

## CONDITIONS OF APPROVAL

(As Modified by the City Planning Commission at its meeting on June 8, 2023)

### Development Conditions

1. **Site Plan.** The use and development of the subject property shall be in substantial conformance with the site plan labeled Exhibit "A". Prior to the issuance of building permits, detailed development plans including a site plan illustrating elevations, facades, and architectural treatment, and a landscape/irrigation plan shall be submitted for review and approval by the West/South/Coastal Project Planning Bureau of the Department of City Planning. The plans shall comply with provisions of the Municipal Code, the subject conditions, and the intent of the subject permit authorization.
2. **Street Designations, Dedications, and Improvements.**
  - a. Anaheim Way shall be designated an Industrial Collector Street.
  - b. Farragut Avenue shall be designated an Industrial Collector Street.
  - c. Dedication Required:
    - i. The applicant shall submit a Street Vacation Application to the Bureau of Engineering – Land Development Group and obtain approval from the City Council to vacate portion of Anaheim Way (a public street) for the proposed realignment at the intersection with Farragut Avenue.

In the event the street vacation file is approved by the City Council, additional conditions may be imposed herein.
    - ii. **Anaheim Way** (Proposed Designation to Industrial Collector Street) – Dedicate variable width strips of land, including voluntary dedication, along the property frontages to complete a 68-foot wide and variable width right-of-way on an alignment satisfactory to the City Engineer. Dedicate suitable radius property line returns at the northeast and southeast corner intersections with Farragut satisfactory to the City Engineer. Additional dedication may be required under the Street Vacation to be filed by the applicant and to be approved by the City Council. Note: A legal description based on an approved street plan for the realignment be submitted to the City Engineer for the street dedication process.
    - iii. **Farragut Avenue** (Proposed Designation to Industrial Collector Street) – An 8-foot wide and variable width strip of land, including voluntary dedication, along the property frontages to complete a 68-foot wide and variable width right-of-way for the proposed realignment of Farragut Avenue. Dedicate a minimum 10-foot by 10-foot cut corner or a 15-foot radius property line return at the intersection Farragut Avenue and Anaheim Street. Additional dedication may be required under the Street Vacation to be filed by the applicant and to be approved by the City Council. Note: A legal description based on an approved street plan for the realignment be submitted to the City Engineer for the street dedication process.

- iv. **Anaheim Street** (Boulevard II) – Dedicate a variable width strip of land to complete a 55-ft wide half right-of-way in accordance with the Boulevard II Street Standard terminating westerly of the State Route 103 Bridge Overpass. The existing Anaheim Street bridge structure, columns, various easements and grade separation between the bridge and the property frontage preclude the additional dedication.
- d. Improvements Required:
- i. **Anaheim Way** – Construct new surfacing to provide a 48-foot wide and variable width roadway on an alignment satisfactory to the City Engineer and LADOT. Construct 10-foot wide concrete sidewalks, curbs and gutters along the north and south sides of the property frontages, including any necessary removal and reconstruction of existing improvements. Construct all curb ramps (marked or unmarked) to comply with ADA requirements per BOE standards and Special Order 04-0222. Close all unused driveways. Construct any additional improvements required under the Street Vacation File. These improvements should suitably transition to join the existing improvements satisfactory to the City Engineer – B-Permit Harbor District.
  - ii. **Anaheim Way** (Private Street) – Obtain prior approval from the City Engineer - Harbor District Office B-Permit Group for the repair of any broken, off-grade or bad order roadway pavement, concrete curbs, gutters, sidewalks, including any necessary removal and reconstruction of existing improvements along the private street. Construct any additional improvements required under the Street Vacation File.
  - iii. **Farragut Avenue** – Construct new surfacing to join the existing improvements to provide a 48-foot wide and variable width roadway on an alignment satisfactory to the City Engineer and LADOT. Construct new curbs and gutter and a minimum 10-foot wide concrete sidewalk along the property frontage, including any necessary removal and reconstruction of existing improvements. Construct all curb ramps (marked or unmarked) to comply with ADA requirements per BOE standards and Special Order 04-0222. Close all unused driveways. Construct any additional improvements required under the Street Vacation File. These improvements should suitably transition to join the existing improvements satisfactory to the City Engineer – B-Permit Harbor District.
  - iv. **Anaheim Street** – Construct additional concrete sidewalk in the dedicated area and repair concrete sidewalk, concrete curb and roadway pavement. Reconstruct the curb ramps to comply with ADA requirements, BOE standards and Special Order 04-0222 at the intersection with Farragut Avenue including any necessary removal and reconstruction of existing improvements all satisfactory to the City Engineer – Harbor District B-Permit Office.
3. **Fire.** Submit plot plans for Fire Department approval and review prior to issuance of building permits.

4. **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 as 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.
5. **Street Trees.**
  - a. Project shall preserve all healthy mature street trees whenever possible. All feasible alternatives in project design should be considered and implemented to retain healthy mature street trees. A permit is required for the removal of any street tree and shall be replaced 2:1 as approved by the Board of Public Works and Urban Forestry Division.
  - b. Plant street trees at all feasible planting locations within dedicated streets as directed and required by the Bureau of Street Services, Urban Forestry Division. All street tree plantings shall be installed to current tree planting standards when the City has previously been paid for tree plantings. The sub divider or contractor shall notify the Urban Forestry Division at: (213) 847-3077 upon completion of construction for tree planting direction and instructions.

Note: Removal of street trees requires approval from the Board of Public Works. All projects must have environmental (CEQA) documents that appropriately address any removal and replacement of street trees. Contact Urban Forestry Division at: (213) 847-3077 for tree removal permit information.
6. 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.

### **Environmental Conditions**

7. **Mitigation Monitoring and Reporting Program.** The Project shall comply with the Mitigation Measures set forth in the Mitigation Monitoring and Reporting Program, certified on January 22, 2018 and attached as Exhibit D-1, for which the Port of Long Beach or any City department is identified as a Monitoring Party, as may be amended by the Port of Long Beach.
8. **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 for which the City or any City department is identified as a Monitoring Party during construction activities consistent with the monitoring phase and frequency set forth in the MMRP (attached as Exhibit D-1). 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.

### **Administrative Conditions of Approval**

9. **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.
10. **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.
11. **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.
12. **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.
13. **Enforcement.** Compliance with these conditions and the intent of these conditions shall be to the satisfaction of the Department of City Planning.
14. **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.
15. **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.
16. **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.