

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, APPROVING DEVELOPMENT AGREEMENT NO. 2018-0001 BY AND BETWEEN THE CITY OF RIALTO AND OAKMONT EL RIVINO, LLC AND MAKING CERTAIN FINDINGS THEREIN RELATED TO THE PROPOSED CONSTRUCTION OF 2,252,867 SQUARE FEET OF DISTRIBUTION WAREHOUSE FACILITIES LOCATED ON A 122.7+/- ACRE SITE, NORTH OF EL RIVINO ROAD AND WEST OF CACTUS AVENUE IN THE M-1 (LIGHT INDUSTRIAL) ZONE OF THE CITY OF RIALTO.

WHEREAS, Rialto Municipal Code section 18.79.040 provides for the City Council of the City of Rialto's (City Council") consideration of development agreements, as permitted by Government Code section 65864 et seq.; and

WHEREAS, the City of Rialto ("City") and OAKMONT EL RIVINO, LLC, 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 122.7 +/- acres of real property generally located on the northwest of El Rivino Road and Cactus Avenue ("Site"); and

WHEREAS, Developer proposes to develop the Site with two warehouse distribution center buildings totaling 2,252,867 square feet along with certain onsite and offsite public improvements ("Project"); and

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

1 **WHEREAS**, City staff has prepared, and the Developer has reviewed and has concurred
2 with the terms and conditions of, the development agreement as set forth in Exhibit “A,” and
3 incorporated herein by this reference with the same force and effect as set forth in full (the
4 “Development Agreement”); and

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

8 **WHEREAS**, the City and Developer have reached mutual agreement and desire to
9 voluntarily enter into the Development Agreement to facilitate development of the Project on the
10 Site, subject to conditions and requirements set forth therein; and

11 **WHEREAS**, the Project was first analyzed pursuant to the California Environmental
12 Quality Act (“CEQA”) in the Rialto Commerce Center Environmental Impact Report (“EIR”),
13 which was certified as adequate and complete by the Rialto City Council on April 12, 2011 in
14 Resolution No. 5965; and

15 **WHEREAS**, on December 20, 2017, the City of Rialto Development Review Committee
16 approved Precise Plan of Design Nos. 2017-0082 and 2017-0083 (“Project PPDs”) for the
17 development of the Project; and

18 **WHEREAS**, in connection with the approval of the Project PPDs and in compliance with
19 CEQA, an Addendum to the Rialto Center Commerce EIR dated December 2017 (“Addendum”)
20 was prepared, which analyzed the Project’s potential environmental impacts associated with the
21 expansion of the scope of allowed warehouse, industrial, logistics and distribution (including
22 fulfillment center) uses; and

23 **WHEREAS**, an addendum to a previously certified EIR is permitted under CEQA when:
24 (1) the project would result in no new significant impacts that were not analyzed in the previously
25 certified EIR, nor would the project cause a substantial increase in the severity of any previously
26 identified environmental impacts; (2) the potential impacts associated with the project would be the
27 same or less than those described in a previously certified EIR; (3) there are no substantial changes
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1 to the circumstances under which the project will be undertaken that would result in new or more
2 severe environmental impacts than previously addressed in the previously certified EIR; and (4) no
3 new information regarding the potential for new or more severe significant environmental impacts
4 were identified since the previously certified EIR was certified as complete; and

5 **WHEREAS**, the Notice of Determination for the Addendum was filed on December 22,
6 2017 and no appeals or legal challenges were made with respect to the Rialto Commerce Center
7 EIR, the Addendum, or the approval of the Project PPDs; and

8 **WHEREAS**, on May 30, 2018, the City of Rialto Planning Commission held a duly noticed
9 public hearing in accordance with the provisions of Government Code Section 65090, et seq.,
10 Government Code Section 65867, and the City of Rialto Municipal Code, to receive and consider
11 all public comment on the proposed Development Agreement, and recommended approval of the
12 Development Agreement to the City Council; and

13 **WHEREAS**, the terms and conditions of the Development Agreement have undergone
14 review by the Planning Commission at a publicly noticed hearing and were found to be fair, just
15 and reasonable, and consistent with the General Plan; and

16 **WHEREAS**, the Planning Commission determined that by entering into the Development
17 Agreement that: (i) the City will promote orderly growth and quality development of the Site in
18 accordance with the goals and policies set forth in the General Plan and the Specific Plan; and (ii)
19 significant benefits will be created for City residents and the public generally from increased
20 employment and expanded services to an underserved area; and

21 **WHEREAS**, the Rialto Commerce Center EIR and the Addendum have been adopted by
22 the City as being in compliance with CEQA and both address the potential environmental impacts
23 of the entire Project; and

24 **WHEREAS**, the Development Agreement does not change or modify the Project as
25 approved by the Project PPDs and as analyzed in the Rialto Commerce Center EIR and the
26 Addendum, and the Rialto Commerce Center EIR and Addendum adequately describes and
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1 analyzes the Project and its potential impacts, including any impacts potentially resulting from the
2 approval of the Development Agreement for the purposes of CEQA; and

3 **WHEREAS**, the consideration and proposed approval of the Development Agreement does
4 not trigger any of the provisions requiring subsequent or supplemental environmental review as set
5 forth in Public Resources Code Section 21166 and Section 15164 of the CEQA Guidelines, and the
6 Development Agreement is exempt from, and not subject to, further review under CEQA; and

7 **WHEREAS**, on June 27, 2018, the City of Rialto City Council held a duly noticed public
8 hearing in accordance with the provisions of Government Code Section 65090, et seq., Government
9 Code Section 65867, and the City of Rialto Municipal Code, to receive and consider all public
10 comment on the proposed Development Agreement.

11 **NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Rialto 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 and
15 oral evidence presented to the City Council, the City Council hereby finds that the Development
16 Agreement is consistent with the General Plan because the Development Agreement will result in
17 the development of the Site at the intensity and density allowed under the zoning designation of M-
18 1 (Light Industrial) of the General Plan and consistent with the restrictions and development
19 standards contained in the Rialto Municipal Code. The Project and Development Agreement also
20 further Goal 3-1 of the General Plan by providing a more diversified economic base and
21 employment opportunity and by maintaining a positive business climate through the increase in
22 roughly 900 jobs with a wide range of skills and wages; Goal 3-3 of the General Plan by attracting
23 and expanding industrial businesses to reduce blighted conditions in the area surrounding the Site;
24 Goal 3-6 by requiring the Developer to provide onsite and offsite improvements to ensure adequate
25 service of essential public services and infrastructure; and Goal 3-7 by upgrading public
26 infrastructure with the onsite and offsite improvements surrounding the Site.

27 **Section 3.** Based on the entire record before the City Council and all written and oral
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1 evidence presented to the City Council, the City Council finds that: (i) the economic interests of
2 Rialto citizens and the public health, safety and welfare will be best served by entering into the
3 Development Agreement; (ii) this Development Agreement is compatible with the uses authorized
4 in, and the regulations prescribed for, the area in which the Site is located; (iii) the Development
5 Agreement is in conformity with the public convenience, general welfare and good land use
6 practice; (iv) the Development Agreement will have an overall positive impact on the health, safety
7 and welfare of the residents of and visitors to the City; (v) the Development Agreement will not
8 adversely affect the orderly development or the preservation of property values for the property it
9 governs or any other property; and (vi) the Development Agreement constitutes a lawful, present
10 exercise of the City's police power and authority under the Development Agreement Act and the
11 Development Agreement Ordinance; and (vii) the Development will be entered into pursuant to and
12 in compliance with the requirements of the Development Agreement Act and the Development
13 Agreement Ordinance.

14 **Section 4.** The environmental impacts of the proposed Development Agreement and the
15 Project have been fully analyzed in the Rialto Commerce Center EIR and the Addendum, and the
16 consideration and approval of the Development Agreement does not trigger any of the provisions
17 requiring subsequent or supplemental environmental review as set forth in Public Resources Code
18 Section 21166 and CEQA Guidelines Section 15164. Therefore the Development Agreement is
19 exempt from, and not subject to, further environmental review under CEQA.

20 **Section 5.** Based on the entire record before the City Council and all written and oral
21 evidence presented to the City Council, the City Council hereby approves the Development
22 Agreement as set forth in Exhibit "A."

23 **Section 6.** If any provision of this Ordinance is held invalid, such invalidity shall not
24 affect the remaining provisions of this Ordinance, which shall remain in effect absent the provision
25 held to be invalid, and to this end, the provisions of this Ordinance are declared to be severable.

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Section 7. The City Clerk shall certify to the adoption of this Ordinance and cause the same to be published in the local newspaper, and the same shall take effect thirty (30) days after its date of adoption.

PASSED, APPROVED AND ADOPTED this 26th day of June, 2018.

DEBORAH ROBERTSON, Mayor

ATTEST:

BARBARA A. McGEE, City Clerk

APPROVED AS TO FORM:

FRED GALANTE, City Attorney

1 **STATE OF CALIFORNIA**)
2 **COUNTY OF SAN BERNARDINO**) ss
3 **CITY OF RIALTO**)
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5 I, Barbara A. McGee, City Clerk of the City of Rialto, do hereby certify that the foregoing
6 Ordinance No. _____ was duly passed and adopted at a regular meeting of the City Council of
7 the
8 City of Rialto held on the ____ day of _____, 2018.

9 Upon motion of Council Member _____, seconded by Council Member
10 _____, the foregoing Ordinance No. _____ was duly passed and adopted.

11 Vote on the motion:

12 AYES:

13 NOES:

14 ABSENT:
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16 **IN WITNESS WHEREOF**, I have hereunto set my hand and the Official Seal of the City
17 of Rialto this ____ day of _____, 2018.
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20 _____
21 BARBARA A. McGEE, City Clerk
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