



Community Development
Department
Planning Division

City of Arts & Innovation

June 25, 2020

Bushnell Development
Dean Cook
2625 August Way
Tustin, CA 92782

SUBJECT PLANNING CASES P19-0283, P19-0284, P19-0285 and P20-0295 - PLANNED RESIDENTIAL DEVELOPMENT, TRACT MAP 37740, DESIGN REVIEW AND VARIANCE FOR A RESIDENTIAL DEVELOPMENT - FOUR CONTIGUOUS PARCELS LOCATED BETWEEN BUSHNELL AVENUE AND HEDRICK AVENUE, WARD 7

Dear Mr. Cook:

The Riverside City Planning Commission, at its meeting of June 25, 2020, approved your development related application which is referenced by the above-noted case numbers. Attached are the final conditions of approval. In conjunction with this approval, the City Planning Commission, in accordance with the California Environmental Quality Act (CEQA), determined that the proposed project will not have a significant effect on the environment based on the findings set forth in the case record and adopt a Mitigated Negative Declaration (MND) and Mitigation Monitoring and Reporting Program (MMRP) pursuant to Sections 15074 and 21081.6 of the California Environmental Quality Act (CEQA) Guidelines. A Notice of Determination needs to 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 July 6, 2020. 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 Regine Osorio, Associate Planner, at (951) 826-5712, rosorio@riversideca.gov.

Sincerely,

Mary Kopaskie-Brown, AICP, MCIP, OPPI
City Planner

cc: Public Works, Chris Scully

**PLANNING COMMISSION
APPROVED CONDITIONS**

Planning Commission Meeting Date: June 25, 2020

PLANNING CASES: P19-0283 (Planned Residential Development)
P19-0284 (Tract Map No. 37740)
P19-0285 (Design Review)
P20-0295 (Modification)

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. 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:

4. The applicant shall prepare and record Covenants, Conditions, and Restrictions (CC&Rs) and documents creating a Homeowners Association (HOA), subject to approval of the Planning Division and City Attorney's Office. The CC&Rs/HOA shall contain the following:
 - a) 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 street and private driveways.
 - b) The CC&Rs shall be irrevocably written and recorded so that the maintenance is the responsibility of the HOA for the life of the project. The CC&Rs shall clearly state that the HOA officers are responsible for the enforcement of the on-street parking regulations and are personally liable for any penalties, including citations, for the failure to follow through with their responsibilities.
 - c) Mechanical maintenance and "knock-down" repair of fire hydrants and street lights which meet the specifications of the Public Utilities Department along private streets shall be accomplished by either the City Public Utilities Department or applicable serving utility company, at the expense of the HOA.
 - d) The By-Laws or other appropriate document of the Homeowners' Association shall include the obligations of the Association with respect to maintenance of the private streets.
 - e) The CC&R's shall provide the City with authority to repair and/or maintain the private street and/or appurtenances in the event the HOA fails to maintain said street and/or appurtenances in a manner that provides adequate access at all times so that emergency and utility vehicles can service the properties contiguous or adjacent thereto. Provision shall be made in the CC&R's to enable the City to recover costs of work performed by the City in these street. The CC&R's shall provide that the HOA

grants the City the authority to enter and repair and maintain the private street in the event the HOA defaults in its maintenance responsibilities and the preservation of the public health, safety, and welfare necessitates City maintenance of the private street. Repair costs incurred by the City shall be shared, pro rata, by all parcels and collected as assessments along with County property taxes.

- f) Vehicles parked on a residential driveway shall not encroach onto the sidewalk or Private Street.
- g) Graffiti shall be removed within 24 hours of complaint.
- h) Should the City of Riverside enact an ordinance to regulate vehicle traffic on privately owned and maintained roads within the City boundaries, the homeowner's association shall grant the City access to install signage to regulate vehicle traffic.

Prior to Grading Permit Issuance:

- 5. *BIO-1: In order to avoid impacts on nesting birds and raptors (common or special status) clearing, grubbing and grading activities should be scheduled during the non-breeding season (generally between July 1 and February 28/29 for nesting birds and between July 1 and January 31 for nesting raptors), to the extent practicable. If project timing requires that these construction activities be conducted during breeding season (generally between March 1 and June 30 for birds; between February 1 and June 30 for raptors), a pre-construction survey or multiple surveys shall be conducted by a qualified biologist no more than 72 hours prior to disturbance to confirm the absence of active nests. If no active nests are found, no further measures would be necessary. However, if the biologist finds an active nest of a bird protected under the MBTA or the California Fish and Game Code and determines that the nest may be impacted by clearing, grubbing or grading activities, the biologist shall identify an appropriate buffer zone around the nest depending on the sensitivity of the species and the nature of the construction activities. The active nest site shall be protected until the nesting activity has ended to ensure compliance with the MBTA and California Fish and Game Code. Construction and/or encroachment into the buffer area around a known nest shall only be allowed if the biologist determines that the proposed activity would not disturb the nest occupants.
- 6. *CUL-1: Prior to grading permit issuance, if there are any changes to project site design and/or proposed grades, the Applicant and the City shall contact interested tribes to provide an electronic copy of the revised plans for review. Additional consultation shall occur between the City, developer/applicant, and consulting tribes to discuss any proposed changes and review any new impacts and/or potential avoidance/preservation of the cultural resources on the project site. The City and the developer/applicant shall make all attempts to avoid and/or preserve in place as many cultural and paleontological resources as possible that are located on the project site if the site design and/or proposed grades should be revised. In the event of inadvertent discoveries of archaeological resources, work shall temporarily halt until agreements are executed with consulting tribe, to provide tribal monitoring for ground disturbing activities.

7. ***CUL-2: On call Project Archaeologist:** Prior to the issuance of a grading permit, the Property Owner/Developer shall provide a letter from a County certified Archaeologist and Paleontologist stating that the Property Owner/Developer has retained these individuals, and that the Archaeologist and Paleontologist shall be on call during all grading and other significant ground-disturbing activities in native sediments.
8. ***CUL-4: Cultural Sensitivity Training:** The Secretary of Interior Standards County certified archaeologist and Native American monitors shall attend the pre-grading meeting with the developer/permit holder's contractors to provide Cultural Sensitivity Training for all construction personnel. This shall include the procedures to be followed during ground disturbance in sensitive areas and protocols that apply in the event that unanticipated resources are discovered. Only construction personnel who have received this training can conduct construction and disturbance activities in sensitive areas. A sign-in sheet for attendees of this training shall be included in the Phase IV Monitoring Report.
9. Tract Map No. 37740 shall be recorded.
10. 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) The project shall abide by the SCAQMD's Rule 403 concerning Best Management Practices for construction sites in order to reduce emissions during the construction phase. Measures may include:
 - i. Development of a construction traffic management program that includes, but is not limited to, rerouting construction related traffic off congested streets, consolidating truck deliveries, and providing temporary dedicated turn lanes for movement of construction traffic to and from site;
 - ii. Suspend all grading activities when wind speeds exceed 25 miles per hour;
 - iii. 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;
 - iv. Sweep streets at the end of the day if visible soil material is carried onto adjacent paved public roads;
 - v. Wash off trucks and other equipment leaving the site;
 - vi. Replace ground cover in disturbed areas immediately after construction; and

- vii. Keep disturbed/loose soil moist at all times.

During Grading and Construction Activities:

11. ***CUL-3: Treatment and Disposition of Cultural Resources:** In the event that Native American cultural resources are inadvertently discovered during the course of grading for this project, the following procedures will be carried out for treatment and disposition of the discoveries:
 - a. Consulting Tribes Notified: within 24 hours of discovery, the consulting tribe(s) shall be notified via email and phone. The developer shall establish monitoring agreements with the consulting tribes, and provide the city evidence thereof. Consulting tribe(s) will be allowed access to the discovery, in order to assist with the significance evaluation.
 - b. Temporary Curation and Storage: During the course of construction, all discovered resources shall be temporarily curated in a secure location on site or at the offices of the project archaeologist. The removal of any artifacts from the project site will need to be thoroughly inventoried with tribal monitor oversight of the process; and
 - c. Treatment and Final Disposition: The landowner(s) shall relinquish ownership of all cultural resources, including sacred items, burial goods, and all archaeological artifacts and non-human remains as part of the required mitigation for impacts to cultural resources. The Applicant shall relinquish the artifacts through one or more of the following methods and provide the City of Riverside Community and Economic Development Department with evidence of same:
 - d. Accommodate the process for on-site reburial of the discovered items with the consulting Native American tribes or bands. This shall include measures and provisions to protect the future reburial area from any future impacts. Reburial shall not occur until all cataloguing and basic recordation have been completed;
 - e. A curation agreement with an appropriate qualified repository within Riverside County that meets federal standards per 36 CFR Part 79 and therefore will be professionally curated and made available to other archaeologists/researchers for further study. The collections and associated records shall be transferred, including title, to an appropriate curation facility within Riverside County, to be accompanied by payment of the fees necessary for permanent curation;
 - f. If more than one Native American tribe or band is involved with the project and cannot come to a consensus as to the disposition of cultural materials, they shall be curated at the Western Science Center or Riverside Metropolitan Museum by default; and
 - g. At the completion of grading, excavation, and ground-disturbing activities on the site, a Phase IV Monitoring Report shall be submitted to the City documenting monitoring activities conducted by the project archaeologist and Native Tribal Monitors within 60 days of completion of grading. This report shall document the impacts to the known resources on the property; describe how each mitigation measure was fulfilled; document the type of cultural resources recovered and the

disposition of such resources; provide evidence of the required cultural sensitivity training for the construction staff held during the required pre-grade meeting; and, in a confidential appendix, include the daily/weekly monitoring notes from the archaeologist. All reports produced will be submitted to the City of Riverside, Eastern Information Center, and interested tribes.

12. 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.
13. 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.
14. The Construction Contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
15. 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.
16. To reduce construction related particulate matter air quality impacts of projects the following measures shall be required:
 - a. The generation of dust shall be controlled as required by SCAQMD Rule 403;
 - 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. Wash off trucks and other equipment leaving the site;
 - f. Keep disturbed/loose soil moist at all times;
 - g. Suspend all grading activities when wind speeds exceed 25 miles per hour; and
 - h. Enforce a 15 mile per hour speed limit on unpaved portions of the construction site.
17. The applicant shall be responsible for erosion and dust control during construction phases of the project.
18. 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:

19. 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.
20. 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 landscape screening.
21. **Photometric/Lighting Plan:** An exterior lighting plan shall be submitted with building permit plans review and approval. Photometric plans shall include the following:
 - i. A photometric study and manufacturer's cut sheets of all exterior lighting on the new buildings and within the common open space areas shall be submitted with the exterior lighting plan.
 - j. The light sources shall be shielded to minimize offsite glare, shall not direct light skyward and shall be directed away from adjacent properties and public rights-of-way. If lights are proposed to be mounted on buildings, down-lights shall be utilized. Light poles shall not exceed 14 feet in height, including the height of any concrete or other base material.
 - k. Any street lights proposed along the southern boundary of the project shall be shielded to reduce light glare onto adjacent properties.
22. **Building Elevations:** Revise the building elevations such that the plan provided for building permit plan check incorporates the following changes:
 - l. Elevations visible from La Sierra Avenue shall be enhanced elevations, consistent with the project plans; and
 - m. Building elevations shall clearly specify all materials, colors and finishes.
23. **Landscape and Irrigation Plans** shall be submitted for Planning staff approval. Separate application and filing fee are required. Design modifications may be required as deemed necessary.

Prior to Release of Utilities and/or Occupancy:

24. 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.

Standard Conditions:

25. There is a 36-month time limit in which to satisfy the conditions and record this map. 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.

Prior to **June 25, 2023**, if building permits have not been obtained, a time extension request shall be submitted to the Planning Division. 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. Planned Residential Development permits and Design Review related to an implementing 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 planned residential development will be considered vested and time extensions are no longer needed. At the exhaustion of Community & Economic Development Director approved extensions, the original Approving or Appeal Authority following a public hearing noticed pursuant to Section 19.670.030 (Notice of Hearing for Discretionary Actions Requiring a Public Hearing), may grant one final permit extension of up to two years. A public hearing notification fee is required of the applicant in such case in addition to a time extension fee.
27. 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.
28. 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.
29. Enumeration of the conditions herein shall not exclude or excuse compliance with all applicable rules and regulations in effect at the time this permit is exercised.

Parks and Recreation

30. Developer shall make payment of all applicable Park Development Impact fees (regional/reserve and trail fees) for all recorded ROW, HOA Common landscape areas or private street lots.
31. Developer shall make payment of all applicable Park Development Impact Fees (local, aquatic, and regional/reserve and trail fees) for privately developed areas.

Fire

32. A residential fire sprinkler system meeting National Fire Protection Association 13D is required. Attached garages are required to be protected by an automatic fire sprinkler system. Plans shall be submitted to and approved by the Fire Department prior to installation. 2013 California Residential Code, Section R313, 2013 California Fire Code, Section 903.2.8 or Riverside Municipal Code, Section 16.32.080.
33. Entry vehicle gates: Provide for fire department access to the gate. "Knox" key switch devices are available for use in the city. Contact the Fire Department for applications and details. In addition, an "Infrared Automatic Gate System" is required for all electric gates. Contact the Fire Prevention Division for information.
34. The fire department emergency access shall comply with the following:
 - a. Identification and posting of the required fire lanes. All interior fire department access roadways of 20' shall be maintained at all times. No portion of the fire lane shall not be encroached by street parking or landscaping. Show how the 20' access roadway, including the turning radius of 28' inside radius and 48' outside radius shall.
 - b. The fire department access roadway shall meet the 80,000 pound load and all-weather surface. Any alternate methods to meet the 80,000 pound load shall be reviewed and approved by the Fire Department.
35. 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)
36. Hydrant Markings:
 - a. Class AA 2000 GPM + are to have Green tops and Caps
 - b. Class A 1000-1999 are to have a Green Top
 - c. Class B 500-999 GPM are to have an Orange top
 - d. Class C less than 500 GPM are to have a red top

Blue reflective markers are required for private and public fire hydrants.

37. Private fire hydrants shall be spaced according to the 2019 California Fire Code, Appendix C. Single family residences equipped with fire sprinklers shall have fire hydrants spaced a maximum of 500 feet apart, dead end streets or roads shall not exceed 400 feet from the end of the street or road.

38. Fire Department access shall be maintained during all phases of construction.
39. Construction plans shall be submitted and permitted prior to construction.
40. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.

Water

41. Applicant shall provide a waterline easement across the proposed access road from Bushnell to the proposed street.
42. Applicant shall provide an 8" looped water main through the development.

Electric

43. 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.
44. The provision of utility easements, water, street lights and electrical underground and/or overhead facilities and fees in accordance with the rules and regulations of the appropriate surveyor.
45. Easements and associated fees will be acquired during the electric design process.
46. 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.
47. Developer is responsible for all trenching, installation of conduit and sub-structures required to provide power to the site. In addition to installing streetlights, stub & cap spare conduits along property frontage.
48. Plot existing electrical distribution facilities on the original site plan.
49. Re-feed existing lot to remain via underground source.
50. Underground service to be provided.
51. Relocate/underground existing facilities as needed per design guidelines.
52. Installation of streetlights per City standards.
53. RPU will have to redesign the existing WO 1911950 Utility plans to comply with new proposed TM.
54. Coordinate with RPU for any design requirements for early design.
55. 6' PUE required behind right of way.

Public Works

56. 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.

57. Deed for widening Bushnell Avenue to 33 feet from monument centerline to Public Works specifications.
58. Installation of sewers and sewer laterals to serve this project to Public Works specifications. Onsite sewer mains shall be public facilities. A minimum 20 foot wide sewer easement is required for the length of the onsite sewer mains.
59. Off-site improvement plans to be approved by Public Works prior to map recordation.
60. A surety prepared by Public Works to be posted to guarantee the required off-site improvements prior to map recordation.
61. Storm Drain construction will be contingent on engineer's drainage study.
62. On all plans, provide linear footage labels along all parcel lines. Street Trees May Be Required.
63. Size, number and location of driveways to Public Works specifications.
64. Full improvement of interior streets based on private residential street standards.
65. 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 specifications.
66. 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. 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.
67. 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.
68. 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.
69. 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.
- a. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:
 - b. Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;
 - c. Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and
 - d. Demonstrate that an adequate number of copies of the approved project-specific WQMP are available for the future owners/ occupants.

CITY OF RIVERSIDE DEVELOPMENT
INDEMNIFICATION AGREEMENT

P _____

THIS INDEMNIFICATION AGREEMENT ("Agreement") is made this ____ day of _____, 2020, 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 Nos. P19-0283, P19-0284, P19-0285 and P20-0295, consisting of a proposal to _____, on the Property ("Project").

C. As a condition of approval to Planning Case Nos. P19-0283, P19-0284, P19-0285 and P20-0295, 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 Nos. P19-0283, P19-0284, P19-0285 and P20-0295 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.