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WHEREAS, On December 27, 2011, the City Council approved Resolution 6067, 6068, and 6069 which approved an update to the City’s Development Impact Nexus Fee Study and phased increases of Development Impact Fees (DIF) over a four-year period, beginning on July 1, 2012 through July 1, 2015; and

WHEREAS, on September 10, 2013, the City Council adopted Ordinance No. 1532, which replaced Chapters 3.34, 3.36, 3.40, 3.44, 3.48, 3.52, 3.56, 3.60, 3.64, 3.68, and 3.72 of the Rialto Municipal Code (RMC) and added a new Chapter (3.33) related to the imposition of DIF on new development projects; and

WHEREAS, Ordinance 1532 added Section 3.33.070 of the RMC -- Payment of Development Impact Fees-- modifying the RMC to (1) delay the obligation for residential projects to pay the DIF until “the date of the final inspection and/or prior to the issuance of a Certificate of Occupancy” in compliance with Government Code Section 66007; and, (2) require non-residential projects to pay the DIF on “the date of issuance of the first building permit..., but before the building permit is issued unless otherwise modified by a Construction In-Lieu Agreement, Development Agreement or a Fee Deferral Agreement”; and

WHEREAS, prior to the adoption of Ordinance 1532, the Rialto Municipal Code required all development projects to pay their DIF “prior to the issuance of a building permit,” which permitted Developers to pre-pay their development impacts fees, so long as any required precise plan of design or conditional development permit has been approved and any site or building plan has been submitted to the City for review and approval; and

WHEREAS, Ayres Hotel Rialto (“AHR”) has one development project (Precise Plan of Design 2018-0059) that has been approved by the City, submitted respective building plans for the City’s

1 review and approval; and

2 **WHEREAS,** AHR has formally requested to prepay the Sewage Treatment Facilities
3 Development Impact Fee Development Impact Fee that increases effective on July 1, 2018; and

4 **WHEREAS,** although the Mitigation Fee Act, which governs the payment of DIF, does not
5 prohibit the prepayment of DIF for projects, Section 3.33.070 of the RMC does not clearly state and
6 authorize the prepayment of the DIF outside of a resolution or an agreement.

7 **NOW, THEREFORE,** the City of Rialto does hereby find, determine, and resolve as follows:

8 **Section 1.** The City Council hereby specifically finds that all of the facts set forth in the
9 Recitals of this Resolution are true and correct.

10 **Section 2.** The City hereby approves and accepts the prepayment of the Sewage Treatment
11 Development Impact Fee of a total amount of Sixty-Seven Thousand Five Hundred Dollars and Zero
12 Cents (\$67,500.00) from Ayres Hotel Rialto LLP for Precise Plan of Design 2018-0059.

13 **Section 3.** The prepayment of DIF by Ayres Hotel Rialto for PPD 2018-0059 shall be
14 subject to and conditioned upon AHR pulling a building permit prior to May 29, 2019. In the event
15 AHR fails to commence construction of the projects prior to May 29, 2019, this Resolution shall
16 become null and void and AHR shall be subject to all fee increases and any new Sewage Treatment
17 Development Impact Fee that may be established by the City prior to the date a building permit is
18 issued for the respective projects.

19 **Section 4.** This Resolution shall become effective upon the date of its adoption.

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1 **PASSED APPROVED AND ADOPTED** this 29th day of January, 2019.

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Deborah Robertson, Mayor

5 ATTEST:

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8 _____
BARBARA McGEE, City Clerk

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10 **APPROVED AS TO FORM:**

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FRED GALANTE, City Attorney

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1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**) ss
3 **CITY OF RIALTO**)

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 of
6 Rialto held on the ____ day of _____, 2019.

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 _____, 2019.

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18 **BARBARA MCGEE, CITY CLERK**
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