

CONDITIONS OF APPROVAL

A. Development Conditions

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, labeled "Exhibit A", and attached to the subject case file. No change to the plans shall be made without prior review by the Department of City Planning, Valley Project Planning Division, 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, the project conditions, or the project permit authorization.
2. **Residential Floor Area (RFA).** The project shall be limited to 5,700 square feet of Residential Floor Area as defined in LAMC Section 12.03.
3. **Height.** The project shall be limited to an overall height of 29 feet, seven inches in height but shall not exceed the height limitations as delineated in LAMC Section 12.21.C.10.
4. **Envelope Height.** The project shall be limited to an envelope height of no more than 29 feet, seven inches and shall not exceed the Maximum Envelope Height as delineated in LAMC Section 12.21.C.10.
5. **Roofs.** Roof material shall be surfaced with non-glare materials, and no equipment shall be placed thereon, with the exception of solar energy devices.

B. Zoning Variance Conditions

6. **Kitchen.** Approved herein is a variance to allow a second kitchen on the RE zoned property with a one-family dwelling with existing kitchen.

C. Zoning Administrator Determination Conditions

7. **Retaining Walls.** Approved herein are three retaining walls a maximum height of 10 feet when measured from the finished grade. Except as modified herein, the retaining walls shall be in substantial conformance with the plans and materials submitted by the Applicant, labeled "**Exhibit A,**" and attached to the subject case file. No change to the plans shall be made without prior review by the Department of City Planning, Valley Project Planning Division, 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, the project conditions, or the project permit authorization.
8. **Grading.** Approved herein the allowance of 28,012 cubic yards of grading to occur on-site.

D. Project Permit Compliance and Design Review Conditions

- 9. Hardscape.** The applicant shall ensure that all hardscape material is permeable.
- 10. Sloping Site Profile.** The profile of the building shall be consistent with 'Exhibit A'. Where a building is situated on a site with a slope greater than 25 percent, the building shall utilize a stepped-profile in which no portion of the building exceeds 25 feet in height, as measured from adjacent natural grade to the top of the roof or parapet wall directly above. Minimal grading and cut foundations should be utilized instead of extensive grading, filling, and retaining walls to create a building pad.
- 11. Garages.** The project shall not utilize more than one double or two single garage doors in the same plane visible from the public right-of-way.
- 12. Roof Form.** As shown in 'Exhibit A', and attached to the subject case file, the project shall utilize a flat roof form with a minimum of two roof forms, with a minimum offset of 4' feet in height variation.
- 13. Exterior Lighting.** All exterior lighting fixtures shall be shielded and directed downward to illuminate only the project property. Up-lighting shall be prohibited. A lighting plan shall be submitted prior to final sign-off to demonstrate compliance.
- 14. Wildlife.** Should an agreement between the Applicant and the Mountains Recreation and Conservation Authority (MRCA) be reached, a Deed Restriction via Covenant would prohibit fencing, walls, lighting, planting of non-native vegetation, structures, or new hardscape within the deed restricted area. This deed restriction would not affect the residence as currently proposed, or interfere with its stated purpose as a single-family residence and the existing hardscape pathways would be specifically exempted from the prohibition on hardscape. If and when this agreement is reached, a copy shall be provided for the case file. Completion of this agreement is not a mandatory requirement.

E. Specific Plan Exception Conditions

- 15. Prominent Ridge.** Approved herein a Specific Plan Exception to allow construction within 50 feet of a prominent ridgeline under Mulholland Specific Plan Section 5.B.1

F. Environmental Conditions

- 16. 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.
- 17. 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 business 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.

- 18. 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.

- 19. 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 (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), 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 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; (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, 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.
- If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist, 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 determined to be reasonable and appropriate.
- Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton. Notwithstanding the above, any information determined to be confidential in nature, by the City Attorney's office, shall be excluded from submission to the SCCIC or the general public under the applicable provisions of the California Public Records Act, California Public Resources Code, and shall comply with the City's AB 52 Confidentiality Protocols.

20. Archaeological Resource Inadvertent Discovery. In the event that any subsurface archaeological resources are encountered unexpectedly at the project site during construction or the course of any ground disturbing activities, all such activities shall halt immediately, at which time the applicant shall notify the City and consult with a qualified archaeologist to implement the following procedures associated with the inadvertent discovery of archaeological resources:

- The applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards (PQS) to prepare a treatment and disposition plan for any discovered archaeological resource. The qualified archaeologist shall retain an archaeological monitor who shall be present during further ground disturbing activities on the project site, including peripheral

activities, such as sidewalk replacement, utilities work, and landscaping, which may occur adjacent to the project site.

- A 50-foot buffer around any find shall be established, subject to modification by the qualified archaeologist, within which construction activities shall not be allowed to continue around the find until work is allowed to resume in accordance with the treatment and disposition plan. Ground-disturbing activities shall be halted or diverted away from the vicinity of the find so that the find can be evaluated as part of a treatment and disposition plan. Work shall be allowed to continue outside of the buffer area.

- All archaeological resources unearthed by project development activities shall be evaluated by the qualified archaeologist. If a resource is determined by the qualified archaeologist to constitute a “historical resource” pursuant to CEQA Guidelines Section 15064.5(a) or a “unique archaeological resource” pursuant to Public Resources Code Section 21083.2(g), the qualified archaeologist shall coordinate with the applicant and the City to develop a formal treatment plan that would serve to reduce impacts to the resources. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If, in coordination with the City, it is determined that preservation in place is not feasible, appropriate treatment of the resource shall be developed by the qualified archaeologist in coordination with the City and may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any archaeological material collected shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be donated to a local school, Tribe, or historical society in the area for educational purposes. If the inadvertent discovery identifies a tribal cultural resource, the applicant shall comply with the inadvertent discovery condition for tribal cultural resources.

- The frequency of required archaeological monitoring shall be based on the rate of excavation and grading activities, the materials being excavated (younger sediments vs. older sediments), the depth of excavation, and, if found, the abundance and type of archaeological resources encountered. Full-time monitoring may be reduced to part-time inspections, or ceased entirely, if determined adequate by the qualified archaeologist. Prior to any further ground disturbing activities on the project site, Archaeological Sensitivity Training shall be given for applicable construction personnel. The training session shall be carried out by the qualified archaeologist and shall focus on how to identify archaeological resources that may be encountered during earthmoving activities and the procedures to be followed in such an event.

- All artifacts, other cultural remains, records, photographs, and other documentation shall be curated by an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.

- The treatment and disposition plan shall be submitted to the City prior to any further ground disturbing activities continue within the buffer area. Recommendations contained therein shall be implemented throughout any

further ground disturbance activities.

21. Paleontological Resource Inadvertent Discovery. In the event that any subsurface paleontological resources are encountered unexpectedly at the project site during construction or the course of any ground disturbing activities, all such activities shall halt immediately, at which time the applicant shall notify the City and consult with a qualified paleontologist to implement the following procedures associated with the inadvertent discovery of paleontological resources:

- The project applicant shall retain a qualified paleontologist meeting the Society of Vertebrate Paleontology Standards (SVP) to complete a treatment and disposition plan for any discovered paleontological resource. The qualified paleontologist shall retain a paleontological monitor who shall be present during further ground disturbing activities on the project site, including peripheral activities, such as sidewalk replacement, utilities work, and landscaping, which may occur adjacent to the project site.
- A 50-foot buffer around any find shall be established, subject to modification by the qualified paleontologist, within which construction activities shall not be allowed to continue around the find until work is allowed to resume in accordance with the treatment and disposition plan. Ground-disturbing activities shall be halted or diverted away from the vicinity of the find so that the find can be evaluated as part of a treatment and disposition plan. Work shall be allowed to continue outside of the buffer area.
- All paleontological resources unearthed by project development activities shall be evaluated by the qualified paleontological. The qualified paleontologist or designated paleontological monitor shall recover intact fossils consistent with the treatment plan and notify the City of any fossil salvage and recovery efforts. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt future construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. Any fossils shall be handled and deposited consistent with the treatment and disposition plan prepared by the paleontological monitor.
- The frequency of required paleontological monitoring shall be based on the rate of excavation and grading activities, the materials being excavated (younger sediments vs. older sediments), the depth of excavation, and, if found, the abundance and type of archaeological resources encountered. Full-time monitoring may be reduced to part-time inspections, or ceased entirely, if determined adequate by the qualified paleontologist. Prior to any further ground disturbing activities on the project site, Paleontological Resource Sensitivity Training shall be given for applicable construction personnel. The training session shall be carried out by the qualified archaeologist and shall focus on how to identify paleontological resources that may be encountered during earthmoving activities and the procedures to be followed in such an event.
- All artifacts, other cultural remains, records, photographs, and other documentation shall be curated by an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.

- The treatment and disposition plan shall be submitted to the City prior to any further ground disturbing activities continue within the buffer area. Recommendations contained therein shall be implemented throughout any further ground disturbance activities.

F. Administrative Conditions

- 22. Final Plans.** Prior to the issuance of any building permits for the project by the Department of Building and Safety, the applicant shall submit all final construction plans that are awaiting issuance of a building permit by the Department of Building and Safety for final review and approval by the Department of City Planning. All plans that are awaiting issuance of a building permit by the Department of Building and Safety shall be stamped by Department of City Planning staff "Final Plans". A copy of the Final Plans, supplied by the applicant, shall be retained in the subject case file.
- 23. Notations on Plans.** Plans submitted to the Department of Building and Safety, for the purpose of processing a building permit application shall include all of the Conditions of Approval herein attached as a cover sheet and shall include any modifications or notations required herein.
- 24. Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.
- 25. Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
- 26. 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 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 for inclusion in the case file.
- 27. Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean the agencies, public offices, legislation or their successors, designees or amendment to any legislation.
- 28. Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of

City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.

- 29. 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 amendment thereto.
- 30. Expiration.** In the event that this grant is not utilized within three years of its effective date (the day following the last day that an appeal may be filed), the grant shall be considered null and void. Issuance of a building permit, and the initiation of, and diligent continuation of, construction activity shall constitute utilization for the purposes of this grant.
- 31. Corrective 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 City Planning Commission, or the Director of Planning, pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if in the decision makers opinion, such actions are proved necessary for the protection of persons in the neighborhood or occupants of adjacent property.
- 32. 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 and the City Planning Commission.
- 33. Fire Department.** Prior to any sign-off of plans by the Development Services Center, the plot plan and the landscape plan shall be submitted to the Fire Department for review of compliance with the Los Angeles Municipal Code fire protection provisions for hillside dwellings.
- 34. 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:
- 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; (2) and the Department of City Planning at (818) 374-9918.
 - 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 30 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 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.
- 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.

35. 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 actives, 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).

- 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.

36. Archaeological Resources Inadvertent Discovery. In the event that any subsurface cultural resources 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. At which time the applicant shall notify the City and consult with a qualified archaeologist who shall evaluate the find in accordance with Federal, State, and local guidelines, including those set forth in the California Public Resources Code Section 21083.2 and shall determine the necessary findings as to the origin and disposition to assess the significance of the find. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined to be unnecessary or infeasible by the City. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted.

37. Paleontological Resources Inadvertent Discovery. In the event that any prehistoric subsurface cultural resources are encountered at the project site during construction or the course of any ground disturbance activities, all such activities shall halt immediately, at which time the applicant shall notify the City and consult with a qualified paleontologist to assess the significance of the find. In the case of discovery of paleontological resources, the assessment shall be done in accordance with the Society of Vertebrate Paleontology standards. If any find is determined to be significant, appropriate avoidance measures recommended by the consultant and approved by the City must be followed unless avoidance is determined to be unnecessary or infeasible by the City. If avoidance is unnecessary or infeasible, other appropriate measures (e.g., data recovery, excavation) shall be instituted.

38. Indemnification and Reimbursement of Litigation Costs. 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.

