

ORDINANCE NO.

AN ORDINANCE OF THE CITY OF MORGAN HILL AMENDING THE DEVELOPMENT AGREEMENT FOR APPLICATION DAA-09-05B: COCHRANE-BORELLO INCORPORATING 15, FISCAL YEAR 2016-17 ALLOCATIONS (APN 728-34-008)

**THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY ORDAINE
AS FOLLOWS:**

SECTION 1. The Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, has to date awarded 135 building allotments to applications MC-08-16, MC 09-04, MC 11-03, MC 12-07, MC 13-21 and MC 14-12 for FYs 2010-11 thru 2016-17.

SECTION 2. The California Government Code Sections 65864 thru 65869.5 authorizes the City of Morgan Hill to enter into binding Development Agreements with persons having legal or equitable interests in real property for the development of such property.

SECTION 3. The City Council has adopted Resolution No. 4028 establishing a procedure for processing Development Agreements for projects receiving allotments through the Residential Development Control System, Title 18, Chapter 18.78 of the Municipal Code.

SECTION 4. References are hereby made to certain Agreements on file in the office of the City Clerk of the City of Morgan Hill. These documents to be signed by the City of Morgan Hill and the property owner set forth in detail and development schedule, the types of homes, and the specific restrictions on the development of the subject property. Said Agreement herein above referred to shall be binding on all future owners and developers as well as the present owners of the lands, and any substantial change can be made only after further public hearings before the Planning Commission and the City Council of this City.

SECTION 5. On March 27, 2013 the City Council adopted Ordinance No. 2065, N.S., which approved a development agreement and established a development schedule for the project.

SECTION 6. On February 25, 2014, the Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded application MC 13-21: Cochrane-Borello, 25 building allotments for FY 2015-16 bring the project total allocations to 120.

SECTION 7. On June 30 2014, 23 FY 2010-11 allocations expired since the project did not commencement construction pursuant to the terms of the development agreement.

SECTION 8. On February 10, 2015, the Planning Commission, pursuant to Chapter 18.78.380 of the Morgan Hill Municipal Code, awarded application MC 14-12: Cochrane-Borello, 15 building allotments for FY 2016-17 bring the project total allocations to 112.

SECTION 9. On June 30 2015, 37 FY 2011-12 and 20 FY 2014-15 allocations expired since the project did not commencement construction pursuant to the terms of the development agreement.

SECTION 10. MODIFICATION TO DEVELOPMENT AGREEMENT. The Council hereby approves modification to the development agreement incorporating 15 Fiscal Year 2016-17 allocations awarded from MC 14-12: Cochrane-Borello and the elimination of the commitments and dates related to applications MC-08-16, MC 09-04 & MC 12-07 as shown in attached in Exhibit A, and by this reference incorporated herein.

SECTION 11. The City Council hereby finds that the development agreement amendments approved by this ordinance are compatible with the goals, objectives, policies, and land uses designated by the General Plan of the City of Morgan Hill.

SECTION 12. Authority is hereby granted for the City Manager to execute all development agreements approved by the City Council during the Public Hearing Process.

SECTION 13. Severability. If any part of this Ordinance is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance or the applicability of this Ordinance to other situations.

SECTION 14. Effective Date Publication. This ordinance shall take effect thirty (30) days after the date of its adoption. The City Clerk is hereby directed to publish this ordinance pursuant to §36933 of the Government Code.

THE FOREGOING ORDINANCE WAS INTRODUCED AT A MEETING OF THE CITY COUNCIL HELD ON THE 5TH DAY OF AUGUST 2015, AND WAS FINALLY ADOPTED AT A MEETING OF THE CITY COUNCIL HELD ON THE ____ DAY OF _____ 2015, AND SAID ORDINANCE WAS DULY PASSED AND ADOPTED IN ACCORDANCE WITH LAW BY THE FOLLOWING VOTE:

AYES: COUNCILMEMBERS:
NOES: COUNCILMEMBERS:
ABSTAIN: COUNCILMEMBERS:
ABSENT: COUNCILMEMBERS:

ATTEST:

APPROVED:

IRMA TORREZ, City Clerk

STEVE TATE, Mayor

⌘ CERTIFICATION ⌘

I, IRMA TORREZ, CITY CLERK OF THE CITY OF MORGAN HILL, CALIFORNIA, do hereby certify that the foregoing is a true and correct copy of Ordinance No. , New Series, adopted by the City Council of the City of Morgan Hill, California at its regular meeting held on the day of , 2015.

WITNESS MY HAND AND THE SEAL OF THE CITY OF MORGAN HILL.

DATE:_____

IRMA TORREZ, City Clerk