



Community Development  
Department  
Planning Division

*City of Arts & Innovation*

March 2, 2023

Moses Kim  
3090 Pullman St  
Costa Mesa, CA 92626

SUBJECT: PLANNING CASE PR-2022-001381- VESTING TRACT MAP 38489, DESIGN REVIEW AND VARIANCE  
- 3178, 3188, 3190, 3198, and 3196 JACKSON STREET, WARD 5

Dear Mr. Kim:

The Riverside City Planning Commission, at its meeting of March 2, 2023, approved your development related application which is referenced by the above-noted case number. Attached are the final conditions of approval including 5f, which was added by the Commission at the meeting. In conjunction with this approval, the City Planning Commission, in accordance with the California Environmental Quality Act (CEQA), determined that the Design Review for the multiple family residential project is consistent with the Final EIR for the 2014-2021 Housing Element Update/Housing Implementation Plan certified in December 2017 (SCH No. 2017041039) subject to compliance with the approved Mitigation Monitoring and Reporting Program, and that the Vesting Tentative Tract Map and Variance are exempt from the provisions of CEQA pursuant to Section 15332 (Infill Development) and 15061 (Common Sense) of the CEQA Guidelines. A Notice of Determination and a Notice of Exemption respectively will be filed with the Riverside County Clerk's Office.

The conditions of approval require the applicant to execute an indemnification agreement within 30 days of approval. Please complete the attached agreement and return an original signed copy with the appropriate organizational documents to indicate proper signature authority and a current legal description of the project site to your case planner within 30 days.

There is now a ten-day appeal period ending at 5:00 p.m. on March 13, 2023. If appealed, you will be notified that the case has been scheduled for review by the City Council. If not appealed, the decision of the Planning Commission is final.

Should you have any questions regarding this matter, please contact Veronica Hernandez, Senior Planner, at (951) 826-3965.

Sincerely,

Brian Norton  
Principal Planner

cc: Public Works, Chris Scully

**PLANNING COMMISSION  
APPROVED CONDITIONS**

Planning Commission Meeting Date: March 2, 2023

**PLANNING CASES:** PR-2020-000609 (Vesting Tract Map, Design Review, Variance)

**Case Specific**

**Planning**

1. The subject property shall be developed substantially as described in the text of this report and as shown on the plans on file with this case, except for any specific modifications that may be required by these conditions of approval.
2. Any future modifications to the approved design shall be submitted to the Planning Division for consideration. A separate application and fee may be required.
3. The project shall comply with the applicable mitigation measures of the Final Program Environmental Impact Report (FPEIR) certified for the City's 2014-2021 5<sup>th</sup> Cycle Housing Element (SCH# 2017041039).
4. *Advisory:* Signs shall be permitted in accordance with Chapter 19.620 of the Zoning Code. Any new signs shall be subject to separate review and assessment. A separate sign application, including fees and additional sets of plans, will be necessary prior to sign permit issuance.

*Prior to Map Recordation:*

5. The applicant shall prepare and record Covenants, Conditions, and Restrictions (CC&Rs) and documents to create a Homeowners Association (HOA), subject to approval of the Planning Division and City Attorney's Office. The CC&Rs shall contain the following:
  - a. Establishment of a Homeowner's Association.
  - b. Each buyer shall sign an acknowledgement that he/she has read the Constitution and By-Laws of the HOA and the CC&Rs applying to the development, including any clause pertaining to private driveways.
  - c. Except as provided in California Code Section 66411.7 (otherwise known as Senate Bill 9) and as may be modified in the future, further subdivision of any lots within this map is prohibited.
  - d. The HOA shall maintain the stormwater basins, parkway, and landscape along the street frontages, and open space areas;
  - e. Recorded map shall include the condition for maintenance by approved entity.
  - f. Guest parking shall be clearly marked with signage and reserved for the sole use of guests, to be enforced by the HOA.

*Prior to Grading Permit Issuance:*

6. A 40-scale precise grading plan shall be submitted to the Planning Division and include the following:

- a. Hours of construction and grading activity are limited to between 7:00 a.m. and 7:00 p.m. weekdays and 8:00 a.m. and 5:00 p.m. Saturdays. No construction noise is permitted on Sundays or Federal Holidays;
- b. Compliance with City adopted interim erosion control measures;
- c. Compliance with any applicable recommendations of qualified soils engineer to minimize potential soil stability problems;
- d. Include a note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within pipeline easement; and
- e. Identification of location, exposed height, material, and finish of any proposed retaining walls.

*During Grading and Construction Activities:*

7. Construction and operation activities on the property shall be subject to the City's Noise Code (Title 7), which limits construction noise to 7:00 a.m. to 7:00 p.m. weekdays, and 8:00 a.m. to 5:00 p.m. Saturdays. No construction noise is permitted on Sundays or federal holidays.
8. The project shall comply with all existing State Water Quality Control Board and City storm water regulations, including compliance with NPDES requirements related to construction and operation measures to prevent erosion, siltation, transport of urban pollutants, and flooding.
9. The Construction Contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
10. The Construction Contractor shall locate equipment staging in areas that will create the greatest distance between construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction.
11. To reduce construction related particulate matter air quality impacts of the project, the following measures shall be required:
  - a. The generation of dust shall be controlled as required by the AQMD;
  - b. Trucks hauling soil, dirt or other emissive materials shall have their loads covered with a tarp or other protective cover as determined by the City Engineer;
  - c. The project contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards;
  - d. Sweep streets at the end of the day if visible soil material is carried onto adjacent paved public roads;
  - e. Trucks and other equipment leaving the site shall be washed off;
  - f. Disturbed/loose soil shall be kept moist at all times;

- g. All grading activities shall be suspended when wind speeds exceed 25 miles per hour; and
  - h. A 15 mile per hour speed limit shall be enforced on unpaved portions of the construction site.
12. The applicant shall be responsible for erosion and dust control during construction phases of the project.
13. To reduce diesel emissions associated with construction, construction contractors shall provide temporary electricity to the site to eliminate the need for diesel-powered electric generators or provide evidence that electrical hook ups at construction sites are not cost effective or feasible.

*Prior to Building Permit Issuance:*

14. **Staff Required Landscape and Irrigation Condition:** Plans shall be submitted for Planning staff approval. Separate application and filing fee are required. Design modifications may be required as deemed necessary.
15. **Photometric/Lighting Plan:** An exterior lighting plan shall be submitted to staff for review and approval. A photometric study and manufacturer's cut sheets of all exterior lighting on the building, in the landscaped areas and in the parking-lot shall be submitted with the exterior lighting plan. All on-site lighting shall provide a minimum intensity of one foot-candle and a maximum of ten foot-candles at ground level throughout the areas serving the public and used for parking, with a ratio of average light to minimum light of four to one (4:1). The light sources shall be shielded to minimize off-site glare, shall not direct light skyward and shall be directed away from adjacent properties and public rights-of-ways. If lights are proposed to be mounted on buildings, down-lights shall be utilized. Light poles shall not exceed fourteen (14) feet in height, including the height of any concrete or other base material.
16. **Fences and Walls:** Revise the wall and fence plan such that the plan provided for building permit plan check incorporates the following changes:
- a. All block walls shall be constructed of decorative masonry and include a decorative cap. Exterior facing walls shall include anti-graffiti coating.
  - b. The proposed tubular steel fence at the easterly portion of the site, between Buildings 1 and 2 and Jackson Street, shall have a maximum height of four feet.
  - c. The proposed combination wall along the north and northwesterly property lines, adjacent to the railroad tracks, shall be constructed of split-face block, and include weep holes. Vines shall be planted along the wall.
  - d. The applicant shall work with the City to install a gate or other security feature between the proposed block wall along the southerly property line and the neighboring block wall.

17. **Noise and Construction:** Exterior walls, windows, and glass doors of facades for Buildings 2 through 9 shall follow construction standards indicated in the Exterior Noise and Exterior Façade Acoustical Analysis and Vibration Analysis prepared by Veneklasen Associates on November 1, 2022. Plans included for construction shall include the required STC rating.
18. Roof and building mounted equipment shall be fully screened from the public right-of-way. Screening material shall be integrated with the design of the building and be at least as high as the proposed roof mounted equipment.
19. Ground mounted equipment shall be screened from view on all sides with solid masonry walls or similar permanent structures. Such masonry wall or structure shall be of a neutral color. Screening with wood, chain-link, or similar fencing materials shall not be permitted.
20. Construction plans submitted for Plan Check review shall specify the location, design and color of all domestic water meters, backflow preventers, and all on- and off-site utility cabinets subject to Planning Division and Public Utilities' review and approval. The visibility of such facilities shall be minimized and include use of the smallest equipment possible, be painted green, and include of some form of screening including but not limited to berming, landscaping, and/or installation of a screen wall.
21. Submit three sets of plans depicting the preferred location for above ground utility transformer of capacity to accommodate the planned or speculative uses within the building(s) or subject site. These plans shall be reviewed and approved by the Planning Division and Public Utilities Department - Electric Division prior to the issuance of a building permit. The proposed location of the transformer shall be level, within 100 feet of the customer's service point, accessible to service trucks and in a location where the transformer can be adequately screened from public view, either by buildings or solid masonry walls or other similar permanent structures.

*Prior to Release of Utilities and/or Occupancy:*

22. Install the landscape and irrigation per the approved plans and submit the completed "Certificate of Substantial Completion" (Appendix C of the Water Efficient Landscaping and Irrigation Ordinance Summary and Design Manual) signed by the Designer/auditory responsible for the project. Contact the project Planner at (951) 826-5371 to schedule the final inspection at least one week prior to needing the release of utilities.
23. The applicant shall provide written evidence to the Planning Division and the Riverside Police Department that they will be participating in the City's Crime Free Multi-Housing Program.

*Standard Conditions:*

24. There is a thirty-six-month time limit in which to satisfy the conditions and record Vesting Tract Map No. 38489. Six subsequent one-year time extensions may be

granted by the Community & Economic Development Director upon request by the applicant. Application for a one-year time extension must be made prior to the expiration date of the map. No time extension may be granted for applications received after the expiration date of the map.

25. The request shall include a letter stating the reasons for the extension of time and associated fee shall be submitted to the Planning Division.

**PLEASE BE ADVISED THAT THE APPLICANT WILL NOT BE NOTIFIED BY THE PLANNING DIVISION ABOUT THE PENDING EXPIRATION OF THE SUBJECT ENTITLEMENTS.**

26. The Design Review and Variance related to implementing the subdivision may be granted time extensions by the Community & Economic Development Director or their designee up to a total of six years beyond the original approval expiration date prior to issuance of any building permits. Once a building permit has been issued, the project will be considered vested and time extensions are no longer needed.
27. The Project must be completed per the Plot Plan Review approved by the Community & Economic Development Director, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Development Review Committee or by Planning Staff. Upon completion of the Project, a Staff inspection must be requested, and **UTILITIES** will not be released until it is confirmed that the approved plans and all conditions have been implemented.
28. Within 30 days of approval of this case by the City, the developer shall execute an agreement approved by the City Attorney's Office to defend, indemnify, including reimbursement, and hold harmless the City of Riverside, its agents, officers and employees from any claim, action, or proceeding against the City of Riverside, its agents, officers, or employees to attack, set aside, void, or annul, an approval by the City's advisory agency, appeal board, or legislative body concerning this approval, which action is brought within the time period provided for in Section 66499.37 of the Government Code. The City will promptly notify the developer of any such claim; action or proceeding and the City will cooperate in the defense of the proceeding.
29. This approval is for design concept only and does not confirm the project has been thoroughly checked for compliance with all requirements of law. As such, it is not a substitute for the formal building permit plan check process, and other changes may be required during the plan check process.
30. This Project shall fully and continually comply with all applicable conditions of approval, State, Federal and local laws in effect at the time the permit is approved and exercised and which may become effective and applicable thereafter, and in accordance with the terms contained within the staff report and all testimony regarding this case. Failure to do so will be grounds for Code Enforcement action, revocation or further legal action.

## **Public Works**

*Conditions to be fulfilled prior to occupancy unless otherwise noted*

31. Storm Drain construction will be contingent on engineer's drainage study.
32. Deed for widening Jackson Street along project frontage to 44' from monument centerline to Public Works specifications.
33. A "FINAL MAP" shall be processed with the Public Works Department and recorded with the County Recorder. The "FINAL MAP" shall be prepared by a Land Surveyor or Civil Engineer authorized to practice Land Surveying in the State of California and shall comply with the State Subdivision Map Act and Title 18 of the Riverside Municipal Code. All applicable checking and recording fees are the responsibility of the applicant.
34. Installation of sewers and sewer laterals to serve this project to Public Works specifications. Sewer to be private all the way to main line connection.
35. Size, number and location of driveways to Public Works specifications.
36. Closure of unused driveway(s) to Public Works standards and specifications.
37. All security gates or facilities proposed now or in the future will be located on-site and adequate stacking space and vehicle turn-around area will have to be provided to Public Works and Fire Department specifications.
38. Prior to Permit Issuance, add the following notes to the site/plot or landscape plans and email PDF to [gstanaka@riversideca.gov](mailto:gstanaka@riversideca.gov) for review and approval:
39. PLANT 24" box size *Cassia leptophylla* in PUBLIC RIGHT-OF-WAY along JACKSON ST. Typical spacing 25' O.C. Prior to any planting, Tree Inspector to determine precise locations at time of scheduled site inspection after fine grading and hardscape installation is complete. Planting, staking, irrigation, root barriers to Landscape & Forestry specifications.
40. Trash collection service will not be provided on common drives. Areas shall be provided along private streets to accommodate the placement of containers for automated collection. On-street parking shall be prohibited on collection days as required to ensure access to the trash containers,
41. Prior to final inspection for the development project, the applicant shall pay the Transportation Uniform Mitigation Fee (TUMF) in accordance with the fee schedule in effect at the time of payment. If the project improvements include qualifying right-of-way dedications and/or street improvements to a TUMF regional arterial roadway as identified on the Regional System of Highways and Arterials, the developer may have the option to enter into a Credit/ Reimbursement Agreement with the City and Western Riverside Council of Governments (WRCOG) to recover costs for such work based on unit costs as determined by WRCOG.
42. The terms of the agreement shall be in accordance with the RMC Chapter 16.68 and the TUMF Administrative Plan requirements. Credit/reimbursement

agreements must be fully executed prior to receiving any credit/reimbursement. An appraisal is required for credit/reimbursement of right of way dedications and credit/reimbursement of qualifying improvements requires the public bidding and payment of prevailing wages in accordance with State Law. For further assistance, please contact the Public Works Department.

43. Prior to issuance of a building or grading permit, the applicant shall submit to the City for review and approval, a project-specific WQMP that:
  - a. Addresses Site Design BMP's such as minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or "zero discharge" areas and conserving natural areas;
  - b. Incorporates the applicable Source Control BMP's as described in the Santa Ana River Region WQMP and provides a detailed description of their implementation;
  - c. Incorporates Treatment Control BMP's as described in the Santa Ana River Region WQMP and provides information regarding design considerations;
  - d. Describes the long-term operation and maintenance requirements for BMP's requiring long-term maintenance; and
  - e. Describes the mechanism for funding the long-term operation and maintenance of the BMP's requiring long-term maintenance.
44. Prior to issuance of any building or grading permits, the property owner shall record a "Covenant and Agreement" with the County-Clerk Recorder or other instrument acceptable to the City Attorney to inform future property owners of the requirement to implement the approved project-specific WQMP. Other alternative instruments for requiring implementation of the approved project-specific WQMP include: requiring the implementation of the project-specific WQMP in the Home Owners Association or Property Owners Association Conditions, Covenants and Restrictions (C,C&R's); formation of Landscape, Lighting and Maintenance Districts, Assessment Districts or Community Service Areas responsible for implementing the project-specific WQMP; or equivalent may also be considered. Alternative instruments must be approved by the City prior to the issuance of any building or grading permits.
45. If the project will cause land disturbance of one acre or more, it must comply with the statewide General Permit for Storm Water Discharges Associated with Construction Activity. The project applicant shall cause the approved final project-specific WQMP to be incorporated by reference or attached to the project's Storm Water Pollution Prevention Plan as the Post-Construction Management Plan.
46. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:



47. Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;
48. Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and
49. Demonstrate that an adequate number of copies of the approved project-specific WQMP are available for the future owners/ occupants.

### **Fire Department**

#### *Prior to issuance of building permits*

50. An automatic fire sprinkler system is required by City Ordinance No. 16.32.335. Under separate cover, submit plans for the automatic fire sprinkler system(s) and obtain approval from the Fire Department prior to installation. Systems exceeding 20 sprinkler heads shall be provided with supervisory service and shall be monitored by a UL Central Station (UUFX) and shall be UL, FM, or ETL certified for the life of the system. Post Indicator Valves, Detector Check Control Valves, and water flow switches are required to be supervised by an UL listed central station.
51. Have a UL, FM, or ETL listed and licensed C10 fire alarm contractor submit plans and obtain approvals prior to installation. Alarm contractor shall provide a copy of a maintenance contract complying with NFPA 72.
52. Contact the Riverside Public Utilities Department at 951-826-5285 for the requirements for the dedicated fire services and backflow requirements.
53. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
54. Construction plans shall be submitted and permitted prior to construction.
55. Fire Department access shall be maintained during all phases of construction.
56. Identification and posting of required fire lanes shall be provided as directed by the assigned Fire Inspector. (CFC, Sec. 503.3) (RMC, Sec. 16.32.280).
57. Fire sprinkler, fire alarm, fixed extinguishing system, emergency radio systems, standpipes or any other type of fire protection systems that are required by the California Fire Code, California Building Code or City Ordinance, shall be submitted by a California Licensed contractor, under separate permit to Riverside Fire Department for approval and permit issuance prior to any work on such systems.
58. To comply with all applicable requirements per CFC, Chapter 33 (Fire Safety During Construction and Demolition).
59. Group R, Division 2 occupancies shall be provided with a manual and automatic fire alarm system in apartment houses three or more stories in height or containing 16 or more dwelling units. (See California Fire Code for exceptions). Submit plans and obtain approvals from the Fire Department prior to installation. New fire alarm

systems shall be UL, FM or ETL certificated for the life of the system. Central Station shall be UL UUFX.

### **Parks, Recreation and Community Services**

*Prior to Map Recordation:*

60. Developer shall make payment of all applicable Park Development Impact fees (regional/reserve and trail fees) for all recorded ROW.

*Prior to Issuance of Building Permits:*

61. Developer shall make payment of all applicable Park Development Impact Fees (local, aquatic, regional/reserve and trail fees) for privately developed areas.

### **Public Utilities – Electric**

*Prior to Issuance of Building Permits:*

62. All utilities shall be satisfactorily relocated, protected and/or replaced to the specifications of the affected departments and agencies, and easements for such facilities retained as necessary.
63. The provision of utility easements, water, streetlights and electrical underground and/or overhead facilities and fees in accordance with the rules and regulations of the appropriate purveyor.
64. Easements & any associated fees will be acquired during the design process.
65. Provisions for electrical Utility equipment to provide power to the site is the responsibility of the developer. Please make sure that all clearances are maintained and location of the equipment is approved by the Utility.
66. Developer is responsible for all trenching, installation of conduit and sub-structures required to provide power to the site. In addition to installing spare conduits, streetlights, also stub & cap along property frontage.
67. Plot existing electrical distribution facilities on the original site plan.
68. Contact RPU to discuss PJC's & transformer locations.
69. This development will have to extend an overhead single phase over the BNSF railroad tracks along Jackson. Railroad submittals and permit fees will be the responsibility of the developer.
70. Streetlights will be required along Jackson Street.

### **Public Utilities – Water**

*Prior to Issuance of Building Permits:*

71. An executed master meter agreement is required to permit private sub-metering and billing of individual tenants. Submeters must be installed to measure tenants actual use for a master meter agreement to be executed.

72. New water service installations are processed under a separate plan and permit submitted directly to the Public Utilities Department. Water plan must be submitted prior to issuance of building permit.

**Public Works – Traffic**

73. Prior to the issuance of a Certificate of Occupancy, the applicant shall:
- a. Construct a stop sign (R1-1), stop bar, stop legend, at the project driveways. Stop signs must conform to City Standard 664 and the markings must conform to the California Manual on Uniform Traffic Control Devices, Part 2A and 2B: <https://dot.ca.gov/programs/safety-programs/camutcd/camutcd-files>.
  - b. Install high visibility crosswalk across project driveway parallel to Jackson Street.
  - c. Install speed feedback sign near the project site on east side of Jackson Street for northbound direction.

All necessary signing and striping improvements must comply with the most current California Manual of Uniform Traffic Control Devices (MUTCD) and City standards. The applicant shall hire a contractor to complete the work. The contractor shall complete the construction work with an approved Public Works Permit. The installation of the signage and striping shall be completed to the satisfaction of the Director of Public Works. The applicant is solely responsible for the procurement and installation of this infrastructure improvement.

74. Prior to the issuance of a Certificate of Occupancy, the applicant shall construct a bike rack that can accommodate a minimum of two bikes. The installation of the bike racks shall be completed to the satisfaction of the Director of Public Works. The applicant is solely responsible for the procurement and installation of this infrastructure improvement.
75. Should installation of private gates be proposed in the future, a site plan, showing the proposed improvements, and an empirical Gate Stacking Analysis, consisting of a feasibility study illustrating adequate vehicle turn around area in front of the gates as well as emergency vehicle access, shall be submitted to the Public Works Department and Planning Division for review. Site plan changes shall be subject to consideration by the Development Review Committee (DRC) or Planning Commission, as applicable, and may require a revision to this Planning entitlement."
76. Prior to the issuance of a Certificate of Occupancy, the applicant shall complete signing & striping plans to accommodate the inbound left turn lane as recommended in the Traffic Study (Dated September 9, 2022). The left turn lane shall be 100 ft in length. Project shall also install painted porkchop median on Jackson Street to facilitate the left turn in and left turn out movements from the project site. The applicant shall hire a contractor to install the MUTCD & City of Riverside Standard compliant signage and striping. The applicant shall obtain any

necessary permits and approvals to complete the improvements on Jackson Street. The applicant is solely responsible for the procurement and installation of the street improvements to the satisfaction of the Director of Public Works.

77. Signing and striping improvements in this memo shall be shown on traffic design plans signed by a licensed civil or traffic engineer and to the satisfaction of the Director of Public Works.

CITY OF RIVERSIDE DEVELOPMENT  
INDEMNIFICATION AGREEMENT  
P \_\_\_\_\_

THIS INDEMNIFICATION AGREEMENT ("Agreement") is made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_, by a \_\_\_\_\_, a \_\_\_\_\_, ("Applicant"), in favor of the City of Riverside, a California charter city and municipal corporation ("City").

RECITALS

A. The Applicant is the owner or developer of that certain real property located at \_\_\_\_\_, within the City of Riverside, County of Riverside, State of California ("Property"). The Property is more particularly described in the legal description attached hereto as Exhibit "A" and incorporated herein by this reference.

B. The Applicant has applied to the City for certain development approvals for the Property under Planning Case No. \_\_\_\_\_, consisting of a proposal to \_\_\_\_\_, on the Property ("Project").

C. As a condition of approval to Planning Case No. \_\_\_\_\_, the City has required that the Applicant execute this Agreement, to defend, indemnify, including reimbursement, and hold harmless the City, its agents, officers and employees from any claim, action, or proceeding against the City, its agents, officers or employees, to attack, void or annul an approval by the City's advisory agency, appeal board, or legislative body concerning the Project.

NOW, THEREFORE, in accordance with the recitals set forth above and as consideration for the approval of development entitlements stated herein, the City and Applicant agree as follows:

1. Incorporation of Recitals. The parties agree that the Recitals constitute the factual basis upon which the City and the Applicant have entered into this Agreement. The City and the Applicant each acknowledge the accuracy of the Recitals and agree that the Recitals are incorporated into this Agreement as though fully set forth at length.

2. Term. The term of this Agreement commences upon approval of Planning Case No. \_\_\_\_\_ and shall terminate one year after the satisfaction of all required conditions under said Planning Case or upon the expiration of any statute of limitations to challenge the Project, whichever is later.

3. Indemnification. The Applicant agrees to indemnify and hold harmless the City, its agents, officers, council members, employees, boards, commissions and their members and the City Council from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of such litigation being to attack, set aside, void or annul any approval of the Project or any related decision, or the adoption of any California Environmental Quality Act Documents or any other environmental documents which relate to the Project. This indemnification shall include, but is not limited to, all damages, costs, expenses, settlements, attorney fees or expert witness fees that may be awarded to the prevailing party, or agreed to in a settlement, and costs of suit, attorneys' fees, and other costs, liabilities and expenses arising out of or in connection with the approval of the application or related decision, whether or not there is concurrent, passive or active negligence of the part of the City, its agents, officers, council members, employees, boards, commissions and their members and the City Council.

4. City Notification. City shall promptly notify the Applicant of any claim, action, or proceeding concerning the Project and the City shall cooperate fully in the defense of the matter. Applicant shall promptly retain counsel, at its own cost, to represent the City in any such action. Said counsel, if approved by the City, can jointly represent the City and Applicant. However, the City reserves the right, at its own option, to choose its own attorney to represent the City, its officers, employees, and agents in the defense of the matter. Any costs and attorney's fees incurred by the City for its separate counsel shall be paid for by the Applicant.

5. Settlement. The Applicant shall not be required to pay or perform any settlement unless the settlement is approved by the Applicant.

6. Severability. If for any reason, any portion of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, the remainder of the Agreement shall remain in full force and effect.

7. Assignability Limitations. This Agreement may be assigned by the Applicant to any successor in interest for the Project, only after Applicant has first notified the City's Planning Division and has provided to the City Planner signed acceptance of the assignment by the assignee.

8. Nonwaiver of Rights or Remedies. The failure of the City to exercise any right or remedies available to it pursuant to this Agreement shall not constitute a waiver of that party's right to enforce that right or to seek that remedy in the future. No course of conduct or act of forbearance on any one or more occasions by any party to this Agreement shall preclude that party from asserting any right or remedy available to it in the future. No course of conduct or act of forbearance on any one or more occasions shall be deemed to be an implied modification of the terms of this Agreement.

9. City Authority. Notwithstanding anything in this Agreement to the contrary, the City retains all authority and discretion granted to it by law to either approve, disapprove or modify any of the proposed uses of the Property and/or Project in accordance with City ordinances and the approved General Plan.

10. No Oral Modifications. This Agreement represents the entire understanding of the City and the Applicant and supersedes all other prior or contemporaneous written or oral agreements pertaining to the subject matter of this Agreement. This Agreement may be modified, but only by a writing signed by both the City and the Applicant. All modifications to this Agreement must be approved by the City Council of the City of Riverside.

11. Binding Upon Successors. This Agreement and each of its terms shall be binding upon the City, the Applicant and their respective officers, elected officials, employees, agents, contractors, and permitted successors and assigns.

12. Legal Challenges. Nothing herein shall be construed to require City to defend any third-party claims and suits challenging any action taken by the City with regard to any procedural or substantive aspect of the City's approval of the Project, the environmental process, or the proposed uses of the Property. The City shall retain sole and absolute discretion on whether or not it will defend any action filed which challenges the Project, or whether it will take any other course of action on the Project. The Applicant may, however, in its sole and absolute discretion, appear as real party in interest in any third-party action or proceeding, and in such event, the City may defend such action or proceedings at City's sole and absolute discretion. This City shall have the absolute right to retain such legal counsel as the City deems necessary and appropriate to represent its interests.

13. Attorneys' Fees. In the event that any action or proceeding, including arbitration, is commenced by either the City or the Applicant against the other to establish the validity of this Agreement or to enforce any one or more of its terms, the prevailing party in any such action or proceeding shall be entitled to recover from the other, in addition to all other legal and equitable remedies available to it, its actual attorneys' fees and costs of litigation, including, without limitation, filing fees, service fees, deposition costs, arbitration costs and expert witness fees, including actual costs and attorneys' fees on appeal.

14. Jurisdiction and Venue. This Agreement is executed and is to be performed in the City of Riverside, Riverside County, California, and any action or proceeding brought relative to this Agreement shall be heard in the Riverside County Superior Court, and the parties hereby waive all provisions of law providing for a change of venue in such proceedings to any other county.

15. Headings. The headings of each Section of the Agreement are for the purposes of convenience only and shall not be construed to either expand or limit the express terms and language of each Section.

16. Representations of Authority. Each party signing this Agreement on behalf of a party which is not a natural person hereby represents and warrants that all necessary legal prerequisites to that party's execution of this Agreement have been satisfied and that he or she has been authorized to sign this Agreement and bind the party on whose behalf he or she signs.

IN WITNESS WHEREOF, the Applicant has caused this Indemnification Agreement to be executed the date first written above.

APPLICANT:

By\_\_\_\_\_

Printed Name\_\_\_\_\_

Title\_\_\_\_\_

By\_\_\_\_\_

Printed Name\_\_\_\_\_

Title\_\_\_\_\_

APPROVED AS TO FORM:  
City Attorney

By\_\_\_\_\_