

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS AUTHORIZING THE USE OF THE FUNDS DRAWN FROM THE \$3,000,000 IRREVOCABLE LETTER OF CREDIT (ILOC) RELATED TO THE ARISTA PROJECT AS AN ADVANCE OF THE PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION'S DEBT REIMBURSEMENT PAYMENTS TO THE CITY.

WHEREAS, On July 24, 2012, the City of Pflugerville (City) and Arista Data Centers, LLC (Arista) entered into an Economic Development Agreement (EDA) to construct a data center within the City (Arista Project); and

WHEREAS, In accordance with the EDA, Arista provided the City with a \$3,000,000 Irrevocable Letter of Credit (ILOC) in the event Arista defaulted on its obligations in the EDA; and

WHEREAS, On September 5, 2012, the City and the Pflugerville Community Development Corporation (PCDC) entered into an Economic Development Reimbursement & Refund Agreement (Refund Agreement) to reimburse the City its expenses incurred in connection with debt associated with the City's portion of the Arista Project; and

WHEREAS, PCDC reimburses the City its expenses incurred in connection with debt associated with the Arista Project in accordance with the Refund Agreement and with other similar agreements with the City; and

WHEREAS, In 2016, Arista defaulted on its obligations in the EDA; and

WHEREAS, The City drew on and collected the \$3,000,000 in July 2016 as the result of Arista's breach of the EDA; and

WHEREAS, On December 28, 2016, PCDC and Typhoon Waterpark of Pflugerville, LLC (Typhoon) entered into an Amended and Restated Water and Adventure Park Ground Lease and Operating Agreement (Lease) which requires PCDC to reimburse Typhoon \$4,500,000 if certain conditions are met; and

WHEREAS, On December 28, 2016, the City, PCDC, and Typhoon entered into a Texas Typhoon Investment Reserve Fund Disbursement Agreement (Disbursement Agreement) which requires PCDC to fund a \$4,500,000 Investment Reserve Fund by allocating \$900,000/year to an account held by the City for FY 2017, 2018, 2019, 2020, and 2021; and

WHEREAS, the City considers the \$3,000,000 it obtained under the ILOC as an advance of PCDC's reimbursement of the City's debt under the Refund Agreement and other agreements in order to facilitate PCDC's funding of the \$4,500,000 Investment Reserve Fund; and

WHEREAS, once the \$3,000,000 has been expended, PCDC will be obligated to continue reimbursing the City as required by the Refund Agreement and other agreements; and

WHEREAS, PCDC is required to fund the remaining balance of the \$4,500,000 Investment Reserve Fund.

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL THAT:

1. The above recitals are hereby adopted verbatim as if recited herein.
2. The \$3,000,000 ILOC funds are an advance of PCDC's reimbursement payments under the Refund Agreement and other agreements.
3. For FY 2017, the City will fund PCDC's \$784,388.78 obligations under the Refund Agreement and other agreement.

For FY 2018, the City will fund PCDC's \$780,620.02 obligations under the Refund Agreement and other agreements.

For FY 2019, the City will fund PCDC's \$778,538.78 obligations under the Refund Agreement and other agreements.

For FY 2020, the City will fund \$656,452.42 of PCDC's obligations under the Refund Agreement and other agreements. PCDC will be responsible for funding the remaining \$114,561.36 of its FY 2020 obligations under the Refund Agreement and other agreements.

For FY 2021 and thereafter, PCDC will be responsible for funding all of its obligations under the Refund Agreement and other agreements.

PCDC is required to fund the balance of the \$4,500,000 Investment Reserve Fund.

PASSED AND APPROVED this 24th day of January 2017.

Victor Gonzales, Mayor

ATTEST:

Karen Thompson
City Secretary