance with the Sales Tax Law, for subsequent years.

2.3 Timing of Incentives Payment. Subject to the provisions of this Agreement, City shall pay the Incentives to Company, in an amount not to exceed the Incentives Cap, in an Annual Payment. Before making this Annual Payment, City shall confirm that Company has created new jobs and that City has received Local Sales and Use Tax Revenues from the BOE. Company will submit a written request for the Annual Payment, together with a copy of any supporting documentation, including the documentation described below and other documentation reasonably requested by City. Company's written request for the Annual Payment may be submitted following submission of the prior 12 months' sales and use tax returns.

2.4 Verification of Revenue. No Incentives payment will be made by City to Company until City has verified receipt of Local Sales and Use Tax Revenues paid to the City by the BOE. City shall have three (3) months following the receipt of the Local Sales and Use Tax Revenues to verify the allocation and receipt of local taxes. City will make commercially reasonable efforts to verify its receipt of local taxes.

2.5 Data and Documentation. For the purposes of this Agreement, the term "Data and Documentation" means any and all bills, invoices, schedules, vouchers, statements, receipts, cancelled checks, statements and any other documents evidencing the amount Local Sales and Use Tax Revenues paid by Company to the BOE, including: copies of all schedules and reports filed by Company with BOE during that Fiscal Quarter, including, without implied limitation, those relating to Taxable Sales and Local Sales and Use Tax Revenues paid by Company. Company, on behalf of itself and any affiliate, and to the extent such consent is required by any applicable legal provision, consents to the City's review and use of the information contained in the data and documentation Company submits to the BOE to the extent necessary for the City to verify the allocation and receipt of Local Sales and Use Tax Revenues.

2.6 Reduction of Amount. The amount of any Incentives payable to Company shall be reduced by the amount by which any Local Sales Taxes or Local Use Taxes are reallocated from the City by the BOE if such reallocation reduces the basis upon which the Incentives would otherwise be paid.

2.7 Recapture of Incentive Payments. If, at any time during or after the Term of this Agreement, the BOE determines that all or any portion of the Local Sales and Use Tax Revenues received by the City were improperly allocated and/or paid to the City, and if BOE requires redistribution, repayment or offsets against future Local Sales and Use Tax Revenues payments, or otherwise recaptures from the City any such Local Sales and Use Tax Revenues determined by the BOE to have been improperly allocated or paid, then Company shall, within thirty (30) days after written demand from the City, repay all City Payments (or applicable portions thereof) theretofore paid to Company which are attributable to such repaid, offset or recaptured Local Sales and Use Tax Revenues. If Company fails to make such repayment within thirty (30) days after the City's written demand, then such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal

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rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. It is the express intent of City and Company that any risk of loss or diminution of Local Sales Tax Revenues be borne by Company and not by the City; provided however, that the City and Company shall cooperate in any proceeding to prevent or mitigate any loss or diminution of Local Sales Tax Revenues or to recover any Local Sales Tax Revenues so lost or diminished.

3. AGREEMENT TERM

This Agreement shall terminate on the date upon which City provides payment to Company in the amount of the Incentives Cap, or thirty (30) years following the Execution Date, whichever occurs first. It is the intent of this Agreement to provide incentives to the Company to continue to invest and create new jobs in the City of Fresno. This Agreement may be terminated not less than 90 days' prior to written notice by either party if the BOE issues a final decision reallocating Local Sales and Use Tax Revenues or any portion thereof pursuant to the Sales Tax Law from the City to any other jurisdiction.

4. INDEMINIFICATION

Company agrees to indemnify, defend (if so requested by the City, and with counsel of the City's choice), and hold the City, its officers, employees, agents, and assigns (severally and collectively, any "Indemnitee"), harmless from any loss, expense or other cost (including, without limitation, attorneys' fees) related to any claim, action, lawsuit or other proceeding, whether administrative, at law or in equity, brought or maintained by or on behalf of any person or entity (other than Company or any Indemnitee) against any Indemnitee as a result of any conduct of Company or the City in performing, observing, or administering any obligation or provision arising under or pursuant to this Agreement or Company's allocation of sales and use tax revenues to the City under Sales Tax Law, except to the extent that any such claim, action, lawsuit, or other proceeding was caused by an Indemnitee's sole negligence or willful misconduct. Company shall also defend (if so requested by the City, and with counsel of the City's choice) any Indemnitee from any legal action challenging the validity of this Agreement or any provision of this Agreement. Without limitation on the foregoing provisions, and notwithstanding any other provision of this Agreement, if any court or administrative body of competent jurisdiction orders the return to the City of any Incentives payment, Company shall hold any Indemnitee harmless from any such claims Company may have for reimbursement or contribution with respect to any such funds.

To the full extent required by applicable federal and state law, Company and its contractors and agents shall comply with California Labor Code Section 1720 et seq. and the regulations adopted pursuant thereto ("Prevailing Wage Laws"), if so required, and shall be solely responsible for carrying out the requirements of such provisions. Company shall indemnify, defend (with counsel approved by City) and hold the City and its elected and appointed officers, officials, employees, agents, consultants, and contractors (collectively, the "Indemnitees") harmless from and against all liability, loss,

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cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage which directly or indirectly, in whole or in part, are caused by, arise in connection with, result from, relate to, or are alleged to be caused by, arise in connection with, or relate to, the payment or requirement of payment of prevailing wages (including without limitation, all claims that may be made by contractors, subcontractors, or third party claimants pursuant to Labor Code sections 1726 and 1781), the failure to comply with any state or federal labor laws, regulations or standards in connection with this Agreement, including, but not limited to the Prevailing Wage Laws, or any act or omission of Company related to this Agreement with respect to the payment or requirement of payment of prevailing wages,

5. GENERAL PROVISIONS

5.1 Notice. Notice as referenced herein shall be deemed sufficiently given if made in writing and dispatched by any of the following methods to the addresses of the Parties set forth in this Section: (i) registered or certified mail, postage prepaid, return receipt requested (in which event, the notice shall be deemed delivered on the date of receipt thereof); (ii) electronic facsimile transmission, followed on the same day by delivery of a "hard" copy via: first class mail, postage prepaid or (iii) personal delivery, including by means of professional messenger service, courier service such as United Parcel Service or Federal Express, or by U.S. Postal Service (in which event, the notice shall be deemed delivered on the documented date of receipt).

If to City: CITY OF FRESNO
Attn: City Manager
2600 Fresno Street
Fresno, CA 93721

If to Company: NORDSTROM, INC.

5.2 Non-Discrimination Requirements. Company shall not discriminate on the basis of race, gender, religion, national origin, ethnicity, sexual orientation, age, or disability in the solicitation, selection, hiring, or treatment of subcontractors, vendors, or suppliers. Company shall provide equal opportunity for subcontractors to participate in subcontracting opportunities. Company understands and agrees that violation of this clause shall be considered a material breach of the Agreement and may result in Agreement termination, or other sanctions.

5.3 Waivers. The failure by either Party to enforce at any time any provision or condition of this Agreement shall not be construed to be a waiver of such provision or condition contained herein or a waiver of any subsequent breach or violation of the same or any other provision or condition, nor in any way to "affect the validity of this Agreement or any part hereof or the right of a Party to thereafter enforce each and

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every such provision or condition. A waiver under this Agreement must be in writing and state that it is a waiver. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.

5.4 Confidentiality. City shall keep any and all proprietary and confidential information and data provided by Company under this Agreement strictly confidential to the extent permitted by law. City will use information provided by Company pursuant to this Agreement only for purposes within the scope of this Agreement. Company shall clearly mark or otherwise identify in writing all information it considers to be proprietary and confidential at the time it is delivered to City. The confidentiality obligation under this section shall not apply to: (a) information which is already public information or which is otherwise available to the general public; (b) information received from a third party without a similar confidentiality restriction who is lawfully in possession of the information and who has the lawful right to disclose it; (c) information that is already in City's possession prior to receiving it from Company; or (d) information delivered by Company to City and not marked or otherwise Identified as proprietary and confidential at the time it was delivered. Company shall defend, at Company's expense, any legal actions or challenges seeking to obtain from City any information requested under the California Public Records Act withheld by City at Company's request. Furthermore, Company shall indemnify City and hold it harmless for any claim or liability, and defend any action brought against City, resulting from City's refusal to release information requested under the Public Records Act withheld at Company's request.

5.5 Local, State and Federal Laws. Company hereby agrees to carry out Business Activities in conformity with all applicable federal, state, and City laws.

5.6 Termination. Other provisions of this Agreement and its Effective Date notwithstanding, Company may, at its sole discretion, terminate this Agreement by providing notice in writing to City.

5.7 Successors and Assigns. This Agreement shall be binding upon the Parties' successors and assigns. Company shall not assign this Agreement or any right or obligation hereunder except that it may so assign to its immediate or ultimate parent, or to a directly related corporate or business entity, by providing notice to City.

5.8 Entire Agreement. This Agreement (including the exhibits hereto, which are integral parts of this Agreement) supersedes all previous representations, understandings, negotiations and agreements either written or oral between the Parties or their representatives. This Agreement may not be modified except by the written agreement executed and delivered by both Parties.

[signatures on following page]

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IN WITNESS WHEREOF, this Agreement is executed.

NORDSTROM, INC.
A Washington Corporation

By:
Its:

Date: _____

THE CITY OF FRESNO
a California municipal corporation

By: _____
Bruce Rudd
City Manager

Date: _____

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM
DOUGLAS T. SLOAN
City Attorney

By: _____
Deputy

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Exhibit 1
NORDSTROM – NEW FULL-TIME EQUIVALENT JOB
CREATION
EMPLOYMENT SURVEY

Business Activity Information

*(to be completed within sixty (60) days of the Effective Date and Each
Subsequent Year of the Agreement Term)*

Business Name:	
Employment Address(es) in City of Fresno:	

Full-Time Equivalent Positions <i>(List Title of Positions currently filled by Company at address(es) above.)</i>	Count of Positions by Compensation		
	Under \$25,000	\$25,000 - \$35,000	Over \$35,000

I hereby certify that Nordstrom employs the job positions listed above at the locations listed above as of _____ (date).

Director of Human Resources
Nordstrom

Signature

Printed Name

Date