

AGREEMENT

THIS AGREEMENT is made and entered into by and between the **CITY AND COUNTY OF DENVER**, a home rule city organized and existing pursuant to Article XX of the Colorado Constitution (the “City”), and **V.F. CORPORATION**, a Pennsylvania corporation whose address is 105 Corporate Center Blvd, Greensboro, North Carolina, 27408 (“Contractor”) (together, the “Parties”).

RECITALS

WHEREAS, there is a public purpose for attracting new private enterprises to locate within the City, including stimulating economic development and the retaining of jobs within the City;

WHEREAS, incentives are often necessary in order to attract private enterprises to further this public purpose;

WHEREAS, Contractor is willing to relocate its corporate headquarters within the City partly due to the availability of certain incentives provided by the City, as further described in this Agreement;

WHEREAS, this Agreement, and the location of Contractor’s headquarters facility within the City will advance the valid and valuable public purpose set forth above by generating tax revenues and by the creation and maintenance of job opportunities for City residents, as a result of the incentives described herein; and

WHEREAS, for these reasons, in consideration of the mutual covenants herein contained, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the Parties agree as follows:

TERMS AND CONDITIONS

1. **CONDITIONS.** This Agreement and the City’s obligations hereunder are conditioned upon the following:

A. Contractor shall establish and operate a new headquarters facility within the City and County of Denver, and such facility shall be leased for a term of not less than ten years (the “Facility”).

B. Contractor and its subsidiaries and affiliates, VF Outdoor, LLC and VF Services, LLC (collectively the “Subsidiaries”) shall use reasonable efforts to make entry-level

and other positions at the Facility available to residents of the City and County of Denver, by posting positions on publicly accessible recruiting sites during the term of this Agreement. Contractor may add to the list of subsidiaries and affiliates with the prior written consent of the Executive Director of the City's Office of Economic Development, or their designee, whose consent shall not be unreasonably withheld, and such additional subsidiary or affiliate shall be deemed to be included in the defined term "Subsidiaries".

2. **INCENTIVE PAYMENTS/MECHANISM.** Subject to the terms hereof, the City agrees to make incentive payments to Contractor payable as follows:

A. Job Creation and Retention (\$300,000.00). The City shall pay to Contractor the amount of One Thousand Five Hundred Dollars (\$1,500.00) multiplied by the total number of new full time permanent employees, up to a maximum of 200 employees above the initial baseline of forty-seven (47) employees, employed by Contractor or its Subsidiaries for positions at the Facility ("New Employees") annually. The number of New Employees considered to be hired and employed by Contractor or its Subsidiaries during the initial calendar year shall be determined by the number of Employees employed at the Facility on December 31 of that year as evidenced by corresponding Occupational Privilege Tax ("OPT") records. The number of New Employees considered to be hired and employed by Contractor or its Subsidiaries during subsequent calendar years shall be determined by the increase in the number of Employees from those employed at the Facility on December 31 of the previous year to those employed at the Facility on December 31 of that year as evidenced by corresponding OPT records. To illustrate: if, on December 31 of 2018, the number of employees employed at the Facility is 57, then the number of New Employees would be 10; the incentive payment for that period would be \$15,000.00; \$285,000.00 of the job creation and retention incentive would carry forward to the next period and the new baseline for New Employees for 2019 would be 57. The City's incentive payments allocable to job creation and retention shall not exceed Three Hundred Thousand Dollars (\$300,000.00) over the term of this Agreement. Such payments shall be made pursuant to paragraph 2.C below. |

B. Location Establishment Expense (\$1,000,000.00). The City shall reimburse Contractor for documented costs directly incurred by Contractor and its Subsidiaries and allocable to the location of the Facility within the City upon the execution of a lease agreement for the Facility with a term of not less than ten years. The City's incentive payments

allocable to documented direct relocation expenses shall not exceed One Million Dollars over the term of this Agreement. Examples of direct, allocable relocation expenses may include but are not limited to, costs associated with legal and/or building permitting fees, capital investment in furniture, fixtures and equipment (“FFE”), FFE delivery or installation expenses; architecture, design, construction, and/or other costs related to establishment of the Facility. Such relocation expenses shall not include those costs associated with the location or relocation of employees, employees’ families, employees’ households or home furnishings. Such payments shall be based on receipts received and evidence submitted to the City pursuant to Paragraph 2.C. below.

C. Petition. To receive an incentive payment hereunder, Contractor shall petition jointly the City’s Director of the Office of Economic Development and the City Treasurer.

1. The petition for Job Creation and Retention payment shall contain Contractor’s certification and supporting OPT documentation evidencing the number of employees located at the Facility as of December 31 of the year for which Contractor is petitioning for payment as described in paragraph 2.A above, based upon Contractor’s or its Subsidiaries’ OPT documentation for December of that year, and Contractor’s satisfaction or its Subsidiaries’ satisfaction of the requirements contained in Paragraph 1 above. Contractor shall be entitled to petition annually for its incentive payments hereunder beginning on January 1, 2019, and on January 1 of each year thereafter through 2024 (for the previous year). Contractor shall submit its petition on or before May 1 of each year and no later than May 1, 2024 for the previous year, in order to qualify for an incentive payment.

2. The petition for the Location Establishment Expense payment shall contain Contractor’s certification and supporting documentation evidencing eligible expenses, as described in Paragraph 2.B above, and Contractor’s satisfaction of the requirements contained in Paragraph 1 above. Contractor may petition for such payment upon satisfaction of the requirements contained in Paragraph 1 and Paragraph 2.B above and this Paragraph 2.C, but in no case later than May 1, 2024 |

3. Contractor shall supply, or shall cause its Subsidiaries to supply, additional information the City requests in order to substantiate Contractor’s petition for incentive payments. The City may withhold incentive payments for which it has been petitioned by Contractor if it reasonably determines that the petition for Job Creation and Retention is not

substantiated by the supporting documentation submitted by Contractor. Such determination shall be provided to Contractor in writing and shall be appealable to the Executive Director of the Office of Economic Development or his or her successor.

4. Upon receipt of documentation satisfying the requirements in Paragraph 2.C.1 of this Agreement, the City shall verify Contractor's petition and issue proper incentive payment within the City's Prompt Payment Rules and Regulations as outlined in Denver Revised Municipal Code Sections 20-107 et seq.

3. **PRIOR APPROPRIATION.** The obligation of the City for payment(s) hereunder is limited to funds annually appropriated for this and similar agreements by the City Council and paid into a special revenue fund restricted to making incentive payments to private, taxpaying entities selected for such payments by the City. This Agreement shall not be construed to constitute a multiple year fiscal obligation of the City under Section 20, Article X of the Colorado Constitution. Further, the City's maximum obligation hereunder for the entire term of the Agreement shall not exceed [One Million Three Hundred Thousand Dollars (\$1,300,000.00)].

4. **EXAMINATION OF RECORDS.**

A. Contractor agrees that any duly authorized representative of the City shall, until the expiration of three (3) years after the termination of this Agreement, have access to and the right to examine, during normal business hours and following reasonable notice by the City, books, documents, papers and records of Contractor or of the Subsidiaries that are pertinent to Contractor's qualification for incentive payments hereunder.

B. Contractor agrees that the City's Office of Economic Development and Department of Finance (or successor agencies) shall have access to and the right to examine Contractor's or the Subsidiaries' City and County of Denver tax records (the "Tax Records") filed for the period beginning upon the execution of this Agreement and ending three (3) years after the termination of this Agreement. Tax Records shall include sales/use tax, property (real and business personal property), occupational privilege tax, and other City tax information necessary to provide data to be used by the City to develop aggregated reports of performance outcomes and assess the effectiveness of the City's Business Incentive Program (or its successor program). No identifying data and analysis shall be publicly available.

5. **TERM.** The term of this Agreement shall be from [August 10, 2018 through June

30, 2024; provided, however, that this Agreement shall automatically terminate when the City's payment(s) hereunder equal the amounts set forth in Paragraph 2.A and Paragraph 2.B above.

6. **ASSIGNMENT AND SUBCONTRACTING.** The City is not obligated or liable under this Agreement to any party other than Contractor. Contractor shall not assign or subcontract with respect to any of its rights, benefits, obligations or duties under this Agreement except upon prior written consent and approval of the City.

7. **WHEN RIGHTS AND REMEDIES NOT WAIVED.** In no event shall any action by the City or Contractor hereunder constitute or be construed to be a waiver by the City or Contractor of any breach of covenant or default which may then exist, and the non-breaching party's action or inaction when any such breach or default shall exist shall not impair or prejudice any right or remedy available with respect to such breach or default; and no assent, expressed or implied, to any breach of any one or more covenants, provisions or conditions of the Agreement shall be deemed or taken to be a waiver of any other breach.

8. **NO DISCRIMINATION IN EMPLOYMENT.** In connection with the performance of work under this contract, the Contractor may not refuse to hire, discharge, promote or demote, or discriminate in matters of compensation against any person otherwise qualified, solely because of race, color, religion, national origin, gender, age, military status, sexual orientation, gender identity or gender expression, marital status, or physical or mental disability. The Contractor shall insert the foregoing provision in all subcontracts.

9. **AGREEMENT AS COMPLETE INTEGRATION-AMENDMENTS.** This Agreement is intended as the complete integration of all understandings between the parties. No prior, contemporaneous or subsequent addition, deletion, or other amendment hereto shall have any force or effect, unless embodied herein in writing, and executed in the same manner as this Agreement.

10. **CONFLICT OF INTEREST.** The parties agree that no employee of the City shall have any personal or beneficial interest whatsoever in the services or property described herein and Contractor further agrees not to hire or contract for services any employee or officer of the City which would be in violation of the Denver Revised Municipal Code Chapter 2, Article IV, Code of Ethics, or Denver City Charter provisions 1.2.9 or 1.2.12.

11. **CONSTRUCTION.** This Agreement shall be construed and enforced in accordance with the laws of the State of Colorado, and the Charter and Revised Municipal Code

of the City and County of Denver, and the ordinances, regulations and Executive Orders enacted and/or promulgated pursuant thereto. The Charter and Revised Municipal Code of the City and County of Denver, as the same may be amended from time to time, are hereby expressly incorporated into this Agreement as if fully set out herein by this reference. Venue for any legal action relating to this Agreement shall lie in the District Court in and for the City and County of Denver, Colorado.

12. **LEGAL AUTHORITY.**

A. Contractor represents and warrants that it possesses the legal authority, pursuant to any proper, appropriate and official motion, resolution or action passed or taken, to enter into this Agreement.

B. The person or persons signing and executing this Agreement on behalf of Contractor do hereby represent and warrant that he/she or they have been fully authorized by Contractor to execute this Agreement on behalf of Contractor and to validly and legally bind Contractor to all the terms, performances and provisions herein set forth.

C. The City shall have the right, at its option, to temporarily suspend or permanently terminate this Agreement, if there is a dispute that the legal authority of either Contractor or the person signing the Agreement on Contractor's behalf is not sufficient to enter into this Agreement. The City shall not be obligated to Contractor for any performance of the provisions of this Agreement in the event that the City has suspended or terminated this Agreement as provided in this Section.

13. **NO THIRD PARTY BENEFICIARY.** It is expressly understood and agreed that enforcement of the terms and conditions of this Agreement, and all rights of action relating to such enforcement, shall be strictly reserved to the City and Contractor, and nothing contained in this Agreement shall give or allow any such claim or right of action by any other or third person on such Agreements. It is the express intention of the City and Contractor that any person other than the City or Contractor receiving services or benefits under this Agreement shall be deemed to be an incidental beneficiary only.

14. **ELECTRONIC SIGNATURES AND ELECTRONIC RECORDS.** Contractor consents to the use of electronic signatures by the City. The Agreement, and any other documents requiring a signature hereunder, may be signed electronically by the City in the

manner specified by the City. The Parties agree not to deny the legal effect or enforceability of the Agreement solely because it is in electronic form or because an electronic record was used in its formation. The Parties agree not to object to the admissibility of the Agreement in the form of an electronic record, or a paper copy of an electronic document, or a paper copy of a document bearing an electronic signature, on the ground that it is an electronic record or electronic signature or that it is not in its original form or is not an original.

15. **COMPLIANCE WITH ALL LAWS.** Contractor shall perform or cause to be performed all services in full compliance with all applicable laws, rules, regulations and codes of the United States, the State of Colorado; and with the Charter, ordinances, rules, regulations and Executive Orders of the City and County of Denver.

16. **NOTICES:** All notices required by the terms of this Agreement must be hand delivered, sent by overnight courier service, mailed by certified mail, return receipt requested, or mailed via United States mail, postage prepaid, if to Contractor at the address first above written, and if to the City at:

Executive Director of Office of Economic Development or Designee
101 West Colfax Avenue, Suite 850
Denver, Colorado 80202

With a copy of any such notice to:

Denver City Attorney's Office
1437 Bannock St., Room 353
Denver, Colorado 80202

Notices hand delivered or sent by overnight courier are effective upon delivery. Notices sent by certified mail are effective upon receipt. Notices sent by mail are effective upon deposit with the U.S. Postal Service. The parties may designate substitute addresses where or persons to whom notices are to be mailed or delivered. However, these substitutions will not become effective until actual receipt of written notification.

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Contract Control Number:

IN WITNESS WHEREOF, the parties have set their hands and affixed their seals at Denver, Colorado as of

SEAL

CITY AND COUNTY OF DENVER

ATTEST:

By _____

APPROVED AS TO FORM:

REGISTERED AND COUNTERSIGNED:

By _____

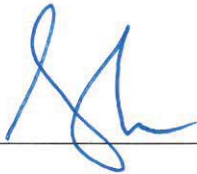
By _____

By _____



Contract Control Number: OEDEV-201844764-00

Contractor Name: VF CORPORATION

By: 

Name: SCOTT ROE
(please print)

Title: CHIEF FINANCIAL OFFICER
(please print)

ATTEST: [if required]

By: _____

Name: _____
(please print)

Title: _____
(please print)

