

CONDITIONS RELATED TO TRAFFIC

59. Petitioner's Trip Reduction Obligations Related To Vehicular Traffic Exiting and Entering the Site

a. **Petitioner's Residential and Office Vehicle Trips Obligation.**

~~a. The Petitioner is required to reduce the number of the projected vehicle trips that enter or exit the Project and that are associated with any residential and/or office trips that will be generated by use of the Project, as set forth herein as (the ***Maximum Residential and Office Trip Count***, in order to mitigate the traffic impacts of the Project.~~

i. ~~The Petitioner) shall not exceed the ***Maximum Trip Count*** as follows:~~

~~1. The total Maximum Trip Count for all office and residential uses within the Project is 289 vehicles 262 vehicle trips during the weekday morning peak hour and 220 vehicle hours (7:00 am – 9:00 a.m.);~~

~~2. 198 vehicle trips during the weekday evening peak hour hours (4:00 pm – 6:00 pm); and~~

~~3. 163 vehicle trips during the Saturday midday peak hours (11:00 am – 2:00 pm)~~

b. **Petitioner's Total Vehicle Trip Obligation.**

i. **The total number of vehicle trips that enter or exit the Project (the ***Maximum Total Trip Count***) shall not exceed:**

~~1. 396 vehicle trips during the weekday morning peak hours (7:00 am – 9:00 a.m.);~~

~~2. 487 vehicle trips during the weekday evening peak hours (4:00 pm – 6:00 pm); and~~

~~3. 558 vehicle trips during the Saturday midday peak hours (11:00 am – 2:00 pm)~~

~~b.c.~~ The Petitioner shall prepare, submit and implement a ***Transportation Demand Management Work Plan*** (the "TDM Work Plan"), in accordance ~~with~~ Condition with the Conditions set forth herein, that includes strategies and measures necessary to comply with subsections (a) and (b) hereinabove establishing the ***Maximum Residential and Office Trip Count*** and the ***Maximum Total Trip Count***.

~~#64, that includes strategies and measures necessary to comply with the ***Maximum Trip Count***.~~

~~e.d.~~ The Petitioner has the burden to demonstrate that it is in compliance with the Maximum Residential and Office Counts and the Maximum Total Trip Count. In order to demonstrate compliance, the Petitioner shall ~~periodically~~ conduct continuous vehicle trip counts in accordance with the *Trip Count Methodology* ~~set forth in Condition #63~~ and submit *TDM Monitoring Reports* ~~to the City, all~~ in accordance with ~~Condition #62~~ the Conditions set forth herein.

~~b.~~ ~~If the Petitioner fails to achieve the Maximum Trip Count, the Petitioner will be required to revise its TDM Work Plan and invest the *TDM Investment Amount* of \$1,500,000, plus additional funds in accordance with the *Additional Investment Amount* set forth in Condition #65, in implementing its TDM Work Plan.~~

60. Commencement of Petitioner's Trip Reduction Obligation

a. The Petitioner must comply with the Maximum Residential and Office Trip Count and the Maximum Total Trip Count beginning on the date of the issuance of a Certificate of Occupancy (temporary or final) for ~~80~~50% of the residential units or for 25,000 square feet of commercial (office or retail) space, whichever occurs first.

i. The Maximum Residential and Office Trip Count and the Maximum Total Trip Count shall be adjusted in proportion with the percentage of the Project that has been issued a Certificate of Occupancy until all units have been issued a final Certificate of Occupancy.

Example: if the Project is 50% built, the Maximum Residential and Office Trip Count shall be 131, 99, and 82 vehicles for the weekday morning, weekday afternoon, and Saturday peak hours and the Maximum Total Trip Count shall be 198, 244, and 279 for the same periods.

61. Reporting Requirements

a. Initial TDM Monitoring Report and Trip Count

i. The Petitioner shall ~~conduct its first~~ commence continuous vehicle trip count ~~and submit an Initial TDM Monitoring Report within sixty (60) days~~ after counts on the date of the issuance of a Certificate of Occupancy (temporary or final) for 80~~50~~50% of the residential units or for 25,000 square feet of commercial (office or retail) space, whichever occurs first and shall submit an initial TDM Monitoring Report within sixty (60) days of such

date.

- ii. The continuous vehicle trip counts must be conducted in accordance with the Trip Count Methodology set forth in Condition #63 and the Initial TDM Monitoring Report must be prepared and submitted in accordance with Condition #62.

b. Subsequent Periodic Reporting

- i. Following submission of the Initial TDM Monitoring Report, the Petitioner shall thereafter submit TDM Monitoring Reports every ~~six~~three (3) months (the Reporting Period) from the date of submission of the initial report.
- ii. The ~~reporting period~~Reporting Period shall change to ~~once per year~~every six (6) months only after the Petitioner/Project has been fully compliant with the Maximum Residential and Office Trip Count and the Maximum Total Trip Count for ~~two~~four (4) consecutive ~~six~~three-month reporting periods following ~~80~~90% occupancy of ~~the residential units and office building~~all buildings in the Project, provided that:

1. ~~One~~No subsequently submitted TDM Monitoring Report shows vehicle trips exceeding the Maximum Residential and Office Trip Count and/or the Maximum Total Trip Count.

2. Upon any submitted TDM Monitoring Report showing vehicle trips exceeding the Maximum Residential and Office Trip Count and/or the Maximum Total Trip Count, the Reporting Period shall revert to every three (3) months.

- iii. The Reporting Period shall change to every twelve (12) months after the Petitioner/Project has been ~~in full compliance~~fully compliant with the Maximum Residential and Office Trip Count and the Maximum Total Trip Count for five (5) consecutive years, ~~the Petitioner's reporting and monitoring requirements will cease so long as there are no changes to the TDM Work Plan. Any substantial changes to the TDM Work Plan after such full compliance must be approved by the Director~~ following 90% occupancy of ~~Planning and Development~~, who may require the submission of trip count ~~prior~~all buildings in the Project, provided that:

1. No subsequently submitted TDM Monitoring Report shows vehicle trips exceeding the Maximum Residential and Office Trip Count

and/or the Maximum Total Trip Count.

4.2. Upon any submitted TDM Monitoring Report showing vehicle trips exceeding the Maximum Residential and Office Trip Count and/or the Maximum Total Trip Count, the Reporting Period shall revert to approval every three (3) months.

62. Submission of TDM Monitoring Reports

- a. The Petitioner shall submit the Initial TDM Monitoring Report as specified in Condition #61.a and shall submit all subsequent TDM Monitoring Reports to the Director of Planning and Development and the Commissioner of Public Works within ~~thirty (30)~~ ten (10) days after the end of each ~~reporting period following submission of the initial TDM Monitoring Report~~ Reporting Period, as specified in Condition #61.b. Submission dates may be adjusted slightly at the discretion of the Director of Planning and Development ~~to accommodate counts and surveys being conducted during a typical week.~~
- b. The TDM Monitoring Reports shall contain the results of the required continuous vehicle trip counts ~~and surveys~~ in accordance with Condition #63, a description of methodology, and the qualifications of the consultant(s) performing the counts and surveys.
- c. The Petitioner shall pay the reasonable fees of any consultants/peer reviews as necessary for the Director of Planning and Development or the Director of the Transportation Division to analyze the reports.
- d. In the event ~~the Petitioner fails to comply with~~ vehicle trips reported in a TDM Monitoring Report exceed the Maximum Residential and Office Trip Count, ~~pursuant to Condition #65 and/or the Maximum Total Trip Count,~~ subsequent TDM Monitoring Reports must include a certified financial accounting of how the TDM Investment Amount ~~and the Additional Investment Amount were~~ was allocated and spent on implementing the approved TDM Work Plan.
- e. In accordance with Condition #64, a TDM Work Plan shall also be submitted with every submission of a TDM Monitoring Report. ~~The TDM Work Plan must include a comprehensive list of the measures proposed for the upcoming reporting period and, if required by Condition #7, proposed expenditures.~~

63. Trip Count Methodology

- a. ~~Trip~~ Continuous vehicle trip counts shall be ~~done~~ performed by a qualified professional firm, to be approved by the Director of Planning and Development.

- b. ~~Trip~~Continuous vehicle trip counts shall separately measure (i) all vehicles entering and exiting the project site and (ii) all residential and office vehicle trips, during the weekday morning and evening peak hours; and the Saturday midday peak hours.
- e. ~~Trip counts shall be made with continuous permanent trip counting stations at every curb cut location and shall include the following:~~
 - i. ~~A count of the resident and office vehicles~~a method to definitively determine whether a vehicle is entering and/or exiting at all the project site for residential and/or office garage entries during use or whether the vehicle is entering or exiting the weekday and evening peak hours project site for any other use.
 - i. ~~Intercept surveys taken at every residential and office building entry/exit point to capture residential and office visitors and pick up and drop off trips.~~
- d. ~~Trip counts shall be conducted over three consecutive weekdays (Tuesday through Thursday) during a typical week with no holidays or school vacations.~~
- e. ~~The time period for all trip counts, the peak hours, methodology and intercept survey questions shall be reviewed and approved by the Director of Planning continuously, in advance.~~
- f. ~~Every two years, beginning with the initial TDM Monitoring Report, trip counts shall also include the total number of vehicular trips during peak hours at each driveway.~~

- c. ~~The Petitioner shall utilize technology to track real time counts of residential and office vehicles entering and exiting at all garage entries. This data shall be made available to the Director of Planning and Development upon request.~~

64. Approval of the TDM Work Plan

- a. Prior to the issuance of the first building permit for any new vertical construction, the Petitioner shall submit an initial TDM Work Plan to the Director of Planning and Development and Commissioner of Public Works for review and approval.
 - i. The ~~initial~~ TDM Work Plan shall include a detailed plan for the phase-in of Transportation Demand Management (TDM) strategies and measures.
 - ii. As feasible, TDM strategies and measures, including potential transit subsidies and options for first/last mile connections, shall begin with initial occupancy permits.
 - iii. ~~Full implementation of the~~The initial TDM Work Plan shall ~~begin no later than~~ be fully implemented before the issuance ~~for of~~ a Certificate of Occupancy (temporary or final) for ~~400~~50% of the residential units or for 25,000 square feet of commercial (office or retail) space, whichever occurs first.
 - iv. ~~The~~A full-time TDM Coordinator shall be hired and shall start work no later than the issuance of a Certificate of Occupancy (temporary or final) for 25,000 square feet of commercial (office or retail) space, or 12 months after the issuance of the first residential building permit (whichever comes first), or the issuance of the first Certificate of Occupancy (temporary or final) for any residential unit, whichever occurs first.
- b. The TDM Work Plan shall set forth sufficient ~~Transportation Demand Management (TDM)~~ strategies and measures necessary to comply with such that the Maximum Residential and Office Trip Count and Maximum Total Trip Count are not exceeded, including, but not limited to, last-mile connections to mass transit, subsidies for transit passes for employees and residents, a full-time TDM

eCoordinator, on-site support facilities and information, marketing and awareness programs, financial incentives, and car and bike share programs.

- c. The TDM Work Plan may change over time to respond to changing transportation needs and circumstances, with the objective of meeting the trip reduction goal through compliance with the Maximum Residential and Office Trip Count and the Maximum Total Trip Count. All proposed changes to the TDM Work Plan must be reviewed and approved by the Director of Planning and Development prior to implementation.
- d. A TDM Work Plan shall also be submitted with every submission of a TDM Monitoring Report. The TDM Work Plan must include a comprehensive list of the measures proposed for the upcoming reporting period, and shall be based on best practices, results of prior vehicle counts and surveys, and additional data collected by the Petitioner.

65. Enforcement

a. If a TDM Monitoring Report shows that the ~~Petitioner/Project~~ number of vehicles associated with residential or office use exceeded the Maximum Residential and Office Trip Count and/or the number of total vehicles exceeded the Maximum Total Trip Count for any consecutive three (3) days within the Reporting Period, the Petitioner shall be ~~required to~~ considered in breach of the TDM Work Plan. If the Petitioner is in breach of the TDM Work Plan:

i. Before the completion of construction of all buildings in the Project, then no further building permit or Certificate of Occupancy (temporary or final) shall be issued and any building permits already issued shall be suspended until the Petitioner submits three (3) consecutive TDM Monitoring Reports that show it is in compliance with its obligations under these Conditions.

~~i.~~ ii. After the completion of construction of all buildings in the Project, then ~~Petitioner shall~~ invest funds ~~into~~for implementation of its TDM Work Plan as follows:

- 1. The Petitioner shall spend \$1,500,000.00 (the *TDM Investment Amount* of \$1,500,000.00 in implementing) to implement its

- TDM Work Plan during the twelve (12) month period following submission of the first TDM Monitoring Report ~~where~~showing that the Maximum Residential and Office Trip Count and/or the Maximum Total Trip Count was/were exceeded.
2. The TDM Investment Amount shall be adjusted annually from the date of commencement of Petitioner's ~~trip reduction obligation~~obligations under Condition #62 based upon the Consumer Price Index: (CPI).
 3. ~~In addition to the~~The TDM Investment Amount, ~~during the same time period the~~ Petitioner shall also ~~expend~~further be increased by adding an ***Additional Investment Amount*** which shall be calculated as a percentage of the equal to the product of (i) the then-current TDM Investment Amount (adjusted per the CPI) equal to the and (ii) the percentage of vehicle trips exceeding the Maximum Residential and Office Trip Count and/or the percentage of vehicle trips reported overexceeding the Maximum Total Trip Count, whichever percentage is greater.

Example: if the number of actual trips was 20% more than the Maximum Trip Count, the Petitioner shall create a TDM Work Plan for the upcoming reporting period that costs at a minimum \$1.5 million + 20% of vehicle trips was only 10% more than the residential and Office Trip Counts, the Additional Investment Amount is \$300,000 and the TDM Investment Amount is to be increased to \$1,800,000 (120% of 1,500,000).

- ~~i.~~—There is no maximum cap on the Petitioner's additional investment.
- ~~iii.~~ The TDM Investment Amount and/or the Additional Investment Amount.
- ~~ii.~~iv. The TDM Investment Amount shall be expended annually until the Petitioner submits a TDM Monitoring Report demonstrating compliance with the Maximum Trip Count Residential and Office Trip Count and the

Maximum Total Trip Count for a period of twelve (12) consecutive months.

- b. If the Maximum Residential and Office Trip Count and/or the Maximum Total Trip Count is/are exceeded, the Petitioner must submit a revised TDM Work Plan for the next Reporting Period ~~twelve (12) month period~~ that shall include a narrative of how the changes to the TDM Work Plan ~~for the upcoming reporting period~~ will reduce the number of vehicular trips ~~during peak hours~~ below the Maximum Residential and Office Trip Count and Maximum Total Trip Count limits and a detailed proposal of how the TDM Investment Amount ~~and the Additional Investment Amount~~ will be spent. The TDM Work Plan and the proposal for TDM expenditures shall be ~~reviewed~~ subject to review and approved ~~ed~~ by the Director of Planning and Development.
- c. The Petitioner agrees to and shall embody these financial commitments in a contractual agreement with the City to be entered into prior to the issuance of the first building permit for a residential building in the Project, which agreement shall allow for the remedy of specific performance.
- d. Failure to comply with the Maximum Residential and Office Trip Count and/or the Maximum Total Trip Count for five (5) consecutive Reporting Periods will constitute a violation of this Special Permit/Site Plan Approval.
- e. So long as the ~~Petitioner complies with~~ vehicle trips do not exceed the Maximum Residential and Office Trip Count and the Maximum Total Trip Count, there is no minimum TDM Investment Amount required.