

CONDITIONS OF APPROVAL

(As modified by the City Planning Commission at its meeting on December 16, 2021)

Pursuant to LAMC Sections 12.22 A.25, 12.24 W.1, 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.** Prior to sign-off on building permits by the Department of City Planning's Development Services Center for the project, the Department of City Planning's Major Projects Section shall confirm, via signature on the plans, that the project's building plans substantially conform to the conceptual plans stamped as Exhibit A dated December 3, 2021.
2. **Residential Density.** The project shall be limited to a maximum density of 401 dwelling units including Density Bonus Units.
3. **Affordable Units.** A minimum of 61 units, that is 15 percent of the total dwelling units, shall be reserved for Very-Low Income households and a minimum of 20 units, that is five percent of the total dwelling units, shall be reserved for Very-Low Income or Low Income households, as defined by the State Density Bonus 65915(C)(2), shall be provided.
4. **Changes in Restricted Units.** Deviations that increase the number of restricted affordable units or that change the composition of units or change parking numbers shall be consistent with LAMC Section 12.22 A.25 (9a-d) and State Density Bonus Law (Government Code Section 65915).
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 15 percent (61 units) of the 401 dwelling units available to Very Low Income Households, and 5 percent (20 units) available to Very-Low Income or Low Income households for sale or rental as determined to be affordable to such households by HCIDLA for a period of 55 years. 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 any monitoring requirements established by the HCIDLA. All affordable units are subject to Affordable Housing Guidelines.
6. **Height (Waiver).** Building height shall be limited to a maximum height of 86 feet, consistent with Exhibit A. The portion of the building adjacent to Victoria Avenue on Site A shall be limited to a maximum height of 34 within the first 50 feet of lot depth along Victoria Avenue. Notwithstanding LAMC Section 12.22 A.25(f)(5), the requirement that for each foot of additional height the building shall be set back one horizontal foot shall not apply.
7. **Open Space (On-Menu Incentive).** A six percent reduction in the required residential open space is allowed. Landscaping for the Housing Development Project shall qualify for the number of landscape points equivalent to 10 percent more than otherwise required by LAMC Section 12.40 and Landscape Ordinance Guidelines "O".

8. **Setbacks (Waiver).** The Project shall provide a minimum 5.5-foot side yard setback on the southern internal property line on Site A, and a zero-foot side yard setback on the eastern internal property line on Site A.
9. **Parking.**
 - a. **Compact Parking (Off-Menu Incentive).** The Project may provide a maximum of 43 percent (97 parking spaces) of the 225 primary residential parking spaces on Site A and 34 percent (60 parking spaces) of the 176 primary residential parking spaces on Site B as compact spaces.
 - b. **Vehicle Parking.** The minimum number of residential and commercial automobile parking spaces shall be provided as required by the Crenshaw Corridor Specific Plan.
 - c. **Unbundled Parking.** Residential parking shall be unbundled from the cost of the rental units, with the exception of parking for Restricted Affordable Units.
 - d. **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 number of units made available to Senior Citizens and/or Disabled Persons), 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.
10. The Applicant shall use good faith efforts to obtain affordable housing subsidies to facilitate deed restrictions for 100% of the residential units. If the Applicant obtains the necessary affordable housing subsidies, at least 75% of the residential units should be deed restricted to households making no more than 80% of Area Median Income (AMI) and no more than 25% of the residential units shall be deed restricted to units making no more than 120% AMI.

Main Conditional Use for Alcohol Sales

11. 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.
12. 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 dated December 3, 2021, except as may be revised as a result of this action.
13. 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.
14. Authorized herein is the sale and dispensing and consumption of a full line of alcoholic beverages for on-site consumption for up to six establishments, and for the sale and dispensing of a full-line of alcoholic beverages for off-site consumption in conjunction with a grocery store.

15. Main Plan Approval (MPA) Requirement. Each individual venue shall be subject to a Main Plan Approval (MPA) determination pursuant to Section 12.24 M of the Los Angeles Municipal Code in order to implement and utilize the Main 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 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.
16. MPA Public Hearing Requirement. A public hearing for any Main Plan Approval (MPA) request may be waived at the discretion of the Chief Zoning Administrator.
17. Notwithstanding approved Exhibit A dated December 3, 2021 and the Conditions above, this grant recognizes that there may be changes resulting from identified tenants, which may result in smaller or larger restaurants, different locations, and/or a reduced number of restaurants than those originally proposed and identified in Exhibit A. Such outcome is permitted provided that the other conditions noted herein, specifically those related to the combined maximum interior floor areas, maximum interior and exterior seating numbers, maximum (total) number of establishments authorized under this grant, and the maximum number of establishments approved for each type of grant in the Conditions above are not exceeded. The sale and dispensing of beer and wine may be provided in lieu of a full line of alcoholic beverages at any of the establishments approved for a full line of alcoholic beverages (but not the reverse), provided that the maximum (total) number of establishments authorized for alcoholic beverages is not exceeded, and subject to all other conditions of this grant.
18. 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.
19. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
20. 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.
21. **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.
22. The Applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her/their control to assure such conduct does not adversely affect or detract from the quality of life for adjoining residents, property owners, or business.
23. "No Loitering or Public Drinking" signs shall be posted in and outside of the subject facility.

24. 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 the facility to discourage illegal and criminal activities and any exterior area over which the building owner exercises control, in effort to ensure that no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism and truancy occur.
25. The Applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
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. 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.
28. 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.
29. The outside disposal of glass bottles and shall only occur between the hours of 7:00 a.m. to 6:00 p.m.
30. **MViP – Monitoring Verification and Inspection Program.** Prior to the effectuation of this grant, fees required per L.A.M.C 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.
31. Should there be a change in the ownership and/or the operator of the business, the property owner and/or the business owner or operator shall provide the prospective new property owner and the business owner or 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 including the conditions required herewith has been provided to the prospective property owner and/or business owner/operator shall be submitted to the

Department of City Planning in a letter from the new property owner and/or business owner or operator indicating the date that the new property owner and/or business owner or operator/management began and attesting to the receipt of this approval and its conditions. The new property owner and/or business owner or operator shall submit this letter to the Department of City Planning within 30 days of the beginning day of his/her/their new operation of the establishment along with any proposed modifications to the existing floor plan, seating arrangement or number of seats of the new operation.

32. At any time during the period of validity of this grant, should documented evidence be submitted showing continued violation of any condition of this grant and/or the ABC license of the location, resulting in an unreasonable level of disruption or interference with the peaceful enjoyment of the adjoining and neighboring properties, the Zoning Administrator (Upon his/her/their initiative, or upon written request by LAPD or Department of ABC) reserves the right to call for a public hearing requiring the applicant to file for a plan approval application together with associated fees pursuant to LAMC Section 19-01-E, the purpose of which will be to review the applicant's compliance with and the effectiveness of these conditions. The applicant shall prepare a radius map and cause notification to be mailed to all owners and occupants of properties within a 500-foot radius of the property, the Council Office and the Los Angeles Police Department's corresponding division. The applicant shall also submit a summary and any supporting documentation of how compliance with each condition of this grant has been attained. Upon this review, the Zoning Administrator may modify, add or delete conditions, and reserves the right to conduct this public hearing for nuisance abatement/revocation purposes.

Project Permit Compliance Conditions

33. **Uses.** The Project shall comply with Section 6 of the Specific Plan with regards to prohibited and limited uses.
34. **Floor Area Ratio (FAR).** The maximum floor area ratio for the project shall be 2.08:1. The project shall not exceed 380,112 square feet of Floor Area.
35. **Signs.** All signs shall comply with Section 11 of the Specific Plan.
36. **Parking.** Except as modified herein, the Project shall comply with parking regulations of Section 12 of the Specific Plan.
37. **Underground Utilities.** To the extent physically feasible, all new utility lines that directly service a Project shall be installed underground. If underground service is not currently available, then provisions shall be made for future underground service, as determined appropriate by the Department of Water and Power.
38. **Right-of-Way Improvements and Streetscape Plans.** When right-of-way improvements are required of any Project in the Specific Plan area, pursuant to LAMC Section 12.37, LAMC Chapter 1, Articles 2 or 7, or other City ordinance, for a right-of-way with a streetscape plan, the improvements shall be consistent with the streetscape plan unless the LADOT General Manager or the City Engineer finds either of the following:

- a. Consistency with the streetscape plan is not feasible or practical;
- b. The cost of making the improvement consistent with the streetscape plan is greatly in excess of the cost to other property owners who are required to make improvements consistent with the streetscape plan in the streetscape plan area.

Site Plan Review Conditions

- 39. Site Development.** The use and development of the property shall be in substantial conformance with Exhibit A, dated December 3, 2021, of the subject case file. No change to the plans will be made without prior review by the Department of City Planning, Major Projects Division, with 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 constructed in a manner consistent with the following project description:

Limit the proposed development to two mixed-use buildings, up to 86 feet in height, with up to 380,112 square feet of total floor area, including up to 401 residential units, with 61 units reserved for Very-Low Income households and 20 units reserved for Very-Low Income or Low Income households, and 40,454 square feet of commercial and community floor area (including a 22,277 square foot grocery store).

- 32. 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.
- 33. 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 December 3, 2021, and shall demonstrate conformance LAMC Section 12.40 and Landscape Ordinance Guidelines "O". 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.
- 34. Trees.** The Applicant shall provide a minimum of one 24-inch box tree for every four units, and a minimum 4 street trees to the satisfaction of Urban Forestry Division of the Bureau of Street Services.
- 35. Tree Wells.** The minimum depth of tree wells and planters on the rooftop, any above grade open space, and above a subterranean structure shall be as follows:
- a) Minimum depth for trees shall be 42 inches.
 - b) Minimum depth for shrubs shall be 30 inches.
 - c) Minimum depth for herbaceous plantings and ground cover shall be 18 inches.
 - d) Minimum depth for an extensive green roof shall be three inches.

The minimum amount of soil volume for tree wells shall be based on the size of the tree at maturity as follows:

- e) 220 cubic feet for a tree 15 - 19 feet tall at maturity.
- f) 400 cubic feet for a tree 20 - 24 feet tall at maturity.
- g) 620 cubic feet for a medium tree or 25 - 29 feet tall at maturity.
- h) 900 cubic feet for a large tree or 30 - 34 feet tall at maturity.

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.

36. **Tree Maintenance.** 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.
37. **Solar Power.** The Project shall comply with the Los Angeles Green Building Code and ensure that 15 percent of the total roof area will be solar ready. Solar panels may be installed on all rooftop areas and/or rooftop decks with the exception of areas occupied by rooftop mechanical equipment.
38. **Construction Generators.** The Project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. On-site power generators shall either be plug-in electric or solar powered.
39. **Utilities.** All utilities shall be fully screened from view of any abutting properties and the public right-of-way.
40. **Open Space.** The Project shall provide open space as follows:
 - a. A minimum of 22,388 square feet open space shall be provided on Site A (West Site) and a minimum of 22,076 square feet on Site B (East Site), and the design and placement of landscaping shall be in substantial conformance with the landscape plans stamped as a part of Exhibit A, dated December 3, 2021.
 - b. All residents of the Project shall have access to all residential open space amenities.
41. **Signage.** There shall be no off-site commercial signage on construction fencing during construction.
42. **DOT Requirements.** A construction work site traffic control plan be submitted to DOT's Citywide Temporary Traffic Control Section or Permit Plan Review Section for review and approval prior to the start of any construction work. The plan should show the location of any roadway or sidewalk closures, traffic detours, haul routes, hours of operation, protective devices, warning signs and access to abutting properties. All construction related truck traffic be restricted to off-peak hours to the extent feasible.

Environmental Conditions

1. **Implementation.** The Mitigation Monitoring Program (MMP), attached as "Exhibit C" 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.
2. **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.

3. **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.

4. **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:
 - a. 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.
 - b. 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.
- c. The Applicant shall implement the tribe's recommendations if a qualified archaeologist and a culturally affiliated tribal monitor, both retained by the City and paid for by the Applicant, reasonably conclude that the tribe's recommendations are reasonable and feasible.
 - d. The Applicant 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 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.
 - e. 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.
 - f. 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.
 - g. 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.
 - h. 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 of Approval

1. **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.
2. **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.
3. **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.

4. **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.
5. **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.
6. **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.
7. **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.
8. **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.
9. 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.
10. 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.