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|---|------|--|--|--|----------------------------------|
| REQUEST FOR COUNCIL ACTION CITY OF SAN DIEGO | | | | CERTIFICATE NUMBER (FOR COMPTROLLER'S USE ONLY) | |
| TO: CITY COUNCIL | | FROM (ORIGINATING DEPARTMENT): Planning | | DATE: 3/27/2014 | |
| SUBJECT: Approval of an Economic Development Agreement with Home Brew Mart, Inc. a California corporation dba as Ballast Point Brewing & Spirits Co. | | | | | |
| PRIMARY CONTACT (NAME, PHONE): Russ Gibbon, 66350 | | | SECONDARY CONTACT (NAME, PHONE): Tom Tomlinson, 33187 | | |
| COMPLETE FOR ACCOUNTING PURPOSES | | | | | |
| FUND | | | | | |
| FUNCTIONAL AREA | | | | | |
| COST CENTER | | | | | |
| GENERAL LEDGER ACCT | | | | | |
| WBS OR INTERNAL ORDER | | | | | |
| CAPITAL PROJECT No. | | | | | |
| AMOUNT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| | | | | | |
| FUND | | | | | |
| FUNCTIONAL AREA | | | | | |
| COST CENTER | | | | | |
| GENERAL LEDGER ACCT | | | | | |
| WBS OR INTERNAL ORDER | | | | | |
| CAPITAL PROJECT No. | | | | | |
| AMOUNT | 0.00 | 0.00 | 0.00 | 0.00 | 0.00 |
| COST SUMMARY (IF APPLICABLE): | | | | | |
| ROUTING AND APPROVALS | | | | | |
| CONTRIBUTORS/REVIEWERS: | | APPROVING AUTHORITY | APPROVAL SIGNATURE | DATE SIGNED | |
| Liaison Office | | ORIG DEPT. | Fulton, Bill | 04/01/2014 | |
| Environmental Analysis | | CFO | | | |
| Financial Management | | DEPUTY CHIEF | Villa, Ron | 04/03/2014 | |
| | | COO | | | |
| | | CITY ATTORNEY | | | |
| | | COUNCIL PRESIDENTS OFFICE | | | |
| PREPARATION OF: | | <input type="checkbox"/> RESOLUTIONS | <input checked="" type="checkbox"/> ORDINANCE(S) | <input type="checkbox"/> AGREEMENT(S) | <input type="checkbox"/> DEED(S) |
| Authorize the Mayor to enter into an Economic Development Agreement with Ballast Point Brewing & Spirits Company to reimburse the company for fees paid (or to be paid) to the City in connection with the improvement of a vacant factory building in Mira Mesa. | | | | | |
| STAFF RECOMMENDATIONS: Approve Requested Action | | | | | |
| SPECIAL CONDITIONS (REFER TO A.R. 3.20 FOR INFORMATION ON COMPLETING THIS SECTION) | | | | | |

| | |
|-----------------------------|---|
| COUNCIL DISTRICT(S): | 6 (Zapf) |
| COMMUNITY AREA(S): | Mira Mesa |
| ENVIRONMENTAL IMPACT: | This activity is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This activity would not result in a significant effect on the environment, and is therefore exempt from CEQA per Section 15061(b)(3). |
| CITY CLERK INSTRUCTIONS: | This item is subject to Charter Section 99 (10 day published notice, approval by Ordinance and 6 votes required) |

**COUNCIL ACTION
EXECUTIVE SUMMARY SHEET
CITY OF SAN DIEGO**

DATE: 3/27/2014

ORIGINATING DEPARTMENT: Planning

SUBJECT: Approval of an Economic Development Agreement with Home Brew Mart, Inc. a California corporation dba as Ballast Point Brewing & Spirits Co.

COUNCIL DISTRICT(S): 6 (Zapf)

CONTACT/PHONE NUMBER: Russ Gibbon/66350

DESCRIPTIVE SUMMARY OF ITEM:

Authorize the Mayor to enter into an Economic Development Agreement with Ballast Point Brewing & Spirits Company to reimburse the company for fees paid (or to be paid) to the City in connection with the improvement of a vacant factory building in Mira Mesa. The source of funding for the reimbursement of the company's fee costs would be future tax revenues to be paid into the General Fund by the company as a result of real property improvements and the operation of a beer manufacturing plant with a retail component.

STAFF RECOMMENDATION:

Approve Requested Action

EXECUTIVE SUMMARY OF ITEM BACKGROUND:

In 2013 the City sought to retain the large scale manufacturing operations of one of its largest beer manufacturing companies. The company was negotiating with a developer to construct its new brewery outside the City of San Diego. City staff offered assistance with permitting of property improvements to a vacant manufacturing plant in Mira Mesa. The principal and most valuable incentive offered to Ballast Point Brewing & Spirits Co. was a proposed recommendation to Council for approval of the Mayor to enter into an Economic Development Agreement (EDA) through which the City would reimburse Company for fees paid to the City using future taxes revenues to be generated by the Company as a result of the proposed project. Additional information is contained in the Staff Report. In addition to the fiscal benefits described below, the project is expected to create approximately 100 additional new jobs at this brewery. Since beer manufacturing has a very high jobs multiplier of 5.7:1, the project should generate an additional 470 jobs in other industries and at other establishments, for a total job creation impact of 570.

FISCAL CONSIDERATIONS:

Fiscal impacts of the proposed Council Action are entirely revenue positive. In order to obtain the investment, the City would forego any net tax revenue gains until all of Ballast Point's City fee costs are reimbursed. This is expected to take approximately three years. After that time, the City expects to receive approximately \$50,000 annually in net new tax revenues which would likely not be received unless the Van Can factory was re-used by a business generating an equal or greater amount of tax revenue. The City has been receiving only approximately \$15,000 annually in property tax revenue, no sales tax revenue, and very minimal amounts of use tax

revenue annually. Reimbursement of fees would be done through expenditure of funds budgeted for the Business Cooperation Program (BCP) budgeted in the Citywide Program.

EQUAL OPPORTUNITY CONTRACTING INFORMATION (IF APPLICABLE):

This action is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

PREVIOUS COUNCIL and/or COMMITTEE ACTION (describe any changes made to the item from what was presented at committee):

None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:

None - Confidential municipality-taxpayer negotiations

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Not applicable

Fulton, Bill
Originating Department

Villa, Ron
Deputy Chief/Chief Operating Officer



THE CITY OF SAN DIEGO
REPORT TO THE CITY COUNCIL

DATE ISSUED: April 2, 2014 REPORT NO: 14-032
ATTENTION: Economic Development & Intergovernmental Relations Committee
SUBJECT: Economic Development Agreement – Ballast Point Brewing Co.
REFERENCE: Council Policy 900-12 “Business & Industry Incentive Program”

REQUESTED ACTION: Forward the Economic Development Agreement to the City Council for approval

STAFF RECOMMENDATION: Forward the Economic Development Agreement to the City Council for approval

SUMMARY:

Background

San Diego’s economic base is principally comprised of four economic engines or base sectors which generate wealth for the City and the surrounding metropolitan area by exporting goods and services, or by reducing imports through local production. These economic base sectors are the military, tourism, manufacturing, and international trade. Manufacturing is the largest of these base sectors when measured in terms of its overall contribution to Gross Regional Product (GRP) at \$15.1 billion, and is the second only to Tourism in terms of employment at 122,000. San Diego’s manufacturing sector is dominated by high-technology industries such as aerospace, ship-building, biotechnology, electronics, telecommunications. Food and beverage producers have always had a small but significant role in the local economy beginning with the tuna canning industry in the early 1900’s. More recently, the beer manufacturing industry has seen explosive growth due to the growing consumer preference for “craft beer” produced in microbreweries.

Although San Diego’s beer manufacturing industry dates back to the defunct Aztec Brewery of Barrio Logan and Mission Brewery in the Midway community, the City’s modern microbreweries began with the establishment of the Karl Strauss brew-pub on Columbia Street in downtown in 1989. In 1995 three important events set the stage for the future growth of the industry. Alesmith Brewing Company opened a small brewery in the Miramar industrial area, Ballast Point Brewing Co. opened Home Brew Mart, a retail home brewing equipment and supply store with a small on-site brewery in a commercial area of Linda Vista, and White Labs, a manufacturer of brewers and vintners yeast opened a small production plant in the Miramar

industrial area. Over the course of the next 19 years, Alesmith went on to win more Gold, Silver and Bronze medals in international beer competitions than any other San Diego brewing company, Ballast Point became the City's largest beer manufacturing company, and White Labs has become the nation's pre-eminent yeast supplier to the industry.

In the mean time, San Diego's home brewers and commercial-scale brewers had gradually built up internal collaborative support networks, buying and selling equipment to each other, sharing production techniques and building brand loyalty among an ever-larger customer base. Escondido-based Stone Brewing built a distributorship which helped local brewers to penetrate markets which had been exclusively dominated by the major manufacturers such as Anheuser-Busch, Miller, and Coors, as well as more established "craft" brewers such as Sierra Nevada, Boston, and Widmer Brothers.

San Diego now has 19 brewpubs and 22 breweries, with three more breweries currently under construction, more than any other city in California. Several of these are significant industrial-scale breweries with bottling and canning capabilities making it possible to sell beer at wholesale in dozens of states and foreign countries.

The manufacturing of beer creates middle-wage job opportunities which do not require college degrees, meaning that jobs created in this industry are likely to be made available to local residents rather than imported labor. Beer manufacturing has a job multiplier factor of 5.7:1, one of the highest of all industries. Thus each direct job creates 4.7 additional jobs in the service sectors, such as wholesale, retail, the trades, finance, insurance, real estate, etc. Additionally, beer manufacturers in California are able to sell product at retail in breweries, brewpubs, and tasting stores, thus generating sales tax revenue for local jurisdictions. San Diego's brewers produce extremely high quality beers in a great many styles, which also substantially contributes to the Tourism Sector much like vintners do in northern California counties such as Napa and Sonoma. This attraction of visitors increases the sale of room nights at hotels, which in turn creates more jobs and additional sources of tax revenue. A recent study prepared by the National University System Institute for Policy Research (NUSIPR) concluded that the San Diego County "craft beer" industry as a whole generates a \$300 million annual economic impact to the region. For all of these reasons, beer manufacturers are highly sought after by cities throughout the United States.

By 2012 Ballast Point had completely maxed out the capacity of its 23,000 square foot main production brewery in Scripps Miramar Ranch. The company began a search for a factory building in the 70-100,000 square foot range, large enough to greatly increase production capacity but also large enough to provide for a 10-15,000 square foot full service restaurant, tasting room, and gift shop, plus office space to increase its sales force. The adjacent Koch Membranes factory was eventually ruled out due to the length of time needed to remediate this brownfield site. In 2013, Ballast Point was outbid by two retailers for two vacant factories sites in the Miramar industrial area, and a fourth vacant factory building in Rancho Bernardo was also under consideration until the owner suddenly cancelled lease negotiations after several months. During this time city staff brought forth and the City Council approved the "Microbrewery Ordinance" which amended the Municipal Code to allow beer manufacturers to build and operate large full service restaurants within breweries, as accessory uses.

In mid 2013 Ballast Point began discussions with the City of Poway and a developer to build the new brewery on a vacant industrial parcel in that City. At this time Ballast Point and the City became aware that Van Can Company (formerly a subsidiary of Van Camp Seaford Co.) was planning to close its 106,000 square foot food can manufacturing plant in Miramar. The Van Can factory was considered the less desirable option for Ballast Point due to its age and cost of retrofit, lack of commercial visibility, and timing of its availability. A brewery in the 100,000+ square foot range would be among the ten largest in the entire State of California. At this point the City stepped in and offered to provide a comprehensive incentive package to make the Van Can factory site into a better alternative than a build-to-suit site in the City of Poway.

Discussion

Industry Concentration in Mira Mesa

The Sorrento Mesa and Miramar industrial areas have become an attractive location for microbreweries due to a number of factors. Factory and other business closures during the recession have resulted in downward pressure on lease rates and the availability of suitable industrial structures. Anchored by Alesmith Brewing Company and yeast manufacturer White Labs, several new breweries have started up or relocated to this area during the previous two years including Green Flash Brewing, Rough Draft Brewing, and Saint Archer Brewing, operating 5-45,000 square foot breweries. The central location offers excellent customer access and visibility for retail sales, fairly reasonable lease rates, a more flexible regulatory environment, and the possibility of “beer tours” due to close proximity of existing and future breweries. It became clear to City staff that attracting more and larger breweries to this area could accelerate the growth of this industry and maximize the public benefits associated with the creation of new jobs and tax revenue.

The City’s offer of assistance

On April 23, 2013 the City offered a package of financial incentives and non-monetary assistance to Ballast Point. This “offer sheet” is shown on Attachment 1 to this report. The item of potentially greatest value is the offer to reimburse Ballast Point’s City fee costs using tax revenue to be paid by Ballast Point and generated as a result of converting the soon-to-be-vacant Van Can factory into a large-scale brewery and restaurant.

Council Policy 900-12 “The Business & Industry Incentive Program”

Council Policy 900-12 was enacted in 1993, towards the end of a national recession which was exacerbated locally due to the collapse of the Savings & Loan industry and massive defense cuts. This new program was based on several of the recommendations of the City’s Economic Development Task Force of 1992. The policy provides for the provision of direct financial and other assistance to businesses which are both willing and able to provide extraordinary public benefits such as the creation of base sector jobs, tax revenues, or urban revitalization. In 2001, the City Council approved amendments to Council Policy 900-12 in connection with the simultaneous adoption of the Community & Economic Development Strategy 2002-2004. Among other things, the amended Council Policy 900-12 affirmed and provided greater specificity for the approval of fee reimbursements for business projects.

This provision is found in section B(2)(a) of the current policy and reads:

“The City Council must approve any one or more of the following incentives:

Reimbursing all or a portion of City permit processing fees, Development Impact Fees, Facilities Benefit Assessments, Housing Impact Fees, Water/Sewer Capacity fees, fees collected pursuant to Developer Reimbursement Agreements, and/or costs of public improvements that are a required condition of the development, from future revenues to the City generated directly from the project after the City’s receipt thereof.”

This provision has been utilized and implemented twice since 1993, first in 1998 for a proposed 6-building 230,000 R&D industrial complex built by Novartis, and again in 2001 for a corporate headquarters/R&D industrial complex built by IDEC Pharmaceuticals. Both projects are located in the University Community. Novartis received a full reimbursement of its Housing Impact Fees (HIF’s) totaling \$172,000. IDEC Pharmaceuticals was awarded a potential reimbursement of Housing Impact Fees totaling \$614,000, however the company defaulted on the terms of the Agreement and no reimbursement was ultimately provided. That industrial complex was abandoned by Biogen-IDEC Corp. in 2011 and is now leased by Illumina, Inc. another biotech company.

The proposed Economic Development Agreement with Ballast Point Brewing Co.

The proposed Economic Development Agreement (EDA) with Ballast Point Brewing & Spirits would require the City to reimburse the Company for all City development-related fees associated with the retrofit and improvement of the former Van Can factory at 9045 Carroll Way so long as such fees are incurred prior to June 30, 2014. Thus far Ballast Point has paid to the City approximately \$156,600 broken out as follows:

| Fee Type | Fund | Amount |
|---|---------------------|-----------|
| Facilities Benefit Assessment | Mira Mesa PFFP Fund | \$70,773 |
| Plan Check, Inspection and other cost-recovery fees | DSD Enterprise Fund | \$85,827 |
| Total City Fee Costs | | \$156,600 |

The City expects to receive tax revenues from Ballast Point in connection with this project from the following sources, and the proposed EDA would require the City to reimburse Ballast Point’s fee costs using future tax revenues as the funding sources, based on the Reimbursement Credit Formula’s specified in the proposed Agreement:

| Taxation | Activity/Source | Reimbursement Credit Formula |
|---|--|-------------------------------------|
| Property Tax (secured real property) | Increased assessed valuation of real property based upon improvements | 100% |
| Property Tax (unsecured personal property) | Purchase and use of taxable fixtures, furnishings, and equipment (FF&E) | 100% |
| Use Tax | Purchase and use of taxable fixtures, furnishings, and equipment (FF&E) | 100% |
| Sales Tax | Retail sales of beer, prepared food, and other merchandise to consumers from outside the City of San Diego (estimated at 50% of total sales) | 50% |

The brewery is expected to commence production at the beginning of FY2015 (July of 2014), but tax revenues will likely not be received by the City until the mid part of FY2015. These revenues will mostly result from use tax on equipment placed into service at the very end of FY2014. Completion of the restaurant will most likely occur in the latter part of Calendar year 2014 such that the bulk of the revenue and subsequent reimbursement activity will most likely occur in FY2016 when the entire facility is fully operational. Sufficient Business Cooperation Program funds are budgeted for FY2015 in the Citywide account, however it may be necessary to budget an additional \$50-100,000 for FY2016 to fund additional reimbursements. Assuming average net tax revenue generation of \$50,000 annually, the City expects to complete its obligations under the terms of the EDA within three calendar years, after which the City will begin receiving net gains of this amount or more annually thereafter.

Brewery Project and Projected Public Benefits

Based in part on incentives offered to Ballast Point, the company has leased the Van Can factory, received building permits from the City, paid the applicable impact and plan review fees, and commenced construction. The brewery will ultimately have the capacity to produce 300-400,000 barrels annually and will include a 14,000 square foot full service restaurant, 3,000 square foot outdoor patio, a tasting room, and gift shop. The project is projected to create at least 100 additional new jobs and at least \$50,000 annually in tax revenue to the City less the amount of fee reimbursements paid to Ballast Point. At 124,667 square feet, the Ballast Point brewery will be the largest brewery in San Diego County and 6th largest in California.

EQUAL OPPORTUNITY CONTRACTING INFORMATION:

This action is subject to the City's Equal Opportunity Contracting (San Diego Ordinance No. 18173, Section 22.2701 through 22.2708) and Non-Discrimination in Contracting Ordinance (San Diego Municipal Code Sections 22.3501 through 22.3517).

FISCAL CONSIDERATIONS:

Fiscal impacts of the proposed Council Action are entirely revenue positive. In order to obtain the investment, the City would forego any net tax revenue gains until all of Ballast Point's City fee costs are reimbursed. This is expected to take approximately three years. After that time, the

City expects to receive approximately \$50,000 annually in net new tax revenues which would likely not be received unless the Van Can factory was re-used by a business generating an equal or greater amount of tax revenue. The City has been receiving only approximately \$15,000 annually in property tax revenue, no sales tax revenue, and very minimal amounts of use tax revenue annually.

PREVIOUS COUNCIL and/or COMMITTEE ACTION:

None

COMMUNITY PARTICIPATION AND PUBLIC OUTREACH EFFORTS:


Not applicable – Confidential municipality-taxpayer negotiations

KEY STAKEHOLDERS AND PROJECTED IMPACTS:

Not applicable



Bill Fulton
Director
Planning, Neighborhoods & Economic Dev.



Scott Chadwick
Chief Operating Officer

Attachments(s):

1. Offer Sheet to Ballast Point Brewing Co.
2. Proposed Economic Development Agreement
3. California's Largest Breweries
4. Project Site Information

Attachment 1

**City of San Diego Proposal
to
Ballast Point Brewing Co.**

1. California Enterprise Zone (reduce or Eliminate CA Franchise Income Tax)
 1. 5401 Linda Vista Rd. (Existing Enterprise Zone – Sept. 2012 to 2021)
 2. 10051 Old Grove Rd. (outside EZ)
 3. 2215 India St. (Existing Enterprise Zone – 2006 to 2021)
 4. 9045 Carroll Way (Existing Enterprise Zone 2012 – 2021)
2. The proposed Microbrewery Ordinance will allow a restaurant exceeding 3,000 square feet in industrial zones, up to 25% of the Gross Floor Area, as an accessory use to a beer manufacturing plant. (in process)
3. Mayor will recommend (to Planning Commission or Council) approval of a Planned Development Permit (PDP) to obtain a Variance from SDMC 142.1240 in accordance with 126.0602 to allow for a large ground sign (e.g. “pole” sign) for a beer manufacturing plant at 9045 Carroll Way.
4. Mayor will recommend approval of restriping Carroll Way to angled parking to provide for more on-street parking so long as public safety is not compromised.
5. Mayor will recommend approval of an Economic Development Incentive Agreement (EDIA) to provide for the reimbursement of City fees associated with the development of a beer manufacturing plant at 9045 Carroll Rd. in accordance with Council Policy 900-12(B)(2)(a). Funding sources for the reimbursement will be as follows:
 1. 100% of the local 1% use tax (Bradley Burns) paid in connection with the purchase of taxable tangible personal property placed into service at a large scale manufacturing plant within the City of San Diego, as long as such tax is reported and allocated to the City
 2. 100% of the City’s share of local property tax (17% of the 1% tax) paid annually in connection with improvements to an existing property, for a large beer manufacturing plant within the City of San Diego.
 3. 50% of the local 1% sales tax (Bradley Burns) collected from retail customers of any restaurant, tasting room, and gift shop located within a new large beer manufacturing plant



THE CITY OF SAN DIEGO

Project Name: Ballast Point Brewery - Miramar
 Project Location: 9045 Carroll Way, San Diego, CA
 Project Site: APN 343-360-09

CITY OF SAN DIEGO ECONOMIC DEVELOPMENT AGREEMENT

THIS CITY OF SAN DIEGO ECONOMIC DEVELOPMENT AGREEMENT ("Agreement") is made by and between THE CITY OF SAN DIEGO, a California municipal corporation (the "City"), and Home Brew Mart, Inc., dba Ballast Point Brewing & Spirits (the "Company"), to be effective as of the date signed by the Mayor or his designee on behalf of the City (the "Effective Date") when signed by the Company and approved by the San Diego City Attorney, as follows:

RECITALS

A. The City wants to provide certain incentives to businesses to locate or expand within the City of San Diego, pursuant to and in accordance with the Business and Industry Incentive Program. Such incentives, as generally set forth in Council Policy 900-12, can be provided to businesses which meet both the following criteria:

1. Either:

- a. Provide significant revenues and/or jobs that contribute to a sound and healthy economy;
- b. Promote the stability and growth of City taxes and other revenues;
- c. Encourage new business and other appropriate development in older parts of the City; or
- d. Respond to other jurisdictions' efforts to induce businesses to relocate from San Diego;

and

2. Are consistent with the City's current adopted Community and Economic Development Strategy.

B. On June 23rd, 2013 the City offered a number of financial and development incentives to entice Company to build its fourth and largest brewery within the City of San Diego at the site of a vacant manufacturing plant.

C. The Company intends to develop, and the City intends to provide assistance for Company to develop, a new beer manufacturing plant ("brewery") located at that certain real property more fully described in the attached Exhibit A ("Project Site"). The Company's proposed plans include construction of a new brewery of approximately 124,000 square feet capable of

producing over 300,000 to 400,000 barrels annually, plus accessory uses such as a full-service restaurant, outdoor eating/drinking area, gift shop, tasting room, laboratories, and administrative offices. The company expects to employ over 100 people on the Project Site by 2015. The proposed plans for the Project meet the required criteria described in Council Policy 900-12.

- D. If the Company enters into this Agreement; and Company satisfies all requirements under Council Policy 900-12, then (i) the City agrees to provide assistance to the Company in obtaining required permits in accordance with Council Policy 900-12, and (ii) City will reimburse Company for the costs of any and all fees paid to City in connection with development of the Project using a portion of the tax revenue generated by the Project as the source of funding for the fee reimbursement.

FOR VALUABLE CONSIDERATION, the sufficiency of which is acknowledged, the parties agree as follows:

1. Permit Assistance. The City shall process the Company's permit applications on a priority basis. The City shall assign an economic development staffer to serve as the Company's primary point of contact for permit processing. To identify and simplify possible permit issues, the staffer may convene one or more scoping meetings for the Company in advance of permit submittals. Staff from the Mayor's Office of Economic Growth Services shall be present at scoping meetings, and at other relevant meetings involving permit issues, as necessary and appropriate and at any time upon the Company's reasonable request, to act as the Company's advocate to help minimize costs and time requirements. **NOTE THAT THE CITY'S PERMIT ASSISTANCE WILL NOT REDUCE THE COMPANY'S LEGAL OBLIGATION TO FULFILL APPLICABLE PERMIT AND CODE REQUIREMENTS, AND IT DOES NOT IMPLY THAT MINISTERIAL PERMIT ACTIONS WILL BE APPROVED.**
2. Fee Reimbursement. The City shall reimburse Company for any and all fees paid to City in connection with the Project, according to the specified fee reimbursement credit formulas below, so long as such fees are incurred prior to June 30, 2014. The reimbursement of Company's fee costs using future City revenues generated directly by the project will occur only after the City's receipt thereof.
 - a. Property, Plant & Equipment Credit Formula. 100% of the local 1% sales and use tax (Bradley Burns Uniform Local Sales and Use Tax) paid by Company in connection with the purchase of taxable tangible personal property placed into service at the Project Site, as long as such tax, or equivalent tax revenue, is reported and allocated to the City.
 - b. Real Property Improvements Credit Formula. 100% of the City's share of secured real property taxes (18% of the 1% tax) paid annually in connection with improvements to the Project Site, such taxes on improvements to be determined by subtracting the amount of the secured real property taxes paid in the last full year prior to the commencement of Company's leasehold improvements to the Project Site from the amount of property taxes paid in any subsequent year.

- c. Retail Sales Credit Formula. 50% of the local 1% sales tax (Bradley Burns Uniform Local Sales and Use Tax) collected from Company's retail customers in connection with the sale of any products on the Project Site.
3. Criteria to be Met by the Company. The Company shall verify that it qualifies or will qualify to receive any economic development incentives by doing the following:
- a. Permit Documents. Prior to the provision of any incentives to Company by City, Company shall deliver all permit plans, applications, and related documents to the City's Economic Growth Services Division (1200 Third Avenue, 14th floor, San Diego, CA) to be verified as eligible for Permit Assistance and/or any financial assistance such as a Housing Impact Fee Waiver. Development or building plans will be stamped accordingly. **IF SUCH PLANS AND DOCUMENTS ARE NOT STAMPED AS "ECONOMIC DEVELOPMENT PROJECT" (OR WORDS OF SIMILAR EFFECT) PRIOR TO SUBMITTAL WITH THE PERMIT APPLICATION, SUCH PLANS AND DOCUMENTS WILL NOT BE GIVEN PRIORITY STATUS. PLANS SUBMITTED WITHOUT SUCH STAMP CANNOT BE RETRIEVED FOR LATER STAMPING.**
 - b. Fee Payments and Public Benefits. The Company shall provide copies of invoices showing fees paid to City prior to June 30, 2014 and shall provide a reasonable estimate of such fees prior to March 31, 2014. The Company shall provide copies of sales/use tax returns and property tax payments within three (3) months after filing of such returns or the payment of property taxes for the project site.
4. Remedies and Information. The parties acknowledge and agree that a strong San Diego economy is in the best interests of both the Company and the citizens of San Diego. The Company shall prepare and deliver to the City such data and other information as and when the City may from time to time reasonably request concerning public benefits anticipated in connection with the City's provision of incentives to Company.
- a. False or Misleading Information. The City may and shall terminate this Agreement and recapture any incentive provided to the Company as anticipated by this Agreement if the Company provided false or misleading information for the purpose of obtaining any incentives.
5. No Reliance. The Company represents and warrants that it is not relying on any representation by the City as to the sufficiency of the Company's information and material required to obtain permits, approvals, bonds or other certifications authorizing development, manufacturing or financing. The Company further represents and warrants that it is not relying on any representation by the City that any certain desired permit, approval or other desired outcome is guaranteed a result of assistance provided by the City under this Contract. The Company acknowledges and agrees that the City is not responsible for any loss, whether claimed or suffered by the Company, in connection with the assistance provided by the City pursuant to this Contract or in the event that the desired permits and/or approvals are not

awarded to the Company.

6. Mediation. Any dispute or claim by or between the City and Company relating to this Agreement which cannot be settled informally shall first be submitted to mediation under the Commercial Mediation Rules of the American Arbitration Association before resorting to litigation. Company and City shall each pay one half of the cost of such mediation. Notwithstanding the foregoing, nothing in this Section 6 shall preclude the City from filing an action in the courts, or taking other necessary legal action to protect the City's legal rights, either prior to or during the mediation process and such action shall not be considered a waiver or breach of the right and obligation to mediate, provided the City proceeds with mediation as required herein. No dispute or claim by or between City and Company relating to this Agreement or otherwise shall be submitted to binding arbitration under any circumstance.
7. Waivers. The failure by City to enforce at any time any provision or condition of this Agreement shall not be construed to be a waiver of such provision or condition contained herein or a waiver of any subsequent breach or violation of the same or any other provision or condition, nor in any way to affect the validity of this Agreement or any part hereof or the right of the City to thereafter enforce each and every such provision or condition. A waiver under this Agreement must be in writing and state that it is a waiver. No waiver of any breach of this Agreement shall be held to constitute a waiver of any other or subsequent breach.
8. Confidentiality. The City shall keep any and all proprietary and confidential information and data provided by the Company under this Agreement strictly confidential to the extent permitted by law. The City will use information provided by the Company pursuant to this Agreement only for purposes within the scope of this Agreement. The Company shall clearly mark or otherwise identify in writing all information it considers to be proprietary and confidential at the time it is delivered to the City. The confidentiality obligation under this section shall not apply to: (a) information which is already public information or which is otherwise available to the general public; (b) information received from a third party without a similar confidentiality restriction who is lawfully in possession of the information and who has the lawful right to disclose it; (c) information that is already in the City's possession prior to receiving it from the Company; or (d) information delivered by the Company to the City and not marked or otherwise identified as proprietary and confidential at the time it was delivered.
9. Termination if subject to Labor Code §1720. Other provisions of this Agreement and its Effective Date notwithstanding, the Company may, at its sole discretion, terminate this Agreement by providing notice in writing to the City if any competent governmental authority makes a final determination that this Agreement, or any agreement of its type, is subject to California Labor Code section 1720 or any regulations promulgated pursuant thereto.
10. Successors and Assigns. This Agreement shall be binding upon the parties' successors and assigns. The Company shall not assign this Agreement or any right or obligation hereunder

except that it may so assign to its immediate or ultimate parent, or to a directly related corporate or business entity, by providing notice to the City. There shall be no third-party beneficiaries or, nor any holders of any lien interests in, the Company's rights under this Agreement, including, but not limited to, any person or entity holding any easement rights or appurtenant interest in the land associated with the Project Site or claiming superior title to the Project Site.

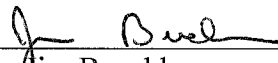
11. Governmental Approvals. By entering into this Agreement, neither the City nor its City Council is obligating itself to any other governmental agent, board, commission, or agency with regard to any discretionary action relating to the Company's activities within the Zone or otherwise. Discretionary action includes but is not limited to re-zonings, variances, environmental clearances, or any other governmental agency approvals which may be required for the Company's activities within the Zone or otherwise.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

12. Authority to Contract. Each individual executing this Agreement on behalf of another person or legal entity represents and warrants that he/she is authorized to execute and deliver this Agreement on behalf of such person or entity in accordance with duly adopted resolutions or other authorizing actions which are necessary and proper and under such legal entity's articles, charter, bylaws, or other written rules of conduct or governing agreement, and that this Agreement is binding upon such person or entity in accordance with its terms. Each person executing this Agreement on behalf of another person or legal entity represents and warrants such entity is a valid, qualified corporation; Limited Liability Company, partnership, or other unincorporated association in good standing in its home state and that such entity is qualified to do business in California.

IN WITNESS WHEREOF, this Agreement is executed to be effective as of the Effective Date.

Date: 11/20/13

BY: 
Name: Jim Buechler
Title: President, Ballast Point
Brewing Co.

Date: _____

THE CITY OF SAN DIEGO,
a California municipal corporation

BY: _____
Name: Russ Gibbon
Title: Business Development Manager

BY: _____
Name: Scott Chadwick
Title: Chief Operating Officer

Approved as to form and legality:
JAN I. GOLDSMITH, City Attorney

BY: _____
Name: Daphne Z. Skogen
Title: Deputy City Attorney

CITY CONTACT:
RUSS GIBBON
Business Development Manager
202 C Street, 4th Floor
San Diego, CA 92101
(619) 236-6350
(619) 533-3320 FAX
rgibbon@sandiego.gov

Exhibit A: Project Site

PARCEL 1 OF PARCEL MAP NO. 3016, IN THE CITY OF SAN DIEGO, COUNTY OF SAN DIEGO, STATE OF CALIFORNIA, FILED IN THE OFFICE OF THE COUNTY RECORDER OF SAN DIEGO COUNTY.

Attachment 3

California's Largest Breweries

By Size of Facility

| Company Name | Square Feet of Building Space | Employees | City | Rank |
|------------------------------|-------------------------------|------------------|-------------|------|
| Anheuser-Busch | 1,700,000 | 800 | Los Angeles | 1 |
| Miller Brewing Co. | 1,000,000 | 600 | Inwindale | 2 |
| Anheuser-Busch | 700,000 | 400 | Fairfield | 3 |
| Sierra Nevada Brewing Co. | 272,000 | 450 | Chico | 4 |
| Lagunitas Brewing Co. | 160,000 | 260 | Petaluma | 5 |
| Ballast Point Brewing Co. | 124,667 | 100 ¹ | San Diego | 6 |
| Stone Brewing Co. | 109,815 | 400 | Escondido | 7 |
| Alesmith Brewing Co. | 105,636 | TBD | San Diego | 8 |
| Firestone-Walker Brewing Co. | 90,000 | 100 | Paso Robles | 9 |
| Bear Republic | 40,000 | 70 | Cloverdale | 10 |

By Annual Production Volume

| Company Name | Barrels Per Year | Employees | City | Rank |
|------------------------------|----------------------|-----------|---------------|------|
| Anheuser-Busch | 12,000,000 | 800 | Los Angeles | 1 |
| Anheuser-Busch | 4,400,000 | 600 | Fairfield | 2 |
| Miller Brewing Co. | 7,000,000 | 400 | Inwindale | 3 |
| Sierra Nevada Brewing Co. | 960,000 | 450 | Chico | 4 |
| Lagunitas Brewing Co. | 400,000 | 260 | Petaluma | 5 |
| Ballast Point Brewing Co. | 350,000 ² | 95 | San Diego | 6 |
| Stone Brewing Co. | 210,000 | 400 | Escondido | 7 |
| Anchor Brewing Co. | 180,000 | 50 | San Francisco | 8 |
| Firestone-Walker Brewing Co. | 151,000 | 100 | Paso Robles | 9 |
| Bear Republic | 72,000 | 70 | Cloverdale | 10 |

¹ Projected employees in first year

² Projected at full build-out

Attachment 4

Ballast Point Brewing Co - Project Site Information

| | |
|-------------------------|-------------------------------------|
| Council District: | 6 (Zapf) |
| Community: | Mira Mesa |
| Land Use Designation: | Light Industrial |
| Zoning: | Industrial – Light (IL-2-1) |
| Previous Use: | Light Manufacturing |
| Proposed Use: | Light Manufacturing |
| Previous User: | Van Can Company |
| Proposed User: | Ballast Point Brewing & Spirits Co. |
| Owner: | H.G. Fenton Co. |
| Current Building Size: | 107,138 square feet |
| Proposed Building Size: | 124,667 square feet |
| Projected Jobs: | 100+ |
| Investment: | Confidential |
| Status: | Under Construction |



News: Regional

November 18, 2013

Written by Lyn Dacon (llores@costar.com)

Ballast Point Inks 107,000-SF Industrial Lease

Brewery Signs Largest Lease in Mira Mesa / Miramar



Ballast Point, a local brewery, leased 106,584 square feet in the industrial facility at 9045 Carroll Way in San Diego, CA from building owner H.G. Fenton.

The 106,584-square-foot warehouse was constructed in 1978 on 5.6 acres in the Mira Mesa/Miramar Industrial submarket. It features eight loading docks and two drive-ins, 28-foot clear heights, skylights and a fenced lot.

Valued at \$16 million, this lease deal is being touted as the largest industrial lease deal in the Mira Mesa/Miramar area this year.

Todd Holley and Randy LaChance of Voit Real Estate Services represented the landlord. Jeffrey Chasan also with Voit Real Estate Services, represented the tenant.



December 23-29, 2013

\$2.00

Brewers Get a Bigger Welcome Mat in City

PROPERTY: Regulatory OK Opens Areas to Mixed Facilities

■ By LOU HIRSH

The California Coastal Commission has granted authority to the city of San Diego to allow restaurants and tasting rooms at macro-breweries in coastal industrial zones as the city aims to compete for its share of new businesses in the burgeoning craft beer industry.

While no formal projects have been put forward, the coastal panel's blessing allows for future craft-beer production facilities — if they are at least 12,000 square feet — to also include an accessory tasting room or entry that takes up no more than 25 percent of the

● *Brewery, page 28*