



AGENDA
CITY COUNCIL OF THE CITY OF MORENO VALLEY
MORENO VALLEY COMMUNITY SERVICES DISTRICT
CITY AS SUCCESSOR AGENCY FOR THE
COMMUNITY REDEVELOPMENT AGENCY OF
THE CITY OF MORENO VALLEY
MORENO VALLEY HOUSING AUTHORITY
BOARD OF LIBRARY TRUSTEES

July 14, 2015

REGULAR MEETING – 6:00 PM

City Council Study Sessions

First & Third Tuesdays of each month – 6:00 p.m.

City Council Meetings

Special Presentations – 5:30 P.M.

Second & Fourth Tuesdays of each month – 6:00 p.m.

City Council Closed Session

Will be scheduled as needed at 4:30 p.m.

City Hall Council Chamber - 14177 Frederick Street

Upon request, this agenda will be made available in appropriate alternative formats to persons with disabilities, in compliance with the Americans with Disabilities Act of 1990. Any person with a disability who requires a modification or accommodation in order to participate in a meeting should direct such request to Guy Pegan, ADA Coordinator, at 951.413.3120 at least 48 hours before the meeting. The 48-hour notification will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

Dr. Yxstian A. Gutierrez, Mayor Pro Tem
Jeffrey J. Giba, Council Member

Jesse L. Molina, Mayor

George E. Price, Council Member
D. LaDonna Jempson, Council Member



Report to City Council

TO: Mayor and City Council

FROM: Mike Lee, Economic Development Director

AGENDA DATE: July 14, 2015

TITLE: OPERATING COVENANT AGREEMENT FOR DECKERS
OUTDOOR CORPORATION

RECOMMENDED ACTION

Recommendations: That the City Council:

1. Conduct a Public Hearing.
2. Adopt Resolution No. 2015-53. A Resolution of the City Council of the City of Moreno Valley, California, Accepting the Economic Development Subsidy Report prepared pursuant to Government Code Section 53083, regarding an Operating Covenant Agreement by and between the City of Moreno Valley and Deckers Outdoor Corporation, a Delaware Corporation.
3. Adopt Resolution No. 2015-54. A Resolution of the City Council of the City of Moreno Valley, California, Approving the Operating Covenant Agreement between the City of Moreno Valley and Deckers Outdoor Corporation, Authorizing the City Manager to execute the Operating Covenant Agreement and making related findings.

SUMMARY

This report recommends that the City Council convene a Public Hearing and consider staff recommendations to approve the attached Operating Covenant Agreement for Deckers Outdoor Corporation.

DISCUSSION

On November 26, 2013, the Moreno Valley City Council approved a Memorandum of Understanding (MOU) with Deckers Outdoor Corporation (Deckers) regarding the development and occupancy of the corporation's primary North American distribution

center in Moreno Valley. Currently based in Goleta, Deckers Outdoor Corporation is a leading designer, producer, marketer, and brand manager of innovative, high-quality footwear, apparel, and accessories. They offer a variety of brands, most notably UGG Australia, and report international sales in excess of \$1.4 billion.

Deckers is constructing a new distribution center within the City at 17791 Perris Boulevard, the southwest corner of Perris Boulevard and Grove View Road, in the Moreno Valley Industrial Area. Construction and fixtures for the building are estimated at \$51 million and are projected for completion in two phases. Occupancy of the 794,447 sq. ft. Phase I is currently scheduled for the Fall of 2015. Under Decker's lease agreement with Sares Regis, they have a Phase II option to expand an additional 200,000 to 400,000 sq. ft. of new construction, for a total facility size of 1,200,000 sq. ft. Although there may be additional supportive business activity conducted at the site, the primary purpose of the facility will be warehousing footwear, apparel, and accessories for future distribution.

The logistics building in Moreno Valley will serve as Deckers' primary distribution center, with Phase I employment on site estimated at 80 full-time employees plus an additional 70 full-time employees at Phase II. Deckers Outdoor is a highly recognized international company, known for providing cutting edge quality products and for providing employees with highly competitive pay and benefits, which result in a high level of employee retention and loyalty.

The new Deckers Outdoor Corporation distribution center with an internet sales office may generate substantial revenue for the City, while creating new jobs and installing public improvements that might not otherwise be available to the community for many years. Direct economic benefits to the City would include the payment of sales, property, business license gross receipts, and utility taxes, plus indirect economic benefits would be achieved through local expenditures by employees and corporate contracts.

Deckers currently generates internet sales but has not designated the City of Moreno Valley as a point of sale location. To incentivize and memorialize Deckers Outdoor's establishment of an internet sales office in Moreno Valley, staff proposes approval of a resolution (Attachment 1) and execution of the attached Operating Covenant Agreement (OCA – see Attachment 2) that designates the City of Moreno Valley as a point of sale location. With such designation, the City would be able to receive new internet sale tax revenue from Deckers, which would otherwise not have occurred.

The OCA implements the sales tax sharing component of the previously approved Memorandum of Understanding, providing for covenant payments that are calculated based upon sales tax generation. The terms of the proposed OCA are reflective of the MOU, which incentivize Deckers Outdoor to locate an internet sales office within the City in addition to the distribution center already under construction. The OCA also now reflects components of the Hire MoVal program, which was recently adopted by the City Council. Following are the deal points of the Agreement, if the City Council approves it as proposed:

1. The City would cooperate with Deckers to establish an internet sales office within the City. For the first five (5) years, the City would rebate 60% of the City's portion of its local sales tax revenue received as a result of Deckers locating an internet sales office within the City. For the second five (5) years, the City would rebate 50% of the City's portion of its local sales tax revenue from the Deckers Moreno Valley internet sales office.
2. If Deckers completes the Company's Phase II expansion (the construction of another 200,000 to 400,000 or more sq. ft.) within the initial ten (10) year term, the Agreement term would be extended to twenty (20) years and the City would rebate 50% of the City's portion of its local sales tax revenue from the Deckers Moreno Valley internet sales office for a third five (5) year period. For the final five (5) years, the City would rebate 40%.
3. As a commitment to hire locally, Deckers would agree to employ Moreno Valley residents to fill at least 30% (24 positions) of its anticipated 80 full-time Phase I employees (plus 21 Moreno Valley residents as 30% of the 70 additional Phase II employees). Compliance will be established annually through a statement signed by a Deckers Outdoor executive under penalty of perjury. If Deckers fails to meet the 30% commitment, the City would be entitled to recapture a share of incentive payments. The recovery percentage will be equal to the percentage by which the Company doesn't meet the 30% commitment.
4. The City would utilize resources within the City of Moreno Valley's Employment Resource Center to assist Deckers in hiring Moreno Valley residents.

In the current, competitive business attraction environment, cities often utilize incentives as tools to enhance the desirability of their location and encourage prospective business tenants to locate there. For example, the City of Ontario recently executed a generous sales tax rebate to share up to 60% of substantial new sales tax revenues with QVC Corporation for forty-one years.

Pursuant to Assembly Bill 562 (AB 562), effective January 1, 2014, cities are required to provide an Economic Development Subsidy report (Attachment 3) and conduct a public hearing (see the Notice – Attachment 4) prior to adopting a resolution (Attachment 5) to approve any subsidies in excess of \$100,000.

ALTERNATIVES

1. Conduct the Public Hearing and Adopt the Resolutions approving the Economic Development Subsidy report and Operating Covenant Agreement as proposed. This will implement the MOU consistent with the terms included therein. Staff recommends this alternative.
2. Decline to conduct the Public Hearing and decline to Adopt the Resolutions approving the Economic Development Subsidy report and Operating Covenant

Agreement. This will result in not meeting the terms of the MOU. Staff does not recommend this alternative.

FISCAL IMPACT

The Agreement is not anticipated to result in any additional costs to the City's General Fund. The development of the project will create substantial new revenues to the City's General Fund in the form of sales, property, business license gross receipts, and utility users taxes. Entering into the Agreement ensures that sales, property, utility users, and other related taxes and City revenues generated by Deckers, will remain in the City for up to the twenty (20) year contract term.

Considering sales taxes alone, based on the current economic environment, it is estimated that Deckers will generate over \$1.0 million in cumulative new sales tax revenue to the City during the first ten years of the agreement, and over \$2.3 million for the following ten years. This represents a cumulative City share of sales tax revenue of an estimated \$3.4 million over the OCA's twenty year term.

Combined with property, business license gross receipts, and utility users tax revenues, the new Deckers facility is estimated to generate revenue to the City, after the Deckers share is deducted, of \$3.2 million in the first ten years and \$8.3 million over the twenty year OCA term.

These assumptions are based on current economic conditions and will vary as many variables and factors affect the national and local economy. The data is provided to demonstrate that the economic benefit of the OCA to the City will be significant in any event.

NOTIFICATION

Notice of the public hearing was published in the Press Enterprise on July 1, 2015. The notice was also posted on the City's website.

PREPARATION OF STAFF REPORT

Prepared By:
Name Michele Patterson
Title Economic Development Manager

Department Head Approval:
Name Mike Lee
Title Economic Development Director

Reviewed and Concurred By:
Rick Teichert
Chief Financial Officer/City Treasurer

CITY COUNCIL GOALS

Revenue Diversification and Preservation. Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

Positive Environment. Create a positive environment for the development of Moreno Valley's future.

ATTACHMENTS

- 1. Resolution No. 2015-53 - Deckers Operating Covenant Agreement
- 2. Deckers_Executed Moreno Valley Operating Covenant Agreement (dtd 7-1-2015)
- 3. Deckers AB 562 Report FINAL
- 4. Notice of Public Hearing - Operating Covenant Agreement 071415
- 5. Resolution No. 2015-54 - Deckers Economic Development Subsidy

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	7/08/15 5:09 PM
City Attorney Approval	<u>✓ Approved</u>	7/09/15 8:03 AM
City Manager Approval	<u>✓ Approved</u>	7/09/15 8:30 AM

RESOLUTION NO. 2015-53

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, APPROVING THE OPERATING COVENANT AGREEMENT BETWEEN THE CITY OF MORENO VALLEY AND DECKERS OUTDOOR CORPORATION AND MAKING RELATED FINDINGS

WHEREAS, Deckers Outdoor Corporation, a Delaware Corporation and its affiliates (together, "Deckers"), a retailer of consumer products with worldwide distribution, has leased for ten (10) years a newly constructed facility of approximately 800,000 square foot to serve as their Phase One distribution center (the "Facility") within the City of Moreno Valley, California ("City") at 17791 Perris Boulevard, Moreno Valley, CA 92551 ("the Property"); and

WHEREAS, Deckers may, at its option, construct and operate a Phase Two expansion to include additional space of approximate 200,000-400,000 square feet, for a total of 1,200,000 square feet (the "Project"); and

WHEREAS, the Facility will primarily operate as a warehousing location with ancillary support, distribution and administrative services from which internet and other purchase orders will be filled for customers who transact business with either the Company or its affiliates, where such purchases or products are intended for delivery within the State of California and elsewhere ("Distribution Center"); and

WHEREAS, Moreno Valley Municipal Code Section 5.02 requires every business within the city to pay an annual business license fee and a gross receipts tax as set by city council resolution from time to time; and

WHEREAS, based upon the current intended use of the facility, the City believes the activity at the warehouse should be classified as a warehouse for purposes of business license tax assessment; and

WHEREAS, the environmental impacts of the location for this facility were reviewed in conjunction with the Environmental Impact Report for the VIP Moreno Valley project that was certified by the City Council on September 25, 2012; and

WHEREAS, the incentives provide in the Operating Covenant Agreement ("Agreement"), a copy of which is attached to this Resolution as Exhibit A, are intended to ensure Deckers establishes a new warehouse and distribution center within the City; and

WHEREAS, if the Agreement is approved by the City Council, the start date of the economic development subsidy will be the date of commencement of operations at

the Facility, which is anticipated to occur on August 1, 2015. The end date will be no later than 10 years after the start date, on or around July 31, 2025; and

WHEREAS, Deckers may, at its option, construct and operate a Phase Two expansion to include additional space of approximate 200,000-400,000 square feet, for a total of 1,200,000 square feet (the "Project"); and

WHEREAS, if Deckers exercises its option to expand its occupancy at the Facility to include an additional approximate 200,000 – 400,000 square feet and establishes the Facility as the primary Point of Sale pursuant to the Sales Tax Law for all sales of the Company's products and those of its affiliates, and for all other products which are transacted through the Company's or its affiliates' internet website and which are destined for any location within the State of California, the Agreement period shall be extended for an additional period of ten (10) years and the extended end date will be no later than 20 years after the start date, on or around July 31, 2035; and

WHEREAS, The economic development subsidy will be calculated based on Deckers' quarterly sales tax revenue and the incentive payments shall be due thirty (30) days after the quarterly "true up" payment by the State for the preceding quarter.

WHEREAS, The economic development subsidy incentive payment shall be calculated as follows:

- (a) The City will provide an incentive payment to Deckers equal to sixty (60%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the first five (5) years after commencement of operation of the Distribution Center.
- (b) The City will provide an incentive payment to Deckers equal to fifty (50%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the second five (5) years after commencement of operation of the Distribution Center.
- (c) In the event that the term of the Agreement is extended to twenty (20) years based upon the completion of the Deckers' Phase Two expansion within the initial ten (10) year term, the City will provide an incentive payment to Deckers equal to fifty (50%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for Deckers' or its affiliates' California E-Commerce for the third five (5) years after commencement of operation of the Distribution Center, and

- (d) The City will provide an incentive payment equal to forty (40%) percent of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for Deckers' or its affiliates' California E-commerce for the fourth and final five (5) years after commencement of operation of the Distribution Center.

WHEREAS, Deckers agrees to employ City residents at a rate of at least 30% of its full-time workforce. Deckers shall meet the local hire requirement annually upon the anniversary of the date of commencement of operations. Deckers shall provide written notification of compliance with such requirement signed by an officer of Deckers under penalty of perjury within thirty (30) days of the reporting date commencing on August 1, 2016. Deckers agrees to maintain such compliance during the period in which the Agreement is in effect. In the event Deckers fails to satisfy the 30% requirement in a particular year due to circumstances beyond its control, the City shall provide the Company with an opportunity to describe an attempt to cure, which can be mutually approved by both parties. If Deckers fails to provide an attempt to cure within the thirty (30) day period, the City shall be entitled to a recapture of a pro-rata share of incentive payments or sales tax sharing payments for that particular year; and

WHEREAS, The City agrees to assist Deckers' human resources staff with identifying qualified applicants who are residents of the City to support and maintain the 30% hiring requirement during the period in which the Agreement is in effect. The City will utilize resources within the City of Moreno Valley Employment Resources Center to assist the Company in the recruitment and fulfillment of its obligation to achieve 30% local hire requirement; and

WHEREAS, the City has determined that the establishment of the new Deckers warehouse and distribution center within the City will generate substantial revenue for the City, create new jobs, and result in community and public improvements that might not otherwise be available to the community for many years; and

WHEREAS, on July 14, 2015, the City Council of the City of Moreno Valley conducted a Public Hearing to consider the Agreement and concluded said hearing on that date; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

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Resolution No. 2015-53
Date Adopted: July 14, 2015

SECTION 2. Findings.

- (a) **Public Purpose.** Entering into this agreement serves a public purpose. As a result of this Agreement, the development of this facility will assist the City in the development of its industrial space within Moreno Valley and will result in additional businesses coming into and through the City that might not otherwise be exposed to Moreno Valley. This development will generate substantial revenue for the City, create new jobs, result in community and public improvements that might not otherwise be available to the community for many years, and act as a catalyst for other companies to locate in Moreno Valley. The City believes additional development and job opportunities will result for the City and its residents. By bringing a business entity of this size into the community, there will be approximately 150 new jobs directly created, public and private improvements made, plus the energy and synergistic effect will likely stimulate additional growth and job opportunities within the community. Additionally, Deckers is a good public partner who will improve the City through civic and community involvement. Based upon these and other public benefits the City Council finds that the public purposes of the Agreement outweigh any private benefit to private persons or entities.

SECTION 3. Approve Agreement. The City Council hereby approves the Operating Covenant Agreement in the form attached to this Resolution as Exhibit A. The City Council hereby authorizes the City Manager, with the concurrence of the City Attorney, to execute said Agreement. City Manager is hereby authorized to take any additional steps necessary to facilitate the intent of this action.

SECTION 4. CEQA Compliance. Pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), City staff has reviewed the environmental impacts of the location for this facility in conjunction with the Environmental Impact Report for the VIP Moreno Valley project that was certified by the City Council on September 25, 2012.

SECTION 5. Implementation. The City Manager or his or her designee is hereby authorized and directed to, on behalf of the City, execute any and all documents in accordance with this Resolution and applicable law.

SECTION 6. Severability. If any provision of this Resolution or the application of any such provision to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this

Resolution are severable. The City declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion of this Resolution.

SECTION 7. Certification. The City Clerk shall certify to the adoption of this Resolution.

SECTION 8. Effective Date. This Resolution shall become effective immediately upon its adoption.

APPROVED AND ADOPTED this 14th day of July, 2015.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2015-53 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 14th day of July, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY CLERK

(SEAL)

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Resolution No. 2015-53
Date Adopted: July 14, 2015

Attachment: Resolution No. 2015-53 - Deckers Operating Covenant Agreement [Revision 1] (1572 : OPERATING COVENANT AGREEMENT FOR

OPERATING COVENANT AGREEMENT
BETWEEN THE CITY OF MORENO VALLEY AND
DECKERS OUTDOOR CORPORATION

This Operating Covenant Agreement ("Agreement"), is dated as of JULY
1, 2015 and is made by and between the City of Moreno Valley, a California municipal corporation ("City") and Deckers Outdoor Corporation, a Delaware corporation and its affiliates (together, "Company"). The City and Company are sometimes individually referred to herein as a "Party" and, together, as the "Parties."

RECITALS

A. The Company has leased for 10 years a newly constructed approximately 800,000 square foot Phase One distribution center, with occupancy expected in the 4th quarter of calendar year 2014, with the option of and the potential of a Phase Two expansion with occupancy expected in 2018 to include an additional approximately 200,000-400,000 square feet, for a total of 1,200,000 square feet (the "Project") in the City to be located at 17791 Perris Boulevard, Moreno Valley, CA 92551 ("the Property").

B. The Company intends to use the Project as a distribution center from which to fulfill internet and other purchase orders by and provide products to customers who transact business with either the Company or its affiliates where such purchases or products are intended for delivery within the State of California and elsewhere. ("Distribution Center").

C. Based on the City's participation in the State's "triple flip" program (in which local government share of sales tax was decreased by 0.25% and the State portion of sales tax was increased by 0.25%, among other changes), the City's share of sales tax is currently 0.75% of the taxable sales occurring within the City.

D. The Distribution Center will be a Point of Sale for California E-Commerce. In addition, the Company may consider constructing or leasing a retail storefront. If it does so, the City would also receive sales tax from any retail sales made at the retail storefront. Retail storefront sales would not be covered by this agreement unless such activity occurs on the same site as the Distribution Center, unless otherwise approved by the City. The Company acknowledges that an existing Point of Sale for E-Commerce Sales may remain in operation after the commencement of the Distribution Center. However, upon commencement of a Phase Two expansion, if any, the Project will become the primary Point of Sale for all California E-Commerce.

E. The Moreno Valley City Council finds that it is of substantial benefit to the City and its residents for (i) the City to obtain an operating covenant from Company for the location and operation of the Distribution Center, and (ii) that the Distribution Center will be a Point of Sale for the Company's and the Company's affiliates' California E-Commerce in that significant additional sales tax revenue would be generated and additional employment created in the Distribution Center. The receipt of

additional sales tax not otherwise collectable by the City and creation of additional employment constitute valid public purpose for the City's entry into and execution of this Agreement.

F. In consideration for the Company's agreement to be bound by the operating covenant described herein, the City has agreed to make certain incentive payments to the Company. The City and Company acknowledge that the amount of each City payment hereunder is a fair exchange for the consideration actually furnished to the City by the Company during each fiscal year of the City in which such payment is made. The City has determined that each City payment to be made hereunder has been calculated so that it will not exceed the resources available to make the payment, and that in no event shall the City be indebted to Company for any aggregate payment herein provided.

G. The purpose and intention of the City in making incentive payments to the Company was or is to induce the Company to build and/or lease the Distribution Center in the City and for the Distribution Center to be a Point of Sale for the Company's and its affiliates' California E-Commerce sales in California, in addition to other direct retail sales that may occur at the facility and to further the well-being of the City's residents by enhancing local employment and expanding the City's tax revenue base.

H. The City Council has, prior to approving this Agreement, made findings as required by Government Code section 53083 with respect to the beneficiary, nature, term, public purpose and amount of the economic development subsidy provided by this Agreement as well as the benefits, projected tax revenues and estimated number of jobs to be created as a consequence of this Agreement. Such information is posted on the City's internet website and will remain posted for the term of this Agreement. The City Council has provided public notice and conducted a public hearing prior to approving this Agreement as required by Government Code section 53083.

NOW, THEREFORE, the parties agree as follows:

AGREEMENT

ARTICLE I SUBJECT OF AGREEMENT

Section 1.01. Recitals. The foregoing recitals are true and correct and are hereby incorporated into this Agreement.

Section 1.02. Purpose of Agreement. The purpose of this Agreement is to effectuate the economic goals of the City by providing an incentive for the Company's construction and/or leasing of the Project, relocate the Company's primary California E-Commerce function to the Distribution Center which will become a Point of Sale for the Company and its affiliates. The operation of the Distribution Center on the Property pursuant to this Agreement, and the fulfillment generally of the requirements of this

Agreement, are in the vital and best interests of the City and the welfare of the City's citizens and in accord with the provisions of applicable federal, state and local law.

Section 1.03. Definitions. The following words or phrases shall have the meanings ascribed to them in this section.

(a) "Affiliate" means any entity which is: (i) owned or controlled by the Company, or under common control with the Company; (ii) shares the same management as the Company; or (iii) created by the Company or the Company's management. For purposes of this definition, "control" means the power to direct the management and policies of such entity, directly or indirectly, whether through the ownership of voting rights, membership, the power to appoint members, directors, trustees or management, whether by contract or otherwise.

(b) "California E-Commerce" means all or portion thereof of sales which are transacted through the Company's internet websites or those of its affiliates and which are designated for delivery to any location within the State of California.

(c) "Commencement of operations" shall mean the date the Distribution Center first ships any product to any locations in California. Notwithstanding the forgoing, the initial ten (10) year term of Sales Tax Revenue sharing between the Company and the City shall commence on August 1, 2015.

(d) "Default" has the meaning as described in Section 3.01.

(e) "Distribution Center" has the meaning as described in Recital B.

(f) "Force Majeure" means any act of God (including fire, flood, earthquake, storm, lightning strike, tornado, volcanic eruption, hurricane or other natural disaster), labor strike or lockout, act of the public enemy, war (declared or undeclared), insurrection, riot, or explosion that: (i) prevents one Party from performing any of its obligations under this Agreement; (ii) could not reasonably be anticipated as of the date of this Agreement; (iii) is not within the reasonable control of, or the result of negligence, willful misconduct, breach of contract, intentional act or omission or wrongdoing on the part of the affected Party (or any subcontractor or affiliate of that Party); and (iv) by the exercise of due diligence the affected Party is unable to avoid or overcome (provided that nothing in this clause iv shall be construed so as to require a Party to accede to or agree to any provision not satisfactory to it to settle and terminate a strike or lockout). Force Majeure shall not include changes in the financial condition of a Party, changes in market conditions or changes in financial profitability of the transactions contemplated by this Agreement.

(g) "Point of Sale" means a place where a retail (as defined by California Board of Equalization Law in Section 6007) transaction is completed as described in Recital D.

(h) "Project" means that certain distribution center project to be located within the City of Moreno Valley as described in Recital A.

(i) "Sales Tax Law" means the Bradley Burns Uniform Local Sales and Use Tax, California Revenue & Taxation Code section 7200 *et seq.*

(j) "Sales Tax Revenues" means that portion of taxes derived from the imposition of the Sales Tax Law with respect to all businesses and activities conducted in the Distribution Center, including any direct retail sales as well as California E-Commerce sales fulfilled at the Distribution Center, which taxes are actually received by the City and are legally available for unrestricted use by the City's general fund.

Section 1.04. City Land Use Approvals. Nothing in this Agreement shall be construed to grant City approval for the rezoning or construction of the Project or the operation of the Distribution Facility. The City retains all of its discretionary approval authority regarding such matters, including but not limited to review pursuant to the California Environmental Quality Act ("CEQA", California Public Resources Code section 21000 *et seq.*).

ARTICLE II DEVELOPMENT AND OPERATING COVENANT

Section 2.01. Covenant.

(a) The Company shall: (i) use its good faith and commercially reasonable efforts to locate a Point of Sale for California E-commerce at the Distribution Center by December 31, 2015; and (ii) at the commencement of Phase Two, if any, the Distribution Center will become the primary Point of Sale pursuant to the Sales Tax Law for all sales of the Company's products and those of its affiliates, and for all other products which are transacted through the Company's or its affiliates' internet website and which are destined for any location within the State of California. Such responsibilities shall be maintained for a period of ten (10) years commencing after the commencement of operations of the Distribution Center. Provided, that such period shall be extended for an additional ten (10) years, if the Phase Two expansion occurs at any time during such ten (10) year period.

(b) The Company shall, within fifteen (15) days after commencement of operations provide written notice of such to the City.

(c) The Company, on its behalf and on behalf of its successors-in-interest and its affiliates, hereby waives its right to protect against disclosure of the information contained in its California state sales and use tax returns (but solely for the limited purpose of determining compliance with the terms of this Agreement). The Company hereby further authorizes the release of such information by the State of California to the City, and will cooperate with the City as necessary to obtain such release. Upon written request of the City, Company shall within twenty-one (21) days also provide to the City copies of the Company's and its affiliates' California state sales and use tax returns evidencing sales and the payments of sales and use taxes that are the subject of this Agreement. The provisions of this subsection shall survive the termination of this Agreement for a period of eighteen (18) months.

(d) The foregoing subparagraphs of this Section 2.01 are hereinafter referred to in this Agreement as the "Covenant."

Section 2.02. City Incentive Payments.

(a) In consideration for the Company's agreement to be bound by the Covenant, the City shall make quarterly payments to Company of an incentive measured by the amount of Sales Tax Revenues received by the City as a direct result of the Company's and its affiliates' California E-Commerce sales for the period when the Covenant is in effect. The incentive payments shall be due thirty (30) days after the quarterly "true up" payment by the State for the preceding quarter. The amounts of the incentive payment shall be as follows:

(i) The City will provide an incentive payment to the Company equal to sixty (60%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the first five (5) years after commencement of operation of the Distribution Center.

(ii) The City will provide an incentive payment to the Company equal to fifty (50%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the second five (5) years after commencement of operation of the Distribution Center.

(iii) In the event that the term of the Covenant is extended to twenty (20) years pursuant to section 2.01(a) based upon the completion of the Company's Phase Two expansion within the initial ten (10) year term, the City will provide an incentive payment to the Company equal to fifty (50%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the third five (5) years after commencement of operation of the Distribution Center, and an incentive payment equal to forty (40%) percent of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the fourth and final five (5) years after commencement of operation of the Distribution Center.

(b) The incentive payments due hereunder shall be payable from any source of funds legally available to the City. The determination of the source of funds for the City's payments shall be in the sole and absolute discretion of the City. The Company acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds. Sales Tax Revenues are used merely as a measure of the amount of incentive payment due hereunder and as means of computing the City's payment obligation in consideration for the Covenant. It is acknowledged by Company that the City's obligation to make incentive payments provided for herein is contingent upon actual receipt by the City of the Sales Tax Revenues derived from California E-Commerce and the operation of the Distribution Center which are paid to the City by the

State of California. The City shall not be obligated to make any incentive payments hereunder if Sales Tax Revenues are not actually received by the City from the State of California.

(c) Incentive payments by the City shall be made only for those quarters in which the Company is in compliance with the Covenant described herein. The failure of the City to make any payment required by this Agreement because of any Default (as defined in Section 3.01 hereof) by Company in complying with the Covenant shall not cause acceleration of any future payments by the City to Company beyond the date of such Default.

Section 2.03. Conditions Precedent.

(a) The obligation of the Company to locate California Point of Sale E-Commerce functions and operations for itself and its affiliates at the Distribution Center is contingent upon satisfaction or written waiver by the Company of each of the following:

(i) The Company shall operate the Distribution Center as a Point of Sale for the Company's and its affiliates' California E-Commerce.

(ii) The Company has secured approval of all plans and specifications, if necessary, for the proposed operation of California E-Commerce Point of Sale functions and has been issued permits therefor.

(iii) There is no litigation challenging the validity of any provision of this Agreement or that may have a material adverse effect on the Property or the Distribution Center, the Company's intended operations or use thereof, or the City's payment obligations hereunder.

(b) The obligation of the City to make payments to Company is contingent upon satisfaction or written waiver by the City of each of the following:

(i) The Company shall operate the Distribution Center as a Point of Sale for the Company's and its affiliates' California E-Commerce pursuant to the Sales Tax Law.

(ii) The Company has secured approval from the City of Moreno Valley of all land use approvals, permits and plans and specifications, if any, required for the construction and operation of the Distribution Center and has paid all necessary fees to entitle Company to the issuance of permits therefor.

(iii) The Company has performed and complied in all material respects, with all agreements and covenants required by this Agreement to be performed or complied with by Company within the time periods required hereunder.

(iv) There is no litigation challenging this Agreement or the implementation hereof.

**ARTICLE III
DEFAULTS AND REMEDIES**

Section 3.01. Event of Default. The occurrence of any or all of the following shall constitute an Event of Default (“Default”) under this Agreement:

(a) The Company’s failure to comply with any material term of the Covenant or this Agreement.

(b) The City’s failure to comply with any material term of its obligations pursuant to Section 2.02 hereof or of this Agreement.

(c) The filing of a petition in bankruptcy by or against the Company or appointment of a receiver or trustee for the Company, or an assignment by the Company for the benefit of creditors, or any adjudication that the Company is insolvent by a court, and failure of Company to cause such petition, appointment or assignment to be removed or discharged within sixty (60) days from the date of such filing, appointment, assignment or adjudication.

(d) An unapproved assignment that requires approval of the City pursuant to section 4.01.

Section 3.02. Cure and Default. In the event of any Event of Default as provided in section 3.01 occurs, the nondefaulting Party shall give written notice to the defaulting Party. The defaulting Party shall immediately commence and diligently thereafter pursue the curing of the Event of Default within thirty (30) days after receipt of notice; Failure to cure an Event of Default within such thirty (30) day period shall constitute a Default of this Agreement. Provided, however, if an Event of Default as specified in section 3.01(a) or 3.01(b) cannot reasonably be completed within such thirty (30) day period, such failure shall not be a Default so long as such Party promptly commences a cure within thirty (30) day period and thereafter diligently prosecutes such cure to completion.

Section 3.03. Limitation of City Remedies. Nothing herein is intended to limit or restrict whatever specific performance or other equitable remedies either Party may have in accordance with applicable law; provided, however, that notwithstanding any other provision of this Agreement, the City shall not have the remedy of specific performance to enforce the Company’s Default of the Covenant, or any portion thereof.

Section 3.04. Termination. Notwithstanding anything to the contrary contained in this Agreement, Company shall have the on-going right to terminate this Agreement: (a) upon six (6) months written notice and shall repay 50% of the City payments received to the date of termination if the termination occurs prior to the third (3rd) anniversary of this Agreement or (b) in the event any third party brings any such action challenging the validity of this Agreement or the operation of the Distribution Center as a Point of Sale, provided however that Company’s obligation of defense and indemnity pursuant to section 5.04 shall survive any such termination. Either Party may, upon the Default of the other Party as defined in Section 3.02, after expiration of all applicable notice and cure periods, and in addition to pursuing all remedies otherwise available to it, terminate

this Agreement and all of its obligations hereunder without cost, expense or liability to itself.

ARTICLE IV ASSIGNMENT

Section 4.01. Prohibition against Assignment of Agreement.

(a) The qualifications and identity of the Company are of particular concern to the City. It is because of these unique qualifications and the identity of the Company that the City has entered into this Agreement. No voluntary or involuntary successor-in-interest of the Company shall acquire any rights or powers under this Agreement, except as expressly set forth herein.

(b) Except as otherwise provided in this Agreement, Company shall not assign all or any part of this Agreement without prior written approval of the City which shall not be unreasonably withheld, delayed or conditioned.

(c) The Company may, subject to the prior written approval of the City, assign this Agreement to a separate ownership entity which would assume all of the obligations of Company hereunder and which would assume all of the business related activities of Company, including its E-Commerce operations.

(d) The Company may, with thirty (30) days prior written notice to the City, but without the City's prior consent, assign this Agreement to a subsidiary or affiliate of the Company. In addition, Company may, with thirty (30) days prior notice to the City, but without the City's prior consent, assign this Agreement to an entity with which Company or the parent of Company or any subsidiary or affiliate of Company might merge or consolidate. Moreover, the Company preserves its right to assign this Agreement to any entity that retains control over the Company via an asset acquisition or stock sale.

ARTICLE V MISCELLANEOUS PROVISIONS

Section 5.01. Compliance With Bradley-Burns Uniform Local Sales and Use Tax Law. The Company shall carry out the operation of its Commerce E-Commerce transactions through the Distribution Center in conformity with the Sales Tax Law.

Section 5.02. Local Hiring Requirement. The Company agrees to employ at least 30% of full-time employees that are City residents at the Project. The term "full-time employee" as used herein means an employee that works at least 1750 hours per year performing tasks directly related to the products or services of the Project. Company shall meet the local hire requirement annually upon the anniversary of the date of commencement of operations. Company shall provide written notification of compliance with such requirement signed by an officer of the Company under penalty of perjury

within thirty (30) days of the reporting date commencing on August 1, 2016. Company agrees to maintain such compliance during the period in which the Covenant is in effect.

(a) In the event the Company fails to satisfy the 30% requirement in a particular year due to circumstances beyond its control, the City shall provide the Company with an opportunity to describe an attempt to cure, which can be mutually approved by both parties. If Company fails to provide an attempt to cure within the thirty (30) day period the City shall be entitled to a recapture of a pro-rata share of incentive payments or sales tax sharing payments for that particular year. The City shall make a written recommendation of recapture and amount thereof, which shall be agreed upon by the Company. The recapture will be limited to that particular year's incentive payments and in no event shall a recapture under this Section include any incentive payment previously earned. The City shall not unreasonably deny the incentive payment for immaterial variances from the requirement.

(b) The City agrees to assist the Company's human resources staff with identifying qualified applicants who are residents of the City to support and maintain the 30% hiring requirement during the period in which the Covenant is in effect. The City will utilize resources within the City of Moreno Valley Employment Resources Center to assist the Company in the recruitment and fulfillment of its obligation to achieve 30% local hire requirement as defined under Section 5.02.

Section 5.03. Notices. All notices under this Agreement shall be given in writing by personal delivery, by certified mail or registered United States mail, return receipt requested, postage prepaid addressed as set forth below. Either party may change its address by giving written notice thereof to other in accordance with the provisions of this section.

CITY:

City of Moreno Valley
Attention: City Manager
14177 Frederick Street
Moreno Valley, CA 92553

With a copy to:

City of Moreno Valley
Attention: City Attorney
14177 Frederick Street
Moreno Valley, CA 92553

DECKERS OUTDOOR CORPORATION:

Deckers Outdoor Corporation
250 Coromar Drive
Goleta, CA, 93117
Attn: Senior Vice President, Supply Chain

With a copy to:

Deckers Outdoor Corporation
250 Coromar Drive
Goleta, CA, 93117
Attn: General Counsel

Section 5.04. Entire Agreement. This Agreement constitutes the entire agreement between the City and the Company concerning the subject matter hereof, and supersedes all prior agreements and understands whether written or verbal. This agreement may not be modified or amended except in a writing signed by the Parties.

Section 5.05. Indemnity. The Company shall defend (with representation of Company's choosing and acceptable to the City), 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 expenses (including reasonable attorneys' fees) arising from or in connection with or caused by an act, omission or negligence of Company and its contractors, agents and employees in connection with this Agreement (including, but not limited to, claims regarding the validity of this Agreement) or the operation of the Distribution Center as a Point of Sale, except 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 the written request of Company, shall provide to Company such documents and records in the possession of the City that are relevant to such actions.

Section 5.06. Force Majeure. The time for performance of any obligation hereunder shall be extended by any period of delay caused by Force Majeure provided the Party claiming the existence of an event of Force Majeure provides written notice to the other Party within thirty (30) days following commencement of any such circumstances.

Section 5.07. Interpretation. In this Agreement the neuter gender includes the feminine and masculine, and the singular number includes the plural and the words "person" and "party" include corporation, partnership, firm, trust or association where the context so requires. The Parties agree that each Party and its counsel have reviewed this Agreement and that any rule of construction of the effect that ambiguities are to be resolve against the drafting Party shall not apply in the interpretation of this Agreement or any amendments of exhibits to this Agreement.

Section 5.08. Time of the Essence. Time is of the essence of this Agreement and the Parties' obligations under this Agreement.

Section 5.09. Authority to Execute. The person or persons executing this Agreement on behalf of Company warrant and represent that they have authority to execute the Agreement on behalf of Company and warrant and represent that they have the authority to bind Company to the performance of its obligations hereunder.

Section 5.10. Release of City Officials. No elected official, officer, employee or agent of the City ("released persons") shall be personally liable to Company, or any successors-in-interest of Company, in the event of any Default or breach by City or for any amount which may become due to Company or its successors, or on any obligations under the terms of this Agreement. Company hereby waives and releases any claim it may have against the released persons with respect to any Default or breach by the City or for any amount which may be come due to Company or its successors, or on any obligations under the terms of this Agreement. Company makes such release with full knowledge of California Civil Code Section 1542, and hereby waives any and all rights thereunder to the extent of this release. Civil Code 1542 provides as follows:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Section 5.11. Headings. The headings to the sections of this Agreement have been inserted for convenience only and shall not, to any extent, have the effect of modifying, amending or changing the expressed terms and provisions of the Agreement.

Section 5.12. Venue and Attorneys’ Fees. In the event of any litigation under this Agreement, all such actions shall be instituted in the Superior Court of the County of Riverside, State of California, or in the United States District Court, Central District of California, Eastern Division. In any such action, the prevailing party may recover its reasonable attorneys’ fees as costs.

Section 5.13. Applicable Law. This Agreement shall be governed by and constructed in accordance with the laws of the State of California, without giving effect to its conflict of law principles.

Section 5.14. Successors and Assigns. The provisions of this Agreement shall be binding upon, and insure to the benefit of, the City and Company and their respective successors and assigns.

Section 5.15. No Joint Venture. Nothing contained in this Agreement shall be constructed to render the City in any way, or for any purpose, a partner, joint venture, or associated in any relationship with Company nor shall this Agreement be constructed to authorize any Party to act as an agent for the other.

Section 5.16. No Third Party Beneficiaries. No provisions, term or condition of this Agreement is intended to, nor shall be constructed as conferring any benefit to, any third party, person or entity.

Section 5.17. Waiver. The waiver by the City or Company of any breach by the other Party of any term, covenant or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. Any Party’s acceptance of any performance by the other Party after the due date of such performance shall not be deemed to be a waiver by any Party or any preceding breach by the other Party of any term, covenant or condition of the Agreement, regardless of such party’s knowledge of such preceding breach at the time of acceptance of such performance.

Section 5.18. Severability. Each provision, term, condition, covenant and/or restriction, in whole and in part, of this Agreement shall be considered severable. In the event any provision, term, condition, covenant and/or restriction, in whole and/or part, of this Agreement is declared invalid, unconstitutional or void for any reason, the remainder of this Agreement shall continue in full force and effect unless to do so would deprive one of the Parties of a material benefit of its bargain under this Agreement.

Section 5.19. Counterparts. This Agreement may be executed and acknowledged in multiple counterparts each of which shall be deemed an original, but all of which shall constitute one Agreement, binding on the Parties.

SIGNATURE PAGE TO FOLLOW

IN WITNESS HEREOF, the parties have each caused their authorized representative to execute this Agreement.

CITY OF MORENO VALLEY

DECKERS OUTDOOR CORPORATION,
a Delaware corporation

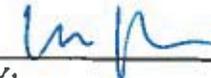
BY: _____
Chief Financial Officer/
City Manager/Mayor
(Select only one please)

BY: 
TITLE: VP, GLOBAL TAX
(President or Vice President)

Date

07-01-15
Date

INTERNAL USE ONLY	
ATTEST:	
_____	City Clerk (only needed if Mayor signs)
APPROVED AS TO LEGAL FORM:	
_____	City Attorney
_____	Date
RECOMMENDED FOR APPROVAL:	
_____	Department Head (if contract exceeds 15,000)
_____	Date

BY: 
TITLE: Assistant Secretary
(Corporate Secretary)

7/1/15
Date

2283233.1

**ECONOMIC DEVELOPMENT SUBSIDY REPORT
PURSUANT TO GOVERNMENT CODE SECTION 53083
FOR AN OPERATING COVENANT AGREEMENT
BY AND BETWEEN
CITY OF MORENO VALLEY
AND
DECKERS OUTDOOR CORPORATION**

Pursuant to Government Code Section 53083, the City Council of the City of Moreno Valley must hold a noticed public hearing and, prior to the public hearing, provide all of the following information in written form and available to the public and through the City's website, regarding a proposed economic development subsidy to be provided by the City pursuant to an Operating Covenant Agreement by and between the City of Moreno Valley and Deckers Outdoor Corporation ("Agreement"). Notice was published in the local newspaper for a public hearing to be held on July 14, 2015.

The purpose of this report is to provide the information required pursuant to Government Code Section 53083 in regards to the Agreement. This report shall remain available to the public and posted on the City's website until the end date of the economic development subsidy, as further described in number 2 below.

Name and address of business benefitting from the economic development subsidy:

Deckers Outdoor Corporation
250 Coromar Drive
Goleta, CA 93117

Location of facility:

17791 Perris Boulevard
Moreno Valley, CA 92551

Start and end dates for the subsidy:

If the Agreement is approved by the City Council, the start date of the economic development subsidy will be at the Commencement of operations. Notwithstanding the forgoing, the initial ten (10) year term of Sales Tax Revenue sharing between the Company and the City shall commence on August 1, 2015 and terminate on July 31, 2025. In the event that the term of the Agreement is extended to twenty (20) years pursuant to section 2.01(a) based upon the completion of the Company's Phase Two expansion within the initial ten (10) year term, the termination date will be extended to July 31, 2035.

The economic development subsidy will be paid quarterly (every 3 months), due thirty (30) days after the quarterly "true up" payment by the State for the preceding quarter.

Computation Quarters run from January 1 to March 31, April 1 to June 30, July 1 to September 30, and October 1 to December 31.

A description of the economic development subsidy:

The subsidy will rebate a portion of the sales tax generated at the facility as follows:

1. The City would rebate 60% of the City's portion of its local sales tax revenue from an internet sales office located within the City to the Company for the first five (5) years of operation, and a 50% rebate for the second five (5) years of operate. The term would be extended to twenty (20) years based upon the completion of the Company's Phase II expansion (the construction of another 200,000 to 400,000 or more sq. ft.) within the initial ten (10) year term, with a 50% rebate for the third five (5) years and a 40% rebate for the fourth five (5) years. Based on the City's participation in the State's "triple flip" program, the City's sales tax portion is 0.75% of sales.
2. As a commitment to hire locally, Deckers Outdoor Corporation would agree to employ Moreno Valley residents to fill at least 30% (45 positions) of its anticipated 150 full-time employees. Compliance will be established annually through a statement signed by a Deckers Outdoor Corporation executive under penalty of perjury. If Deckers Outdoor Corporation fails to meet the 30% commitment, the City would be entitled to recapture a share of incentive payments. The recovery percentage will be equal to the percentage by which Deckers Outdoor Corporation doesn't meet the 30% commitment.

Statement of the public purpose of the subsidy:

Deckers Outdoor Corporation is constructing a new distribution center within the City of Moreno Valley at 17791 Perris Boulevard, the southwest corner of Perris Boulevard and Grove View Road, in the Moreno Valley Industrial Area. Construction and fixtures for the building are estimated at \$51 million and are projected for completion in two phases. Occupancy of the 800,000 sq. ft. Phase I is currently scheduled for the Fall of 2015. Under Deckers Outdoor Corporation's lease agreement with Sares Regis, they have a Phase II option to expand an additional 200,000 to 400,000 sq. ft. of new construction, for a total facility size of 1,200,000 sq. ft. Although there may be additional supportive business activity conducted at the site, the primary purpose of the facility will be warehousing footwear, apparel, and accessories for future distribution.

The logistics building in Moreno Valley will serve as Deckers Outdoor Corporation's primary distribution center, with Phase One employment on site estimated at 150 employees. The proposed facility will also result in approximately 40 additional seasonal jobs during peak sales periods. Deckers Outdoor Corporation is a highly recognized international company, known for providing cutting edge quality products,

and for providing employees with highly competitive pay and benefits, which result in a high level of employee retention and loyalty.

Staff has determined that the establishment of the new Deckers Outdoor Corporation distribution center with an internet sales office may generate substantial revenue for the City, while creating new jobs and installing public improvements that might not otherwise be available to the community for many years. Direct economic benefits to the City would include the payment of sales, property business license, and utility taxes, plus indirect economic benefits would be achieved through local expenditures by employees and corporate contracts. Deckers Outdoor Corporation is expected to generate approximately \$100,000 in new annual sales tax revenue (minus the subsidy to be paid to the Company).

The subsidy is provided to facilitate the location of the facility in the City of Moreno Valley. The facility will provide substantial benefits to the community including the creation of new local jobs (150 at the facility and an additional 380 indirectly), substantial net public revenues to provide expanded services to the community, expanded operating revenue to the Moreno Valley Utility, and increased economic and fiscal impact to the State and local community estimated at \$800 million using the RIMS II multiplier.

Projected tax revenue to the City as a result of the subsidy:

The ten year projection of tax revenue (sales tax, property tax, utility tax and business license gross receipts tax) is **\$ 3,208,973**. The ten year projection of the sales tax share provided to Deckers Outdoor Corporation is **\$ 1,198,520**.

The twenty year projection of tax revenue is **\$8,339,128**. The twenty year projection of the sales tax share provided to Deckers Outdoor Corporation is **\$3,078,168**.

Estimated number of jobs created by the economic development subsidy:

The subsidy is anticipated to result in the creation of 80 full time jobs in Phase I, increasing to a total of 150 if Deckers proceeds with Phase II. An additional 40 seasonal jobs are anticipated during peak season.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT, pursuant to Section 53083 of the California Government Code, the City Council (the "City Council") of the City of Moreno Valley (the "City") will hold a public hearing on July 14, 2015, at 6:00 P.M., at the regular meeting place of the City Council of the City, located at 14177 Frederick Street, Moreno Valley, California 92553, regarding an economic development subsidy to Deckers Outdoor Corporation and approval of an Operating Covenant Agreement between the City of Moreno Valley and Deckers Outdoor Corporation.

Any interested person may appear at said public hearing to address the City Council of the City on the foregoing matter.

Dated: July 1, 2015

Jane Halstead, City Clerk, CMC
CITY CLERK OF THE CITY OF MORENO VALLEY

RESOLUTION NO. 2015-54

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, ACCEPTING THE ECONOMIC DEVELOPMENT SUBSIDY REPORT PREPARED PURSUANT TO GOVERNMENT CODE SECTION 53083 REGARDING AN OPERATING COVENANT AGREEMENT BY AND BETWEEN THE CITY OF MORENO VALLEY AND DECKERS OUTDOOR CORPORATION.

WHEREAS, Deckers Outdoor Corporation, a Delaware Corporation and its affiliates (together, "Deckers"), a retailer of consumer products with worldwide distribution, has leased for ten (10) years a newly constructed facility of approximately 800,000 square foot to serve as their Phase One distribution center (the "Facility") within the City of Moreno Valley, California ("City") at 17791 Perris Boulevard, Moreno Valley, CA 92551 ("the Property"); and

WHEREAS, Deckers may, at its option, construct and operate a Phase Two expansion to include additional space of approximate 200,000-400,000 square feet, for a total of 1,200,000 square feet (the "Project"); and

WHEREAS, the Facility will primarily operate as a warehousing location with ancillary support, distribution and administrative services from which internet and other purchase orders will be filled for customers who transact business with either the Company or its affiliates where such purchases or products are intended for delivery within the State of California and elsewhere ("Distribution Center"); and

WHEREAS, the City and Deckers desire to enter into an Operating Covenant Agreement ("Agreement") for an economic development subsidy based on Deckers' sales tax revenue; and

WHEREAS, on July 14, 2015, the City Council of the City of Moreno Valley conducted a public hearing to consider the Agreement and concluded said hearing on that date; and

WHEREAS, if the Agreement is approved by the City Council, the start date of the economic development subsidy will be the date of commencement of operations at the Facility, which is anticipated to occur on August 1, 2015. The end date will be no later than 10 years after the start date, on or around July 31, 2025; and

WHEREAS, if Deckers exercises its option to expand its occupancy at the Facility to include an additional approximate 200,000 – 400,000 square feet and establishes the Facility as the primary Point of Sale pursuant to the Sales Tax Law for all sales of the Company's products and those of its affiliates, and for all other products which are transacted through the Company's or its affiliates' internet website and which

are destined for any location within the State of California, the Agreement period shall be extended for an additional period of ten (10) years and the extended end date will be no later than 20 years after the start date, on or around July 31, 2035; and

WHEREAS, The economic development subsidy will be calculated based on Deckers' quarterly sales tax revenue and the incentive payments shall be due thirty (30) days after the quarterly "true up" payment by the State for the preceding quarter.

WHEREAS, The economic development subsidy incentive payment shall be calculated as follows:

- (a) The City will provide an incentive payment to Deckers equal to sixty (60%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the first five (5) years after commencement of operation of the Distribution Center.
- (b) The City will provide an incentive payment to Deckers equal to fifty (50%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for the Company's or its affiliates' California E-Commerce for the second five (5) years after commencement of operation of the Distribution Center.
- (c) In the event that the term of the Agreement is extended to twenty (20) years based upon the completion of the Deckers' Phase Two expansion within the initial ten (10) year term, the City will provide an incentive payment to Deckers equal to fifty (50%) percent of the City's portion of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for Deckers' or its affiliates' California E-Commerce for the third five (5) years after commencement of operation of the Distribution Center, and
- (d) The City will provide an incentive payment equal to forty (40%) percent of Sales Tax Revenue received as a consequence of the Distribution Center being a Point of Sale for Deckers' or its affiliates' California E-commerce for the fourth and final five (5) years after commencement of operation of the Distribution Center.

WHEREAS, Deckers agrees to employ City residents at a rate of at least 30% of its full-time workforce. Deckers shall meet the local hire requirement annually upon the anniversary of the date of commencement of operations. Deckers shall provide written notification of compliance with such requirement signed by an officer of Deckers under penalty of perjury within thirty (30) days of the reporting date commencing on August 1, 2016. Deckers agrees to maintain such compliance during the period in which the

Agreement is in effect. In the event Deckers fails to satisfy the 30% requirement in a particular year due to circumstances beyond its control, the City shall provide the Company with an opportunity to describe an attempt to cure, which can be mutually approved by both parties. If Deckers fails to provide an attempt to cure within the thirty (30) day period, the City shall be entitled to a recapture of a pro-rata share of incentive payments or sales tax sharing payments for that particular year; and

WHEREAS, The City agrees to assist Deckers' human resources staff with identifying qualified applicants who are residents of the City to support and maintain the 30% hiring requirement during the period in which the Agreement is in effect. The City will utilize resources within the City of Moreno Valley Employment Resources Center to assist the Company in the recruitment and fulfillment of its obligation to achieve 30% local hire requirement; and

WHEREAS, based on information provided by City staff, and other such written and oral evidence as presented to the City, the City finds and determines that the economic development subsidy to Deckers pursuant to the Agreement is reasonably related to a legitimate governmental purpose in that the Agreement will ensure that the Deckers sales tax revenues remain in the City over the ten (10) years, or twenty (20) years if extended. The City further finds and determines that the establishment of the new Deckers warehouse and distribution center within the City will generate substantial revenue for the City, create new jobs, and result in community and public improvements that might not otherwise be available to the community for many years; and

WHEREAS, in accordance with Government Code Section 53083, the City provided certain information in written form to the public and on its website, a copy of which is attached hereto as Exhibit A and incorporated herein by this reference, and held a noticed public hearing on July 14, 2015 to consider all written and oral comments on the Economic Development Subsidy Report; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, IT IS HEREBY FOUND, DETERMINED, AND RESOLVED, by the City Council of the City of Moreno Valley, as follows:

SECTION 1. Incorporation of Recitals. The foregoing recitals are true and correct, and are incorporated herein and made an operative part of this Resolution.

SECTION 2. Findings. The City Council additionally finds and determines that

- (a) There are identifiable public purposes fulfilled by the Operating Covenant Agreement, as set forth in the Recitals, that outweigh the benefit to private persons; and

(b) The findings set forth in this Resolution are based upon substantial written and oral evidence presented to the City Council.

SECTION 3. CEQA. Pursuant to the California Environmental Quality Act ("CEQA") (Pub. Res. Code, § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs, tit. 14 § 15000 et seq.), City staff has reviewed the environmental impacts of the location for this facility in conjunction with the Environmental Impact Report for the VIP Moreno Valley project that was certified by the City Council on September 25, 2012.

SECTION 4. Acceptance of Economic Development Subsidy Report. The City Council finds and determines that this Economic Development Subsidy Report is in compliance with applicable law and specifically Government Code Section 53083.

SECTION 5. Severability. If any provision of this Resolution is held invalid, the remainder of this Resolution shall not be affected by such invalidity, and the provisions of this Resolution are severable.

SECTION 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

The City Clerk of the City of Moreno Valley shall certify as to the adoption of this Resolution.

APPROVED, AND ADOPTED this 14th DAY OF July, 2015.

Mayor of the City of Moreno Valley

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney

4
Resolution No. 2015-54
Date Adopted: July 14, 2015

Attachment: Resolution No. 2015-54 - Deckers Economic Development Subsidy [Revision 1] (1572 : OPERATING COVENANT AGREEMENT FOR

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2015-54 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 14th day of July, 2015, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

CITY CLERK

(SEAL)

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Resolution No. 2015-54
Date Adopted: July 14, 2015

Attachment: Resolution No. 2015-54 - Deckers Economic Development Subsidy [Revision 1] (1572 : OPERATING COVENANT AGREEMENT FOR