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**RESOLUTION NO. 18-XX**

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF RIALTO, CALIFORNIA, APPROVING VARIANCE NO. 2018-0002 TO INCREASE THE MAXIMUM BUILDING HEIGHT FROM 35 FEET TO 44 FEET OF A 74,466 SQUARE FOOT WAREHOUSE BUILDING ON 3.72 GROSS ACRES OF LAND (APN: 0132-191-15) LOCATED ON THE SOUTH SIDE OF VALLEY BOULEVARD APPROXIMATELY 330 FEET EAST OF LILAC AVENUE WITHIN THE INDUSTRIAL PARK (I-P) ZONE OF GATEWAY SPECIFIC PLAN.

WHEREAS, the applicant, CDRE Holdings 12, LLC, proposes to develop a 74,466 square foot warehouse building (“Development”) on 3.72 gross acres of land (APN: 0132-191-15) located on the south side of Valley Boulevard approximately 330 feet east of Lilac Avenue within the Industrial Park (I-P) zone of the Gateway Specific Plan (“Site”); and

WHEREAS, pursuant to Section 18.35.030A of the Rialto Municipal Code, the maximum building height within the I-P zone shall be 35 feet; and

WHEREAS, the proposed building height of the Development is 44 feet from the finished grade level of the Site; and

WHEREAS, the building height of the Development does not comply with Section 18.35.030A of the Rialto Municipal Code, thus requiring an increase in the maximum building height within the I-P zone in order to facilitate the Development (“Project”); and

WHEREAS, pursuant to Section 18.64.030 of the Rialto Municipal Code, the Project requires the approval of a Variance, and the applicant has agreed to apply for Variance No. 2018-0002 (“VAR No. 2018-0002”); and

WHEREAS, on November 28, 2018, the Planning Commission of the City of Rialto conducted a duly noticed public hearing, as required by law, on VAR No. 2018-0002, took testimony, at which time it received input from staff, the city attorney, and the applicant; heard public testimony; discussed the VAR No. 2018-0002; and closed the public hearing; and

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

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

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

6 SECTION 2. Based on substantial evidence presented to the Planning Commission during  
7 the public hearing conducted with regard to VAR No. 2018-0002, including written staff reports,  
8 verbal testimony, site plan, other documents, and the conditions of approval stated herein, the  
9 Planning Commission hereby determines that VAR No. 2018-0002 satisfies the requirements of the  
10 Section 18.64.020 of the Rialto Municipal Code pertaining to the findings which must be made  
11 precedent to granting a variance. The findings are as follows:

- 12
- 13 1. There are exceptional circumstances or conditions applicable to the property  
14 involved, or to the intended use of the property, that do not apply generally to the  
15 property or class of use in the same vicinity or district.

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

17 Strict enforcement of the maximum building height restriction of 35 feet required by the  
18 I-P zone will prevent the applicant from providing the highest quality design and securing  
19 a tenant and/or buyer for the proposed building. The applicant will construct the  
20 proposed project as a modern industrial building. There is a high demand for buildings  
21 with higher clear ceilings in order to accommodate the storage/racking needs my  
22 industrial users now require. This is due in large part to the rapidly expanding e-  
23 commerce sector. For this reason, the marketplace views existing industrial buildings  
24 with lower clear heights as inferior and often face difficulty competing with higher clear  
25 height buildings. Over time, this requirement for higher clear heights will become more  
26 stringent, rendering existing buildings with lower clear heights potentially obsolete,  
27 thereby increasing the likelihood of extended periods of vacancy.

- 28 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

1 the installation of the latest technologies and equipment used by logistics companies, a  
2 building height in excess of 35 feet is required. The variance will further assist the  
3 developer in securing a tenant, which otherwise might not be possible. As previously  
4 mentioned, a warehouse project to the west recently received a variance allowing a  
5 building height of 47 feet. Without a variance, the applicant cannot construct a  
6 competitive distribution warehouse on the site, thereby giving an unfair advantage other  
7 industrial warehouse/development projects not restricted by the 35-foot building height  
8 limitation.

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

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

13 The 9-foot difference in building height is negligible considering the proposed warehouse  
14 to the west will stand even higher at 47 feet and the motel immediately adjacent to the  
15 west features a tower element that reaches up to 58.8 feet. The warehouse building will  
16 have a high-quality design and will not be unsightly or otherwise injurious to the property  
17 or improvements in the vicinity or detrimental to public welfare.

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

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

21 Granting the variance will facilitate the development of a high-quality warehouse  
22 building in keeping with General Plan Land Use Element Goal 2-22, which requires the  
23 City to “Promote commercial and/or industrial development planned that is well  
24 designed, people-oriented, environmentally sustainable, sensitive to the needs of the  
25 visitor or resident, and functionally efficient for its purpose”. Additionally, a precedent  
26 has already been set to allow I-P projects beyond the 35-foot maximum building height,  
27 as established by Variance No. 2017-0011 for Panattoni Development Company, Inc., as  
28 many warehousing projects require building heights with an interior clearance of at least  
35 feet and an exterior height well above that to shield rooftop equipment.

29 **SECTION 3.** An Initial Study has been prepared for the proposed project in accordance  
30 with the California Environmental Quality Act (CEQA) and it has been determined that any impacts  
31 will be reduced to a level of insignificance and a Mitigated Negative Declaration has been prepared  
32 in accordance with CEQA. The Planning Commission directs the Planning Division to file the  
33 necessary documentation with the Clerk of the Board of Supervisors for San Bernardino County.

1        SECTION 4.    That VAR No. 2018-0002 is granted to CDRE Holdings 12, LLC, in  
2 accordance with the plans and application on file with the Planning Division, subject to the  
3 following conditions:

- 4        1. Variance No. 2018-0002 is approved to increase the maximum building height from 35  
5 feet to 44 feet for a proposed 74,466 square foot warehouse building, as shown on the  
6 plans submitted to the Planning Division on August 15, 2018, and as approved by the  
7 Planning Commission.
- 8        2. City inspectors shall have access to the Site to reasonably inspect the Site during normal  
9 working hours to assure compliance with these conditions and other codes.
- 10       3. The applicant shall defend, indemnify and hold harmless the City of Rialto, its agents,  
11 officers, or employees from any claims, damages, action, or proceeding against the  
12 City or its agents, officers, or employees to attack, set aside, void, or annul any  
13 approval of the City, its advisory agencies, appeal boards, or legislative body  
14 concerning VAR No. 2018-0002. The City will promptly notify the applicant of any  
15 such claim, action, or proceeding against the City, and applicant will cooperate fully  
16 in the defense.
- 17       4. In accordance with the provisions of Government Code Section 66020(d)(1), the  
18 imposition of fees, dedications, reservations, or exactions for this Project, if any, are  
19 subject to protest by the applicant at the time of approval or conditional approval of  
20 the Project or within 90 days after the date of the imposition of the fees, dedications,  
21 reservations, or exactions imposed on the Project.
- 22       5. The Applicant shall complete and abide by all mitigation measures contained within the  
23 Mitigation Monitoring and Reporting Program associated with Environmental  
24 Assessment Review No. 2018-0046 prior to issuance of any Certificate of Occupancy.
- 25       6. The Applicant shall coordinate with the Gabrieleño Band of Mission Indians-Kizh  
26 Nation, prior to the issuance of a grading permit, to allow a Native American Monitor to  
27 be located on-site during all ground disturbances, or as required by the Gabrieleño Band  
28 of Mission Indians-Kizh Nation. The applicant shall provide the Planning Division a  
copy of a contract or other documentation between the applicant and the Gabrieleño  
Band of Mission Indians-Kizh Nation prior to the issuance of a grading permit.

24       SECTION 5.    The Chairman of the Planning Commission shall sign the passage and  
25 adoption of this resolution and thereupon the same shall take effect and be in force.  
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PASSED, APPROVED AND ADOPTED this 28th day of November, 2018.

\_\_\_\_\_  
JOHN PEUKERT, CHAIR  
CITY OF RIALTO PLANNING COMMISSION

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

5 I, Adrianna Martinez, Administrative Assistant of the City of Rialto, do hereby certify that  
6 the foregoing Resolution No. \_\_\_\_ was duly passed and adopted at a regular meeting of the  
7 Planning Commission of the City of Rialto held on the \_\_\_\_th day of \_\_\_\_, 2018.

8 Upon motion of Planning Commissioner\_\_\_\_\_, seconded by Planning Commissioner  
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  
15 of Rialto this \_\_\_\_th day of \_\_\_\_, 2018.  
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19 \_\_\_\_\_  
20 ADRIANNA MARTINEZ, ADMINISTRATIVE ASSISTANT  
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