

## CONDITIONS OF APPROVAL

(As Modified by the City Planning Commission at its meeting on October 27, 2022)

### Entitlement Conditions

1. **Site Development.** The use and development of the property shall be in substantial conformance with the plans submitted with the application and marked Exhibit "A". No change to the plans will be made without prior review by the Department of City Planning, Major Projects Section, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Municipal Code or the project conditions. The project shall be in substantial conformance with the following description:

*The development of 443,418 square feet of commercial space consisting of 431,032 sf of office and 12,386 sf of restaurant spaces plus approximately 1,800 square feet of ground floor outdoor dining area. The proposed uses would be built within a single, 15-story building that includes ground floor lobby and commercial space. Additionally, the LADWP equipment would be housed on the lot located at the northwest corner of Cole Place and De Longpre Avenue.*

2. **Development Services Center.** 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, as approved by the City Planning Commission.

*Note to Development Services Center: The plans presented to, and approved by, the City Planning Commission (CPC) included specific architectural details that were significant to the approval of the project. Plans submitted at plan check for condition clearance shall include a signature and date from Major Projects Section planning staff to ensure plans are consistent with those presented at CPC.*

3. **Floor Area Ratio.** The maximum permitted Floor Area Ratio (FAR) averaged across the Project Site shall be no greater than a 6:1 FAR. Outdoor eating areas adjacent to the ground floor restaurants are exempt from the definition of "Floor Area" per the LAMC.
4. **Covenant.** The applicant shall file a covenant running with the land with the Department of Building and Safety prior to the issuance of any building permits. The covenant shall include a guarantee to continue the operation and maintenance of the development as a unified development; shall indicate the floor area and, if applicable, density used on each parcel and the floor area, and, if applicable, density potential (if any) that would remain; shall guarantee the continued maintenance of the any unifying design elements; and shall specify an individual or entity to be responsible and accountable for this maintenance and the fee for the annual inspection of compliance by the Department of Building and Safety, required pursuant to LAMC Section 19.11.
5. **Mobility Hub.** The Applicant shall make a good-faith effort to work with the Los Angeles County Metropolitan Transportation Authority (Metro) to provide a transit-related Mobility Hub at the Project Site. If it is determined by Metro that a Mobility Hub is feasible at the Project Site, then the Mobility Hub shall include, but not be limited to, educational programs for tenants and employees on the availability of nearby transit and may also include on-site ticketing options.

6. **Bike Share.** The Applicant shall provide an alternative transportation bike-share program for all tenants and employees.

### **Main Conditional Use Conditions**

7. **Grant.** Authorized herein is a Main Conditional Use Permit to allow for the service of a full line of alcoholic beverages for on-site and off-site sale and consumption in conjunction with a maximum of three (3) establishments.
8. **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.
9. **MPA Public Hearing Requirement.** 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 Main Plan Approval (MPA) request may be waived at the discretion of the Chief Zoning Administrator.
10. Notwithstanding approved "Exhibit A" and the Conditions above, this grant recognizes that there may be changes resulting from identified tenants and/or tenant spaces, 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.
11. **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.
12. There shall be no Adult Entertainment of any type pursuant to LAMC Section 12.70.
13. 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.

14. The Applicant shall be responsible for monitoring both patron and employee conduct on the premises and within the parking areas under his/her control to assure such conduct does not disturb the peace of adjoining residents, property owners, and businesses.
15. 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.
16. "No Public Drinking" signs shall be posted in and outside of the subject facility.
17. The Applicant shall be responsible for maintaining the premises and adjoining sidewalk free of debris or litter.
18. The Applicant(s) shall comply with 6404.5(b) of the Labor Code, which prohibits smoking within any place of employment. The Applicant shall not possess ashtrays or other receptacles used for the purpose of collecting trash or cigarettes/cigar butts within the interior of the subject establishment.
19. **Additional Conditions.** The authorized use shall be conducted at all times with due regard for the character of the surrounding district, and the right is reserved to the Department of City Planning to impose additional corrective conditions, if, it is determined by the Department of City Planning that such conditions are proven necessary for the protection of person in the neighborhood or occupants of adjacent property.
20. **Security.** A camera surveillance system shall be installed and operating at all times to monitor the interior, entrance, exits and exterior areas, in front of and around the premises. Recordings shall be maintained for a minimum period of 30 days.
21. **Lease Agreements.** All establishments applying for an Alcoholic Beverage Control license shall be given a copy of these conditions prior to executing a lease and these conditions shall be incorporated into the lease. Furthermore, all vendors of alcoholic beverages shall be made aware that violations of these conditions may result in revocation of the privileges of serving alcoholic beverages on the premises.
22. **Building Plans.** A copy of this grant and all Conditions and/or any subsequent appeal of this grant and resultant Conditions and/or letters of clarification shall be printed on the building plans submitted to the Development Services Center and the Department of Building and Safety for purposes of having a building permit issued.
23. **Ownership/Operator Change.** Should there be a change in the ownership and/or the operator of the business, the property owner and the business owner or operator shall provide the prospective new property owner and the 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.

**24.** 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.

**25. 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.

**26. Covenant and Agreement.** Prior to the effectuation of this grant, a covenant acknowledging and agreeing to comply with all the terms and conditions established herein shall be recorded in the County Recorder's Office. The agreement (standard Main covenant and agreement form CP-6770) shall run with the land and shall be binding on any subsequent owners, heirs or assigns. The agreement with the conditions attached must be submitted to the Development Services Center or the BESt (Beverage and Entertainment Streamlined Program) for approval before being recorded. After recordation, a certified copy bearing the Recorder's number and date shall be provided to the Development Services Center or BESt (Beverage and Entertainment Streamlined Program) for inclusion in the case file.

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

**27. Public Improvements.** Prior to the issuance of any building permits, public improvements and dedications for streets and other rights-of-way adjoining the subject property shall be guaranteed to the satisfaction of the Bureau of Engineering, Department of Transportation, Fire Department.

**28. Restriping Wilcox Avenue.** Provide a center left-turn lane for both directions of travel along Wilcox Avenue subject to the approval of the City of Los Angeles Department of Transportation Hollywood-Wilshire District Operations Office, as described in the

December 6, 2021 Transportation Assessment Letter from the City of Los Angeles Department of Transportation.

**29. Electrification.** The 15-story office tower shall be an all-electric office building excluding the commercial food uses for cooking purposes, as stated in the Applicant's October 14, 2022, letter to Los Angeles City Planning.

**30. Electric Vehicle Parking.** All vehicular parking shall provide electric vehicle charging spaces and electric vehicle charging stations in compliance with the regulations outlined in Sections 99.04.106 and 99.05.106 of Article 9, Chapter IX of the LAMC.

**31. Parking Structure Design.**

- a. Façades of parking structures shall be screened to minimize their visual impact on the public realm. Façade elements shall include vision glass, frosted glass, and warm-colored panels to integrate the podium into the overall building composition as shown in Exhibit A.
- 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 repurposed to other uses. The conversion of floor area from parking into new uses may be subject to additional discretionary actions.
- d. 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.
- e. Vehicular access to the parking structure shall be from Cole Place and Wilcox Avenue.

**32. Valet.**

- a. All valet services shall be conducted on-site.
- b. Valet service shall not utilize any local streets for the parking of vehicles at any time.

**33. Passenger Loading.** On-street passenger loading for taxi and rideshare services shall be limited to Wilcox Avenue adjacent to the Project Site.

**34. Loading Dock.**

- a. The loading dock shall be located along and accessed from Cole Place, and except for the roll-up door, shall be screened with frosted or glazed glass, or similar material.
- b. All deliveries shall be made in the loading dock located off Cole Place. No deliveries shall be permitted along Sunset Boulevard, Wilcox Avenue, or the alley.

**35. Commercial Restaurant Space Façades.** The restaurant spaces along Sunset Boulevard shall have transparent glazing that wraps the corner to Cole Place and Wilcox Avenue.

**36. Solar.** The Project will comply with the Los Angeles Green Building Code's solar-ready roof requirements. The Project shall also install solar panels on the building rooftop, in substantial conformance with Exhibit A.

**37. Façade Elements.**

- a. The building façade material shall include the following materials: curtain wall system with high performance glazing, metal panels, frosted glass, panel-formed concrete, Terracotta/Trespa wall panels or the like, and storefront window wall system with clear glazing. The façade materials shall be in substantial conformance with Exhibit A
- b. The south façade shall include horizontal louvers at the balconies to provide shade for the glass and balcony occupants.
- c. The exterior of the proposed structure shall be constructed of materials to minimize glare and reflected heat, no mirror-like materials, tints or films may be used.
- d. Glass used in building façades shall be low-reflective or treated with a low-reflective coating to minimize glare from reflected sunlight onto neighboring residential uses.

**38. Alley.** The alley from Wilcox Avenue to Cole Place shall be fully-lit and open to the public at all times.

**39. 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.

**40. Landscaping.** Prior to the issuance of a building permit, a landscape and irrigation plan prepared in accordance with LAMC Sections 12.40 through 12.43 shall be submitted to the Department of City Planning for approval. The landscape plan shall be in substantial conformance with the landscape plan stamped Exhibit A. Minor deviations from the requirements provided below may be permitted by the Department of City Planning to permit the existing landscaping conditions provided that the plantings are well established and in good condition.

- a. The plant palette shall incorporate native and drought tolerant.
- b. The Project shall provide a permanent trellis with deep-soil planter system and permanent, automatic drip-irrigation, and requisite drainage system along the south façade of the office tower as shown in Exhibit A.

**41. Trees.** The Project shall provide a minimum of 30 trees as follows:

- a. A minimum of four (4) trees shall be provided on-site of the office tower.
- b. A minimum of 24 trees shall be provided in the public right-of-way adjacent to the Project Site, subject to approval by the Urban Forestry Division of the

Department of Public Works. Street trees shall be provided to the satisfaction of the Urban Forestry Division. Street trees may be used to satisfy on-site tree requirements pursuant to LAMC Article Section 12.21.G.3 (Chapter 1, Open Space Requirement for Six or More Residential Units).

- c. A minimum of two (2) on-site trees shall be provided on the De Longpre lot.

#### **42. Tree Wells.**

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

**43. Public Benches.** The Project shall provide public benches along Sunset Boulevard, Wilcox Avenue, and Cole Place in substantial conformance with Exhibit A, subject to the approval of the Bureau of Street Services of the Bureau of Public Works.

**44. Outdoor Open Space.** The Project shall provide outdoor open space areas and amenities in substantial conformance with Exhibit A.

**45. 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.

**46. Graffiti Removal.** 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.

**47. Aesthetics.** The structure, or portions thereof shall be maintained in a safe and sanitary condition and good repair and free of graffiti, trash, overgrown vegetation, or similar material, pursuant to Municipal Code Section 91,8104. All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be attractively landscaped and maintained in accordance with a landscape plan, including an automatic irrigation plan, prepared by a licensed landscape architect to the satisfaction of the decision maker.

**48. Utilities.** All utilities shall be fully screened from view of any abutting properties and the public right-of-way.

**49. 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.

**50. Trash/Storage.**

1. All trash collection and storage areas shall be located on-site and not visible from the public right-of-way.
2. Trash receptacles shall be stored in a fully enclosed building or structure, constructed with a solid roof, at all times.
3. Trash/recycling containers shall be locked when not in use.

**51. Construction Generators.** The Project contractor shall use power construction equipment with state-of-the-art noise shielding and muffling devices. The Project construction contractor shall use on-site electrical sources and solar generators to power equipment rather than diesel generators, where feasible.

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

**Project Permit Compliance Conditions**

**53. Use District.** All signs located within the Hollywood Signage Supplemental Use District shall comply with the regulations therein pursuant to Ordinance 181,340. All other signs are subject to LAMC Section 14.4.

**54. Wall Signs.**

**a. Location.**

- i. Notwithstanding the provisions of LAMC Section 14.4.10 to the contrary, no portion of any Wall Sign shall be located above the second story of the building on which it is placed or higher than 35 feet above grade, whichever is lower.
- ii. A Wall Sign shall not cover the exterior of windows, doors, vents, or other openings that serve occupants of buildings.

**b. Area.** A single Wall Sign shall not exceed 300 square feet in area.



- c. The two A4 Wall Signs located at the corner of Cole Place and Sunset Boulevard shall be inset within the exterior façade materials and integrated into the building's architectural design, in substantial conformance with Exhibit A. No off-site advertising shall be permitted on these or any Wall Sign pursuant to Section 5.D of the Hollywood Signage Supplemental Use District.

### **Environmental Conditions**

**55. 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.

**56. 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.

**57. 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.

**58. Tribal Cultural Resource Inadvertent Discovery.** In the event that objects or artifacts that may be tribal cultural resources are encountered during the course of any ground disturbance activities (Ground disturbance activities shall include the following: excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, pounding posts, augering, backfilling, blasting, stripping topsoil or a similar activity), all such activities shall temporarily cease on the project site until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:

- Upon a discovery of a potential tribal cultural resource, the Applicant shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the Department of City Planning.
- If the City determines, pursuant to Public Resources Code Section 21074 (a)(2), that the object or artifact appears to be tribal cultural resource, the City shall provide any effected tribe a reasonable period of time, not less than 14 days, to conduct a site visit and make recommendations to the Applicant and the City regarding the monitoring of future ground disturbance activities, as well as the treatment and disposition of any discovered tribal cultural resources.
- The Applicant shall implement the tribe's recommendations if a qualified archaeologist, retained by the City and paid for by the Applicant, reasonably concludes that the tribe's recommendations are reasonable and feasible.
- The Applicant shall submit a tribal cultural resource monitoring plan to the City that includes all recommendations from the City and any effected tribes that have been reviewed and determined by the qualified archaeologist to be reasonable and feasible. The Applicant shall not be allowed to recommence ground disturbance activities until this plan is approved by the City.
- If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist, the Applicant may request mediation by a mediator agreed to by the Applicant and the City who has the requisite professional qualifications and experience to mediate such a dispute. The Applicant shall pay any costs associated with the mediation.
- The Applicant may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by the qualified archaeologist and determined to be reasonable and appropriate.
- Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the South Central Coastal Information Center (SCCIC) at California State University, Fullerton.

Notwithstanding the above, any information determined to be confidential in nature, by the City Attorney's office, shall be excluded from submission to the SCCIC or the general public under the applicable provisions of the California Public Records Act, California Public Resources Code, and shall comply with the City's AB 52 Confidentiality Protocols.

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

- The applicant shall retain a qualified archaeologist who meets the Secretary of the Interior's Professional Qualifications Standards (PQS) to prepare a treatment and disposition plan for any discovered archaeological resource. The qualified archaeologist shall retain an archaeological monitor who shall be present during further ground disturbing activities on the project site, including peripheral activities, such as sidewalk replacement, utilities work, and landscaping, which may occur adjacent to the project site.
- A 50-foot buffer around any find shall be established, subject to modification by the qualified archaeologist, within which construction activities shall not be allowed to continue around the find until work is allowed to resume in accordance with the treatment and disposition plan. Ground-disturbing activities shall be halted or diverted away from the vicinity of the find so that the find can be evaluated as part of a treatment and disposition plan. Work shall be allowed to continue outside of the buffer area.
- All archaeological resources unearthed by project development activities shall be evaluated by the qualified archaeologist. If a resource is determined by the qualified archaeologist to constitute a "historical resource" pursuant to CEQA Guidelines Section 15064.5(a) or a "unique archaeological resource" pursuant to Public Resources Code Section 21083.2(g), the qualified archaeologist shall coordinate with the applicant and the City to develop a formal treatment plan that would serve to reduce impacts to the resources. The treatment plan established for the resources shall be in accordance with CEQA Guidelines Section 15064.5(f) for historical resources and Public Resources Code Sections 21083.2(b) for unique archaeological resources. Preservation in place (i.e., avoidance) is the preferred manner of treatment. If, in coordination with the City, it is determined that preservation in place is not feasible, appropriate treatment of the resource shall be developed by the qualified archaeologist in coordination with the City and may include implementation of archaeological data recovery excavations to remove the resource along with subsequent laboratory processing and analysis. Any archaeological material collected shall be curated at a public, non-profit institution with a research interest in the materials, if such an institution agrees to accept the material. If no institution accepts the archaeological material, they shall be donated to a local school, Tribe, or historical society in the area for educational purposes. If the inadvertent discovery identifies a tribal cultural resource, the applicant shall comply with the inadvertent discovery condition for tribal cultural resources.
- The frequency of required archaeological monitoring shall be based on the rate of excavation and grading activities, the materials being excavated (younger sediments vs. older sediments), the depth of excavation, and, if found, the

abundance and type of archaeological resources encountered. Full-time monitoring may be reduced to part-time inspections, or ceased entirely, if determined adequate by the qualified archaeologist. Prior to any further ground disturbing activities on the project site, Archaeological Sensitivity Training shall be given for applicable construction personnel. The training session shall be carried out by the qualified archaeologist and shall focus on how to identify archaeological resources that may be encountered during earthmoving activities and the procedures to be followed in such an event.

- All artifacts, other cultural remains, records, photographs, and other documentation shall be curated by an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.
- The treatment and disposition plan shall be submitted to the City prior to any further ground disturbing activities continue within the buffer area. Recommendations contained therein shall be implemented throughout any further ground disturbance activities.

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

- The project applicant shall retain a qualified paleontologist meeting the Society of Vertebrate Paleontology Standards (SVP) to complete a treatment and disposition plan for any discovered paleontological resource. The qualified paleontologist shall retain a paleontological monitor who shall be present during further ground disturbing activities on the project site, including peripheral activities, such as sidewalk replacement, utilities work, and landscaping, which may occur adjacent to the project site.
- A 50-foot buffer around any find shall be established, subject to modification by the qualified paleontologist, within which construction activities shall not be allowed to continue around the find until work is allowed to resume in accordance with the treatment and disposition plan. Ground-disturbing activities shall be halted or diverted away from the vicinity of the find so that the find can be evaluated as part of a treatment and disposition plan. Work shall be allowed to continue outside of the buffer area.
- All paleontological resources unearthed by project development activities shall be evaluated by the qualified paleontological. The qualified paleontologist or designated paleontological monitor shall recover intact fossils consistent with the treatment plan and notify the City of any fossil salvage and recovery efforts. Typically, fossils can be safely salvaged quickly by a single paleontologist and not disrupt future construction activity. In some cases, larger fossils (such as complete skeletons or large mammal fossils) require more extensive excavation and longer salvage periods. In this case the paleontologist shall have the authority to temporarily direct, divert or halt construction activity to ensure that the fossil(s) can be removed in a safe and timely manner. Any fossils shall be handled and deposited consistent with the treatment and disposition plan prepared by the paleontological monitor.

- The frequency of required paleontological monitoring shall be based on the rate of excavation and grading activities, the materials being excavated (younger sediments vs. older sediments), the depth of excavation, and, if found, the abundance and type of archaeological resources encountered. Full-time monitoring may be reduced to part-time inspections, or ceased entirely, if determined adequate by the qualified paleontologist. Prior to any further ground disturbing activities on the project site, Paleontological Resource Sensitivity Training shall be given for applicable construction personnel. The training session shall be carried out by the qualified archaeologist and shall focus on how to identify paleontological resources that may be encountered during earthmoving activities and the procedures to be followed in such an event.
- All artifacts, other cultural remains, records, photographs, and other documentation shall be curated by an appropriate curation facility. All fieldwork, analysis, report production, and curation shall be fully funded by the applicant.
- The treatment and disposition plan shall be submitted to the City prior to any further ground disturbing activities continue within the buffer area. Recommendations contained therein shall be implemented throughout any further ground disturbance activities.

### **Administrative Conditions**

- 61. 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.
- 62. 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.
- 63. 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.
- 64. 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.
- 65. 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.
- 66. 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.

**67. 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.

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

- i. Defend, indemnify and hold harmless the City from any and all actions against the City relating to or arising out of, in whole or in part, the City's processing and approval of this entitlement, including but not limited to, an action to attack, challenge, set aside, void, or otherwise modify or annul the approval of the entitlement, the environmental review of the entitlement, or the approval of subsequent permit decisions, or to claim personal property damage, including from inverse condemnation or any other constitutional claim.
- ii. Reimburse the City for any and all costs incurred in defense of an action related to or arising out of, in whole or in part, the City's processing and approval of the entitlement, including but not limited to payment of all court costs and attorney's fees, costs of any judgments or awards against the City (including an award of attorney's fees), damages, and/or settlement costs.
- iii. Submit an initial deposit for the City's litigation costs to the City within 10 days' notice of the City tendering defense to the Applicant and requesting a deposit. The initial deposit shall be in an amount set by the City Attorney's Office, in its sole discretion, based on the nature and scope of action, but in no event shall the initial deposit be less than \$50,000. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- iv. Submit supplemental deposits upon notice by the City. Supplemental deposits may be required in an increased amount from the initial deposit if found necessary by the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).
- v. If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

**69.** 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.

**70.** 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.