

## CONDITIONS OF APPROVAL

(As modified by the City Planning Commission at its meeting on February 24, 2022)

The following conditions of approval account for the Mixed Use Development Scenario and No-Hotel Development Scenario when the term “Project” is used unless stated otherwise.

Pursuant to Los Angeles Municipal Code (LAMC) Sections 12.22 A.25, 12.32 R, 12.24 T, 12.24 W.1, 12.24 W.24 (for the Mixed Use Development Scenario), and 16.05 and State Government Code Section 65915 (State Density Bonus Program), the following conditions are hereby imposed upon the use of the subject property:

### Density Bonus Conditions

1. **Site Development.** Except as modified herein, the Project shall be in substantial conformance with the plans and materials, stamped “Exhibit A1” and dated January 2022 (hereafter referred to as “Exhibit A1”), and attached to the subject case file. No change to the plans (except as conditioned) will be made without prior review by the Department of City Planning, Major Projects Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the LAMC or the Project conditions.
2. **Density.**
  - a. The Mixed Use Development Scenario shall be limited to a maximum density of 737 residential units and 180 hotel guest rooms.
  - b. The No-Hotel Development Scenario shall be limited to a maximum of 827 residential units and shall not include guest rooms.
3. **Affordable Units.** A minimum of 11 percent (76 units) of the base dwelling units permitted in the C2 Zone (683 units), shall be reserved as affordable units for Very Low Income Households, 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.
4. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units, a reduction in lot area, or that change the composition of units shall be consistent with LAMC Section 12.22 A.25 (a-d).
5. **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 11 percent (76 units) of the base density 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. In the event the Applicant reduces the proposed density of the Project, the number of required reserved on-site Restricted Units may be adjusted, consistent with LAMC Section 12.22-A,25, to the satisfaction of HCIDLA. Enforcement of the terms of said covenant shall be the responsibility of HCIDLA. The Applicant will present a copy of the recorded covenant to the Department of City Planning for inclusion in this file. The Project shall comply with the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and with any

monitoring requirements established by the HCIDLA. Refer to the Density Bonus Legislation Background section of this determination for more information.

6. **Off-Menu Incentive – Lot Area for Density Calculation.** A portion of over-dedicated public-right-away areas along Sunset Boulevard and Beaudry Avenue (approximately 3,373 square feet) shall be permitted to be counted towards the Site's lot area and permitted density. Density shall be calculated based off of a lot area of 272,908 square feet.
7. **Off-Menu Incentive – Floor Area Ratio (FAR).** A maximum 40 percent increase in the site's allowable FAR shall be permitted. The Site's FAR shall be limited to a maximum FAR of 4.19:1, or 1,129,370 square feet of floor area, in lieu of the 3:1 FAR otherwise permitted by the C2-2D zone.
8. **Waiver of Development Standard – Building Separation** A zero-foot building separation between the Elysian parking garage building and the 1111 Sunset Project buildings shall be permitted, in lieu of the minimum 114-foot building separation that is otherwise required by LAMC Section 12.21 C.2(a).
9. **VTT-80315.** Prior to issuance of any permits, submit the Letter of Determination for Case No. VTT-80315 to the Department of City Planning, Major Projects Unit, demonstrating the approval of the mergers.
10. **Automobile Parking for Residential Uses.** In accordance with AB 744 a minimum ratio of 0.5 parking spaces per bedroom shall be provided.
11. **Unbundled Parking.** Residential parking shall be unbundled from the cost of the rental units, with the exception of all Restricted Affordable Units, which shall include any required parking in the base rent or sales price, as verified by HCIDLA.
12. **Adjustment of Parking.** In the event that the number of Restricted Affordable Units should increase, or the composition of such units should change (i.e. the number of bedrooms), or the Applicant selects another Parking Option (including Bicycle Parking Ordinance) and no other Condition of Approval or incentive is affected, then no modification of this determination shall be necessary, and the number of parking spaces shall be re-calculated by the Department of Building and Safety based upon the ratios set forth above.

### **Vesting Conditional Use Conditions**

13. **Hotel Guest Rooms.**
  - a. A maximum of 180 hotel guest rooms uses shall be permitted under the Mixed Use Development Scenario.
  - b. No hotel guest rooms shall be permitted under the No-Hotel Development Scenario.

**Main Conditional Use Permit for Alcohol Conditions**

14. All other use, height and area regulations of the LAMC 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.
15. 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 A1 dated January 2022, except as may be revised as a result of this action.
16. All graffiti on the Site shall be removed or painted over to match the color of the surface to which it is applied within 24 hours of its occurrence.
17. Authorized herein is the sales and service of a full line of alcoholic beverages for:
  - a. On-site and off-site consumption, in conjunction with a maximum of 13 commercial establishments and associated outdoor dining areas for the Mixed Use Development Scenario or the No-Hotel Development Scenario.
  - b. In addition, on- and/or off-site consumption, in conjunction the hotel use with up to six operators for the Mixed Use Development Scenario.
18. **STAR/LEAD/RBS 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 or the Responsible Beverage Service (RBS) Training Program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcohol Beverage Control to issue a letter identifying which employees completed the training. STAR or LEAD or RBS training shall be conducted for all new hires within three months of their employment.
19. After hour use shall be prohibited, except routine clean-up. This includes but is not limited to private or promotional events, special events, excluding any activities which are issued film permits by the City.
20. 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 disturb the peace adjoining residents, property owners, and businesses.
21. "No Public Drinking" signs shall be posted in and outside of the subject facility.
22. The Applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
23. The Applicant(s) shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The Applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.
24. **Additional Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Department of

City Planning to impose additional corrective conditions, if, it is determined by the Department of City Planning that such conditions are proven necessary for the protection of person in the neighborhood or occupants of adjacent property.

25. **Security.** 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.
26. 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.
27. **Main Plan Approval (MPA) Requirement.** Each individual venue shall be subject to a Main Plan Approval (MPA) determination pursuant to LAMC Section 12.24 M, or as otherwise provided for in the LAMC for on-site alcohol sales in conjunction with the operation of restaurants and bars, in order to implement and utilize the Master Conditional Use authorization granted. The purpose of the Main 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 subject to analysis of the venue's individual mode and character of operations 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. These conditions may include additional conditions not included in the Main Conditional Use Conditions of Approval. A Plan Approval without a hearing may be granted by the Chief Zoning Administrator if the operator agrees to the Conditional Use Permit Conditions.
28. **Lease Agreements.** All establishments applying for an Alcoholic Beverage Control license shall be given a copy of these conditions prior to executing a lease and these conditions shall be incorporated into the lease. Furthermore, all vendors of alcoholic beverages shall be made aware that violations of these conditions may result in revocation of the privileges of serving alcoholic beverages on the premises.
29. **Building Plans.** A copy of this grant and all Conditions and/or any subsequent appeal of this grant and resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
30. **Ownership/Operator Change.** Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the new business owner/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 has been provided to the prospective owner/operator, including the conditions required herewith, shall be submitted to the BEST (Beverage and Entertainment Streamlined Program) in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the BEST (Beverage and Entertainment Streamlined Program) within 30 days of the beginning day of his/her new operation of the establishment along with the dimensioned floor plan, seating arrangement and number of seats of the new operation.

31. **MViP – Monitoring, Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per LAMC Section 19.01-E,3 - Monitoring of Conditional Use Permits, Inspection, and Field Compliance for Review of Operations, and Section 19.04 - Miscellaneous ZA Sign Offs shall be paid to the City.
- a. Within 24 months from the beginning of operations or issuance of a Certificate of Occupancy, a City inspector will 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 included in the administrative file.
  - b. The owner and operator shall be notified of the deficiency or violation and 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, may result in additional corrective conditions imposed by the Zoning Administrator.
32. **Covenant and Agreement.** 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.

### **Director's Decision Conditions**

33. **Trees.** The Applicant shall provide a minimum of 262 trees on-site and/or in the parkway, to the satisfaction of Urban Forestry. Final landscape plans shall show the location, height, and caliper of all trees. The trees that cannot be accommodated onsite shall be provided through the payment of the In-Lieu Fee-Development Tree Planting Requirement as specified in Article 2, Chapter VI, Section 62.177(b)(1) of the LAMC for each tree to be planted offsite. The priority for the location of offsite plantings shall be within the Central City North Community Plan Area (or an adjacent Community Plan Area), subject to the acceptances of a donor site. A receipt showing proof of payment shall be provided to the Department of City Planning prior to issuance of a grading permit. In the event that the number of dwelling units should be reduced, no modification of this determination shall be necessary, and the number of required trees shall be recalculated.
34. **In-Lieu Fee.** In accordance with Ordinance No. 185,573 an in-lieu fee shall be paid to cover the cost to procure and plant each required tree that cannot be accommodated on-site. The following tree requirements are applicable to the Project:
- a. All removed Non-protected trees must be replaced at a 1:1 ratio.
  - b. All removed Protected trees must be replaced at a 4:1 ratio.
  - c. All removed street trees must be replaced at a 2:1 ratio.
  - d. At least one 24-inch box tree for every four dwelling units shall be provided onsite and

may include street trees in the parkway.

**35. Tree Wells.**

- a. The minimum depth of tree wells shall be as follows:
  - i. Minimum depth for trees shall be 42 inches.
  - ii. Minimum depth for shrubs shall be 30 inches.
  - iii. Minimum depth for herbaceous plantings and ground cover shall be 18 inches.
- b. Minimum depth for an extensive green roof shall be three inches.
- c. The minimum amount of soil volume for tree wells shall be based on the size of the tree at maturity as follows:
  - i. 220 cubic feet for a tree 15 - 19 feet tall at maturity.
  - ii. 400 cubic feet for a tree 20 - 24 feet tall at maturity.
  - iii. 620 cubic feet for a medium tree or 25 - 29 feet tall at maturity.
  - iv. 900 cubic feet for a large tree or 30 - 34 feet tall at maturity.
- d. 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.
- e. 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.

**Site Plan Review Conditions**

- 36. Site Development.** The use and development of the property shall be in substantial conformance with the plans submitted with the application and marked Exhibit A1, dated January 2022. No change to the plans will be made without prior review by the Department of City Planning, Major Projects Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code or the project conditions. The project shall be in substantial conformance with the following description:
- a. Mixed Use Development Scenario: Up to 737 dwelling units (including 76 Very Low Income Restricted Affordable units), 180 hotel guest rooms, 95,000 square feet of commercial, and 48,000 square feet of office.
  - b. No Hotel Development Scenario: Up to 827 dwelling units (including 76 Very Low Income Restricted Affordable units), 95,000 square feet of commercial, and 48,000 square feet of office.
- 37. Floor Area Ratio.** The Site's FAR shall be limited to a maximum FAR of 4.19:1, or 1,129,370 square feet of floor area, including the 110,336 square-foot Elysian apartment building. The Project's maximum new habitable floor area shall be limited to 994,982 square feet, in accordance with the environmental analysis for the Project. As such, the Project's 24,052

square feet of floor area beneath the podium element of Tower A, Tower B, and the Sunset Building shall remain outdoor unenclosed/unhabitable floor area, in substantial conformance with Exhibit A1, page 20.

38. **Floor Area Covenant.** As proposed through the recordation of an appropriate "Covenant and Agreement Regarding Maintenance of Building," the Project Applicant (or his/her successor) shall be required to record a covenant and agreement to ensure that the Project's ground floor covered area, beneath the podium element of Tower A, Tower B, and the Sunset Building, are not enclosed and used for habitable uses.
39. **Vehicular Parking.**
  - a. Any above grade parking structure shall be designed to be utilized and easily repurposed to other uses.
  - b. Entrances, elevators, and stairs for parking structures (both the Project's and Elysian parking structure) shall be easily accessible and highlighted architecturally.
  - c. The height of the parking level shall have sufficient clearance to be adaptable to non-parking 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.
  - d. All above grade levels of the Project's parking podium shall be wrapped or incorporated into the architecture or landscaping.
40. **Elysian Parking Structure.** A total of 168 automobile parking spaces shall replace the existing 168 onsite surface automobile parking spaces. The 168 spaces shall be located in the new Elysian parking structure and accessible to the residents of the Elysian apartment building.
41. **Electric Vehicle Parking.** All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined in Chapter IX, Article 9, LAMC Sections 99.04.106 and 99.05.106.
42. **Pick-Up/Drop-Off.** A dual-purpose area shall be provided at the corner of Sunset Boulevard and Beaudry Avenue for hotel valet (for the Mixed Use Development Scenario) and ride-hailing services (such as Uber, Lyft, taxis, etc.) drop-off and pick-up for the Project.
43. **Transportation Center.** An area shall be provided that encourages the use of multi-modal transit and provide a space to store/park bicycle and scooter sharing services.
  - a. The Transportation Center shall be open to the public during regular business hours.
  - b. Bicycle facilities shall be provided.
44. **Solar.** The Project will comply with the Los Angeles Green Building Code and 15 percent of the total roof area will be solar ready.
45. **Publicly Accessible Open Space.** The Project shall provide an approximately 20,925 square-foot publicly accessible open space feature ("The Hill") at the ground level which

shall be designed and landscaped in substantial conformance with Exhibit A1, dated January 2022.

- a. Public access to the approximately 20,925 square-foot open space feature shall be unrestricted from dawn to dusk.
  - b. No gates and/or fences shall be installed around the perimeter of the approximately 20,925 open space feature that would restrict public access, and no gates and/or fences shall be installed on the Project Site that would limit direct access to the open space feature from Sunset Boulevard.
46. **Landscaping.** Prior to the issuance of a building permit, a landscape and irrigation plan prepared in accordance with LAMC Sections 12.40 through 12.43 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 A1 and January 2022. Minor deviations from the requirements provided below may be permitted by the Department of City Planning to permit the existing landscaping conditions provided that the plantings are well established and in good condition.
- a. The area surrounding the tower podiums shall be designed with decorative murals or landscaped in a manner that softens the buildings' appearance, by including taller plantings such as shade trees, greenscreens, or climbing vines, where applicable, in order to screen views of the tower podium.
47. **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.
48. **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.
49. **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.
50. **Construction Generators.** The Project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. The Project construction contractor shall use on-site electrical sources and solar generators to power equipment rather than diesel generators, where feasible.
51. **Mechanical Equipment.** All mechanical equipment shall be fully screened from view of any abutting properties and the public right-of-way.
52. **Trash/Storage.** All trash collecting and storage areas shall be located on-site and not visible from the public right-of-way. Trash receptacles shall be enclosed and/or covered at all times. Trash/recycling containers shall be locked when not in use.



53. **Pedestrian Improvements.** The following improvements shall be completed as part of the Project, subject to the approval of Bureau of Engineering and the Department of Transportation.
- a. As approved under related Case No. VTT-80315, the merger of the Beaudry Triangle and related improvements to the Beaudry Avenue and Sunset Boulevard intersection.
  - b. The installation of a pedestrian crosswalk with continental crosswalk markings along Sunset Boulevard at White Knoll Drive and the installation of a traffic signal.
  - c. The addition of an all-way stop control at the existing continental crosswalk located at the intersection of Beaudry Avenue and Alpine Street (across Beaudry Avenue).
54. **Transportation System Management.** The Project shall contribute up to \$500,000 toward Transportation System Management (TSM) improvements within the Project area that may be considered to better accommodate intersection operations and increase network capacity throughout the study area. LADOT's ATSAC Section has identified the following improvements within the project area:
- Installation of a mini-hub near the intersection of Beaudry Avenue and Sunset Boulevard.
  - Installation of new 25-pair interconnect cables along existing conduits on Temple Street between Beaudry Avenue and Vin Scully Avenue & repair or upgrade existing cables, if deemed necessary, during the installation process.
  - Installation of new 25-pair interconnect cables along existing conduits on Sunset Boulevard between Beaudry Avenue and Union Avenue & repair or upgrade existing cables, if deemed necessary, during the installation process.
  - Installation of new 12-pair interconnect cables, new 48SM video fiber cables, new 3" conduits on Stadium Way between Vin Scully Avenue to Downtown Gate St / SR 110 Freeway Ramp.
  - Installation of new 25-pair interconnect cables on Beaudry Avenue between Sunset Boulevard and Temple Street & repair or upgrade existing cables, if deemed necessary, during the installation process.

A final determination on how to implement the TSM improvements listed above will be made by LADOT prior to the issuance of a building permit. These TSM improvements would be implemented either by the Applicant through BOE's B-Permit process or through payment of a one-time fixed fee of \$500,000 to LADOT to fund the cost of the upgrades. If LADOT selects the payment option, then the Applicant would be required to pay \$500,000 to LADOT, and LADOT shall design and construct the upgrades.

55. **FASTLinkDTLA Transportation Management Organization.** The Project shall join in the effort as a founding member and shall participate in the initial funding and marketing of FASTLinkDTLA, a Downtown Los Angeles Transportation Management Organization (DTLA TMO) to promote alternative modes of travel and programs to reduce vehicle trips in Downtown Los Angeles area, including the Project Site. The TMO would offer similar services to those described in the Project's TDM plan but would have a much wider reach and can result in much greater trip reduction benefits. The Applicant shall participate in the initial funding and marketing of FASTLinkDTLA to address these needs, and help alleviate current and future traffic congestions throughout the area.

56. **Traffic Signal Warrant Analysis.** A traffic signal at the unsignalized intersection of Sunset Boulevard and White Knoll Drive is warranted as it satisfies the peak hour volume warrant for a signal based on future projected traffic volumes. If LADOT makes the determination that a traffic signal is warranted and needed at the intersection, then the applicant would be responsible to cover all costs associated with the design and installation of the new signal.
57. **Construction Traffic Management Plan.** The Applicant shall prepare a Construction Traffic Management Plan which will include a construction work site traffic control plan, DOT recommends that the construction work site traffic control plan be submitted to LADOT's Citywide Temporary Traffic Control Section or Permit Plan Review Section for review and approval prior to the start of any construction work
58. **Development Review Fees.** LAMC Section 19.15 identifies specific fees for traffic study review, condition clearance, and permit issuance. The Applicant shall comply with any applicable fees per this ordinance.

### **Environmental Conditions**

59. **Implementation.** The Mitigation Monitoring Program (MMP), attached as "Exhibit B" and part of the case file, shall be enforced throughout all phases of the Project. The Applicant shall be responsible for implementing each Project Design Features (PDF) and Mitigation Measure (MM) and shall be obligated to provide certification, as identified below, to the appropriate monitoring and enforcement agencies that each PDF and MM has been implemented. The Applicant shall maintain records demonstrating compliance with each PDF and MM. Such records shall be made available to the City upon request.
60. **Construction 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 PDFs and MMs 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 PDFs and MMs 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 MMs and PDFs 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.

61. **Substantial Conformance and Modification.** After review and approval of the final MMP by the Lead Agency, minor changes and modifications to the MMP are permitted, but can only be made subject to City approval. The Lead Agency, in conjunction with any appropriate agencies or departments, will determine the adequacy of any proposed change or modification. This flexibility is necessary in light of the nature of the MMP and the need to protect the environment. No changes will be permitted unless the MMP continues to satisfy

the requirements of CEQA, as determined by the Lead Agency.

The Project shall be in substantial conformance with the PDFs and MMs contained in this MMP. The enforcing departments or agencies may determine substantial conformance with PDFs and MMs in the MMP in their reasonable discretion. If the department or agency cannot find substantial conformance, a PDF or MM may be modified or deleted as follows: the enforcing department or agency, or the decision maker for a subsequent discretionary project related approval finds that the modification or deletion complies with CEQA, including CEQA Guidelines Sections 15162 and 15164, which could include the preparation of an addendum or subsequent environmental clearance, if necessary, to analyze the impacts from the modifications to or deletion of the PDFs or MMs. Any addendum or subsequent CEQA clearance shall explain why the PDF or MM is no longer needed, not feasible, or the other basis for modifying or deleting the PDF or MM, and that the modification will not result in a new significant impact consistent with the requirements of CEQA. Under this process, the modification or deletion of a PDF or MM shall not, in and of itself, require a modification to any Project discretionary approval unless the Director of Planning also finds that the change to the PDF or MM results in a substantial change to the Project or the non-environmental conditions of approval.

### **Administrative Conditions**

62. **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.
63. **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.
64. **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.
65. **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.
66. **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.
67. **Building Plans.** Page 1 of the grants and all the conditions of approval shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety.
68. **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.

69. **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.

70. 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.

71. 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.