

# 5. ATTACHMENT 1

## RESOLUTION NO. 2020-01

### A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF LOS ALTOS MAKING FINDINGS, ADOPTING AN EXEMPTION UNDER THE CALIFORNIA ENVIRONMENTAL QUALITY ACT, AND APPROVING THE DESIGN REVIEW, AND SUBDIVISION APPLICATIONS FOR A NEW 26-UNIT MULTI-FAMILY PROJECT AT 444-450 FIRST STREET

**WHEREAS**, the City of Los Altos received a development application from Ciya Moazzami, Dutchints Development, (Applicant), for a new 26-unit multiple-family residential building at 444-450 First Street that includes requests for Design Review (File Number D19-0001) and Subdivision (File Number TM19-0001), referred to herein as the “Project”; and

**WHEREAS**, said Project is located in the CD/R3 District, which allows multiple-family housing as a permitted use and does not specify a maximum allowable residential density; and

**WHEREAS**, the Applicant is offering three (3) moderate income and one (1) low income affordable housing units for sale as part of the Project; and

**WHEREAS**, the Applicant’s proposed unit mix would consist of 15 percent of its total units as affordable units, with 10 percent of the units affordable at the moderate-income level, thereby entitling the project to qualify for one incentive, and additional concessions and waivers pursuant to Los Altos Municipal Code Section 14.28.040 and Government Code Section 65915, *et seq.*; and

**WHEREAS**, the Applicant is eligible for and has requested one incentive under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(F) to allow for a building height of 46 feet where the Municipal Code allows for a maximum of 35 feet; and

**WHEREAS**, the Applicant is eligible for and has requested a parking requirement alteration under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(G) to allow for a reduction from the required 59 parking spaces to 54 parking spaces; and

**WHEREAS**, the Applicant eligible and has requested waivers under Government Code Section 65915(e) and Los Altos Municipal Code Section 14.28.040(H) to allow for a reduction in the required sixty percent soft surface (planting material) area of the front and rear yard areas required by the Municipal Code and the reduction of parking space width to 8.5 feet from the required nine feet, excepting the EV parking spaces, which shall remain nine feet in width; and

**WHEREAS**, the Applicant has requested an exception for public benefit under Los Altos Municipal Code Section 14.52.160 to allow for an eight-foot rear yard setback where a ten-foot rear yard setback is required by the Municipal Code; and

**WHEREAS**, said Project is exempt from environmental review as in-fill development in accordance with Section 15332 of the California Environmental Quality Act of 1970 as amended (“CEQA”); and

**WHEREAS**, said Project has been processed in accordance with the applicable provisions of the California Government Code and the Los Altos Municipal Code; and

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**WHEREAS**, on January 17, 2019, the Planning Commission held a design review study session on the Project where it received public testimony and provided the Applicant with architectural and site design feedback; and

**WHEREAS**, on June 26, 2019, the Complete Streets Commission held a public meeting on the Project and at the conclusion of the meeting voted to recommend approval to the Planning Commission and City Council; and

**WHEREAS**, on August 28, 2019, the Applicant installed story poles on the site that was approved by the Community Development Director on August 26, 2019; and

**WHEREAS**, on October 23, 2019, the City gave public notice of the Planning Commission's public hearing on the proposed Project by advertisement in a newspaper of general circulation and to all property owners and business tenants within a 1,00-foot radius; and

**WHEREAS**, on November 7, 2019, the Planning Commission conducted a duly-noticed public hearing at which members of the public were afforded an opportunity to comment upon the Project, and at the conclusion of the hearing, the Planning Commission recommended that the City Council approve the Project with design modifications; and

**WHEREAS**, on January 14, 2020, the City Council held a duly noticed public meeting as prescribed by law and considered public testimony and evidence and recommendations presented by staff related to the Project; and

**WHEREAS**, all the requirements of the Public Resources Code, the State CEQA Guidelines, and the regulations and policies of the City of Los Altos have been satisfied or complied with by the City in connection with the Project; and

**WHEREAS**, the findings and conclusions made by the City Council in this Resolution are based upon the oral and written evidence presented as well as the entirety of the administrative record for the proposed Project, which is incorporated herein by this reference. The findings are not based solely on the information provided in this Resolution; and

**WHEREAS**, all other legal prerequisites to the adoption of this Resolution have occurred.

**NOW THEREFORE, BE IT RESOLVED**, that the City Council of the City of Los Altos hereby \_\_\_\_\_ the Project subject to the Findings (Exhibit A) and the Conditions of Approval (Exhibit B) attached hereto and incorporated by this reference.

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**I HEREBY CERTIFY** that the foregoing is a true and correct copy of a Resolution passed and adopted by the City Council of the City of Los Altos at a meeting thereof on the 14<sup>th</sup> day of January 2020 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

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Janis C. Pepper, MAYOR

Attest:

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Dennis Hawkins, CMC, CITY CLERK

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## EXHIBIT A

### FINDINGS

1. ENVIRONMENTAL REVIEW FINDINGS. With regard to environmental review, in accordance with Section 15332 of the California Environmental Quality Act Guidelines, based on the whole record before it, including, without limitation, the analysis and conclusions set forth in the staff reports, testimony provided at the proposed Project's public hearings, and the supporting, which include: 1) a Traffic Analysis by Hexagon Transportation Consultants (June 2019); 2) an Environmental Noise Assessment by Charles M. Salter Associates, Inc (February 2019); 3) an Air Quality and Greenhouse Gas Assessment by Illingworth & Rodkin, Inc (March 2019); and 4) an Arborist Report by Kielty Arborist Services LLC (March 2019), the City Council finds and determines that the following Categorical Exemption findings can be made:
  - a. The Project is consistent with the applicable General Plan designation and all applicable General Plan policies as well as with the applicable zoning designation (Commercial Downtown/Multiple-Family);
  - b. The Project occurs within City limits on a site of no more than five acres that is substantially surrounded by urban uses and there is no record that the site has value as habitat for endangered, rare or threatened species;
  - c. Approval of the Project will not result in any significant effects relating to traffic, noise, air quality, or water quality and the completed technical studies and staff analysis contained in the agenda report and support this conclusion; and
  - d. The Project has been reviewed and it is found that the site can be adequately served by all required utilities and public services.
  - e. None of the exceptions to the applicability of the categorial exemption, as specified in section 15300.2, are present.
2. DESIGN REVIEW FINDINGS. With regard to Design Review Application D19-0001, the City Council finds, in accordance with Section 14.76.060 of the Los Altos Municipal Code, as follows:
  - a. The Project meets the goals, policies and objectives of the General Plan with its level of intensity and residential density within the First Street corridor in Downtown Los Altos, and all Zoning Code site standards and design criteria applicable for a project in the CD/R3 District;
  - b. The Project has architectural integrity and has an appropriate relationship with other structures in the immediate area in terms of height, bulk and design because the project utilizes high quality materials that support its architectural style and is appropriately articulated and scaled to relate to the size and scale of the surrounding buildings on the First Street corridor;
  - c. Building mass is articulated to relate to the human scale, both horizontally and vertically as evidenced in the design of the raised/terraced planter boxes, projecting overhangs and balconies, the building elevations have variation and depth and avoid large blank wall surfaces,

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and the project has incorporated elements that signal habitation, such as identifiable entrances, overhangs, high quality finishes and balconies;

- d. The Project's exterior materials and finishes convey high quality, integrity, permanence and durability, and materials are used effectively to define building elements. Materials, finishes, and colors have been used in a manner that serves to reduce the perceived appearance of height, bulk and mass, and are harmonious with other structures in the immediate area;
  - e. Landscaping, such as the large specimen Chinese Pistaches, Saratoga Bay Laurel and Natches Crape Myrtle street trees, hedges, shrubs and groundcover is generous and inviting, and landscape and hardscape features such as the custom paver walkways, stone veneer clad planters, wood benches and wood fences are designed to complement the building and to be integrated with the building architecture and the surrounding streetscape. Landscaping will include substantial street tree canopy in the public right-of-way and along the front and rear yard areas;
  - f. Signage, which is limited to the building address number and other required directional signage, will be designed to complement the building architecture in terms of style, materials, colors and proportions;
  - g. Mechanical equipment is screened from public view by parapet wall and is designed to be consistent with the building architecture in form, material and detailing; and
  - h. Service, trash and utility areas are screened from public view by their locations in the building garage and behind fencing in the interior side yard, and consistent with the building architecture in materials and detailing.
3. SUBDIVISION FINDINGS. With regard to Subdivision TM19-0001, the City Council finds, in accordance with Section 66474 of the Subdivision Map Act of the State of California, as follows:
- a. The tentative map and the Project's design and improvements are consistent with the General Plan;
  - b. The Project site is physically suitable for this type and density of development in that the project meets all applicable Zoning requirements;
  - c. The design of the condominium subdivision and the proposed improvements are not likely to cause substantial environmental damage, or substantially injure fish or wildlife; and no evidence of such has been presented;
  - d. The design of the condominium subdivision is not likely to cause any serious public health problems because conditions have been added to address noise, air quality and life safety concerns; and
  - e. The design of the condominium subdivision will not conflict with any public access easements as none have been found or identified on this site.

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4. AFFORDABLE HOUSING AND DENSITY BONUS FINDINGS. With regard to the offered below market rate units and requested parking requirement alteration, the City Council finds, in accordance with Los Altos Municipal Code Section 14.28.040, as follows:
  - a. The applicant is offering three moderate income units and one low income unit for sale, which qualifies the project for an incentive, additional waivers and a parking requirement alteration;
  - b. Per Table DB 6 in Los Altos Municipal Code Section 14.28.040(C)(1)(d), a project that includes ten percent or more of its total units as moderate income restricted affordable units shall be granted one (1) incentive. Since the project is including ten (10) percent of its total units as affordable at the moderate income level, the City shall grant one (1) incentive unless specified findings for denial are made;
  - c. For its one (1) incentive, the Applicant is requesting the City allow a building with a roof deck height of 46 feet, where the Code has a 35-foot height limitation. The height incentive, which is a requested increase of 11 feet above the height limit, is considered an “on-menu” incentive per Section 14.28.040(F) Incentive Standards and, therefore, the City has determined that the incentive would not have a specific adverse impact upon public health and safety or the physical environment or upon a listed historical resource. Evidence has not been presented which supports other findings for denial of the requested incentive;
  - d. Per Section 14.28.040(G)(2)(a), the City shall allow a minimum parking requirement, inclusive of handicapped and guest parking, of one (1) onsite parking space for each studio and one-bedroom unit and two (2) onsite parking spaces for each two- or three-bedroom unit if requested by the applicant. The project includes three (3) one-bedroom units, twenty-one (22) two-bedroom units, and one (1) three-bedroom units and is providing 54 onsite parking spaces, where a minimum of 49 onsite parking spaces is required by the Municipal Code when applying the parking requirement alteration;
  - e. Per Section 14.28.040(H)(1), a project can request a waiver or reduction of development standards that have the effect of physically precluding the construction of a development in addition to the development incentive permitted by the Municipal Code. Consistent with these requirements, the Applicant requested a waiver to allow for a lesser softscape landscape area in the front and side yards, where the Code requires at least sixty percent of the front and rear yard areas to be softscape landscaping. The applicant also requested a waiver to allow 8.5-foot parking spaces where the Code requires parking stalls at least nine feet in width. The Council determined the waiver is supported by the fact that the implementation of the standards physically precludes the construction of the development and the facilities are required in order to provide the necessary pedestrian, vehicular, and emergency access, temporary trash enclosure pads, and other hardscape features to support the functionality of the building. Evidence has not been presented that the waivers will have a specific, adverse impact upon health, safety, or the physical environment, or an adverse impact on any listed historic resource or will be contrary to state or federal law.
5. EXCEPTIONS FOR PUBLIC BENEFIT FINDINGS. With regard to the request for a rear yard setback of 8.5 feet where a ten-foot rear yard setback is required in the CD/R3 Zoning District, the City Council finds, in accordance with Los Altos Municipal Code Section 14.52.160, as follows:

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- a. The granting of the reduced setback will not be detrimental to the public health, safety or welfare or materially injurious to properties or improvements in the area;
- b. The benefit to the city derived from granting the exception is an appropriate mitigation when considered against the cost to the developer;
- c. The project and mitigation which includes installation of a sidewalk where none currently exists; providing a one-foot pedestrian access easement along the project frontage; and an overall reduction in the number of curbs along First Street will result in a public benefit to the downtown; and
- d. The resultant project and mitigation creates a more viable and safer pedestrian environment which are consistent with the general plan and promote or accomplish objectives of the downtown urban design plan.

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## EXHIBIT B

### CONDITIONS

#### GENERAL

1. **Approved Plans**

The project approval is based upon the plans dated December 31, 2019 and the support materials and technical reports, except as modified by these conditions.

2. **Affordable Housing**

The applicant shall offer the City four (4) below market rate units as follows:

- a. One (1) one-bedroom unit at the low income level for sale; and
- b. Three (3) two-bedroom units at the moderate income level for sale

3. **Upper Story Lighting**

Any exterior lighting above the ground floor of the building shall be shrouded and/or directed down to minimize glare.

4. **Encroachment Permit**

An encroachment permit and/or an excavation permit shall be obtained prior to any work done within the public right-of-way and it shall be in accordance with plans to be approved by the City Engineer.

5. **Public Utilities**

The applicant shall contact electric, gas, communication and water utility companies regarding the installation of new utility services to the site.

6. **Americans with Disabilities Act**

All improvements shall comply with Americans with Disabilities Act (ADA).

7. **Municipal Regional Stormwater Permit**

The project shall be in compliance with the City of Los Altos Municipal Regional Stormwater (MRP)NPDES Permit No. CA S612008, Order No. R2-2015-0049 dated November 19, 2015.

8. **Sewer Lateral**

Any proposed sewer lateral connection shall be approved by the City Engineer.

9. **Transportation Permit**

A Transportation Permit, per the requirements specified in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to or from the construction site.

10. **Indemnity and Hold Harmless**

The applicant/owner agrees to indemnify, defend, protect, and hold the City harmless from all costs and expenses, including attorney's fees, incurred by the City or held to be the liability of the

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City in connection with the City's defense of its actions in any proceedings brought in any State or Federal Court, challenging any of the City's action with respect to the applicant's project.

## **PRIOR TO SUBMITTAL OF BUILDING PERMIT**

### **11. Green Building Standards**

The applicant shall provide verification that the project will comply with the City's Green Building Standards (Section 12.26 of the Municipal Code) from a qualified green building professional.

### **12. Property Address**

The applicant shall provide an address signage plan as required by the Building Official.

### **13. Water Efficient Landscape Plan**

Provide a landscape documentation package prepared by a licensed landscape professional showing how the project complies with the City's Water Efficient Landscape Regulations.

### **14. Climate Action Plan Checklist**

The applicant shall implement and incorporate the best management practices (BMPs) into the plans as specified in the Climate Action Compliance Memo submitted on March 11, 2019.

### **15. Pollution Prevention**

The improvement plans shall include the "Blueprint for a Clean Bay" plan sheet in all plan submittals.

### **16. Storm Water Management Plan**

The Applicant shall submit a Storm Water Management Plan (SWMP) in compliance with the MRP. The SWMP shall be reviewed and approved by a City approved third party consultant at the Applicant's expense. The recommendations from the Storm Water Management Plan (SWMP) shall be shown on the building plans.

### **17. Noise Mitigation**

The applicant shall implement and incorporate the noise mitigation measures into the plans as required by the report by Charles M. Salter Associates Inc., dated February 20, 2019.

### **18. Electric Vehicle Charging Station Infrastructure**

The building's electrical service shall be designed to support the required load necessary for installation of electric vehicle charging stations in the underground parking garage.

## **PRIOR TO FINAL MAP RECORDATION**

### **19. Ingress/Egress Easement**

Property owner shall use best efforts to negotiate a commercially reasonable easement agreement with the adjacent property owner directly to the north (440 First Street; APN 167-41-009) pursuant to which the property owner will grant a nonexclusive perpetual easement for ingress/egress in favor of such property. The ingress/egress easement shall be no narrower than and follow the driveway entrance at First Street down the ramp to the first floor of the below grade garage and provide access to the northerly parcel (APN 167-41-009) with no less than a twenty-four foot wide

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access drive aisle to the future below grade garage of the northerly parcel as shown on page A-0 of the approved plans.

## 20. **Covenants, Conditions and Restrictions**

The applicant shall include the following provisions in the Covenants, Conditions and Restrictions (CC&Rs):

- a. Long-term maintenance and upkeep of the landscaping and street trees, on-site and in the public right-of-way along the site frontage, as approved by the City, shall be a duty and responsibility of the property owners.
- b. Both parking spaces in a tandem space shall be owned by the same unit and cannot be owned or used by separate units.
- c. Long-term maintenance and upkeep of the building's exterior materials and finishes shall be the responsibility of the Homeowner's Association.

## 21. **Pedestrian Easement**

The applicant shall record a one-foot public easement along the frontage of the parcel to the City of Los Altos for use as public right-of-way. Applicant shall submit documentation to the City for review and approval for the recordation of the public easement to the City of Los Altos.

## 22. **Public Utility Dedication**

The applicant shall dedicate public utility easements as required by the utility companies to serve the site.

## **PRIOR TO ISSUANCE OF BUILDING PERMIT**

## 23. **Final Map Recordation**

The applicant shall record the final map. Plats and legal descriptions of the final map shall be submitted for review by the City Land Surveyor. Applicant shall provide a sufficient fee retainer to cover the cost of the map review by the City.

## 24. **Payment of Fees**

The applicant shall pay all applicable fees, including but not limited to sanitary sewer connection and impact fees, parkland dedication in-lieu fees, traffic impact fees, affordable housing impact fee, public art impact fee and map check fee plus deposit as required by the City of Los Altos Municipal Code.

## 25. **Affordable Housing Agreement**

The Applicant shall execute and record an Affordable Housing Agreement, in a form approved and signed by the Community Development Director and the City Attorney, that offers four (4) below market rate units, for a period of at least 55 years, as defined in Condition No. 2. The below market rate units shall be constructed concurrently with the market rate units, shall be provided at the location on the approved plans, and shall not be significantly distinguishable with regard to design, construction or materials.

## 26. **Tree/landscaping well**

No tree or landscaping wells shall be located within the public right-of-way over or in the proximity of the sewer main along First Street.

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## **Soldier beams/Shoring**

The applicant shall insure the design of all soldier beams or other temporary shoring supports are outside the public right-of-way.

## **27. Storm Water Filtration Systems**

The Applicant shall insure the design of all storm water filtration systems and devices are without standing water to avoid mosquito/insect infestation.

## **28. Cost Estimate and Performance Bonds**

The applicant shall submit a cost estimate for the improvements in the public right-of-way and shall submit a 100 percent performance bond or cash deposit (to be held until acceptance of improvements) and a 50 percent labor and material bond (to be held six months after acceptance of improvements) for the work in the public right-of-way.

## **29. Air Quality Mitigation**

The applicant shall implement and incorporate the air quality mitigation measures into the plans as required by the report prepared by Illingsworth & Rodin, Inc., dated March 6, 2019.

## **30. Noise Mitigation**

The applicant shall implement and incorporate the noise mitigation measures into the plans as required by the report by Charles M. Salter Associates Inc February 20, 2019.

## **31. Acoustical Report**

The applicant shall submit a report from an acoustical engineer ensuring that the rooftop mechanical equipment meets the City's noise regulations.

## **32. Grading and Drainage Plan**

The Applicant shall submit on-site grading and drainage plans that include (i.e. drain swale, drain inlets, rough pad elevations, building envelopes, drip lines of major trees, elevations at property lines, all trees and screening to be saved) for approval by City Engineer. No grading or building pads are allowed within two-thirds of the drip line of trees unless authorized by a certified arborist and the Planning Division.

## **33. Sewage Capacity Study**

The applicant shall submit calculations showing that the City's existing sewer line will not exceed two-thirds full due to the project's sewer loads. For any segment that is calculated to exceed two-thirds full for average daily flow or for any segment that the flow is surcharged in the main due to peak flow, the applicant shall replace the sewer line with a larger sewer line.

## **34. Construction Management Plan**

The Applicant shall submit a construction management plan for review and approval by the Community Development Director and the City Engineer. The construction management plan shall address any construction activities affecting the public right-of-way, including but not limited to excavation, traffic control, truck routing, pedestrian protection, material storage, earth retention and construction vehicle parking. The plan shall provide specific details with regard to how construction vehicle parking will be managed to minimize impacts on nearby single-family neighborhoods. A Transportation Permit, per the requirements in California Vehicle Code Division 15, is required before any large equipment, materials or soil is transported or hauled to

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or from the site. Applicant shall pay the applicable fees before the transportation permit can be issued by the Traffic Engineer.

### 35. **Solid Waste Ordinance Compliance**

The Applicant shall be in compliance with the City's adopted Solid Waste Collection, Remove, Disposal, Processing & Recycling Ordinance (LAMC Chapter 6.12) which includes a mandatory requirement that all multi-family dwellings provide for recycling and organics collection programs.

### 36. **Solid Waste and Recyclables Disposal Plan**

The Applicant shall contact Mission Trail Waste Systems and submit a solid waste and recyclables disposal plan indicating the type, size and number of containers proposed, and the frequency of pick-up service subject to the approval of the Engineering Division. The Applicant shall also submit evidence that Mission Trail Waste Systems has reviewed and approved the size and location of the proposed trash enclosure. The enclosure shall be designed to prevent rainwater from mixing with the enclosure's contents and shall be drained into the City's sanitary sewer system. The enclosure's pad shall be designed to not drain outward, and the grade surrounding the enclosure designed to not drain into the enclosure. In addition, Applicant shall show on plans the proposed location of how the solid waste will be collected by the refusal company. Include the relevant garage clearance dimension and/or staging location with appropriate dimensioning on to plans.

## **PRIOR TO FINAL OCCUPANCY**

### 37. **Condominium Map**

The applicant shall record the condominium map as required by the City Engineer.

### 38. **Pedestrian Safety**

The applicant shall install a "watch for pedestrians" sign at the top of the underground parking garage driveway ramp.

### 39. **Landscape and Irrigation Installation**

All on- and off-site landscaping and irrigation shall be installed and approved by the Community Development Director and the City Engineer. Provide a landscape WELO Certificate of Completion, signed by the project's landscape professional and property owner, verifying that the trees, landscaping and irrigation were installed per the approved landscape documentation package.

### 40. **Signage and Lighting Installation**

The applicant shall install all required signage and on-site lighting per the approved plan.

### 41. **Green Building Verification**

The applicant shall submit verification that the structure was built in compliance with the California Green Building Standards pursuant to Section 12.26 of the Municipal Code.

### 42. **Sidewalk in Public Right-of-Way**

The Applicant shall remove and replace entire sidewalk and curb and gutter along the frontage of First Street as directed by the City Engineer. Sidewalk shall have minimum width of 5', the 6" curb of curb and gutter shall not be part of the 5' sidewalk.

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### 43. **New ADA Ramps and Crosswalks**

The applicant shall provide two new ADA ramps at the driveway per the City standards on First Street.

### 44. **Public Infrastructure Repairs**

The Applicant shall repair any damaged right-of-way infrastructures and otherwise displaced curb, gutter and/or sidewalks and City's storm drain inlet shall be removed and replaced as directed by the City Engineer or his designee. The Applicant is responsible to resurface (grind and overlay) half of the street along the frontage of First Street if determined to be damaged during construction, as directed by the City Engineer or his designee.

### 45. **Maintenance Bond**

A one-year, ten-percent maintenance bond shall be submitted upon acceptance of improvements in the public right-of-way.

### 46. **SWMP Certification**

The Applicant shall have a final inspection and certification done and submitted by the Engineer who designed the SWMP to ensure that the treatments were installed per design. The Applicant shall submit a maintenance agreement to City for review and approval for the stormwater treatment methods installed in accordance with the SWMP. Once approved, City shall record the agreement.

### 47. **Label Catch Basin Inlets**

The Applicant shall label all new or existing public and private catch basin inlets which are on or directly adjacent to the site with the "NO DUMPING - FLOWS TO ADOBE CREEK" logo as required by the City.