

CONDITIONS OF APPROVAL

As modified by the City Planning Commission on January 24, 2019

Pursuant to Sections 14.5.6 B and 16.05 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

A. Development Conditions:

1. **Site Development.** The Applicant shall submit a revised "Exhibit A" which incorporates the following:
 - a. Additional articulation to the roofline of the building, specifically, a non-flat roofline;
 - b. Additional architectural development of the main trunk of the building; and
 - c. Reconsideration of the podium parking screening to include concepts such as mock apartment or office uses,

to the satisfaction of the Department of City Planning (DCP). Revised Plans shall be stamp-dated upon approval by DCP staff.

2. **Development Services Center.** Prior to sign-off on building permits by the Department of City Planning's Development Services Center for the project, the Department of City Planning's Major Projects Section shall confirm, via signature on the plans, that the project's building plans substantially conform to the conceptual plans stamped as Exhibit A, as approved by the City Planning Commission.

Note to Development Services Center: The plans presented to, and approved, including revisions as required by the City Planning Commission (CPC) included specific architectural details that were significant to the approval of the project. Plans submitted at plan check for condition clearance shall include a signature and date from Major Projects Section planning staff to ensure plans are consistent with those presented at CPC.

3. **Transfer of Floor Area Rights.**
 - a. **Floor Area.** The Development shall not exceed a maximum Floor Area Ratio (FAR) of 8.43:1 and a total floor area of 424,490 square feet. The Transfer Payment and Public Benefit Payment shall be pro-rated to the amount of TFAR being acquired in the event the maximum amount of TFAR is not required. The base lot area used to calculate the base floor area shall be 50,335 square feet with a 6:1 FAR. Changes to the Project that result in a 20 percent decrease in floor area, or more, shall require new entitlements.
 - b. **TFAR Transfer Payment.** The Project is subject to and shall pay a TFAR Transfer Payment in conformance with Section 14.5.6 through 14.5.12 of the Code. Such payment shall be based on the actual amount of floor area transferred to the Project site.
 - i. The total amount of floor area authorized to be transferred from the Los Angeles Convention Center by this action shall not exceed 122,480 square feet. The total floor area of the Project Site (Receiver Site) shall not exceed 424,490 square feet.

- ii. The Applicant shall provide a TFAR Transfer Payment consistent with LAMC Section 14.5.10 in the amount of \$5 per square foot, or \$612,400, for the transfer of 122,480 square feet from the Los Angeles Convention Center located at 1201 South Figueroa Street (Donor Site) to the Project Site (Receiver Site).
- c. **Public Benefit Payment.** The Project is subject to and shall pay a Public Benefit Payment in conformance with Section 14.5.6 through 14.5.12 of the Code.
- i. The Applicant shall provide a Public Benefit Payment consistent with LAMC Section 14.5.9 in the amount of \$4,282,602.40 provided that at least 50 percent (or \$2,141,301.20) of the Public Benefit Payment consist of cash payment by the Applicant to the Public Benefit Trust Fund. Direct provision payments shall be paid directly to the recipients and not to the City of Los Angeles. Proof shall be provided in the form of a cleared check or bank statement and a letter signed by the Executive Director of each organization. Consistent with the TFAR Ordinance, the Project shall provide 50 percent (or \$2,141,301.20) of the Public Benefit Payment by directly providing the following public benefits:
 - 1. A payment to the Affordable Housing Trust Fund (AHTF) in the amount of \$2,141,301.20 (50%). The funds shall be utilized to fund affordable housing projects, as administered by the Los Angeles Housing and Community Investment Department (HCIDLA).
 - ii. At the time of issuance of the Certificate of Occupancy for the Project, the Applicant shall provide an update to the file from each recipient of direct provisions detailing how the money has been spent thus far.
 - iii. The Applicant shall pay the required Public Benefit Payment, less the cost of the Direct Provision of Public Benefits, in cash to the Public Benefit Trust Fund, pursuant to the terms of Transfer of Floor Area Rights Ordinance No. 181,574, Article 4.5 of the LAMC. The Public Benefit Payment proof of cash payment and direct provision of public benefits is required upon the earliest occurrence of either:
 - 1. The issuance of the building permit for the Project; or
 - 2. Twenty-four months after the final approval of the Transfer and the expiration of any appeals or appeal period, should the Applicant not make the required payments within the specified time, subject approval shall expire, unless extended by the Director in writing.
4. **Uses.** The project shall be limited to a maximum of 438 residential dwelling units and up to 74,963 square feet of commercial uses.
5. **Affordable Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the HCIDLA to make 22 units, that is five percent of the proposed 438 dwelling units, available to 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 any monitoring requirements established by the HCIDLA.

6. **Height.** The project shall be limited to a maximum height of 530 feet.
7. **Sustainability.**
 - a. The project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
 - b. **Solar Power.** A minimum 1,000 square feet of solar panels shall be installed on the building rooftop as shown on the roof plan provided as a part of an operational photovoltaic system to be maintained for the life of the project. The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
 - c. **Solar and Electric Generator.** Generators used during the construction process shall be electric or solar powered. Solar generator and electric generator equipment shall be located as far away from sensitive uses as feasible.
8. **Parking.**
 - a. **Vehicle Parking.** The minimum number of residential and commercial automobile parking spaces shall be provided as required by LAMC Section 12.21 A.4(a), (i), and (p). Thirty percent of the required automobile parking for commercial uses and 15 percent of the of the required automobile parking for residential uses may be replaced by bicycle parking at a ratio of one vehicle parking space for every four bicycle parking spaces provided.
 - b. **Electric Vehicle Parking.** The project shall include at least 20 percent of total parking spaces provided for all types of parking facilities as 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 capacity. Five (5) percent of the total parking spaces shall be further provided with EV chargers to immediately accommodate electric vehicles within the parking areas. When the application of either the 20 percent or 5 percent results in a fractional space, round up to the next whole number. A label stating "EVCAPABLE" shall be posted in a conspicuous place at the service panel or subpanel and next to the raceway termination point.
 - c. **Bicycle Parking.** Bicycle parking shall be provided consistent with Ordinance No. 185,480, which amended Sections 12.03, 12.21 and 12.26 of the Los Angeles Municipal Code to update the bicycle parking regulations, effective on May 9, 2018.
 - d. **Non-required Parking.** Any parking spaces which are provided in excess of the Code required parking requirement shall be capable of supporting EVSE and installed with EV chargers to immediately accommodate electric vehicles within the parking areas. The parking spaces shall be designed and labeled for EV chargers consistent with the requirement for Required Parking.
 - e. Prior to the issuance of a building permit, the driveway and parking plan shall be submitted for review and approval to the Department of Transportation.

9. **Parking Podium.**

- a. Any above grade parking structure shall be designed to be utilized and easily repurposed to other uses, including gallery or event spaces.
- b. The height of the parking level shall have sufficient clearance to be adaptable to nonparking uses. Once converted, the building shall permit a minimum floor to ceiling height of nine feet for commercial uses and eight feet for residential uses.
- c. Parking structures or that portion of a building or structure that is used for parking at grade or above grade shall be designed to minimize vehicle headlight and parking structure interior lighting impacts (“spillover”) on adjacent streets and properties.

10. **Landscaping.** Prior to the issuance of a building permit, a landscape and irrigation plan shall be submitted to the Department of City Planning for approval. The landscape plan shall be in substantial conformance with the landscape plan stamped Exhibit A.

a. **Tree Wells.**

- i. The minimum depth of tree wells shall be as follows:
 1. Minimum depth for trees shall be 42 inches.
 2. Minimum depth for shrubs shall be 30 inches.
 3. Minimum depth for herbaceous plantings and ground cover shall be 18 inches.
 4. Minimum depth for an extensive green roof shall be three inches.
- ii. The minimum amount of soil volume for tree wells shall be based on the size of the tree at maturity as follows:
 1. 600 cubic feet for a small tree (less than 25 feet tall at maturity).
 2. 900 cubic feet for a medium tree (25-40 feet tall at maturity).
 3. 1,200 cubic feet for a large tree (more than 40 feet tall at maturity).

b. Any trees that are required pursuant to LAMC Section 12.21 G and are planted on any podium or deck shall be planted in a minimum three-foot planter.

c. New trees planted within the public right-of-way shall be spaced not more than an average of 30 feet on center, unless otherwise permitted by the Urban Forestry Division, Bureau of Public Works.

11. **Greywater Irrigation.** The Project shall be constructed with an operable recycled water pipe system for on-site greywater use, to be served from on-site non-potable water sources such as showers, washbasins, or laundry and used as untreated subsurface irrigation for vegetation or for cooling equipment. The system specifics shall be required as determined feasible by Department of Water and Power in consultation with Department of City Planning.

12. **Stormwater/irrigation.** The project shall implement on-site stormwater infiltration as feasible based on the site soils conditions, the geotechnical recommendations, and the City of Los Angeles Department of Building and Safety Guidelines for Storm Water Infiltration. If on-site infiltration is deemed infeasible, the project shall analyze the potential for stormwater capture and reuse for irrigation purposes based on the City Low Impact Development (LID) guidelines.

13. **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.
14. **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.
15. **Light.** All outdoor and parking lighting shall be shielded and down-cast within the site in a manner that prevents the illumination of adjacent public rights-of-way, adjacent properties, and the night sky (unless otherwise required by the Federal Aviation Administration (FAA) or for other public safety purposes).
16. **Lighting Design.** Areas where nighttime uses are located shall be maintained to provide sufficient illumination of the immediate environment so as to render objects or persons clearly visible for the safety of the public and emergency response personnel. All pedestrian walkways, storefront entrances, and vehicular access ways shall be illuminated with lighting fixtures. Lighting fixtures shall be harmonious with the building design. Wall mounted lighting fixtures to accent and complement architectural details at night shall be installed on the building to provide illumination to pedestrians and motorists.
17. **Glare.** The exterior of the proposed structure shall be constructed of materials such as, but not limited to, high-performance and/or non-reflective tinted glass (no mirror-like tints or films) and pre-cast concrete or fabricated wall surfaces to minimize glare and reflected heat.
14. **Reflectivity.** Glass used in building façades shall be non-reflective or treated with a non-reflective coating in order to minimize glare from reflected sunlight.
15. **Noise.** All exterior windows having a line of sight of an Avenue (Major or Secondary Highway) shall be constructed with double-pane glass and use exterior wall construction which provides a Sound Transmission Coefficient (STC) value of 50, as determined in accordance with ASTM E90 and ASTM E413, or any amendment thereto. Or, the applicant, as an alternative, may retain an acoustical engineer to submit evidence, along with the application for a building permit, any alternative means of sound insulation sufficient to mitigate interior noise levels below a CNEL of 45 dBA in any habitable room.
16. **Signage.**
 - a. No signage other than building identification signage for the tower and ground floor commercial uses shall be permitted on the Project Site.
 - b. There shall be no off-site commercial signage on construction fencing during construction.

17. Prior to the issuance of the building permit, a copy of the letter of decision for Case No.VTT-74197 shall be submitted to the satisfaction of the Development Services Center.

B. Environmental Conditions

18. **Mitigation Monitoring Program.** The project shall be in substantial conformance with the mitigation measures in the attached MMP and stamped Exhibit B and attached to the subject case file. The implementing and enforcing agencies may determine substantial conformance with mitigation measures in the MMP. If substantial conformance results in effectively deleting or modifying the mitigation measure, the Director of Planning shall provide a written justification supported by substantial evidence as to why the mitigation measure, in whole or in part, is no longer needed and its effective deletion or modification will not result in a new significant impact or a more severe impact to a previously identified significant impact.

If the project is not in substantial conformance to the adopted mitigation measures or MMP, a modification or deletion shall be treated as a new discretionary action under CEQA Guidelines, Section 15162(c) and will require preparation of an addendum or subsequent CEQA clearance. Under this process, the modification or deletion of a mitigation measure shall not require a Zone Change unless the Director of Planning also finds that the change to the mitigation measures results in a substantial change to the project or the non-environmental conditions of approval.

19. **Mitigation Monitor.** 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.

20. **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 activities¹, 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:

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

- 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.

C. Administrative Conditions

21. **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 Planning Department for placement in the subject file.
22. **Code Compliance.** Area, height and use regulations of the zone classification of the subject property shall be complied with, except where herein conditions are more restrictive.
23. **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 assign. The agreement must be submitted

to the Planning Department for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Planning Department for attachment to the file.

24. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public officials, legislation or their successors, designees or amendment to any legislation.
25. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Planning Department and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
26. **Building Plans.** Page 1 of the grants and all the conditions of approval shall be printed on the building plans submitted to the City Planning Department and the Department of Building and Safety.
27. **Project Plan Modifications.** Any corrections and/or modifications to the project plans made subsequent to this grant that are deemed necessary by the Department of Building and Safety, Housing Department, or other Agency for Code compliance, and which involve a change in site plan, floor area, parking, building height, yards or setbacks, building separations, or lot coverage, shall require a referral of the revised plans back to the Department of City Planning for additional review and final sign-off prior to the issuance of any building permit in connection with said plans. This process may require additional review and/or action by the appropriate decision-making authority including the Director of Planning, City Planning Commission, Area Planning Commission, or Board.
28. **Indemnification and Reimbursement of Litigation Costs.** The 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.