

DEVELOPMENT INCENTIVE AND OPERATING COVENANT AGREEMENT
BY AND BETWEEN THE CITY OF REDLANDS AND DICK DEWESE CHEVROLET, A
MISSISSIPPI CORPORATION, DOING BUSINESS AS TOM BELL CHEVROLET.

This Development Incentive and Operating Covenant Agreement (“Agreement”) is made and entered into on this 6th day of November, 2012 (“Effective Date”), by and between the City of Redlands a California municipal corporation (the "City") and Dick DeWese Chevrolet, a Mississippi corporation, doing business as Tom Bell Chevrolet ("TBC"). The City and TBC are sometimes individually referred to herein as a “Party” and, together, as the “Parties.” The City and TBC enter into this Agreement with reference to the following facts (“Recitals”).

RECITALS

A. TBC is the owner of approximately 5.9 acres of real property located in the City of Redlands, County of San Bernardino, State of California, more particularly described in Exhibit "A," which is attached hereto and incorporated herein by this reference (the "Property"). TBC intends to invest approximately Two Million Nine Hundred Thousand Dollars (\$2,900,000) for the installation of certain improvements (the “Improvements”) to its existing retail automobile dealership (the “Automobile Dealership”) that is located upon the Property as more fully described in the Scope of Development attached hereto as Exhibit "B" and incorporated herein by this reference.

B. The City has found that it is of substantial benefit to the City and its residents for (1) the Property to be improved and continue to be operated by TBC as the Automobile Dealership in a "state of the art" manner as typically operated by newly improved automobile dealerships in California and (2) the City to obtain an operating covenant from TBC for the Automobile Dealership, and that these benefits constitute valid public purposes for the City's entry into and execution of this Agreement.

C. In consideration for TBC's agreement to be bound by the covenants described herein, the City has agreed to make certain payments to TBC. The City and TBC agree that the amount of each payment to be made by the City hereunder is a fair exchange for the consideration actually furnished to the City by TBC during each fiscal year of the City in which such payment is made, that each City payment to be made hereunder has been calculated so that it will not exceed the resources available to make the payment, and further that in no event shall the City be immediately indebted to TBC for the aggregate payments herein provided.

D. Further, the purpose and intention of the City in making payments to TBC is to induce TBC to construct, or cause to be constructed, the Improvements to the Property and to continue to operate the Automobile Dealership on the Property so as to further encourage the economic and physical development of the City; the enhancement, well-being and safety of residents at large; the enhancement of local employment; and the expansion of the City's tax revenue base.

NOW, THEREFORE, in consideration of the mutual covenants hereinafter set forth, and for such other good and valuable consideration, the receipt of which is hereby acknowledged, the City of Redlands and Tom Bell Inc., doing business as Tom Bell Chevrolet, agree as follows:

ARTICLE I
SUBJECT OF AGREEMENT

Section 1.01. Purpose of Agreement. The purpose of this Agreement is to effectuate the economic goals of the City by providing an incentive for the construction of the Improvements and continued operation of the Automobile Dealership. The improvement of the Automobile Dealership by TBC pursuant to this Agreement and the fulfillment generally of the requirements of this Agreement are in the vital and best interests of the City and the health, safety and welfare of the City's residents, and are in accord with the provisions of applicable federal, state and local law.

Section 1.02 Prohibition against change in Ownership, Management and Control of TBC or Assignment of Agreement.

A. The qualifications and identities of the persons and entities comprising TBC are of particular concern to the City. It is because of these unique qualifications and identities of TBC that the City has entered into this Agreement with TBC. No voluntary or involuntary successor-interest of TBC shall acquire any rights or powers under this Agreement, except as expressly set forth herein.

B. Except as otherwise provided in this Agreement, TBC shall not assign this Agreement or any provision of this Agreement, prior to the issuance of a Certificate of Completion by the City for the Improvements, without the prior written approval of the City.

C. TBC may, subject to the prior written approval of the City, assign this Agreement to a separate development ownership entity which would assume all of the obligations of TBC hereunder. Notwithstanding the foregoing, if the aforementioned separate development ownership entity is a limited liability entity (such as, without limitation, a limited partnership or limited liability company) in which TBC owns a majority of the voting and ownership interests, or a majority of the general partners' interests (an "Approved Assignee"), no approval by the City shall be required for such assignment; provided, however, in the event of a proposed transfer of any interest in such Approved Assignee whereby TBC would cease to own a majority of such shares of voting and ownership interests, or general partners' interests (except as a result of transfer by inheritance), such transfer shall be deemed an assignment to which the prior written approval of the City shall be required. For purposes of this Agreement, there shall be considered to be no transfer, and no prior written approval of the City shall be required, in the event any or all of TBC's interests in the Approved Assignee are transferred to a revocable trust of which Mr. Thomas O. Bell, as an individual, is a trustee, provided such transferee trust shall hold the interests subject to all of the provisions of this Agreement.

D. TBC shall promptly notify the City in writing in the event that Mr. Thomas O. Bell no longer owns or controls, directly or indirectly, more than fifty percent (50%) of the outstanding shares of stock of TBC ("Change in Control"). This Agreement may be terminated by the City if there is a Change in Control, whether voluntary or involuntary (other than such changes occasioned by the death or incapacity of Mr. Thomas O. Bell) that has not been approved by the City at the time of such change, prior to issuance of the Certificate of Completion for the Improvements.

E. TBC may, with prior written notice to the City, but without the City's consent, assign this Agreement to a subsidiary of TBC or to an entity with which the parent or subsidiary of TBC may merge or consolidate.

ARTICLE II CONSTRUCTION OF THE IMPROVEMENTS

Section 2.01. Development by TBC.

A. The Improvements shall be constructed and completed in conformance with the Scope of Development, and any and all other plans, specifications and similar development documents required by this Agreement, except for such changes as may mutually be agreed upon in writing by and between TBC and the City. Notwithstanding the foregoing, TBC acknowledges and agrees that certain entitlements and permits, pursuant to the City's General Plan, Municipal Code and other laws, may need to be obtained by TBC for construction of the Improvements, and that the City shall be under no obligation whatsoever to authorize or approve any such entitlements or permits despite the City's entry into and execution of this Agreement. Before commencement of construction of the Improvements, TBC at its sole expense shall secure or cause to be secured any and all land use and other entitlements, permits and approvals which may be required by the City and any other governmental agency having jurisdiction over the same, including all required environmental review pursuant to the California Environmental Quality Act ("CEQA"), and shall construct the Improvements in accordance with all applicable federal, state and local laws and requirements. The City's staff will work cooperatively with TBC to assist in coordinating the expeditious processing and consideration of all necessary permits, entitlements and approvals. However, the execution of this Agreement does not constitute a commitment by the City to issue any land use permits, entitlements or approvals to TBC. TBC and the City expressly acknowledge and agree that TBC is at an exploratory state in the development process, and that at the time of execution of this Agreement TBC has not prepared and submitted to the City any development plans or drawings for the Improvements which would serve as a basis for environmental analysis of construction of the Improvements. This Agreement does not preclude the City from considering development alternatives to the Property, and nothing in this Agreement prevents the City, in its absolute discretion, to disapprove any permit or entitlement necessary for the construction of the Improvements. The City retains the absolute sole discretion to (1) modify the Improvements as necessary to comply with CEQA; (ii) select other feasible alternatives to avoid significant impacts; and (iii) balance the benefits of the construction of the Improvements against any significant impacts prior to taking final action with respect to the Improvements if such significant impacts cannot be avoided.

B. The approval of the Scope of Development by the City hereunder shall not be binding upon the City Council or the Planning Commission of the City, or with respect to any approvals of the Improvements required by other governmental agencies. If any revisions of the Scope of Development shall be required by another government agency or department having jurisdiction over the development of the Property, TBC and the City shall, to the extent consistent with law, cooperate in efforts to obtain waivers of such revisions, or to obtain approvals of any such revisions which have been made by TBC and have thereafter been approved by the City.

C. Notwithstanding any provision to the contrary in this Agreement, TBC shall accept and comply fully with any and all reasonable conditions of approval applicable to all permits and other governmental actions affecting the Improvements which are consistent with this Agreement.

D. TBC shall prepare and submit development plans, construction drawings and related documents for the Improvements, consistent with the Scope of the Development, to the City for review including, but not limited to, architectural review of the exterior of the Automobile Dealership. The development plans, construction drawings and related documents shall be submitted in two stages -- preliminary and final drawings (i.e. working drawings), plans and specifications. Final drawings, plans and specifications are hereby defined as those which contain sufficient detail necessary to obtain a building permit from the City.

E. During the preparation of all drawings and plans for the Improvements, the City's staff and TBC shall hold regular progress meetings to coordinate the preparation by TBC, and the submission to and review by the City, of construction plans and related documents. The City staff and TBC shall communicate and consult informally as frequently as is reasonably necessary to ensure that any such plans and related documents submitted by TBC to the City can receive prompt and expeditious consideration.

F. The City shall in good faith use its reasonable efforts to approve in a timely manner any and all plans, drawings and documents submitted by TBC hereunder which are consistent with this Agreement.

G. The cost of developing the Property and of constructing the Improvements, as set forth in the Scope of Development, shall be borne by TBC.

H. TBC shall, at its sole expense, cause to be prepared, and shall pay all fees pertaining to the review and approval of the Improvements by the City, all required construction, planning and other documents reasonably required by the City pertinent to the development of the Property, including, but not limited to, specifications, drawings, plans, maps, permit applications, land use applications, zoning applications and design review documents.

I. TBC shall begin and complete all construction and development and undertake all obligations and responsibilities of TBC within the time specified in the Schedule of Performance shown in Exhibit "C," which is attached hereto and incorporated herein by this reference, or within such reasonable extensions of such times as may be granted by the City. The Schedule of Performance shall be subject to revision from time to time as mutually agreed upon in writing by and between TBC and the City. Any and all deadlines for performance by the Parties shall be extended for any times attributable to delays which are not the fault of the performing Party, other than periods for review and approval or reasonable disapprovals of plans, drawings and related documents, specifications or obligations for permits as provided in this Agreement.

ARTICLE III
CONSTRUCTION AND OPERATING COVENANTS

Section 3.01. Covenants.

A. Provided the regulations imposed on such construction by the City or any other governmental entity are commercially reasonable (as determined by TBC in its sole and absolute discretion), and subject to events of force majeure as defined in Section 5.09 hereof, TBC shall use its good faith and commercially reasonable efforts to complete, or cause the completion of, the Improvements on the Property within twelve (12) months after TBC has secured approval from the City of all plans and specifications for the construction of the Improvements and has been issued a building permit for the Improvements to the Automobile Dealership, in accordance with Exhibits "B" and "C" hereof, and TBC shall operate the Automobile Dealership for a period of the later of ten (10) years after the issuance of a Certificate of Completion for the Improvements or the last date that the City makes a payment to TBC pursuant to the Section 3.02 below.

B. During the term of this Agreement, TBC covenants to the City to maintain the Property on the County of San Bernardino, California, secured real property tax rolls.

C. During the operation of the Automobile Dealership, TBC shall keep and maintain the Property, and all the improvements thereon and all facilities appurtenant thereto, in a clean, sanitary and orderly condition free from debris, graffiti and waste materials and in good order, repair and safe condition consistent with comparable retail automobile dealership operations located in California. In addition, TBC shall observe and comply with all Governmental Requirements, as that term is defined in Section 5.01 hereof; provided, however, that TBC does not waive its right to challenge the validity or applicability of any such Governmental Requirements.

D. TBC covenants to the City that it shall maintain areas of the Property that are subject to public view (including all improvements, paving, walkways, landscaping, exterior signage and ornamentation) in good repair and a neat, clean and orderly condition, ordinary wear and tear excepted. If, at any time during the term of this Agreement, there is a maintenance deficiency upon the property, then the City may notify TBC in writing of the scope. If TBC fails to cure or commence and diligently pursue to cure the maintenance deficiency within thirty (30) calendar days of receipt of such notice, the City may conduct a public hearing, following transmittal of written notice of the hearing to TBC at least ten (10) business days prior to the scheduled date of such public hearing, to verify whether a maintenance deficiency exists and whether TBC has failed to comply with the provisions of this Section 3.01. If, upon conclusion of the public hearing, the City finds that a maintenance deficiency exists and that there appears to be non-compliance with the general maintenance standard described above, the City shall have the right to enter the Property and perform all acts necessary to cure the maintenance deficiency, or to take any other action at law or in equity that may then be available to the City to accomplish the abatement of the maintenance deficiency.

E. The City and TBC further mutually understand and agree that the rights conferred upon the City to remedy a maintenance deficiency on the Property expressly include the power to establish and enforce a lien or other encumbrance against the Property in an amount reasonably

necessary to restore the Property to the maintenance standards required by this Section 3.01, including the reasonable attorneys' fees and costs of the City associated with the abatement of the maintenance deficiency.

F. During the operation of the Automobile Dealership, TBC shall use its best efforts to hire residents of the City for vacant and new employment positions.

G. The foregoing subparagraphs of this Section 3.01 are hereinafter collectively referred to in this Agreement as the "Covenant." The Covenant shall run with the Property and shall remain in effect at all times during the term of this Agreement.

Section 3.02. Consideration. In consideration for TBC's agreement to be bound by the Covenant, the City shall pay to TBC, in the manner provided in subparagraph "C" hereof, amounts equal to the following percentages of the Sales Tax Revenues received by the City in each of the City's fiscal years as a direct result of TBC's operation of the Automobile Dealership for the period commencing upon the second "July 1st" date after the City's issuance of a Certificate of Completion for the Improvements to the Automobile Dealership and continuing for ten (10) of the City's fiscal years thereafter:

Years 1-5.....fifty percent (50%) of the amount of Sales Tax Revenue received by the City in excess of \$299,954.

Years 6-10.....twenty five percent (25%) of the amount of Sales Tax Revenue received by the City in excess of \$299,954.

A. The City shall have no obligation to make any payment to TBC for any fiscal year in which the amount of Sales Tax Revenues received by the City as a direct result of TBC's operation of the Automobile Dealership is less than or equal to \$299,954. The City also shall have no obligation to make any combined payments to TBC that exceed the lesser of the actual amount of payments made to TBC, pursuant to this Section 3.02, over the 10-year contract term or One Million Nine Hundred Fourteen Thousand Dollars (\$1,914,000) or sixty six percent (66%) of the actual costs incurred by TBC for the construction of the Improvements, as determined by a cost certification prepared within ninety (90) days after the issuance of a Certificate of Completion for the Improvements by a independent consultant selected by TBC and approved by the City.

B. "Sales Tax Revenues" shall mean that portion of taxes derived and received by the City and legally available for unrestricted use by the City's general fund from the imposition of the Bradley Burns Uniform Local Sales and Use Tax Law, commencing with Section 7200 of the California Revenue and Taxation Code, as amended, arising from operation of the Automobile Dealership conducted on the Property, which is subject to such Sales and Use Tax Law. The amounts due hereunder shall be payable from any source of funds legally available to the City. The determination of the source of funds for the City's payments shall be in the sole and absolute discretion of the City. TBC acknowledges that the City is not making a pledge of Sales Tax Revenues, or any other particular source of funds; the definition of Sales Tax Revenues, as used herein, is used merely as a measure of the amount of payment due hereunder and as a means of computing the City's payment in consideration for the Covenant. It is acknowledged that the City's obligation to make the payments provided herein is specifically contingent upon receipt by the City

of Sales Tax Revenues derived from operation of the Automobile Dealership. The City shall not be obligated to make any payments hereunder if Sales Tax Revenues are not received by the City which are derived from operations of the Automobile Dealership. Further, in no event shall the amount of payments hereunder exceed the amount of Sales Tax Revenues derived from such source in the fiscal year in which such payment is to be made.

C. The City's payments to TBC hereunder shall be made semi-annually, on or before February 1st and August 1st of each year during the payment period described herein. The amount of the payment due on each payment date shall be based upon the total Sales Tax Revenues received by the City (less any State Board of Equalization adjustments that would have modified previous payments to TBC) during the applicable preceding semi-annual period (for sales occurring during the months of April through September - February 1st payment and for the months of October through March - August 1st payment) as confirmed by the report provided to the City by the State Board of Equalization and the sales tax returns filed by TBC for the Automobile Dealership. TBC, in its behalf and in behalf of its successors-in-interest, hereby waives its right to protect against disclosure of the information contained in its sales tax returns (to comply with the terms of this Agreement) and further authorizes the release of such information by the City to the extent necessary to comply with the terms of this Agreement.

D. It is acknowledged and agreed to by the City and TBC that any payments by the City shall be made only for those periods in which TBC is in compliance with the Covenant described herein. Therefore, the failure of the City to make any payments required by this Agreement because of any default by TBC in complying with the Covenant shall not cause the acceleration of any future payments by the City to TBC beyond the date of such default.

Section 3.03. State of California Legislation Impact on City Payment. TBC acknowledges that the State of California legislature has in the past adopted certain legislation which diverted to the State of California a portion of Sales Tax Revenues which would otherwise be payable to the City. TBC acknowledges that it is possible that the State of California legislature may enact similar legislation in the future which would cause a corresponding reduction of and/or delay in the payment of the Sales Tax Revenues and that such reduction will cause TBC a corresponding reduction and/or delay in the payment of the payments due to TBC during such time as such legislation is in effect. Furthermore, TBC acknowledges that it is possible that the legislation described above, or some variant thereof, may be enacted and effective during one or more subsequent times during the term of the Agreement and may materially and negatively impact the amount of Sales Tax Revenues and, accordingly, payments to TBC by the City. The City does not make any representation, warranty or commitment concerning the future actions of the State of California legislature with respect to the allocation of Sales Tax Revenues to the City. TBC agrees that it is undertaking its obligations under this Agreement after having considered, and is expressly assuming the risk of, the possibility of the enactment of future legislation. The City acknowledges that the State of California legislature may provide for the payment to the City of other revenues for the purpose of offsetting any losses in Sales Tax Revenues resulting from the enactment of legislation of the type described in this Section 3.03. The City agrees that, should the California legislature provide for such offsetting revenues, then for purposes of this Agreement and the computation of any payments which may become due to TBC hereunder, the City shall treat any such offsetting revenues which are: (a) indexed to Sales Tax Revenues and offset the loss of Sales Tax Revenues to the City on a dollar for dollar basis; (b)

actually received by the City and (c) not subject to any restrictions on use beyond those which are otherwise generally applicable to sales tax revenues received by California municipalities, to be Sales Tax Revenues within the meaning of this Agreement.

Section 3.04. Designation of City as Point of Sale. TBC shall designate the City as the “point of sale” in all reports to the State Board of Equalization for all Automobile Dealership operations and other business conducted upon the Property.

Section 3.05. TBC Sales Tax Information. TBC acknowledges and agrees that its sales and use tax reporting and payment information may become a public record as a result of the Covenant of TBC contained in Section 3.04 and the payments to be made by the City to TBC (as further described in Section 3.03). TBC hereby authorizes the City to use the sales and use tax reporting and payment information to allow the City to perform its obligations under this Agreement and to disclose such information when, in the City Attorney’s reasonable opinion, such disclosure is required by law.

Section 3.06. Determination of Improperly Allocated Sales Tax Revenues. If at any time during the term of this Agreement, the State Board of Equalization determines that all or any portion of the Sales Tax Revenues received by the City were improperly allocated and/or paid to the City and if the Board of Equalization requires repayment of, offsets against future sales tax payments, or otherwise recaptures from the City those improperly allocated and/or paid Sales Tax Revenues, then TBC shall, within thirty (30) calendar days after written demand from the City, repay all payments (or applicable portions thereof) theretofore paid to TBC which are attributable to such repaid offset or recaptured Sales Tax Revenues. If TBC fails to make such repayment within thirty (30) calendar days after the City’s written demand, then TBC shall be in breach of this Agreement and such obligation shall accrue interest from the date of the City’s original written demand at the then-maximum, legal rate imposed by the California Code of Civil Procedure on prejudgment monetary obligations, compounded monthly, until paid. This Section 3.06 shall survive the expiration or termination of this Agreement.

Section 3.07. Conditions Precedent.

A. The obligation of TBC to construct the Improvements and operate the Automobile Dealership is contingent upon satisfaction or written waiver by TBC of each of the following:

1. TBC has secured approval from the City of all plans and specifications for the proposed construction of the Improvements to the Automobile Dealership and has been issued all land use entitlements and a building permit necessary for construction of the Improvements.

2. There is no litigation challenging the validity of any provision of this Agreement or that may have a material adverse effect on the Property, TBC's intended Improvements or use thereof, or the City's payment obligations hereunder.

B. The obligation of the City to make payments to TBC is contingent upon satisfaction or written waiver by the City of each of the following:

1. TBC has secured approval from the City of all plans and specifications for the proposed construction of the Improvements to the Automobile Dealership and has paid all necessary fees to entitle TBC to the issuance of a building permit for consideration of the Improvements.

2. TBC has performed and complied in all material respects with all agreements and covenants required by this Agreement to be performed or complied with by TBC within the time periods required hereunder.

3. There is no litigation challenging this Agreement or the implementation hereof as to which TBC is not providing a defense and indemnity for the City in accordance with Section 5.05 hereof.

ARTICLE IV DEFAULTS AND REMEDIES

Section 4.01. Default. The occurrence of any or all of the following shall constitute a default ("Default") under this Agreement.

- A. TBC's material Default, as hereinafter defined, of the Covenant.
- B. The City's material Default, as hereinafter defined, of Section 3.02 hereof.
- C. The filing of a petition in bankruptcy by or against TBC or appointment of the receiver or trustee for TBC, or an assignment by TBC for the benefit of creditors, or any adjudication that TBC is insolvent by a court, and failure of TBC to cause such petition, appointment or assignment to be removed or discharged within sixty (60) days from the date of such adjudication.

Section 4.02. Cure. In the event of any Default under the terms of this Agreement, the nondefaulting Party shall give written notice to the defaulting Party. The defaulting Party shall commence and diligently thereafter pursue the curing of the Default within thirty (30) days after receipt of notice of such Default; provided, however, if such a cure cannot reasonably be completed within such thirty (30) day period, such failure shall not be a Default so long as such Party promptly commences a cure within the thirty (30) day period and thereafter diligently prosecutes such cure to completion.

Section 4.03. Remedies. Failure to cure, as specified above, shall be a Default hereunder. Nothing herein is intended to limit or restrict whatever specific performance or other equitable remedies either Party may have in accordance with applicable law; provided, however, that notwithstanding any other provision of this Agreement, the City shall not have the remedy of specific performance to enforce TBC's Default of the Covenant, or any portion thereof.

Section 4.04 Rights and Remedies are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties under this Agreement are cumulative and the exercise by any Party of one or more of such rights or remedies shall not preclude the exercise by such Party at the same or different times, of any other rights or remedies for the same default or any other default by another Party.

ARTICLE V
MISCELLANEOUS PROVISIONS

Section 5.01. Compliance With Governmental Requirements. TBC shall carry out the construction of the Improvements and the operation of the Automobile Dealership in conformity with all applicable laws, ordinances, statutes, codes, rules, regulations, orders and decrees of the United States, the State of California, the County of San Bernardino, the City and any other political subdivision in which the Property is located, and of any other political subdivision, agency or instrumentality exercising jurisdiction over the City, TBC or the Property, including all applicable federal, state and local occupation, safety and health laws, rules, regulations and standards, applicable state and labor standards, applicable prevailing wage requirements, development standards (as they apply to the Improvements to the Automobile Dealership); building, plumbing, mechanical and electrical codes, as they apply to the Property and the Improvements to the Automobile Dealership, and all other provisions of the City (as they apply to the Automobile Dealership), and all applicable disabled and handicapped access requirements, including, without the limitation, the Americans With Disabilities Act (42 U.S.C. 12101 et seq.), and the Unruh Civil Rights Act, Civil Code Section 51 et seq. ("Governmental Requirements"). Nothing in this Section 5.01 shall be construed to require TBC to comply with any laws, regulations or standards which would not be applicable in the absence of this Agreement.

Section 5.02. Payment of Prevailing Wages. TBC acknowledges that the City has made no representation, expresses or implied, to TBC or any person associated with TBC regarding whether or not laborers employed relative to the construction and installation of the Improvements on the Property, if any, must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code section 1720 et seq. TBC agrees with the City that TBC shall assume the responsibility and be solely responsible for determining whether or not laborers employed relative to any construction of the Improvements must be paid the prevailing per diem wage rate for their labor classification, as determined by the State of California, pursuant to California Labor Code section 1720 et seq.

TBC, on behalf of itself, its successors and assigns, waives and releases the City from any right of action that may be available to any of them pursuant to California Labor Code sections 1726 and 1781. TBC acknowledges the protections of California Civil Code section 1542 relative to the wavier and release contained in this Section 5.02, which reads as follows:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR

BY INITIALING BELOW, TBC KNOWINGLY AND VOLUNTARILY WAIVES THE PROVISIONS OF CALIFORNIA CIVIL CODE SECTION 1542 SOLELY IN CONNECTION WITH THE WAIVERS AND RELEASES OF THIS SECTION 5.02:

TBC

Additionally, TBC shall indemnify, defend with counsel reasonably acceptable to the City, and hold harmless the City against any claims pursuant to California Labor Code section 1781 arising from this Agreement or the construction or installation of the improvements, in accordance with the terms of this Section 5.02. Notwithstanding any other provision of this Agreement, the City shall not be under any duty to monitor or ensure the compliance of TBC with any State of California labor laws, including, without limitation, prevailing wage laws.

Section 5.03. Notices. All notices under this Agreement shall be given in writing by personal delivery, by certified mail or registered United States Mail, return receipt requested, postage prepaid, or by facsimile, and shall be deemed communicated when received if given by personal delivery or upon receipt or rejection if mailed as provided above or upon receipt by facsimile on a business day during business hours in the location where received, and if not then on the next business day, as the case may be. Mailed notices shall be addressed as set forth below, but either Party may change its address by giving written notice thereof to the other in accordance with the provisions of this Section 5.03.

CITY:

City Manager
City of Redlands
P.O. Box 3005
Redlands, CA 92373

TBC:

Thomas O. Bell
dba: Tom Bell Chevrolet
1139 West Redlands Boulevard
Redlands, CA 92373

Section 5.04. Entire Agreement/Amendment. This Agreement constitutes the entire agreement between the City and TBC concerning the subject matter hereof, and supersedes all prior agreements and understandings whether written or verbal between the Parties regarding the same, including that specific agreement dated October 2, 2012. This Agreement may not be modified or amended except in a writing signed by the Parties.

Section 5.05. Attorneys' Fees. In the event of the bringing of an arbitration, action or suit by a Party to this Agreement against the other Party to this Agreement by reason of any breach of any

of the covenants or agreements or any intentional inaccuracies in any of the representations and warranties on the part of the Party arising out of this Agreement or any other dispute between the Parties concerning this Agreement, then, in that event, the prevailing party in such action or dispute, whether by final judgment or arbitration award, shall be entitled to have and recover of and from the other Party all costs and expenses of suit or claim, including reasonable attorneys' fees. Any judgment, order or award entered in any final judgment or award shall contain a specific provision providing for the recovery of all costs and expenses of suit or claim, including reasonable attorneys' fees (collectively, the "Costs") incurred in enforcing, perfecting and executing such judgment or award. For the purposes of this Section 5.05, Costs shall include, without implied limitation, reasonable attorneys' and experts' fees, costs and expenses incurred in the following: (i) post judgment motions and appeals, (ii) contempt proceedings, (iii) garnishment, levy and debtor and third party examination; (iv) discovery; and (v) bankruptcy litigation. This Section 5.05 shall survive any termination of this Agreement.

Section 5.06. Indemnity.

A. TBC shall defend, (with Counsel reasonably satisfactory to the City) indemnify and hold harmless the City, its elected officials, officers, employees and agents from and against (i) any and all third party claims, losses, proceedings, damages, causes of action, liability, costs and expenses (including reasonable attorneys' fees) arising from or in connection with or caused by any act, omission or negligence of TBC and its contractors, agents and employees in connection with the construction of the Improvements to the Automobile Dealership (other than to the extent arising as a result of the City's negligence or willful misconduct); (ii) any action or proceeding brought by any third party challenging the validity of any provision of, or the entirety of, this Agreement; and (iii) any action commenced by a third party challenging the construction of the Improvements or operation of the Automobile Dealership on the grounds that any permit, license or grant of entitlement for the Improvements should not have been issued or was issued without proper authority or adequate findings. The City shall fully cooperate in the defense of any such actions and shall provide to TBC such documents and records as are relevant to such actions.

B. If a third party files a legal action regarding the City's approval of this Agreement or the pursuit of the activities contemplated by this Agreement, the City may terminate this Agreement on thirty (30) days written notice to TBC of the City's intent to terminate this Agreement, referring to this Section 5.06, without any further obligation to perform the terms of this Agreement and without any liability to TBC resulting from such termination, unless TBC unconditionally agrees to defend and indemnify the City against such third-party legal action as provided in this Section 5.06.

Section 5.07. Police Power. Nothing contained in this Agreement shall be deemed to limit, restrict, amend or modify, or to constitute a waiver or release of, any ordinances, notices, orders, rules, regulations or requirements (now or hereafter enacted or adopted and/or as amended from time to time) of the City or its departments, commissions, agencies and boards and the officers of the City, including without limitation, any general plan or zoning ordinances, or any of the City's duties, obligations, rights or remedies thereunder or pursuant thereto or the general policy powers, rights, privileges and discretion of the City in the furtherance of the public health, welfare and safety of the inhabitants of the City; provided, however, that the City agrees not to take any action to frustrate or hinder the intent or effect of this Agreement.

Section 5.08. No Effect on City's Legislative Authority. Nothing in this Agreement shall limit or restrict the authority of the City Council to take any other actions with respect to the Properties and/or TBC without notice to or consent from TBC, except as may otherwise be expressly provided by applicable law.

Section 5.09. Force Majeure. Time for performance hereunder shall be extended by any period of delay caused by circumstances beyond the reasonable control of the Party claiming the delay despite the Party's diligent efforts, other than financial ability, provided the Party claiming the delay provides written notice to the other Party within a reasonable period following commencement of any such circumstances which circumstances shall include, without limitation, fire/casualty losses; strikes; litigation; unusually severe weather; inability to secure necessary labor, materials, or tools; environmental remediation, including governmental review and processing of environmental remediation; delays of any contractor, subcontractor or supplier; delay caused by the other Party; and acts of God (collectively, "Force Majeure").

Section 5.10. Time of the Essence. Time is of the essence of this Agreement and the Parties' obligations under this Agreement.

Section 5.11. Authority to Execute. The persons executing this Agreement in behalf of TBC warrant and represent that they have the authority to execute this Agreement in behalf of its corporation, partnership or business entity and warrant and represent that they have the authority to bind TBC to the performance of its obligations hereunder.

Section 5.12. Release of City Officials. No elected official, officer, employee or agent of the City shall be personally liable to TBC, or any successors-in-interest of TBC, in the event of any default or breach by the City or for any amount which may become due to TBC or its successors, or on any obligations under the terms of this Agreement. TBC hereby waives and releases any claim it may have against the elected officials, officers, employees and agents of the City with respect to any default or breach by the City or for any amount which may be come due to TBC or its successors, or on any obligations under the terms of this Agreement. TBC makes such release with full knowledge of California Civil Code section 1542, and hereby waives any and all rights thereunder to the extent of this release, if such Civil Code section 1542 is applicable. California Civil Code section 1542 provides as follows:

"A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor."

Section 5.13. Headings. The headings to the sections of this Agreement have been inserted for convenience only and shall not, to any extent, have the effect of modifying, amending or changing the expressed terms and provisions of this Agreement.

Section 5.14. Venue. Any legal action of proceeding concerning this Agreement shall be filed and prosecuted in the Superior Court of the County of San Bernardino, State of California.

Section 5.15. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California, without regard to its conflicts of law principles.

Section 5.16. Successors and Assigns. The provisions of this Agreement shall be binding upon, and inure to the benefit of, the City and TBC and their successors and assigns as the case or context may require.

Section 5.17. No Joint Venture. Nothing contained in this Agreement shall be construed to render the City in any way, or for any purpose, a partner, joint venturer, or associated in any relationship with TBC, nor shall this Agreement be construed to authorize any Party to act as an agent for the other.

Section 5.18. No Third Party Beneficiaries. No provision, term or condition of this Agreement is intended to, nor shall be construed as conferring any benefit to, any third party, person or entity.

Section 5.19. Notice of Recordation. TBC and the City shall execute, and TBC shall cause to be recorded against the Property in the official Records of the County of San Bernardino, a Memorandum of Agreement substantially in the form attached hereto as Exhibit "D."

Section 5.20. Waiver. The waiver by the City or TBC of any breach by the other Party of any term, covenant or condition contained in this Agreement shall not be deemed to be a waiver of such term, covenant or condition or any subsequent breach of the same or any other term, covenant or condition herein contained. Any Party's acceptance of any performance by the other Party after the due date of such performance shall not be deemed to be a waiver by any Party or any preceding breach by the other Party of any term, covenant or condition of this Agreement, regardless of such Party's knowledge of such preceding breach at the time of acceptance of such performance.

Section 5.21. Severability. If any provision of this Agreement shall be declared invalid, inoperative or unenforceable by a final judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability of such provision shall not affect the remaining provisions of this Agreement, which are hereby declared by the City and TBC to be severable from any other provision of that is found by a court to be invalid or unenforceable.

Section 5.22. Counterparts. This Agreement may be executed and acknowledged in multiple counterparts each of which shall be deemed an original, but all of which shall constitute one Agreement, binding on the Parties.

Section 5.23. Interpretation. No inference in favor of or against any Party shall be drawn from the fact that such Party has drafted any part of this Agreement. The Parties have both participated substantially in the negotiation, drafting, and revision of this Agreement, with advice from legal and other counsel and advisers of their own selection. In any action or proceeding to interpret or enforce this Agreement, the finder of fact may refer to any or enforce extrinsic evidence not in direct conflict with any specific provision of this Agreement to determine and give effect to the intention of the Parties.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the date and year first written above.

CITY OF REDLANDS

DICK DEWESE CHEVROLET, dba TOM
BELL CHEVROLET

Pete Aguilar, Mayor

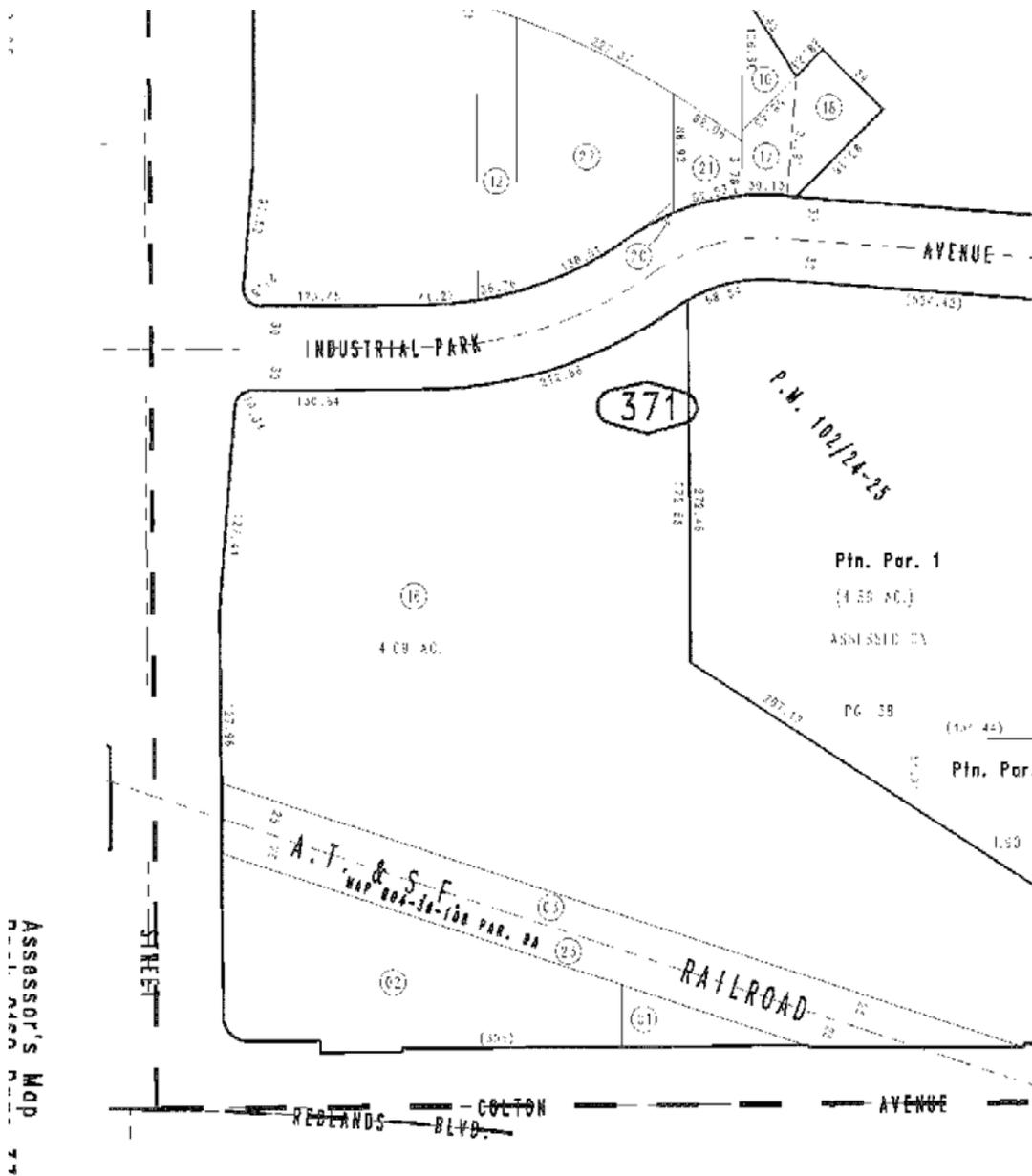
Thomas O. Bell, President

ATTEST:

Sam Irwin, City Clerk

EXHIBIT "A"

APN 0169-371-16



0292
18

EXHIBIT "B"
SCOPE OF DEVELOPMENT

The existing covered new car display area will be enclosed with storefront glass to include it as part of the showroom.

The entire building will be remodeled including making the restrooms handicapped accessible.

The old service writers' "booths" will be torn out and a new area created adjacent to the completely remodeled parts counter and parts area.

The entire dealership will receive new flooring including ceramic flooring throughout the showroom, restrooms, hallways, new customer waiting area and service writers' area and new carpeting elsewhere including sales offices, general offices, and executive offices.

A new air conditioning system will be installed.

New high end suspended ceiling and lighting will be installed throughout the dealership.

The entire interior and exterior will be painted and the ACI metal panels will be erected along the edge of the roof and the new Chevrolet/GM arched "Element" will be placed at the front of the building.

Handicapped ramps will be added at the entrances and the lot will be slurry coated and re-stripped.

New directional signs and dealership signs will be installed and the landscape will be improved.

The old dealership building across the street from the current dealership will be demolished and the lot layout will be reconfigured and will be repaved, striped and landscaped.

EXHIBIT "C"
SCHEDULE OF PERFORMANCE

TBC shall use its good faith and commercially reasonable efforts to secure approval from the City of all plans and specifications for the construction of the Improvements to the Automobile Dealership and have issued a building permit for the Improvements to the Automobile Dealership within six (6) months of execution of the Effective Date of this Agreement.

TBC shall use its good faith and commercially reasonable efforts to complete, or cause the completion of, the Improvements to the Automobile Dealership on the Property within twelve (12) months after TBC has secured approval from the City of all plans and specifications for the construction of the Improvements to the Automobile Dealership and has been issued a building permit for the Improvements to the Automobile Dealership.

TBC acknowledges and agrees the City shall be under no obligation whatsoever to authorize or approve any entitlements or permits for the Improvements despite the requirement to begin and complete all construction and development and undertake all obligations and responsibilities of TBC within the time specified in this Schedule of Performance.

EXHIBIT "D"

RECORDING REQUESTED BY)
AND WHEN RECORDED MAIL TO:)
)
City of the City of Redlands)
Attn: City Clerk)
35 Cajon Street, Ste 2)
P.O. BOX 3005)
Redlands, CA 92373)

(SPACE ABOVE LINE FOR RECORDER'S USE)

**MEMORANDUM OF DEVELOPMENT INCENTIVE
AND OPERATING COVENANT AGREEMENT**

(i) Parties to Memorandum. This Memorandum of Development Incentive and Operating Covenant Agreement ("Memorandum") is dated for identification purposes only as of October 2, 2012, and is entered into by and between the City of Redlands, a general law city ("City") and Dick DeWese Chevrolet, a Mississippi corporation, doing business as Tom Bell Chevrolet ("TBC").

(ii) Parties to Development Incentive and Operating Covenant Agreement. City and TBC have entered into that certain Development Incentive and Operational Covenant Agreement ("Agreement") dated as of October 2, 2012, for the real property described on Exhibit "1" attached hereto and incorporated herein by this reference. All of the terms, provisions and covenants of the Agreement are incorporated herein by reference, and the Agreement and this Memorandum shall be deemed to constitute a single instrument or document.

(iii) Purpose of Memorandum. This Memorandum is prepared for recordation purposes only, and it in no way modifies the terms, conditions, provisions and covenants of the Agreement. In the event of any inconsistency between the terms, conditions, provisions and covenants of this Memorandum and the Agreement, the terms, conditions and covenants of the Agreement shall prevail.

CITY

DICK DEWESE CHEVROLET, a Mississippi Corporation doing business as Tom Bell Chevrolet

By: _____
Pete Aguilar, Mayor

By: _____
Thomas O. Bell, Owner

ATTEST:

Sam Irwin, City Clerk