

RESOLUTION NO. 23-028

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORGAN HILL APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AN IMPACT FEE FREEZE AGREEMENT WITH CUTINA MORGAN HILL FREEZING THE IMPACT FEES AT THE LEVEL SET IN 2016-2017 FEE SCHEDULE AND A SEWER/TRAFFIC IMPACT FEE SECURED FINANCING AGREEMENT SEWER AND TRAFFIC IMPACT FEE FINANCING AGREEMENT WITH CUTINA MORGAN HILL, LLC IN THE AMOUNT OF \$465,222 FOR THE DEVELOPMENT OF AN APPROXIMATELY 64,854 SQUARE FOOT HOTEL LOCATED ON 2.209 ACRES ON APN#726-58-006 IN THE CITY OF 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 June 21, 2023, 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

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employment and retain jobs and businesses by giving economic assistance to businesses and the importance of facilitating public input; and

WHEREAS, encouraging and developing other businesses in the City that are, or can be, key sources of transient occupancy 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 determines that the Sewer and Traffic Impact Fee Financing Agreement is consistent with the City's Sewer and Traffic Impact Fee Deferral Program adopted in July 2007 to stimulate commercial development and 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, Cutina Morgan Hill, LLC has obtained approval to construct a 114-room hotel, proposed to be a Holiday Inn Express ("Project").

WHEREAS, the City Council determines that adoption of this Resolution is in the public interest due to the municipal tax revenue that would be generated by the Project.

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 Impact Fee Freeze Agreement with Cutina Morgan Hill, LLC, a California Limited Liability Corporation which will freeze impact fees at the level set in the FY2016-2017 Fee Schedule for new Commercial/industrial construction substantially in the form attached hereto as Exhibit A and incorporated herein by this reference, is hereby approved.
- b. That the Sewer/Traffic Impact Fee Secured Financing Agreement dated June 21, 2023 with Cutina Morgan Hill, LLC, a California Limited Liability Corporation, for the development of a new approximately 64,854 square foot hotel, proposed to be a Holiday Inn Express located on 2.09 acres on APN #726-58-006, Morgan Hill in substantially in the form attached hereto as Exhibit B and incorporated herein by this reference (the "Sewer/Traffic Impact Fee Secured Financing Agreement"), is hereby approved.
- c. That the Deed of Trust and Assignment of Rents to be executed by Cutina Morgan Hill, LLC, a California Limited Liability Corporation substantially in the form attached hereto as Exhibit C and incorporated herein by this reference,

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is hereby approved.

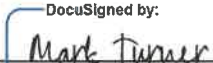
- d. That the Secured Promissory Note to be executed by to be executed by Cutina Morgan Hill, LLC, a California Limited Liability Corporation substantially in the form attached hereto as Exhibit D and incorporated herein by this reference, is hereby approved.
- e. That the City Manager is hereby delegated authority to and is authorized and directed to do everything necessary and appropriate to execute, if required, the Agreements substantially in the form attached hereto as Exhibits A, B, C and D.

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 21st day of June, 2023 by the following vote:

AYES:	COUNCIL MEMBERS:	Gino Borgioli, Marilyn Librers, Mark Turner, Rene Spring, Yvonne Martinez Beltran
NOES:	COUNCIL MEMBERS:	None
ABSTAIN:	COUNCIL MEMBERS:	None
ABSENT:	COUNCIL MEMBERS:	None

APPROVED:

DocuSigned by:


MARK TURNER, Mayor

ATTEST:

DocuSigned by:


MICHELLE BIGELOW, City Clerk