

CONDITIONS OF APPROVAL

(As Modified by the City Planning Commission at its meeting on February 9, 2023)

Development Conditions

1. **Site Development.** Except as modified herein, the project shall be in substantial conformance with the plans and materials submitted by the Applicant, stamped “Exhibit A, dated July 22, 2022” and attached to the subject case file. No change to the plans will be made without prior review by the Department of City Planning, West/South/Coastal Project Planning Division, and written approval by the Director of Planning. Each change shall be identified and justified in writing. Minor deviations may be allowed in order to comply with the provisions of the Los Angeles Municipal Code or the project conditions.
2. **Residential Density.** The project shall be limited to a maximum density of 364 residential units including affordable units.
3. **Affordable Units.** A minimum of 38 units, that is 15 percent of the base dwelling units (250 units), shall be reserved as affordable units for Very Low Income household occupancy, as defined by the State Density Bonus Law 65915 (c)(1) or (c)(2).
4. **Housing Requirements.** Prior to issuance of a building permit, the owner shall execute a covenant to the satisfaction of the Los Angeles Housing Department (LAHD). The covenant shall bind the owner to reserve 38 units available to Very Low Income Households, for sale or rental as determined to be affordable to such households by LAHD for a period of 55 years. Enforcement of the terms of said covenant shall be the responsibility of LAHD. 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 the Guidelines for the Affordable Housing Incentives Program adopted by the City Planning Commission and any monitoring requirements established by the LAHD. Refer to the Density Bonus Legislation Background and Housing Replacement (SB 330 Determination) Background sections of this determination.
5. **Height (Incentive).** The project shall be limited to 89-feet and 11-inches in building height per Exhibit “A”.
6. **Floor Area Ratio (FAR) (Incentive).** The project shall be limited to a maximum floor area ratio of 3.41:1 per Exhibit “A”.
7. **Open Space (Incentive).** The project shall provide a minimum of 33,768 square feet of open space per Exhibit “A”.
8. **Transitional Height (Incentive).** The project shall be limited to 88’-4” transitional height along 24th Street.
9. **Setbacks (Waiver).** The project shall provide 5-foot westerly side yard, and rear yard setbacks.
10. **Temporary Removal of Parking (Waiver).** The applicant is allowed the temporary removal of 61 on-site, surface-level parking spaces at 2232 Western during construction of the project.

11. **Replacement Parking.** The Project shall provide 61 parking spaces covenanted for the adjacent building's residential units and commercial space.
12. **Automobile Parking for Residential Uses.** Pursuant to California Government Code Section 65915(p)(2)(A), a development including at least 11 percent Very Low Income units and is located within one-half mile of a Major Transit Stop is allowed one-half parking space per bedroom. Based upon the number of bedrooms proposed, a minimum of 216 residential parking spaces shall be provided for the project. The project proposes 308 residential parking spaces as provided in Exhibit "A".
13. **Automobile Parking for Commercial Uses.** The project shall provide 132 commercial parking spaces based on the requirement of two parking spaces per 1000 square feet of commercial space. Project provides 205 commercial parking spaces.
14. **Bicycle Parking.** Bicycle parking shall be provided consistent with LAMC 12.21 A.16. The project shall provide 202 long-term and 52 short-term bicycle parking spaces, as provided in Exhibit "A".
15. **Street Improvements.**
 - a. **Western Avenue** –Repairs and/or replace any broken, damaged, cracked, off-grade concrete curb, gutter, sidewalk and roadway pavement along the property frontage. Reconstruct the curb ramps at the intersection with 24th Street to BOE's standards. Close all unused proposed driveways with full height curb, gutter and concrete sidewalk. All new proposed driveways will require LADOT's approval.
 - b. **24th Street** – Construct suitable surfacing to join the existing improvements to provide a 20-foot wide half roadway, integral concrete curb, gutter and a 13-foot full-width concrete sidewalk. All new proposed driveways will require LADOT's approval. These improvements should suitably transition to join the existing improvements satisfactory to the City Engineer.

Note: Street trees exist along 24th Street and denial of their removal could impact the ability to widen the street. Should the Board of Public Works deny the removal of street trees, then improve 24th Street along the property frontage with the removal and replacement of existing concrete curb, gutter at existing location and full-width concrete sidewalk with tree wells up to the property line including any necessary removal and reconstruction of the existing improvements satisfactory to the City Engineer. Close all unused driveways with full-width concrete sidewalk, full-height curb and gutter.

Site Plan Review Conditions

16. **South Los Angeles CPIO.** Prior to the issuance of a building permit, the applicant shall demonstrate compliance with the South Los Angeles Community Plan Implementation Overlay ("CPIO") pursuant to Ordinance No. 185,927, except as modified herein.
17. **Construction.** A construction work site traffic control plan be submitted to DOT's Citywide Temporary Traffic Control Office 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. DOT also recommends that construction related traffic be restricted to off-peak hours.

- a) **Coordination with LAUSD.** Prior to final signoff, the applicant shall communicate with 24th Street Elementary administrators to share the construction schedule, establish points of contact, and identify measures to be implemented to avoid disruption of school activities including but not limited to school buses, pick-up/drop-off by vehicles and foot, use of the school parking lot, outdoor breaks and recreation, noise beyond codified limits, and any construction activities that have potential to create airborne particulates from grading. A copy of this communication shall be submitted to the case file.

18. **Mechanical Equipment.** All exterior mechanical equipment, including heating, ventilation and air conditioning (HVAC) equipment, satellite dishes, and cellular antennas, shall be screened from public view through the use of architectural elements such as parapets.

- a) Project shall maintain Merv 13 Filtration System according to Industry Standards.

19. **Lighting.** All outdoor and parking lighting shall be shielded and down-cast within the site in a manner that prevents the illumination of adjacent public rights-of-way, adjacent properties, and the night sky (unless otherwise required by the Federal Aviation Administration (FAA) or for other public safety purposes).

20. **Lighting Design.** Areas where nighttime uses are located shall be maintained to provide sufficient illumination of the immediate environment so as to render objects or persons clearly visible for the safety of the public and emergency response personnel. All pedestrian walkways, storefront entrances, and vehicular access ways shall be illuminated with lighting fixtures. Lighting fixtures shall be harmonious with the building design. Wall mounted lighting fixtures to accent and complement architectural details at night shall be installed on the building to provide illumination to pedestrians and motorists.

21. **Heat Island Effect.** To reduce the heat island effect, a minimum of 50% of the area of pathways, patios, driveways or other paved areas shall use materials with a minimum initial Solar Reflectance value of 0.35 in accordance with ASTM (American Society of Testing Materials) standards.

22. **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.

23. **Unbundled Parking.** Residential parking shall be unbundled from the cost of the rental units, with the exception of parking for Restricted Affordable Units.

24. **Parking Design.** Residential parking is provided in one at-grade level and 3 above-grade levels (2-4 floor) facing 24th Street and the adjacent School yard. The residential vehicular access is provided through a two-way driveway with the width of 22' at the 24th Street. The project also provided a residential parking egress only through the Fire Lane. The commercial parking is provided in one subterranean level parking throughout the L-shaped building. The Commercial vehicular access is provided from a circular driveway (Fire Lane) at Western Avenue. The project proposes a loading space in the enclosed parking garage that is accessed from a circular driveway (Fire Lane) at Western Avenue.

25. **Fire Lane.** The project shall be limited to a minimum of 28' Fire Lane width per Exhibit "A".
26. **Crosswalk in Fire Lane Area.** The Project shall provide crosswalks in the Fire Lane Area per Exhibit "A".
27. **Pavement on the Fire Lane Area.** The Project shall provide enhanced pavement (Texture, pattern, and raised level on both pedestrian area) on the Fire Lane Area.
28. **Pole Lighting on the Fire Lane Area,** The Project shall provide consistent pole lighting on the sidewalks on both sides of the Fire Lane to be compatible with the human scale per Exhibit "A".
29. **Green Screen.** The Project shall provide "Green Screen" on the above-grade parking levels of the façade on the building facing west and 24th Street.
30. **Landscape Plan.** Revised landscape plans shall be submitted to show the size and location of all plants. The landscape plan shall indicate landscape points for the Project equivalent to 10% more than otherwise required by LAMC 12.40 and Landscape Ordinance Guidelines "O". All open areas not used for buildings, driveways, parking areas, recreational facilities or walks shall be landscaped, including an automatic irrigation system, and maintained in accordance with a final landscape plan prepared by a licensed landscape architect or licensed architect, and submitted for approval to the Department of City Planning. The final landscape plan shall be in substantial conformance with the submitted Landscape Plan, Exhibit "A," and shall incorporate any modifications required as a result of this grant.
31. **Soil Depths.** Shrubs, perennials, and groundcover shall require a minimum soil depth as follows:
 - a. A minimum depth with a height ranging from 15 to 40 feet shall be 42 inches.
 - b. A minimum depth with a height ranging from 1 to 15 feet shall be 24 to 36 inches.
 - c. A minimum depth with a height of less than 1 foot shall be 18 inches.
 - d. A minimum depth of an extensive green roof shall be 3 inches.Trees shall require a 42 inch minimum soil depth.
Further, the minimum amount of soil volume for tree wells on the rooftop or any above grade open spaces shall be based on the size of the tree at maturity:
 - e. 220 cubic feet for trees with a canopy diameter ranging from 15 to 19 feet.
 - f. 400 cubic feet for trees with a canopy diameter ranging from 20 to 24 feet.
 - g. 620 cubic feet for trees with a canopy diameter ranging from 25 to 29 feet.
 - a. 900 cubic feet for trees with a canopy diameter ranging from 30 to 34 feet.
32. **Trees.**
 - a. New street trees shall be planted within the public right-of-way, where feasible, at a ratio of at least one (1) tree for every 25 feet of lot length, to the satisfaction of the Bureau of Street Services, Urban Forestry Division, Department of Public Works.
 - b. Required Trees per 12.21 G.2. As conditioned herein, a final submitted landscape plan shall be reviewed to be in substantial conformance with Exhibit "A." There shall be a minimum of 91, 24-inch box, or larger, trees on site pursuant to LAMC Section 12.21 G.2. Any required trees pursuant to LAMC Section 12.21 G.2 shown

in the public right-of-way in Exhibit "A" shall be preliminarily reviewed and approved by the Urban Forestry Division prior to building permit issuance. In-lieu fees pursuant to LAMC Section 62.177 shall be paid if placement of required trees in the public right-of-way is proven to be infeasible due to City determined physical constraints.

33. **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.
34. **Solar and Electric Generator.** Generators used during the construction process shall be electric or solar powered. Solar generator and electric generator equipment shall be located as far away from sensitive uses as feasible.
35. **Rooftop Solar Area.** Project shall provide 8,687 square feet of rooftop solar area equal to 15 percent of the whole roof top area.
36. **Solar-ready Buildings.** The Project shall comply with the Los Angeles Municipal Green Building Code, Section 99.05.211, to the satisfaction of the Department of Building and Safety.
37. **Signage.** There shall be no off-site commercial signage on construction fencing during construction.
38. **South Los Angeles CPIO Environmental Standards** – The South Los Angeles CPIO contains Environmental Standards to implement the Mitigation and Monitoring Program as part of the South Los Angeles Community Plan Update that were reviewed in the Program EIR. All projects in CPIO Subareas are required to comply with any applicable Environmental Standards.
 - **38.1 - Environmental Standard AQ1:** Projects shall ensure all contractors include the best management practices provided in the bulleted list below in contract specifications:
 - Restrict idling of construction equipment and on-road heavy duty trucks to a maximum of 5 minutes when not in use.
 - Use diesel-fueled construction equipment to be retrofitted with after treatment products (e.g. engine catalysts) to the extent they are readily available and feasible.
 - Use heavy duty diesel-fueled equipment that uses low NOx diesel fuel to the extent it is readily available and feasible.
 - Use construction equipment that uses low polluting fuels (i.e. compressed natural gas, liquid petroleum gas, and unleaded gasoline) to the extent available and feasible.
 - All on-road heavy-duty diesel trucks or equipment with a gross-vehicle weight rating (GVWR) of 19,500 pounds or greater shall comply with EPA 2007 on-road emission standards for PM and NOx:
 - PM – 0.01 g/bhp-hr
 - NOx – at least 1.2 g/bhp-hr

- Use zero-emission trucks and equipment where available, or cleanest available technology.
- Every effort should be made by the Contractor to utilize grid-based electric power at any construction site, where feasible.
- Where access to the power grid is not available, on-site generators are required to meet 0.01 g/bhp-hr standard for PM, or be equipped with Best Available Control Technology (BACT) for PM emissions reductions.
- Use building materials, paints, sealants, mechanical equipment, and other materials that yield low air pollutants and are nontoxic.
- Construction contractors shall use pre-painted construction materials, as feasible.
- Construction contractors shall provide temporary traffic controls such as a flag person, during all phases of construction to maintain smooth traffic flow.
- Prepare haul routes, when required by the LAMC, that conform to local requirements to minimize traversing through congested streets or near sensitive receptor areas.
- Maintain a buffer zone that is a minimum of 1,000 feet between truck traffic and sensitive receptors, where feasible.
- When required by LADOT, upgrade signal synchronization to improve traffic flow.
- Configure construction parking to minimize traffic interference.
- When required by LADOT, provide dedicated turn lanes for movement of construction trucks and equipment on-and off-site.
- Schedule construction activities that affect traffic flow on the arterial system to off-peak hours to the extent practicable.
- Traffic speeds on all unpaved roads shall be 15 mph or less.
- Construction contractors shall reroute construction trucks away from congested streets or sensitive receptors areas, as feasible.
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- Construction contractors shall appoint a construction relations officer to act as a community liaison concerning on-site construction activity including resolution of issues related to PM10 generation. The name and contact information of the construction relations officer shall be posted at a location on the project site that is accessible and visible from the public right-of-way.
- Identify Sensitive Uses within 500 feet of a project that involves ground-disturbing activities and notify sensitive uses before construction projects occur, including disclosure of the name and contact information for the construction relations officer actin as the community liaison.
- Implement the fugitive dust control measures as required in the South Coast Air Quality Management District's Rule 403 Fugitive Dust.
- **38.2 - Environmental Standard CR1:** If during construction activities any cultural materials are encountered, construction activities within a 50-meter radius shall be halted immediately and the project applicant shall notify the City. A qualified archeologist (as approved by the City) shall be retained by the project applicant and shall be allowed to conduct a more detailed inspection and examination of the exposed cultural materials. During this time, excavation and construction would not be allowed in the immediate vicinity of the find. However, those activities could continue in other areas of the project site. If the

find were determined to be significant by the archeologist, the City and the archeologist would meet to determine the appropriate course of action. All cultural materials recovered from the site would be subject to scientific analysis, professional museum curation, and a report prepared according to current professional standards.

- **38.3 - Environmental Standard CR2:** Projects that involve construction-related soil disturbance shall require that during excavation and grading, if paleontological resources are uncovered, all work in that area shall be halted immediately and the project applicant shall notify the City. The project applicant shall retain a paleontologist to assess the nature, extent, and significance of any cultural materials that are encountered and to recommend appropriate methods to preserve any such resources. Said paleontologist will have the authority to put a hold on grading operations and mark, collect and evaluate any paleontological resources found on the site where it is discovered during construction. Said paleontologist shall be provided a reasonable amount of time to prepare and implement protection measures coordinating with the City of Los Angeles Building and Safety Department. Any paleontological remains and/or reports and surveys shall be submitted to the Los Angeles County Natural History Museum.
- **38.4 - Environmental Standard CR3:** In the event that objects or artifacts that may be tribal cultural resources are encountered during the course of any ground disturbance activities (excavating, digging, trenching, plowing, drilling, tunneling, quarrying, grading, leveling, removing peat, clearing, driving posts, augering, backfilling, blasting, stripping topsoil or a similar activity), all such activities shall temporarily cease on the project site until the potential tribal cultural resources are properly assessed and addressed pursuant to the process set forth below:
 - Upon a discovery of a potential tribal cultural resource, the Applicant shall immediately stop all ground disturbance activities and contact the following: (1) all California Native American tribes that have informed the City they are traditionally and culturally affiliated with the geographic area of the proposed project; (2) and the Department of City Planning, Office of Historic Resources.
 - 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 and by a culturally affiliated tribal monitor, both retained by the City and paid for by the Applicant, reasonably concludes that the tribe's recommendations are reasonable and feasible.
 - The Applicant shall submit a tribal cultural resource monitoring plan to the City that includes all recommendations from the City and any effected tribes that have been reviewed and determined by the qualified archaeologist and by a culturally affiliated tribal monitor to be reasonable and feasible. The Applicant shall not be allowed to

- recommence ground disturbance activities until this plan is approved by the City.
- If the Applicant does not accept a particular recommendation determined to be reasonable and feasible by the qualified archaeologist or by a culturally affiliated tribal monitor, the Applicant may request mediation by a mediator agreed to by the Applicant and the City who has the requisite professional qualifications and experience to mediate such a dispute. The Applicant shall pay any costs associated with the mediation.
 - The Applicant may recommence ground disturbance activities outside of a specified radius of the discovery site, so long as this radius has been reviewed by the qualified archaeologist and by a culturally affiliated tribal monitor and determined to be reasonable and appropriate.
 - Copies of any subsequent prehistoric archaeological study, tribal cultural resources study or report, detailing the nature of any significant tribal cultural resources, remedial actions taken, and disposition of any significant tribal cultural resources shall be submitted to the SouthCentral Coastal Information Center (SCCIC) at California State University, Fullerton.
- **38.5 - Environmental Standard HM1:** A Soil Management Plan shall be prepared prior to the Department of Building and Safety's issuance of a grading permit to review and address any impacted soil that may be encountered during excavation and grading. The SMP shall provide for the sampling, testing, and timely disposal of such soil and properly treated and disposed of in accordance with applicable SCZQMD, DTSC, and LARWQCB requirements. An Environmental Professional shall be on-site during excavation and grading of the project site to monitor environmental conditions pertaining to soil. Written confirmation by the Environmental Professional stating that required site remediation was completed consistent with the relevant federal, state, or local requirements shall be provided to the City prior to issuance of certificates of occupancy.
 - **38.6 - Environmental Standard N1:** Projects (except for Residential Subareas M, N, and O) shall ensure that all contractors include the following best management practices in contract specifications, where applicable:
 - Construction haul truck and materials delivery traffic shall avoid residential areas whenever feasible. If no alternatives are available, truck traffic shall be routed on streets with the fewest residences.
 - The construction contractor shall locate construction staging areas away from sensitive uses.
 - When construction activities are located in close proximity to noise-sensitive land uses, noise barriers (e.g., temporary walls or piles of excavated material) shall be constructed between activities and noise sensitive uses.
 - Impact pile drivers shall be avoided where possible in noise-sensitive areas. Drilled piles or the use of a sonic vibratory pile driver are quieter alternatives that shall be utilized where geological conditions permit their use. Noise shrouds shall be used when necessary to reduce noise

- of pile drilling/driving.
- Construction equipment shall be equipped with mufflers that comply with manufacturers' requirements.
- The construction contractor shall use on-site electrical sources to power equipment rather than diesel generators where feasible.
- Use electric or solar generators, when available.
- **38.7 - Environmental Standard N2:** Projects (except for Residential Subareas M, N, and O) shall comply with the following conditions:
 - Mechanical equipment (e.g., heating, ventilation and air conditioning (HVAC) Systems) shall be enclosed with sound buffering materials.
 - Truck loading/unloading activity shall be prohibited between the hours of 10:00 p.m. and 7:00 a.m. when located within 200 feet of a residential land use.
 - Parking structures located within 200 feet of any residential use shall be constructed with a solid wall abutting the residences and utilize textured surfaces on garage floors and ramps to minimize tire squeal.
- **38.8 - Environmental Standard N4:** Projects (except for Residential Subareas M, N, and O) shall ensure that all contractors include the following best management practices in contract specifications, where applicable:
 - Impact pile drivers shall be avoided where possible in vibration-sensitive areas. Drilled piles or the use of a sonic vibratory pile driver are alternatives that shall be utilized where geological conditions permit their use.
 - The construction activities shall involve rubber-tired equipment rather than metal-tracked equipment.
 - The construction contractor shall manage construction phasing (scheduling demolition, earthmoving, and ground-impacting operations so as not to occur in the same time period), use low-impact construction technologies, and shall avoid the use of vibrating equipment where possible to avoid construction vibration impacts.

Administrative Conditions

39. **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 "Plans Approved". A copy of the Plans Approved, supplied by the applicant, shall be retained in the subject case file.
40. **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.
41. **Approval, Verification and Submittals.** Copies of any approvals, guarantees or verification of consultations, review of approval, plans, etc., as may be required by the subject conditions,

shall be provided to the Department of City Planning prior to clearance of any building permits, for placement in the subject file.

42. **Code Compliance.** Use, area, height, and yard regulations of the zone classification of the subject property shall be complied with, except where granted conditions differ herein.
43. **Department of Building and Safety.** The granting of this determination by the Director of Planning does not in any way indicate full compliance with applicable provisions of the Los Angeles Municipal Code Chapter IX (Building Code). Any corrections and/or modifications to plans made subsequent to this determination by a Department of Building and Safety Plan Check Engineer that affect any part of the exterior design or appearance of the project as approved by the Director, and which are deemed necessary by the Department of Building and Safety for Building Code compliance, shall require a referral of the revised plans back to the Department of City Planning for additional review and sign-off prior to the issuance of any permit in connection with those plans.
44. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
45. **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.
46. **Indemnification and Reimbursement of Litigation Costs.**

Applicant shall do all of the following:

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

the City to protect the City's interests. The City's failure to notice or collect the deposit does not relieve the Applicant from responsibility to reimburse the City pursuant to the requirement in paragraph (ii).

- (v) If the City determines it necessary to protect the City's interest, execute an indemnity and reimbursement agreement with the City under terms consistent with the requirements of this condition.

The City shall notify the applicant within a reasonable period of time of its receipt of any action and the City shall cooperate in the defense. If the City fails to notify the applicant of any claim, action, or proceeding in a reasonable time, or if the City fails to reasonably cooperate in the defense, the applicant shall not thereafter be responsible to defend, indemnify or hold harmless the City.

The City shall have the sole right to choose its counsel, including the City Attorney's office or outside counsel. At its sole discretion, the City may participate at its own expense in the defense of any action, but such participation shall not relieve the applicant of any obligation imposed by this condition. In the event the Applicant fails to comply with this condition, in whole or in part, the City may withdraw its defense of the action, void its approval of the entitlement, or take any other action. The City retains the right to make all decisions with respect to its representations in any legal proceeding, including its inherent right to abandon or settle litigation.

For purposes of this condition, the following definitions apply:

"City" shall be defined to include the City, its agents, officers, boards, commissions, committees, employees, and volunteers.

"Action" shall be defined to include suits, proceedings (including those held under alternative dispute resolution procedures), claims, or lawsuits. Actions includes actions, as defined herein, alleging failure to comply with any federal, state or local law.

Nothing in the definitions included in this paragraph are intended to limit the rights of the City or the obligations of the Applicant otherwise created by this condition.