

RESOLUTION NO. 2024-11

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA DENSITY BONUS AGREEMENT APPLICATION NO. 2024-01 AS CONDITIONED FOR A NEW FOR-SALE RESIDENTIAL DEVELOPMENT WITH SIX UNITS FOR THE PROPERTY LOCATED AT 1921 W. WASHINGTON AVENUE (APN: 405-101-37).

BE IT RESOLVED BY THE PLANNING COMMISSION OF THE CITY OF SANTA ANA AS FOLLOWS:

Section 1. The Planning Commission of the City of Santa Ana hereby finds, determines and declares as follows:

- A. Habitat for Humanity of Orange County (Applicant & Property Owner) is requesting approval of Density Bonus Agreement (DBA) Application No. 2024-01 to facilitate the construction of a for-sale residential development (Project), consisting of six (6) units proposed as affordable to lower-income households earning less than 80 percent of the area median income (AMI) for the property located at 1921 W. Washington Avenue (“Project Site”).
- B. As part of the Project, the applicant is also requesting a tentative tract map (TTM No. 2023-05) for condominium purposes to facilitate the construction of the for-sale units.
- C. Applicant requests approval of this DBA under California Government Code § 65915 (the “Density Bonus Law”) because the Project will operate as a common interest development and consists of 100% affordable for-sale units to lower-income households.
- D. Pursuant to Section 4100 of the California Civil Code, the Project meets the definition of a *Common Interest Development*, which includes a condominium project, as further defined in Section 4125 of the California Civil Code. Therefore, the project qualifies as a *Housing Development*, as defined in the California Government Code Section 65915 (i), and is eligible for a density bonus.
- E. As part of the overall process, the City and Applicant have entered into a Conditional Grant Agreement, pursuant to which, City agreed to provide a grant (the “Inclusionary Grant”) in an amount up to Two Million Two Hundred Thousand Dollars (\$2,200,000) to the Applicant for a residential homeownership project that involves construction of six (6) affordable housing units restricted for sale to low income households.

- F. As a condition of receiving the Inclusionary Grant, the applicant agrees that a Regulatory Agreement Imposing Affordable Housing Covenants and Restrictions (“Density Bonus Agreement”) shall be recorded against the Project Site prior to disbursement of any portion of the Inclusionary Grant and that the Project Site and Project shall be subject to the covenants and restrictions set forth in the Density Bonus Agreement.
- G. The total affordability term in the Density Bonus Agreement states that each affordable unit shall be restricted for sale to an eligible household for a total period of no less than forty-five (45) years. To maintain this project as a for sale project, the applicant is requesting approval of TTM No. 2023-05, for condominium purposes, ensuring that the project qualifies as a Housing Development, and the Project meets the definition of a Common Interest Development.
- H. The Project entails, among other improvements; (1) development of the Project Site with three duplex buildings with six (6) for-sale housing units proposed as affordable to lower-income households, 10,882 square-feet of total new floor area, and 15 onsite parking spaces; and (2) approval of Density Bonus Agreement (DBA) Application No. 2024-01, to be considered by the Planning Commission on June 10, 2024.
- I. The California Density Bonus law allows developers to seek increases in base density for providing on-site housing units in exchange for providing affordable units on site. To help make constructing on-site affordable units feasible, the law allows developers to seek incentives/concessions or waivers that would help the project be built without significant burden and without detriment to public health.
- J. The Applicant’s request has been thoroughly evaluated by the City’s Development Review Committee (DRC) through Development Project No. 2023-12. Through this review, the DRC has considered the subject site, proposed development, and the Applicant’s requests for incentives/concessions and waivers pursuant to the State’s Density Bonus Law.
- K. The Project is entitled to a density bonus that will allow six (6) total residential units, developed as three (3) duplex buildings, based upon the restrictions set forth in the DBA to restrict the sale of the units to households that qualify as low income. Pursuant to the California Density Bonus law, a project’s affordability level is determined by dividing the number of proposed affordable units by the allowable “base” density (i.e., 7 du/ac). Moreover, the law states that units added by a density bonus are excluded from the calculations. The base density for the 0.37-acre site at 7 du/ac is 3 units. All six units of the project are proposed to be affordable to low income households. Therefore, the project would have a 100-percent affordability

rate. As such, State density bonus law allows the developer to request a density bonus of 80 percent.

- L. Section 41-1607 of the Santa Ana Municipal Code (SAMC) requires an application for a density bonus agreement containing deviations (incentives/concessions and/or waivers) to be approved by the Planning Commission.
- M. On June 10, 2024, the Planning Commission of the City of Santa Ana held a duly noticed public hearing and at that time considered all testimony, written and oral.
- N. The Planning Commission determines that the following findings, which must be established in order to grant this Density Bonus Agreement application pursuant to SAMC Section 41-1607, have been established for Density Bonus Agreement No. 2024-01 to allow construction of the proposed project:
 - 1. That the proposed development will materially assist in accomplishing the goal of providing affordable housing opportunities in economically balanced communities throughout the city.

The proposed development will provide six (6) residential for-sale units, all units are designated for lower-income households, contributing toward the City's housing stock to serve the needs of diverse and underserved populations. The area in which the project is proposed, the Two-Family Residential zone within the Artesia Pilar Neighborhood currently contains a mix of housing stock, including single-family residential and two to three unit duplexes/triplexes. The construction of this project will contribute toward an economically balanced community by providing housing for different income levels in an area rich with employment opportunities.

- 2. That the development will not be inconsistent with the purpose of the underlying zone or applicable designation in the general plan land use element.

The proposed project is located in the Low Density Residential (LR-7) land use designation of the General Plan, which allows for development single-family and two-family dwelling units. The land use designation allows a mix of uses, including medium and medium-high density apartments, townhomes, garden- or motor-court homes, and neighborhood- serving commercial. The project proposes a density of 16.2 dwelling units per acre, exceeding the General Plan's LR-7 pursuant to

the Density Bonus law, which allows developers to exceed the density permitted within the General Plan when providing affordable housing that meets specific conditions.

Moreover, the project is consistent with several goals and policies in the general plan. Specifically, goals 1, 2, 3, and 4 of the Land Use Element and goals 1, 2, 3 of the Housing Element. Goal 1 of the Land Use Element (LU) encourage responsible growth by providing a land use plan that improves the quality of life and respects the existing community. Policy 1.1 of the LU asks that new projects foster compatibility between land uses to enhance livability and promote healthy life styles. Policy 1.2 and 1.5 of the LU encourage innovative development policies to expand homeownership opportunities at all income levels and quality infill residential development that provide a diversity of housing type for all income levels and age groups. Policy 1.8 of the LU encourages development tradeoff to ensure that new development project provide a net community benefit. Goal 2 of the LU supports the balance of land uses that meet Santa Ana's diverse needs. Policy 2.4 supports the balance of benefits of development with fiscal impacts on the city and on quality of life for the community. Policy 2.6 promotes rehabilitation of properties and encourages increased levels of capital investment to create a safe and attractive environment.

Goal 3 of the LU encourages the preservation and improvement of the character and integrity of the existing neighborhoods and districts. Policy 3.1 of the LU supports new development that provides a net community benefit and contributes to the neighborhood character and identity. Policy 3.2 supports the facilitation of community engagement and dialogue in policy decisions and outcomes affecting land use and development, with supplemental opportunities for proposed planning activities within environmental justice area boundaries. Policy 3.4 ensures that the scale and massing of new development is compatible and harmonious with the surrounding built environment. Policy 3.7 promotes a clean, safe, and creative environment for Santa Ana's residents, workers, and visitors.

Goal 4 of the LU supports a sustainable Santa Ana through improvements to the built environment. Policy 4.1 encourages the promotion of complete neighborhoods by encouraging a mix of complementary uses, community services, and people places within a walkable area. Policy 4.2 maintains and improves the public realm through quality architecture, street

trees, landscaping, and other pedestrian-friendly amenities. Policy 4.6 supports diverse and innovative housing types that improve living conditions and promote a healthy environment. Policy 4.7 Promote mixed-income developments with mixed housing types to create inclusive communities and economically diverse neighborhoods. Policy 4.8 supports the collaboration with property owners, community organizations, and other local stakeholders to identify opportunities for additional open space and community services, such as community gardens and gathering places

Goal 1 of the Housing Element (HE), supports livable and affordable neighborhoods with healthy and safe housing conditions, community services, well-maintained infrastructure, and public facilities that inspire neighborhood pride and ownership. Policy 1.2 supports projects that encourage neighborhood involvement and active participating in neighborhood organizations to help identify needs and implement programs aimed at beautification, improvement, and preservation of neighborhoods. To date, the project has hosted two sunshine meetings with the local neighborhood and revised the project based on cumulative community feedback and inspires pride in homeownership due to the project being for-sale.

Goal 2 of the HE supports fostering inclusive community with a diversity of quality housing, affordability levels, and living experiences that accommodate Santa Ana's residents and workforce of all household types, income levels, and age groups. Policy 2.5 encourages the facilitation of diverse housing types, prices, and size of housing. The project includes duplex units that contain bedroom ratios suitable for families. Policy 2.6 supports excellence in architectural design through the use of materials and colors, building treatments, landscaping, open space, parking, and environmentally sensitive ("green") building and design practices. The project includes a high-quality farmhouse architectural design that incorporates a mix of exterior materials and enhanced landscaping.

Goal 3 of the HE supports the Increase in opportunities for extremely low-, very low-, low-, and moderate-income individuals and families to find affordable housing, and afford a greater choice of rental and homeownership opportunities. Policy 3.2 encourages expanding home homeownership opportunities for low- and moderate-income residents and

workers in Santa Ana through the provision of financial assistance, education, and collaborative partnerships.

The project is a 100-percent affordable housing project, providing six lower income households the opportunity to obtain homeownership status. Policy 3.5 encourages collaboration with nonprofit organizations, community land trusts, developers, and other government agencies to develop and provide affordable housing for residents. The project applicant, Habitat for Humanity of Orange County, is a non-profit housing developer and has received pre-commitment funds from the City of Santa Ana Housing Division in support of the development of six affordable for-sale units.

3. That the deviation is necessary to make it economically feasible for the Applicant to utilize a density bonus authorized for the development pursuant to section 41-1603.

The proposed project requires four deviations through incentives/concessions: (1) setbacks, (2) front-yard fencing, (3) building separation, and (4) open space. Moreover, one (1) waiver is requested in relation to the location of the trash enclosure. The deviations are described as follows:

Minimum Setback Requirements (Incentive/Concession)

SAMC Section 41-251 requires a minimum rear setback of 10-feet if at least 1,200 square-feet of open space is provided, exclusive of side-yard areas.

As proposed, the project provides a rear setback of 6-feet and 1,204 square feet of open space areas, excluding the side-yard areas. Strict adherence to this setback requirement would result in a reduction in the number of units that can be provided in the overall project, thus reducing the applicant's ability to achieving the density bonus to which the applicant is entitled under the Density Bonus Law and affecting the feasibility to construct the project. In order to comply with the required setback requirement and maintain the current proposed unit count, the developer would be required to construct additional floor levels, which would exceed the maximum allowable height as part of the Two-Family Residential (R-2) zoning district, and would further increase development costs making the project economically infeasible. To help alleviate the setback deficiency, the project proposes a 29'-0 3/4" upper-story setback from the rear of the

property to control the mass and bulk of the structure towards the rear.

Front-yard Fence Height Restriction (Incentive/Concession)

SAMC Section 41-610 (a)(1) requires that fencing within the Front-yard area (defined in SAMC Section 41-172 as the yard extending across the full width of the lot, the depth of which is the distance between the front lot line and the main wall of the building.) be a maximum of three feet in height on frontages that abut a non-arterial street as designed in the Mobility Element of the General Plan.

Maintaining the height restriction would result in reduction in private open space for Unit 1 and trigger non-compliance of SAMC Section 41-622.5 in which no mechanical equipment, such as an AC condenser, may be located between the building wall and the side property line. In order to maintain the current proposed unit count, the developer would be required to fully redesign the site, further increasing development costs and potentially leading to a loss of residential units, and a loss of further private open space. To help alleviate this deficiency, the landscape plans provide enhanced screening proposals which include vertical landscaping elements to ensure a harmonious transition from the front-yard's plants/shrubs to the built structure.

Building Separation (Incentive/Concession)

SAMC Section 41-254 (a) requires a minimum setback of 15 feet between primary structures.

The proposed development is proposing a reduced setback of 10-feet between the front duplex and the center duplex, and a 9-foot setback between the center duplex and the rear duplex. In order to comply with the minimum building setback requirements, the developer would be required to provide a full redesign of the site and/or reduce the number of units provided onsite. This would result in further increasing development costs and may result in the loss of potential units onsite.

Open Space Requirement (Incentive/Concession)

SAMC Section 41-255 requires a minimum 100 square feet of private space to be provided per unit in the form of a private patio or deck, with minimum dimensions of eight (8) feet.

As proposed, the designated private space for Unit 5 in the form of a 13' x 7' (91 square foot) balcony is less than 100 square-feet and less than eight (8) feet in minimum dimensions. Strict adherence to the 100 square foot and eight (8) foot minimum dimension requirement would structurally encroach into the required drive-aisle, require a redesign of the site. This would result in further increasing development costs and may result in the loss of potential units onsite

Trash Enclosure Location (Waiver)

SAMC Section 41-623 requires that trash and utility areas be screened from public streets and alleys as well as be physically integrated into the project.

As proposed, the trash enclosure is located towards the front of the property. Strict adherence to SAMC 41-623 would require a full redesign of the site to accommodate for trash pickup located towards the rear of the property. This would further increase development cost and may result in the loss of potential units onsite. To help alleviate this deficiency, the landscape plans provided propose to screen the trash enclosure with vertical landscaping elements to ensure the structure is not visible to the street.

Section 2. In accordance with the California Environmental Quality Act (CEQA), the recommended action is exempt from further review under Section 15195 (Residential Infill Exemption), as this project meets all the threshold criteria set forth in Section 15192 (Threshold Requirements for Exemptions). This exemption applies to projects or sites that:

1. Meet the threshold criteria set forth in section 15192; provided that with respect to the requirement in section 15192(b) regarding community-level environmental review, such review must be certified or adopted within five years of the date that the lead agency deems the application for the project to be complete pursuant to Section 65943 of the Government Code.
2. Meet both of the following size criteria:
 - A. The site of the project is not more than four acres in total area.
 - B. The project does not include any single level building that exceeds 100,000 square feet.
3. Meet both of the following requirements regarding location:
 - A. The project is a residential project on an infill site.
 - B. The project is within one-half mile of a major transit stop.

4. Meet both of the following requirements regarding number of units:
 - A. The project does not contain more than 100 residential units.
 - B. The project promotes higher density infill housing. The lead agency may establish its own criteria for determining whether the project promotes higher density infill housing except in either of the following two circumstances:
 - 1) A project with a density of at least 20 units per acre is conclusively presumed to promote higher density infill housing.
 - 2) A project with a density of at least 10 units per acre and a density greater than the average density of the residential properties within 1,500 feet shall be presumed to promote higher density infill housing unless the preponderance of the evidence demonstrates otherwise.
5. Meets the following requirements regarding availability of affordable housing: The project would result in housing units being made available to moderate, low, or very low income families as set forth in either A or B below:
 - A. The project meets one of the following criteria, and the project developer provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units as set forth below at monthly housing costs determined pursuant to paragraph (3) of subdivision (h) of Section 65589.5 of the Government Code.
 - 1) At least 10-percent of the housing is sold to families of moderate income, or
 - 2) Not less than 10-percent of the housing is rented to families of low income, or
 - 3) Not less than 5-percent of the housing is rented families of very low income.
 - B. If the project does not result in housing units being available as set forth in subdivision (A) above, then the project developer has paid or will pay in-lieu fees pursuant to a local ordinance in an amount sufficient to result in the development of an equivalent number of units that would otherwise be required pursuant to subparagraph (A).

The proposed project meets the criteria listed in Section 15195 as the project site is not more than four acres in area, the project does not include any single level building exceeding 100,000 square feet, and the project is an infill development within one-half mile of a major transit stop. Moreover, the development promotes higher density infill housing, does not contain more than 100 residential units, and results in for sale housing units made available to low income families. Specifically, the project would exceed the minimum affordable requirements outlined in Section 15195, which states that ten-percent of for sale projects need to be sold to families of moderate income. This project proposes to sale 100-percent of the units to low income households. Moreover, the developer has provided sufficient legal commitments to ensure continued availability and use of housing units for lower income households for a period exceeding 30 years.

In addition, the project is also exempt from further review per Section 15303 (Class 3 – New Construction or Conversion of Small Structures). The Class 3 categorical exemption consists of construction and location of limited numbers of new, small facilities or

structures; installation of small new equipment and facilities in small structures; and the conversion of existing small structures from one use to another where only minor modifications are made in the exterior of the structure. In urbanized areas, this exemption applies to apartments, duplexes, and similar structures designed for not more than six (6) dwelling units. Pursuant to the California Public Resources Code, "Urbanized Area" includes an incorporated city that has a population of at least 100,000 persons. The City of Santa Ana exceeds the population requirements, and is therefore considered an urbanized area. Therefore, the proposed project can be exempt pursuant to the Class 3 exemption, as no more than six (6) unit multi-family residential units are proposed. As such, a Notice of Exemption, Environmental Review No. 2023-44, will be filed for this project.

Section 3. The Applicant shall indemnify, protect, defend and hold the City and/or any of its officials, officers, employees, agents, departments, agencies, authorized volunteers, and instrumentalities thereof, harmless from any and all claims, demands, lawsuits, writs of mandamus, referendum, and other proceedings (whether legal, equitable, declaratory, administrative or adjudicatory in nature), and alternative dispute resolution procedures (including, but not limited to arbitrations, mediations, and such other procedures), judgments, orders, and decisions (collectively "Actions"), brought against the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof, that challenge, attack, or seek to modify, set aside, void, or annul, any action of, or any permit or approval issued by the City and/or any of its officials, officers, employees, agents, departments, agencies, and instrumentalities thereof (including actions approved by the voters of the City) for or concerning the project, whether such Actions are brought under the Ralph M. Brown Act, California Environmental Quality Act, the Planning and Zoning Law, the Subdivision Map Act, Code of Civil Procedure sections 1085 or 1094.5, or any other federal, state or local constitution, statute, law, ordinance, charter, rule, regulation, or any decision of a court of competent jurisdiction. It is expressly agreed that the City shall have the right to approve the legal counsel providing the City's defense, and that Applicant shall reimburse the City for any costs and expenses directly and necessarily incurred by the City in the course of the defense. City shall promptly notify the Applicant of any Action brought and City shall cooperate with Applicant in the defense of the Action.

Section 4. The Planning Commission of the City of Santa Ana, after conducting the public hearing, hereby approves Density Bonus Agreement No. 2024-01 as conditioned in Exhibit A attached hereto and incorporated as though fully set forth herein. This decision is based upon the evidence submitted at the above said hearing, which includes, but is not limited to: the Request for Planning Commission Action dated June 10, 2024, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

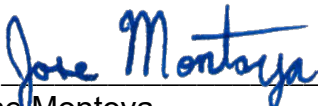
ADOPTED this 10th day of June 2024, by the following vote:

AYES: Commissioners: Carl Benninger, Manuel J. Escamilla, Chris Leo,
Bao Pham, Alan Woo (5)
NOES: Commissioners:
ABSENT: Commissioners: Jennifer Oliva, Isuri Ramos (2)
ABSTENTIONS: Commissioners:



Bao Pham
Chairperson

APPROVED AS TO FORM:
Sonia R. Carvalho, City Attorney


By: 

Jose Montoya
Assistant City Attorney

CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, Nuvia Ocampo, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2024-11 to be the original resolution adopted by the Planning Commission of the City of Santa Ana on June 10, 2024.

Date: 8/8/2024



Recording Secretary
City of Santa Ana

EXHIBIT A
Conditions for Approval for Density Bonus Agreement Application No. 2024-01

Density Bonus Agreement Application No. 2024-01 is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations. In addition, it shall meet the following conditions of approval:

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by the Density Bonus Agreement.

The Applicant must remain in compliance with all conditions listed below throughout the life of the development project. Failure to comply with each and every condition may result in the revocation/termination of the Density Bonus Agreement.

1. All proposed site improvements must conform to the Development Project (DP) approval of DP No. 2023-12.
2. Any amendment to the DP No. 2023-12, including modifications to approved materials, finishes, architecture, site plan, landscaping, unit count, mix, and square footages must be submitted to the Planning Division for review. At that time, staff will determine if administrative relief is available or if the Development Project Review must be amended.
3. All mechanical equipment shall be screened from view from public and courtyard areas.
4. The plans shall be revised to include a note for the following:
 - a. The trash enclosure shall be kept locked during non-trash pickup days and when not in use. The area surrounding and within the enclosure shall be kept in a neat and clean condition. No intensive odor shall be emitted from the area.
 - b. No overcrowding of the trash receptacles is allowed. All trash shall be located within the trash receptacles.
 - c. The trash lid shall remain closed during all hours when not in use.
5. Prior to issuance of building permits, the Applicant shall submit a construction schedule and staging plan to the Planning Division for review and approval. The plan shall include construction hours, staging areas, parking and site security/screening during project construction.

6. Prior to issuance of building permits, the Applicant shall provide written notification to the residential community located to the west of the site. This notification shall include comprehensive information about the nature of the proposed activities, anticipated timelines, and contact information for inquiries. The notification shall be delivered via certified mail. Additionally, a designated representative shall be available to address any concerns or inquiries raised by the residential community during this notification period.
7. Prior to issuance of building permits, the Applicant shall submit to the Planning Division and have approved a Parking Management Plan (PMP). The PMP shall provide for measures to address any parking shortages that may result from the project, with terms including but not limited to:
 - a. Requiring onsite parking permits (such as stickers or hang-tags) for any parking in the onsite parking spaces for both residents and guests;
 - b. Policies for maximum time vehicles may be parked in the surface parking spaces, including any guest parking; and
 - c. Policies for towing unauthorized vehicles; vehicles parked in unauthorized locations, such as fire lanes; vehicles parking in surface guest parking without a sticker, hang-tag, or other identifiers; and vehicles parked longer than any maximum guest parking timeframes allowed.
8. Two weeks prior to the commencement of construction, notification must be provided to property owners within 500 feet of the project site disclosing the construction schedule, including the various types of activities that would be occurring throughout the duration of the construction period.
9. Prior to installation of landscaping, the Applicant shall submit representative photos and specifications of all trees to be installed on the project site for review and approval by the Planning Division. Specifications shall include, at a minimum, the species, box size (24 inches minimum), brown trunk height (10-foot minimum), and name and location of the supplier.
10. After project occupancy, landscaping and hardscape materials must be maintained as shown on the approved landscape plans.
11. Prior to final occupancy, a Property Maintenance Agreement must be recorded against the property. The agreement will be subject to review and applicability by the Planning and Building Agency, the Community Development Agency, the Public Works Agency, and the City Attorney to ensure that the property and all improvements located thereupon are properly maintained, Applicant (and the

owner of the property upon which the authorized use and/or authorized improvements are located if different from the Applicant) shall execute a maintenance agreement with the City of Santa Ana which shall be recorded against the property and which shall be in a form reasonably satisfactory to the City Attorney. The maintenance agreement shall contain covenants, conditions and restrictions relating to the following:

- a. Compliance with operational conditions applicable during any period(s) of construction or major repair (e.g., proper screening and securing of the construction site; implementation of proper erosion control, dust control and noise mitigation measure; adherence to approved project phasing etc.);
- b. Compliance with ongoing operational conditions, requirements and restrictions, as applicable (including but not limited to hours of operation, security requirements, the proper storage and disposal of trash and debris, enforcement of the parking management plan, and/or restrictions on certain uses);
- c. Ongoing compliance with approved design and construction parameters, signage parameters and restrictions as well as landscape designs, as applicable;
- d. Ongoing maintenance, repair and upkeep of the property and all improvements located thereupon (including but not limited to controls on the proliferation of trash and debris about the property; the proper and timely removal of graffiti; the timely maintenance, repair and upkeep of damaged, vandalized and/or weathered buildings, structures and/or improvements; the timely maintenance, repair and upkeep of exterior paint, parking striping, lighting and irrigation fixtures, walls and fencing, publicly accessible bathrooms and bathroom fixtures, landscaping and related landscape improvements and the like, as applicable);
- e. If Applicant and the owner of the property are different (e.g., if the Applicant is a tenant or licensee of the property or any portion thereof), both the Applicant and the owner of the property shall be signatories to the maintenance agreement and both shall be jointly and severally liable for compliance with its terms;
- f. The maintenance agreement shall further provide that any party responsible for complying with its terms shall not assign its ownership interest in the property or any interest in any lease, sublease, license or sublicense, unless the prospective assignee agrees in writing to assume

all of the duties and obligations and responsibilities set forth under the maintenance agreement;

- g. The maintenance agreement shall contain provisions relating to the enforcement of its conditions by the City and shall also contain provisions authorizing the City to recover costs and expenses which the City may incur arising out of any enforcement and/or remediation efforts which the City may undertake in order to cure any deficiency in maintenance, repair or upkeep or to enforce any restrictions or conditions upon the use of the property. The maintenance agreement shall further provide that any unreimbursed costs and/or expenses incurred by the City to cure a deficiency in maintenance or to enforce use restrictions shall become a lien upon the property in an amount equivalent to the actual costs and/or expense incurred by the City; and
- h. The execution and recordation of the maintenance agreement shall be a condition precedent to the Certificate of occupancy.