

CONDITIONS OF APPROVAL

(As modified by the City Planning Commission on December 12, 2019)

Pursuant to LAMC Sections 12.32, 12.24 W.1, 12.24 W.18, 12.22 A.25(g)(2), and 16.05, the following conditions are hereby imposed upon the use of the subject property.

Development Conditions

1. **Site Development.** The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit A stamp-dated November 4, 2019, except as may be revised as a result of this action. No change to the plans, including modifications to the building's exterior architectural design features including the brickwork, façade artwork, and multi-colored glass, will be made without prior review by the Department of City Planning, and written approval by the Director of Planning, with each change being identified and justified in writing. Minor deviations may be allowed in order to comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
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, 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 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. **Uses.** The project shall be limited to a maximum of 129 live/work residential units and 81,326 square feet of commercial uses, as follows:
 - a. Retail: 27,888 square feet
 - b. Restaurant: 32,283 square feet
 - c. Art Gallery: 17,755 square feet
 - d. Artist Production (Artist Collaborative): 3,400 square feet
4. **Height.** The building shall not exceed a maximum height of 164 feet, excluding roof structures and equipment, as defined by LAMC Section 12.21.1.
5. **Floor Area Ratio.** The Floor Area Ratio (FAR) of the Project shall be limited to a maximum FAR of 8.1:1, or 370,340 square feet of total floor area.
6. **Affordable units.** A minimum of 15 units, or 11 percent of the total dwelling units, shall be reserved as affordable units, as defined by the State Density Bonus Law 65915(c)(1) or (c)(2). Affordable units required as replacement units, per Government Code 65915, shall be an equivalent size or type, or both, as those units being replaced.
7. **Changes in Restricted Units.** Deviations that decrease the number of restricted affordable units or that change the composition of units shall be consistent with LAMC Section 12.22 A.25 (9a-d).
8. **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 15 units, or 11 percent of the total dwelling 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 any monitoring requirements established by the HCIDLA.

9. 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. 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.** Where power poles are available, electricity from power poles and/or solar-powered generators rather than temporary diesel or gasoline generators shall be used during construction, In particular, solar-powered generators shall be used for the construction trailer(s) on-site.
- d. **Solar Power.**
 - i. A minimum of 15% of the upper roof of the Project shall be installed with solar panels. The solar panels shall be installed on the building rooftop 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.
 - ii. The Applicant shall make best efforts to investigate, and implement if feasible, additional, non-rooftop, solar photovoltaic systems for the Project, including on exterior facades, to the satisfaction of the Department of City Planning.
- e. **Solar-ready Buildings.** 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.

10. 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). Up to a maximum of 30 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 install a one-inch conduit in between every other parking space provided. The one-inch conduit shall be 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 provided 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 five 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. 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.

11. Open Space. The Project shall provide open space as follows:

- a. A minimum of 22,500 square feet of open space shall be provided, in substantial conformance with the landscape plans stamped Exhibit A, dated November 4, 2019.

12. 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.

13. 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.

14. 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.

15. 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.

16. 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).

- a. **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. Façade lighting. Project facades with printed-glass artwork and glass panels shall not be backlit.

18. 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.

19. 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.

20. 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.

21. Signage.

- a. There shall be no off-site commercial signage on construction fencing during construction.
- b. Project signage shall be limited to building and tenant identification signage.

- c. No off-site commercial signage shall be permitted.
 - d. No signs shall be permitted on exterior building facades on levels four (4) through 11.
22. Prior to the issuance of the building permit, a copy of the letter of decision for Case No.VTT-74703 shall be submitted to the satisfaction of the Development Services Center.
23. **River Improvement Overlay.** The project shall comply with the River Improvement Overlay (RIO) requirements set forth in LAMC Section 13.17. RIO approval shall be obtained prior to the issuance of Building Permits.

Master Conditional Use Permit for Alcohol Conditions

24. All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.
25. The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit A, except as may be revised as a result of this action.
26. 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.
27. 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 Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
28. 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 Zoning Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
29. Authorized herein is the sale, dispensing, and consumption of a full line of alcoholic beverages for on-site consumption in conjunction with:
- a. Total of up to 13 establishments, in conjunction with the proposed restaurant, retail, and hotel uses, as follows:
 - a. Three (3) on-site permits in conjunction with the hotel use (including, but not limited to the lobby, lobby bar, hotel terrace, pool deck, portable units to serve alcohol within the hotel use, mini-bars within each hotel room or suite);
 - b. Nine (9) on-site permits in conjunction with proposed restaurants, café, clubhouse or bars located within the commercial and art gallery areas;
 - c. One (1) on-site permit associated with the residential amenity spaces.
30. Authorized herein is the sale, dispensing, and consumption of a full line of alcoholic beverages for off-site consumption in conjunction with:

- a. Total of up to two (2) retail establishments, including, but not limited to, the hotel, residential, or commercial uses.
31. **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. 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. The Zoning Administrator may impose more restrictive or less restrictive conditions on each individual tenant at the time of review of each Plan Approval application. A public hearing for any Master Plan Approval (MPA) request may be waived at the discretion of the Chief Zoning Administrator.
 32. A camera surveillance system shall be installed and operating at all times to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recordings shall be maintained for a minimum period of 30 days.
 33. **STAR/LEAD Training.** Within the first six months of operation, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcoholic Beverage Control to issue a letter/certificate identifying which employees completed the training. Thereafter, STAR/LEAD training shall be conducted for all new hires within three (3) months of their employment.
 34. The Applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure such conduct does not violate applicable laws.
 35. Loitering is prohibited on the premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
 36. At least one on-duty manager with authority over the activities within the facility shall be on the premises during business hours. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the subject premises and any exterior area over which the building owner exercises control to discourage illegal and criminal activities.
 37. The Applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
 38. An electronic age verification device shall be purchased and retained on the premises to determine the age of any individual and shall be installed on at each point-of-sales location. This device shall be maintained in operational condition and all employees shall be instructed in its use.

39. The restaurant establishments shall be maintained as a bona fide eating places (restaurants) with an operational kitchen and shall provide a full menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during operating hours. The establishment shall provide seating and dispense food and refreshments primarily for consumption on the premises and not solely for the purpose of food takeout or delivery.
40. The owner or the operator shall comply with California Labor Code 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices or hookah pipes, within any enclosed place of employment.
41. All deliveries shall be made in the designated on-site loading area.
42. Trash pick-up, compacting, loading and unloading and receiving activities shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 4:00 p.m. on Saturday. No deliveries or trash pick-up shall occur on Sunday.
43. The outside disposal of glass bottles and containers shall only occur between the hours of 7:00 a.m. to 6:00 p.m.
44. **Designated Driver Program.** Prior to the utilization of this grant, the applicant shall establish a "Designated Driver Program" which shall include, but not be limited to, signs/cards, notation on websites/social media, notifying patrons of the program. The signs/cards/website/social media shall be visible to the customer and posted or printed in prominent locations or areas. These may include signs/cards on each table, at the entrance, at the host station, in the waiting area, at the bars, or on the bathrooms, or a statement in the menus, a website, or on social media.
45. Any music, sound or noise which is under control of the applicant shall not violate Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). At any time, a City representative may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
46. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
47. **Cafe and Entertainment Permit.** A Cafe and Entertainment Permit shall be obtained from the Los Angeles Police Commission. A copy shall be submitted to the Department of City Planning for inclusion in the case file.
48. The applicant / operator shall obtain permits from the Los Angeles Police Permit Processing Section, pursuant to LAMC Sections 103.102 and 103.106. Copies of said permits shall be submitted to the Department of City Planning within 30 days of their issuance for inclusion in the case file.
49. Dancing shall be permitted from 9:00 AM until 2:00 AM, seven nights a week; Monday through Sunday, pursuant to a current Los Angeles Police Commission permit. Prior to the utilization of this grant, evidence of the permit shall be submitted to the Department of City Planning for inclusion in the case file.

50. **Private Events.** Any use of the restaurant for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public, shall be subject to all the same provisions and hours of operation stated herein.
51. **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.
52. 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.
53. Should there be a change in the ownership and/or the operator of the business, the property owner and/or the business owner or operator shall provide the prospective new property owner and the business owner or operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective property owner and/or business owner/operator shall be submitted to the Department of City Planning in a letter from the new property owner and/or business owner or operator indicating the date that the new property owner and/or business owner or operator/management began and attesting to the receipt of this approval and its conditions. The new property owner and/or business owner or operator shall submit this letter to the Department of City Planning within 30 days of the beginning day of his/her new operation of the establishment along with any proposed modifications to the existing floor plan, seating arrangement or number of seats of the new operation.
54. Should there be a change in the ownership and/or the operator of the business, the Zoning Administrator reserves the right to require that the new owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees, and a 500-foot notification radius, shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete

conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

55. 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.
56. The Zoning Administrator reserves the right to require that the owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes, pursuant to LAMC Section 12.27.1.
57. **Prior to the effectuation 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 Department of City Planning for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided for inclusion in case file. Fees required per LAMC Section 19.01 E.(3) for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations shall be paid to the City prior to the final clearance of this condition. Failure to record a covenant acknowledging and agreeing to comply with all the terms and conditions of the approved grant will result in non-effectuation of said grant.

Environmental Conditions

58. **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.

- 59. 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.

- 60. 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.
- 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 Applicant 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 Applicant shall implement the tribe's recommendations if a qualified archaeologist and a culturally affiliated tribal monitor, both retained by the City and paid for by the Applicant, reasonably concludes that the tribe's recommendations are reasonable and feasible.
- The Applicant 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 Applicant shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.

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

Administrative Conditions

61. **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.
62. **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.
63. **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.
64. **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.
65. **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.
66. **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.
67. **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.

68. 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.