

PLANNING COMMISSION APPROVED CONDITIONS

Planning Commission Meeting Date: August 19, 2021

PLANNING CASES: PR-2021-00949 (GPA, RZ, CUP, DR, VR)

All mitigation measures are noted by an asterisk (*).

Planning

1. Plans shall conform to the exhibits attached to this report. Proposed modifications to the approved design shall be submitted to the Planning Division and shall include revised Exhibits and a narrative description of the proposed modifications. The Applicant is advised that an additional application and fee may be required.
2. The subject property shall be developed and operated substantially as described in the text of this Staff Report and as shown on the plot plan on file with this case, except for any specific modifications that may be required by these conditions of approval.
3. The Applicant is advised that the business or use for which this Conditional Use Permit is granted cannot be legally conducted on the subject property until all conditions of approval have been met to the satisfaction of the Planning Division.
4. **Advisory:** 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.

Prior to Grading Permit issuance:

5. The General Plan Amendment shall be finalized and/or adopted.
6. The Zoning Code Map Amendment shall be finalized and/or adopted.
7. The master site plan for the shopping center (BP-2021-11316) shall be approved
8. The four parking spaces located to the west of the project site's trash enclosure shall be incorporated into the grading plans for this site.
9. ***MM Cultural 1:** If encountered during grading and construction activities, avoidance is the preferred treatment for known prehistoric and historical archaeological sites and sites containing Native American human remains. Where feasible, project plans shall be developed to avoid known archaeological resources and sites containing human remains. Where avoidance of construction impacts is possible, the site shall be landscaped in a manner which will ensure that indirect impacts from increased public availability to these sites are avoided. Where avoidance is selected, archaeological resource sites and sites containing Native American human remains shall be placed within permanent conservation easements or dedicated open space areas.
10. ***MM Cultural 2:** Future development of the project site, including all grading and construction plans, shall include complete avoidance of site CA-RIV-4732 and CA-RIV-8098 as identified in the Cultural Resources Survey prepared for this project, including all grading and construction on or in close proximity to these sites.
11. ***MM Cultural 3:** If, after consultation with the appropriate Tribe, the project archaeologist and the project engineer/architect, and in accordance with the law, avoidance and/or preservation in place of known prehistoric and historical archaeological resources and

sites containing Native American human remains are not feasible management options, the following mitigation measures shall be initiated:

- a. Prior to the issuance of a grading permit for a project, the City's consultant shall develop a Phase II (i.e., test-level) Research Design detailing how the archaeological resources investigation will be executed and providing specific research questions that will be addressed through the Phase II Testing Program. In general terms, the Phase II Testing Program should be designed to define site boundaries further and to assess the structure, content, nature, and depth of subsurface cultural deposits and features. Emphasis should also be placed on assessing site integrity, cultural significance and the site's potential to address regional archaeological research questions. These data should be used for two purposes: to discuss culturally sensitive recovery options with the appropriate Tribe(s) if the resource is of Native American origins, and to address the California Register of Historical Resources (CRHR) and National Register of Historic Places (NRHP) eligibility for the cultural resource and make recommendations as to the suitability of the resource for listing on either Register. The Research Design shall be submitted to the City's Cultural Heritage Board and/or Cultural Heritage Board staff and the appropriate Tribe for review and comment. Tribal comments must be received by the City Planning Division within 45 days. The City shall consider all comments, require revisions, if deemed necessary by the report writer and approve a final Research Design which shall be implemented. For sites determined ineligible for listing on either the CRHR or NRHP, execution of the Phase II Testing Program would suffice as the necessary level of data recovery and mitigation of project impacts to this resource.
- b. A participant-observer from the appropriate Native American Band or Tribe shall be used during all archaeological excavations involving sites of Native American concern.
- c. After approval of the Research Design and prior to the issuance of a grading permit, the City's consultant shall complete the Phase II Testing Program as specified in the Research Design. The results of this Program shall be presented in a technical report that follows the County of Riverside's Outline for Archaeological Testing. The Phase II Report shall be submitted to the appropriate Tribe and the City's Cultural Heritage Board for review and comment.
- d. If the cultural resource is identified as being potentially eligible for either the CRHR or NRHP, a Phase III Data Recovery Program to mitigate project effects should be initiated. The Data Recovery Treatment Plan detailing the objectives of the Phase III Program should be developed, in consultation with the appropriate Tribe, and contain specific testable hypotheses pertinent to the Research Design and relative to the sites under study. The Phase III Data Recovery Treatment Plan should be submitted to the City's Cultural Heritage Board and/or the Cultural Heritage Board's staff and the appropriate Tribe for review and comment. Tribal comments must be received by the City Planning Division within 45 days. The City shall consider all comments, require revisions, if deemed necessary by the report writer and approve a final Treatment Plan which shall be implemented.
- e. After approval of the Treatment Plan, the Phase III Data Recovery Program for affected, eligible sites should be completed. Typically, a Phase III Data Recovery Program involves the excavation of a statistically representative sample of the site to preserve those resource values that qualify the site as being eligible for listing on the

CRHR or NRHP. Again, a participant-observer from the appropriate Native American Band or Tribe shall be used during archaeological data-recovery excavations involving sites of Native American concern. At the conclusion of the Phase III Program, a Phase III Data Recovery Report should be prepared, following the County of Riverside's Outline for Archaeological Mitigation or Data Recovery. The Phase III Data Recovery Report should be submitted to the appropriate Tribe and the City's Cultural Heritage Board for review.

- f. All archaeological materials recovered during implementation of the Phase II Testing or Phase III Data Recovery programs would be subject to analysis and/or processing as outlined in the Treatment Plan. If materials are of the type which will be transferred to a curation facility, they should be cleaned, described in detail, and analyzed including laboratory and analytical analysis. Materials to be curated may include archaeological specimens and samples, field notes, feature and burial records, maps, plans, profile drawings, photo logs, photographic negatives, consultants' reports of special studies, and copies of the final technical reports. All project related collections subject to curation should be suitably packaged and transferred to facility that meets the standards of 36 CFR 79 for long-term storage. Culturally sensitive treatment of certain artifacts may require treatment other than curation and as specified in the Treatment Plan, but it should be noted that provisions of the Native American Graves Protection Repatriation Act (NAGPRA) pertaining to Native American burials, sacred objects, and objects of cultural patrimony would come into effect when ownership of the collections transfer to a curation repository that receives Federal funding, unless otherwise agreed to with non-curation methods of treatment.
 - g. The project proponent should bear the expense of identification, evaluation, and treatment of all cultural resources directly or indirectly affected by project-related construction activity. Such expenses may include, archaeological and Native American monitoring, pre-field planning, field work, post-field analysis, research, interim and summary report preparation, and final report production (including draft and final versions), and costs associated with the curation of project documentation and the associated artifact collections. On behalf of the City and the project proponent, the final technical reports detailing the results of the Phase II Testing or Phase III Data Recovery programs should be submitted to the appropriate Native American Tribe and to the Eastern Information Center (EIC) of the California Historical Resources Information System (CHRIS) for their information and where it would be available to other researchers.
12. ***MM Cultural 4:** The following mitigation measures should be implemented to reduce project-related adverse impacts to archaeological resources and sites containing Native American human remains that may be inadvertently discovered during construction of projects proposed in the City's General Plan Update:
- a. In areas of archaeological sensitivity, including those that may contain buried Native American human remains, a registered professional archaeologist and a representative of the culturally affiliated Native American Tribe, with knowledge in cultural resources, should monitor all project related ground disturbing activities that extend into natural sediments in areas determined to have high archaeological sensitivity.
 - b. If buried archaeological resources are uncovered during construction, all work must be halted in the vicinity of the discovery until a registered professional archaeologist

can visit the site of discovery and assess the significance and origin of the archaeological resource. If the resource is determined to be of Native American origin, the Tribe shall be consulted. If the archaeological resource is determined to be a potentially significant cultural resource, the City, in consultation with the project archaeologist and the Tribe, shall determine the course of action which may include data recovery, retention in situ, or other appropriate treatment and mitigation depending on the resources discovered.

- c. In the event of an accidental discovery of any human remains in a location other than a dedicated cemetery, the steps and procedures specified in Health and Safety Code 7050.5, State CEQA Guidelines 15064.5(e), and Public Resources Code 5097.98 must be implemented. Specifically, in accordance with Public Resources Code (PRC) Section 5097.98, the Riverside County Coroner must be notified within 24 hours of the discovery of potentially human remains. The Coroner will then determine within two working days of being notified if the remains are subject to his or her authority. If the Coroner recognizes the remains to be Native American, he or she shall contact the Native American Heritage Commission (NAHC) by phone within 24 hours, in accordance with PRC Section 5097.98. The NAHC will then designate a Most Likely Descendant (MLD) with respect to the human remains within 48 hours of notification. The MLD then has the opportunity to recommend to the property owner or the person responsible for the excavation work means for treating or disposing, with appropriate dignity, the human remains and associated grave goods within 24 hours of notification. Whenever the NAHC is unable to identify a MLD, or the MLD fails to make a recommendation, or the landowner or his or her authorized representative rejects the recommendation of the MLD and the mediation provided for in subdivision (k) of PRC Section 5097.94 fails to provide measures acceptable to the landowner, the landowner or his or her authorized representative shall re-inter the human remains and items associated with Native American burials with appropriate dignity on the property in a location not subject to further subsurface disturbance.

13. A 40-scale precise grading plan shall be submitted to the Planning Division and shall 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 a qualified soils engineer to minimize potential soil stability problems;
- d. A note requiring the developer to contact Underground Service Alert at least 48 hours prior to any type of work within a pipeline easement; and
- e. Identification of location, exposed height, material and finish of any proposed retaining walls.

During Construction Activities:

- 14. 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.

15. The proposed project shall comply with all existing State Water Quality Control Board and City storm water regulations, including compliance with National Pollutant Discharge Elimination System (NPDES) requirements related to construction and operation measures to prevent erosion, siltation, transport of urban pollutants, and flooding.
16. The Construction Contractor shall place all stationary construction equipment so that emitted noise is directed away from sensitive receptors nearest the proposed project site.
17. 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 proposed project site during all construction.
18. To reduce construction related particulate matter air quality impacts of the proposed project, the following measures shall be required:
 - a. Dust generation 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. All contractors shall equip all construction equipment, fixed or mobile, with properly operating and maintained mufflers consistent with manufacturers' standards;
 - d. Streets shall be swept 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;
 - f. All disturbed/loose soil shall be kept moist at all times;
 - g. 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.
19. The applicant shall be responsible for erosion and dust control during construction phases of the project.
20. 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:

21. **Staff Required Elevation Conditions:** Revise the submitted elevations such that the plans provided for building permit plan check incorporates the following changes:
 - a. The outdoor dining patio columns shall include stacked stone, consistent with the pilasters on the north elevation of the multi-tenant commercial building.
22. Landscape and Irrigation Plans shall be submitted for Design Review approval. Separate applications and filing fees are required. Design modifications may be required as deemed necessary. Landscape and Irrigation Plans shall be revised to include the following:

- a. Ground mounted equipment, including but not limited to backflow and FDC devices shall be adequately screened with landscaping, to the satisfaction of staff; and
 - b. 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.
 - c. Landscaping on the tiered retaining walls shall provide low spreading plants to allow for screening over the walls.
23. **Fence and Wall Plan:** Revise the wall and fence plan such that the plan provided for building permit plan check incorporates the following changes:
- a. All freestanding and retaining walls shall be constructed of, or finished in, a decorative material;
 - b. All walls and pilasters shall be finished with a decorative cap; and
 - c. Decorative pilasters shall be provided where the walls terminate as well as 20 feet on-center along Little Court.
24. A declaration of Covenants, Conditions and Restrictions (CC&R's) shall be prepared establishing a Master Property Owner Association, or other management entity, subject to the City's Planning Division and City Attorney's Office review and approval. Such declaration shall set forth provisions for maintenance of all common landscaped areas, and all other privileges and responsibilities of the common ownership. The CC&R's shall contain the following conditions and restrictions:
- a. Establish a Master Property Owners Association (MPA) or other management entity;
 - b. The MPA, or other management entity, shall be responsible for the care and maintenance of all common landscaped areas, parking lots, water quality facilities, site lighting and other shared improvements; and
 - c. Reciprocal parking and access agreements shall be provided between all parcels.
25. Roof and building mounted 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.
26. Ground mounted equipment shall be fully screened from the public right-of-way.
27. Plans submitted for Staff review shall specify the location, design and color of all domestic water meters, backflow preventers, detector check assemblies, utility cabinets and other ground-mounted equipment subject to Planning Division and Public Utilities review and approval. The visibility of such facilities shall be minimized through means including but not limited to relocation, berming, landscaping, and/or installation of a screen wall.
28. **Photometric/Lighting Plan:** A photometric study and manufacturer's cut sheets of all exterior lighting on the building, in the landscaped areas, parking lots and pedestrian paths shall be submitted.
- a. 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);

- b. The light sources shall be hooded and shielded to minimize off-site glare, shall not direct light skyward and shall be directed away from adjacent properties and public rights-of-ways;
- c. If lights are proposed to be mounted on buildings, down-lights shall be utilized;
- d. Light poles shall not exceed 20 feet in height, including the height of any concrete or other base material.
- e. For safety, all pedestrian paths shall be adequately lighted throughout the project.

Prior to the Release of Utilities and/or Occupancy:

- 29. 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. Call the Case Planner at (951) 826-5371 to schedule the final inspection at least one week prior to needing the release of utilities. Additional plant material may be required upon final inspection if better coverage is needed.

Standard Conditions:

- 30. There shall be a two-year time limit in which to commence construction of the project beginning the day following approval by the Planning Commission unless a public hearing is held by City Council; in that event the time limit begins the day following City Council approval.
- 31. The General Plan Amendment, Zoning Code Map Amendment, Conditional Use Permit, Design Review, and Variance may be granted time extensions by the Community & Economic Development Director, or their designee, up to a total of five years beyond the original approval expiration date prior to issuance of any building permits. At the exhaustion of Community & Economic Development Director approved extensions, the original Approving or Appeal Authority may grant one final permit extension of up to two years following a public hearing noticed pursuant to Section 19.670.030 (Notice of Hearing for Discretionary Actions Requiring a Public Hearing). A public hearing notification fee is required of the applicant in such case in addition to a time extension fee. Once a building permit has been issued, the development will be considered vested and time extensions are no longer needed.

Please be advised that the applicant will not be notified by the planning division about the pending expiration of the subject entitlement.

- 32. 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.

33. The Conditional Use Permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
34. This permit is issued based upon the business operations plan and information submitted by the Applicant, which has been used as the basis for evaluation of the proposed use in this Staff Report and for the conditions of approval herein. The Applicant shall notify Community Development Department, Planning Division, of any change in operations and such change may require a revision to this permit. Failure to notify the city of any change in operations is material grounds for revocation of this Conditional Use Permit.
35. The Applicant of the business subject to this Conditional Use Permit 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.
36. Failure to abide by all conditions of this Conditional Use Permit shall be cause for revocation.
37. 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.
38. 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.
39. This use permit may be modified or revoked by the City Planning Commission or the City Council should they determine that the proposed use or conditions under which it is being operated or maintained is detrimental to the public health, welfare or materially injurious to public safety, property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
40. The applicant shall comply with all federal, state and local laws and shall cooperate with the Riverside Police Department (RPD) in the enforcement of all laws relating to this permit. Material violation, as determined by the City Planning Commission, of any laws in connection with this use or failure to cooperate with RPD will be cause for revocation of
41. The plans shall be submitted for plan check review to assure that all required conditions have been met prior to exercising of this permit.
42. The subject property shall be developed and operated substantially as described in the text of this report and as shown on the plot plan on file with this case except for any specific modifications that may be required by these conditions of approval.
43. The applicant shall continually comply with all applicable rules and regulations in effect at the time permit is approved and exercised and which may become effective and applicable thereafter.

Riverside County Airport Land Use Commission

44. Any new outdoor lighting that is installed shall be hooded or shielded so as to prevent either the spillage of lumens or reflection into the sky. Outdoor lighting shall be downward facing.
45. The following uses/activities are not included in the proposed project and shall be prohibited at this site:
 - a. Any use which would direct a steady light or flashing light of red, white, green, or amber colors associated with airport operations toward an aircraft engaged in an initial straight climb following takeoff or toward an aircraft engaged in a straight final approach toward a landing at an airport, other than an FAA-approved navigational signal light or visual approach slope indicator.
 - b. Any use which would cause sunlight to be reflected towards an aircraft engaged in an initial straight climb following takeoff or towards an aircraft engaged in a straight final approach towards a landing at an airport.
 - c. Any use which would generate smoke or water vapor, or which would attract large concentrations of birds, or which may otherwise affect safe air navigation within the area. (Such uses include landscaping utilizing water features, aquaculture, production of cereal grains, sunflower, and row crops, composting operations, trash transfer stations that are open on one or more sides, recycling centers containing putrescible wastes, construction and demolition debris facilities, fly ash disposal, and incinerators.)
 - d. Any use which would generate electrical interference that may be detrimental to the operation of aircraft and/or aircraft instrumentation.
 - e. Hazards to flight.
46. The attached notice shall be provided to all prospective purchasers of the property and tenants of the building.
47. Any proposed detention basins or facilities shall be designed and maintained to provide for a maximum 48-hour detention period following the design storm, and remain totally dry between rainfalls. Vegetation in and around the detention basins that would provide food or cover for birds would be incompatible with airport operations and shall not be utilized in project landscaping. Trees shall be spaced so as to prevent large expanses of contiguous canopy, when mature. Landscaping in and around the detention basin(s) shall not include trees or shrubs that produce seeds, fruits, or berries.
48. Landscaping in the detention basin, if not rip-rap, should be in accordance with the guidance provided in ALUC "LANDSCAPING NEAR AIRPORTS" brochure, and the "AIRPORTS, WILDLIFE AND STORMWATER MANAGEMENT" brochure available at RCALUC.ORG which list acceptable plants from Riverside County Landscaping Guide or other alternative landscaping as may be recommended by a qualified wildlife hazard biologist.
49. A notice sign, in a form similar to that attached hereto, shall be permanently affixed to the stormwater basin with the following language: "There is an airport nearby. This stormwater basin is designed to hold stormwater for only 48 hours and not attract birds. Proper maintenance is necessary to avoid bird strikes". The sign will also include the name, telephone number or other contact information of the person or entity responsible to monitor the stormwater basin.

Fire Department

50. An automatic fire sprinkler system is required by City Ordinance 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 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.

51. Requirements for construction shall follow the currently adopted California Building Code and California Fire Code with City of Riverside amendments.
52. Construction plans shall be submitted and permitted prior to construction.
53. 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.
54. Fire Department access shall be maintained during all phases of construction.
55. 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.

56. A new public fire hydrant required on Van Buren Blvd, shall be spaced a maximum of 350 feet apart. Onsite fire hydrants are based on the required fire flow for the buildings.

Contact Western Municipal Water at (951) 571-7276 for the requirements for the dedicated fire service and backflow requirements.

57. All public and/or private fire hydrants shall be installed and in service prior to full release of the building permits.

Minimum fire flow based on proposed Construction Type-VB @ 6,098 sq. ft. shall provide the minimum fire flow of 1,500 gpm @ 20 psi for 2 hours. (2019 Ca. Fire Code, Section B105 and Riverside Municipal Code, Section 16.32.377- Appendix B Table B105.2 – amended).

58. 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 cover to the Riverside Fire department and obtain approvals prior to any work on such systems.
59. 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").

Dead end access road shall not exceed 150 feet in length without a turnaround with the minimum turn radius of 28' inside and 48' outside. (CFC, 503.2.1)

Parks, Recreation & Community Services – Park Planning

60. 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 Utilities – Electric

61. Any revisions to existing drawings will require a review by Riverside Public Utilities and depending on the revisions it may require a re-design of the approved drawings.

Public Works

Conditions to be fulfilled prior to building permit issuance unless otherwise noted:

62. *MM Transportation 1:

- a. Dauchy Avenue at Van Buren Boulevard: Modify existing traffic signal to provide for an eastbound right-turn overlap phase. Project to provide 10.8% participation, with an estimated total project contribution at \$2,160 for this improvement.
 - b. Cole Avenue / Trautwein Road at Van Buren Boulevard: Restripe south leg to include a second NB left-turn lane. Project to provide 7.9% participation, with an estimated total project contribution at \$3,950 for this improvement.
 - c. Wood Road at Van Buren Boulevard: Widen the intersection's west leg to include additional lanes – this has been identified as a regionally funded improvement that the project will contribute towards via TUMF.
63. Storm Drain construction will be contingent on engineer's drainage study.
64. Right-of-way corner cutback at corner of Van Buren Boulevard and Little Court to Public Works specifications.
65. Waiver of access required along Little Court to Public Works specifications prior to occupancy.
66. Installation of private sewer lateral to serve this project to Public Works specifications.
67. Closure of unused driveway to Public Works specifications.
68. On all plans, provide linear footage labels along all parcel lines. Add the following notes to the landscape plans and email PDF to gthanaka@riversideca.gov for review and approval:
- REMOVE existing pepper tree in PUBLIC RIGHT-OF-WAY; PLANT 24" box size *Celtis sinensis* in PUBLIC RIGHT-OF-WAY along Little Court; Tree Inspector to determine precise locations during site inspection after fine grading and any hardscape installation is complete. Planting, staking, irrigation, root barriers to Landscape & Forestry specifications.
69. Double trash enclosure required per Public Works specifications.
70. 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.

71. 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.
72. 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.
73. 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.
74. Prior to building or grading permit closeout or the issuance of a certificate of occupancy or certificate of use, the applicant shall:

- a. Demonstrate that all structural BMP's described in the project-specific WQMP have been constructed and installed in conformance with approved plans and specifications;
 - b. Demonstrate that applicant is prepared to implement all non-structural BMP's described in the approved project-specific WQMP; and
 - c. Demonstrate that an adequate number of copies of the approved project-specific WQMP are available for the future owners/ occupants.
- 75. Prior to Building Permit Issuance, the Developer shall complete a lot line adjustment to consolidate the project site parcels to the satisfaction of the Planning Division and Public Works Department.
- 76. Reciprocal ingress/egress access easement required to allow access across parcels prior to occupancy.
- 77. Project shall design and construct a "continuous Green-T" half-signal three-phase operation. The half-signal indications and detection hardware will be hard-wired into the traffic signal controller / cabinet currently operating the intersection of Alta Cresta Avenue & Van Buren Boulevard. The half signal will provide video detection for motorists in the left turn pocket, and for motorists exiting the project site. The project will provide 100% participation.
- 78. Project shall design and construct all necessary improvements to provide a 200' westbound left-turn pocket which would require modification of the existing median and the removal of 40' (i.e. 300' to 260') of the existing eastbound left-turn pocket at the intersection of Ridgeway Avenue at Van Buren Boulevard.
- 79. The applicant shall comply with requests for operational improvements or modifications that may result from the County of Riverside's review of the traffic operational assessment.

CITY OF RIVERSIDE DEVELOPMENT
INDEMNIFICATION AGREEMENT
PR-2021-000949

THIS INDEMNIFICATION AGREEMENT ("Agreement") is made this ____ day of _____, 2021, 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. PR-2021-000949, consisting of a proposal to _____, on the Property ("Project").

C. As a condition of approval to Planning Case No. PR-2021-000949, 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. PR-2021-000949 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_____

Rev: June 2020