

1 **RESOLUTION NO. XXXX**

2 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
3 RIALTO, CALIFORNIA APPROVING CONDITIONAL
4 DEVELOPMENT PERMIT NO. 2020-0006 ALLOWING THE
5 DEVELOPMENT AND OPERATION OF A 492,410 SQUARE
6 FOOT INDUSTRIAL WAREHOUSE BUILDING ON
7 APPROXIMATELY 22.49 GROSS ACRES (20.99 NET ACRES)
8 OF LAND (APNS: 0132-181-01, 0132-201-03, 0254-261-14, &
9 0254-261-17) LOCATED AT THE NORTHWEST CORNER OF
10 VALLEY BOULEVARD AND WILLOW AVENUE.

11 **WHEREAS**, the applicant, QR Birtcher Willow Ave Owner, LLC, proposes to develop and
12 operate a 492,410 square foot industrial warehouse building (“Project”) on approximately 22.49
13 gross acres (20.99 net acres) of land (APNs: 0132-181-01, 0132-201-03, 0254-261-14, & 0254-
14 261-17) located at the northwest corner of Valley Boulevard and Willow Avenue (“Site”); and

15 **WHEREAS**, the Project will consist of 5,000 square feet of office space on the ground
16 floor, 5,000 square feet of office space on the second floor, and 482,410 square feet of warehouse
17 space with sixty-two (62) dock-high loading doors, which will be located on the west side of the
18 building; and

19 **WHEREAS**, Pursuant to Ordinance No. 1633, the Project required a Conditional
20 Development Permit, and the applicant agreed to apply for Conditional Development Permit No.
21 2020-0006 (“CDP No. 2020-0006”); and

22 **WHEREAS**, the three (3) northernmost parcels of land within the Site (APN: 0132-201-
23 03, 0254-261-14, & 0254-261-17) contain a general plan land use designation of Business Park
24 (BP) with a Specific Plan Overlay; and

25 **WHEREAS**, in conjunction with the Project, the applicant has submitted General Plan
26 Amendment No. 2020-0001 (“GPA No. 2020-0001”) to change the general plan land use
27 designation of the southernmost parcel of land within the Site (APN: 0132-181-01) from General
28 Commercial (GC) with a Specific Plan Overlay to Business Park (BP) with a Specific Plan
Overlay; and

1 **WHEREAS**, the three (3) northernmost parcels of land within the Site (APN: 0132-201-
2 03, 0254-261-14, & 0254-261-17) contain a zoning designation of Industrial Park (I-P) within the
3 Gateway Specific Plan; and

4 **WHEREAS**, in conjunction with the Project, the applicant has submitted Specific Plan
5 Amendment No. 2020-0001 (“SPA No. 2020-0001”) to change the specific plan zoning
6 designation of the southernmost parcel of land within the Site (APN: 0132-181-01) from Freeway
7 Commercial (F-C) within the Gateway Specific Plan to Industrial Park (I-P) within the Gateway
8 Specific Plan; and

9 **WHEREAS**, in conjunction with the Project, the applicant has submitted Lot Line
10 Adjustment No. 2021-0002 to merge the four (4) parcels of land within the Site into one (1) 20.99
11 net acre parcel of land (“LLA No. 2021-0002”); and

12 **WHEREAS**, in conjunction with the Project, the applicant has submitted Variance No.
13 2020-0001 to allow an increase in the maximum allowable height for the proposed warehouse
14 building from 35 feet to 49 feet (“VAR No. 2020-0001”); and

15 **WHEREAS**, in conjunction with the Project, the applicant submitted Precise Plan of
16 Design No. 2020-0012 (“PPD No. 2020-0012”) to facilitate the development of a 492,410 square
17 foot industrial warehouse building and related improvements on the Site; and

18 **WHEREAS**, on July 27, 2022, the Planning Commission of the City of Rialto conducted
19 a duly noticed public hearing, as required by law, on CDP No. 2020-0006, GPA No. 2020-0001,
20 SPA No. 2020-0001, VAR No. 2020-0001, and PPD No. 2020-0012, took testimony, at which
21 time it received input from staff, the city attorney, and the applicant; heard public testimony;
22 discussed the proposed CDP No. 2020-0006, GPA No. 2020-0001, SPA No. 2020-0001, VAR No.
23 2020-0001, and PPD No. 2020-0012; and closed the public hearing; and

24 **WHEREAS**, on July 27, 2022, the Planning Commission voted 6-0 (1 vacancy) to
25 recommend denial of CDP No. 2020-0006, GPA No. 2020-0001, SPA No. 2020-0001, VAR No.
26 2020-0001, and PPD No. 2020-0012 to the City Council; and

27 **WHEREAS**, on November 15, 2022, the City Council conducted a duly noticed public
28 hearing, as required by law, on CDP No. 2020-0006, GPA No. 2020-0001, SPA No. 2020-0001,

1 VAR No. 2020-0001, and PPD No. 2020-0012, took testimony, at which time it received input
2 from staff, the city attorney, and the applicant; heard public testimony, discussed CDP No. 2020-
3 0006, GPA No. 2020-0001, SPA No. 2020-0001, VAR No. 2020-0001, and PPD No. 2020-0012;
4 and closed the public hearing; and

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

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

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

9 **SECTION 2.** Based on substantial evidence presented to the City Council during the public
10 hearing conducted with regard to CDP No. 2020-0006, including written staff reports, verbal
11 testimony, site plans, other documents, and the conditions of approval stated herein, the City Council
12 hereby determines that CDP No. 2020-0006 satisfies the requirements of Section 18.66.020 of the
13 Rialto Municipal Code pertaining to the findings which must be made precedent to granting a
14 conditional development permit, which findings are as follows:

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

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

19 The Site is expansive in size, developed with several small structures, under-developed in
20 terms of physical improvements, and has been used as a storage yard for trucks, trailers,
21 and various types of materials for many years. The Project will develop the highest and
22 best use for the Site, in accordance with the proposed Industrial Park (I-P) zone of the
Gateway Specific Plan. Additionally, the Project will provide employment opportunities
within the City and reduce blight by implementing a use on non-conforming, semi-
improved land.

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

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

26 The development of an industrial warehouse building on the Site is consistent with the
27 proposed Industrial Park (I-P) zone, which conditionally permits the development and
28 operation of industrial warehouse buildings. To the north of the project site is a San
Bernardino County Flood Control Channel and an approximately 0.63-acre stormwater

1 basin, and to the east, across Willow Avenue, is Rialto Fire Station No. 205, an
2 approximately 36,000 square foot industrial building, and approximately 3.39 acres of
3 vacant land. To the south, across Valley Boulevard, are several multi-tenant industrial
4 buildings and the Teamsters Local 63 union hall, and to the west are several industrial
5 developments. The proposed zoning designation of the Site and the zoning designation of
6 the properties to the north and south, as well as some properties to the east and west, is I-
7 P. The Project is consistent with the proposed I-P zoning designation and the surrounding
8 developments. The nearby area is predominantly designated for and developed with
9 industrial uses, and as a result, there are no sensitive land uses adjacent to or across the
10 street from the project site. The project is not expected to negatively impact any uses with
11 the successful implementation of measures such as landscape buffering, the installation of
12 solid screen walls, and aesthetic building enhancements.

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

This finding is supported by the following facts:

12 The Site contains approximately 22.49 gross acres (20.99 net acres), is fairly level, and
13 adjacent to two (2) public streets, which will be able to accommodate the proposed use. The
14 Project will have three (3) points of access – two (2) via Valley Boulevard and one (1) via
15 Willow Avenue. The westerly driveways on Valley Boulevard will provide full access for
16 both trucks and passenger vehicles, the easterly driveway on Valley Boulevard will provide
17 right-in/right-out access for passenger vehicles only, and the driveway connected to
18 Willow Avenue will provide left-in/right-out access only for both trucks and passenger
19 vehicles. In addition, the building will have 289 parking spaces, which exceeds the amount
20 required by Chapter 18.58 (Off-Street Parking) of the Rialto Municipal Code.

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

This finding is supported by the following facts:

21 The Site will have adequate access to all utilities and services required through main water,
22 electric, sewer, and other utility lines that will be hooked up to the Site.

- 23 5. The proposed use will be arranged, designed, constructed, and maintained so as it will
24 not be injurious to property or improvements in the vicinity or otherwise be
25 inharmonious with the General Plan and its objectives, the Gateway Specific Plan, or
26 any zoning ordinances, and

This finding is supported by the following facts:

27 As previously stated, the proposed use is consistent with the proposed BP general plan land
28 use designation and proposed I-P zoning designation. The design of the Project includes a

1 solid concrete screen wall along the truck court such that none of the dock doors will be
2 visible from the public right-of-way, the building will have 289 parking spaces, and the
3 Project will have a Floor Area Ratio (FAR) of 53.9 percent, all of which comply with the
4 proposed BP general plan land use designation, the proposed I-P zone, the Gateway
5 Specific Plan, and the City's Design Guidelines. Additionally, twenty-five (25) foot wide
6 landscaped setbacks will be provided along the entire frontages of Valley Boulevard and
Willow Avenue. Landscaping will be abundantly incorporated into the Site, as the
landscape coverage for the project is 11.6 percent, which exceeds the minimum required
amount of 10.0 percent.

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

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

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

21 **SECTION 3.** An Environmental Impact Report (Environmental Assessment Review No.
22 2020-0007) has been prepared for the proposed Project in accordance with the California
23 Environmental Quality Act (CEQA) and it has been determined that the Project will create
24 unavoidable significant impacts to air quality, greenhouse gas emissions, and transportation/traffic.
25 On November 15, 2022, the City Council adopted the Final Environmental Impact Report prepared
26 for the Project.

27 **SECTION 4.** The City Council approves CDP No. 2020-0006, in accordance with the plans
28 and application on file with the Planning Division, subject to the following conditions:

- 1 1. The approval is granted allowing the development and operation of a 492,410 square foot
2 industrial warehouse building on approximately 22.49 gross acres (20.99 net acres) of
3 land (APNs: 0132-181-01, 0132-201-03, 0254-261-14, & 0254-261-17) located at the
4 northwest corner of Valley Boulevard and Willow Avenue, as shown on the plans attached
5 as Exhibit A and as approved by the City Council. If the Conditions of Approval specified
6 herein are not satisfied or otherwise completed, the project shall be subject to revocation.
- 7 2. City inspectors shall have access to the site to reasonably inspect the site during normal
8 working hours to assure compliance with these conditions and other codes.
- 9 3. The applicant shall indemnify, protect, defend, and hold harmless, the City of Rialto,
10 and/or any of its officials, officers, employees, agents, departments, agencies, and
11 instrumentalities thereof (collectively, the “City Parties”), from any and all claims,
12 demands, law suits, writs of mandamus, and other actions and proceedings (whether
13 legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative
14 dispute resolutions procedures (including, but not limited to arbitrations, mediations,
15 and other such procedures), (collectively “Actions”), brought against the City, and/or
16 any of its officials, officers, employees, agents, departments, agencies, and
17 instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or
18 annul, the any action of, or any permit or approval issued by, the City and/or any of its
19 officials, officers, employees, agents, departments, agencies, and instrumentalities
20 thereof (including actions approved by the voters of the City), for or concerning the
21 Project (collectively, the “Entitlements”), whether such Actions are brought under the
22 California Environmental Quality Act, the Planning and Zoning Law, the Subdivision
23 Map Act, Code of Civil Procedure Chapter 1085 or 1094.5, the California Public
24 Records Act, or any other state, federal, or local statute, law, ordinance, rule, regulation,
25 or any decision of a court of competent jurisdiction. This condition to indemnify,
26 protect, defend, and hold the City harmless shall include, but not be limited to (i)
27 damages, fees and/or costs awarded against the City, if any, and (ii) cost of suit,
28 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. 2020-0006.
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.

- 1 5. Cold storage uses shall not be conducted in any area of the building at any time.
- 2 6. The tenants within the building shall always conduct operations consistent with the
3 environmental analysis contained within the Environmental Impact Report
4 (Environmental Assessment Review No. 2020-0007) adopted for the Project.
- 5 7. The property owner(s) and building tenants shall always abide by all operational
6 mitigation measures contained within the Mitigation Monitoring and Reporting Program
7 associated with the Environmental Impact Report (Environmental Assessment Review
8 No. 2020-0007) adopted for the Project.
- 9 8. The Project shall be limited to a maximum of 1,052 actual passenger car trips and 700
10 actual truck trips daily, in accordance with Table 4-3 (Project Trip Generation Summary)
11 of the Traffic Analysis prepared for the Project by Urban Crossroads, Inc. and dated
12 December 20, 2021.
- 13 9. The applicant, landlord, and/or tenant(s) shall require all inbound truck traffic to access
14 the site via the I-10 Freeway/Riverside Avenue off-ramps, north to Valley Boulevard
15 Street, west to the project driveway connected to Valley Boulevard, or west to Willow
16 Avenue and then north to the project driveway connected to Willow Avenue. Inbound
17 truck traffic shall not use Valley Boulevard west of the project site or Willow Avenue
18 north of the project site to avoid passing by Joe Baca Middle School and nearby residential
19 areas.
- 20 10. The applicant, landlord, and/or tenant(s) shall require all outbound truck traffic to exit the
21 site via the westerly driveway connected to Valley Boulevard or the driveway connected
22 to Willow Avenue. Truck traffic exiting via the driveway connected to Valley Boulevard
23 shall proceed eastbound on Valley Boulevard to Riverside Avenue and then southbound
24 on Riverside Avenue to the I-10 Freeway/Riverside Avenue on-ramps. Truck traffic
25 exiting via the driveway connected to Willow Avenue shall proceed southbound on
26 Willow Avenue to Valley Boulevard, then eastbound on Valley Avenue to Riverside
27 Avenue, and then southbound on Riverside Avenue to the I-10 Freeway/Riverside
28 Avenue on-ramps.
11. The applicant, landlord, and/or tenant(s) shall ensure that all inbound truck traffic that
requires temporary queuing or staging do so on-site. Inbound truck traffic shall not queue
or stage on any public street at any time. Activities on-site shall not operate in such a
manner that would impact traffic lanes, cause back up (queuing or staging) of vehicles
into the public-right-of-way, or create any unsafe conditions. Fire and Police access and
passage around trucks queuing or staging on-site shall be feasible at all times and activities
shall not block parking areas, access or passage for disabled persons or emergency
response vehicles.
12. The applicant, landlord, and/or tenant(s) shall only park or store truck and trailers within
designated truck/trailer parking spaces and adjacent to the dock doors. No trucks or

1 trailers shall be parked or stored within any drive-aisles or passenger vehicle parking areas
2 at any time.

3 13. The landlord and/or tenant(s) shall not store any product, goods, materials, etc. outside of
4 the building at any time, except for trucks, trailers, and vehicles associated with the
5 operation(s) conducted within the building, without prior approval of a separate
6 Conditional Development Permit in accordance with Chapter 18.104 (Outdoor Storage
7 Uses) of the Rialto Municipal Code.

8 14. The privileges granted by the Planning Commission pursuant to approval of this
9 Conditional Development Permit are valid for two (2) years from the effective date of
10 approval. If the applicant fails to commence the project within two years of said
11 effective date, this conditional development permit shall be null and void and any
12 privileges granted hereunder shall terminate automatically. If the applicant or his or
13 her successor in interest commence the project within two years of the effective date of
14 approval, the privileges granted hereunder will continue inured to the property as long
15 as the property is used for the purpose for which the conditional development permit
16 was granted, and such use remains compatible with adjacent property uses.

17 15. Approval of CDP No. 2020-0006 will not become effective until the applicant has signed
18 a statement acknowledging awareness and acceptance of the required conditions of
19 approval contained herein.

20 16. In the event, that any operation on the Site is found to be objectionable or incompatible
21 with the character of the City and its environs due to excessive noise, excessive traffic,
22 loitering, criminal activity or other undesirable characteristics including, but not strictly
23 limited to, uses which are or have become offensive to neighboring property or the goals
24 and objectives of the proposed Industrial Park (I-P) zoning district of the Gateway Specific
25 Plan and the City's General Plan, the applicant shall address the issues within forty-eight
26 (48) hours of being notified by the City.

27 17. If the applicant fails to comply with any of the conditions of approval placed upon CDP
28 No. 2020-0006, GPA No. 2020-0001, SPA No. 2020-0001, VAR No. 2020-0001, or
PPD No. 2020-0012, the Planning Commission may initiate proceedings to revoke the
conditional development permit in accordance with the provisions of Sections
18.66.070 through 18.66.090, inclusive, of the Rialto Municipal Code. Conditional
Development Permit No. 2020-0006 may be revoked, suspended, or modified in
accordance with Section 18.66.070 of the Zoning Ordinance at the discretion of the
Planning Commission if:

- 25 a) The use for which such approval was granted has ceased to exist, been
26 subsequently modified, or has been suspended for six (6) months or more;
- 27 b) Any of the express conditions or terms of such permit are violated;

1 c) The use for which such approval was granted becomes or is found to be
2 objectionable or incompatible with the character of the City and its environs
3 due to excessive noise, excessive traffic, loitering, criminal activity or other
4 undesirable characteristics including, but not strictly limited to uses which
5 are or have become offensive to neighboring property or the goals and
6 objectives of the Industrial Park (I-P) zoning district of the Gateway
7 Specific Plan, and the City's General Plan.

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

10 **PASSED, APPROVED AND ADOPTED** this 15th day of November, 2022.

11
12 _____
13 DEBORAH ROBERTSON, MAYOR

1 **ATTEST:**

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5 BARBARA MCGEE, CITY CLERK

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7 **APPROVED AS TO FORM:**

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10 ERIC S. VAIL, CITY ATTORNEY

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

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I, BARBARA MCGEE, City Clerk of the City of Rialto, do hereby certify that the foregoing Resolution No. _____ was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the _____ day of _____, 2022.

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

Vote on the motion:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Rialto this _____ day of _____, 2022.

BARBARA MCGEE, CITY CLERK

Exhibit "A"

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