



Community & Economic Development  
Department

*City of Arts & Innovation*

November 8, 2017

Bob McMath  
Rev Wheel, LLC  
421 Main St  
Riverside, CA 92501

Subject: Planning Cases: P16-0556 (SP), P15-1035 (PM-36981), P16-0557 (DR) and P17-0272 (GE) – Construction of 8 (Eight) Industrial Buildings – Old 215 Frontage Road, between Road between Alessandro Boulevard and Cottonwood Avenue

Dear Mr. McMath:

The Riverside City Council, at its meeting of November 7, 2017, approved your development related application referenced by the above-noted case numbers. Attached are the final conditions of approval for your records. In conjunction with this approval the City Council, in accordance with the California Environmental Quality Act (CEQA), determined that this project would not have a significant effect on the environment and adopted a Mitigated Negative Declaration.

A Notice of Determination will be filed with the County of Riverside Clerk's Office. The filing of the Notice of Determination formally deems the project approved and commences a 30-day period in which legal challenges to the environmental determination can be made. A copy of the Notice of Determination is enclosed.

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.

Please call Sean Kelleher, Associate Planner, at (951) 826-5712 if you have any questions.

Sincerely,

Ted White  
Deputy Director



**CITY COUNCIL  
FINAL APPROVED CONDITIONS**

Case No.: P16-0556 (SP)  
P15-1035 (PM-36981)  
P16-0557 (DR)  
P17-0272 (GE)

CITY COUNCIL MEETING DATE: November 7, 2017

**CONDITIONS**

**Case Specific**

**Planning**

1. All mitigation measures, as outlined in the Mitigation, Monitoring and Reporting Plan in the Mitigated Negative Declaration, shall be completed in accordance with the designated schedule.
2. The Project must be completed per the Specific Plan Amendment, Parcel Map, Design Review, and Grading Exception approved by the City Council, including all conditions listed in this report. Any substantial changes to the Project must be approved by the Planning Commission or minor modifications by 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.
3. Signs shall be permitted in accordance with Chapter 19.620 of the Zoning Code. Any new signs including; exterior building mounted, monument, and window 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.
4. The applicant shall comply with conditions of approval of the Riverside County Airport Land Use Commission Development Review Number ZAP1220MA16.

*Prior to Map Recordation*

5. The amendment to the Sycamore Canyon Business Park Specific Plan shall be finalized and/or adopted.

*Concurrent with Map Recordation:*

6. The Applicant shall record easements for ingress and egress in favor of Assessor Parcel Numbers 263-080-015, 263-080-003, 263-080-004, 263-091-009, 263-100-008, 263-100-009, and 263-100-010.

*Prior to Issuance of Grading Permit:*

7. A 40-scale precise grading plan shall be submitted to the Planning Division and include the following:
  - a. Compliance with City adopted interim erosion control measures;

- b. Compliance with any applicable recommendations of qualified soils engineer to minimize potential soil stability problems; and
- c. Include a note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within pipeline easement.

*During Grading and Construction Activities:*

- 8. 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.
- 9. 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.
- 10. The Construction Contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the project site.
- 11. 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.
- 12. 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 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. 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.

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:*

8. A reciprocal parking and access agreement shall be recorded subject to the review and approval of the Planning Division and the City Attorney's Office.
14. **Plot Plan:** Revise the submitted plot plan such that the plan provided for building permit plan check incorporates the following changes:
  - a. A minimum 12-inch concrete walkway, including curb width, shall be provided along the sides of landscape planters whenever the side of a parking stall is adjacent to it.
15. **Building Elevations:** Revise the submitted building elevations such that the plan provided for building permit plan check incorporates the following change:
  - a. Extend the score lines and paint patterns on the concrete tilt up panels onto the stem walls.
16. **Landscape and Irrigation Plans** shall be submitted for Design Review approval. Design modifications may be required as deemed necessary. Separate applications and filing fees are required. Landscaping and irrigation plans must be submitted prior to building permit issuance. Landscape and irrigation plans shall include the following:
  - a. The landscape planter located along the frontages of Buildings 1 through 6, along Old 215 Frontage Road, shall be increased from 10 feet to 12 feet. The drive aisle in front of Buildings 1 through 6 shall be reduced to 24 feet in width.
  - b. Trees shall be planted at a ratio 1 tree every 25 feet within the front landscape area along the Old 215 Frontage Road near Alessandro Boulevard on the Building 1 Site.
  - c. Trees shall be planted at a ratio of 1 tree every 25 feet within the landscape planter adjacent to Building 1 for consistency with the planting design of the Building 2, - 6 sites.
  - d. The parking space along the Cottonwood Avenue frontage of Building 7, nearest the intersection of Cottonwood Avenue and Old 215 Frontage Road shall be removed and replaced with landscaping.
  - e. Trees shall be provided at a ratio of 1 tree every 25 feet within the landscape planters along the east and west property lines of Building 7.
  - f. Trees shall be provided at a ratio of 1 tree every 25 feet within the landscape planters along the west property line of Building 8.
  - g. All plant species identified as invasive species in the Multiple Species Habitat Conservation Plan shall be replaced with noninvasive species of similar size and color.

17. **Wall Plans:** Revise the submitted wall plans such that the plan provided for building permit plan check incorporates the following change:
  - a. All retaining walls visible from public right-of way shall be constructed of split-faced masonry block with a decorative cap.
18. Plans submitted for staff review should specify the location, design and color of all domestic water meters, backflow preventers and utility cabinets subject to the Planning and Public Utilities review and approval. The visibility of such facilities shall be minimized to Planning Division review and approval through means including but not limited to relocation, berms, landscaping, and/or installation of a screen wall.
19. 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 twenty (20) feet in height, including the height of any concrete or other base material. Freestanding light standards within 50 feet of residentially zoned property shall be no more than 14 feet in height.
20. Roof equipment shall be fully screened from the public right-of-way. Screening material shall be at least as high as the proposed roof mounted equipment and shall be architecturally integrated with the proposed structure.
21. Ground mounted equipment shall be fully screened from the public right-of-way.

*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/auditor responsible for the project. Contact Sean P. Kelleher, Associate Planner, at (951) 826-5712 or [skelleher@riversideca.gov](mailto:skelleher@riversideca.gov) to schedule the final inspection at least one week prior to needing the release of utilities.

*Site Operation Standards:*

23. All operations shall be in compliance with Title 7 (Noise Control) of the Riverside Municipal Code.

*Standard Conditions:*

24. 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.
25. Design Review and Grading Exception, 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.
26. 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.
27. 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 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.
28. The applicant herein of the business subject to this design review acknowledges all of the conditions imposed and accepts this permit subject to those conditions and with the full awareness of the provisions of Title 19 of the Riverside Municipal Code. The applicant shall inform all its employees and future operators of the business subject to this permit of the restrictions and conditions of this permit as they apply to the business operations.
29. Failure to abide by all conditions of this permit shall be cause for revocation.
30. 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.

## **Environmental Compliance**

31. If Site has a Tenant, then a Wastewater Discharge Survey needs to be submitted to Environmental Compliance Section and approved.

If an interceptor or wastewater treatment system is determined to be installed or replaced for a tenant, this requirement must be complied with prior to opening the business or by the date determined by the Environmental Compliance Section.

If an interceptor is required, it shall meet specifications in R.M.C. sections 14.12.255, 260, 270, 275, and be sized in accordance with the Universal Plumbing Code, Chapter 10, Table 10-3, and be a minimum size of 750 gallons. Domestic waste shall not be allowed to pass through the interceptor.

32. If a sampling station is required—submit proposed installation on corrected plans.
33. All corrections to plans must be completed in order for EC Section to issue a Will-Serve Letter. Will-Serve Letter shall be sent to County of Riverside DEH by EC inspector.
34. Applicant must request inspection to verify the required installation or construction via inspection by EC Section representative, with a report stating that conditions have been met, and the permit card (if applicable) signed off by EC Inspector.
35. Applicant must completely satisfy all Notice to Complete requirements, such as meeting all noted requirements on EC plan check review and inspection reports.
36. If Site will have a Tenant that needs a pretreatment system for its industrial wastewater, the Tenant must submit plans for approval through EC Plan Check Review.
37. Other items for correction may need to be completed after actual plans are submitted for a formal review.

## **Fire Department**

38. An automatic fire sprinkler system is required by City Ordinance 16.32.080. 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 certificated 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.

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 N.F.P.A. 72.

Contact the Riverside Public Utilities Department at (951) 826-5285 for the requirements for the dedicated fire service and backflow requirements.



39. Provide for fire department access to the gate. "Knox" key devices are available for use in the city. Contact the Fire Department for applications and details.

An "Infrared Automatic Gate System" is required for all electric gates. Contact the Fire Prevention Division for information.

40. Provide for fire department access to the facility. "Knox" key devices are available for use in the city. Contact the Fire Department for applications and details.
41. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
42. Construction plans shall be submitted and permitted prior to construction.
43. Fire Department access shall be maintained during all phases of construction.
44. All required hydrants shall be in service and fire flow available prior to building permit release by the Fire Department. Violation of this requirement may result in citations that require a court appearance to be issued.
45. Access roadways shall be a minimum of twenty (20) feet in unobstructed width with a minimum vertical clearance of thirteen feet, six inches (13'6"). Grade differential shall not exceed twenty (20) percent.

Fire access shall comply with our fire department turning radius.

### **Parks, Recreation & Community Services – Park Planning**

46. Developer shall make payment of all applicable Park Development Impact Fees (local, aquatic, regional/reserve and trail fees) per RMC Chapters 16.60, 16.44 and 16.76.

### **Public Works**

*Conditions of approval to be approved prior to Case Finalization unless otherwise noted.*

47. Access to be provided to existing residents/businesses behind Parcels 2-5 to Public Works specifications.
48. Installation of sewer main/ sewer laterals to serve new construction.
49. Extension of storm drain from Old 215 Frontage Road through Parcel 2 to be via underground conduit, not surface drainage/flow.
50. Advisory – Building 8 of Parcel Map 36888 shall not encroach into existing sewer or sewer easement.
51. Installation of curb and gutter at 43 feet from monument centerline, sidewalk and matching paving on Old 215 Frontage Road to Public Works specifications. Project shall construct a dedicated right turn lane for the southbound leg of Old 215/Alessandro Intersection.
52. Installation of curb and gutter at 64 feet from construction centerline, sidewalk and matching paving on Alessandro Boulevard to Public Works specifications.

53. Vacation of Bay Avenue right-of-way on the Parcel Map to Public Works Specifications.
54. Standard corner right-of-way cutback at northwest corner of Alessandro Boulevard and Old 215 Frontage Road to Public Works specifications.
55. Off-site improvement plans to be approved by Public Works prior to issuance of a construction permit.
56. A surety prepared by Public Works to be posted to guarantee the required off-site improvements prior to map recordation.
57. Size, number and location of driveways to Public Works specifications.
58. 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.
59. Reciprocal access agreement between this development and PM 32297 prior to map recordation.
60. 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.
61. 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.

62. 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:

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;

Incorporates the applicable Source Control BMP's as described in the Santa Ana River Region WQMP and provides a detailed description of their implementation;

Incorporates Treatment Control BMP's as described in the Santa Ana River Region WQMP and provides information regarding design considerations;

Describes the long-term operation and maintenance requirements for BMP's requiring long-term maintenance; and

Describes the mechanism for funding the long-term operation and maintenance of the BMP's requiring long-term maintenance.

63. 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.

64. 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.

65. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:

Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;

Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and

66. Demonstrate that an adequate number of copies of the approved project-specific WQMP are available for the future owners/ occupants.

**Public Works - Street Trees**

*Conditions of approval to be approved prior to Case Finalization unless otherwise noted.*

67. Planting of 24" Box Size Street Trees required along Old 215 Frontage Road with root barrier along hardscapes. Typical spacing is approximately 30 feet, Street Tree Inspector will spot for planting when final grading and construction is completed.
68. Installation of automatic irrigation system to provide deep-root watering to trees is required.

**Public Utilities - Electric**

69. 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.
70. 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.
71. 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.
72. Developer is responsible for all trenching, installation of conduit and sub-structures required to provide power to the site.
73. Plot existing electrical distribution facilities on the original site plan.



City of Arts & Innovation

## COMMUNITY & ECONOMIC DEVELOPMENT DEPARTMENT Planning Division

### Notice of Determination

To: ☒ County of Riverside  
County Clerk & Recorder  
P.O. Box 751  
2724 Gateway Drive  
Riverside, Ca 92501-0751  
(951) 486-7405  
☐ Office of Planning & Research  
P.O. Box 3044,  
1400 Tenth Street, Room 222  
Sacramento, Ca 95812-3044

From: City of Riverside  
Community Development  
Department Planning Division  
3900 Main Street, 3<sup>rd</sup> floor  
Riverside, CA 92522  
(951) 826-5625

SUBJECT: Filing of Notice of Determination in Compliance with Section 21108 or 21152 of the Public Resources Code.

State Clearinghouse Number: *(if submitted to State Clearinghouse)* n/a

Project Title: P16-0556, P15-1035, P16-0557, P17-0272

Project Applicant: Bob McMath on behalf of Rev Wheel, LLC

Project Location (include County): Old 215 Frontage Road, between Alessandro Boulevard and Cottonwood Avenue in the City and County of Riverside

Project Description: **PLANNING CASES: P16-0556 (SP), P15-1035 (PM), P16-0557 (DR), and P17-0272 (GE)**: Proposal by Bob McMath on behalf of Rev Wheel, LLC to consider the following entitlements to facilitate construction of eight industrial buildings ranging in size from 11,412 to 33,335 square feet: 1) a Specific Plan Amendment to amend the Sycamore Canyon Business Park Specific Plan to change the land use designation of 23.60 acres from Retail Business Office and Industrial Support to Industrial, and revise the standards in Chapter 3 - Development Standards and Criteria of the Specific Plan; 2) a Parcel Map (PM-36981) to subdivide three parcels (APN - 263-091-014, 263-091-015, and 263-100-021) into six parcels, ranging in size from 27,105 to 72,165 square feet; 3) a Design Review of project plans; and 4) a Grading Exception to allow retaining walls higher than permitted by the Zoning Code. The subject site is located on the west side of Old 215 Frontage Road, between Alessandro Boulevard and Cottonwood Avenue, in the BMP-SP – Business and Manufacturing Park and Specific Plan (Sycamore Canyon Business Park) Overlay Zones, in Ward 2. The Planning Division of the Community and Economic Development Department has determined that the proposed project will not have a significant effect on the environment and is recommending that a Mitigated Negative Declaration be adopted. Contact Planner: Sean P. Kelleher, Associate Planner, (951) 826 5712, skelleher@riverside.ca.gov

This is to advise that the Riverside City Council has approved the above-described project on November 7, 2017 and has made the following determinations which reflect the independent judgment of the City of Riverside regarding the above described project.

1. The project [ ☐ will ☒ will not ] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA.  
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation Measures [ ☒ were ☐ were not ] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not ] adopted for this project.
5. A Statement of Overriding Considerations [☐ was ☒ was not ] adopted for this project.
6. Findings [☒ were ☐ were not ] made pursuant to the provisions of CEQA.

This is to certify that the Negative Declaration is available to the General Public at the City of Riverside, Community & Economic Development Department, Planning Division, 3900 Main Street, Riverside.

Signature: \_\_\_\_\_ Title: Deputy Director  
Ted White

Date: \_\_\_\_\_ Date Received for filing at OPR: \_\_\_\_\_

**CITY OF RIVERSIDE DEVELOPMENT  
INDEMNIFICATION AGREEMENT**

This INDEMNIFICATION AGREEMENT (AAgreement@) is made this \_\_\_\_ day of \_\_\_\_\_, 2017, by a \_\_\_\_\_, a \_\_\_\_\_, (AApplicant@), 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 (AProperty@) located within the City of Riverside, County of Riverside, California. The Property is more particularly described in the legal description attached hereto as Exhibit AA@ 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. P16-0556, P15-1035, P16-0557, P17-0272, a proposal to \_\_\_\_\_, on \_\_\_\_\_ the Property located at \_\_\_\_\_ (the AProject@).

C. As a condition of approval to Planning Case Nos. P16-0556, P15-1035, P16-0557, P17-0272, 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. P16-0556, P15-1035, P16-0557, P17-0272 and shall terminate one year after the satisfaction of all required conditions under said Planning Case.

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 related decision, or the adoption of any environmental documents or negative declaration which relates to the Project. This indemnification shall include, but is not limited to, all damages, costs, expenses, attorney fees or expert witness fees that may be awarded to the prevailing party, 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 Planning Department and has provided to the City Planning Director a 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 a court of competent jurisdiction in the County of Riverside, State of California, 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:

\_\_\_\_\_  
Deputy City Attorney

Rev: 08/19/11