

ORDINANCE NO. 2022-

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MENIFEE,
CALIFORNIA, APPROVING THE SECOND AMENDMENT TO COMMERCE
POINTE DEVELOPMENT AGREEMENT BETWEEN CITY OF MENIFEE AND
SCOTT ROAD PARTNERS LLC.**

WHEREAS, On November 20, 2013, the City Council adopted Ordinance No. 2013-133 approving Development Agreement No. 2012-116 for property which was known as Commerce Pointe I and Commerce Pointe II; and

WHEREAS, on March 30, 2022, Scott Road Partners LLC filed a formal application (PLN22-071) with the City of Menifee for the approval of two amendments to Development Agreement No. 2012-116 for the Commerce Pointe project within the City; and

WHEREAS, the request is to amend the existing Commerce Pointe Development Agreement (DA 2012-116) by extending the term for the original vested rights/buildings an additional three years to December 19, 2026, as well as provide the landowner limited assurance pertaining to the development and use of the project buildings, with associated public benefits; and

WHEREAS, the second amendment to the Development Agreement has been prepared, processed, reviewed, heard, and approved in accordance with applicable law, including but not limited to Section 65864 et seq. of the Government Code; and

WHEREAS, all impacts related to the Development Agreement and previous development approvals were analyzed in an Environmental Impact Report (SCH 2006121062) prepared for the original plot plan applications (PP21452/22280/2009-006), which was adopted by the City of Menifee City Council on November 20, 2013; and

WHEREAS, the second amendment to the Development Agreement would promote the public convenience, general welfare, and good land use practices, and is in the best interest of the community; and

WHEREAS, the second amendment to the Development Agreement would not adversely affect the orderly development of property and surrounding area, or the preservation of property values; and

WHEREAS, the second amendment to the Development Agreement would promote and encourage the development of the proposed project by providing a greater degree of requisite certainty; and

WHEREAS, the second amendment to the Development Agreement strengthens the public planning process, encourages private participation in comprehensive planning, and reduces the economic costs of development uncertainty; and

WHEREAS, the second amendment to the Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the land use district in which the real property is or will be located, including any policy plan overlay applicable to the property; and

WHEREAS, approval of the second amendment to the Development Agreement will provide a benefit to the community; and

WHEREAS, the second amendment to the Development Agreement would not be detrimental to the public health, safety, or welfare of the community; and

WHEREAS, the City Clerk has caused notice to be duly given of a public hearing in this matter in accordance with law, as evidenced by the affidavit of publication and the affidavit of mailing on file with the City Clerk; and

WHEREAS, a copy of the report and said EIR have been on file in the Office of the City Clerk and available for examination during regular business hours by any interested person, at all times since the date of giving notice in this matter; and

WHEREAS, on August 10, 2022, the Planning Commission held a duly noticed public hearing at which the Planning Commission considered the proposed amendments to the Development Agreement and those persons desiring to be heard on said matters were heard and evidence in said matters received; and

WHEREAS, at its August 10, 2022 public hearing, the Planning Commission adopted Resolution No. PC 22-568 recommending approval to the City Council of an ordinance approving the second amendment to the Development Agreement; and

WHEREAS, on September 21, 2022, the City Council held a duly noticed public hearing regarding the proposed second amendment to the Development Agreement and those persons desiring to be heard on said matters were heard and evidence in said matters received and on each said date the hearing was opened, held, and continued; and

NOW, THEREFORE, the City Council of the City of Menifee hereby ordains as follows:

SECTION 1. The Findings set out above are true and correct.

SECTION 2. *The proposed development agreement is consistent with the objectives, policies, general land uses and programs specified in the general plan and any applicable specific plan.*

Consistency with General Plan

The project site is designated Economic Development Corridor – Southern Gateway (EDC-SG), however the Development Agreement vests the County Ordinance No. 348 Industrial Park (IP) designation. The intent of this land use designation is to allow business park (predominantly light industrial and office uses). Additionally, the project was previously entitled under Plot Plan No. 2009-006 and Development Agreement No 2012-116. The proposed amendment does not change the approved entitlements and therefore, it will continue to be in conformance to the zoning, design guidelines and development standards of the IP designation, and the requirements of the General Plan.

The project as approved, continues to be consistent with the following General Plan policies:

Project Design

- CD-3.5 Design parking lots and structures to be functionally and visually integrated and connected; off-street parking lots should not dominate the street scene.*

Perimeter landscaping has been included in the project design to visually screen the parking lot from surrounding roadways. All proposed structures will utilize similar materials and architectural features and, therefore, will be functionally and visually integrated.

- CD-3.8 Design retention/detention basins to be visually attractive and well-integrated with any associated project and with adjacent land uses.*

The basins proposed within the project will be landscaped and well-integrated into the overall plant palette of the center.

Building Design

- CD-3.10: Employ design strategies and building materials that evoke a sense of quality and permanence.*

The project includes quality architectural construction and features, including decorative lighting, glazing, cornice, reveals, and architectural insets and offsets.

- CD-3.13 Utilize architectural design features (e.g., windows, columns, offset roof planes, etc.) to vertically and horizontally articulate elevations in the front and rear of buildings.*

The buildings are well articulated, utilizing glazing, vertical architectural elements, offset roof and wall planes, recesses and pop-outs, and surface material and paint color changes. As a result, these buildings are vertically and horizontally articulated in front and rear of buildings.

- CD-3.14: Provide variations in color, texture, materials, articulation, and architectural treatments. Avoid long expanses of blank, monotonous walls or fences.*

The proposed buildings are well articulated, utilizing substantial glazing, offset roof and wall planes, recesses and pop-outs, and surface material and paint color changes. As a result, the project avoids the use of long expanses of blank, monotonous walls.

- CD-3.22: Incorporate visual buffers, including landscaping, equipment and storage area screening, and roof treatments, on properties abutting either Interstate 215 or residentially designated property.*

The property is adjacent to the I-215 and it includes enhanced landscaping areas with trees to effectively reduce the massing of the buildings.

Signage

CD-6.7 Integrate project signage into the architectural design and character of new buildings.

The project has been conditioned to submit for and obtain approval of a master sign program which will integrate architectural features into the signs that are also found on the buildings consistent with the project's architectural theme.

Noise

N-1.8 Locate new development in areas where noise levels are appropriate for the proposed uses. Consider federal, state, and City noise standards and guidelines as a part of new development review.

The project included a consistency analysis with the adopted Environmental Impact Report (EIR) pursuant to CEQA and concluded that it would not exceed applicable local and state noise regulations.

Properties to the north are developed with business park uses, whereas properties to the south generally vacant or underdeveloped. As modified, the project is compatible with the surrounding General Plan land uses.

SECTION 3. *The proposed development agreement is compatible with the uses authorized in, and the regulations prescribed for, the zone in which the real property is or will be located.*

The project is zoned Economic Development Corridor Southern Gateway (EDC-SG) however under the existing Development Agreement is vested under County Ordinance No. 348 Industrial Park (IP) zone which allows for a variety of industrial/business park uses. Currently, the EDC-SG zone does not allow for warehousing facilities, however, the approved and vested project was entitled prior to the zoning code amendment that prohibited warehousing facilities. Therefore, the project as approved is consistent with existing agreement and development standards including parking and landscaping.

SECTION 4. *The proposed development agreement is in conformity with and will promote public convenience, general welfare and good land use practice.*

The project is located on the east side of Zeiders Road, both north and south side of Ciccotti Street. The Project is compatible with the surrounding land uses, General Plan land use designations, and zoning classifications and is adequately sized, shaped, designed and located to accommodate the proposed uses.

The project incorporates quality design, and other improvements which will enhance and benefit the area upon construction. The Development Agreement provides for the orderly construction of road improvements, utilities, drainage and other improvements. The proposed amendment to

the approved Development Agreement is in conformity with and will promote public convenience, general welfare and good land use practice.

SECTION 5. *The development agreement will not be detrimental to the health, safety and general welfare within the City.*

The Development Agreement will not result in conditions detrimental to the public health, safety, or general welfare. The associated entitlements have been reviewed and conditioned by the City of Menifee Community Development, Engineering, Building and Safety and Fire Departments to ensure that it will not create conditions materially detrimental to the surrounding uses. Conditions of approval include substantial landscaping, roadway improvements consistent with the General Plan, fire infrastructure, and drainage improvements that will benefit the Project site and surrounding areas.

In addition, all impacts related to the Development Agreement and previous development approvals were analyzed in an Environmental Impact Report (SCH 2006121062) prepared for the original plot plan applications (PP21452/22280/2009-006), which was adopted by the City of Menifee City Council on November 20, 2013.

SECTION 6. *The proposed development will not adversely affect the orderly development of the property or the preservation of property values.*

The proposed Development Agreement would assist with and would not interfere with the development of the Project site and the uses proposed under Plot Plan No. 21452/22280/2009-006, which would not adversely affect the orderly development of the surrounding area. The Development Agreement would not modify the uses allowed under the original approval. The Development Agreement would not conflict with surrounding existing and planned land uses and would not have the potential to adversely affect property values.

SECTION 7. *The proposed development agreement will promote and encourage the development of the proposed project by providing a greater degree of requisite certainty for the developer.*

The assurances provided to the applicant through the Development Agreement, such as vesting of Development Impact Fees, clarification of vested uses would provide greater certainty, reduced risk, and offset development costs that would encourage development as approved under the Plot Plan and the infrastructure associated with it that would serve the surrounding area.

SECTION 8. *The proposed development agreement that includes a subdivision, and any tentative map prepared for the subdivision, will comply with the provisions in Government Code Section 66473.7.*

The subdivision for this project has been approved and the map has recorded.

SECTION 9. The City Council approves the second amendment to the Commerce Pointe Development Agreement set forth in Exhibit "2" of this Ordinance.

SECTION 10. The second amendment to the Development Agreement is applicable to the area of the City of Menifee as legally described in the Development Agreement.

SECTION 11. The City Manager, or his or her delegee, is directed and authorized to do all of the following:

a. prepare a final version of the Development Agreement for execution and recording that fully reflects the action of the City Council in adopting the Development Agreement; and

b. make all necessary and appropriate clerical, typographical, and formatting corrections to the adopted Development Agreement prior to execution and recording.

SECTION 12. This Ordinance shall take effect and be in force thirty (30) days from and after its adoption.

SECTION 13. The Mayor shall sign this ordinance and the City Clerk shall attest and certify to the passage and adoption of this Ordinance and cause this Ordinance to be published using the alternative summary and posting procedure authorized under Government Code Section 36933.

This Ordinance was introduced for first reading on September 21, 2022, and **PASSED, APPROVED, AND ADOPTED** this 5th day of October 2022.

Bill Zimmerman, Mayor

Approved as to form:

Jeffrey T. Melching, City Attorney

Attest:

Stephanie Roseen, Acting City Clerk