

## **CONDITIONS OF APPROVAL**

(As modified by the City Planning Commission at its meeting on April 28, 2022)

Pursuant to Sections 12.24, 12.27, 12.28 and 16.05 of the LAMC, the following conditions are hereby imposed upon the use of the subject property:

1. 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.
2. The use and development of the property shall be in substantial conformance with the plot plan submitted with the application and marked Exhibit "A", dated June 8, 2017, except as may be revised as a result of this action.
3. 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 Director of City Planning to impose additional corrective Conditions, if, in the Director's opinion, such Conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
4. 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.
5. The applicant shall not permit any loitering on the premises or on property adjacent to the premises.
6. The applicant shall be responsible for maintaining free of litter the area adjacent to the premises over which they have control, including the sidewalks bordering the site.
7. 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 Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.

### **Conditional Use Conditions**

8. Authorized herein is the sale and dispensing of a full line of alcoholic beverages for on-site consumption in conjunction with the use and operation of a of 103-room hotel from the effective date of this grant, subject to the following limitations:
  - a. Minibars shall be permitted within each of the 103 hotel guest rooms.
  - b. The floor area, exclusive of the hotel guest rooms, shall be limited to 15,907 square feet of commercial floor area, including gallery, café, restaurant, and bar areas at the ground, 2<sup>nd</sup>, 3<sup>rd</sup>, 4<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 15<sup>th</sup> and rooftop levels.
  - c. The hours of operation shall be limited to 6:00 a.m. to 2:00 a.m. daily.
9. Authorized herein is patron dancing at the 4<sup>th</sup>, 13<sup>th</sup> and 15<sup>th</sup> floor levels, subject to the following limitations:
  - a. The 4<sup>th</sup> floor shall be permitted a maximum of two (2) dance floors, with each dance floor not to exceed 200 square feet in size.

- b. The 13<sup>th</sup> floor shall be permitted a maximum of one (1) dance floor, not to exceed 200 square feet in size.
  - c. The 15<sup>th</sup> floor shall be permitted a maximum of two (2) dance floors, with each dance floor not to exceed 200 square feet in size.
10. No after hours are permitted except for routine clean up. This includes, but is not limited to, private or promotional events, special events, excluding any activities which are issued film permits from the City.
11. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
12. 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.
13. **Complaint log.** A telephone number and email address shall be provided for complaints or concerns from the community regarding the operation. The phone number and email address shall be posted at the following locations:
- a. Entry, visible to pedestrians
  - b. Customer service desk, front desk or near the reception area.
- Complaints shall be responded to within 24 hours. The applicant shall maintain a log of all calls and emails, detailing: (1) date complaint received; (2) nature of complaint; and (3) the manner in which the complaint was resolved.
14. **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 completing of such training, the applicant shall request the Police Department or Department of Alcohol and 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.
15. 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 adversely affect or detract from the quality of life adjoining residents, property owners, and businesses.
16. Loitering is prohibited on or around these 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.
- a. 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 no activities associated with such problems as narcotics sales, use or possession, gambling, prostitution, loitering, theft, vandalism, and truancy occur.

17. The applicant shall be responsible for maintaining the premises over which they have control, including the adjoining sidewalk and any public or temporarily closed alleys abutting the site, free of debris or litter.
18. 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.
19. Coin operated game machines, pool tables or similar game activities or equipment shall not be permitted.
20. Smoking tobacco or any non-tobacco substance, including from electronic smoking devices, is prohibited in or within 10 feet of any outdoor dining/entrance and at any other utilized by the public.
21. The applicant shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.
22. All exterior portions of the site shall be adequately illuminated in the evening so as to make discernible the faces and clothing of persons utilizing the space. Lighting shall be directed onto the site.
23. Any music, sound or noise which is under control of the applicant shall not constitute a violation of Sections 112.06 or 116.01 of the Los Angeles Municipal Code (Citywide Noise Ordinance). 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.
24. **Private Events.** Any use of the restaurant for private events, including corporate events, birthday parties, anniversary parties, weddings or other private events which are not open to the general public, shall be subject to all the same provisions and hours of operation stated herein.
25. The establishment shall be maintained as a bona fide eating place (restaurant) 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.
26. All deliveries shall be made in the parking area.
27. Trash pick-up, compacting, loading and unloading and receiving activities shall be limited to 7 a.m. to 6 p.m. Monday through Friday and 10 a.m. to 4 p.m. on Saturday. No deliveries or trash pick-up shall occur on Sunday.

28. The outside disposal of glass bottles and containers shall only occur between the hours of 11:00 a.m. and 10:00 p.m.
29. **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 for Monitoring of Conditional Use Permits and Inspection and Field Compliance Review of Operations 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.
30. Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the business owner/operator with a copy of the conditions of this action prior to the legal acquisition of the property and/or the business. Evidence that a copy of this determination including the conditions required herewith has been provided to the prospective owner/operator shall be submitted to the Department of City Planning in a letter from the new operator indicating the date that the new operator/management began and attesting to the receipt of this approval and its conditions. The new operator shall submit this letter to the Department of City Planning within 30-days of the beginning day of his/her 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.
31. Should there be a change in the ownership and/or the operator of the business, the Zoning Administrator reserves the right to require that the new 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, and a 500-foot notification radius, 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.

### **Zone Variance Conditions**

#### **32. Parking Lease.**

- a. A minimum of 56 parking spaces shall be provided 24-hours a day, daily at an off-site parking lot located at 2030-2042 East 7<sup>th</sup> Street.

- b. The off-site parking agreement between the applicant and the owner of the off-site parking lot shall be provided to the Director of Planning. The parking agreement shall include the number of parking spaces provided at the off-site parking lot and the hours, during which the off-site parking spaces are available for the subject hotel.
- c. The required off-site parking spaces shall be maintained for the life of the grant. If the parking agreement is cancelled, then another shall take its place and meet the requirements above. The replacement off-site parking shall be provided within 750 feet from the project location.

33. **Bicycle Parking.** The project shall provide a minimum of 36 bicycle parking spaces.

#### **Site Plan Review Conditions**

34. **Landscaping.** All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped, including an automatic irrigation system, and maintained in accordance with a landscape plan, to be attached to Exhibit A, prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning.

35. **Mechanical Equipment.** All mechanical equipment on the roof shall be screened from view. The transformer, if located in the front yard, shall be screened with landscaping.

36. **Maintenance.** The subject property (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.

37. **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.

38. **Solar Energy Panels.** The project shall comply with Section 99.05.211.1 of the LAMC.

#### **Redevelopment Plan Conditions**

39. **Utilities.** The project shall locate all new utilities underground.

40. **Residential Hotel Unit Conversion and Demolition Ordinance.** Prior to the issuance of any permits relative to the conversion of any guest room to light housekeeping room, an Application for Clearance must be approved by the Los Angeles Housing and Community Investment Department pursuant to Article 7.1 of Chapter IV of the Los Angeles Municipal Code, otherwise known as the "Residential Hotel Unit Conversion and Demolition Ordinance."

#### **Environmental Mitigation Measures**

41. **Cultural Resources.** In the unlikely event that archaeological resources are discovered during excavation, grading, or construction activities, contractors would be directed to cease all earthwork activities in the area of the find until a qualified archaeologist has evaluated the find in accordance with federal, State, and local guidelines, including those set forth in California Public Resources Code Section 21083.2. Personnel of the Proposed Project shall not collect or move any archaeological materials and associated materials. Construction activity may continue unimpeded on other portions of the Project Site. The found deposits would be treated in accordance with federal, State, and local guidelines, including those set forth in California Public Resources Code Section 21083.2.

**42. Paleontological Resources.** If paleontological resources are discovered during excavation, grading, or construction, the City of Los Angeles Department of Building and Safety shall be notified immediately, and all work shall cease in the area of the find until a qualified paleontologist evaluates the find. Construction activity may continue unimpeded on other portions of the Project Site. The paleontological deposits would be treated in accordance with federal, State, and local guidelines.

**43. Increased Noise Levels (Demolition, Grading, and Construction Activities)**

- a. Construction and demolition shall be restricted to the hours of 7:00 AM to 6:00 PM Monday through Friday, and 8:00 AM to 6:00 PM on Saturday.
- b. The project contractor(s) shall employ state-of-the-art noise minimization strategies when using mechanized construction equipment. To the maximum extent practical, demolition and construction activities shall be scheduled and coordinated so as to avoid operating several pieces of equipment simultaneously, which cause high noise levels. Construction equipment shall not idle when not in use. The contractor shall place noise construction equipment as far from the Project Site edges as practicable.
- c. The project contractor shall use power construction equipment with noise shielding and muffling devices. The noise mufflers shall be consistent with manufacturers' standards and be equipped with all construction equipment, fixed or mobile.
- d. The project contractor shall erect a temporary noise-attenuating sound barrier along the perimeter of the Project Site. The sound wall shall be a minimum of 8 feet in height to block the line-of-site of construction equipment and off site receptors at the ground level. The sound barrier shall include  $\frac{3}{4}$  inch plywood or other sound absorbing material capable of achieving a 10-dBA reduction in sound level.
- e. An information sign shall be posted at the entrance to each construction site that identifies the permitted construction hours and provides a telephone number to call and receive information about the construction project or to report complaints regarding excessive noise levels. Any reasonable complaints shall be rectified within 24 hours of their receipt.
- f. The Applicant shall provide a courtesy notice of the project's construction related activities to adjacent business owners and residences a minimum of two weeks prior to commencement of construction.

**44. Temporary Groundborne Vibration Impacts.**

- a. All new construction work shall be performed so as not to adversely affect the structural integrity of the buildings surrounding the Project Site. Prior to commencement of construction, a qualified structural engineer shall survey the existing foundations and structures of the Amp Lofts, located 695 S. Santa Fe Avenue, and provide a plan to protect them from potential damage. The structural monitoring program shall be implemented and recorded during construction.
- b. The performance standards of the structure monitoring plan shall including the following:
  - The qualified structural engineer shall monitor vibration during vibration-causing construction activities to ensure that the established impact threshold and shoring design is not exceeded. If feasible, alternative means of setting piles such as predrilled holes or hydraulic pile driving shall be employed to avoid exceeding the impact

threshold established. At the conclusion of vibration causing activities, the qualified structural engineer shall issue a follow-on letter describing damage, if any, to immediately adjacent buildings and recommendations for any repair.

- The monitoring program shall survey for vertical and horizontal movement, as well as vibration thresholds. If the thresholds are met or exceeded, or noticeable structural damage becomes evident to the Project contractor, work shall stop in the area of the affected building until measures have been taken to stabilize the affected building to prevent construction related damage to adjacent buildings.

**45. Construction Staging and Traffic Management Plan.** A detailed Construction Staging and Traffic Management Plan, including street closure information, detour plans, haul routes, and staging plans, would be prepared and submitted to LADOT for review and approval. The Construction Staging and Traffic Management Plan would formalize how construction would be carried out and identify specific actions that would be required to reduce effects on the surrounding community. The Construction Staging and Traffic Management Plan shall be based on the nature and timing of the specific construction activities and other projects in the vicinity of the Project Site, and should include the following elements as appropriate:

- Advance, bilingual notification of adjacent property owners and occupants of upcoming construction activities, including durations and daily hours of operation.
- Prohibition of construction worker or equipment parking on adjacent streets.
- Temporary pedestrian, bicycle, and vehicular traffic controls (i.e., flag persons) during all construction activities adjacent to public rights-of-way to ensure traffic safety on public roadways. These controls shall include, but not be limited to, flag people trained in pedestrian and bicycle safety.
- Temporary traffic control during all construction activities adjacent to public rights-of-way to improve traffic flow on public roadways (e.g., flag persons).
- Scheduling of construction activities to reduce the effect on traffic flow on surrounding arterial streets.
- Potential sequencing of construction activity to reduce the amount of construction-related traffic on arterial streets.
- Containment of construction activity within the Project Site boundaries.
- Prohibition of construction-related vehicles/equipment parking on surrounding public streets.
- Coordination with Metro to address any construction near the rail right-of-way.
- Safety precautions for pedestrians and bicyclists through such measures as alternate routing and protection barriers shall be implemented as appropriate.
- Scheduling of construction-related deliveries, haul trips, etc., so as to occur outside the commuter peak hours to the extent feasible.

**46. Transportation Demand Management (TDM) Strategies.** The Proposed Project shall integrate the following additional TDM strategies:

- **Reduced Parking Supply** - The LAMC, without consideration of parking reduction mechanisms, would require a total of 195 parking spaces. The Project proposes to provide zero on-site parking spaces, which is below the amount of vehicle parking required by direct application of the LAMC.
- **Transit Subsidies** - The Project will subsidize transit fares for employees of the Project site. The subsidies will be offered to each employee at least once annually for a minimum of five years. Per the options provided in the VMT Calculator, the Project will provide subsidies equivalent to a monthly Metro pass per employee, with 100 percent of employees eligible as part of the subsidy program.

- Implement/Improve On-Street Bicycle Facility - The Project proposes to install short-term bicycle parking along Santa Fe Avenue. Since 7<sup>th</sup> Street is identified as part of the Bicycle Network in the Mobility Plan 2035, the Project will improve bicycle infrastructure adjacent to this route by providing secure locations for visitors to secure their bicycles while they patronize the Project and nearby uses. This will help to reinforce that the Project and the surrounding area is a bicycle-friendly environment.
- Provide access to bike share - Metro's Bike Share program is able to provide discount codes as part of their Bike Friendly Business program. The best way to use this would be for the hotel to provide access for any guests (in other words do the legwork to secure renting the bike) that want to use it. Making it as easy and as accessible for the guests as possible.
- The project should consider to follow the new TDM Ordinance (LAMC 12.26 J) that is currently being updated. The updated ordinance will:
  - Expand the reach and application of TDM strategies to more land uses and neighborhoods,
  - Rely on a broader range of strategies that can be updated to keep pace with technology, and
  - Provide flexibility for developments and communities to choose strategies that work best for their neighborhood context.

#### **47. Tribal Cultural Resources.**

Prior to commencing any ground disturbance activities at the Project Site, the Applicant, or its successor, shall retain archeological monitors and tribal monitors that are qualified to identify subsurface tribal cultural resources. Ground disturbance activities shall include excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, driving posts, augering, backfilling, blasting, stripping topsoil or a similar activity at the project site. Any qualified tribal monitor(s) shall be approved by a tribal representative of the Gabrieleño Band of Mission Indians – Kizh Nation; however, after good faith effort to retain a tribal monitor, if the Tribe is unable to provide an on-site monitor at the time of any demolition, grading or excavation activities, the Applicant may proceed with construction). Any qualified archaeological monitor(s) shall be approved by the Department of City Planning, Office of Historic Resources ("OHR").

The qualified archeological and tribal monitors shall observe all ground disturbance activities on the project site at all times the ground disturbance activities are taking place. If ground disturbance activities are simultaneously occurring at multiple locations on the project site, an archeological and tribal monitor shall be assigned to each location where the ground disturbance activities are occurring. The on-site monitoring shall end when the ground disturbing activities are completed, or when the archaeological and tribal monitor both indicate that the site has a low potential for impacting tribal cultural resources.

Prior to commencing any ground disturbance activities, the archaeological monitor in consultation with the tribal monitor, shall provide Worker Environmental Awareness Program (WEAP) training to construction crews involved in ground disturbance activities that provides information on regulatory requirements for the protection of tribal cultural resources. As part of the WEAP training, construction crews shall be briefed on proper procedures to follow should a crew member discover tribal cultural resources during ground disturbance activities. In addition, workers will be shown examples of the types of resources that would require notification of the archaeological monitor and tribal monitor. The Applicant shall maintain on the Project site, for City inspection, documentation establishing the training was completed for all members of the construction crew involved in ground disturbance activities.



In the event that any subsurface objects or artifacts that may be Tribal Cultural Resources are encountered during the course of any ground disturbance activities, all such activities shall temporarily cease within the area of discovery, the radius of which shall be determined by a qualified archeologist, in consultation with a qualified tribal monitor, 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, or its successor, shall immediately stop all ground disturbance activities in the vicinity of the find 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 OHR.
- b. If OHR determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be a tribal cultural resource in its discretion and supported by substantial evidence, the City shall provide any affected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Applicant, or its successor, 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, or its successor, shall implement the tribe's recommendations if a qualified archaeologist retained by the City and paid for by the Applicant, or its successor, in consultation with the tribal monitor, reasonably conclude that the tribe's recommendations are reasonable and feasible.
- d. In addition to any recommendations from the tribal representative, a qualified archeologist shall develop a list of actions that shall be taken to avoid or minimize impacts to the identified tribal cultural resources substantially consistent with best practices identified by the Native American Heritage Commission and in compliance with any applicable federal, state or local law, rule or regulation.
- e. If the Applicant, or its successor, does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or qualified tribal monitor, the Applicant, or its successor, may request mediation by a mediator agreed to by the Applicant, or its successor, and the City. The mediator must have the requisite professional qualifications and experience to mediate such a dispute. The City shall make the determination as to whether the mediator is at least minimally qualified to mediate the dispute. After making a reasonable effort to mediate this particular dispute, the City may (1) require the recommendation be implemented as originally proposed by the archaeologist or tribal monitor; (2) require the recommendation, as modified by the City, be implemented as it is at least as equally effective to mitigate a potentially significant impact; (3) require a substitute recommendation be implemented that is at least as equally effective to mitigate a potentially significant impact to a tribal cultural resource; or (4) not require the recommendation be implemented because it is not necessary to mitigate any significant impacts to tribal cultural resources. The Applicant, or its successor, shall pay all costs and fees associated with the mediation.
- f. The Applicant, or its successor, may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by both the qualified archaeologist and qualified tribal monitor and determined to be reasonable and appropriate.

- g. The Applicant, or its successor, may recommence ground disturbance activities inside of the specified radius of the discovery site only after it has complied with all of the recommendations developed and approved pursuant to the process set forth in paragraphs 2 through 4 above.
- h. 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 and to the Native American Heritage Commission for inclusion in its Sacred Lands File.
- i. Notwithstanding paragraph h above, any information that the Department of City Planning, in consultation with the City Attorney's Office, determines to be confidential in nature shall be excluded from submission to the SCCIC or provided to the public under the applicable provisions of the California Public Records Act, California Public Resources Code, section 6254(r), and handled in compliance with the City's AB 52 Confidentiality Protocols.

### **Administrative Conditions**

- 48. 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.
- 49. 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.
- 50. 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 ("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.
- 51. **Approvals, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, reviews or approval, plans, etc., as may be required by the subject conditions, shall be provided to the Department of City Planning for placement in the subject file.
- 52. **Building Plans.** 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 Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
- 53. **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.
- 54. **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.

55. **Code Compliance.** All area, height and use regulations of the zone classification of the subject property shall be complied with, except wherein these conditions explicitly allow otherwise.
56. **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 Department of City Planning for approval before being recorded. After recordation, a copy bearing the Recorder's number and date shall be provided to the Department of City Planning for attachment to the file.
57. **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 pursuant to Section 12.27.1 of the Municipal Code, to impose additional corrective conditions, if, in the Commission's or Director's opinion, such conditions are proven necessary for the protection of persons in the neighborhood or occupants of adjacent property.
58. **Definition.** Any agencies, public officials or legislation referenced in these conditions shall mean those agencies, public offices, 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 Department of City Planning and any designated agency, or the agency's successor and in accordance with any stated laws or regulations, or any amendments thereto.
60. **Expedited Processing Section.** Prior to the clearance of any conditions, the applicant shall show proof that all fees have been paid to the Department of City Planning, Expedited Processing Section.
61. **Indemnification and Reimbursement of Litigation Costs**

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 (b).

- 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 (b).
- 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 include 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.