

RESOLUTION NO. 2025-XX

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF SANTA ANA APPROVING CONDITIONAL USE PERMIT NO. 2025-10 AS CONDITIONED TO ALLOW AN INDOOR SPORTS FACILITY AND TO ALLOW ANCILLARY OUTDOOR BUSINESS ACTIVITIES AT 400 W. WARNER AVENUE (APN: 410-021-02)

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. Andres Cuenca with Stake Sports, LLC dba Footlab (“Applicant”), on behalf of A.R.E. Investment Company, LLC (“Property Owner”), is requesting approval of Conditional Use Permit (CUP) No. 2025-10 to allow an indoor sports facility geared towards soccer and to allow ancillary outdoor business activities at 400 W. Warner Avenue (“Project”).
- B. Santa Ana Municipal Code (“SAMC”) Section 41-472.5 requires approval of a CUP for indoor sports facilities in the Light Industrial (M1) zoning district.
- C. Section 41-482 of the SAMC outlines development and operational standards for indoor sport facilities in the M1 zoning district.
- D. Pursuant to Section 41-650 of the SAMC, the Planning Commission may also modify the regulations set forth for the district in which a conditionally permitted use is located when it is considered that strict enforcement of said regulations will cause undue hardship to the applicant.
- E. Pursuant to Section 41-650 of the SAMC, the Applicant is requesting modifications to Section 41-482(a) of the SAMC requiring that all business activities for an indoor sports facility be conducted and located within an enclosed structure, to allow ancillary outdoor business activities.
- F. On April 28, 2025, the Planning Commission held a duly noticed public hearing for CUP No. 2025-10.
- G. The Planning Commission of the City of Santa Ana determines that the following findings, which must be established in order to grant a CUP pursuant to SAMC Section 41- 638, have been established for CUP No. 2025-10 to allow an indoor sports facility and to allow ancillary outdoor business activities at 400 W. Warner Avenue:
  - 1. That the proposed use will provide a service or facility which will contribute to the general wellbeing of the neighborhood or community.

The Project contributes directly to the well-being of the community by providing an indoor/outdoor recreational facility, which will offer a safe, healthy, and accessible space for sports and fitness activities. The facility is designed to serve local families, youth, and adults, promoting physical activity and wellness. It also offers a much-needed amenity for the neighborhood, as there are limited recreational options in the immediate area. Additionally, the Project will create a positive social and community environment through its various programs, strengthening local engagement and improving the overall quality of life.

2. That the proposed use will not, under the circumstances of the particular case, be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity.

The Project includes various design features and operational controls to ensure that it will not be detrimental to the health, safety, or general welfare of persons residing or working in the vicinity. Although the hours of operations are proposed between 7:00 a.m. and 10:00 p.m., the peak hours would occur in the late afternoon and evening, allowing the facility to operate without interfering with school activities or peak industrial operating hours in the surrounding area. In addition, this flex scheduling strategy reduces overlap with nearby industrial traffic and supports a balanced use of the site. Noise and lighting will be controlled by restricting outdoor amplified sound after 9:00 p.m. on weekdays and 10:00 p.m. on weekends, and using shielded lighting to prevent spillover into adjacent properties. In addition, landscape buffers will reduce visual and noise disturbances. These measures, combined with the facility's careful integration into the existing industrial area, ensure that the project will not negatively impact the neighborhood.

3. That the proposed use will not adversely affect the present economic stability or future economic development of properties surrounding the area.

The Project is designed to complement the surrounding industrial properties and is expected to have a positive effect on the local economy. By repurposing an underutilized industrial site, the Project enhances the area's attractiveness and economic viability. The introduction of a recreational facility will also increase foot traffic, providing indirect benefits to nearby businesses. Furthermore, the facility will generate local employment opportunities and potentially increase sales tax revenue, helping to support the economic stability of the area.

The Project's focus on flexible operating hours ensures it will not conflict with peak business hours in the surrounding industrial area, allowing for a balanced economic impact.

4. That the proposed use will comply with the regulations and conditions specified in Chapter 41 (Zoning) of the SAMC for such use.

With the exception that all business activities be conducted and located within an enclosed structure, the proposed Project meets the requirements specified in Section 41-482 of the SAMC and is in compliance with the SAMC regulations for uses within the Light Industrial (M1) zone, including noise, landscaping, lighting, and parking standards. Additionally, the project adheres to the required operational standards outlined in the SAMC, ensuring that all aspects of the facility, from its layout to its hours of operation, are in full compliance with applicable zoning regulations. The facility has been designed with attention to both legal requirements and the community's needs, including measures to minimize any potential negative impacts.

To address the requirement that all activities be conducted and located within an enclosed structure, the Applicant is requesting modifications to Section 41-482(a) of the SAMC to allow ancillary outdoor business activities, pursuant to Section 41-650 of the SAMC. Given the unique spatial demands of soccer and the substantial logistical and financial related challenges posed by requiring that all business activities be conducted and located within an enclosed structure, conducting all activities within an enclosed structure would result in an undue hardship to the Applicant. Therefore, as part of the request, the Applicant has requested that the Planning Commission modify the requirements outlined in Section 41-482 of the SAMC as part of the CUP approval to allow ancillary business activities outdoors.

5. That the proposed use will not adversely affect the General Plan of the city or any specific plan applicable to the area of the proposed use.

The approval of the proposed Project is consistent with the General Plan land use designation of Industrial (IND), which allows for a broad range of employment, light manufacturing, and commercial-supportive uses. Footlab would introduce a compatible, community-serving amenity within a primarily industrial corridor, while also providing opportunities for economic activation and recreational engagement. Furthermore, approval of this Project would be consistent with several goals and policies of the General Plan, specifically Goals 1, 2, and 3 of the Land Use (LU) Element, Goals 1 and 3 of the Economic Prosperity (EP) Element, Goals 1 and 2 of

the Open Space (OS) Element, Goal 1 of the Community (CM) Element, Goal 1 of the Noise (N) Element, and Goal 2 of the Urban Design (UD) Element, as discussed below.

### *Land Use Element*

Goal LU-1 encourages land use decisions that improve the quality of life and respect the character of the surrounding community. Policy LU-1.1 promotes compatibility between land uses to enhance livability and encourage healthy lifestyles. The proposed use aligns with this policy by integrating an active recreation facility into an existing industrial area with minimal conflict. As an indoor/outdoor soccer and fitness center, Footlab would provide a healthy, family-oriented activity center accessible to Santa Ana residents while maintaining compatibility with nearby industrial operations.

Goal LU-2 encourages a balanced mix of land uses that meet Santa Ana's diverse needs. Policy LU-2.7 specifically supports land use decisions that promote business creation and retention. In addition, Goal LU-3 supports the preservation and improvement of neighborhood character while Policy LU-3.1 encourages new development that provides a net community benefit. The project repurposes an underutilized industrial property to introduce a dynamic use that meets recreational and wellness needs while contributing to business activity. The flexible hours of operation, which begin after most industrial activity concludes, further ensures compatibility with surrounding land uses. Moreover, the proposed Project revitalizes a currently underused parcel through site and architectural enhancements, outdoor field improvements, and integrated landscaping, creating a facility that reflects the City's goals for quality design and positive community presence.

### *Economic Prosperity Element*

Goal EP-1 supports the development of a dynamic local economy with broad employment opportunities. Policy EP-1.2 encourages new job-producing businesses that offer living-wage employment. Moreover, Goal EP-3 promotes a business-friendly environment that builds on Santa Ana's strengths and Policy EP-3.8 encourages balancing fiscal and community benefits in land use decisions. The Project will create a range of employment opportunities, including facility management, coaching, event staffing, and operations support, many of which may be filled by local residents. In addition, the proposed use introduces a unique economic engine in the form of sports and recreation, drawing patrons to the area, activating a site

that has been underutilized, and potentially increasing revenue for surrounding businesses. The Penhances economic sustainability without detracting from surrounding land uses.

### *Open Space Element*

Goal OS-1 encourages the provision of accessible parks, open spaces, and recreational opportunities that improve community well-being. Policy OS-1.10 supports the use of creative solutions to address open space deficiencies through partnerships with private organizations and the development of innovative facilities. The proposed Footlab facility is consistent with Goal OS-1 and Policy OS-1.10 as it provides a privately operated, yet publicly accessible, recreation facility that helps meet the need for active open space in a park-deficient area of the City. By offering both indoor and outdoor sports opportunities, the Project delivers a unique and flexible recreational amenity that enhances the well-being of local residents, while reducing pressure on the City's existing park resources.

Goal OS-2 focuses on enhancing health, safety, and inclusivity through improved access to open space and recreational opportunities. Policy OS-2.1 encourages a variety of recreational facilities to meet diverse community needs, and Policy OS-2.2 promotes the integration of open space that supports active lifestyles. The Footlab facility aligns with these policies by providing indoor and outdoor athletic spaces designed to serve all ages and interests, fostering active living and social connection. In addition, Policy OS-2.7 supports healthy indoor recreation alternatives in areas with air quality concerns, particularly relevant in the City's industrial zones. Footlab provides a safe and controlled indoor environment for physical activity, addressing this concern directly. Furthermore, the Project is consistent with Policy OS-2.15, which emphasizes inclusive and affordable recreation, by offering programming and access that is available to the community regardless of income or background.

### *Community, Noise, and Urban Design Elements*

Goal CM-1 supports creating a safe and healthy city with increased access to physical activity and recreational opportunities. Policy CM-1.3 promotes equitable distribution of recreational facilities. Footlab enhances the community's access to sports and fitness activities, especially for youth and families in nearby residential areas. Its location along a major corridor and near Esqueda Elementary School supports its

accessibility and community-serving function. Moreover, the proposed Project represents a valuable recreational asset that can significantly benefit the broader community, particularly in our park-deficient City. Specifically, the indoor component provides year-round access to recreational opportunities in a controlled and safe environment, which is especially beneficial in urban areas where available land for traditional outdoor parks and sports fields is limited.

Goal N-1 encourages the reduction of noise impacts to sensitive receptors. Policy N-1.4 supports buffering strategies and operational adjustments to minimize noise impacts. The proposed project includes a range of noise mitigation measures, such as limited outdoor operational hours, restrictions on amplified sound, and landscaped buffers along Warner Avenue to reduce potential impacts on nearby residences and school uses. These efforts align with the City's goal of maintaining a peaceful environment for all community members.

Goal UD-2 emphasizes the importance of high-quality design that improves the visual character of neighborhoods and commercial areas. Policy UD-2.1 promotes the integration of pedestrian-friendly and visually engaging spaces. Footlab's site improvements, including façade upgrades, outdoor field enhancements, lighting controls, and landscaping, significantly improve the aesthetics of the existing property. The design creates an inviting and active street presence that contributes positively to the built environment.

- H. Pursuant to Section 41-650 of the SAMC and the analysis in the Request for Planning Commission Action dated April 28, 2025, and exhibits attached thereto, the Planning Commission modifies the regulations in Section 41-482(a) of the SAMC to allow for ancillary outdoor business activities as part of the proposed Project.

**Section 2.** Pursuant to the California Environmental Quality Act (CEQA) and the CEQA Guidelines, the Project is exempt from further review, pursuant to Section 15332 (Class 32) of the CEQA Guidelines (In-Fill Development Projects), because the Project is consistent with the applicable general plan designation and applicable general plan policies, as well as with applicable zoning designation and regulations. Moreover, the proposed development occurs within the City limits on a project site of no more than five acres; the project site has no value as habitat for endangered, rare or threatened species; approval of the project would not result in any significant effects relating to traffic, noise, air quality, or water quality; and the site can be adequately served by all required utilities and public services. Based on this analysis, a Notice of Exemption, Environmental Review No. 2024-98, 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 Conditional Use Permit No. 2025-10, as conditioned in Exhibit A, attached hereto and incorporated herein, to allow an indoor sports facility geared towards soccer and to allow ancillary outdoor business activities at 400 W. Warner Avenue, as shown on the approved plans for Development Project Application No. 2024-20 (DP No. 2024-20). This decision is based upon the evidence submitted at the above-referenced hearing, including but not limited to: The Request for Planning Commission Action dated April 28, 2025, and exhibits attached thereto; and the public testimony, written and oral, all of which are incorporated herein by this reference.

[Signatures on the following page]

ADOPTED this 28th day of April 2025 by the following vote.

AYES: Commissioners: (0)


NOES: Commissioners: (0)

ABSENT: Commissioners: (0)

ABSTENTIONS: Commissioners: (0)

\_\_\_\_\_  
Jennifer Oliva  
Chairperson

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

By:   
\_\_\_\_\_  
Melissa M. Crosthwaite  
Senior Assistant City Attorney

#### CERTIFICATE OF ATTESTATION AND ORIGINALITY

I, NUVIA OCAMPO, Recording Secretary, do hereby attest to and certify the attached Resolution No. 2025-XX to be the original resolution adopted by the Planning Commission of the City of Santa Ana on April 28, 2025.

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

\_\_\_\_\_  
Recording Secretary  
City of Santa Ana



## EXHIBIT A

### **Conditions of Approval for Conditional Use Permit No. 2025-10**

Conditional Use Permit No. 2025-10 to allow an indoor sports facility geared towards soccer and to allow ancillary business activities to be conducted outdoors is approved subject to compliance, to the reasonable satisfaction of the Planning Manager, with all applicable sections of the Santa Ana Municipal Code, the California Administrative Code, the California Building Standards Code, and all other applicable regulations.

The Applicant must comply with each and every condition listed below prior to exercising the rights conferred by this Conditional Use Permit.

The Applicant shall remain in compliance with all conditions listed below throughout the life of the Conditional Use Permit. Failure to comply with each and every condition may result in the revocation of this Conditional Use Permit.

1. All proposed site improvements must conform to Development Project Review (DP) No. 2024-20, and the staff report exhibits incorporated herein by reference.
2. Prior to issuance of a building permit, the Applicant shall satisfy all site improvement requirements identified by the City's Development Review Committee (DRC) as part of DP No. 2024-20, including, but not limited to, the Public Works Agency (PWA) – Development Engineering and Water Resources Division deferred comments as noted in the DP No. 2024-20 DRC Completion letter dated February 27, 2025.
3. Any proposed amendment to this Conditional Use Permit, including modifications to approved materials, finishes, architecture, site plan, landscaping, parking, 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 site plan review must be amended.
4. The Project shall comply with any and all recommendations contained within the technical studies and reports prepared for the Project, including, but not limited to, the Focused Traffic Analysis dated January 24, 2025, conducted by Translutions, Inc., and the Class 32 Categorical Exemption memorandum dated April 7, 2025, and prepared by T&B Planning. All studies and reports shall be finalized by the Applicant and approved by the City of Santa Ana prior to the issuance of any building permits.
5. Exterior building and exterior parking structure materials, finishes and colors for the Project shall comply with the approved materials board submitted for the Project and as approved by the Planning and Building Agency. Any changes to the materials, finishes and colors shall be approved by the Planning and Building Agency. All trash enclosures and similar ancillary structures shall match the texture, material and color of the primary building.

6. The hours of operation for the indoor sports facility shall be between 7:00 a.m. and 10:00 p.m. daily, pursuant to Section 41-482 of the SAMC.
7. The use of amplified music or other sound-emitting equipment shall be prohibited after 9:00 p.m. on weekdays and 10:00 p.m. on weekends.
8. The Applicant shall maintain a minimum of 116 parking spaces on site, per the submitted site plan for CUP and DP.
9. The Planning Division shall review this Conditional Use Permit no later than twelve (12) months after full execution. Should any issues arise during such review, the Conditional Use Permit shall be scheduled for public hearing at the Applicant's full expense for potential condition modification(s).
10. Violations of this Conditional Use Permit, as contained in Section 41-647.5 of the SAMC, will be grounds for permit revocation and/or suspension as described in Section 41-651 of the SAMC.
11. The Applicant shall designate an on-site operations manager to oversee daily activities, respond to community concerns, and ensure compliance with City regulations and conditions of approval.
12. A 24-hour contact number shall be provided to the City for reporting of any noise, safety, or operational issues.
13. All outdoor lighting, including stadium-style fixtures, shall be fully shielded, directed downward, and comply with the City's lighting standards to prevent light spillover onto adjacent properties, including Warner Avenue and the residential and school uses to the north.
14. A photometric lighting plan shall be submitted for review and approval by the Planning and Building Agency (PBA) as well as the Police Department prior to the issuance of building permits.
15. Noise levels shall not exceed thresholds set by the SAMC at property lines. If requested by the City, a noise study shall be conducted at Applicant's expense in order to verify compliance with SAMC thresholds.
16. All existing and new mechanical equipment shall be screened from view from public and courtyard areas.
17. The existing roof mounted mechanical equipment (i.e., air conditioning/condenser unit and ventilation ducts) located on the northeast corner of the existing building shall be removed and relocated away from public and courtyard areas. The roof shall also be replaced/repaired in-kind after removal of the mechanical equipment.

18. The final design of the proposed outdoor lighting, fencing and netting, for the outdoor soccer field uses, shall be reviewed and approved by Planning Division staff prior to the issuance of building permits.
19. Before submitting a landscape review application, the Applicant shall meet with Planning Division staff to evaluate the proposed plant species, sizes, quantities, and placement of trees, shrubs, and groundcover to ensure they maximize onsite landscaping in compliance with established landscape standards. The final landscape plan shall include a diverse selection of shade-producing canopy trees from the City's approved street tree list, ensuring the maximum possible number is incorporated along street frontages and in outdoor gathering areas.
20. Prior to installation of landscaping, the Applicant shall submit 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.
21. The Applicant shall install and maintain a landscaped buffer along the northern property line (adjacent to Warner Avenue) with a combination of trees and screening materials to help mitigate noise and visual impacts on the residential neighborhood and school.
22. The Applicant shall, in coordination with the adjacent property owner to the south, replace the existing chain-link fencing along the southern property line, and remove the barbed wire on top of the existing Concrete Masonry Unit (CMU) block wall, also along the southern property line. The chain-link fencing shall be replaced with a new CMU block wall, to be consistent with the existing CMU block wall, both to be finished in either a split-face/slump stone finish or a stucco finish, to the extent feasible. If the adjacent property owner is not amenable to replacement of the chain-link fence, the Applicant shall minimally improve the existing perimeter fencing along the southern property line to include, but not be limited to, applying a stucco finish to the existing CMU block wall, painting the CMU wall, replacing any damaged wall/fencing, or replacing the existing slats on chain-link fence. Double-wall construction shall not be permitted.
23. After Project occupancy, landscaping and hardscape materials must be maintained as shown on the approved landscape plans.
24. Prior to issuance of a building permit, the Applicant shall establish a parking management plan ("PMP"), to ensure parking areas remain useable and open for customers to use during peak operational hours. The PMP shall be implemented during any high/peak demand periods, as necessary, to ensure that the operations do not cause a nuisance, hindrance, and/or problem with either on-site and/or off-site parking and/or circulation. The PMP shall be required to be reviewed and approved by the Planning and Building Agency (PBA) and the City's Traffic

Engineering Division.

25. There shall be no tournaments, competitions, or other special events that draw spectators beyond the approved Project's business operations, without prior review and approval of a Land Use Certificate (LUC) and/or special event permit, pursuant to Sec. 41-195.5 of the SAMC. Any required LUC or special event permit shall be required to be reviewed and approved by the Planning and Building Agency (PBA), Orange County Fire Authority, and Police Department, as appropriate. Such special events shall not be conducted more than six (6) times in any one-year period and no more than three (3) successive days per event. Special events shall adhere to the primary hours of operation, between 7:00 a.m. and 10:00 p.m. daily. The Applicant shall submit plans for review and approval by the PBA a minimum of 30-days prior to the tournament/event.
26. Prior to the issuance of the first LUC for any special event on the property, the Applicant shall be required to provide a parking study and operational plan to address the increased demand for parking, security, and/or issues or impacts created by such events. In addition, the Applicant shall obtain a shared parking agreement for nearby off-site locations (businesses, schools, or churches) for over-flow parking. The off-site parking agreement shall be required to be recorded with the Orange County Clerk Recorder and a copy provided to the PBA. In this case, the required overflow parking shall be determined through a parking study as part of the Parking, Traffic, and Safety Management Plan to be reviewed and approved by the PBA and the City's Traffic Engineering Division.
27. Should any special events cause a nuisance, hindrance, and/or problem with either on-site and/or off-site parking and/or circulation, all future special events, whether permitted or pending, shall be suspended until an updated PMP/traffic management plan is approved to the satisfaction of the City.
28. In the event that the site cannot accommodate the parking demand at any given time, which causes a nuisance, hindrance, and/or problem with either on-site and/or off-site parking and/or circulation, as determined by PBA staff, the Applicant and/or property owner shall devise and implement a Parking, Traffic, and Safety Management Plan to relieve the situation. Among other strategies, the Parking, Traffic, and Safety Management Plan shall explore the use of remote lots with regular shuttle service, especially during peak hours or large events; implementation of an application (app) or online system to allow visitors to reserve parking in advance, helping control flow and reduce circling; charge higher rates during peak times to encourage carpooling or alternative transport and offer discounts for low-demand times; event-based valet parking to maximize lot efficiency; and incentivizes for shared rides and sustainable transport. Moreover, the Applicant shall be required to obtain shared parking agreements for nearby off-site locations (businesses, schools, or churches) for over-flow parking. The off-site parking agreement shall be required to be recorded with the Orange County Clerk Recorder and a copy provided to the PBA. In this case, the required overflow parking shall be determined through

a parking study as part of the Parking, Traffic, and Safety Management Plan to be reviewed and approved by the PBA and the City's Traffic Engineering Division.

29. Prior to occupancy, the Applicant shall meet with residents of the Bristol Manor neighborhood to evaluate neighborhood interest in establishing a neighborhood parking district. Said consultation shall be carried out in tandem with Public Works Agency input. Should the majority of the Bristol Manor neighborhood express interest, the Applicant shall assist the residents of the Bristol Manor neighborhood, in coordination with the Public Works Agency, with pursuing establishment of a permit parking district, pursuant to the City's Permit Parking District requirements.
30. 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 Property Management Agreement with the City of Santa Ana. The agreement shall be recorded against the property by the City and shall be in a form reasonably satisfactory to the City Attorney. The executed agreement must be submitted to the Planning Division by the Applicant within 90 days of the approval of this Resolution. The 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 on or 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 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, obligations and responsibilities set forth under the maintenance agreement; and
- g. The 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 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.