

CONDITIONS OF APPROVAL

Environmental Conditions (ENV-2016-1805-MND):

1. Prior to the issuance of any permit, a plot plan shall be prepared indicating the location, size, type and general condition of all existing trees on the site and within the adjacent public right(s)-of-way.
2. All significant (8-inch or greater trunk diameter, or cumulative trunk diameter if multi-trunked, as measured 54 inches above the ground) non-protected trees on the site proposed for removal shall be replaced at a 1:1 ratio with a minimum 24-inch box tree. Net, new trees, located within the parkway of the adjacent public right(s)-of-way, may be counted toward replacement tree requirements.
3. Removal or planting of any tree in the public right-of-way requires approval of the Board of Public Works. Contact Urban Forestry Division at: 213-847-3077. All trees in the public right-of-way shall be provided per the current standards of the Urban Forestry Division, Bureau of Street Services, Department of Public Works.
4. If human remains are encountered unexpectedly during project construction, demolition or other grading activities, no further disturbance shall occur until the County Coroner has made the necessary findings as to origin and deposition pursuant to California Public Resources Code Section 5097.98. If human remains of Native American origin are discovered during construction, the project shall comply with Section 5097, under the jurisdiction of the Native American Heritage Commission, relating to the deposition of Native American burials.
5. Construction and demolition shall be restricted to the hours of 7:00 am to 6:00 pm Monday through Friday, and 8:00 am to 6:00 pm on Saturday.
6. Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
7. The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.

Administrative Conditions:

8. **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.
9. **Code Compliance.** The area, height and use regulations of the zone classification of the subject property shall be complied with, except where conditions herein are more restrictive.
10. **Covenant.** Prior to the issuance of any permits relative to this matter, 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 for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the subject case file.

11. **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.
12. **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.
13. **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 Department of Building and Safety.
14. **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.
15. **Mitigation Monitoring.** Pursuant to California State Public Resources Code Section 21081.6 and the California Environmental Quality Act, the applicant and any future owners, successors, heirs or assigns shall provide the Planning Department with status reports for assessing and ensuring the efficacy of the mitigation measures (environmental conditions) required herein.
 - a. Within 30 days of the effective date of this land use entitlement and prior to any Planning Department clearance of the conditions of approval contained herein, the applicant shall file a Mitigation Monitoring and Reporting Program (MMRP) in a manner satisfactory to the Planning Department which defines specific reporting and/or monitoring requirements to be enforced during Project implementation. Each environmental condition shall be identified as to the responsible mitigation monitor(s), the applicable enforcement agency, the applicable monitoring agency and applicable phase of Project implementation as follows:
 - i. Pre-construction (prior to issuance of a building permit);
 - ii. Construction (prior to certificate of occupancy); and
 - iii. Post-construction / maintenance (post-issuance of certificate of occupancy).

In some cases, a specific mitigation measure may require compliance monitoring during more than one phase of Project implementation. Such measures shall be noted within the discussion of the specific mitigation measure in the MMRP.

- b. The applicant shall demonstrate compliance with each mitigation measure in a written report submitted to the Planning Department and the applicable enforcement agency prior to issuance of a building permit or certificate of occupancy, and, as applicable, provide periodic status reports to the Planning Department regarding compliance with post-construction / maintenance conditions.
- c. If the environmental conditions include post-construction / maintenance mitigation measures, the applicant and all future owners, successors, heirs or assigns shall be obligated to disclose these ongoing mitigation monitoring requirements to future buyers of the subject property.
- d. The applicant and any future owners, successors, heirs or assigns shall reimburse the Planning Department for its actual costs, reasonably and necessarily incurred, necessary to accomplish the required review of periodic status reports.

16. 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, in whole or in part, relating to or arising out of 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 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.