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Agenda Item: ID17-194 (2-C)

Date: 2/2/17

2017 JAN 30 PM 1 39



Supplemental Information Packet

Agenda Related Items – ID17-194 (2-C)

Contents of Supplement: Attachment B- Amended and Restated Economic Incentive Agreement

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

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2)). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

Americans with Disabilities Act (ADA):

The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

**CITY OF FRESNO
ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT**

BY AND BETWEEN

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

AND

**ULTA INC.
A DELAWARE CORPORATION**

CITY OF FRESNO

ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

THIS CITY OF FRESNO ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT ("Agreement") is entered into this _____ day of February 2017 ("Execution Date") by and between THE CITY OF FRESNO, a California municipal corporation ("City") and ULTA INC., a Delaware 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 670,000 square feet of industrial property in the City for a West Region Distribution and E-Commerce Fulfillment Center ("Site").
- B. Company does not currently operate E-Commerce fulfillment centers in California.
- C. The Company expects, upon opening of the West Region Distribution and E-Commerce Fulfillment Center, to employ over 652 employees and would hire hundreds more of additional employees at peak sales time of year.
- D. The City anticipates over the term of the agreement to reap tens of millions of dollars in new sales tax and employment driven benefits over and above the incentive investment set forth in this agreement.
- E. The purpose of this Agreement is to provide certain incentives and guarantees to Company to create certain jobs in the City (collectively, "Business Activities").
- F. 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 Local Sales and Use Tax Revenues (defined below).
- G. The Company wishes to locate its Business Activities in a City offering operational advantages including, but not limited to, a qualified workforce, cost advantages, access to customers, and capacity to staff a certain number of jobs in said City.
- H. City wishes to encourage Company's location and growth of Business Activities because City expects Business Activities will create jobs, promote the stability and growth of City taxes and other revenues, further the City's economic development goals.
- I. The incentives herein are intended exclusively to reward and encourage the Company for job creation within the City of Fresno. The incentives are available to Company for job creation regardless of where within the City the jobs are located (excluding jobs created at retail storefronts).

TERMS AND CONDITIONS

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

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:

“Commencement of Operations” means the date on which the first commercial transaction is consummated at the Site, to be documented based on taxable sales reported on California Board of Equalization (“BOE”) Sales Tax returns pursuant to the Sales Tax Law.

“Company” shall mean Ulta Inc., and affiliates of Ulta Inc. generating tax in the City or assigned by Ulta Inc. to receive the benefits of this Agreement. Affiliates shall mean any legal entity sharing a common parent with Ulta Inc.

“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).

“Contract Job” means a position of employment caused by the Company in which a third party contractor to Company employs an employee on either a full- or part-time basis for purposes of satisfying a labor contract between Company and a third party.

“Direct Job” means a position of employment in which the Company directly employs the employee on either a full- or part-time basis.

“Fiscal Year” means the City of Fresno’s financial reporting period, which runs from July 1 to June 30.

“Full-Time Equivalent Position” means a position of employment, or combination of multiple positions of employment, in the City at which an employee is, or combination of employees are, compensated for no fewer than 1,750 hours during any consecutive 365-day period-of-time, inclusive of paid sick days and/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 BOE pursuant to the Sales Tax Law.

“New Job” means a filled Full-time Equivalent Position of employment funded by Company in the City.

“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 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 creation of jobs and growth of tax revenue generated by Company and received by City as a result of Company's Business Activities are both 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 or cause to be established Business Activities (excluding retail storefront positions) that are likely to result in the increase of tax revenues for the City. Such activities include, but are not limited to, establishment of facilities and operation of a distribution and E-commerce fulfillment center, among other functions; and

(b.) New Job Creation. Create or cause creation of a minimum of 500 New Full-time Equivalent Positions at the Fulfillment Center or other non-retail storefront location within the City.

(c.) Maximum Incentive. The total incentive payable pursuant to this Agreement shall be as described in Section 2.2(a).

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 days of the Effective Date and sixty 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 commencing on the Execution Date. After the third anniversary of the Commencement of Operations Date, no Incentives shall be paid in any year in which the annual average Full-Time Equivalent Positions is less than 500. If Company does not achieve 500 Full-Time Equivalent Positions by December 31, 2022, any and all Incentives paid to Company on or before that date must be refunded to City and said refund shall be paid in full within thirty days. Company may receive Incentives following said refund in any year in which it achieves an annual average of 500 Full-Time Equivalent Positions.

(a.) West Region Distribution and E-Commerce Fulfillment Center or other non-retail storefront location in the City. Except as otherwise provided in Section 4, the Incentives shall be as follows:

\$15,000 per Direct Full-time Equivalent Position

\$10,000 per Contract Full-time Position

\$5,000 per Contract Full-time Equivalent Position comprised of multiple part-time Contract positions

(b.) Company expects to employ over 652 Full-time Equivalent Positions at a West Region Distribution and E-Commerce Fulfillment Center (“Fulfillment Center”). Company may, in its sole discretion, expand its business

activities at the Fulfillment Center or another non-retail storefront facility within the City. .

(c.) The total Incentives payable under this Agreement shall be up to a maximum total payment of \$18,000,000, except as otherwise provided herein ("Incentives Cap").

(d.) Incentives based on job creation will be deemed earned when a Full-Time Equivalent Position has been maintained and remains filled for a minimum of three 365-day periods following creation of the Full-Time Equivalent Position. Incentives paid for job creation that does not meet the three-year maintenance requirement are subject to recapture. The Company may offset recapture with creation of additional positions subject to the same conditions. Incentives paid for job creation that satisfied the three-year maintenance requirement is deemed fully earned and not subject to recapture. The Parties intend for the calculation of New Job creation to be the net increase from the baseline of zero. The Incentives are not based upon a particular position of employment or employee but rather the total number of Full Time Equivalent Positions created.

(e.) In the event a new position under this Agreement is initially created as a Contract position on either a Full-time or Full-time Equivalent basis, and an incentive is paid on that basis, and should the Company later convert that position to a Direct position, the Company would be eligible for a true-up incentive based on the difference between the Direct Position incentive and the Contract Position incentive actually paid. The time period during which the Contract Position was filled shall apply toward the required three-year maintenance requirement set forth in subdivision (d) hereof.

(f.) To ensure that Incentives shall not exceed incremental revenues to the City generated as a result of Company activities, Incentives paid pursuant to this Agreement shall not exceed the combined total of the following calculated amounts:

(1) Local Sales and Use Tax on Purchases. 75% of the Local Sales and Use Tax Revenues (annually, on a cumulative basis) paid by Company in connection with the purchase of taxable tangible personal property put in service within the City from the Execution Date through the end of the tenth 365-day period ("Full Year") following execution of a lease or purchase of Site or other non-retail storefront location within the City, as long as such tax is reported and allocated to the City, and 50% of the Local Sales and Use Tax Revenues (annually, on a cumulative basis) paid by Company in connection with the purchase of taxable tangible personal property placed into service within the City thereafter.

(2) Local Sales Tax on Sales. 75% of the Local Sales and Use Tax Revenues (annually, on a cumulative basis) attributable to Company's Taxable Sales paid by Company and reported to the City, in accordance with the Sales Tax Law, for the initial five Full Years following Commencement of Operations; 50% 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 following 10 years; and 25% 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 remaining 15 years of the Agreement.

(3) **Personal Property Taxes Attributable to Company.** Company shall be entitled to 75% of the City's share of Personal Property taxes paid by Company annually through the fifth Full Year following Company's receipt of the Certificate of Occupancy for the Site. Incentives under this section will be payable only after the tax obligations for the Site have been paid by the Company to the County, and County has distributed the taxes to the City. If a personal property tax assessment appeal is filed by Company during the first five years of this Agreement and if, as a result of such appeal, Company receives a refund of personal property taxes previously paid by Company, Company shall reimburse City the City's proportional share of the refunded amount.

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 Annual Payments on before July 31 of each year during the term of this Agreement. Before making each Annual Payment, City shall confirm that Company has created or caused to be created, and/or maintained new positions in accordance with Section 2.2 and City has received Local Sales and Use Tax Revenues from the Board Of Equalization (BOE) and Personal Property Tax revenues from the County Assessor.

After the end of the Company's Fiscal Year, Company will be eligible to receive Sales/Use Tax and Personal Property Tax incentives that were generated in the most recently completed Fiscal Year. Within 90 days after the end of the Fiscal Year, 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 shall include submission of the prior twelve months' sales and use tax returns and prior year's property tax invoices. By May 30 of each year City shall verify the information on the Company's written request. City will immediately notify Company if the City identifies issues as a result of its review of the Company's written request. City and Company will work together to resolve in a timely manner any issues identified in the City's review of the Company's written request. After verifying the information and resolving any identified issues, the City will make an electronic payment to the Company for the Annual Payment by July 31.

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 and personal property tax payments to City. City shall have 60 days following the end of the Fiscal Year to verify the allocation and receipt of Local Sales and Use Tax Revenues.

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 of 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 Tax Revenues received by the City were improperly allocated and/or paid to the City, and if the BOE requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Local Sales Tax Revenues, then Company shall, within thirty (30) calendar days after written demand from the City, repay all Incentives (or applicable portions thereof) theretofore paid to Company which reflect such repaid, offset or recaptured Local Sales Tax Revenues. If Company fails to make such repayment within thirty (30) calendar days after the City's written demand, then Company shall be in breach of this Agreement and such obligation shall accrue interest from the date of the City's original written demand at the then-maximum legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. Additionally, the City may deduct any amount required to be repaid by Company under this Section 2.7 from any future Incentives otherwise payable to Company under this Agreement. This Section 2.7 shall survive the expiration or termination of this Agreement. The City immediately will contact Company regarding any communication from the BOE pertaining to tax allocations associated with Company's business. Should the BOE question the correctness of the allocation or otherwise determine that there has been an improper allocation to the City, the Company and the City may at each party's sole discretion choose to accept the BOE determination, separately engage legal counsel or consultant, or jointly engage legal counsel or consultant to defend such allocation in all BOE administrative proceedings as permitted by the rules and regulations of the BOE. Any jointly agreed to cost or expense associated with such efforts will be borne equally by the Parties. Any cost or expense associated with such efforts not jointly agreed to will be borne by the party incurring the cost or expense. For purposes of this paragraph, administrative proceedings include all BOE meetings, conferences and appeals before BOE Board Members. Regardless of joint legal counsel, the Company and the City will reasonably cooperate with the other party and the other party's counsel. Additionally, Company shall have the right, but not the obligation, to participate in any such administrative proceedings.

2.8 Annual Appropriation. City covenants to take such action as may be necessary to include all such Incentive Payments due pursuant to this Agreement in its annual budgets during the term of this Agreement and to make the necessary annual appropriations for all such Incentive Payments. The covenants of City set forth in this Section 2.8 shall be considered ministerial duties imposed by law and it shall be the duty of each and every public official of City to take such action and do such things as are required by law in the performance of the official duty of such official to enable City to carry out and perform the covenants of City set forth in this Section 2.8.

2.9 Not a Pledge of Sales Tax. Company acknowledges that the City is not making a pledge of Local Sales Tax Revenues, property tax or any other particular source of funds, Local Sales Tax Revenues and property tax are used merely as a measure of the amount of payment due hereunder and as means of computing the City's payment of Incentives for the consideration received hereunder.

2.10 State of California Legislation Impact on Covenant Payment. Company acknowledges that the California legislature has in the past adopted certain legislation which diverted to the State of California a portion of the Local Sales Tax Revenues which were otherwise payable to the City. Company acknowledges that it is possible that the legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Local Sales Tax Revenues and that such reduction will cause Company a corresponding reduction and/or delay in the payment of the Incentives due to Company during such time as such legislation is in effect. Furthermore, Company acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the Term and may materially and negatively impact the amount of Local Sales Tax Revenues and, accordingly, Incentives. The City does not make any representation, warranty or commitment concerning the future actions of the California legislature with respect to the allocation of Local Sales Tax Revenues to the City. Owner agrees that it is undertaking its obligations under this Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of such legislation.

The foregoing paragraph notwithstanding, City acknowledges that the California legislature may provide for the payment to City of other revenues for the purpose of offsetting any losses in Local Sales Tax Revenues resulting from the enactment of legislation of the type described in the immediately preceding paragraph. City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Agreement and the computation of any Incentives which may become due to Company hereunder, City will consider any such offsetting revenues which are (i) indexed to Local Sales Tax and offset the loss of Local Sales Tax Revenues to the City on a dollar for dollar basis, (ii) actually received by the City, and (iii) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Local Sales Tax Revenues within the meaning of this Agreement.

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 years following the Commencement of Operations, whichever occurs first. It is the intent of this Agreement to provide incentives to the Company to continue to invest in and create new jobs in the City.

4. INDEMNIFICATION

Company shall defend (using counsel of City's choosing), indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against any and all third party claims, losses, proceedings, damages, causes of action, liability, cost and expense (including reasonable attorney's fees) arising from, in connection with or related to this Agreement or the functions or operations of the West Region Distribution and E-Commerce Fulfillment Center (other than to

the extent arising as a result of the City's negligence or willful misconduct). The City shall fully cooperate in the defense of any such actions and upon written request of Company shall provide to Company such documents and records in possession of the City that are relevant to such actions and not otherwise protected by law. Notwithstanding the foregoing, should any third party bring any such action or proceeding Company shall have the right to terminate this Agreement, and as of such date of termination, all unaccrued liabilities of the parties under this Agreement shall cease except for Company's obligation of indemnity owed to the City as provided in this Section 4. For purposes of clarification, should Company exercise its termination right as provided in this Section 4, the same shall not be considered a Default and the City shall have no claims against Company for such termination.

All costs of defense and indemnification due pursuant to this Section 4 shall be paid by Company to the City or on the behalf of the City. However, to the extent Company makes such payment, the Incentive Cap shall be increased to reimburse Company for one half of the costs of defense and indemnification paid to the City or on behalf of the City, not to exceed a total of \$4.5 million in additional subsidy. To provide the Company with the additional subsidy amount, the incentive payment per employee, as set forth in Section 2.2(a), shall be increased from \$15,000 to \$25,000 for the first 450 Direct Full Time Equivalent employees. If this provision is triggered, Company shall be entitled to a true up for all Direct Full Time Equivalent employee positions previously eligible for payment. Additionally, the Local Sales Tax on Sales, provided for in Section 2.2(f)(2) shall be increased to 90% for the subsequent 15 years following application of this provision; provided the Agreement Term in section 3 shall not be extended.

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: ULTA INC.
 Atten: Assistant General Counsel
 1000 Remington Blvd, Suite 120,
 Bolingbrook, IL 60440

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 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.

5.9 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby and shall remain valid and enforceable to the greatest extent permitted by law.

5.10 Counterparts. This Agreement may be executed in any number of and by different parties hereto on separate counterparts, all of which, when so executed, shall be deemed an original, but all such counterparts shall constitute one and the same agreement. Any signature delivered by a party by facsimile transmission or electronic transmission (including e-mail transmission of a PDF image) shall be deemed to be an original signature hereto.

[SIGNATURES ON FOLLOWING PAGE]

IN WITNESS WHEREOF, the parties have executed this Agreement at Fresno, California, on the day and year first above written.

CITY OF FRESNO,
A California municipal corporation

ULTA INC.,
A Delaware Corporation

By _____

Name: Bruce Rudd

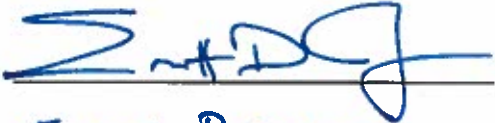
Title: City Manager

ATTEST:
YVONNE SPENCE, CMC
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Laurie Avedisian-Favini Date
Assistant City Attorney

By: 

Name: ELLIOTT RODGERS

Title: VICE PRESIDENT, SUPPLY CHAIN
(If corporation or LLC, Board Chair, Pres. or Vice Pres.)

By: _____

Name: _____

Title: _____
(If corporation or LLC, CFO, Treasurer, Secretary or Assistant Secretary)

Attachment: Exhibit 1

LAF:BMC:ns,prn [73000ns/laf] 01-25-17

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

Business Activity Information

(to be completed within sixty 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	Count of Positions by Status		
<i>(List Title of Positions currently filled by Company at address(es) above.)</i>	DIRECT	CONTRACT	ANNUAL HOURS PAID

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

Director of Human Resources
 Ulta

 Signature

 Printed Name

 Date