

CONDITIONS OF APPROVAL

Environmental Conditions (ENV-2016-4975-MND):

1. **Aesthetics.** All landscaped areas shall be maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect in accordance with LAMC Sections 12.40 and 12.41. The final landscape plan shall be reviewed and approved by the City of Los Angeles Department of City Planning during the building permit process.
2. **Aesthetics.** 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.
3. **Aesthetics.** 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.
4. **Increased Noise Levels (Demolition, Grading, and Construction Activities)**
 - 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.
 - Demolition and construction activities shall be scheduled so as to avoid operating several pieces of equipment simultaneously, which causes high noise levels.
 - The project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices.
 - The construction contractor shall use on-site electrical sources or solar generators to power equipment rather than diesel generators where feasible.
 - During construction, temporary noise barriers at least 10 feet high shall be installed on the north, south, and east sides of the site to block the line-of-sight from construction activities to the nearby residences. The noise barrier should have a minimum Sound Transmission Class (STC) rating of 33. There should be no holes or gaps in the barrier.
 - No tracked vehicles should be used at the project site. Only construction vehicles fitted with tires should be permitted onto the site. All wheeled equipment must remain a distance of at least 11 feet from structures on adjacent properties when performing construction work.
5. **Increased Noise Levels (Parking Wall).** A 6-foot-high solid decorative masonry wall, measured from the lowest adjacent grade, adjacent to residential use and/or zones shall be constructed if no such wall exists.
6. **Severe Noise Levels (Commercial/Industrial near Burbank Airport).** Before the granting of a building permit, an acoustical engineer shall specify the CNEL contour within which the building will be located and, based on such CNEL contours, the measures necessary to achieve an interior noise level which will not exceed 60 (Ldn in the building).
7. **Increased Noise Levels**

- No vehicles shall be unloaded, and no dollies, carts, forklifts or wheeled equipment shall be used at the property between the hours of 10 PM and 7 AM. Signs shall be posted instructing drivers of delivery vehicles to switch off the engine when the vehicle is not moving.
- All exhaust fans and exterior or rooftop mechanical equipment shall be screened with such screening material incorporated in the design of the project. Such equipment shall be set back as far as possible from residential property lines and sound proofed.
- Prior to the installation of any air conditioning systems an acoustical analysis shall be performed by a qualified acoustical engineer to ensure that the combined noise from all air conditioning systems does not exceed the allowable ambient noise level per LAMC Section 13.18 F (CUGU).
- Rollup doors and entry doors shall be kept shut, except when required to be open when moving goods or equipment into or out of the building.

8. Safety Hazards

- The developer shall install appropriate traffic signs around the site to ensure pedestrian, bicycles, and vehicle safety.
- The applicant shall submit a parking and driveway plan that incorporates design features that reduce accidents, to the Bureau of Engineering and the Department of Transportation for approval.

9. Transportation/Traffic - Pedestrian Safety

- Applicant shall plan construction and construction staging as to maintain pedestrian access on adjacent sidewalks throughout all construction phases. This requires the applicant to maintain adequate and safe pedestrian protection, including physical separation (including utilization of barriers such as K-Rails or scaffolding, etc.) from work space and vehicular traffic and overhead protection, due to sidewalk closure or blockage, at all times.
- Temporary pedestrian facilities shall be adjacent to the project site and provide safe, accessible routes that replicate as nearly as practical the most desirable characteristics of the existing facility.
- Covered walkways shall be provided where pedestrians are exposed to potential injury from falling objects.
- Applicant shall keep sidewalk open during construction until only when it is absolutely required to close or block sidewalk for construction staging. Sidewalk shall be reopened as soon as reasonably feasible taking construction and construction staging into account.

Administrative Conditions:

10. **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.
11. **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.

12. **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.
13. **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.
14. **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.
15. **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.
16. **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.
17. **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.
18. **Mitigation Monitoring and Reporting Program.** 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.

19. **Compliance.** 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.

- a. 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.
- b. 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.

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 activities (excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, driving posts, augering, backfilling, blasting, stripping topsoil or a similar activity), 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:

- o Upon a discovery of a potential tribal cultural resource, the Applicant 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 including the Fernandeno Tataviam Band of Mission Indians at (818) 837-0794 or (323) 817-5111 and the Gabrieleno Band of Mission Indians – Kizh Nation at (844) 390-0787; (2) and the Department of City Planning at (818) 374-9919.
- o 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 7 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.
- o The Applicant shall implement the tribe's recommendations by a qualified archaeologist and by 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.
- o 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 and by a culturally affiliated tribal monitor to be reasonable and feasible. The Applicant shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.

- If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or by a culturally affiliated tribal monitor, the Applicant may request mediation by a mediator agreed to by the Applicant and the City who has the requisite professional qualifications and experience to mediate such a dispute. The Applicant shall pay any costs associated with the mediation.
- The Applicant 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 by a culturally affiliated tribal monitor 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.

21. Human Remains Inadvertent Discovery. In the event that human skeletal remains are encountered at the project site during construction or the course of any ground disturbance activities, all such activities shall halt immediately, pursuant to State Health and Safety Code Section 7050.5 which requires that no further ground disturbance shall occur until the County Coroner has made the necessary findings as to the origin and disposition pursuant to California Public Resources Code Section 5097.98. In the event human skeletal remains are discovered during construction or during any ground disturbance activities, the following procedures shall be followed:

- Stop immediately and contact the County
Coroner: 1104 N. Mission Road
Los Angeles, CA 90033

323-343-0512 (8 a.m. to 5 p.m. Monday through Friday) or
323-343-0714 (After Hours, Saturday, Sunday, and Holidays)
- If the remains are determined to be of Native American descent, the Coroner has 24 hours to notify the Native American Heritage Commission (NAHC) and the Fernandeno Tataviam Band of Mission Indians at (818) 837-0794 or (323) 817-5111, the Gabrieleno Band of Mission Indians – Kizh Nation at (844) 390-0787, and the Department of City Planning at (818) 374-9919.
- The NAHC will immediately notify the person it believes to be the most likely descendent of the deceased Native American.
- The most likely descendent has 48 hours to make recommendations to the Applicant, for the treatment or disposition, with proper dignity, of the human remains and grave goods.
- If the Applicant does not accept the descendant's recommendations, the owner or the descendent may request mediation by the NAHC.

22. 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.