

**NOTICE AND CALL OF SPECIAL MEETING OF THE
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**

November 26, 2013 - 4:00 PM

NOTICE IS HEREBY GIVEN that a Special Meeting of the 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 and Moreno Valley Housing Authority will be held on November 26, 2013 commencing at 4:00 PM, in the City Council Chamber, City Hall, located at 14177 Frederick Street, Moreno Valley, California.

Said Special Meeting shall be for the purpose of:

AGENDA

CALL TO ORDER

PLEDGE OF ALLEGIANCE

INVOCATION

ROLL CALL

INTRODUCTIONS

PUBLIC COMMENTS ON MATTERS ON THE SPECIAL MEETING AGENDA

Those wishing to speak should complete and submit a LAVENDER speaker slip to the Bailiff. There is a three-minute time limit per person. All remarks and questions shall be addressed to the presiding officer or to the City Council and not to any individual Council member, staff member or other person.

G. REPORTS

G.1 MEMORANDUM OF UNDERSTANDING REGARDING NEW TENANT FOR SRG MORENO VALLEY INDUSTRIAL PROJECT (Report of: Community & Economic Development Department)

Recommendations That the City Council:

1. Approves the Memorandum of Understanding with Deckers Outdoor Corporation regarding the development and occupancy of the SRG Moreno Valley Industrial Project.

ADJOURNMENT

* Materials related to an item on this Agenda submitted to the City Council/Community Services District or Community Redevelopment Agency after distribution of the agenda packet are available for public inspection in the City Clerk's office at 14177 Frederick Street during normal business hours.

*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 Mel Alonzo, ADA Coordinator at 951.413.3705 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.

CERTIFICATION

I, Jane Halstead, City Clerk of the City of Moreno Valley, California, certify that the City Council Agenda was posted in the following places pursuant to City of Moreno Valley Resolution No. 2007-40:

City Hall, City of Moreno Valley
14177 Frederick Street

Moreno Valley Library
25480 Alessandro Boulevard

Moreno Valley Senior/Community Center
25075 Fir Avenue

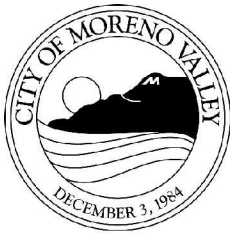
Jane Halstead, CMC,
City Clerk

AGENDA
November 26, 2013

Dated Posted: November 25, 2013

AGENDA
November 26, 2013

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APPROVALS	
BUDGET OFFICER	<i>me</i>
CITY ATTORNEY	<i>SMB</i>
CITY MANAGER	<i>d</i>

Report to City Council

TO: Mayor and City Council

FROM: John C. Terell, Community & Economic Development Director

AGENDA DATE: November 26, 2013

TITLE: MEMORANDUM OF UNDERSTANDING REGARDING NEW TENANT FOR SRG MORENO VALLEY INDUSTRIAL PROJECT.

RECOMMENDED ACTION

That the City Council approves the attached Memorandum of Understanding with Deckers Outdoor Corporation regarding the development and occupancy of the SRG Moreno Valley Industrial Project.

DISCUSSION

The SRG Moreno Valley Industrial Project is an approved 1,600,000 square foot warehouse industrial building on property on the southwest corner of Perris Boulevard and Grove View Road in the Moreno Valley Industrial Area. Deckers Outdoor Corporation is a leading designer, producer, marketer, and brand manager of innovative, high-quality footwear, apparel, and accessories company based in Goleta, California, with a variety of brands, most notably UGG Australia, and international sales in excess of \$1.4 billion. The logistics building will serve as Deckers' primary distribution center, with employment on site of up to 150 employees. Construction and fixtures for the building are estimated at \$51 million in two phases; occupancy of Phase I is currently targeted for Spring of 2015. The proposed facility will also result in about 40 additional seasonal jobs during peak sales periods. In advance of embarking on this major investment, Deckers has requested that the City enter into a Memorandum of Understanding (MOU) for the project.

The specific points of the MOU are as follows:

1. The City would cooperate with the Company to establish an internet sales office within the City. 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), and a 50% rebate for the second five (5) years. This term would be extended to twenty (20) years based upon the completion of the Company's Phase II expansion 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. The City would rebate 50% of the City's portion of the sales tax generated from the purchase of fulfillment equipment delivered and installed at the Company's Moreno Valley site.
3. The City would include the Company's site in Tier 1 of the Moreno Valley Utility Economic Development Rate Program based on the creation of a minimum of 80 to 150 jobs within the City, which offers six (6) years of discounted electric rates. The Company would need to maintain a monthly demand of 500 kW and meet all other terms and conditions of the Utility's Economic Development Rate Program.
4. The City Utility will allow multiple points of electrical service, which improves performance reliability and reduces on-site and interior conduit costs. The Utility will consolidate these connections into a single billing.
5. The entire City is within the boundaries of a Foreign Trade Zone. The City will coordinate with the Company to complete the approval of its application for participation in the Foreign Trade Zone.
6. Local Development Impact Fee (DIF) and Regional Transportation Uniform Mitigation Fee (TUMF) Credit & Reimbursement processes managed by the Public Works Department – Land Development Division that provides an upfront fee credit and future reimbursement opportunity in conformance with the City's established DIF policy, based on the level of fee-covered improvements provided by the project. DIF and TUMF payments may be deferred to occupancy. This item will be provided to the landlord as assistance to the project.
7. The Company's project is eligible to use the City's Time & Materials Fee Program, which is designed to save large scale projects significant savings for project fees for Planning, Building & Safety, Land Development and Fire Prevention. Under the Time & Material Program the Company will pay fees on actual work being done. Other projects using this Program have achieved savings of up to 50% when compared to the City's fixed fee schedule. The City will not waive any processing fees, consistent with the City Council's policy of full cost recovery for development services.
8. The City will coordinate with Riverside County Workforce Development Department to provide the maximum level of local recruiting and job training resources to offset cost to the Company. This effort will include the use of the

Moreno Valley Employment Resource Center facility at no cost for local recruitment.

9. The City will provide Fast-Track development services managed by the Community & Economic Development Department, including the assignment of a Project Ombudsperson to provide development services project coordination.
10. The City will allow for phased or temporary occupancy for the Company's project to ensure commencement of operations at the Company's facility in a timely manner.

The quality of Deckers as a company would make it a great addition to Moreno Valley. They are known for providing cutting edge, quality products and for providing employees with highly competitive pay and benefits, which results in a high level of employee retention and loyalty. In addition, the company is anticipated to provide substantial direct economic benefits to the City through the payment of sales, property and utility taxes and indirectly through local expenditures by employees and corporate contracts.

ALTERNATIVES

1. Approve the MOU as proposed. This will facilitate the timely development of the proposed project and the creation of resulting benefits to the community. **Staff recommends this alternative.**
2. Not approve the MOU. This will result in no project development, precluding the creation of financial and employment benefits to the community. **Staff does not recommend this alternative.**

FISCAL IMPACT

The MOU is not anticipated to result in any additional costs to the City's General Fund. The development of the project will create substantial additional revenues to the City's General Fund in the form of sales, property and utility taxes. General Fund service costs for the facility (mostly Police and Fire) are anticipated to be relatively low.

CITY COUNCIL GOALS

1. 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.
2. Positive Environment. Create a positive environment for the development of Moreno Valley's future.

NOTIFICATION

Notification has been provided by posting on the City Council agenda.

ATTACHMENTS

1. Proposed Memorandum of Understanding.

Prepared By:
John C. Terell, AICP
Community & Economic Development Director

Council Action	
Approved as requested:	Referred to:
Approved as amended:	For:
Denied:	Continued until:
Other:	Hearing set for:

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding (this “**Memorandum**”), effective as of November ____, 2013 (the “**Effective Date**”), is entered into by and between the CITY OF MORENO VALLEY, a California municipal corporation (“**City**”), and Deckers Outdoor Corporation, a Delaware corporation and its subsidiaries (“**Company**”).

A. The Company is considering constructing an approximately 800,000 square foot Phase One distribution center, with the option of a Phase Two expansion with occupancy expected in 2018 to include an additional 200,000-400,000 square feet, for a total of 1,000,000 to 1,200,000 (the “**Project**”) in the City, which will require an initial investment by the Company estimated at approximately \$35,800,000 and a total potential investment of \$50,800,000, create an estimated total of 150 new full time and/or part time jobs in the City and provide other significant economic benefits to the City and its residents.

B. In consideration for the Company’s proposed construction of the Project within the City and siting of the internet sales office within the City and the economic investment and expected job creation anticipated in connection therewith, the City will consider providing various incentives to the Company.

NOW, THEREFORE, for valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

1. **Conditional Memorandum**. All discretionary terms of this Memorandum (collectively, the “**Preliminary Terms**”) are expressly conditioned upon full compliance with and review of the Project under the California Environmental Quality Act (“**CEQA**”). The Company understands that the Preliminary Terms are subject to the City’s discretion in the exercise of its police powers and assumes the risk of not obtaining the Preliminary Terms. It is anticipated that the City Council and/or Planning Commission will be required to review and hold hearings upon the Project and the Preliminary Terms. The parties understand that the City is reserving the right to exercise its discretion as to all matters that the City is, by law, entitled or required to exercise, in its discretion. Nothing in this Memorandum shall be construed as having the effect of waiving or limiting the City’s police powers and exercise of discretion. To this end:

(a) The parties understand that the City has the complete and unfettered discretion to reject the Project, the Preliminary Terms, and other documents related to the development of the Project site affected by the Preliminary Terms without explanation or cause. The risk of loss of all processing, design and developmental costs incurred by the Company prior to final approval of the Project shall be absorbed entirely by the Company, unless expressly assumed by the City pursuant to the terms of this Memorandum.

(b) The ability of the City to approve the Project and the Preliminary Terms shall be conditioned upon the successful review and approval of all necessary findings and conclusions which the City Council is required to make, including all necessary findings and determinations required under CEQA, state and local land use provisions. Nothing herein shall obligate the City to exercise its discretion in any particular manner, and any exercise of

discretion reserved hereunder or required by law shall not be deemed to constitute a breach of the City's duties under this Memorandum.

(c) By its execution of this Memorandum, the City is not committing itself or agreeing to undertake any activity requiring the subsequent exercise of discretion by the City, or any department thereof including, but not limited to, the approval of the Preliminary Terms, the approval of any development proposal or land use regulation governing the Preliminary Terms, the provision of financial assistance for the Project as may be affected by the Preliminary Terms, or any other such act or approval.

(d) This Memorandum does not constitute an approval of the Preliminary Terms and does not require a public hearing. The City's execution of this Memorandum is merely an agreement limited as set forth herein, reserving final discretion and approval by the City as to the Project and the Preliminary Terms and all proceedings and decisions in connection therewith.

(e) Notwithstanding the foregoing, the City will assist the Company to the fullest extent possible in preparing any environmental documentation and processing any environmental review that may be necessary for the Project. The Company will pay the City for any commercially reasonable costs associated with the preparation and consideration of any environmental documentation.

(f) The City will comply with AB 562 if, and when, applicable. Effective January 1, 2014, AB 562 establishes a procedure and reporting requirements for public subsidies to economic development projects.

2. **Internet Sales Office Sales Tax Sharing.** The City will cooperate with the Company to establish an internet sales office within the City. The details of this arrangement will be memorialized in a future sales tax sharing agreement. The basic financial terms of that agreement are as follows:

(a) The City will 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 50% for the second five (5) years of operation.

(b) The term of the sales tax sharing will be extended to twenty (20) years based upon the completion of the Company's Phase Two expansion within the initial ten (10) year term, with a 50% rebate for the third five (5) years of operation and a 40% rebate for the fourth five (5) years of operation.

(c) Based on the City's participation in the State's "triple flip" program, the City's sales tax portion is currently 0.75% of taxable sales.

3. **Equipment Purchase Sales Tax Sharing.** Given the scale of project and the amount of specialized equipment that would be installed in the Project, the City agrees to cooperate with the Company to establish site-based point of sale for said equipment. The City further agrees to rebate 50% of the City's portion of sales tax generated from the purchase of

said equipment delivered and installed in the Project, subject to the established regulations of the California State Board of Equalization.

4. **City Development Impact Fees (DIF).**

(a) **DIF Credits.** Subject to final approval of the Project and the final size of the building that will comprise the Project, the City agrees that the Project will be provided all eligible DIF credits allowed by the City's adopted Development Impact Fee Credit and Reimbursement Policy. All DIF as so adjusted shall be due and payable upon issuance of a certificate of occupancy for the completed Project.

(b) **DIF Credit and Reimbursement Agreement.** Based on the final approval of the Project improvement plan check, the City's Land Development Division will promptly process a DIF credit and reimbursement agreement for the Project that memorializes the foregoing subsection (a), including clearly identifying the total DIF payable by the Project in connection with the Project and related improvements, any DIF credits available to the Project, and any potential future DIF reimbursement opportunities available to the Project in conformance with the City's established DIF policy. The DIF credit and reimbursement shall be made available to the landlord of the building through the DIF agreement. The Company and Landlord may enter into a third party agreement at their discretion.

5. **Foreign Trade Zone.** The entire City is within the boundaries of a Foreign Trade Zone. The City will coordinate with the Company to complete the approval of its application for participation in the Foreign Trade Zone in advance of the commencement of Project operations.

6. **Site Permits, Building Construction Permits and Occupancy Permits.**

(a) The City's Office of Community and Economic Development Director and assigned Ombudsperson for the Project will provide development services coordination and assist the Company with all site, building and occupancy permit applications through all City review and approval processes. All submissions from the Company or its design/construction team will be made through the Ombudsperson.

(b) Subject to Section 1, above, upon receipt of a complete site, building or occupancy permit application, the City will process, review, and approve, disapprove or provide exceptions within fifteen (15) business days for the first submittal and ten (10) business days for any subsequent resubmittals that may be required.

(c) Subject to Section 1, above, phased building permit approvals will be considered for offsite work, grading and building construction if in compliance with all applicable laws.

(d) Subject to Section 1, above, the City will issue grading and partial building permits allowing construction of foundations, slabs, walls and erection of concrete walls, subject to compliance with all applicable laws.

(e) Subject to Section 1, above, provided that it meets the requirements therefor, the Project will be designated as eligible for the City's "Time and Materials Fee

Program”, which is designed to save large-scale projects, such as the Project, significant savings in Project permitting fees for planning, building and safety, and fire prevention. Any savings, credits and/or reimbursements in connection with the City’s “Time and Materials Fee Program” shall be provided or given to the landlord of the building that is part of the Project.

(f) Subject to Section 1, above, the City will consider phased and/or temporary occupancy of the Project, under mutually agreeable conditions and a mutually agreeable schedule if in compliance with all applicable laws.

7. **Utilities.** Subject to Section 1, above:

(a) **Economic Development Rate Schedule.** The City has determined that the Project could qualify as a Tier 1 project under the City’s adopted Economic Development Rate Schedule through the creation of a minimum of 150 new full or part time jobs in the City within the first six (6) years of operation. The schedule prices electricity for qualifying customers at a ten to fifteen (10-15%) discount off the current Time of Use rate schedule (Schedule TOU-LGS) for large industrial users. The discount will be taken off the totalized monthly bill before sales or any other taxes are calculated, and Utility Users’ Tax will be calculated on the discounted bill. The Public Purpose Charge and the State Energy Resources Surcharge are calculated based on kWh usage by law. The discount applies to all energy charges, demand charges, facilities charges, fuel cost adjustments, and any other relevant rate rider or tariff. The discount is available for a term of six (6) years from the date on which the onsite Project transformers are fully energized. The Company would need to maintain a monthly average demand of 500 kW and meet all other terms and conditions of the Economic Development Rate Program.

(b) **Multiple Points of Connection.** Subject to final approval of the Project electric utility plans, at the Company’s option and expense, Moreno Valley Utilities will allow the Project multiple points of electrical service, which improves performance reliability and reduces on-site and interior conduit costs. Moreno Valley Utility will consolidate these connections into a single billing to the Company.

8. **Workforce Development.** At the Company’s election and sole discretion, the City will work closely with the Company and the Riverside County Workforce Development staff in coordinating workforce recruitment efforts for the Project and the Company’s planned business operations at the Project. Company commits to giving priority to qualified City residents in the hiring process for new employees.

9. **Confirmation of Existing Entitlements.** The City confirms that (i) the type of Project planned and the intended use of the Project by the Company is permitted under the Moreno Valley Industrial Area Specific Plan district zoning for the Project site, and (ii) the Project site has been entitled by the current owner, Sares Regis Group, for industrial warehouse/distribution use pursuant to approved Vogel Project Final Environmental Impact Report, City No. P11-020, dated September 25, 2012 (SCH No. 2011081084), and nothing in this MOU, including Section 1, above, shall be construed as changing, limiting or otherwise diminishing those approved rights for the Project site.

10. **Company Operations.** The proposed Project will be operated by the Company or a Company affiliate at all hours for distribution of product and internet sales.

11. **Miscellaneous.** This Memorandum shall be governed by the laws of the State of California, and the exclusive venue of any legal action instituted with regard to this Memorandum shall be Riverside County, California. This Memorandum may be executed in any number of counterparts, each of which when so executed shall be deemed an original, but such counterparts shall together constitute one and the same Memorandum. If any action at law, suit in equity, arbitration or other legal proceeding of any type is brought by either party in connection with this Memorandum against the other party hereto, the prevailing party shall be entitled to be reimbursed by the losing party for all reasonable costs, expenses and attorneys' fees incurred by the prevailing party in connection therewith.

Agreed as of the Effective Date.

DECKERS OUTDOOR CORPORATION, a
Delaware corporation

By: _____
Name
Title

CITY OF MORENO VALLEY,
a California municipal corporation

By: _____
Mayor

Name: _____

Date: _____

ATTEST: _____
City Clerk

Date: _____

APPROVED AS TO FORM:

City Attorney

Date: _____

