

## CONDITIONS OF APPROVAL

Pursuant to Section 14.5.6 B and 16.05 of the Los Angeles Municipal Code, the following conditions are hereby imposed upon the use of the subject property:

### **Entitlement Conditions**

1. **Site Development.** The use and development of the property shall be in substantial conformance with the plans submitted with the application, marked Exhibit A, except as may be revised by this action. No change to the plans will be made without prior review by the Department of City Planning, and written approval by the Director of Planning, with each change identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
2. **Transfer of Floor Area Rights**
  - a. **Floor Area.** The Development shall not exceed a maximum Floor Area Ratio (FAR) of 9.13:1 and a total floor area of 491,515 square feet. The Transfer Payment and Public Benefit Payment shall be pro-rated to the amount of TFAR being acquired in the event the maximum amount of TFAR is not required. The buildable area of a Transit Area Mixed Use Project used to calculate the base floor area shall be 216,720 square feet with a 6:1 FAR. Changes to the Project that result in a 20 percent decrease in floor area, or more, shall require new entitlements. The Department of City Planning reserves the right to confirm the accuracy of the requested floor area, and to verify the calculation of the Transfer Payment and Public Benefit Payment at any time prior to the issuance of the building permit, or 24 months after the final approval of the Transfer and the expiration of any appeals or appeal period, or any extensions permitted by the Director in accordance with Section 14.5.11 of the LAMC.
  - b. **TFAR Transfer Payment.** The Project is subject to and shall pay a TFAR Transfer Payment in conformance with Section 14.5.6 through 14.5.12 of the Code. Such payment shall be based on the actual amount of floor area transferred to the Project site.
    - i. The total amount of floor area authorized to be transferred from the Los Angeles Convention Center by this action shall not exceed 274,795 square feet. The total floor area of the Project Site (Receiver Site) shall not exceed 491,515 square feet.
    - ii. The Applicant shall provide a TFAR Transfer Payment consistent with LAMC Section 14.5.10 in the amount of \$5 per square foot, or \$1,373,975.00 for the transfer of 274,975 square feet from the Los Angeles Convention Center located at 1201 South Figueroa Street (Donor Site) to the Project Site (Receiver Site).
  - c. **Public Benefit Payment.** The Project is subject to and shall pay a Public Benefit Payment in conformance with Section 14.5.6 through 14.5.12 of the Code.
    - i. The Applicant shall provide a Public Benefit Payment consistent with LAMC Section 14.5.9 in the amount of \$11,462,471.39 provided that at least 50 percent (or \$5,5731,235.70) of the Public Benefit Payment consist of cash payment by the Applicant to the Public Benefit Trust Fund. Direct provision

payments shall be paid directly to the recipients and not to the City of Los Angeles. Proof shall be provided in the form of a cleared check or bank statement and a letter signed by the Executive Director of each organization. Consistent with the TFAR Ordinance, the Project shall provide 100 percent (or \$11,462,471.39) of the Public Benefit Payment by directly providing the following public benefits:

1. A payment to the City of Los Angeles Housing Department Affordable Housing Trust Fund in the amount of \$5,731,235.70 (50 percent). The funds shall be utilized for construction and operation of affordable housing developments.
- ii. At the time of issuance of the Certificate of Occupancy for the Project, the Applicant shall provide an update to the file from each recipient of direct provisions detailing how the money has been spent thus far.
- iii. The Applicant shall pay the required Public Benefit Payment, less the cost of the Direct Provision of Public Benefits, in cash to the Public Benefit Trust Fund, pursuant to the terms of Transfer of Floor Area Rights Ordinance No. 181,574, Article 4.5 of the LAMC. The Public Benefit Payment proof of cash payment and direct provision of public benefits is required upon the earliest occurrence of either:
  1. The issuance of the building permit for the Project; or
  2. Twenty-four months after the final approval of the Transfer and the expiration of any appeals or appeal period; should the Applicant not make the required payments within the specified time, the subject approval shall expire, unless extended by the Director in writing.

### **3. Sustainability**

- a. The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.

### **4. Parking**

- a. Automobile Parking. Pursuant to California Government Code Section 65863.2 and AB 2097, the project shall be allowed to provide a minimum of zero (0) parking spaces. However, 581 parking spaces are being provided.
- b. Bicycle parking. Bicycle parking shall be provided consistent with LAMC 12.21-A,16. In the event that the number of On-Site Restricted Affordable Units should increase or the composition of such units should change, then no modification of this determination shall be necessary and the number of bicycle parking spaces shall be re-calculated consistent with LAMC Section 12.21-A,16.
- c. Unbundling. Required parking may be sold or rented separately from the 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 LAHD.
- d. Electric Vehicle Parking. All electric vehicle charging spaces (EV Spaces) and electric vehicle charging stations (EVCS) shall comply with the regulations outlined

in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC, to the satisfaction of the Department of Building and Safety

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

- a. A minimum of 58,275 square feet of open space, in substantial conformance with the architectural plans stamped Exhibit A.
- b. A minimum of 6,452 square feet (25 percent) of the common open space areas shall be planted with ground cover, shrubs, and trees within the common open space.

**6. 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.

**Downtown Design Guide Conditions**

**7. Sidewalk Easement.** The project shall provide an average sidewalk easement of three (3) feet along 11th Street and a street dedication of two (2) feet, as shown on Sheet G0.01b of Exhibit "A." The building shall not project more than five horizontal feet over the required sidewalk easement nor below 40 vertical feet above the sidewalk.

**8. Setbacks.** The project shall observe zero-foot setbacks on Olive Street and on the back of the required sidewalk easement along 11th Street, except for the corner at the intersection of 11th Street and Olive Street, as shown on Sheet A1.04 of Exhibit "A".

**9. Streetwall.**

- a. **11<sup>th</sup> Street.** At least 114 linear feet and six (6) linear inches of the 150-foot building frontage (76%) shall provide a building street wall at the back of the sidewalk easement for a minimum height of 45 feet, as shown on Sheet G0.05 of Exhibit A.
- b. **Olive Street.** At least 164 linear feet and six (6) linear inches of the 203-foot building frontage (81%) shall provide a building street wall at the back of the sidewalk easement for a minimum height of 45 feet.

**10. Parking.** Facades of all above-grade vehicle parking structures shall be enclosed and screened to minimize visual impacts on the public realm in substantial conformance with materials, colors and design as shown on **Sheets A2.01, A2.02, A2.03, A2.04, A4.02, and A4.03** of Exhibit "A." As shown in Exhibit "A," the exterior of the above-grade parking garage shall be screened with solid metal panels, metal screens with angled louvres, tempered glazing, and cement plaster.

**11. Ground Floor Treatment.**

- a. Wall openings shall comprise at least 75 percent of the street level façade on 11th Street.
- b. The building's primary entrance shall be located on a public street.
- c. At least one building entrance shall be provided along each street frontage.

- d. The project shall provide well-marked entrances to cue access and use.
- e. The treatment of primary building entrances or lobbies for mixed-use buildings shall be accentuated and differentiated from other building uses at the street front through changes in building massing, material, treatment and/or articulation.
- f. Awnings and canopies shall be constructed of woven fabric, glass, metal or other permanent material compatible with the building architecture.
- g. Electrical transformers, mechanical equipment and other equipment shall not be located along the ground floor street wall of 11th Street or Olive Street.
- h. Electrical transformers, mechanical equipment, other equipment, enclosed stairs, storage spaces, blank walls and other elements that are not pedestrian-oriented shall not be located within 100 feet of the corner on north-south streets and within 50 feet of the corner on east-west streets.

**12. Active Uses on the Ground Floor.** At least 75 percent of the ground floor street frontages along 11th Street shall be designed to accommodate active uses as defined in Section 4.B.1 of the Downtown Design Guide.

**13. Signage.** The applicant shall submit a final sign plan for the entire project to the Department of City Planning, Central Project Planning Division for review and approval prior to obtaining any sign permits. The final sign plan shall identify all sign types that can be viewed from the street, sidewalk or public right-of-way.

### **Zone Variance Conditions**

#### **14. Approved herein is a variance to permit:**

- a. **Reduced Drive Aisle Width.** Vehicular drive aisles shall be allowed at a minimum width of 25 feet 1 inch in lieu of the required 27 feet 4 inches.
- b. **Parking Stall Design.** Relief shall be provided from the requirement to provide the otherwise required parking stall, for reduced parking stall size to a minimum 8 feet 6 inches by 16 feet deep in lieu of the required 9 feet 4 inches wide by 18 feet deep.
- c. The project shall comply with all other provisions of LAMC Section 12.21-A-5 including but not limited to back up distance, striping, driveway location, etc.
- d. Prior to any sign-off of building permits by the Development Service Center, pursuant to this grant, the applicant shall submit a copy of the plans to the Department of Transportation for review and approval.
- e. Prior to any sign-off of building permits by the Development Service Center, pursuant to this grant, the applicant shall submit a copy of the plans to the Los Angeles Fire Department for review and approval.

### **Director's Determination Conditions**

**15. Landscaping.** Prior to the issuance of a building permit, a landscape and irrigation plan shall be submitted to the Department of City Planning for approval. The landscape plan shall be in substantial conformance with the landscape plan stamped Exhibit A, dated July 13, 2023.

**16. Required Trees.** The Project shall plant 115 trees on-site in lieu of the required 134 on-site trees.

- a. 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.
- b. Trees. There shall be a minimum of 115 24-inch box trees planted on-site in compliance with Section 12.21 G.2(a)(3) of the Los Angeles Municipal Code (LAMC).
  - i. Final landscape plans shall show the location, height, and caliper of all trees. All required landscaped areas shall be equipped with an automatic irrigation system and be properly drained.
  - ii. The remaining 19 trees that cannot be accommodated on-site 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 off-site plantings shall be within the Central City Community Plan Area, subject to the acceptance of a donor site. A receipt showing proof of payment shall be provided to the Department of City Planning at the time of Building Permit Clearance.
  - iii. In the event that the number of dwelling units should be reduced, then no modification of this determination shall be necessary, and the number of trees shall be recalculated based upon the LAMC Section 12.21 G requirement of one tree per four dwelling units.

### **Site Plan Review Conditions**

#### **17. Facade and Parking Structure Design**

- a. Facades of parking structures shall be screened to minimize their visual impact on the public realm.
- b. Entrances, elevators and stairs for parking structures shall be easily accessible and highlighted architecturally.
- c. Any above ground parking structure shall be designed to be utilized and easily repurposed to other uses. The conversion of floor area from parking into new uses may be subject to additional discretionary actions.
- d. Above ground parking structures shall have flat parking levels, not including the driveway ramps.
- e. The height of the above ground parking levels shall have sufficient clearance to be adaptable to non-parking uses. Once converted, the building shall permit a minimum floor to ceiling height of 9 feet for commercial uses and 8 feet for residential uses.

**18. Common and Private Open Space.** Common and Private Open Space shall conform to the requirements of the LAMC and shall not be enclosed or be converted into habitable space.

**19. Tree Maintenance.** All newly planted trees must be appropriately sized, staked and tied; provided with a watering moat; and shall be properly watered and maintained.

**20. Lighting.** 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.

**21. Trash Storage and Collection.**

All trash collection and storage areas shall be located on-site and shall not be visible from the public right-of-way.

- a. Trash receptacles shall be stored in a fully enclosed building or structure.
- b. Trash/recycling containers shall be locked when not in use.

**22. Mechanical Equipment.** Any structures on the roof, such as air conditioning units and other equipment, shall be fully screened from view of any abutting properties and the public right-of-way. All screening shall be setback at least five feet from the edge of the building.

**23. Construction Signage.** There shall be no off-site commercial signage on construction fencing during construction.

**24. Maintenance.** The project site (including all trash storage areas, associated parking facilities, sidewalks, yard areas, parkways, and exterior walls along the property lines) shall be maintained in an attractive condition and shall be kept free of trash and debris.

**25. Lighting.** Outdoor lighting shall be designed and installed with shielding, such that the light source cannot be seen from adjacent residential properties or the public right-of-way, nor from above.

**26. Solar Ready.** The project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.

**27. Solar and Electric Generator.** Generators used during the construction process shall be electric or solar powered. Solar generator and electric generator equipment shall be located as far away from sensitive uses as feasible.

**Main Conditional Use Permit Conditions**

**28.** All other use, height and area regulations of the Municipal Code and all other applicable government/regulatory agencies shall be strictly complied with in the development and use of the property, except as such regulations are herein specifically varied or required.

**29.** The use and development of the property shall be in substantial conformance with the plot plan and floor plan submitted with the application and marked Exhibit "A", except as may be revised as a result of this action.

**30.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Zoning Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.

**31.** Each individual establishment shall be subject to a Zoning Administrator's Approval of Plans determination pursuant to Section 12.24 M of the Los Angeles Municipal Code in order to implement and utilize the Conditional Use authorization granted herein as follows:

- a. The sale and consumption of a full-line of alcoholic beverages in conjunction with up to two on-site and two off-site establishments.

32. A copy of the first page of this grant and all Conditions and/or any subsequent appeal of this grant and its resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Department of City Planning and the Department of Building and Safety for purposes of having a building permit issued at any time during the term of this grant.
33. **Main Plan Approval (MPA) Requirement.** Each individual venue shall be subject to a Master Plan Approval (MPA) determination pursuant to Section 12.24-M of the Los Angeles Municipal Code in order to implement and utilize the Master Conditional Use authorization granted. The purpose of the Master Plan Approval determination is to review each proposed venue in greater detail and to tailor site-specific conditions of approval for each of the premises including but not limited to hours of operation, seating capacity, size, security, live entertainment, the length of a term grant and/or any requirement for a subsequent MPA application to evaluate compliance and effectiveness of the conditions of approval. The Zoning Administrator may impose more restrictive or less restrictive conditions on each individual tenant at the time of review of each Plan Approval application. A public hearing for any Master Plan Approval (MPA) request may be waived at the discretion of the Chief Zoning Administrator.
34. 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.
35. **STAR/LEAD Training.** Within the first six months of operation, all employees involved with the sale of alcohol shall enroll in the Los Angeles Police Department "Standardized Training for Alcohol Retailers" (STAR) or Department of Alcoholic Beverage Control "Licensee Education on Alcohol and Drugs" (LEAD) training program. Upon completion of such training, the applicant shall request the Police Department or Department of Alcoholic Beverage Control to issue a letter/certificate identifying which employees completed the training. Thereafter, STAR/LEAD training shall be conducted for all new hires within three (3) months of their employment.
36. The Applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure such conduct does not violate applicable laws.
37. Loitering is prohibited on the premises or the area under the control of the applicant. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.
38. At least one on-duty manager with authority over the activities within the facility shall be on the premises during business hours. The on-duty manager's responsibilities shall include the monitoring of the premises to ensure compliance with all applicable State laws, Municipal Code requirements and the conditions imposed by the Department of Alcoholic Beverage Control (ABC) and the conditional use herein. Every effort shall be undertaken in managing the subject premises and any exterior area over which the building owner exercises control to discourage illegal and criminal activities.
39. The Applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
40. 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.

41. The restaurant establishments shall be maintained as a bona fide eating places (restaurants) with an operational kitchen and shall provide a full menu containing an assortment of foods normally offered in such restaurants. Food service shall be available at all times during operating hours. The establishment shall provide seating and dispense food and refreshments primarily for consumption on the premises and not solely for the purpose of food takeout or delivery.
42. The owner or the operator shall comply with California Labor Code 6404.5 which prohibits the smoking of tobacco or any non-tobacco substance, including from electronic smoking devices or hookah pipes, within any enclosed place of employment.
43. All deliveries shall be made in the designated on-site loading area. No loading or unloading of deliveries shall be permitted along 11th Street and Olive Street.
44. Trash pick-up, compacting, loading and unloading and receiving activities shall be limited to 7:00 a.m. to 6:00 p.m. Monday through Friday and 10:00 a.m. to 4:00 p.m. on Saturday. No deliveries or trash pick-up shall occur on Sunday. The outside disposal of glass bottles and containers shall only occur between the hours of 7:00 a.m. to 6:00 p.m.
45. Designated Driver Program. Prior to the utilization of this grant, the applicant shall establish a "Designated Driver Program" which shall include, but not be limited to, signs/cards, notation on websites/social media, notifying patrons of the program. The signs/cards/website/social media shall be visible to the customer and posted or printed in prominent locations or areas. These may include signs/cards on each table, at the entrance, at the host station, in the waiting area, at the bars, or on the bathrooms, or a statement in the menus, a website, or on social media.
46. Any music, sound or noise which is under control of the applicant shall not violate Sections.
47. At any time, a City representative may visit the site during operating hours to measure the noise levels. If, upon inspection, it is found that the noise level exceeds those allowed by the citywide noise regulation, the owner/operator will be notified and will be required to modify or eliminate the source of the noise or retain an acoustical engineer to recommend, design and implement noise control measures within property such as, noise barriers, sound absorbers or buffer zones.
48. MViP – Monitoring Verification and Inspection Program. At any time, before, during, or after operating hours, a City inspector may conduct a site visit to assess compliance with, or violations of, any of the conditions of this grant. Observations and results of said inspection will be documented and used to rate the operator according to the level of compliance. If a violation exists, the owner/operator will be notified of the deficiency or violation and will be required to correct or eliminate the deficiency or violation. Multiple or continued documented violations or Orders to Comply issued by the Department of Building and Safety which are not addressed within the time prescribed therein, may result in denial of future requests to renew or extend this grant.
49. The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Zoning Administrator to impose additional corrective Conditions, if, in the Administrator's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
50. The Zoning Administrator reserves the right to require that the owner or operator file a Plan Approval application, if it is determined that the new operation is not in substantial



conformance with the approved floor plan, or the operation has changed in mode or character from the original approval, or if documented evidence be submitted showing a continued violation(s) of any condition(s) of this grant resulting in a disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties. The application, in association with the appropriate fees shall be submitted to the Department of City Planning within 30 days of the date of legal acquisition by the new owner or operator. The purpose of the plan approval will be to review the operation of the premise and establish conditions applicable to the use as conducted by the new owner or operator, consistent with the intent of the Conditions of this grant. Upon this review, the Zoning Administrator may modify, add or delete conditions, and if warranted, reserves the right to conduct this public hearing for nuisance abatement/revocation purposes, pursuant to LAMC Section 12.27.1.

### **Environmental Conditions**

**51. 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.

**52. 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.

**53. 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.

**54. 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 project Permittee shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the Department of City Planning.
- If the City determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be tribal cultural resource, the City shall provide any effected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Project Permittee 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 project Permittee shall implement the tribe's recommendations if a qualified archaeologist, retained by the City and paid for by the project Permittee, reasonably concludes that the tribe's recommendations are reasonable and feasible.
- The project Permittee shall submit a tribal cultural resource monitoring plan to the City that includes all recommendations from the City and any affected tribes that have been reviewed and determined by the qualified archaeologist to be reasonable and feasible. The project Permittee shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.
- If the project Permittee does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist, the project Permittee may request mediation by a mediator agreed to by the Permittee and the City who has the requisite professional qualifications and experience to mediate such a dispute. The project Permittee shall pay any costs associated with the mediation.
- The project Permittee 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.

### **Administrative Conditions**

- 55. 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.
- 56. 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.
- 57. 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.
- 58. 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.
- 59. 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.
- 60. Department of Building & 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 & 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 & 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.
- 61. Department of Water and Power.** Satisfactory arrangements shall be made with the Los Angeles Department of Water and Power (LADWP) for compliance with LADWP's Rules Governing Water and Electric Service. Any corrections and/or modifications to plans made subsequent to this determination in order to accommodate changes to the project due to the under-grounding of utility lines, that are outside of substantial compliance or that affect any part of the exterior design or appearance of the project as approved by the Director, 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.

**62. 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.

**63. Indemnification and Reimbursement of Litigation Costs.** The Applicant shall do all of the following:

- a. 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.
- b. 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.
- c. 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).
- d. 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).
- e. 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.