

GARDEN GROVE CITY COUNCIL

ORDINANCE NO. 2878

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE ADOPTING DEVELOPMENT AGREEMENT NO. DA-005-2017 BETWEEN THE CITY OF GARDEN GROVE AND SCOTT A. LISSOY, TRUSTEE OF THE LISSOY TRUST

**City Attorney Summary**

***This Ordinance approves a Development Agreement between the City of Garden Grove and Scott A. Lissoy, Trustee of the Lissoy Trust, the developer of a proposed 16-unit mixed-use development (with two (2) work-live units and 14 residential units) to be located on the south side of Garden Grove Boulevard, east of Euclid Street, at 11222 Garden Grove Boulevard. The agreement provides that the developer will be entitled to build the project in accordance with the land use entitlement approved pursuant to Site Plan No. SP-034-2017 for a period of 4 years. The agreement further provides for a development agreement payment to the City of Garden Grove in an amount not to exceed \$30,656.00.***

THE CITY COUNCIL OF THE CITY OF GARDEN GROVE HEREBY FINDS AND DETERMINES AS FOLLOWS:

WHEREAS, the City of Garden Grove has received an application from Far West Industries (Developer) for Development Agreement No. DA-005-2017 to construct a 16-unit, three-story mixed-use development, consisting of two (2) commercial storefronts fronting on Garden Grove Boulevard with residential units above and 14 residential units on the 28,232 square foot site with related improvements on that certain real property located on the south side of Garden Grove Boulevard, east of Euclid Street, at 11222 Garden Grove Boulevard Assessor's Parcel Nos. 100-013-09, 100-013-10, and 100-013-13 (the "Project"); and

WHEREAS, pursuant to a legal notice, a Public Hearing was held by the City Council on March 28, 2017, and all interested persons were given an opportunity to be heard; and

WHEREAS, Development Agreement No. DA-005-2017 is consistent with the CC-3 (Civic Center Core) zoning, including the goals and policies of the Garden Grove General Plan (Civic Center Mixed Use Land Use Designation); and

1. WHEREAS, The City of Garden Grove has determined that this action is exempt pursuant to Section 15332 (In-Fill Development Projects) of the California Environmental Quality Act.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES ORDAIN AS FOLLOWS:

Section 1. Recitals. The City Council finds that the above recitations are true and correct.

Section 2. Environmental Review. Pursuant to CEQA, the City Council has determined that this action is exempt pursuant to Section 15332 (In-Fill Development Projects) of the California Environmental Quality Act.

Section 3. Approval. Development Agreement No. DA-005-2017 is hereby adopted for property located on the south side of Garden Grove Boulevard, east of Euclid Street, at 11222 Garden Grove Boulevard, Assessor's Parcel Nos. 100-013-09, 100-013-10, and 100-013-13. A copy of Development Agreement No. DA-004-2016 is attached to this Ordinance and is on file in the City Clerk's Office.

Section 4. Recording. Pursuant to California Government Code Section 65868.5, the City Clerk shall record a copy of the Development Agreement with the County Recorder for the County of Orange within 10 days after the Development Agreement is executed.

Section 5. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words, or portions thereof be declared invalid or unconstitutional.

Section 6. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the \_\_\_\_ day of \_\_\_\_\_.

ATTEST:

\_\_\_\_\_  
MAYOR

\_\_\_\_\_  
CITY CLERK

STATE OF CALIFORNIA )  
COUNTY OF ORANGE ) SS:  
CITY OF GARDEN GROVE)

I, TERESA POMEROY, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced for first reading and passed to second reading on March 28, 2017, with a vote as follows:

AYES: COUNCIL MEMBERS: (7) BEARD, O'NEILL, NGUYEN T., BUI,  
KLOPFENSTEIN, NGUYEN K., JONES  
NOES: COUNCIL MEMBERS: (0) NONE  
ABSENT: COUNCIL MEMBERS: (0) NONE

RECORDING REQUESTED BY )  
AND WHEN RECORDED MAIL TO: )

City Clerk's Office )  
City of Garden Grove )  
11222 Acacia Parkway )  
Garden Grove, CA 92840 )  
)  
)

\_\_\_\_\_  
(Space above for Recorder.)

of a recording fee pursuant to

This document is exempt from payment  
Government Code Section 6103.

Dated: \_\_\_\_\_

**DEVELOPMENT AGREEMENT NO. DA-005-2017**

**SITE PLAN NO. SP-034-2017, CONDITIONAL USE PERMIT NO. CUP-097-2017,  
TENTATIVE TRACT MAP NO. TT-17928**

(Scott A. Lissoy, Trustee of the Lissoy Trust)

**THIS DEVELOPMENT AGREEMENT** ("Agreement" or "Development Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ ("Effective Date"), by the CITY OF GARDEN GROVE, a municipal corporation ("CITY"), on the one hand, and Scott A. Lissoy, Trustee of the Lissoy Trust ("DEVELOPER"), on the other hand, pursuant to the authority set forth in Article 2.5 of Chapter 4 of Division I of Title 7, Sections 65864 through 65869.5 of the California Government Code.

**RECITALS**

The following recitals are a substantive part of this Agreement:

- A. The CITY and DEVELOPER desire to enter into this Development Agreement for the construction of a 16-unit mixed use development, two (2) work-live and 14 residential, on a vacant 28,232 square foot lot with related site improvements (the "PROJECT") on that certain real property located on the south side of

Garden Grove Boulevard, east of Euclid Street, at 11222 Garden Grove Boulevard, Garden Grove, California, which is more particularly described on Exhibit "A" attached hereto and incorporated herein by reference (the "PROPERTY").

- B. In order to implement the PROJECT, DEVELOPER has submitted, and CITY has approved, Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928 and associated conditions of approval for the PROJECT.
- C. The CITY and DEVELOPER desire to enter into this Development Agreement for the construction of the PROJECT pursuant to Article 2.5 (commencing with Section 65864) of Chapter 4 of Division 1 of Title 7 of the California Government Code (the "Development Agreement Statute").
- D. The PROJECT is a development requiring certain discretionary approvals by the CITY before it may be constructed.
- E. The Development Agreement Statute provides the authority for CITY to enter into binding development agreements with a person having a legal and equitable interest in real property.
- F. DEVELOPER represents that it owns and/or has an equitable interest in the PROPERTY.

### **AGREEMENT**

#### **THE PARTIES MUTUALLY AGREE AS FOLLOWS:**

- 1. DURATION. This Agreement and Land Use Entitlements described in Section 2 shall expire four (4) years from the Effective Date, unless any duty specified remains executory, in which case this Agreement may be renewed for a successive one year term at discretion of CITY, pursuant to law, until all duties are performed. The effective date of this agreement shall begin on the date first identified above.
- 2. Permitted Uses/Land Use Entitlements. The following uses are permitted on the PROPERTY: A 16-unit mixed-use project with two (2) work-live units and 14 residential units. The residential units range in size from 1,453 square feet to 2,327 square feet and the work-live units are 3,398 square feet. 14 of the units are two-bedroom including the work-live units which contain ground floor commercial space with a loft. There are two (2) one-bedroom units on the site with one in each of the rear triplex buildings. All of the units are three-story in height. Additionally, each unit has an attached two-car garage. The work-live units have the attached two-car garage in a tandem format. The following land use entitlements have been granted: Site Plan No. SP-034-2017, Conditional Use

Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928. The Development is subject to the development standards of the City's Mixed Use Development Standards (Chapter 9.12 of Title 9 of the City's Municipal Code) and the base zoning of CC-3 (Civic Center Core), and the Conditions of Approval to Site Plan No. SP-034-2017.

3. Density/Intensity. The density or intensity of the PROJECT is as follows: mixed use project consisting of 16-units, two (2) work-live and 14 residential, with related improvements on a 28,232 square foot site. This is equal to 24 units per acre.
4. Maximum Height and Building Size. The maximum height and building sizes are as follows: The maximum building height shall be three (3) stories with an overall height not to exceed 40-feet and the building area is comprised of approximately 15,400 square feet, as indicated on the site plan and elevations.
5. Reservation or Dedication. The reservation of easements or dedication of property to the CITY to allow the construction of the proposed residential development shall be as shown on and/or conditioned in the approved Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928.
6. Improvements. The improvements described in Planning Commission Resolution No. 5880-17 shall be constructed prior to the occupancy of the proposed development or the issuance of any certificate of occupancy for any unit of the development, all in accordance with the terms and conditions of Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928.
7. Scope of PROJECT. The PROJECT shall consist of a mixed-use project consisting 16-units, two (2) work-live and 14 residential, that range in size from 1,453 square feet to 3,398 square feet, with related improvements.
8. Resolution/Material Terms. All Conditions of Approval as per Resolution No. 5880-17 attached hereto and incorporated herein as "Exhibit B," are material terms of this Agreement. Breach of any condition of approval shall be deemed to be a breach of this Development Agreement.
9. Development Agreement Payment. DEVELOPER shall pay a development agreement payment to the CITY as follows:
  - 9.1 Amount. \$750 per unit and shall be paid prior to issuance of any building permits.
  - 9.2 Amount. The DEVELOPER shall make a contribution of \$1,166 per unit toward construction of a Fire Station, including, but not limited to, related

equipment, furnishings, and fixtures, etc., as part of this Development Agreement and shall be paid prior to issuance of any building permits.

- 9.3 Not to Exceed. Payment under this Agreement shall not exceed \$30,656.00.
10. City Agreement. CITY agrees that the sums to be paid to the CITY, pursuant to Paragraph 9, will reimburse CITY for the cost of certain CITY services required by the PROJECT that are not otherwise being reimbursed to CITY.
11. Payment Due Date. The payment amount of \$30,656.00 shall be due and payable prior to the issuance of building permits for the PROJECT.
12. Termination Provisions. This Agreement may be terminated upon the happening of any of the following events:
- A. Failure of Developer to perform any of the provisions of this Agreement, or
  - B. Mutual agreement of the parties.
13. Periodic Review. CITY's Director of Community and Economic Development shall review DEVELOPER'S performance every twelve (12) months at the anniversary of the adoption of this Agreement. DEVELOPER shall demonstrate good faith compliance with the terms of this Agreement. If as a result of the review, CITY's Community and Economic Development Director determines that DEVELOPER has not demonstrated good faith compliance with this Agreement, CITY shall hold a public hearing before CITY's City Council. If, following such public hearing, CITY's City Council finds and determines, based upon substantial evidence, that DEVELOPER has not complied in good faith with terms or conditions of this Agreement, CITY may terminate the Agreement.
14. City Discretion. So long as the Agreement remains in effect, DEVELOPER shall have the full vested right to construct and complete development of the PROJECT and the use of the PROPERTY consistent with the land use entitlements identified in Paragraph 2. Otherwise, CITY retains its right and discretion, under all applicable Codes, to approve or disapprove any item related to this PROJECT that it has not specifically agreed to via this Agreement. DEVELOPER acknowledges that it shall comply with all CITY requirements for applications and permits of any nature that apply to the PROJECT and the PROPERTY and that this Agreement does not relieve DEVELOPER of the necessity of filing applications for and obtaining any such permits.
15. Improvement Schedule. The following improvements shall be constructed by the stated dates:

- All repairs and improvements to the public right-of-way, required pursuant to Planning Commission Resolution No. 5880-17, shall be completed prior to the issuance of any certificates of occupancy or release of any public utilities.
16. Developer Breach. Failure of DEVELOPER to construct improvements as specified, or to pay amounts specified in a timely fashion, shall result in the withholding of building permits, any other permit or certificate of occupancy until the breach is remedied.
  18. Notices. All notices shall be personally delivered or mailed to the below listed address, or to such other address as may be designated by written notice. These addresses shall be used for delivery of service of process.
    - A. Address of DEVELOPER is as follows:  
Scott A. Lissoy, Trustee of the Lissoy Trust  
2922 Daimler Street  
Santa Ana, CA 92705  
Attn.: Jorge Alvarez
    - B. Address of CITY is as follows:  
City of Garden Grove  
11222 Acacia Parkway  
Garden Grove, CA 92840
  19. DEVELOPER'S Proposal. The PROJECT shall include DEVELOPER's proposal, as modified by Planning Commission and City Council, including all Conditions of Approval contained in Planning Commission Resolution No. 5880-17, which shall be incorporated herein by this reference. In the event of any inconsistency between terms of the proposal and this Agreement, the terms of this Agreement shall govern.
  20. Licenses, Permits, Fees, and Assessments. At its sole expense, DEVELOPER shall obtain all licenses, permits, and approvals as may be required by this Agreement, or by the nature of the PROJECT.
  21. Time of Essence. Time is of the essence in the performance of this Agreement.
  22. Successor's In Interest. The provisions of this Agreement shall be binding upon and inure to successors in interest of the parties and shall be specifically binding upon and for the benefit of any future lessees or other owners of an interest in PROPERTY.
  23. Authority to Execute. The persons executing this Agreement on behalf of the parties warrant that they are duly authorized to execute this Agreement and that by executing this Agreement, the parties are formally bound.



24. Indemnification. DEVELOPER agrees to protect, defend, and hold harmless CITY and its elective or appointive boards, officers, agents, and employees from any and all claims, liabilities, expenses or damages of any nature, including attorneys' fees, for injury or death of any person, or damage to property, or interference with use of property, arising out of, or in any way connected with performance of the Agreement by DEVELOPER, DEVELOPER'S agents, officers or employees, or contractors or subcontractors hired by DEVELOPER.
25. Modification. This Agreement constitutes the entire agreement between the parties and supersedes any previous agreements, oral or written, regarding the subject matter set forth herein. This Agreement may be modified only by subsequent mutual written agreement executed by CITY, and the DEVELOPER and approved by CITY in accordance with the Development Agreement Statute.
26. Recordation. The City Clerk shall cause this Agreement to be recorded against the PROPERTY within ten (10) days of its Effective Date.
27. Remedies. The breach or default of any term or provision of this Agreement by either party shall give the nondefaulting party the right to proceed with any and all remedies set forth in this Agreement, including an action for damages, an action or proceeding at law or in equity to require the defaulting party to perform its obligations and covenants under this Agreement or to enjoin acts or things which may be unlawful or in violation of the provisions of this Agreement, and the right to terminate this Agreement.
28. Force Majeure. Subject to the party's compliance with the notice requirements as set forth below, performance by either party hereunder shall be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where delays or default are due to causes beyond the control and without the fault of the party claiming an extension of time to perform, which may include, without limitation, the following: war, insurrection, strikes, lockouts, riots, floods, earthquakes, fires, assaults, acts of God, acts of the public enemy, epidemics, quarantine restrictions, freight embargoes, lack of transportation, governmental restrictions or priority, litigation, unusually severe weather, inability to secure necessary labor, material or tools, acts or omissions of the other party, or acts or failures to act of any public or governmental entity (except that the City's acts or failure to act shall not excuse performance of the City hereunder). An extension of the time for any such cause shall be for the period of the enforced delay and shall commence to run from the time of the commencement of the cause, if notice by the party claiming such extension is sent to the other party within thirty (30) days of the commencement of the cause.
29. Attorney's Fees. In addition to any other remedies provided hereunder or available pursuant to law, if either party brings an action or proceeding to enforce, protect or establish any right or remedy hereunder, the prevailing party

shall be entitled to recover from the other party its costs of suit and reasonable attorney's fees.

30. Remedies Cumulative. No right, power, or remedy given by the terms of this Agreement is intended to be exclusive of any other right, power, or remedy; and each other and every such right, power, remedy shall be cumulative and in addition to every other right, power, or remedy given by the terms of any such instrument, or by any statute or otherwise.
31. Waiver of Terms and Conditions. The CITY may, in its sole discretion, waive in writing any of the terms and conditions of this Agreement. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.
32. Non-Liability of City Officials and Employees. No member, official, employee or agent of the CITY shall be personally liable to the DEVELOPER, or any successor in interest, in the event of any default or breach by the CITY or for any amount that may become due to the DEVELOPER or its successors, or on any obligations under the terms of this Agreement.

*[SIGNATURES ON FOLLOWING PAGE]*

**IN WITNESS WHEREOF**, these parties have executed this Agreement on the day and year shown below.

Date: \_\_\_\_\_

**"CITY"**  
**CITY OF GARDEN GROVE, a**  
**Municipal Corporation**

BY \_\_\_\_\_

**ATTEST:**

\_\_\_\_\_  
CITY CLERK  
DATE: \_\_\_\_\_

**"DEVELOPER"**

**Scott A. Lissoy,**  
**Trustee of the Lissoy Trust**

By: \_\_\_\_\_

Date: \_\_\_\_\_

(Signature must be notarized.)

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Garden Grove City Attorney  
Date: \_\_\_\_\_

If DEVELOPER is a corporation, a Corporate Resolution and/or Corporate Seal is required. If a partnership, Statement of Partnership must be submitted to CITY.

**EXHIBIT "A"**

**LEGAL DESCRIPTION OF PROPERTY**

Real property in the City of Garden Grove, County of Orange, State of California,  
described as follows:

LOTS 30, 31 AND 32 IN BLOCK B OR TRACT NO. 1089, IN THE CITY OF GARDEN GROVE, COUNTY OF ORANGE, STATE OF CALIFORNIA AS PER MAP RECORDED IN BOOK 39, PAGES 13 AND 14 OF MISCELLANEOUS MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, TOGETHER WITH THE EAST HALF OF ELMWOOD STREET LYING NORTH OF THE WESTERLY PROLONGATION OF THE SOUTH LINE OF SAID LOT 30, AS ABANDONED BY RESOLUTION NO. 3661-69 OF THE CITY COUNCIL OF SAID CITY, A CERTIFIED COPY OF WHICH WAS RECORDED APRIL 8, 1969 IN BOOK 8921 PAGE 815 OF OFFICIAL RECORDS.

APN: 100-013-09, 100-013-10, 100-013-13

**EXHIBIT "B"**

**CONDITIONS OF APPROVAL**

**Site Plan No. SP-034-2017**

11222 Garden Grove Boulevard

**CONDITIONS OF APPROVAL**

**General Conditions**

1. Each owner of the property shall execute, and the applicant shall record against the property, a "Notice of Discretionary Permit Approval and Agreement with Conditions of Approval," as prepared by the City Attorney's Office, within 30 days of approval. The applicant shall provide the City with a copy of the recorded Notice within ten (10) days of its recordation.
2. All Conditions of Approval set forth herein, or contained in Resolution No. 5880-17, shall be binding on and enforceable against each of the following, and whenever used herein, the term "applicant" shall mean and refer to each of the following: the project applicant, Far West Industries, the developer of the project, the owner(s) and tenants(s) of the property, and each of their respective successors and assigns. All Conditions of Approval are required to be adhered to for the life of the project, regardless of property ownership. Except for minor modifications approved by the Community and Economic Development Director pursuant to Condition No. 4, below, any changes to the Conditions of Approval require approval by the Planning Commission. All Conditions of Approval herein shall apply to Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928.
3. Approval of this Site Plan, Conditional Use Permit, and Tentative Tract Map shall not be construed to mean any waiver of applicable and appropriate zoning and

other regulations; and wherein not otherwise specified, all requirements of the City of Garden Grove Municipal Code shall apply.

4. Minor modifications to the Site Plan and/or these Conditions of Approval, which do not materially change the scope or intensity of the project and which will not result in impacts that have not previously been addressed, may be approved by the Community and Economic Development Director, in his or her discretion. Proposed modifications to the project, approved site plan, floor plan, and/or these Conditions of Approval determined by the Community and Economic Development Director not to be minor in nature shall be subject to approval of new and/or amended land use entitlements by the applicable City hearing body.
5. All conditions of approval shall be implemented at the applicant's expense, except where otherwise expressly specified in the individual condition.
6. All lighting structures shall be placed so as to confine direct rays to the subject property. All exterior lights shall be reviewed and approved by the City's Planning Division. Lighting adjacent to residential properties shall be restricted to low decorative type wall-mounted lights, or a ground lighting system. Lighting shall be provided throughout all private drive aisles and entrances to the development per City standards for street lighting. Lighting in the common areas shall be directed, positioned, or shielded in such a manner so as not to unreasonably illuminate the window areas of nearby residences. Provide a lighting plan for review and approval by the Planning Services Division prior to issuance of a building permit.
7. The applicant shall submit detailed plans showing the proposed location of utilities and mechanical equipment to the Community and Economic Development Department for review and approval prior to Building Division Plan Check. The project shall also be subject to the following:
  - a. All on-site and off-site utilities (off-site refers to the areas within public right-of-way to the center line of the streets adjacent to the subject property) within the perimeter of the site and to the centerline of the adjacent streets shall be installed or relocated underground.
  - b. Above-ground utility equipment (e.g., electrical, gas, telephone, cable TV) shall not be located in the street setbacks, within the common areas along Garden Grove Boulevard, or any parking areas and shall be screened to the satisfaction of the Community and Economic Development Department.

- c. No roof-mounted mechanical equipment, including but not limited to dish antennas, shall be permitted unless a method of screening complementary to the architecture of the building is approved by the Community and Economic Development Department prior to the issuance of building permits. Said screening shall block visibility of any roof-mounted mechanical equipment from view of public streets and surrounding properties.
- d. All ground, roof, or wall-mounted mechanical equipment shall be screened from public view from adjacent properties and the public right-of-way and shall also be screened, to the extent feasible, from on-site areas.

### **Public Works Engineering Division**

8. The applicant shall be subject to Traffic Mitigation Fees, In-Lieu Park Fees, Drainage Facilities Fees, Water Assessment Fees, and other applicable mitigation fees identified in Chapter 9.44 of the Garden Grove Municipal Code, along with all other applicable fees duly adopted by the City.
9. A geotechnical study prepared by a registered geotechnical engineer is required. The report shall analyze the liquefaction potential of the site and make recommendations. The report shall analyze sub-surface issues related to the past uses of the site, including sub-surface tanks and basement and septic facilities. Any soil or groundwater contamination shall be remediated prior to the issuance of a building permit in a manner meeting the approval of the City Engineer in concert with the Orange County Health Department. The report shall make recommendations for pavement design of the drive aisles and parking spaces. The report shall also test and analyze soil conditions for LID (Low Impact Development) principles and implementations, including potential infiltration alternatives, soil compaction, saturation, permeability and groundwater levels.
10. A separate street permit is required for work performed within the public right-of-way.
11. Separate grading and street improvement plans prepared by a registered Civil Engineer are required. The grading plan shall be based on a current survey of the site, including a boundary survey, topography on adjacent properties up to 30' outside the boundary, and designed to preclude cross-lot drainage. Minimum grades shall be 0.50% for concrete flow lines and 1.25% for asphalt. The grading plan shall also include water and sewer improvements. The grading plan shall include a coordinated utility plan. Street improvement plan

shall conform to all format and design requirements of the City Standard Drawings & Specifications.

12. Prior to the issuance of any grading or building permits or prior to recordation upon subdivision of land if determined applicable by the City Building Official, the applicant shall submit to the City for review and approval a *Final* Water Quality Management Plan that:
  - Addresses Site Design BMPs based upon the geotechnical report recommendations and findings such as infiltration minimizing impervious areas, maximizing permeability, minimizing directly connected impervious areas, creating reduced or “zero discharge” areas, and conserving natural areas.
  - Incorporates the applicable Routine Source Control BMPs as defined in the DAMP.
  - Incorporates structural and Treatment Control BMPs as defined in the DAMP.
  - Generally describes the long-term operation and maintenance requirements for the Treatment Control BMPs.
  - Identifies the entity that will be responsible for long-term operation and maintenance of the Treatment Control BMPs.
  - Describes the mechanism for funding the long-term operation and maintenance of the Treatment Control BMPs.
13. Prior to grading or building permit closeout and/or the issuance of a certificate of use or a certificate of occupancy, the applicant shall:
  - Demonstrate that all structural best management practices (BMPs) described in the Project WQMP have been constructed and installed in conformance with approved plans and specifications.
  - Demonstrate that applicant is prepared to implement all non-structural BMPs described in the Project WQMP.
  - Demonstrate that an adequate number of copies of the approved Project WQMP are available on-site.
  - Submit for review and approval by the City an Operations and Maintenance (O&M) Plan for all structural BMPs.
14. Prior to the issuance of a grading permit, the applicant shall provide a hydrological analysis with scaled map and calculations and hydraulic calculations to size drainage facilities per Orange County RDMD standards. Parkway culverts shall be designed per Orange County standard plan 1309, Type B. BMP's shall be sized per the requirements of the latest Technical Guidance Documents.
15. Prior to issuance of a grading permit, the applicant shall design a lighting plan within the development in a manner meeting the approval of the City Engineer.



16. Prior to the issuance of the street improvements and grading permit, provide subdivision completion bonds for all work constructed under the street, improvements and grading permit in a manner satisfactory to the City Engineer, City Attorney, and City Finance Department (Risk Management). Alternate forms of security may be considered, solely in the discretion of the City Engineer and with the concurrence of the City Attorney and City Finance Department (Risk Management).
17. The applicant shall construct the driveway entrance to the development per City of Garden Grove Standard Plan B-120 with conforming ADA landing and pathways where public and private sidewalks intersect. All designs must conform to latest ADA standards.
18. No parallel curb parking shall be permitted anywhere on the site and Garden Grove Boulevard.
19. All parking spaces that abut to sidewalks that are not elevated with a curb face to the stall shall have wheel stops.
20. The grading plan shall provide an accessibility route for the ADA pathway in conformance with the requirements of the Department of Justice standards, latest edition.
21. Orange County Storm Water Program manual requires all contractors to provide a dumpster on-site during construction unless an Encroachment Permit is obtained for placement in street.
22. Any new or required block walls and/or retaining walls shall be shown on the grading plans. Cross sections shall show vertical and horizontal relations of improvements and property line. Block walls shall be designed in accordance to City standards or designed by a professional registered engineer.
23. All trash container areas shall meet the following requirement:
  - Paved with an impervious surface, designed not to allow run-on from adjoining areas, designed to divert drainage from adjoining roofs and pavements diverted around the area, screened or walled to prevent off-site transport of trash;
  - Provide solid roof or awning to prevent direct precipitation into the enclosure per City of Garden Grove Standard Plan B-502;
  - Provide a drain to a sanitary waste line. Connection of trash area drains to the municipal storm drain system is prohibited;

- Potential conflicts with fire code and garbage hauling activities should be considered in implementing this source control;
  - See CASQA Storm Water Handbook Section 3.2.9 and BMP Fact Sheet SD-32 for additional information.
  - The trash shall be located to allow pick-up and maneuvering, including turnarounds, in the area of enclosures per City of Garden Grove Standard Plan B-502.
24. Grading fees shall be calculated based on the current fee schedule at the time of permit issuance.
25. The applicant shall work with Public Works to see if the existing London Plane trees can remain or if new street trees and landscaping will be required to construct street frontage improvements as identified below. All landscaping installed within the public rights-of-way shall be maintained by the applicant in a manner meeting the approval of the City Engineer. A separate street improvement plan shall be prepared for Garden Grove Boulevard and submitted to the engineering department for improvements within the existing and proposed right of way.

#### Garden Grove Boulevard

- Remove the existing easterly and westerly substandard driveway approaches and existing landscaping (if the London Plane trees cannot be saved) on Garden Grove Boulevard and construct new curb, gutter and sidewalk.
- The new driveway approach to the site shall be constructed in accordance with City of Garden Grove Standard Plan B-120. Standard Plan B-120 calls for a maximum width of 30-feet for commercial and multi residential projects, with any deviation from the standard to be approved by the City Engineer and detailed on the plan showing all modifications.
- Construct 8-inch curb and gutter along the property frontage at 42' from centerline in accordance with City Standard Plan B-113 (Type C-8).
- Construct an 8-foot sidewalk and landscape adjacent to the street curb in accordance with City Standard Plan B-106 and Planning Services Division direction.

#### **Public Works Environmental Compliance Division**

26. The applicant shall comply will all NPDES protocol during construction.

### **Public Works Water Services Division**

#### Water Conditions

27. A new 8" main, water services and fire hydrant shall be installed and tied to the existing 6" main, which runs through the existing property to maintain the existing looped water system. The interfering portion of the 6" asbestos cement main shall be removed using BMP for removal and disposal of the asbestos cement pipe. The developer shall grant the City a blanket water main easement for the water main and appurtenances, in a form acceptable to the City.
28. Water services crossing the drainage structure shall be in a 2" diameter sleeve.
29. A composite utility site plan shall be part of the water plan approval.
30. The water system within the drive aisle shall be constructed per City standards by the developer and dedicated to the City. Bonding will be required.
31. The on-site fire hydrant shall be fully operational prior to the building footing being formed.
32. Water meters and boxes shall be installed after the new water system (including water services) passes all bacteriological and pressure tests.
33. New meters are to remain locked "off" until an account is set-up.
34. There shall be a minimum 15-foot clearance of building footings from the water main. Clearances less than 15 feet shall be reviewed and approved by Water Services staff.
35. New utilities shall have a minimum 5-foot horizontal and minimum 1-foot vertical clearance from water main and appurtenances.
36. A Reduced Pressure Principle Device (RPPD) backflow prevention device shall be installed for the landscape system. Installation shall be per City standards and shall be tested by a certified backflow device tester immediately after installation. Cross connection inspector shall be notified for inspection after the installation is completed. The property owner(s) shall have RPPD device tested once a year thereafter by a certified backflow device tester and the test results to be submitted to Public Works, Water Services Division. Property owner(s) must open a water account upon installation of RPPD device.

37. There shall be no structures or utilities built on or crossing water or sewer main easements.
38. There shall be a minimum clearance from the sewer main and water main of 10 feet from outside of pipe to outside of pipe.
39. Any new or existing water valve located within new concrete driveway or sidewalk construction shall be reconstructed per City Standard B-753.
40. No permanent structures, trees, or deep-rooted plants shall be placed over the sewer main or water main.
41. Location and number of fire hydrants shall be as required by Water Services Division and the Fire Department.

#### Sewer Conditions

42. The applicant shall install new private sewer lateral with clean out at right-of-way line. The main in the public right-of-way shall be 6" min. dia., extra strength VCP with wedgelock joints. Each unit shall have a 4" lateral with cleanout. Inspection of lateral and tie-in shall be by the Garden Grove Sanitary District.
43. On site sewer installation shall be installed per the current California Plumbing Code (CPC) and inspected by Building Services.
44. The developer shall relocate the existing sewer main and manhole currently located on the west property line and secure a new sewer main easement for the Garden Grove Sanitary District.
45. Commercial food uses of any type shall require the installation of an approved Grease Control Device (GCD) prior to obtaining a business license.
46. If a Grease Control Device (GCD) is required it shall be installed on the waste line and maintained by the property owner. There shall be a separate sanitary waste line that will connect to the sewer lateral downstream of the GCD. All other waste lines shall be drained through the grease trap. The GCD may be located inside of the building per County Health Department requirements. Prior to City permit issuance, trap location must be approved by the Orange County Health Department as evidenced by their stamp on the plans. Owner shall maintain comprehensive GCD maintenance records and shall make them available to the City of Garden Grove upon demand.
47. Food grinders (garbage disposal devices) are prohibited within the commercial part of the work-live unit per Ordinance 6 of the Garden Grove Sanitary District Code of Regulations.

**Building Services Division**

48. The buildings shall be designed to comply with all provisions of the California Building Codes and City adopted amendments.
49. Buildings shall be sprinklered conforming to NFPA 13.
50. Buildings shall be provided with fire alarms.
51. 10% of the units shall be adaptable and on an accessible route. All spaces at the ground floor of the adaptable units shall be accessible. The adaptable units shall be provided with a minimum of one powder room at the ground floor.
52. The work-live units shall be accessible and shall provide an accessible restroom. The required number of fixtures shall be based on California Plumbing Code based on the function of the nonresidential area.
53. There shall be a minimum 4' wide walk/sidewalk connecting the adaptable units to the public way.
54. There shall be a minimum of one van accessible parking space serving the work-live units and one van accessible parking space serving the adaptable units.
55. The roof decks/balconies connecting the dwelling units in the rear buildings (triplexes) above the drive aisle shall be of 1-hour construction.
56. The buildings shall be of Type V-B construction facing the 28-foot wide driveway to allow unlimited openings at the garages.
57. The north and south walls of garages in the triplex plans, that are adjacent to the property lines, shall be 1-hour construction and shall continue up for a minimum of 42" above the level of the roof deck.
58. Each two-car garage shall be EVCS (Electric Vehicle Charging Station) ready with 220V hookups provided inside.
59. The roof of the dwelling units shall be "solar ready", capable of providing future solar panels.
60. The roof of the trash enclosure shall be fire sprinklered where the structure is placed within five feet of a building.

**Garden Grove Fire Department**

61. The applicant, developer or contractor shall submit fire sprinkler plans, as defined by NFPA 13, 2013 Edition, to the City for review and approval prior to issuance of Building permits.
62. The applicant, developer, or contractor shall submit a Fire Alarm plan, as defined by NFPA 72, 2013 Edition, to the City for review and approval prior to issuance of a Building permit.
63. Fire hydrants shall meet the specification as outline by the Fire Chief and the City's Water Department.
64. Fire hydrants shall be spaced in accordance to the California Fire Code and at the directions from the City of Garden Grove's Fire Department.
65. Fire flow requirements and/or peculiar street configurations may dictate the necessity for additional fire hydrants per California Fire Code, Appendix III-A.
66. All water mains and fire hydrants shall be installed, accessible and operable prior to any on-site use or storage of combustible materials per California Fire Code Section 8704.3.
67. Applicant, developer, or contractor shall provide Fire Apparatus access on the site prior to any flammable material being placed on-site.

### **Planning Services Division**

68. This approval is for the construction of a 16-unit mixed-use development, with two (2) work-live units and 14 residential units. The living area of the work-live units shall be incidental to the work area of the unit and shall not be leased out separately from the work area of the unit. Interior access between the work and live areas of each unit shall be maintained. The portion of each work-live unit used for residential purposes shall at no time exceed 40 percent of the total area of the work-live unit, and no work-live unit may be converted entirely to a residential use. Each owner of a work-live unit shall at all times comply with the restrictions on uses and activities within a vertically integrated residential/commercial mixed use development set forth in Garden Grove Municipal Code section 9.18.020.070 and the use limitations, design standards, and operating requirements for work-live units set forth in Garden Grove Municipal Code section 9.18.030.360.
69. Only uses listed as permitted or conditionally permitted within the Land Use Chart, Table 9.18-1 of Section 9.18.020.030 of Title 9 of the City's Municipal Code shall be maintained in the work-live units. Auto repair uses, the storage of flammable liquids or hazardous materials beyond that normally associated with a residential use, heavy industrial uses, entertainment uses, and full service restaurants shall be prohibited. No uses that cause vibration, noise, odor, traffic

- or other impacts that could cause excessive impacts to the surrounding properties shall be permitted. Client and customer visits to work-live units are permitted, but shall be limited to one or two persons at a time so as to not impact on-site parking. All work associated with a non-residential use in any of the work-live units shall be done indoors. A work-live unit shall be occupied and used only by the operator of the business within the unit, or a household of which at least one member shall be the business operator. At least one of the residents of a work-live unit shall be required to have a business license with the City of Garden Grove. Up to two persons, who do not reside in the work-live unit, may work in the unit.
70. No portion of a work-live unit shall be separately rented or sold as a commercial space for any person not living in the premises or as a residential space for any person not working in the same unit.
  71. Parking spaces in the garages shall maintain the ability to park two cars in a two-car garage at all times. The garages shall not be used for storage.
  72. Residents shall not park or store vehicles anywhere on the site except within the designated parking spaces in the garages for their unit. The open parking shall be made available for patrons of the on-site business during all hours of operation.
  73. No outside storage shall be permitted on-site. Storage of boats, recreational vehicles, or commercial vehicles on the property is prohibited.
  74. All proposed walls, fences, and hedges shall be consistent with Garden Grove Municipal Code Section 9.18.130.
  75. Best Management Practices shall be incorporated in the management of the site to detour and/or abate any graffiti vandalism throughout the life of the project, including, but not limited to, timely removal of all graffiti, the use of graffiti resistant coatings and surfaces, the installation of vegetation screening of frequent graffiti sites, and the installation of signage, lighting, and/or security cameras, as necessary.
  76. The applicant shall submit a complete and detailed landscaping plan with irrigation systems included for review and approval by the Community and Economic Development Department prior to the issuance of a building permit. Drought tolerant plantings are encouraged. The landscape plan shall include the type (both common and botanical names), size, location, and quantity of all proposed plant material. The proposed landscaping shall be planted prior to the finalization of the building permit. The plan shall be consistent with the landscape requirements set forth and/or incorporated in the Garden Grove Municipal Code. All landscape irrigation shall comply with the City's Landscape Ordinance, associated Water Efficiency Guidelines and all recent applicable

revisions from the State of California on water conservation measures shall be to the landscape plans. The landscape plan is also subject to the following:

- a. A complete, permanent, automatic remote control irrigation system shall be provided for all landscaping areas shown on the plan. Subsurface systems are encouraged. The irrigation plan for any new trees shall have a deep-water irrigation system that shall be specified on the landscape plan. A detail of the deep-water irrigation system shall be provided for review. If sprinklers are used, they shall be low flow/precipitation sprinkler heads for water conservation.
- b. The landscape/irrigation plan shall incorporate benches or other seating in the landscaped walkways along the side property lines. These areas are considered passive recreation areas and as such shall consist of landscape areas that incorporate pathways, waterscape, hardscape (i.e. large rocks or boulders, benches, gazebos, raised planters), and unique features that enhance the appearance, desirability, and usability of the area. The intent is to provide landscaped areas that can be utilized for walking, sitting, viewing plants and vegetation, reading, and similar types of activities.
- c. The active recreation area shall be designed to incorporate the entire required area of 20' x 20' and shall have amenities. The common recreation area shall include, at a minimum, landscaping, decorative paving, barbecues, benches, and tables.
- d. Landscaping shall be maximized on the site where possible. Given the areas between the garages that were intended for landscaping, have been revised to provide space for water meters, additional landscaping along the drive aisle is required. A landscape planter shall be created next to wall that is adjacent to the two visitor parking spaces at the front of the site on the east side of the drive aisle. Similarly, the other vertical building walls along the drive aisle could incorporate espaliers or vines. Provide solutions to the loss of landscaping along the drive aisle.
- e. A bike rack shall be incorporated on the property.
- f. Trees planted within 10-feet of any public right-of-way shall be planted in a root barrier shield.
- g. Landscaping along Garden Grove Boulevard shall match the landscape requirements of the Garden Grove Mixed Use Zones. Parkway plantings typically include canopy trees at a distance of 30' on center in 4'-0" x 8'-0" landscape planters with underplantings of shrubs, decorative grasses and ground cover. Given site constraints and one existing street tree that may remain, the applicant will work with the Planning Services Division to develop a plan for the parkway plantings. The applicant will work with the City's



Public Works Department to determine if one of the London Plane trees can be saved. Replacement or new street trees shall be Liquid Amber Rotundilobia or other species as determined by the Public Works Department.

- h. All landscape areas, including the areas located within the public right-of-way along Garden Grove Boulevard that abuts the subject property, are the responsibility of the applicant/property owner(s).
  - i. The landscape plan shall incorporate and maintain for the life of the project those means and methods to address water run-off also identified as Low Impact Development provisions, which address water run-off. This is also to be inclusive of any applicable Water Quality Management Plan (WQMP), the Orange County Drainage Area Management Plan (DAMP), and/or other water conservation measures applicable to this type of development.
77. Enhanced concrete treatment shall be provided within the front 20-feet of the driveway along Garden Grove Boulevard, subject to the Community and Economic Development Department, Planning Division's approval. Such enhanced concrete treatment includes decorative stamped concrete or interlocking pavers, or other enhanced treatment, excluding scored and/or colored concrete. Also, the two pedestrian paths across the drive aisle shall be delineated by enhanced paving clearly differentiated from the drive aisle paving as well as a painted design. For these paving treatments, the color, pattern, material, and final design and configuration shall be approved by the Community and Economic Development Department, Planning Division, and shall be shown on the final site plan, grading plan, and landscape plans.
78. Hours and days of construction and grading shall be as follows as set forth in the City of Garden Grove's Municipal Code Section 8.47.010 referred to as the County Noise Ordinance as adopted:
- a. Monday through Saturday - not before 7 a.m. and not after 8 p.m. (of the same day).
  - b. Sunday and Federal Holidays - may work same hours, but subject to noise restrictions as established in section 8.47.010 of the Municipal Code.
79. Construction activities shall adhere to SCAQMD Rule 403 (Fugitive Dust) that includes dust minimization measures, the use of electricity from power poles rather than diesel or gasoline powered generators, and the use of methanol, natural gas, propane or butane vehicles instead of gasoline or diesel powered equipment, where feasible. Also, the use of solar or low-emission water heaters and the use of low-sodium parking lot lights to ensure compliance with Title 24.

80. The approval and effectiveness of Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928 shall be expressly contingent upon the adoption and effectiveness of a binding Development Agreement between the applicant and the City of Garden Grove.
81. Building colors and materials samples shall be submitted to the Planning Division for review and approval prior to issuance of building permits. The buildings shall include at least one different exterior material as opposed to only different textures of stucco. The multi-toned stucco exteriors shall have a minimum of 1-inch reveal lines, windows recessed a minimum of 2-inches, varying roof heights, and decorative garage doors that are in keeping with the modern design of the building. Provide details on the storefront glazing material and color and on other railing details (balconies, etc.)
82. Each unit shall provide a separate storage area having a minimum of 300 cubic feet of private and secured storage space. The storage may be provided within the parking garage provided it does not interfere with garage use for automobile parking.
83. All signage shall comply with Chapter 20 of Title 9 of the City's Municipal Code. A sign program shall be established for the development prior to Certificate of Occupancy.
84. The developer/owner shall prepare Covenants, Conditions, and Restrictions (CC&R's) for review and approval by the City Attorney's office and Community and Economic Development Department prior to the issuance of building permits. The approved CC&R's shall be recorded at the same time that the subdivision map is recorded and two copies of the recorded CC&R's shall be provided to the Planning Division. The CC&R's shall include the following stipulations:
  - a. No portion of a work-live unit shall be separately rented or sold as a commercial space for any person not living in the premises or as a residential space for any person not working in the same unit.
  - b. The portion of each work-live unit used for residential purposes shall at no time exceed 40 percent of the total area of the work-live unit and no work-live unit may be converted entirely to a residential use.
  - c. A work-live unit shall be occupied and used only by the operator of the business within the unit, or a household of which at least one member shall be the business operator.
  - d. At least one of the residents of the work-live unit shall be required to have a business license with the City of Garden Grove.

- e. Only uses listed as permitted or conditionally permitted in the CC-3 zone and listed with the Land Use Chart, Table 9.18-1 of Section 9.18.020.030 of Title 9 shall be allowed in the work-live units. Furthermore, auto repair uses, the storage of flammable liquids or hazardous materials beyond that normally associated with a residential use, heavy industrial uses, entertainment uses, and full service restaurants shall be prohibited. No uses that cause vibration, noise, odor, traffic, or other impacts that could cause excessive impacts to the surrounding properties shall be permitted. Client and customer visits to the work-live units are permitted, but shall be limited to one or two persons at a time so as to not impact on-site parking. All work associated with a non-residential use in any of the work-live units shall be done indoors. Up to two persons, who do not reside in the work-live unit, may work in the unit.
- f. Notice shall be provided to all occupants and users that the surrounding area may be subject to levels of noise, dust, fumes, or other effects associated with commercial and industrial uses at higher levels than would be expected in strictly residential areas. State and federal health regulations notwithstanding, noise and other standards shall be those applicable to commercial or industrial properties in the applicable zone.
- g. All units shall maintain within the garages, the ability to park two cars at all times. Garages shall not be converted to any other use.
- h. There shall be no business activities, day care, or garage sales conducted within or from the garages.
- i. Parking spaces in the garages shall be made available to the occupants of the unit at all times.
- j. Residents shall not park or store vehicles anywhere on the site except within the designated parking spaces in the garages for their dwelling unit. However, the open parking spaces may be utilized by residents or guests for temporary parking. Any issues arising from the use, application, or restriction of such open parking spaces shall be at the resolve of the Homeowner's Association.
- k. Best Management Practices shall be incorporated to detour and/or abate any graffiti vandalism throughout the project and the life of the project.
- l. Each residence shall be utilized as one (1) dwelling unit. No portion of any residence shall be utilized or rented as a separate dwelling unit.
- m. The CC&R's shall provide provisions for the owners a means of contacting persons responsible for site maintenance, repairs, trash pick-up, and other related matters for a development of this type. This shall also include scheduling of maintenance of such items as the recreation area and urban trail, landscape area maintenance, etc. This also includes ensuring tree

overhangs do not block or hinder any vehicles such street sweepers, trash trucks, fire trucks, etc., from maneuvering on the streets within the project.

- n. No outside storage shall be permitted on-site. Storage of boats, recreational vehicles, or commercial vehicles on the property is prohibited.
- o. The CC&R shall include stipulations that maintenance of the private drive aisles, open space areas, common landscaped areas, recreation equipment, walkways, storm drain, and all sewer facilities is the responsibility of the Homeowner's Association, including the common landscaped areas and urban trail.
- p. The above stipulations shall not be modified without the approval of the City of Garden Grove. The CC&R's shall contain a provision that indicates CC&R's may not be terminated or substantially amended without the consent of the City.
- q. The CC&R's shall include language regarding Homeowner's Association responsibilities under National Pollutant Discharge Elimination System (NPDES) regulations.
- r. Each unit shall have a minimum of 300 cubic feet of storage space, which may be provided in the garage parking areas.
- s. The following provisions shall be included within the CC&R's:
  - i. Enforcement: The City is hereby made a party to these Declarations solely for purposes of enforcing its provisions and the Conditions of Approval of Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017 and Tentative Tract Map No. TT-17928. The City, its agents, departments and employees shall have the unrestricted right and authority, but not the obligation, to enforce the provisions of these Declarations and the Conditions of Approval of Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928. The City, its agents, departments and employees may further refuse to issue any building, electrical or plumbing permit that may be in violation of these Declarations or Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928 approvals. However, the City shall not be liable for failing or refusing to enforce the provisions of these Declarations or the Conditions of Approval of Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928.
  - ii. Assessments: The City may levy special assessments against the properties in connection with its actions to enforce the conditions of these

Declarations or Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928 approvals, or to abate the violation thereof. The City shall have the same power as the Association to levy special assessments pursuant to the provisions of [SECTION] of these Declarations in the event that it incurs expenses in the enforcement of the conditions of these Declarations or Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928 approvals. Notice of intention to make such assessment shall be mailed by the City to the Owner of each affected [LOT/UNIT] affording the Owner thirty (30) days' notice to satisfy or reimburse the City's expenditure. In the event of the failure of any Owner of any affected [LOT/UNIT] to reimburse the City within thirty (30) days, notice of such assessment shall be mailed by the City to said Owner, and said assessment shall thereafter be due as a separate debt to the City within thirty (30) days following the mailing of such notice. Any such delinquent assessment may be and may become a lien upon the interest of the defaulting Owner in the Lot upon the execution by the City and the recording in the Orange County Recorder's office of a notice of delinquent assessment under the same conditions that the Association could record the same pursuant to the provisions of [SECTION]. The City may foreclose on such notice of delinquent assessment in the same manner and with the same power as the Association could foreclose on such notice pursuant to the provisions of [SECTION]. It is the intent of Declarant, which intent shall be binding upon all of Declarant's successors in interest in the Properties, that the City shall be deemed an interest holder pursuant to the provisions of these Declarations in order to enforce the rights which have been given to the City generally in these Declarations and specifically pursuant to this Section.

- iii. Attorney Fees: The City shall be entitled to recover its attorney's fees incurred in connection with its actions to enforce the conditions of these Declarations or Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928 approvals, or to abate the violation thereof.
  - iv. Public Safety Access: The Police and Fire Department personnel may enter upon any part of the common area for the purpose of enforcing State and local laws.
85. A copy of the resolution approving Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928, including these Conditions of Approval, shall be kept on the premises at all times.
86. The permittee shall submit a signed letter acknowledging receipt of the decision approving Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-

097-2017, and Tentative Tract Map No. TT-17928, and his/her agreement with all conditions of the approval.

87. The applicant shall, as a condition of Project approval, at its sole expense, defend, indemnify and hold harmless the City, its officers, employees, agents and consultants from any claim, action, or proceeding against the City, its officers, agents, employees and/or consultants, which action seeks to set aside, void, annul or otherwise challenge any approval by the City Council, Planning Commission, or other City decision-making body, or City staff action concerning Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, Tentative Tract Map No. TT-17928, and/or the associated Development Agreement (collectively, the "Project entitlements"). The applicant shall pay the City's defense costs, including attorney fees and all other litigation related expenses, and shall reimburse the City for court costs, which the City may be required to pay as a result of such defense. The applicant shall further pay any adverse financial award, which may issue against the City including but not limited to any award of attorney fees to a party challenging such project approval. Notwithstanding the foregoing, in the event any legal action or proceeding is filed against the City and/or applicant, seeking to attack, set aside, void or annul any of the Project entitlements, applicant shall have the right and obligation to either: (1) defend the City with legal counsel mutually selected by the applicant and the office of the City Attorney; or (2) request that the City rescind the Project entitlements and mutually terminate the Development Agreement, in which case the applicant would have no obligation to defend or indemnify the City; however, applicant shall reimburse the City for any costs incurred or assessed against the City as a result of the filing of such legal action or proceeding, provided the City acts promptly to rescind the Project entitlements.
88. The Conditions of Approval set forth herein include certain development impact fees and other exactions. Pursuant to Government Code §66020(d), these Conditions of Approval constitute written notice of the amount of such fees. To the extent applicable, the applicant is hereby notified that the 90-day protest period, commencing from the effective date of approval of Site Plan No. SP-034-2017, Conditional Use Permit No. CUP-097-2017, and Tentative Tract Map No. TT-17928, has begun.