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**RESOLUTION NO. 18-**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA, THAT THE CITY COUNCIL APPROVING VARIANCE NO. 2017-0009 TO ALLOW A TEN (10) FOOT INCREASE BEYOND THE 35 FOOT BUILDING ALLOWABLE HEIGHT OF THE I-PID ZONE FOR THE DEVELOPMENT OF A 45 FOOT HIGH INDUSTRIAL WAREHOUSE BUILDING LOCATED AT THE NORTHEAST CORNER OF LOCUST AVENUE AND VINEYARD AVENUE.

WHEREAS, the applicant, CDREP, LLC, proposes to construct a 120,600 square foot distribution warehouse facility on 5.78 acres of land (APNs: 1133-201-01, -02 and -03) located at the northeast corner of Locust Avenue and Vineyard Avenue within the Planned Industrial Development (I-PID) zone of the Rialto Airport Specific Plan (“Site”); and

WHEREAS, the development will be comprised of 8,000 square feet of office space, 112,600 square feet of warehouse space and eighteen (18) dock doors with a truck trailer yard located on the east side of the building (the “Project”); and

WHEREAS, pursuant to Ordinance No. 1394, all uses within the I-PID (planned Industrial Development) zones of the Rialto Airport Specific Plan require Planning Commission and City Council approval of a conditional development permit, and the applicant has complied by filing an application for Conditional Development Permit No. 2017-0035 (CDP No. 2017-0035) for the Project; and

WHEREAS, pursuant to Section 5 Table 9 (Development Standards) of the Rialto Airport Specific Plan, the maximum building height within the I-PID zone shall be 35 feet; and

WHEREAS, pursuant to Section 18.04.170 of the Rialto Municipal Code, building height means the vertical distance from the average finish ground level of the site covered by the building to the highest point of the structure exclusive of chimneys and ventilators; and

WHEREAS, the building height of the Project is 45 feet from the proposed average finished ground level of the Site; and

1 WHEREAS, the building height does not comply with Section 5 Table 9 (Development  
2 Standards) of the Rialto Airport Specific Plan, thus requiring an increase in the maximum  
3 building height within the I-PID zone in order to facilitate the Project; and

4 WHEREAS, pursuant to Section 18.64.030 of the Rialto Municipal Code, the Project  
5 requires the approval of a Variance, and the applicant has agreed to apply for Variance No. 2017-  
6 0009 (“VAR No. 2017-0009”); and

7 WHEREAS, on March 28, 2018, the Planning Commission of the City of Rialto  
8 conducted a duly noticed public hearing, as required by law, on the Project, including CDP No.  
9 2017-0035 and VAR No. 2017-0009, took testimony, at which time it received input from staff,  
10 the city attorney, and the applicant; heard public testimony; discussed the Project, including CDP  
11 No. 2017-0035 and VAR No. 2017-0009; and closed the public hearing; and

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

13 NOW, THEREFORE, BE IT RESOLVED by the Planning Commission of the City of  
14 Rialto as follows:

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

17 SECTION 2. Based on substantial evidence presented to the Planning Commission during  
18 the public hearing conducted with regard to VAR No. 2017-0009, including written staff reports,  
19 verbal testimony, site plan, other documents, and the conditions of approval stated herein, the  
20 Planning Commission hereby determines that VAR No. 2017-0009 satisfies the requirements of the  
21 Section 18.64.020 of the Rialto Municipal Code pertaining to the findings which must be made  
22 precedent to granting a variance. The findings are as follows:

- 23
- 24 1. There are exceptional circumstances or conditions applicable to the property  
25 involved, or to the intended use of the property, that do not apply generally to the  
26 property or class of use in the same vicinity or district.

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

28 The project site is currently restricted to a maximum building height of 35 feet per the  
development standards of the I-PID zone. Nearby properties to the north, south, and

1 west, which are also zoned for industrial uses, are not subject to this height limitation.  
2 Specifically, the property to the north received a variance in 2013 allowing the  
3 development of a separate 47-foot tall warehouse buildings. Meanwhile, the properties to  
4 the southeast and southwest are located within the Employment zone of the Renaissance  
5 Specific Plan, which allows developments built up to 75 feet high. As such, the subject  
6 property is subject to conditions that do not apply to property in the same vicinity and  
7 zoning district.

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2. This variance is necessary for the preservation and enjoyment of a substantial property right of the applicant as possessed by other property owners in the same vicinity and district.

*This finding is supported by the following facts:*

The proposed development offers the highest and best use of the property under the current zoning. However, in order to develop a viable warehouse building that allows for the installation of the latest technologies and equipment used by logistics companies, a building height in excess of 35 feet is required. The variance will further assist the developer in securing a tenant, which otherwise might not be possible. As previously mentioned, the building to north received a variance allowing a building height of 47 feet, and the properties to the southeast and southwest may build up to 75 feet without a variance. Without a variance, a competitive distribution warehouse cannot be constructed on the subject site, giving an unfair advantage to the properties not restricted by a 35-foot building height limitation.

3. The granting of this variance will not be materially detrimental to the public welfare or injurious to the property or improvements in such vicinity and district in which the property is located.

*This finding is supported by the following facts:*

The 10-foot difference in building height is negligible considering the properties adjacent to the southeast and southwest can be developed with buildings up to 75 feet high without a variance. The existing warehouse building to north already stands at 47 feet. The warehouse building is well designed and will not be unsightly or otherwise injurious to the property or improvements in the vicinity or detrimental to public welfare.

4. The proposed use and development are consistent with the General Plan and objectives of the zoning ordinance.

*This finding is supported by the following facts:*

Granting the variance will facilitate the development of a high-quality warehouse building in keeping with General Plan Land Use Element Goal 2-22, which requires the City to “Promote commercial and/or industrial development planned that is well designed, people-

oriented, environmentally sustainable, sensitive to the needs of the visitor or resident, and functionally efficient for its purpose”. Additionally, a precedent has already been set to allow I-PID projects beyond the 35 foot maximum building height, as established by Variance No. 701 for Newcastle Partners.

SECTION 3. Based on the findings and recommended mitigation within the Initial Study, staff determined that the project will not have an adverse impact on the environment and a Mitigated Negative Declaration was prepared. A Notice of Intent to adopt the Mitigated Negative Declaration for the project was published in the local newspaper, and mailed to all property owners within 300 feet of the project site for a public comment period held from February 8, 2018 to March 10, 2018. The Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act (CEQA). The Planning Commission directs the Planning Division to file the necessary documentation with the Clerk of the Board of Supervisors for San Bernardino County, upon final approval of the Project by the City Council.

SECTION 4. The Planning Commission hereby recommends granting VAR No. 2017-0009 to CDREP, LLC, in accordance with the plans and application on file with the Planning Division, subject to the following conditions: :

1. Variance No. 2017-0009 is approved allowing a ten (10) foot increase beyond the 35 foot building allowable height of the I-PID zone for the development of a 45 foot high industrial warehouse building located at the northeast corner of Locust Avenue and Vineyard Avenue, as shown on the plans submitted to the Planning Division on October 11, 2017, and as approved by the Planning Commission.
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 defend, indemnify and hold harmless the City of Rialto, its agents, officers, or employees from any claims, damages, action, or proceeding against the City or its agents, officers, or employees to attack, set aside, void, or annul any approval of the City, its advisory agencies, appeal boards, or legislative body concerning VAR No. 2017-0009. The City will promptly notify the applicant of any such claim, action, or proceeding against the City, and applicant will cooperate fully in the defense.

- 1 4. In accordance with the provisions of Government Code Section 66020(d)(1), the  
2 imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
3 subject to protest by the applicant at the time of approval or conditional approval of  
4 the Project or within 90 days after the date of the imposition of the fees, dedications,  
5 reservations, or exactions imposed on the Project.  
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- 5 5. The total building height for the proposed building shall not exceed 45 feet from the  
6 finish ground level of the site covered by the building to the highest point of the  
7 structure.

7 SECTION 5. The Chairman of the Planning Commission shall sign the passage and  
8 adoption of this resolution and thereupon the same shall take effect and be in force.  
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10 PASSED, APPROVED AND ADOPTED this 28th day of March, 2018.  
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14 JOHN PEUKERT, CHAIR  
15 CITY OF RIALTO PLANNING COMMISSION  
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