

RESOLUTION NO. 7309

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIALTO, CALIFORNIA, APPROVING CONDITIONAL DEVELOPMENT PERMIT NO. 2017-0009 TO ALLOW THE RE-ESTABLISHMENT AND CONVERSION OF AN EXISTING NON-OPERATIONAL REGIONAL BIOSOLIDS PROCESSING FACILITY INTO A REGIONAL ORGANIC WASTE PROCESSING FACILITY ON 5.7 ACRES OF LAND (APN: 0258-151-24) LOCATED AT 503 EAST SANTA ANA AVENUE WITHIN THE HEAVY INDUSTRIAL (H-IND) ZONE OF THE AGUA MANSA SPECIFIC PLAN.

WHEREAS, the applicant, Rialto Bioenergy Facility, LLC, (“Applicant”) proposes re-establish and convert an existing non-operational biosolids processing facility on one (1) 5.7 acre parcel of land (APN: 0258-151-24) located at 503 East Santa Ana Avenue within the Heavy Industrial (H-IND) zone of the Agua Mansa Specific Plan (“Site”) into a regional organic waste processing facility (“Project”); and

WHEREAS, the Project, will receive and process/recycle up to 1,080 wet tons per day of organic waste, which includes a combination of biosolids, biogas, food waste, and liquid waste, into approximately 13.38 megawatts (MW) of renewable energy in the form of electricity and natural gas and 27 dry tons of re-usable char; and

WHEREAS, the Project will be constructed over two (2) separate phases, and upon completion of the second phase, the Site will be comprised of a 1,500 square foot administration office, a 3,840 square foot material receiving bin, two (2) 3.5 million gallon square foot digester tanks, two (2) drying units, four (4) storage silos, four (4) combined heat and power cogeneration engines, five (5) electrical generators, one (1) pyrolysis chamber, a wastewater treatment basin, and other related accessory equipment, walkways, lighting, fencing, landscaping, and seventeen (17) parking spaces; and

WHEREAS, Pursuant to Table 8 within Section 4.2.2.A. of the Agua Mansa Specific Plan, any use that involves the storage or processing of sewage (organic waste), such as the Project, within the H-IND zone requires a Conditional Development Permit, and the applicant has agreed to apply for a Conditional Development Permit (“CDP No. 2017-0009”); and

1 **WHEREAS**, on February 28, 2018, the Planning Commission of the City of Rialto
2 conducted a duly noticed public hearing, as required by law, on CDP No. 2017-0009, took
3 testimony, at which time it received input from staff, the city attorney, and the applicant; heard
4 public testimony; discussed the proposed CDP No. 2017-0009; and closed the public hearing; and

5 **WHEREAS**, on February 28, 2018, the Planning Commission voted 5-0 (1 absence, 1
6 vacancy) to recommend approval of CDP No. 2017-0009 to the City Council;

7 **WHEREAS**, on March 27, 2018, the City Council of the City of Rialto conducted a duly
8 noticed public hearing, as required by law, on CDP No. 2017-0009, took testimony, at which time
9 it received input from staff, the city attorney, and the applicant; heard public testimony; discussed
10 the proposed CDP No. 2017-0009 and Planning Commission recommendation; and closed the
11 public hearing; and

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

13 **NOW, THEREFORE**, the City Council hereby finds, determines, and resolves as follows:

14 **SECTION 1.** The City Council hereby specifically finds that all of the facts set forth in the
15 recitals above of this Resolution are true and correct and incorporated herein.

16 **SECTION 2.** Based on substantial evidence presented to the City Council during the public
17 hearing conducted with regard to CDP No. 2017-0009, including written staff reports, verbal
18 testimony, site plans, other documents, and the conditions of approval stated herein, the City Council
19 hereby determines that CDP No. 2017-0009 satisfies the requirements of Section 18.66.020 of the
20 Rialto Municipal Code pertaining to the findings which must be made precedent to granting a
21 conditional development permit. The findings are as follows:

- 22 1. The proposed use is deemed essential or desirable to provide a service or facility
23 which will contribute to the convenience or general well-being of the neighborhood
24 or community; and

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

26 The Project involves the processing of organic waste into 13.38 MW of renewable energy.
27 The State of California adopted Assembly Bill 1826 on September 28, 2014, which requires
28 businesses to recycle their organic waste. As of 2018, the availability of organic waste
 processing/recycling facilities in the region is low, and more specifically, in the City of
 Rialto there is currently none in operation. The Project will address the demand for

1 alternative organic waste disposal methods as deemed essential by AB 1826. Additionally,
2 the City of Rialto has historically been a champion of “green” industry businesses, and the
3 Project will continue to promote Rialto as a community that welcomes such businesses.

- 4 2. The proposed use will not be detrimental or injurious to health, safety, or general
5 welfare of persons residing or working in the vicinity; and

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

7 To the north, east, and south of the Site are several hundred acres of vacant land. To the
8 west is the City of Rialto Wastewater Treatment Plant. The zoning of the project site and
9 the properties to the south and west is Heavy Industrial (H-IND) within the Agua Mansa
10 Specific Plan. The properties to the north and east are located within the jurisdiction of the
11 City of Colton. The Project is consistent with the Heavy Industrial (H-IND) zone and the
12 surrounding land uses. The nearby area is predominantly zoned for and developed with
13 heavy industrial uses, and as a result, there are no sensitive land uses near the project site.

14 Additionally, a California Accidental Release Prevention (CalARP) compliant Risk
15 Management Plan (RMP) will be prepared for the Project. The plan will be reviewed and
16 approved by the City Engineer and the Fire Marshal, prior to issuance of a grading permit,
17 to ensure that the project is not a hazard to the public. With the implementation of the
18 CalARP compliant RMP, and the fact that there are no sensitive uses adjacent to or nearby
19 the Site, the Project is not expected to be injurious or detrimental to the public in any way.

20 The Project is designed to provide fully odor-controlled, enclosed handling of biosolids. The
21 facility will include the installation of foul air treatment systems at all stages of the process.
22 These foul air treatment systems will capture, combust, and/or filter foul air emissions prior
23 to any discharge into the atmosphere. Additionally, RBF will install an ammonia scrubber at
24 the on-site wastewater treatment basin further reducing foul air odors. The facility will
25 comply with South Coast Air Quality Management District (SCAQMD) Rule 402, which
26 prohibits the discharge of air that causes injury or annoyance to the health, safety, and comfort
27 of the public.

- 28 3. The site for the proposed use is adequate in size, shape, topography, accessibility and
other physical characteristics to accommodate the proposed use in a manner
compatible with existing land uses; and

This finding is supported by the following facts:

The Site was previously developed into a regional biosolids processing facility in 2009, and
has been non-operation since 2013. The Project involves relative minor modifications to the
facility to facilitate the applicant’s operation, which is of a similar nature to the prior use of
the Site. The Site contains one (1) existing driveway connected to Santa Ana Avenue, which
will be able to accommodate access to and from the Site.

- 1 4. The site has adequate access to those utilities and other services required for the
2 proposed use; and

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

4 The Project will have adequate access to all utilities and services required through main water,
5 electric, sewer, and other utility lines that are already hooked up to the Site.

- 6 5. The proposed use will be arranged, designed, constructed, and maintained so as it will
7 not be injurious to property or improvements in the vicinity or otherwise be
8 inharmonious with the General Plan and its objectives or any zoning ordinances; and

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

10 The Project, as proposed, meets or exceeds the applicable development criteria of the H-
11 IND zone and the design criteria contained in Chapter 18.61 (Design Guidelines) of the
12 Rialto Municipal Code. The proposed land use is consistent with the H-IND zone and the
13 surrounding land uses. The nearby area is predominantly zoned for and developed with
14 heavy industrial uses, and as a result, there are no sensitive land uses near the project site.
15 The project is anticipated to be a benefit to the community and the region, as it will
16 contribute towards the recycling of organic waste from municipal solid waste sources into
17 renewable energy, which the State of California made mandatory with the adoption of
18 Assembly Bill 1826 on September 28, 2014.

19 Additionally, the proposed Project is consistent with Goal 2-34 and Goal 3-1 of the General
20 Plan by achieving waste recycling levels that meet or exceed State mandates and by
21 minimizing or reducing the volume of solid waste that enters local or regional landfills.

- 22 6. Any potential adverse effects upon the surrounding properties will be minimized to
23 every extent practical and any remaining adverse effects shall be outweighed by the
24 benefits conferred upon the community or neighborhood as a whole.

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

26 The Project's effects will be minimized through the implementation of the Conditions of
27 Approval contained herein, and through the implementation of Conditions of Approval
28 imposed by the Development Review Committee during the Precise Plan of Design
29 Process. The re-establishment of a technologically innovative use on the Site, such as the
30 Project, will serve to provide advanced employment opportunities for residents and visitors
31 to the City. The Project will also provide further access to renewable energy from organic
32 waste in compliance with AB 1826, which will serve to encourage, promote, and strengthen
33 sustainability of the community. The Project is designed to provide fully odor-controlled,
34 enclosed handling of organic waste, which will ensure minimization of any adverse effects.
35 Additionally, the Project will also serve to revitalize a developed property, which has
36 remained non-operational for over five (5) years. Therefore, any potential adverse effects
37 are outweighed by the benefits conferred upon the community and neighborhood as a whole.

1 **SECTION 3.** An Environmental Impact Report (Environmental Assessment Review No.
2 2017-0018) has been prepared for the proposed Project in accordance with the California
3 Environmental Quality Act (CEQA) and it has been determined that the Project will create
4 unavoidable significant impacts to air quality and greenhouse gases. On March 27, 2018, the City
5 Council adopted the Final Environmental Impact Report prepared for the Project.

6 **SECTION 4.** The City Council hereby approves CDP No. 2017-0009 to allow re-
7 establishment and conversion of an existing non-operational regional biosolids processing facility on
8 5.7 acres of land (APN: 0258-151-24) located at 503 E. Santa Ana Avenue within the Heavy Industrial
9 (H-IND) zone of the Agua Mansa Specific Plan into a regional organic waste processing facility, in
10 accordance with the plans and application on file with the Planning Division, subject to the following
11 conditions:
12

- 13 1. CDP No. 2017-0009 is approved allowing the re-establishment and conversion of an
14 existing non-operational regional biosolids processing facility on 5.7 acres of land (APN:
15 0258-151-24) located at 503 E. Santa Ana Avenue within the Heavy Industrial (H-IND)
16 zone of the Agua Mansa Specific Plan into a regional organic waste processing facility,
17 as shown on the plans submitted to the Planning Division on November 2, 2017, and as
18 approved by the Planning Commission and City Council. If the Conditions of Approval
19 specified herein are not satisfied or otherwise completed, the Project shall be subject to
20 revocation.
- 21 2. Prior to the issuance of building or grading permits for the proposed development, a
22 Precise Plan of Design shall be approved by the City's Development Review
23 Committee (DRC).
- 24 3. City inspectors shall have access to the site to reasonably inspect the site during normal
25 working hours to assure compliance with these conditions and other codes.
- 26 4. The Applicant shall defend, indemnify and hold harmless the City of Rialto, its agents,
27 officers, or employees from any claims, damages, action, or proceeding against the City
28 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 CDP No.
2017-0009. The City will promptly notify the applicant of any such claim, action, or
proceeding against the City and will cooperate fully in the defense.
5. In accordance with the provisions of Government Code Section 66020(d)(1), the
imposition of fees, dedications, reservations, or exactions for this Project, if any, are

- 1 subject to protest by the applicant at the time of approval or conditional approval of the
2 Project or within 90 days after the date of the imposition of the fees, dedications,
3 reservations, or exactions imposed on the Project.
- 4 6. The Applicant shall complete and abide by all mitigation measures contained within the
5 Mitigation Monitoring and Reporting Program associated with Environmental
6 Assessment Review No. 2017-0018 prior to issuance of any Certificate of Occupancy.
- 7 7. The Applicant shall coordinate with the Gabrieleño Band of Mission Indians-Kizh Nation,
8 prior to the issuance of a grading permit, to allow a Native American Monitor to be located
9 on-site during all ground disturbances, or as required by the Gabrieleño Band of Mission
10 Indians-Kizh Nation.
- 11 8. The Applicant shall abide by all terms and conditions of the Facility Operation Agreement
12 approved by the City Council and the Rialto Utility Authority on July 26, 2016.
- 13 9. The shall abide by all terms and conditions of the Ground Sublease Agreement approved
14 by the City Council and Rialto Utility Authority on March 22, 2016.
- 15 10. The applicant shall obtain all necessary approvals and operating permits from all Federal,
16 State and local agencies prior to the issuance of a Certificate of Occupancy.
- 17 11. The privileges granted by the Planning Commission pursuant to approval of this
18 Conditional Development Permit are valid for one (1) year from the effective date of
19 approval. If the applicant fails to commence the project within one year of said
20 effective date, this conditional development permit shall be null and void and any
21 privileges granted hereunder shall terminate automatically. If the applicant or his or
22 her successor in interest commences the project within one year of the effective date of
23 approval, the privileges granted hereunder will continue inured to the property as long
24 as the property is used for the purpose for which the conditional development permit
25 was granted, and such use remains compatible with adjacent property uses.
- 26 a. Applicant shall install, maintain, and operate surveillance cameras, in
27 coordination with and subject to the approval of the Rialto Police Department, to
28 continuously monitor the site for security purposes.
12. If the applicant fails to comply with any of the Conditions of Approval placed upon
Conditional Development Permit No. 2017-0009, the Planning Commission may
initiate proceedings to revoke the Conditional Development Permit in accordance with
the provisions of sections 18.66.070 through 18.66.090, inclusive, of the Rialto
Municipal Code. Conditional Development Permit No. 2017-0009 shall be revoked,
suspended or modified in accordance with Section 18.66.070 of the Zoning Ordinance
at the discretion of the Planning Commission if:

- 1 a) The use for which such approval was granted has ceased to exist, been
2 subsequently modified or have been suspended for six (6) months or more;
- 3 b) Any of the express conditions or terms of such permit are violated;
- 4 c) The use for which such approval was granted becomes or is found to be
5 objectionable or incompatible with the character of the City and its environs
6 due to noise, loitering, criminal activity or other undesirable characteristics
7 including, but not strictly limited to uses which are or have become
8 offensive to neighboring property or the goals and objectives of the Retail
Commercial (R-C) zone, the Gateway Specific Plan, and the City's General
Plan.

9 **SECTION 5.** The Mayor shall sign the passage and adoption of this resolution and
10 thereupon the same shall take effect and be in force.

11 PASSED, APPROVED AND ADOPTED this 27th day of March, 2018

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15 _____
16 DEBORAH ROBERTSON, MAYOR

17
18 **ATTEST:**

19
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21 _____
22 BARBARA MCGEE, CITY CLERK

23
24 **APPROVED AS TO FORM:**

25 

26 _____
27 FRED GALANTE, CITY ATTORNEY

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

I, BARBARA MCGEE, City Clerk of the City of Rialto, do hereby certify that the foregoing Resolution No. 7309 was duly passed and adopted at a regular meeting of the City Council of the City of Rialto held on the 27th day of March, 2018.

Upon motion of Councilmember Scott, seconded by Councilmember Baca Jr., the foregoing Resolution No. 7309 was duly passed and adopted.

Vote on the motion:

AYES: Mayor Robertson, Councilmembers: Scott, Baca Jr., Trujillo, Carrizales

NOES: None

ABSENT: None

IN WITNESS WHEREOF, I have hereunto set my hand and the Official Seal of the City of Rialto this 30th day of April, 2018.

Barbara McGee

BARBARA MCGEE, CITY CLERK