

CONDITIONS OF APPROVAL

As modified by the City Planning Commission September 13, 2018

Density Bonus Conditions of Approval

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the applicant, stamped "Exhibit A," and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code or the project conditions.
 - a. To reduce the heat island effect, pathways, courtyards, driveways and other paved areas shall ensure that a minimum of 50 percent of materials be used with a minimum initial solar reflectance value of 0.35 in accordance with the American Society for Testing and Materials standards (ASTM standards).
 - b. The project shall be constructed with an operable recycled water pipe system for on-site greywater use, to be served from onsite non-potable water sources such as showers, washbasins, or laundry and to be used as untreated subsurface irrigation for vegetation or for cooling equipment. The system specifics shall be required as determined feasible by the Department of Water and Power, the Bureau of Engineering, and the Department of Sanitation in consultation with the Department of City Planning.
2. **Residential Density.** The project shall be limited to a maximum of 950 residential units.
3. **Hotel Density.** The project shall be limited to a maximum of 308 guest rooms.
4. **Residential Automobile Parking.** Vehicle parking shall be provided consistent with LAMC 12.22-A.25(d) Density Bonus Parking Option 1, which permits one on-site parking space for each restricted affordable unit of 0-1 bedroom, and two on-site parking spaces for each restricted affordable unit of 2-3 bedrooms, for a minimum of 1,013 code-required parking spaces.
5. **Unbundled Parking.** Residential parking shall be unbundled from the cost of the rental units, with the exception of parking for residential units that are set aside for Very Low Income and workforce households.
6. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC 12.21-A,16. Long-term bicycle parking shall be provided at a rate of one per dwelling unit or guest room. Additionally, short-term bicycle parking shall be provided at a rate of one per ten dwelling units or guest rooms, with a minimum of two short-term bicycle parking spaces. Short-term and long term bicycle parking for general retail stores and restaurants requires one bicycle parking per 2,000 square feet, with a minimum of two bicycle parking spaces for both long- and short-term bicycle parking. Based upon the number of dwelling units and commercial square footage, 1,048 long-term and 193 short-term bicycle parking spaces shall be provided on-site.
7. **Hotel Parking.** Vehicle parking shall be provided consistent with LAMC 12.22-A,4(b), for a minimum of 256 code-required parking spaces.

8. **Commercial Uses.** The project shall be limited to 190,000 square feet of commercial uses. The use of the subject property shall be limited to those uses permitted in the C4 Zone as defined in Section 12.16.A of the LAMC.
9. **Commercial Parking.** A minimum of 567 parking for commercial uses shall be provided. In the event that the commercial area is reduced, parking shall be provided in compliance with LAMC Section 12.21-A,4.
10. **Floor Area Ratio (FAR).** The requested Off-Menu waiver of development standard allows for the Floor Area Ratio to be limited to a maximum of 3.8:1 averaged across the site.
11. **Affordable Units.**
 - a. A minimum of 105 units, that is 11 percent of the 950 base dwelling units, shall be reserved as affordable units, as defined by the State Density Bonus Law 65915 (c)(1) or (c)(2).
 - b. Changes in Restricted Units. Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22-A,25.
 - c. Adjustment of Parking. In the event that the number of Restricted Affordable Units should increase, or the composition of such units should change (i.e. the number of bedrooms, or the number of units made available to Senior Citizens and/or Disabled Persons), or the applicant selects another Parking Option (including Bicycle Parking Ordinance) and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth pursuant to LAMC Section 12.22-A,25.
12. **Calculation of Residential Density.** For the purposes of calculating the total number of dwelling units allowed at the site, any land required to be dedicated for street or alley purposes may be included as lot area.
13. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing and Community Investment Department (HCIDLA) to make 105 units available to Very Low Income Households, for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any monitoring requirements established by the HCIDLA. Refer to the Density Bonus Legislation Background section of this determination.
14. The applicant shall coordinate with the Department of City Planning, in consultation with the Council Office of District 13, to ensure that residents residing in the Courtyard Apartments located at 6200 Selma Avenue and 1535 Las Palmas Avenue are given first right of first refusal to return to a new unit once the proposed development has been constructed. Returning tenants, if qualified, shall be offered a unit reserved for Very Low Income Households. All other tenants shall be offered a new unit at a rate no higher than their last rent payment in their RSO unit. These requirements shall apply to a minimum of 40 units. The

applicant shall procure written approval of their first right of refusal plan from Council District 13 at the time of condition clearances.

Master Conditional Use Conditions

15. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
16. All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
17. Approved herein is the following: the sale and dispensing of a full line of alcoholic beverages for on-site consumption in a maximum of eighteen (18) proposed restaurants, including the pool deck and rooftop of the hotel (Type 47 – bona fide public eating place); the sale and dispensing of a full line of alcoholic beverages for on-site consumption within the hotel including meeting room and conference facilities for two (2) portable units and hotel minibars; the sale and dispensing of a full line of alcoholic beverages for on-site consumption in a maximum of two (2) proposed bars (Type 48 – General Public Premises); the sale of a full line of alcoholic beverages for off-site consumption at two (2) off-sale retail uses (Type 21 – off site general). The Type 47 restaurants may operate from 6:00 a.m. to 2:00 a.m. daily, with the sale of alcoholic beverages from 6:00 a.m. to 2:00 a.m., daily. The Type 48 bars may operate from 6:00 a.m. to 2:00 a.m., daily. The retail store/market may operate from 6:00 a.m. to 2:00 a.m. daily.
18. Approved herein is a Master Conditional Use Permit for public dancing and live entertainment within any restaurant or bar within the hotel or within a maximum of eight restaurants/bars in the Project.
19. Beer and wine sales may be sold in lieu of a full line of alcoholic beverages at any of the approved alcohol-serving venues.
20. A public hearing for any Approval of Plans request may be waived at the discretion of the Chief Zoning Administrator.
21. The Applicant or Operator shall not sublet the premises for any nightclub activity.
22. No portion of the public areas of the project site shall be used exclusively for private parties in which the general public is excluded. This condition shall not prohibit the Applicant, Owner, or Operator from occasionally renting out portions of the public areas the project site for private parties if approved for a Special Event pursuant to Condition No. 27 below.
23. No coin-operated games, video machines, pool or billiard tables are permitted unless approved by the Zoning Administrator as part of the Plan Approval for any specific venue located within the project site.
24. Dancing and live entertainment shall be conducted subject to the issuance of a Dance Hall and Café Entertainment permit by the Police Commission, respectively, and as applicable for each individual approved establishment.

25. Dancing and live entertainment shall be conducted in conjunction with the specific establishments identified in Condition No. 16 and 17 above of this grant, and not as a freestanding activity.
26. Background ambient music is permitted in the outdoor portions of the project site that are under the control of the Applicant, provided it is not audible beyond the subject premises and shall not exceed the levels prohibited by the City's noise regulations (Section 116.01 of the Los Angeles Municipal Code). For the purposes of these operating conditions background ambient music will be defined as low-volume music that is complementary to dining experience. Recorded music will no longer be considered ambient when the volumes of the music interfere with activities such as dining and/or low volume conversation.
27. Live entertainment and public dancing featured, endorsed, or otherwise provided in the public outdoor areas of the project site not covered by a Plan Approval, that are under the Applicant's control is prohibited except in those instances wherein the petitioner has secured LAPD Hollywood Vice approval to organize and provide a Special Event (see Condition No. 27 below) in the outdoor areas of the project site.
28. The number of outdoor Special Events permitted on the subject property shall be limited to a maximum of 24 events per year. A Special event is any event which is held weekly, monthly or annually or that includes outside advertisement demonstrating a change in the mode and character of the normal project operations, including but not limited to hours of operation, any significant live entertainment or public dancing features, or any outdoor events that would stipulate an ABC one-day permit application or some other special endorsement. An event wherein the Applicant(s) or Operator charges an admission fee from patrons to any public portion of the project site will be considered a Special Events as will any events that involve the exclusion of the general public from gaining admission to any public portion of the project site. Special Event shall not include a farmers market, sidewalk sale or any similar type use of the project site. The Applicant or Operator shall seek approval from the Hollywood Vice Unit for all Special Events 14 days in advance of the date of each Special Event, in writing. Hollywood Vice Unit shall respond to requests for Special Events in writing. Outside advertisement as it pertains to this provision shall include any promotional material or notification commissioned by any entity that is not directly associated with the operation or under the direct employ of the applicant(s).
29. Any ambient or amplified music, sound, vibration or noise emitted that is under the control of the Applicant or Operator shall not be audible or otherwise perceivable beyond the subject project site. Any sound, vibration or noise emitted that is under the control of the petitioner, which is discernible outside of the subject premises, shall constitute a violation of Section 116.01 of the Los Angeles Municipal Code, including any loud, unnecessary or unusual noise that disturbs the peace and quiet of any neighborhood or that causes discomfort. The petitioners shall make every effort to control any unnecessary noise made by project site and retail premises staff or any employees contracted by any of the project site facilities located within the properties developed by the petitioner, or any noise associated with the operation of the project site, the project site facilities, and/or equipment of the hotels, restaurants, bars and market.
30. There shall be no use of the subject premises which involves Section 12.70 of the Los Angeles Municipal Code (Adult Entertainment).

31. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of the outdoor dining areas in accordance with Los Angeles Municipal Code Section 41.50 B 2 C. This provision applies to all outdoor areas of the establishment that are used in conjunction with food service and/or the consumption, dispensing, or sale of alcoholic or non-alcoholic beverages.
32. The Applicant(s) shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The applicant shall not possess ashtrays or other receptacles used for the purpose of collecting ashes or cigarette/cigar butts within the interior portions of any of the project site facilities/structures.
33. Within six months of operation of each venue, all employees involved with the sale of alcoholic beverages shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR). Upon completion of such training, the applicant shall request the Police Department to issue a letter identifying which employees completed the training. The applicant shall transmit a copy of the letter from the Police Department to the Zoning Administrator as evidence of compliance. Employees shall attend the training on an annual basis.
34. Security. Prior to issuance of a certificate of occupancy for any phase of the project, the Police Department shall have approved the Owner's written plan for security for such phase and the project, including security equipment installed within such Phase and the balance of the Project, the type, number and hours of security personnel to be provided by the Owner, and coordination with the Police Department. A copy of the security plan approved by the Police Department shall be included with all Approval of Plans. The security plan for each phase shall include a camera installation plan. Surveillance cameras shall be installed which cover all common areas of the establishments, including all high-risk areas, entrances and exits to each tenant space, and including cameras that provide a view of the street. The Owner shall maintain a one-month tape library and such tapes shall be made available to Police or other enforcement agency upon request. The security plan for each phase shall include the type, number and hours of security personnel to be provided by the Owner. In addition to the private security staffing, the Owner shall provide for the hiring of Law Enforcement personnel as part of the security plan staffing for the project site during all hours of operation. Hollywood Vice Office and the Police Department reserve the right to revise the approved security plan for any phase of the project if it is determined by the Hollywood Vice Office that the security plan is ineffective or inadequate as it pertains to the safety of patrons, residents and/or the employees of the project site. If the plan is determined to be ineffective or inadequate, the Owner will submit a modified security plan to be approved by the Police Department.
35. The project site security personnel/guards staffing the Security Plan shall not have any other duties other than those that are security related. Security personnel/guards shall be licensed in accordance with State Law and Police Commission standards and maintain valid Bureau of Security and Investigative Services Guard Credentials along with active first-aid credentials. Project site security personnel/guards shall be dressed in such a manner as to be readily identifiable as project site security personnel/guards to patrons, residents, visitor, employees and law enforcement personnel.
36. The project site Law Enforcement staffing the Security Plan shall not have any other activities other than those that are security/law enforcement related. Law Enforcement personnel shall be employed in a uniformed capacity in accordance with State Law and Police Commission

standards. Project site Law Enforcement personnel shall be dressed in full uniform when employed to perform law enforcement functions on the project site.

37. Electronic age verifications device(s) which can be used to determine the age of any individual attempting to purchase alcoholic beverages or tobacco products shall be installed on the premise at each point-of-sale location. This device(s) shall be maintained in an operational condition and all employees shall be instructed in their use prior to the sale of any alcoholic beverage or tobacco product.
38. The Applicant and tenants shall monitor the areas under their control to prevent loitering activities. Loitering is prohibited on or around these premises and any area under the control of the Applicant.
39. The Applicant shall maintain on the premises, and present upon request to the Police or other enforcement agency, a copy of the Business Permit, Insurance Information, and valid emergency contact phone number for any Valet Service utilized and for any Security Company Service employed.
40. A copy of these conditions shall be maintained within each licensed premise. Additionally, a copy shall be provided to all employees who shall sign an acknowledgement form stating that they have read and understood all of the ABC and conditional use permit conditions. Said form shall be maintained at the location by the owner and /or manager who shall present it to Police personnel, ABC investigators, or any other City agency upon request. All licenses, permits, and conditions shall be posted in a conspicuous location at the subject establishment.
41. Prior to issuance of a certificate of occupancy for the earlier to be completed of (a) the second residential tower to be constructed on Parcel B of the Project (Building B-1 or Building B-3) or (b) the retail project on Parcel C (Crossroads of the World), the Owner shall make available up to 1,200 square feet (useable) to the Police Department for a substation. The substation shall be a shared facility for both Law Enforcement and private security. Once approved by the Police Department, the location and amenities of the substation shall be included in the security plan for the project. The Owner shall improve the Substation to the satisfaction of the Police Department.
42. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
43. **Master Plan Approval (MPA) Requirement.** Each individual venue shall be subject to a Master Plan Approval (MPA) determination pursuant to Section 12.24-M of the Los Angeles Municipal Code in order to implement and utilize the Master Conditional Use authorization granted herein for alcohol sales and/or public dancing unless otherwise noted. The purpose of the Master Plan Approval determination is to review each proposed venue in greater detail and to tailor site-specific conditions of approval for each of the premises including but not limited to hours of operation, seating capacity, size, security, live entertainment, the length of a term grant and/or any requirement for a subsequent MPA application to evaluate compliance and effectiveness of the conditions of approval.
44. Prior to the utilization of this grant, 24-hour "hot line" shall be provided for complaints or concerns from the community regarding the operation. The 24-hour phone number shall be

posted at the following locations: a) entries, visible to pedestrians; b) customer service desks, front desks or near the hostess stations. The applicant shall maintain a log of all calls, detailing: (1) date complaint received; (2) nature of complaint, and (3) the manner in which the complaint was resolved. This log shall be made available to law enforcement personnel upon request and presented as part of the application if and when a new application to continue the operation is submitted to the Department of City Planning. Complaints shall be responded to within 24 hours.

- 45. MViP – Monitoring, Verification and Inspection Program.** At any time, before, during, or after operating hours, a City inspector may conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and used to rate the operator according to the level of compliance. If a violation exists, the owner/operator will be notified of the deficiency or violation and will be required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed therein, may result in denial of future requests to renew or extend this grant.
- 46.** Within 30 days of the effective date of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard master covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center or the BESt (Beverage and Entertainment Streamlined Program) for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center or BESt (Beverage and Entertainment Streamlined Program) for inclusion in the case file.

Site Plan Review Conditions

- 47. Public Improvements.** Prior to the issuance of any building permits, public improvements and dedications for streets and other rights-of-way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department.
- 48. Electric Vehicle Charging Stations.** The project shall include at least 20 percent of the total automobile parking spaces developed on the project site capable of supporting future electric vehicle supply equipment (EVSE). Plans shall indicate the proposed type and location(s) of EVSE and also include raceway method(s), wiring schematics and electrical calculations to verify that the electrical system has sufficient capacity to simultaneously charge all electric vehicles at all designated EV charging locations at their full rated amperage. Plan design shall be based upon Level 2 or greater EVSE at its maximum operating ampacity. In addition, five percent of the total automobile parking spaces developed on the project site, and all parking spaces in excess of LAMC-required spaces for the use, shall be further provided with EV chargers to immediately accommodate electric vehicles within the parking areas. When the application of either the required 20 percent or five percent results in a fractional space, round up to the next whole number. A label stating "EV CAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.
- 49. Solar.** The Project shall provide a minimum of 135 kilowatts of photovoltaic panels on the Project Site, unless additional kilowatts of photovoltaic panels become feasible due to

additional area being added to the Project Site. The system shall be installed prior to the issuance of a certificate of occupancy.

- 50. Tree Maintenance.** All newly planted trees must be appropriately sized, staked and tied; provided with a watering moat; and shall be properly watered and maintained.
- 51. Tree Wells.** All areas containing trees shall be at minimum depth of 48 inches.
- 52. Graffiti Removal.** All graffiti on the site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
- 53. Aesthetics.** The structure, or portions thereof shall be maintained in a safe and sanitary condition and good repair and free of graffiti, trash, overgrown vegetation, or similar material, pursuant to Municipal Code Section 91,8104. All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the decision maker.
- 54. Trash/Storage.**
 - a. All trash collection and storage areas shall be located on-site and not visible from the public right-of-way.
 - b. Trash receptacles shall be stored in a fully enclosed building or structure, constructed with a solid roof, at all times.
 - c. Trash/recycling containers shall be locked when not in use.
- 55. Mechanical Equipment.** Any structures on the roof, such as air conditioning units and other equipment, shall be fully screened from view of any abutting properties and the public right-of-way. All screening shall be setback at least five feet from the edge of the building.
- 56. On-site Landscaping.** All planters containing trees shall have a minimum depth of 48 inches.
- 57. Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties, the public right-of-way, nor from above.
- 58. Signs.** There shall be no off-site signs for portions of the project that are outside of the Hollywood Signage Supplemental Use District (HSSUD). All signs within the HSSUD shall comply with the provisions of that district. All other signs are subject to the provisions of LAMC Section 14.4.
- 59. Parking Structure Design.**
 - a. Facades of parking structures shall be screened to minimize their visual impact on the public realm.
 - b. Parking and loading access shall be a minimum of 25 feet from a primary building entrance, pedestrian paseo or public plaza.

- c. Entrances, elevators and stairs for parking structures shall be easily accessible and highlighted architecturally.
- d. Any above ground parking structure shall be designed to be utilized and easily repurposed to other uses. The conversion of floor area from parking into new uses may be subject to additional discretionary actions.
- e. Above ground parking structures shall have flat parking levels, not including the driveway ramps.
- f. The height of the above ground parking levels shall have sufficient clearance to be adaptable to non-parking uses. Once converted, the building shall permit a minimum floor to ceiling height of 9 feet for commercial uses and 8 feet for residential uses.

Environmental Conditions

60. Mitigation Monitoring Program. The project shall be in substantial conformance with the project design features and mitigation measures in the attached Mitigation Monitoring Program (MMP), stamped "Exhibit B". The enforcing departments or agencies may determine substantial conformance with project design features and mitigation measures in the MMP in their reasonable discretion. If the department or agency cannot find substantial conformance, a project design feature or mitigation measure may be modified or deleted as follows: the enforcing department or agency, or the decision maker for a subsequent discretionary project related approval, complies with CEQA Guidelines, Sections 15162 and 15164, including by preparing an addendum or subsequent environmental clearance to analyze the impacts from the modifications to or deletion of the project design features or mitigation measures. Any addendum or subsequent CEQA clearance shall explain why the project design feature or mitigation measure is no longer needed, not feasible, or the other basis for modifying or deleting the project design feature or mitigation measure. Under this process, the modification or deletion of a project design feature or mitigation measure shall not require a modification to any project discretionary approval unless the Director of Planning also finds that the change to the project design features or mitigation measures results in a substantial change to the project or the non-environmental conditions of approval.

61. Mitigation Monitor (Construction). During the construction phase and prior to the issuance of building permits, the applicant shall retain an independent Construction Monitor (either via the City or through a third-party consultant), approved by the Department of City Planning, who shall be responsible for monitoring implementation of project design features and mitigation measures during construction activities consistent with the monitoring phase and frequency set forth in this MMP.

The Construction Monitor shall also prepare documentation of the applicant's compliance with the project design features and mitigation measures during construction every 90 days in a form satisfactory to the Department of City Planning. The documentation must be signed by the applicant and Construction Monitor and be included as part of the applicant's Compliance Report. The Construction Monitor shall be obligated to immediately report to the Enforcement Agency any non-compliance with the mitigation measures and project design features within two businesses days if the applicant does not correct the non-compliance within a reasonable time of notification to the applicant by the monitor or if the non-compliance is repeated. Such non-compliance shall be appropriately addressed by the Enforcement Agency.

62. Tribal Cultural Resource Inadvertent Discovery. In the event that objects or artifacts that

may be tribal cultural resources are encountered during the course of any ground disturbance activities,¹ all such activities shall temporarily cease on the project site until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:

- Upon a discovery of a potential tribal cultural resource, the project Permittee shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the Department of City Planning at (213) 473-9723.
- If the City determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be tribal cultural resource, the City shall provide any effected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Project Permittee and the City regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.
- The project Permittee shall implement the tribe's recommendations if a qualified archaeologist, retained by the City and paid for by the project Permittee, reasonably concludes that the tribe's recommendations are reasonable and feasible.
- The project Permittee shall submit a tribal cultural resource monitoring plan to the City that includes all recommendations from the City and any effected tribes that have been reviewed and determined by the qualified archaeologist to be reasonable and feasible. The project Permittee shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.
- If the project Permittee does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist, the project Permittee may request mediation by a mediator agreed to by the Permittee and the City who has the requisite professional qualifications and experience to mediate such a dispute. The project Permittee shall pay any costs associated with the mediation.
- The project Permittee may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by the qualified archaeologist and determined to be reasonable and appropriate.
- Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton.
- Notwithstanding the above, any information determined to be confidential in nature, by the City Attorney's office, shall be excluded from submission to the SCCIC or the general public under the applicable provisions of the California Public Records Act, California Public Resources Code, and shall comply with the City's AB 52 Confidentiality Protocols.

Administrative Conditions

63. Approval, Verification and Submittals. Copies of any approvals, guarantees or verification of consultations, review or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.

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- 1 Ground disturbance activities shall include the following: excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, pounding posts, augering, backfilling, blasting, stripping topsoil or a similar activity

- 64. Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions may vary.
- 65. Covenant.** Prior to the issuance of any permits relative to this matter, an agreement concerning all the information contained in these conditions shall be recorded in the County Recorder's Office. The agreement shall run with the land and shall be binding on any subsequent property owners, heirs or assigns. The agreement shall be submitted to the Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
- 66. Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, legislation or their successors, designees or amendment to any legislation.
- 67. Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
- 68. Building Plans.** Page 1 of the grant and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
- 69. Corrective Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the City Planning Commission, or the Director of Planning, pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if in the decision makers opinion, such actions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
- 70. Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

(i) Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.

(ii) Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.

(iii) Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the

nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).

(iv) Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).

(v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the applicant otherwise created by this condition.