

RESOLUTION NO.____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, APPROVING A CONSTRUCTION AND CREDIT AGREEMENT BY AND BETWEEN THE CITY OF RIALTO AND PEGASUS LH, LLC.

WHEREAS, Pegasus LH, LLC Partners LLC ("Pegasus LH, LLC") submitted various planning and development applications to the City for the proposed development of a 88,790 square foot warehouse on approximately 4.78 acres of land located near the intersection of Riverside Avenue and Kline Ranch Road within the Agua Mansa Specific Plan (the "Project");

WHEREAS, on May 23, 2018, the City Development Review Committee adopted Negative Declaration (Environmental Assessment Review No. 2017-0082) for the Project.; and

WHEREAS, the Development Review Committee (DRC) approved Precise Plan of Design #2017-0100 for the Project subject to certain Conditions of Approval; and

WHEREAS, the Conditions of Approval for the Projects require Pegasus LH, LLC to construct certain public improvements ("Public Improvements") including but not limited to (i) constructing, reconstructing, and or widening the existing roadway along the Project's Riverside Avenue frontage, (ii) constructing a raised center median in Riverside Avenue (or paying an in-lieu fee), (iii) and other improvements to serve the project; and

WHEREAS, the Public Improvements are identified in the City's various Nexus Studies or have been deemed necessary as interim improvements and are therefore eligible for reimbursements or fee credits in accordance with the provisions of Rialto Municipal Code Section 3.33.100 (entitled "Fee Credits"); and

WHEREAS, Section 3.33.110 of the Rialto Municipal Code (entitled "Construction and Credit Agreements") permits the City Administrator to negotiate and enter into Construction and Credit Agreements with Developers, subject to the approval of the City Council; and

WHEREAS, Section 3.33.100 of the Rialto Municipal Code also provides that a Developer is not entitled to reimbursement for any excess in the costs to construct the public facility over the amount

of the developer's obligation to pay the development impact fee for the type of public facility constructed, unless a separate reimbursement agreement is approved by the City Council; and.

WHEREAS, Pegasus LH, LLC and the City have negotiated the terms of a Construction and Credit Agreement related to the construction of the Public Improvements, a copy of which is attached hereto as Exhibit A and incorporated herein by reference; and

WHEREAS, the construction of the Public Improvements were reviewed and considered as part of the environmental review for the Project; and

WHEREAS, approval of the Construction and Credit Agreement is an administrative or fiscal action by the legislative body that will not result in any additional direct or indirect physical change in the environment than what was already analyzed (Section 15378(b) of the CEQA Guidelines), consequently no further environmental review is warranted.

NOW, THEREFORE, the City Council of the City of Rialto hereby resolves as follows:

- **Section 1.** The foregoing recitals are determined to be true and correct;
- **Section 2**. The City Council hereby finds and determines, based on substantial evidence in the record that Pegasus LH, LLC is entitled to receive credits and or reimbursements from the City for the cost to construct the Public Improvements.
- **Section 3.** The City Council hereby finds and determines, based upon substantial evidence in the record, the analysis and environmental review completed, and the approved Environmental Impact Report and Notice of Determination, that there will be no additional significant or adverse impact on the environment resulting from entering into the Construction and Credit Agreement.
- **Section 4.** The City Council hereby approves the Construction and Credit Agreement by and between Pegasus LH, LLC substantively in form and content to that attached hereto in Exhibit A along with any non-substantive changes as may be mutually agreed upon by the City Administrator (or his duly authorized representative), City Attorney and Pegasus LH, LLC. The final Construction and Credit Agreement, when duly executed and attested, shall be filed in the office of the City Clerk.
- **Section 5.** The City Administrator (or his duly authorized representative) is authorized to implement the Construction and Credit Agreement, take all further actions, and execute all documents

1	referenced therein and/or necessary and appropriate to carry out the Project, including causing the
2	issuance of warrants.
3	Section 6. The City Clerk shall certify to the adoption of this Resolution.
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5	PASSED, APPROVED AND ADOPTED thisth day of, 2018.
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8	Deborah Robertson, Mayor
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10	ATTEST:
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13	BARBARA McGEE, City Clerk
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15	APPROVED AS TO FORM:
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17	FRED GALANTE, ESQ., City Attorney
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1	STATE OF CALIFORNIA) COUNTY OF SAN BERNARDINO) ss
2	CITY OF RIALTO)
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4	I, Barbara McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
5	Resolution No was duly passed and adopted at a regular meeting of the City Council of the City
6	of Rialto held on the day of, 2018.
7	Upon motion of Council Member, seconded by Council Member,
8	the foregoing Resolution No was duly passed and adopted.
9	Vote on the motion:
10	AYES:
11	NOES:
12	ABSENT:
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14	IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
15	Rialto this day of, 2018.
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18	BARBARA MCGEE, CITY CLERK
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EXHIBIT "A"

CONSTRUCTION CREDIT AND REIMBURSEMENT AGREEMENT