

ORDINANCE NO. 16-

**AN ORDINANCE OF THE CITY OF RIALTO APPROVING
A DEVELOPMENT AGREEMENT NO. 16-01 BY AND
BETWEEN THE CITY OF RIALTO AND ALDER
OPPORTUNITY, LLC AND MAKING CERTAIN FINDINGS
THEREIN IN CONNECTION THERWITH.**

WHEREAS, Government Code section 65865 authorizes the City to enter into development agreements with any person having a legal or equitable interest in real property; and

WHEREAS, the City of Rialto (“City”) and Alder Opportunity, a Delaware limited liability company (“Developer”), desire to enter into a statutory development agreement to vest certain land use entitlements and to encourage Developer to undertake the development of approximately 9.25 +/- acres of real property generally located north of Walnut Avenue and west of Alder Avenue (“Site”); and

WHEREAS, Developer proposes to develop the Site as a 200,845 square foot warehouse distribution center along with certain onsite and offsite public improvements, located at the Site in the Employment Zone of the Renaissance Specific Plan (“Project”); and

WHEREAS, Developer has proposed to enter into a development agreement concerning the Project to provide assurances that the Project can proceed without disruption caused by a change in the City's planning policies and requirements, except as provided in a development agreement, which assurance will thereby reduce the actual or perceived risk of planning for and proceeding with development of the Project; and

WHEREAS, the City approved the Renaissance Specific Plan (the “Specific Plan”) in November of 2010 to provide for the orderly growth and quality development of the Site in accordance with the City of Rialto General Plan (the “General Plan”); and

WHEREAS, the City desires the timely, efficient, orderly and proper development of the Project in furtherance of the goals of the General Plan and the Specific Plan; and

WHEREAS, City staff has prepared and the Developer has reviewed and has concurred with the terms and conditions of Development Agreement No. 16-01 as set forth in Exhibit "A," and incorporated herein by this reference (the "Development Agreement"); and

1 **WHEREAS**, the provisions of the proposed Development Agreement are consistent with
2 the General Plan and Specific Plan and contains all necessary elements required by Government
3 Code section 65864 et seq. and Chapter 18.79 of the City of Rialto Municipal Code; and

4 **WHEREAS**, the City and Developer have reached mutual agreement and desire to
5 voluntarily enter into the Development Agreement to facilitate development of the Site subject to
6 conditions and requirements set forth therein; and

7 **WHEREAS**, On May 25, 2016, the Planning Commission adopted Mitigated Negative
8 Declaration (Environmental Assessment No. 16-12) for the Project and authorized staff to file a
9 Notice of Determination with the Clerk of the Board of San Bernardino County, in accordance
10 with the provisions of the California Environmental Quality Act (“CEQA”); and

11 **WHEREAS**, on May 25, 2016 the Planning Commission approved various entitlements
12 related to the Project including Tentative Parcel Map No. 19649 19726 to consolidate eight (8)
13 parcels to one (1) lot (1) 9.35-acre +/- development parcel, Precise Plan Of Design Nos. 2441,
14 and Conditional Development Permit No. 804 (collectively, “Project Entitlements”); and

15 **WHEREAS**, the Notice of Determination for the Addendum was filed on May 26, 2016;
16 and

17 **WHEREAS**, on June 29, 2016, the Planning Commission, held a duly noticed public
18 hearing on the Development Agreement and approved to recommend to the City Council
19 approval of the Development Agreement; and

20 **WHEREAS**, the terms and conditions of the Development Agreement have undergone
21 review by the City Council at a publicly noticed hearing and have been found to be fair, just, and
22 reasonable, and consistent with the General Plan and Renaissance Specific Plan; and

23 **WHEREAS**, the City Council has determined that by entering into the Development
24 Agreement that: (i) the City will promote orderly growth and quality development of the Site in
25 accordance with the goals and policies set forth in the General Plan and the Specific Plan; and (ii)
26 significant benefits will be created for City residents and the public generally from increased
27 employment and expanded services to an underserved area; and

28 **WHEREAS**, the Development Agreement was identified within the Initial Study and is

1 within the scope of the Addendum and Program EIR approved earlier and the Addendum and
2 Program EIR adequately describe the Project and its potential impacts, as well as the impacts
3 potentially resulting from the approval of the Development Agreement for the purposes of
4 CEQA; and

5 **WHEREAS**, the proposed approval of the Development Agreement is deemed to be a
6 statutory exemption from the requirements of CEQA pursuant to Section 21080(b)(1) and Section
7 15268 – Ministerial Action, and the Project for which the Development Agreement is created has
8 been reviewed and encompassed in the Addendum previously approved by the City; thus no
9 further review is required pursuant to CEQA; and

10 **WHEREAS**, all legal prerequisites to the adoption of this Ordinance have occurred.

11 **NOW, THEREFORE**, the City Council does hereby find, determine, and resolve as
12 follows:

13 **Section 1.** The foregoing recitals are true and correct.

14 **Section 2.** Based on the entire record before the City Council, including all written
15 and oral evidence, the City Council hereby finds that the Development Agreement is consistent
16 with the General Plan and the Renaissance Specific Plan because the Development Agreement
17 will result in the development of the Property at the intensity and density allowed under the
18 General Plan and consistent with the restrictions and development standards contained in the
19 Renaissance Specific Plan.

20 **Section 3.** Based on the entire record before the City Council and all written and oral
21 evidence presented, the City Council finds that: (i) the economic interests of Rialto citizens and
22 the public health, safety and welfare will be best served by entering into the Development
23 Agreement; (ii) this Development Agreement is compatible with the uses authorized in, and the
24 regulations prescribed for, the area in which the Property is located; (iii) the Development
25 Agreement is in conformity with the public convenience, general welfare and good land use
26 practice; (iv) the Development Agreement will have an overall positive impact on the health,
27 safety and welfare of the residents of and visitors to the City; (v) the Development Agreement will
28 not adversely affect the orderly development or the preservation of property values for the

1 property it governs or any other property; and (vi) the Development Agreement constitutes a
2 lawful, present exercise of the City's police power and authority under the Development
3 Agreement Act and the Development Agreement Ordinance; and (vii) the Development will be
4 entered into pursuant to and in compliance with the requirements of the Development Agreement
5 Act and the Development Agreement Ordinance.

6 **Section 4.** The Development Agreement is Statutorily Exempt from CEQA pursuant
7 to Section 21080(b)(1) of the Public Resources Code and Section 15268 of the CEQA Guidelines,
8 Ministerial Projects are exempt from the requirements of CEQA. A Notice of Exemption will be
9 filed with the San Bernardino County Clerk.

10 **Section 5.** Based on the entire record before the City Council and all written and oral
11 evidence presented to the City Council, the City Council approves the Development Agreement
12 substantive in form and content as set forth in Exhibit "A," along with other minor, non-
13 substantive changes and modifications to the Development Agreement that may be approved by
14 the City Attorney and City Administrator.

15 **Section 6.** The City Clerk is hereby directed to record the Development Agreement in
16 the Official Records of the County of San Bernardino within ten (10) days of its execution by all
17 parties.

18 **Section 7.** This Ordinance shall be effective thirty (30) days from an after the date of
19 the second reading and final passage and adoption hereof.

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PASSED, APPROVED AND ADOPTED by the City Council of the City of Rialto on
this ____ day of June, 2016.

DEBORAH ROBERTSON, Mayor

ATTEST:

BARBARA McGEE, City Clerk

APPROVED AS TO FORM:

FRED GALANTE, City Attorney

STATE OF CALIFORNIA)
COUNTY OF SAN BERNARDINO) ss
CITY OF RIALTO)

I, Barbara McGee, City Clerk, do hereby certify that the foregoing Ordinance No. _____ was duly passed and adopted at a _____ meeting of the City Council of the City of Rialto held on the _____ day of _____, 2016.

Upon motion of Council Member _____, seconded by Council Member _____, the foregoing Ordinance 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 _____, 2016.

BARBARA MCGEE, City Clerk

Exhibit “A”

Development Agreement