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A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2020-0008 ALLOWING THE DEVELOPMENT AND OPERATION OF A 470,000 SQUARE FOOT INDUSTRIAL WAREHOUSE BUILDING ON APPROXIMATELY 23.82 GROSS ACRES OF LAND (APNS: 0264-201-29 & 0264-201-30) LOCATED ON THE EAST SIDE OF PEPPER AVENUE APPROXIMATELY 500 FEET SOUTH OF THE SR-210 FREEWAY WITHIN PLANNING AREA 2 AND PLANNING AREA 3 OF THE PEPPER AVENUE SPECIFIC PLAN.

WHEREAS, the applicant, Howard Industrial Partners, LLC, proposes to develop and operate a 470,000 square foot industrial warehouse building (“Project”) on approximately 23.82 gross acres of land (APNs: 0264-201-29 & 0264-201-30) located on the east side of Pepper Avenue approximately 500 feet south of the SR-210 Freeway (“Site”); and

WHEREAS, the Project will consist of 5,000 square feet of office space on the ground floor, 5,000 square feet of office space on the second floor, and 460,000 square feet of warehouse space with sixty-two (62) dock-high loading doors, which will be located on the south side of the building; and

WHEREAS, the Site has a zoning designation of Pepper Avenue Specific Plan and the Site's land use designation within the Pepper Avenue Specific Plan is Community Commercial (CC); and

WHEREAS, in conjunction with the Project, the applicant has submitted Specific Plan Amendment No. 2020-0002 (“SPA No. 2020-0002”) to amend the Pepper Avenue Specific Plan, and SPA No. 2020-0002 is necessary to facilitate the Project; and

WHEREAS, the SPA No. 2020-0002 proposes an amended version of the Pepper Avenue Specific Plan with the following components:

- Provision of a new “Light Industrial” land use designation that will allow warehouses and logistics centers as permitted uses; and
- Provision of development standards for the new “Light Industrial” land use designation; and

- Dividing of Planning Area 1 into two (2) Planning Areas: Planning Area 1, encompassing 2.63 acres, and Planning Area 10, encompassing 11.64 acres; and
- Amending the land use designations of Planning Areas 2, 3, and 10 from Community Commercial with a development maximum of 476,650 square feet to the new Light Industrial land use designation with a development maximum of 735,185 square feet, the residential overlay on Planning Area 3 will be preserved in place; and
- Various traffic circulation improvements, such as provisions of new access points and new medians; and
- Various textual and graphic amendments related to the changes listed above; and

WHEREAS, in conjunction with the Project, the applicant has submitted Precise Plan of Design No. 2020-0014 (“PPD No. 2020-0014”) to facilitate the development of a 470,000 square foot industrial warehouse building and related improvements on the Site; and

WHEREAS, on March 8, 2023, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on CDP No. 2020-0008, SPA No. 2020-0002, and PPD No. 2020-0014, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the proposed CDP No. 2020-0008, SPA No. 2020-0002, and PPD No. 2020-0014; and closed the public hearing; and

WHEREAS, on March 8, 2023, the Planning Commission voted 4-0 (1 recusal & 2 vacancies) to recommend denial of CDP No. 2020-0008, SPA No. 2020-0002, and PPD No. 2020-0014 to the City Council; and

WHEREAS, on April 25, 2023, the City Council conducted a duly noticed public hearing, as required by law, on CDP No. 2020-0008, SPA No. 2020-0002, and PPD No. 2020-0014, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony, discussed CDP No. 2020-0008, SPA No. 2020-0002, and PPD No. 2020-0014; and closed the public hearing; and

WHEREAS, all legal prerequisites to the adoption of this Resolution have occurred.

NOW, THEREFORE, the City Council hereby finds, determines, and resolves as follows:

SECTION 1. The City Council hereby specifically finds that all of the facts set forth in the recitals above of this Resolution are true and correct and incorporated herein.

1 **SECTION 2.** Based on substantial evidence presented to the City Council during the public
2 hearing conducted with regard to CDP No. 2020-0008, including written staff reports, verbal
3 testimony, site plans, other documents, and the conditions of approval stated herein, the City Council
4 hereby determines that CDP No. 2020-0008 satisfies the requirements of Section 18.66.020 of the
5 Rialto Municipal Code pertaining to the findings which must be made precedent to granting a
6 conditional development permit, which findings are as follows:

- 7 1. The proposed use is deemed essential or desirable to provide a service or facility
8 which will contribute to the convenience or general well-being of the neighborhood
9 or community; and

10 *This finding is supported by the following facts:*

11 The Site is expansive in size, undeveloped, and covered only by native vegetation. The
12 Project will develop the highest and best use for the Site, in accordance with the proposed
13 Light Industrial (LI) land use designation of the Pepper Avenue Specific Plan.
14 Additionally, the Project will provide employment opportunities within the City.

15 Additionally, the Project is consistent with Goal 2-16 and Goal 2-22 of the Land Use Element
16 of the General Plan, which encourages improved architectural and design quality that is
17 sensitive to the needs of the visitor or resident. The SPA Project will facilitate a development
18 of superior architectural quality. The associated Warehouse Project proposes to incorporate
19 significant wall plane articulation and several other architectural features including reveals,
20 metal brow accents, and glazing. The development will also include a solid concrete screen
21 wall around the entire truck court to screen views and reduce noise pollution.

22 Furthermore, the Project is consistent with Goal 3-1 of the Economic Development Element
23 of the General Plan, which encourages strengthening and diversification of the economic base
24 and employment opportunities, while maintaining a positive business climate.

- 25 2. The proposed use will not be detrimental or injurious to health, safety, or general
26 welfare of persons residing or working in the vicinity; and

27 *This finding is supported by the following facts:*

28 The development of an industrial warehouse building on the Site is consistent with the
proposed Light Industrial (LI) land use designation, which will conditionally permit the
development and operation of industrial warehouse buildings. To the north of the Site is
approximately 14.35 acres of vacant land, and to the east is approximately 8.02 acres of
vacant land. To the south of the Site is water reservoir and well site owned and operated
by West Valley Water District, and to the west, across Pepper Avenue, is approximately
42.3 acres of vacant land. The proposed land use designation of the Site and the properties
to the north is Light Industrial (LI). The Project is consistent with the proposed Light
Industrial (LI) land use designation. As a result of SPA No. 2020-0002, the surrounding

1 area will predominantly be designated for industrial uses, and as a result, there are no
2 sensitive land uses adjacent to or across the street from the project site. The project is not
3 expected to negatively impact any uses with the successful implementation of measures
4 such as landscape buffering, the installation of solid screen walls, and aesthetic building
5 enhancements.

- 6 3. The site for the proposed use is adequate in size, shape, topography, accessibility and
7 other physical characteristics to accommodate the proposed use in a manner
8 compatible with existing land uses; and

9 *This finding is supported by the following facts:*

10 The Site contains approximately 23.82 gross acres, is fairly level, and adjacent to one (1)
11 public street, which will be able to accommodate the proposed use. The Project will have
12 three (3) points of access from Pepper Avenue. The southerly driveway on Pepper Avenue
13 will provide left-in/right-out access for trucks and left-in/right-in/right-out access for
14 passenger vehicles. The middle driveway connected to Pepper Avenue will provide right-
15 in/right-out access for passenger vehicles only, and the northerly driveway connected to
16 Pepper Avenue will provide full access for passenger vehicles only. In addition, the
17 building will have 316 parking spaces, which exceeds the amount required by Chapter
18 18.58 (Off-Street Parking) of the Rialto Municipal Code.

- 19 4. The site has adequate access to those utilities and other services required for the
20 proposed use; and

21 *This finding is supported by the following facts:*

22 The Site will have adequate access to all utilities and services required through main water,
23 electric, sewer, and other utility lines that will be hooked up to the Site. Additionally, the
24 applicant will install a sewer lift station on APN: 0264-201-30, which is part of the Site, to
25 ensure sewer functionality.

- 26 5. The proposed use will be arranged, designed, constructed, and maintained so as it will
27 not be injurious to property or improvements in the vicinity or otherwise be
28 inharmonious with the General Plan and its objectives, of the Amended Pepper
Avenue Plan, or any zoning ordinances, and

This finding is supported by the following facts:

As previously stated, the proposed use is consistent with the proposed Light Industrial (LI)
land use designation of the Pepper Avenue Specific Plan. The design of the Project
includes a solid concrete screen around the entire truck court such that none of the dock
doors will be visible from the public right-of-way, the building will have 316 parking
spaces, and the Project will have a Floor Area Ratio (FAR) of 45.3 percent, all of which
comply with the proposed LI land use designation, the amended Pepper Avenue Specific
Plan, and the City's Design Guidelines. Additionally, a thirty (30) foot wide landscaped

1 setback will be provided along the entire frontage of Pepper Avenue. Landscaping will be
2 abundantly incorporated into the Site, as the landscape coverage for the project is 10.0
3 percent.

- 4 6. Any potential adverse effects upon the surrounding properties will be minimized to
5 every extent practical and any remaining adverse effects shall be outweighed by the
6 benefits conferred upon the community or neighborhood as a whole.

7 *This finding is supported by the following facts:*

8 The Project's effects will be minimized through the implementation of the Conditions of
9 Approval contained herein, and through the implementation of Conditions of Approval
10 imposed by the City Council on the Precise Plan of Design, such as extensive landscaping,
11 solid screen walls, decorative paving, and enhanced architectural features. The
12 development of a high-quality industrial development will provide additional employment
13 opportunities for residents and visitors to the City. The Project will also serve to develop
14 a piece of land, which has remained undeveloped. The Project is consistent with the
15 proposed Light Industrial (LI) land use designation and the designations of the surrounding
16 areas within the Pepper Avenue Specific Plan. The nearby area is predominantly
17 designated for industrial and commercial uses, and as a result, there are no sensitive land
18 uses adjacent to or across the street from the project site. The project is not expected to
19 negatively impact any uses with the successful implementation of measures such as
20 landscape buffering, the installation of solid screen walls, and aesthetic building
21 enhancements. Therefore, any potential adverse effects are outweighed by the benefits
22 conferred upon the community and neighborhood as a whole.

23 **SECTION 3.** A Subsequent Environmental Impact Report (Environmental Assessment
24 Review No. 2020-0010) has been prepared for the proposed Project in accordance with the California
25 Environmental Quality Act (CEQA) and it has been determined that the Project will create
26 unavoidable significant impacts to air quality and greenhouse gas emissions. On April 25, 2023, the
27 City Council adopted the Final Subsequent Environmental Impact Report prepared for the Project.

28 **SECTION 4.** The City Council approves CDP No. 2020-0008, in accordance with the plans
and application on file with the Planning Division, subject to the following conditions:

1. The approval is granted allowing the development and operation of a 470,000 square foot
industrial warehouse building on approximately 23.82 gross acres of land (APNs: 0264-
201-29 & 0264-201-30) located on the east side of Pepper Avenue approximately 500 feet
south of the SR-210 Freeway, as shown on the plans attached as Exhibit A and as
approved by the City Council. If the Conditions of Approval specified herein are not
satisfied or otherwise completed, the project shall be subject to revocation.

2. City inspectors shall have access to the site to reasonably inspect the site during normal working hours to assure compliance with these conditions and other codes.
3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (collectively, the "City Parties"), from any and all claims, demands, law suits, writs of mandamus, and other actions and proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolutions procedures (including, but not limited to arbitrations, mediations, and other such procedures), (collectively "Actions"), brought against the City, and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, the any action of, or any permit or approval issued by, the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City), for or concerning the Project (collectively, the "Entitlements"), whether such Actions are brought under the California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation, or any decision of a court of competent jurisdiction. This condition to indemnify, protect, defend, and hold the City harmless shall include, but not be limited to (i) damages, fees and/or costs awarded against the City, if any, and (ii) cost of suit, attorneys' fees and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by applicant, Property owner, or the City and/or other parties initiating or bringing such proceeding (collectively, subparts (i) and (ii) are the "Damages"). Notwithstanding anything to the contrary contained herein, the Applicant shall not be liable to the City Parties under this indemnity to the extent the Damages incurred by any of the City Parties in such Action(s) are a result of the City Parties' fraud, intentional misconduct or gross negligence in connection with issuing the Entitlements. The applicant shall execute an agreement to indemnify, protect, defend, and hold the City harmless as stated herein within five (5) days of approval of CDP No. 2020-0008.
4. In accordance with the provisions of Government Code Section 66020(d)(1), the imposition of fees, dedications, reservations, or exactions for this Project, if any, are subject to protest by the applicant at the time of approval or conditional approval of the Project or within 90 days after the date of the imposition of the fees, dedications, reservations, or exactions imposed on the Project.
5. The tenants within the building shall always conduct operations consistent with the environmental analysis contained within the Environmental Impact Report (Environmental Assessment Review No. 2020-0010) adopted for the Project.
6. The property owner(s) and building tenants shall always abide by all operational mitigation measures contained within the Mitigation Monitoring and Reporting Program

1 associated with the Environmental Impact Report (Environmental Assessment Review
2 No. 2020-0010) adopted for the Project.

- 3 7. The applicant shall enter into a Community Benefit Agreement with the City of Rialto
4 within thirty (30) days of the effective date of this Resolution as contemplated by the City
5 Council's adoption of the Statement of Overriding Considerations set forth in Resolution
6 No. ____, and relied upon by the City Council as a material consideration in finding the
7 Significant and Unavoidable Impacts identified in Exhibit B (Section IV) of said
8 Resolution, to be acceptable. The Community Benefit Agreement shall include, but not
9 necessarily be limited to, the following benefits:

- 10 a. A voluntary one-time monetary contribution of \$5,000,000 to the Rialto Unified
11 School District for the specific purpose of funding programs and infrastructure for
12 the Rialto Unified School District.
- 13 b. A voluntary one-time monetary contribution of \$1,000,000 to the National Latina
14 Business Women Association Inland Empire Institute (NLBWA-IE; a regional
15 501 (c)(3) nonprofit organization) to support the success of locally based Inland
16 Empire Latina & Women of Color Entrepreneurs and Small Business owners by
17 providing technical assistance and training programs.
- 18 c. A voluntary one-time monetary contribution to the City of Rialto Police
19 Department in the amount of \$2,500,000 towards the Commercial Enforcement
20 Officer requirements.
- 21 d. A voluntary one-time monetary contribution to the City of Rialto Police
22 Department in the amount of \$2,500,000 to be used towards the construction of a
23 new police station in the City of Rialto.
- 24 e. The execution of three (3) Project Labor Agreements for labor during construction
25 of the Project.
- 26 f. Voluntary donation of 0.26 acres of land (APN: 0264-201-30) for the to-be-built
27 sewer lift station at the southwest corner of the project site which will be donated
28 to the City of Rialto providing a sewer connection for the entire Pepper Avenue
Specific Plan area. The applicant will voluntarily fund and install, at its sole cost
and labor, a sewer lift station on the 0.26 acres of land (APN: 0264-201-30) prior
to Certificate of Occupancy.
- g. A voluntary one-time monetary contribution of \$375,000 towards the construction
of a new traffic signal at the intersection of Pepper Avenue and the northerly
project driveway.
- h. The applicant will hold a job fair in Rialto for staffing needs of the proposed
building.

- 1 8. The Project shall be limited to a maximum of 498 actual passenger car trips and 331 actual
2 truck trips daily, in accordance with Table 11 (Project Trip Generation) of the Traffic
3 Impact Analysis prepared for the Project by EPD Solutions, Inc. and dated January 17,
4 2022.
- 5 9. The applicant, landlord, and/or tenant(s) shall require all inbound truck traffic to access
6 the site via the SR-210 Freeway/Pepper Avenue off-ramps and then south to the southerly
7 project driveway connected to Pepper Avenue. Inbound truck traffic shall not use Pepper
8 Avenue south of the project site to avoid passing by nearby residential areas.
- 9 10. The applicant, landlord, and/or tenant(s) shall require all outbound truck traffic to exit the
10 site via the southerly driveway connected to Pepper Avenue. Truck traffic exiting via the
11 driveway connected to Pepper Avenue shall proceed northbound on Pepper Avenue to the
12 SR-210 Freeway/Pepper Avenue on-ramps. Outbound truck traffic shall not use Pepper
13 Avenue south of the project site to avoid passing by nearby residential areas.
- 14 11. The applicant, landlord, and/or tenant(s) shall ensure that all inbound truck traffic that
15 requires temporary queuing or staging do so on-site. Inbound truck traffic shall not queue
16 or stage on any public street at any time. Activities on-site shall not operate in such a
17 manner that would impact traffic lanes, cause back up (queuing or staging) of vehicles
18 into the public-right-of-way, or create any unsafe conditions. Fire and Police access and
19 passage around trucks queuing or staging on-site shall be feasible at all times and activities
20 shall not block parking areas, access or passage for disabled persons or emergency
21 response vehicles.
- 22 12. The applicant, landlord, and/or tenant(s) shall only park or store trucks and trailers within
23 designated truck/trailer parking spaces within the enclosed truck court and adjacent to the
24 dock doors on the south side of the building. No trucks or trailers shall be parked or stored
25 within any drive-aisles or passenger vehicle parking areas outside of the enclosed truck
26 court at any time.
- 27 13. The landlord and/or tenant(s) shall not store any product, goods, materials, etc. outside of
28 the building at any time, except for trucks, trailers, and vehicles associated with the
operation(s) conducted within the building, without prior approval of a separate
Conditional Development Permit in accordance with Chapter 18.104 (Outdoor Storage
Uses) of the Rialto Municipal Code.
14. The privileges granted by the Planning Commission pursuant to approval of this
Conditional Development Permit are valid for one (1) year from the effective date of
approval. If the applicant fails to commence the project within one year of said
effective date, this conditional development permit shall be null and void and any
privileges granted hereunder shall terminate automatically. If the applicant or his or
her successor in interest commence the project within one year of the effective date of
approval, the privileges granted hereunder will continue inured to the property as long
as the property is used for the purpose for which the conditional development permit
was granted, and such use remains compatible with adjacent property uses.

1 15. Approval of CDP No. 2020-0008 will not become effective until the applicant has signed
2 a statement acknowledging awareness and acceptance of the required conditions of
3 approval contained herein.

4 16. In the event, that any operation on the Site is found to be objectionable or incompatible
5 with the character of the City and its environs due to excessive noise, excessive traffic,
6 loitering, criminal activity or other undesirable characteristics including, but not strictly
7 limited to, uses which are or have become offensive to neighboring property or the goals
8 and objectives of the proposed Light Industrial (LI) land use district of the Pepper Avenue
9 Specific Plan and the City's General Plan, the applicant shall address the issues within
10 forty-eight (48) hours of being notified by the City.

11 17. If the applicant fails to comply with any of the conditions of approval placed upon CDP
12 No. 2020-0008, SPA No. 2020-0002, or PPD No. 2020-0014, the Planning
13 Commission may initiate proceedings to revoke the conditional development permit in
14 accordance with the provisions of Sections 18.66.070 through 18.66.090, inclusive, of
15 the Rialto Municipal Code. Conditional Development Permit No. 2020-0008 may be
16 revoked, suspended, or modified in accordance with Section 18.66.070 of the Zoning
17 Ordinance at the discretion of the Planning Commission if:

- 18 a) The use for which such approval was granted has ceased to exist, been
19 subsequently modified, or has been suspended for six (6) months or more;
20 b) Any of the express conditions or terms of such permit are violated;
21 c) The use for which such approval was granted becomes or is found to be
22 objectionable or incompatible with the character of the City and its environs
23 due to excessive noise, excessive traffic, loitering, criminal activity or other
24 undesirable characteristics including, but not strictly limited to uses which
25 are or have become offensive to neighboring property or the goals and
26 objectives of the Light Industrial (LI) land use district of the Pepper Avenue
27 Specific Plan, and the City's General Plan.

28 **SECTION 5.** The Mayor shall sign as to the passage and adoption of this resolution and
thereupon the same shall take effect and be in force.

PASSED, APPROVED AND ADOPTED this 13th day of June, 2023.

DEBORAH ROBERTSON, MAYOR

ATTEST:

BARBARA MCGEE, CITY CLERK

APPROVED AS TO FORM:

ERIC S. VAIL, CITY ATTORNEY

1 STATE OF CALIFORNIA)
2 COUNTY OF SAN BERNARDINO) ss
3 CITY OF RIALTO)
4

5 I, BARBARA MCGEE, City Clerk of the City of Rialto, do hereby certify that the foregoing
6 Resolution No. _____ was duly passed and adopted at a regular meeting of the City Council
7 of the City of Rialto held on the _____ day of _____, 2023.

8 Upon motion of Councilmember _____, seconded by Councilmember
9 _____, the foregoing Resolution No. _____ was duly passed and adopted.

10 Vote on the motion:

11 AYES:

12 NOES:

13 ABSENT:

14 IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of
15 Rialto this _____ day of _____, 2023.
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19 _____
20 BARBARA MCGEE, CITY CLERK
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Exhibit “A”

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Exhibit “B”

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