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RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
RIALTO, CALIFORNIA, APPROVING A CONSTRUCTION FEE
CREDIT AND REIMBURSEMENT AGREEMENT BY AND
BETWEEN THE CITY OF RIALTO AND CDRE HOLDINGS 11
LLC.**

WHEREAS, in 2018, CDRE Holdings 11, LLC, (“Developer”) submitted various planning and development applications (PPD 2018-0021 and EAR 2018-0025) to the City to develop a warehouse consisting 99,999 square foot building on 5.01 acres of land on the north side of Baseline Avenue and east of Palmetto Avenue (known as Assessor Parcel Number 0248-181-32) (the “Project”);

WHEREAS, on September 5, 2018, the Transportation Commission approved the Traffic Study prepared for the Project and set certain conditions of approval; on January 23, 2019, the Development Review Committee approved Precise Plan of Design (PPD 2018-0021) subject to certain Conditions of Approval and Environmental Assessment Review 2018-0025 (“Land Use Entitlements”); and

WHEREAS, following the action of the Development Review Committee, the City filed a Notice of Determination for a Mitigated Negative Declaration (EAR-2018-0025) with the Clerk of the Board; and

WHEREAS, the Conditions of Approval for the Project require Developer to construct certain off-site improvements (“Off-Site Improvements”) including the (i) widening and reconstruction of the existing roadways along the Project’s frontages on the north side of the centerline of Baseline Avenue and (ii) constructing a raised center median along Baseline Avenue; and

WHEREAS, the Off-Site Improvements are listed in the City’s adopted Regional Traffic Nexus Fee Study 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

1 **WHEREAS**, Section 3.33.110 of the Rialto Municipal Code (entitled “Construction and
2 Credit Agreements”) permits the City Administrator to negotiate and enter into Construction and Fee
3 Credit Agreements with Developers, subject to the approval of the City Council; and

4 **WHEREAS**, Section 3.33.100 of the Rialto Municipal Code also provides that a Developer is
5 not entitled to reimbursement for any excess in the costs to construct the public facility over the
6 amount of the developer's obligation to pay the development impact fee for the type of public facility
7 constructed, unless a separate reimbursement agreement is approved by the City Council; and.

8 **WHEREAS**, the City and Developer expect that the cost of constructing the Off-Site
9 Improvements will exceed Developer’s obligation to pay the Regional Traffic Fee and the Street
10 Median Traffic Fee; and

11 **WHEREAS**, Developer and the City have negotiated the terms of a Construction Fee Credit
12 and Reimbursement Agreement related to the construction of the Off-Site Improvements, a copy of
13 which is attached hereto as Exhibit A and incorporated herein by reference; and

14 **WHEREAS**, the construction of the Off-Site Improvements were reviewed and considered as
15 part of the environmental review for the Project (EAR-2018-0025); and

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

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

21 **Section 1.** The foregoing recitals are determined to be true and correct;

22 **Section 2.** The City Council hereby finds and determines, based on substantial evidence in
23 the record that Developer is entitled to receive credits and reimbursements from the City for the costs
24 to construct the Off-Site Improvements.

25 **Section 3.** The City Council hereby finds and determines, based upon substantial evidence
26 in the record, the analysis and environmental review completed as a part of EAR-2018-0025, and the
27 approved Mitigated Negative Declaration and Notice of Determination, that there will be no additional
28

1 significant or adverse impact on the environment resulting from entering into the Construction Fee
2 Credit and Reimbursement Agreement.

3 **Section 4.** The City Council hereby approves the Construction Fee Credit and
4 Reimbursement Agreement by and between CDRE Holdings 11, LLC and the City substantively in
5 form and content to that attached hereto in Exhibit A along with any non-substantive changes as may
6 be mutually agreed upon by the City Administrator (or his duly authorized representative), City
7 Attorney and CDRE Holdings 11, LLC. The final Construction Fee Credit and Reimbursement
8 Agreement, when duly executed and attested, shall be filed in the office of the City Clerk.

9 **Section 5.** The City Administrator (or his duly authorized representative) is authorized to
10 implement the Construction Fee Credit and Reimbursement Agreement, take all further actions, and
11 execute all documents referenced therein and/or necessary and appropriate to carry out the Project,
12 including causing the issuance of warrants.

13 **Section 6.** The City Clerk shall certify to the adoption of this Resolution.
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PASSED, APPROVED AND ADOPTED this ____th day of ____, 2019.

Deborah Robertson, Mayor

ATTEST:

BARBARA McGEE, City Clerk

APPROVED AS TO FORM:

FRED GALANTE, ESQ., City Attorney

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
6 of 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:

13
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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EXHIBIT “A”

CONSTRUCTION FEE CREDIT AND REIMBURSEMENT AGREEMENT