



**CITY OF NEWPORT BEACH
COMMUNITY DEVELOPMENT DEPARTMENT
PLANNING DIVISION ACTION REPORT**

TO: CITY COUNCIL, CITY MANAGER AND PLANNING COMMISSION

FROM: Kimberly Brandt, Community Development Director
Brenda Wisneski, Deputy Community Development Director

SUBJECT: Report of actions taken by the Zoning Administrator, and/or Planning Division staff for the week ending July 31, 2015

**ZONING ADMINISTRATOR ACTIONS
JULY 30, 2015**

- Item 1: Eitel Residence Modification Permit No. MD2015-004 (PA2015-073)
1723 Terrapin Way
- Action: Approved by Resolution No. ZA2015-042 Council District 3
- Item 2: BeVier Chiropractic and Wellness Center Minor Use Permit No. UP2015-028
(PA2015-106)
20301 Acacia Street, Suite 250
- Action: Approved by Resolution No. ZA2015-043 Council District 3

APPEAL PERIOD: An appeal may be filed with the Director of Community Development or City Clerk, as applicable, within fourteen (14) days following the date the action or decision was rendered unless a different period of time is specified by the Municipal Code (e.g., Title 19 allows ten (10) day appeal period for tentative parcel and tract maps, lot line adjustments, or lot mergers). For additional information on filing an appeal, contact the Planning Division at 949 644-3200.

Wendy Joe, Civilian Investigator, NBPD (*Massage Therapy – ABC License*)
Sgt. Brad Miller, NBPD (*Massage Therapy - ABC License*)

RESOLUTION NO. ZA2015-042

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MODIFICATION PERMIT NO. MD2015-004 TO ALLOW A 974-SQUARE-FOOT ADDITION TO AN EXISTING SINGLE-UNIT DWELLING WITH NONCONFORMING PARKING LOCATED AT 1723 TERRAPIN WAY (PA2015-073)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by TKR Construction, with respect to property located at 1723 Terrapin Way, and legally described as Lot 26 in Tract 3097 requesting approval of a modification permit.
2. The applicant proposes a modification permit to allow a 974-square-foot addition to an existing 3,064-square-foot single-unit dwelling that is nonconforming due to the interior dimensions of the garage. The existing two-car garage provides an interior width of 19 feet 1 inch and a depth of 21 feet 5 inches, where a minimum 20-foot by 20-foot interior dimension is required.
3. The subject property is located within the Single-Unit Residential Zoning District (R-1-6000) and the General Plan Land Use Element category is Single-Unit Residential Detached (RS-D).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on July 30, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to the requirements of the California Environmental Quality Act Guidelines under Class 1 (Existing Facilities).
2. The Class 1 exemption includes additions to existing structures provided that the addition will not result in an increase of more than 50 percent of the floor area of the structure before the addition, or 2,500 square feet, whichever is less. The project involves an addition of 974 square feet, or approximately 32 percent of the floor area of the existing single-unit dwelling.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.050.E (Modification Permits – Required Findings) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

- A. *The requested modification will be compatible with existing development in the neighborhood.*

Facts in Support of Finding:

1. The neighborhood is generally comprised of a development pattern of one-and two-story single-unit dwellings. The Modification Permit will allow a first and second floor addition and will result in a single-unit dwelling that is similar in bulk and scale to others in the Harbor Highlands Community.
2. The applicant is proposing a 974-square-foot addition to the existing dwelling. The proposed addition will comply with all applicable development standards, including lot coverage, height, and setbacks, and will not intensify or alter the existing nonconformities.
3. The existing development on the property is a single-unit dwelling. As such, there is no change to the density or intensity as a result of the proposed remodel and addition.

Finding:

- B. *The granting of the modification is necessary due to the unique physical characteristic(s) of the property and/or structure, and/or characteristics of the use.*

Facts in Support of Finding:

1. The interior dimensions of the existing two-car garage were in compliance with the Zoning Code at the time of original construction in 1959. However, as a result of amendments to the Zoning Code, the two-car garage is now substandard in size, and is therefore legal nonconforming.
2. The dwelling was designed with an attached garage that provides the minimum side setback required. The existing interior of the garage measures 19 feet 1 inch wide and 20 feet 5 inches deep. Expanding the width of the garage is not feasible without physically altering the interior of the floor plan or encroaching into the required setback.
3. The granting of the Modification Permit is necessary to allow a reasonable addition to an existing dwelling that was constructed in compliance with garage standards in effect at the time of original construction, and that are adequate in width for the parking

of two (2) vehicles. In addition, the driveway in front of the garage allows for the parking of a third vehicle on site

Finding:

- C. *The granting of the modification is necessary due to practical difficulties associated with the property and that the strict application of the Zoning Code results in physical hardships that are inconsistent with the purpose and intent of the Zoning Code.*

Facts in Support of Finding:

1. Given the scope of work, increasing the width of the garage to 20 feet would result in a practical difficulty by requiring significant alterations to the garage and adjoining kitchen. Expanding the garage to the east is not feasible given the required setback. Expanding the garage to the west would require reconstruction and reconfiguration of the kitchen and would impact the existing electrical, plumbing, and gas lines that run through the wall.
2. The existing garage provides two (2) useable garage spaces, therefore fulfilling the intent of the Zoning Code by providing adequate parking on site. Approval of the Modification Permit allows the applicant to continue the use of the existing two-car garage, which has not proven detrimental to the occupants or neighbors of the dwelling.

Finding:

- D. *There are no alternatives to the modification permit that could provide similar benefits to the applicant with less potential detriment to surrounding owners and occupants, the neighborhood, or to the general public.*

Facts in Support of Finding:

1. The alternative would require that the applicant bring the existing two-car garage into conformance by expanding the existing garage. Expanding the garage towards the interior of the property would require significant alterations to the adjoining kitchen and living area. Expanding the width of the garage into the 6-foot side setback required by the Zoning Code is not feasible without a variance.
2. The other alternative is to reduce the size of the addition to not more than 10 percent of the existing floor area of the structure and to comply with the requirements of the Zoning Code. Given the proposal is to add a second floor, a redesign to reduce the size of the addition will significantly impact the intent of the project and not meet the objectives of the applicant.

Finding:

- E. *The granting of the modification would not be detrimental to public health, safety, or welfare, to the occupants of the property, nearby properties, the neighborhood, or the City, or result in a change in density or intensity that would be inconsistent with the provisions of this Zoning Code.*

Facts in Support of Finding:

1. The proposed addition will occur on the rear half of the property, will maintain a minimum distance of 6 feet from neighboring properties, and will provide adequate protection for light, air, and privacy. The addition will not preclude access to the dwelling and will be consistent in scale with other dwellings in the neighborhood which have two (2) floors.
2. The existing nonconforming garage has not proven to be detrimental to the occupants of the property, nearby properties, neighborhood, or City and is adequate in width to park two (2) vehicles.
3. The proposed addition will result in site coverage that is less than the maximum allowed by the Zoning Code.
4. The approval of this Modification Permit is conditioned such that the applicant is required to obtain all necessary permits in accordance with the Building Code and other applicable Codes.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Modification Permit No. MD2015-004, subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JULY, 2015.



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"

CONDITIONS OF APPROVAL

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The project is subject to all applicable City ordinances, policies, and standards, unless specifically waived or modified by the conditions of approval.
3. Each parking space within the garage shall be permanently available and maintained for parking purposes. The interior dimensions (19 feet 1 inch wide by 20 feet 5 inches deep) shall be kept clear of obstructions including cabinets, shelving, or similar that may impact the ability to adequately park two (2) vehicles.
4. The applicant shall install a new sewer clean out on the existing sewer lateral pursuant to City Standard STD-406-L.
5. The applicant shall remove all loose gravel from the parkway area. An encroachment permit and encroachment agreement shall be required for the decorative carriage walk within the Terrapin Way right-of-way. Private improvements shall be consistent with City Council Policy L-6.
6. This Modification Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or is materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
7. A copy of the Resolution, including conditions of approval (Exhibit "A"), shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
8. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department. The construction plans must comply with the most recent, City-adopted version of the California Building Code.
9. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
10. Construction activities shall comply with Section 10.28.040 of the Newport Beach Municipal Code, which restricts noise-generating construction activities to between the hours of 7:00 a.m. and 6:30 p.m., Monday through Friday and 8:00 a.m. and 6:00 p.m. on Saturday. Noise-generating construction activities are not allowed on Sundays or Holidays.

11. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
12. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the Eitel Residence Modification including, but not limited to, MD2015-004 (PA2015-073). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.

RESOLUTION NO. ZA2015-043

A RESOLUTION OF THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH APPROVING MINOR USE PERMIT NO. UP2015-028 FOR A CHIROPRACTIC AND WELLNESS CENTER (PERSONAL SERVICES, RESTRICTED) LOCATED AT 20301 ACACIA STREET, SUITE 250 (PA2015-106)

THE ZONING ADMINISTRATOR OF THE CITY OF NEWPORT BEACH HEREBY FINDS AS FOLLOWS:

SECTION 1. STATEMENT OF FACTS.

1. An application was filed by BeVier Chiropractic Inc., with respect to property located at 20301 Acacia Street, Suite 250, and legally described as portions of Lots 52 and 53 of Tract No. 706, County of Orange, State of California, as per map recorded in Book 21, Page 25, of Miscellaneous Maps, in the Office of the County Recorder of said County (Parcel 1 of Lot Line Adjustment No. LL 87-112) requesting approval of a minor use permit.
2. The applicant proposes a chiropractic and wellness center (Personal Services, Restricted) within a 2,540-square-foot tenant space on the second floor of a two-story building. The proposed operation will consist of chiropractic care, acupuncture, massage therapy, therapeutic fitness and nutritional counseling.
3. The subject property is located within the Business Park District of the Santa Ana Heights Specific Plan (SP-7) Zoning District and the General Plan Land Use Element category is General Commercial Office (CO-G).
4. The subject property is not located within the coastal zone.
5. A public hearing was held on July 30, 2015, in the Corona del Mar Conference Room (Bay E-1st Floor) at 100 Civic Center Drive, Newport Beach. A notice of time, place and purpose of the meeting was given in accordance with the Newport Beach Municipal Code. Evidence, both written and oral, was presented to, and considered by, the Zoning Administrator at this meeting.

SECTION 2. CALIFORNIA ENVIRONMENTAL QUALITY ACT DETERMINATION.

1. This project has been determined to be categorically exempt pursuant to Title 14 of the California Code of Regulations (Section 15301, Article 19 of Chapter 3, Guidelines for Implementation of the California Environmental Quality Act) under Class 1 (Existing Facilities).
2. This Class 1 exemption authorizes minor alterations to existing structures involving negligible or no expansion of use. The proposed project involves the conversion of an office space to a chiropractic and wellness center and involves minor alterations to the existing floor plan.

SECTION 3. REQUIRED FINDINGS.

In accordance with Section 20.52.020 (Conditional Use Permits and Minor Use Permits) of the Newport Beach Municipal Code, the following findings and facts in support of such findings are set forth:

Finding:

A. *The use is consistent with the General Plan and any applicable specific plan.*

Facts in Support of Finding:

1. The property is designated General Commercial Office (CO-G) within the Land Use Element of the General Plan which is intended to provide for administrative, professional, and medical offices with limited accessory retail and service uses. The proposed personal service use offering ancillary massage and medical treatments is intended to provide complementary health and wellness services to those working in, residing in, and visiting the City, consistent with the CO-G designation.
2. The property is located within the Business Park District of the Santa Ana Heights Specific Plan (SP-7) Zoning District which is intended to provide for the development and maintenance of professional and administrative offices, commercial uses, specific uses related to product development, and limited light industrial uses.
3. The principal use of the tenant space will be a chiropractic and wellness center offering services that include chiropractic care, acupuncture, massage therapy, one-on-one therapeutic fitness (Pilates), and nutritional counseling. The medical (chiropractic) and massage treatments are ancillary services that comprise approximately one-third of the floor area of the tenant space. Pursuant to the Business Park District of the SP-7, service uses may be permitted subject to the approval of a minor use permit.

Finding:

B. *The use is allowed within the applicable zoning district and complies with all other applicable provisions of this Zoning Code and the Municipal Code.*

Facts in Support of Finding:

1. The proposed use is classified as a Personal Services, Restricted land use on the basis that the medical (chiropractic) and massage treatments are intended to be ancillary services and are limited to approximately one-third of the floor area of the tenant space. Acupuncture is considered a personal service by definition. Pursuant to the Business Park District of the Santa Ana Heights Specific Plan, service uses may be permitted subject to the approval of a minor use permit.

2. The subject tenant space was previously occupied by a general office use and will be converted to a personal service, restricted use which does not result in an intensification of parking. The shared parking lot consisting of 97 spaces will provide adequate parking for the existing and proposed uses on site, and no additional spaces are required.
3. As conditioned, the proposed use will comply with all other applicable provisions of the Zoning Code and Municipal Code.

Finding:

- C. *The design, location, size, and operating characteristics of the use are compatible with the allowed uses in the vicinity.*

Facts in Support of Finding:

1. The proposed personal service, restricted use will occupy a 2,540-square-foot tenant space on the second floor of an existing two-story office building.
2. Based on operational characteristics, the use is not considered an independent massage facility. Ancillary medical and massage treatments offered constitute a small portion of the overall floor area, thereby limiting any potential blight or deterioration to the surrounding area.
3. The project site is developed with three, two-story office buildings and a surface parking lot containing 97 spaces. The surrounding area consists of a mixture of nonresidential uses including general office, medical office, personal services, and the Newport Beach Golf Course which serve residents and visitors to the City of Newport Beach. The proposed use will provide a service consistent with neighboring uses and will be located in an area of Santa Ana Heights which prohibits residential uses, thereby limiting any detriment to residents of the City.
4. The proposed use will not require the provision of additional parking on site.
5. As conditioned, the allowed hours of operation are 8:00 a.m. to 9:00 p.m., daily, limiting any potential late night/early morning land use conflicts with nearby properties.

Finding:

- D. *The site is physically suitable in terms of design, location, shape, size, operating characteristics, and the provision of public and emergency vehicle (e.g., fire and medical) access and public services and utilities.*

Facts in Support of Finding:

1. The existing two-story office building and surface parking lot were constructed in 1992 and have since demonstrated that the current configuration with access taken from Acacia Street is physically suitable to accommodate multiple uses.
2. Adequate public and emergency vehicle access, public services, and utilities are provided on the property and the proposed use will not change this.

Finding:

E. Operation of the use at the location proposed would not be detrimental to the harmonious and orderly growth of the City, nor endanger, jeopardize, or otherwise constitute a hazard to the public convenience, health, interest, safety, or general welfare of persons residing or working in the neighborhood of the proposed use.

Facts in Support of Finding:

1. The proposed use is intended to serve residents and visitors to the City of Newport Beach.
2. The proposal has been conditioned with hours of operation that will minimize any potential detriment to the area.
3. The proposal has been reviewed by the Building and Code Enforcement Divisions, Public Works, Fire, and Police Departments, and recommended conditions of approval have been included to limit any detriment to the City or general welfare of persons visiting or working in the surrounding neighborhood.

In accordance with Section 20.48.120.B (Massage Establishments and Services – Waiver of Location Restrictions) of the Newport Beach Municipal Code, the following findings and facts in support of the findings for a Minor Use Permit are set forth:

Finding:

F. The proposed use will not be contrary to the public interest or injurious to nearby properties, and that the spirit and intent of this section will be observed.

Facts in Supporting of Finding:

1. The intent of the section is to promote the operation of legitimate massage services and to prevent problems of blight and deterioration, which accompany and are brought about by large numbers of massage establishments that may act as fronts for prostitution and other illegal activity.
2. The proposed use with ancillary massage services is not located within 500 feet of another establishment offering massage services.

3. The principal use is a chiropractic and wellness center offering ancillary medical and massage services. The intended operation will not contribute to a deterioration of the area due to conditions of approval which prevent the establishment from evolving into an independent massage establishment, limiting any concerns regarding blight.

Finding:

- G. *The proposed use will not enlarge or encourage the development of an urban blight area.*

Facts in Supporting of Finding:

1. The proposed use is located in a single tenant space within a managed, multi-tenant commercial office building which will prevent problems and discourage the development of blight. The subject property is not located within a blighted area, is well maintained, and is intended to provide a service that supports those working in, residing in, or visiting the City of Newport Beach.

Finding:

- H. *The proposed use will not adversely affect a religious institution, school, park, or playground.*

Facts in Supporting of Finding:

1. The proposed use is located adjacent to nonresidential uses and in an area that prohibits residential uses. There are no parks, playgrounds, or religious institutions within 500 feet of the subject property.
2. The private school at 20311 Acacia Street offering educational training will not be adversely affected given that it has a separate entrance and is located in an adjacent building. In addition, the proposed personal service use will not function as an independent massage thereby limiting any potential impacts on nearby uses.

SECTION 4. DECISION.

NOW, THEREFORE, BE IT RESOLVED:

1. The Zoning Administrator of the City of Newport Beach hereby approves Minor Use Permit No. UP2015-028, subject to the conditions set forth in "Exhibit A," which is attached hereto and incorporated by reference.
2. This action shall become final and effective fourteen (14) days following the date this Resolution was adopted unless within such time an appeal is filed with the Community Development Director in accordance with the provisions of Title 20 Planning and Zoning, of the Newport Beach Municipal Code.

PASSED, APPROVED, AND ADOPTED THIS 30TH DAY OF JULY, 2015.

By:



Brenda Wisneski, AICP, Zoning Administrator

EXHIBIT "A"**CONDITIONS OF APPROVAL**

1. The development shall be in substantial conformance with the approved site plan, floor plans and building elevations stamped and dated with the date of this approval (except as modified by applicable conditions of approval).
2. The hours of operation shall be limited to between 8:00 a.m. and 9:00 p.m., daily.
3. The applicant is required to obtain an Operator's Permit from the Newport Beach Police Department in compliance with Chapter 5.50 (Massage Establishments) of the Newport Beach Municipal Code prior to the start of business unless determined to be exempt or not applicable by the Chief of Police.
4. The applicant is required to obtain a valid business license from the City's Revenue Division prior to the start of business.
5. The operation of an independent massage business is not permitted unless an amendment to this Minor Use Permit or a new Use Permit is first approved.
6. All proposed signs shall be in conformance with provisions of Chapter 20.42 (Signs) of the Newport Beach Municipal Code.
7. The applicant shall comply with all federal, state, and local laws. Material violation of any of those laws in connection with the use may be cause for revocation of this Minor Use Permit.
8. This Minor Use Permit may be modified or revoked by the Zoning Administrator if determined that the proposed uses or conditions under which it is being operated or maintained is detrimental to the public health, welfare or is materially injurious to property or improvements in the vicinity or if the property is operated or maintained so as to constitute a public nuisance.
9. Any change in operational characteristics, expansion in area dedicated to medical and massage treatments, or other modification to the approved plans, shall require an amendment to this Minor Use Permit or the processing of a new Use Permit.
10. A copy of the Resolution, including conditions of approval (Exhibit "A") shall be incorporated into the Building Division and field sets of plans prior to issuance of the building permits.
11. The applicant is required to obtain all applicable permits from the City's Building Division and Fire Department.
12. An elevator shall be provided in compliance with California Building Code (CBC) Section 11B-206.2.3 along with requirements specified in Chapter 11B of the CBC

unless said requirements are deemed to be not applicable by the Chief Building Official.

13. Parking spaces shall comply with accessibility requirements specified in Sections 11B-206.2.3, 11B-208.2.2., and 11B-208.2.4 of the CBC unless said requirements are deemed not applicable by the Chief Building Official.
14. Should the property be sold or otherwise come under different ownership, any future owners or assignees shall be notified of the conditions of this approval by either the current business owner, property owner or the leasing agent.
15. Trash receptacles for patrons shall be conveniently located both inside and outside the establishment; however, not located on or within any public property or right-of-way.
16. The exterior of the business shall be maintained free of litter and graffiti at all times. The owner or operator shall provide for daily removal of trash, litter debris and graffiti from the premises and on all abutting sidewalks within 20 feet of the premises.
17. Storage outside of the building, in the front or at the rear of the property shall be prohibited, with the exception of the required trash container enclosure.
18. A Special Events Permit is required for any event or promotional activity outside the normal operational characteristics of the approved use, as conditioned, or that would attract large crowds, involve the sale of alcoholic beverages, include any form of on-site media broadcast, or any other activities as specified in the Newport Beach Municipal Code to require such permits.
19. This approval shall expire and become void unless exercised within twenty-four (24) months from the actual date of review authority approval, except where an extension of time is approved in compliance with the provisions of Title 20 Planning and Zoning of the Newport Beach Municipal Code.
20. To the fullest extent permitted by law, applicant shall indemnify, defend and hold harmless City, its City Council, its boards and commissions, officials, officers, employees, and agents from and against any and all claims, demands, obligations, damages, actions, causes of action, suits, losses, judgments, fines, penalties, liabilities, costs and expenses (including without limitation, attorney's fees, disbursements and court costs) of every kind and nature whatsoever which may arise from or in any manner relate (directly or indirectly) to City's approval of the BeVier Chiropractic and Wellness Center including, but not limited to, UP2015-028 (PA2015-106). This indemnification shall include, but not be limited to, damages awarded against the City, if any, costs of suit, attorneys' fees, and other expenses incurred in connection with such claim, action, causes of action, suit or proceeding whether incurred by applicant, City, and/or the parties initiating or bringing such proceeding. The applicant shall indemnify the City for all of City's costs, attorneys' fees, and damages which City incurs in enforcing the indemnification provisions set forth in this condition. The applicant shall pay to the City upon demand any amount owed to the City pursuant to the indemnification requirements prescribed in this condition.