

MEMORANDUM OF UNDERSTANDING
Land Use Entitlement Processing

This Memorandum of Understanding (“MOU”) is entered into the last day listed below (“Effective Date”), between San Bernardino County (“County”), City of Redlands (“City”) and PR III/MP Redlands Industrial, LLC (“Developer”). The County, City and Developer are collectively referred to herein as the “Parties” or referred to individual as “Party.”

RECITALS

A. Developer is proposing to develop an approximately 380,579 square foot high-cube warehouse distribution facility with associated parking and improvements (“Project”), located on Nevada Street, primarily located in the unincorporated area of San Bernardino County (APNs 0292-041-08 and 0292-41-44) with a de minimis portion of the Project Site located within the City (APN 0292-041-38) (“Property”). The Property is depicted in **Exhibit A** attached hereto and incorporated herein by reference. The portion of the Property located within the City is hereinafter identified as “De Minimis City Property.”

B. As proposed by Developer, the portion of the Project and associated improvements located within the De Minimis City Property include curb, landscaping, and a portion of parking stalls⁰ (collectively identified as “De Minimis Improvements”). Proposals for similar type of improvements are reviewed and acted upon by the City as part of a ministerial action, such as a building permit.

C. Given that a very small portion of the Project is located in the City, the City agrees and concurs that all discretionary land use approvals for the Project are properly within the County’s sole land use jurisdiction and the development of the De Minimis Improvements on the De Minimis City Property will be reviewed and acted upon by the City as part of a ministerial action. In addition, the City acknowledges that the County is the sole lead agency in connection with processing the Project under the California Environmental Quality Act.

D. The Parties desire that the Property be developed in an efficient and timely manner, and in a manner compatible with the surrounding properties. In lieu of annexation of the De Minimis City Property, the City has agreed to accept a one-time sum from the Developer necessary to offset any obligations and municipal services, if any, that may be related to the De Minimis City Property portion of the Project.

E. Each of the jurisdictions will benefit from the development of the Property, as compared to its existing undeveloped condition, in the event the Project is approved.

NOW, THEREFORE, for good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, the Parties hereto agree as follows:

1. INCORPORATION OF RECITALS.

The recitals set forth above are true and correct and incorporated herein by reference.

2. LAND USE AUTHORITY AND APPROVALS.

(a) City and County agree that the County will be the sole permitting authority for all discretionary land use approvals associated with the Project, including, but not limited to, zoning approvals, variances, and issuance of conditional use permits or the like, to the extent any such approvals may be necessary for the entire Property. City and County further agree that all discretionary land use review for the Project is properly within the County's land use jurisdiction and that no land use permit or approval, ministerial or discretionary, will be required by City to implement the Project within County's land use jurisdiction. City acknowledges that the Project's De Minimis Improvements to the De Minimis City Property include curb, landscaping, and a portion of parking stalls only and will be processed by the City via ministerial action, such as by issuance of a building permit. City further acknowledges that no structures associated with the Project will be built within the City's land use jurisdiction and finds that the Project within the De Minimis City Property is consistent with the City's General Plan and zoning code.

(b) The Parties agree that nothing in this MOU precludes the City and County from the proper exercise of its land use or police powers, or constitute a waiver of any lawful discretion under any law regarding the City and County's future determination on Developer's request for Project approvals or permits from the respective jurisdictions.

(c) County will provide City with at least ten (10) days' notice before any public hearing on land use matters and before any discretionary approvals associated with the Property.

3. PAYMENT TO CITY TO COVER MUNICIPAL SERVICES

Developer shall solely be responsible to pay to the City a sum of \$20,000 prior to issuance of building permit on the De Minimis City Property to the "City of Redlands" c/o the Redlands City Treasurer to cover the allocation of costs, if any, for the provision of future emergency, public safety services, and municipal services to the De Minimis City Property. Such payment is exclusive of any costs Developer will be required to pay for the provision of water and sewer from the City.

4. INDEMNIFICATION.

Developer hereby agrees to defend, indemnify, and save harmless the City and County, its City Council and/or Board of Supervisors, commissions, officers, employees and agents, from and against any and all claims, suits, actions, liability, loss, damage, expense, cost (including, without limitation, attorneys' fees, costs and fees of litigation) of every nature, kind or description, which may be brought by a third party against, or suffered or sustained by, the City and/or County, or its City Council and/or Board of Supervisors, commissions, officers, employees and agents, from and against any and all claims, suits, or actions to challenge or void this MOU.

5. GOVERNING LAW AND VENUE.

This MOU shall be governed by the laws of the State of California. The venue for any dispute arising from or related to this MOU, its performance, and its interpretation shall be the Superior Court of California, County of San Bernardino.

6. MODIFICATIONS.

This MOU represents and contains the entire agreement and understanding among the Parties hereto with respect to the subject matter of this MOU, as of the Effective Date, and supersedes any and all prior written and oral agreements and understandings. Any modification of or amendment to this MOU will be effective only if it is signed in writing by all Parties. The Parties shall notify each other at least ten (10) days before making any changes to this MOU and shall cooperate with each other in making any such changes.

7. COUNTERPARTS.

This MOU may be executed in any number of counterparts, each of which so executed shall be deemed to be an original, and such counterparts shall together constitute one and the same MOU. The Parties shall be entitled to sign and transmit an electronic signature of this MOU (whether by facsimile, PDF or other mail transmission), which signature shall be binding on the Party whose name is contained therein. Each Party providing an electronic signature agrees to promptly execute and deliver to the other Party an original signed MOU upon request.

8. INTERPRETATION

This MOU shall be construed as a whole according to its fair meaning, and not strictly for or against any Party. The Parties acknowledge that this MOU documents a negotiated agreement and it shall not be construed or interpreted in favor of any Party due to the fact that one of the Party's attorneys drafted this MOU.

IN WITNESS WHEREOF, the Parties have entered into this Memorandum of Understanding as of the Effective Date.

SAN BERNARDINO COUNTY

By: _____
Dawn Rowe, Chair
Board of Supervisors
Dated:

SIGNED AND CERTIFIED THAT A COPY
OF THIS DOCUMENT HAS BEEN
DELIVERED TO THE CHAIRMAN OF
THE BOARD OF SUPERVISORS

Lynna Monell,
Clerk of the Board of Supervisors

By: _____
(deputy)

CITY OF REDLANDS

By: _____
Eddie Tejada

Its: Mayor

Date: _____

ATTEST:

By: _____
Jeanne Donaldson, City Clerk

PR III/MP Redlands Industrial LLC

By: _____

Its: _____

Date:

Approved as to form:

TOM BUNTON
County Counsel

By: _____
Jason M. Searles
Supervising Deputy County Counsel

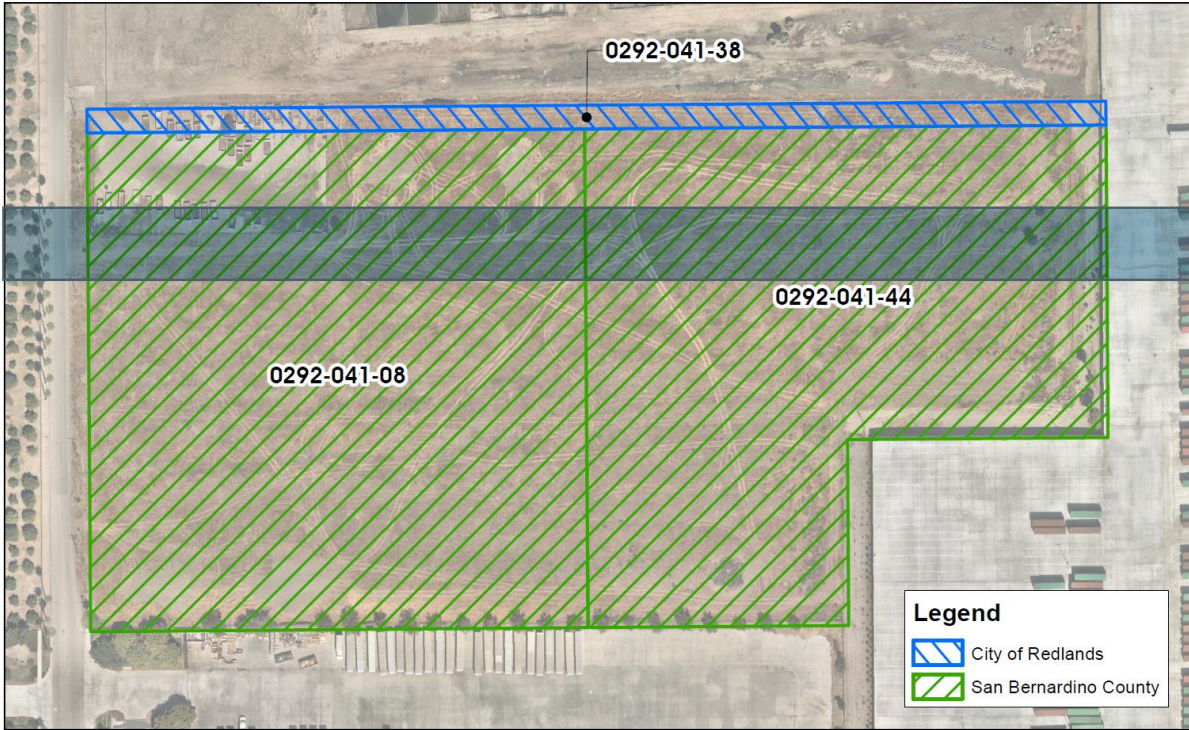
Approved as to form:

By: _____
Yvette Albich-Garcia,
City Attorney

Approved as to form:

By: _____
Developer's Counsel

EXHIBIT A
PROPERTY DESCRIPTION



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