

## **RESOLUTION NO.**

### **A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE THAT CERTAIN INCENTIVE AGREEMENT WITH MORGAN HILL REAL ESTATE LLC, A CALIFORNIA LIMITED LIABILITY CORPORATION FOR THE CREATION OF A NEW AUTOMOBILE DEALERSHIP AT CONDIT ROAD, MORGAN HILL**

**WHEREAS**, the City of Morgan Hill, a municipal corporation and general law city duly organized and existing under and pursuant to the Constitution and laws of the State of California (“City”), is authorized to enter into contracts and agreements for the benefit of the City; and

**WHEREAS**, the reasons supporting the entrance of the City into that certain agreement described in, and that is the subject of, this Resolution are set forth in detail in that certain City Council Staff Report submitted for the City Council meeting scheduled for January 18, 2017, submitted to the City Council by the City Manager (the “Staff Report”), the contents of which Staff Report are incorporated herein by this reference; and

**WHEREAS**, the consideration by City Council of the adoption of this Resolution has been duly noticed pursuant to applicable laws and has been placed upon the City Council meeting agenda on the date set forth in the Staff Report, or to such date that the City Council may have continued or deferred consideration of this Resolution, and on such date the City Council conducted a public meeting on the adoption of this Resolution at which meeting the City Council provided members of the public an opportunity to comment and be heard and considered any and all testimony and other information provided in connection with the adoption of this Resolution; and

**WHEREAS**, existing law generally allows local governments to make their own decisions regarding local economic development matters; and

**WHEREAS**, the loss of redevelopment has left the City, as well as all cities within the State, with a loss of local resources to encourage economic development; and

**WHEREAS**, the City Council has made findings consistent with Section 53083 of the California Government Code Assembly Bill 562 (“AB 562”). AB 562, titled “Economic Development Subsidies: Review by Local Agencies”, which was codified on October 13, 2013 and went into effect on January 1, 2014, require each local agency, as defined, to provide specified information to the public before approving an economic development subsidy or assistance of \$100,000 or more, as defined, within its jurisdiction, and to review, hold hearings, and provide reports at specified intervals. Based upon the decision to terminate redevelopment statewide, the Governor and State Legislature recognized the necessity for local governments to encourage employment and retain jobs and businesses by giving economic assistance to businesses and the importance of facilitating public input; and

**WHEREAS**, the Bradley-Burns Uniform Local Sales and Use Tax Law (California Revenue and Tax Code §7200 *et seq.*) applies to the sales of tangible personal property in which a percentage of California's sales and use tax rate is distributed back to the jurisdiction where sales were generated to support local general funds. For many jurisdictions, including the City, this amount is one percent (1%). Sales tax is payable to the City from the State Board of Equalization; and

**WHEREAS**, encouraging and developing other businesses in the City that are, or can be, key sources of sales tax revenue would diversify and increase revenue sources for the City's general fund, which supports public services provided by the City to its residents and local businesses; and

**WHEREAS**, the City Council desires to be proactive in retaining automobile dealerships that currently exist within the City, as well as encourage new automobile dealerships desiring to locate within the jurisdiction of the City to do so, by establishing an equitable economic incentive agreement ("Incentive Agreement") that will assist qualified dealerships.

**WHEREAS**, the City Council determines that the Incentive Agreement is consistent with the City's economic goals and strategies, is a matter of City-wide importance, is necessary for the preservation and protection of the public health, safety or welfare of the community, and is in accord with the public purposes and provisions of applicable State and local laws and requirements.

**WHEREAS**, the City Council determines that adoption of this Resolution is in the public interest.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORGAN HILL DOES HEREBY FIND, DETERMINE, RESOLVE AND ORDER AS FOLLOWS:**

**Section 1.**     Recitals. The City Council does hereby find, determine and resolve that all of the foregoing recitals are true and correct.

**Section 2.**     Approval and Authorization. The City Council does further resolve, order and/or direct as follows:

- a. That the Incentive Agreement dated January 18, 2017 with Morgan Hill Real Estate LLC., a California Limited Liability Corporation for the creation of a new automobile dealership at Condit Road, Morgan Hill, substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the "Incentive Agreement"), is hereby approved.
- b. That the City Manager is hereby delegated authority to and is authorized and directed to do everything necessary and appropriate to execute the Agreement substantially in the form attached hereto as Exhibit B; provided, specifically,

that the total amounts to be paid by City under the Incentive Agreement shall in no event exceed Seven Hundred and Eighty Thousand Dollars (\$780,000).

**Section 3.** This Resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** by the City Council of Morgan Hill at the meeting held on this \_\_\_\_ day of \_\_\_\_, 2017 by the following vote:

**AYES: COUNCIL MEMBERS:**  
**NOES: COUNCIL MEMBERS:**  
**ABSTAIN: COUNCIL MEMBERS:**  
**ABSENT: COUNCIL MEMBERS:**

**ATTEST:**

\_\_\_\_\_  
**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 Resolution No. \_\_\_\_\_, adopted by the City Council at the meeting held on \_\_ (month) \_\_ (day), 2017.

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

\_\_\_\_\_  
**DATE**

\_\_\_\_\_  
**IRMA TORREZ**  
City Clerk