

**CITY OF MANHATTAN BEACH  
COMMUNITY DEVELOPMENT DEPARTMENT**

**TO:** Planning Commission

**FROM:** Anne McIntosh, Director of Community Development

**THROUGH:** Laurie B. Jester, Planning Manager

**BY:** Angelica Ochoa, Associate Planner

**DATE:** February 14, 2018

**SUBJECT:** Adoption of a Resolution Documenting the Decision of Approval for a Master Use Permit Amendment to Modify the Existing Uses located at 451 Manhattan Beach Boulevard, Metlox (Metlox, LLC)

**RECOMMENDATION:**

Staff recommends that the Planning Commission **ADOPT the attached Draft RESOLUTION PC No. 18** - (Exhibit A) approving the modifications to existing uses and conditions.

**PROPERTY OWNER:**

City of Manhattan Beach  
1400 Highland Avenue  
Manhattan Beach, CA 90266

**APPLICANT:**

Metlox, LLC c/o Tolkin Group  
451 Manhattan Beach Boulevard  
Manhattan Beach, CA 90266

**PROJECT OVERVIEW:**

The proposed modification requests more restaurant and indoor and outdoor dining square footage from what was approved with the Master Use Permit, City Council Resolution No. 5770. Specifically, the applicant requested the following:

1. Modification for the two full service restaurants, Nicks and Petros.
2. Modification of personal service use on the second floor, Kasai Hair Salon.
3. Modification of retail uses, Waterleaf (two tenant spaces) and Beehive.
4. Request to add a provision under "Procedural" to allow City Manager to approve future modifications to Sections 25 through 32 of Resolution No. 5770.

## **BACKGROUND AND DISCUSSION:**

At the regular Planning Commission meeting on January 24, 2018 (Exhibit B), the Planning Commission conducted the public hearing, accepted public testimony, and discussed the Master Use Permit Amendment. The Planning Commission closed the public hearing, continued the item to February 14, 2018 and directed staff (4-1) to return with a draft Resolution of approval with conditions, as follows (Exhibit A).

1. **Modification for the two full service restaurants, Nicks and Petros.** Allow a future division of Nicks restaurant space into two separate restaurants.
2. **Modification of personal service use on the second floor, Kasai Hair Salon to restaurant (indoor dining only):**
  - a. Allow the area to be converted to restaurant use to be incorporated into the Petros restaurant below for large parties, meetings and special events.
  - b. Do not allow the existing outdoor patio area of approximately 500 square feet to be converted to outdoor dining area.

### *Planning Commission Discussion*

The Planning Commission did not direct approval of request 2b as stated above since it would not be consistent with the Downtown Specific Plan that was approved by the City Council on December 20, 2016. The Downtown Specific Plan prohibits second-floor outdoor dining on private property and the Planning Commission felt this proposed use would be in conflict with the intent of the Downtown Specific Plan. Also, residents stated concerns regarding the proposed second floor outdoor dining related to noise and impacts on the overall surrounding neighborhood. A condition has been added to the attached Draft Resolution No. PC 18- Condition No. 25 B. to prohibit second floor outdoor dining, and conditions 25 B and 38 have been revised to not limit the restaurants to a maximum of two.

3. **Modification of retail use, Waterleaf (two tenant spaces) and Beehive to restaurant, personal service, personal improvement or bank use.** The concept for the Waterleaf space would be a café or small bistro style restaurant or personal service, personal improvement or bank use. The outdoor patio areas for the Waterleaf spaces of approximately 300 square feet would be converted to outdoor dining areas related to the proposed restaurant use. Beehive would be a restaurant that would attract residents and visitors as it is located at the entry to the Downtown.

### *Planning Commission Discussion*

The Planning Commission did direct approval of the restaurant, personal service

and personal improvement uses but not the bank. Conditions 25 B and 38 have been revised to not limit the restaurants to maximum of two. Personal Service is permitted, the Director has the flexibility in the current conditions to approve personal improvement use, and additional language has been added on Condition 25 A to allow limited personal improvement services such as yoga. The bank use was not directed to be approved by the Commission, so no further revisions are required related to these items.

4. **Request to add a provision under “Procedural” in City Council Resolution, No. 5770 to allow City Manager to approve future modifications to Sections 25 through 32 of the Resolution.**

*Planning Commission Discussion*

The Planning Commission felt that the above mentioned conditions were significant changes to the Master Use Permit and a public hearing process would still be required for any future modifications. The public also had concerns on allowing changes without going through a public hearing process since it may cause significant impacts to the residents and surrounding neighborhood.

Overall, the Planning Commission supported the project and felt that the addition of restaurants would complement the existing Metlox Development and support the City’s viable Downtown area. Also, it gives the applicant the flexibility to allow other uses and tenants depending on the demand of services by residents and visitors.

**Conditions of Approval – Land Use**

The following conditions were revised in the attached Draft Resolution PC No. 18-xx to reflect the changes that the Planning Commission directed:

- 1) **Condition No. 25. A** - Revised to allow limited personal improvement services such as yoga studios, spin studios, pilates and personal training.
- 2) **Condition No. 25. B** - Revised to allow more restaurant square footage based on the applicant’s request. The total proposed maximum allowed is 14,432 square feet for restaurant use, including a maximum of 9,916 square feet of dining/seating area regardless of whether located indoors or outdoors. The original Master Use Permit limited restaurants to two (2) total maximum, 8,000 square feet total maximum, (including 6,400 square feet maximum dining/seating area regardless of whether located indoors or outdoors). Staff has drafted the conditions to provide flexibility in the future to allow other spaces within Metlox, not limited to Waterleaf or Beehive, to be converted to restaurant use, provided the maximum square footages are not exceeded and no second floor outdoor dining is allowed.

2) **Condition No. 38** - Revised to allow alcohol at all restaurants, not limited to two restaurants. The service of alcohol at all restaurants shall still be conjunction with the service of food at all times during all hours of operation.

No other changes to the conditions are proposed. All other approved conditions from the original Master Use Permit, as previously amended, remain the same and stated in the attached Draft PC Resolution No. 18 -xx. Previous Use Permit amendments related to alcohol and hours for Le Pain (PC No. 08-08), Petros (PC No. 06-20) and Shade Hotel (PC No. 14-0064) and Master Use Permit (Resolution No. 5770) remain effective and in full force.

### **Use Permit Findings**

Section A.84.060 of the Manhattan Beach LCP provides the findings that are necessary to approve a Master Use Permit Amendment. Staff believes all findings can be met as follows:

1. *The proposed location of the uses is in accord with the objectives of this title and the purposes of the district in which the site is located.*

The stated purpose of the CD zone is as follows:

**CD Downtown Commercial District:** To provide opportunities for residential, commercial, public and semipublic uses that are appropriate for the downtown area. This district is intended to accommodate a broad range of community businesses and to serve beach visitors.

The proposed project will strengthen the city's economic base, but also protect small businesses that serve city residents. The proposed project is intended to create a suitable environment for various types of commercial uses, and protect surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial development on adjacent residential districts. Additionally, the proposed project is intended to accommodate a broad range of community businesses and serves beach visitors.

2. *The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City.*

The proposed amendment is consistent with the following General Plan Goals and Policies for the Commercial Downtown designation. The proposed project is already a commercial use and the Amendment modifies the mix of commercial uses. Amending the Master Use Permit will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the proposed uses due to conditions imposed that limit square footages and do not allow outdoor second floor dining or bank uses adjacent to the ground floor public sidewalk. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the City due to the conditions. Additionally, since the project is consistent with the Local Coastal Program (LCP), as discussed below, and since the LCP is consistent with the General Plan, the project is also consistent with the General Plan.

**GOALS AND POLICIES: LAND USE**

Policy 2.3: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

Policy 4.1: Protect all small businesses throughout the City which serve City residents.

Policy 5.1: The City recognizes the need for a variety of commercial development types and has designated areas appropriate for each. The City shall encourage development proposals which meet the intent of these designations.

Policy 5.2: Require the separation or buffering of low-density residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, and other techniques.

GOAL 6: CONTINUE TO SUPPORT AND ENCOURAGE THE VIABILITY OF THE "DOWNTOWN" AREA OF MANHATTAN BEACH.

Policy 6.1: Encourage the upgrading and expansion of business in the Downtown area to serve as a center for the community and to meet the needs of beach area residents.

GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

- 3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located.*

The required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy. The proposed amendment is within the scope of the original approved Master Use Permit.

- 4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic,*

*parking, noise, vibration, odors, personal safety, and aesthetic, or create demands exceeding the capacity of public services and facilities which cannot be migrated.*

All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The applicable Mitigation will all be complied with. Conditions to conform to applicable Code standards will apply. The proposed amendment will not alter the fundamental use, purpose, or character of Metlox because there will be no change in the hours of operation, changes requested are within existing tenant spaces, the proposed amended use complies with required parking, and will not create adverse impacts on traffic or create demands, including parking, exceeding the capacity of public services and facilities.

**ENVIRONMENTAL REVIEW:**

Pursuant to CEQA Guidelines Section 15301, the City has issued a Class 1 Categorical Exemption because the Master Use Permit Amendment authorizes the continued operation of an existing facility, with a negligible expansion of the presently existing use of the property. The Amendment authorizes minor changes to the facility that will have no environmental impacts as conditions will minimize noise impacts to the surrounding community. Also, per Section 15162 (a) since a prior EIR was certified by the City on April 17, 2001 when the original Metlox development was approved, no new subsequent EIR is required to be prepared for the current Amendment.

**CONCLUSION:**

Staff recommends that that Planning Commission approve the attached Draft Resolution PC No. 18- of approval with conditions. After the City takes action on the application, the applicant and staff will forward the decision to the Coastal Commission Executive Director to make a determination on whether an amendment to the Coastal Permit is required. Previous approvals will remain effective and in full force as previously amended for individual tenants. Also, the City Council will determine if an amendment to the Disposition and Development Agreement (DDA) is required.

**ATTACHMENTS:**

Exhibit A: Draft PC Resolution No. 18-xx

Exhibit B: Link to Staff Report and all related attachments- PC Meeting 01/24/2018:

[http://cms6ftp.visioninternet.com/manhattanbeach/commissions/planning\\_commission/2018/20180124/20180124-3.pdf](http://cms6ftp.visioninternet.com/manhattanbeach/commissions/planning_commission/2018/20180124/20180124-3.pdf)

cc: Jonathon Tolkin, Tolkin Group  
Glenn Loucks, Tolkin Group

PC RESOLUTION NO. 18-

RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF  
MANHATTAN BEACH APPROVING A MASTER USE PERMIT  
AMENDMENT TO MODIFY THE EXISTING USES AND ALLOW  
ADDITIONAL RESTAURANTS AT THE METLOX SITE –451  
MANHATTAN BEACH BOULEVARD (Metlox, LLC c/o Tolkin Group)

THE PLANNING COMMISSION DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The Planning Commission hereby makes the following findings:

- A. Metlox, LLC c/o Tolkin Group (the applicant) is seeking approval of an Amendment to a Master Use Permit to allow modifications of existing uses. The proposed project is a modification of the previously approved Master Use Permit (City Council Resolution No. 5770). Specifically, the applicant is requesting conversion of existing retail and personal service uses to restaurant uses, including increasing the number of restaurants, and increasing the restaurant square footage with indoor and outdoor dining and alcohol consumption, allowing personal service, personal improvement service and bank uses on the ground floor and allowing the City Manager the flexibility to administratively modify certain conditions of approval for the Metlox site- 451 Manhattan Beach Boulevard.
- B. The Planning Commission conducted a public hearing regarding the proposed project at their regularly scheduled meeting on January 24, 2018, discussed the proposed project, closed the public hearing and directed staff to bring back a resolution of approval with revised conditions on February 14, 2018. The public hearing was advertised pursuant to applicable law and testimony was invited and received. At the meeting of February 14, 2018, the Planning Commission reviewed the Draft Resolution and conditions and adopted Resolution No. PC 18 – XX approving a Master Use Permit amendment for a portion of the request, modifying some of the existing uses to allow an increase in the number of restaurants, more indoor and outdoor restaurant square footage, but no outdoor second floor restaurant dining, and allow personal service, and personal improvement service on the ground floor, but not a bank on the ground floor on Morningside Drive.
- C. The subject property is located within the City of Manhattan Beach Coastal Zone, and the Coastal Development Permit for the Master Use Permit was issued by the California Coastal Commission. The decision on the proposed project will be forwarded to the Coastal Commission for consideration and determination if an amendment to their Coastal Development Permit is required.
- D. A Master Use Permit amendment is required for any modification request to conditions of approval to a Master Use Permit.
- E. The project will not individually nor cumulatively have an adverse effect on wildlife resources, as defined in Section 711.2 of the Fish and Game Code.
- F. The applicant is Metlox, LLC c/o Tolkin Group and the property owner is the City of Manhattan Beach.
- G. The following is a summary of some of the key milestones for the Metlox site:
  - 1995- 96- The City Council authorized development of the Downtown Strategic Action Plan (DSAP) to provide a comprehensive approach and community vision for the Downtown including the Metlox site
  - 1997/98- The City purchased the Metlox property to control development and master plan the site
  - 1998- 2001 Numerous public meetings and workshops held to solicit public input on the site and Downtown.
  - December 1998- The City selected the Tolkin Group as a development partner
  - April 2001- The City Council certified the EIR

**EXHIBIT A**  
**PC MTG 02-14-18**

April 2002- The City Council approved the Disposition and Development Agreement (DDA)/Ground Lease  
July 2002- Master Use Permit and Coastal Development Permit for the Metlox project approved by the City Council  
November 2002- California Coastal Commission denied the appeal of the Coastal Development Permit, and unanimously approved the Permit  
February 2003- Groundbreaking for the Metlox parking structure  
2004- Grand opening of public parking structure with 460 parking spaces, Shade Hotel and Metlox commercial buildings started construction  
December 2005- Ribbon cutting and grand opening for the Metlox Center

- H. The City Council will review the Disposition and Development Agreement (DDA) and determine if any revisions are required.
- I. Pursuant to CEQA Guidelines Section 15301, the proposed project qualifies for a Class 1 Categorical Exemption because the Master Use Permit Amendment authorizes the continued operation of an existing facility, with a negligible expansion of the presently existing use of the property. Per Section 15162 (a), since a prior EIR was certified by the City on April 17, 2001 when the original Metlox development was approved no new subsequent EIR is required to be prepared for the current Amendment.
- J. The property is located within Area District III and is zoned Downtown Commercial. The properties to the west and south are also zoned Downtown Commercial, the properties to the north are zoned Downtown Commercial and Public and Semipublic, and the properties to the east are zoned Open Space. Further east past Valley/Ardmore and the Veterans parkway is zoned single-family residential.
- K. The General Plan designation for the property is Downtown Commercial.
- L. The proposed project will continue to offer a mix of uses and keep a strong relationship between the public and outdoor areas as originally approved. The request to convert one of the Waterleaf tenant spaces facing Morningside Drive to a bank was not approved since the Planning Commission felt that the use would not complement the mix of uses in Metlox and may create a low-activity space on the weekends and/or evenings. The second floor outdoor dining was not approved as the Commission had concerns with noise and other potential neighborhood impacts, and compatibility with the Downtown Specific Plan. The Commission also did not approve the request for the City Manager to approve modifications administratively as the Commission felt that public input was important for major changes and there is already some administrative flexibility in the Master Use Permit.
- M. This Resolution, upon its effectiveness, constitutes an Amendment to the Master Use Permit for the subject property. This Resolution amends limited conditions No's. 25 B and 38 of City Council Resolution No. 5770, all other conditions remain effective and in full force. Previous approvals and all conditions in PC No. 08-08 (Le Pain), PC No. 06-20 (Petros), and PC No. 14-0064 (Shade Hotel) as well as all other conditions of Resolution No. 5770 remain effective and in full force, except as amended specifically herein.
- N. Based upon State law, and MBLCP Section A.84.050, relating to the Master Use Permit Amendment application for the proposed project, the following findings are hereby made:
1. The proposed location of the use is in accord with the objectives of this title and the purposes of the district in which the site is located, since the proposed amendment is consistent with the Downtown Commercial (CD) Zone designation. The Downtown Commercial (CD) zone provides opportunities for residential, commercial, public and semipublic uses that are appropriate for the downtown area. This district is intended to accommodate a broad range of community businesses and to serve beach visitors. The proposed project will strengthen the city's economic base, but also protect small businesses that serve city residents. The proposed project is intended to create a suitable environment for various types of commercial uses, and protect surrounding residential uses from the potential adverse effects of inharmonious uses by minimizing the impact of commercial



development on adjacent residential districts. Additionally, the proposed project is intended to accommodate a broad range of community businesses and serves beach visitors.

2. The proposed location of the use and the proposed conditions under which it would be operated or maintained will be consistent with the General Plan; will not be detrimental to the public health, safety or welfare of persons residing or working on the proposed project site or in or adjacent to the neighborhood of such use; and will not be detrimental to properties or improvements in the vicinity or to the general welfare of the City since, the proposed amendment is consistent with the following General Plan Goals and Policies for the Commercial Downtown designation. The proposed project is already a commercial use and the Amendment modifies the mix of commercial uses. Amending the Master Use Permit will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the proposed uses due to conditions imposed that limit square footages and do not allow outdoor second floor dining or bank uses adjacent to the ground floor public sidewalk. There will be no negative impact on properties or improvements in the vicinity, or on the general welfare of the City due to the conditions on the project.

**GOALS AND POLICIES: LAND USE**

Policy 2.3: Protect public access to and enjoyment of the beach while respecting the privacy of beach residents.

Policy 4.1: Protect all small businesses throughout the City which serve City residents.

Policy 5.1: The City recognizes the need for a variety of commercial development types and has designated areas appropriate for each. The City shall encourage development proposals which meet the intent of these designations.

Policy 5.2: Require the separation or buffering of low-density residential areas from businesses which produce noise, odors, high traffic volumes, light or glare, and parking through the use of landscaping, setbacks, and other techniques.

GOAL 6: CONTINUE TO SUPPORT AND ENCOURAGE THE VIABILITY OF THE "DOWNTOWN" AREA OF MANHATTAN BEACH.

Policy 6.1: Encourage the upgrading and expansion of business in the Downtown area to serve as a center for the community and to meet the needs of beach area residents.

Policy 6.2: Develop and encourage the use of design standards for the Downtown area to improve its visual identification as a unique commercial area.

GOAL 7: PROTECT EXISTING RESIDENTIAL NEIGHBORHOODS FROM THE INTRUSION OF INAPPROPRIATE AND INCOMPATIBLE USES.

3. The proposed use will comply with the provisions of this title, including any specific condition required for the proposed use in the district in which it would be located since, the required notice and public hearing requirements have been met, all of the required findings have been addressed, and conditions will be required to be met prior to the issuance of a certificate of occupancy. The proposed amendment is within the scope of the original approved Master Use Permit.
4. The proposed use will not adversely impact nor be adversely impacted by nearby properties. Potential impacts are related but not necessarily limited to: traffic, parking, noise, vibration, odors, resident security and personal safety, and aesthetics, or create demands exceeding the capacity of public services and facilities which cannot be mitigated. All of the potential impacts related to the proposed project were evaluated and addressed in the Certified EIR. The Mitigation Measures applicable to the proposed amendment will all be complied with. Conditions to conform to applicable Code standards will apply. The proposed amendment will not alter the fundamental use, purpose, or character of Metlox since it is within the original approval because there will be no change in the hours of

operation, changes requested are within existing tenant spaces, the proposed amended use complies with required parking, and will not create adverse impacts on traffic or create demands exceeding the capacity of public services and facilities.

- O. Based on the MBLCP Sections A.96.150 the following findings are made:

That the project, as described in the application and accompanying materials, as modified by any conditions of approval, conforms with the certified Manhattan Beach Local Coastal Program, since the project is consistent with the following applicable policies from Chapter 4 of the Local Coastal Program:

COASTAL ACCESS POLICIES

**A. Access Policies**

Policy I.A.1: The City shall maintain the existing vertical and horizontal accessways in the Manhattan Beach Coastal Zone.

Policy I.A.3: The City shall preserve pedestrian access systems including the Spider Web park concept (Spider Web park concept: a linear park system linking the Santa Fe railroad right-of-way jogging trail to the beach with a network of walkstreets and public open spaces. See Figure NR-1 of the General Plan).

**B. Transit Policies**

Policy I.B.3: The City shall encourage pedestrian and bicycle modes as a transportation means to the beach.

**II. COASTAL LOCATING AND PLANNING NEW DEVELOPMENT POLICIES**

Policy II.1: Control Development within the Manhattan Beach coastal zone.

**A. Commercial Development**

Policy II.A.2: Preserve the predominant existing commercial building scale of one and two stories, by limiting any future development to a 2-story maximum, with a 30' height limitation as required by Sections A.04.030, A.16.030, and A.60.050 of Chapter 2 of the Implementation Plan.

Policy II.A.3: Encourage the maintenance of commercial area orientation to the pedestrian.

The Final EIR for the Civic Center/Metlox project also provides a discussion on consistency with the policies of the LCP.

**SECTION 2.** The Planning Commission hereby APPROVES the subject Master Use Permit Amendment subject to the following conditions.

***General Conditions***

1. The proposed project shall be in substantial conformance with the modification request, as approved by the Planning Commission on February 14, 2018, subject to any special conditions set forth below. The Director of Community Development ("Director" hereinafter) shall determine whether any deviation from the approved project is substantial which requires an amendment to the Master Use Permit or any other discretionary entitlements. Any substantial deviation from the approved plans or Project description shall require approval from the Planning Commission.

***Land Use***

(This condition replaces Condition 25 A and B – City Council Resolution No. 5770)

2. The following land uses and maximum square footages, as defined and approved by the DDA/Ground Lease, and shall be allowed:
  - A) Retail Sales and services, including food service uses, 20,000 square feet total maximum, including:
    - a) Retail sales;
    - b) Personal Services;
    - c) Retail/specialty food service uses that are non-destination type establishments such as a bakery, tea salon, coffee house, ice cream shop, yogurt, candy, cookies, juices, and other similar limited specialty food items. Each business is limited to a maximum of 300 square feet of outdoor seating area, including table, chairs and benches, within the Town Square and Public Areas:
    - d) Limited Personal Improvement Services, such as yoga studios, spin studios, pilates and personal training are permitted in Building C, 1200 Morningside Drive and 451 Manhattan Beach Boulevard, Suite C: and,
    - e) Similar uses identified as permitted (by right) in the underlying zoning district (CD) which are not included in this Master Use Permit shall be left to the discretion of the Director of Community Development.
  - B) Eating and Drinking Establishments (restaurants), 14,432 square feet total maximum, (including 9,916 square feet maximum dining/seating area regardless of whether located indoors or outdoors). All second floor outdoor dining is prohibited.

**Alcohol**

(This condition replaces Condition 38 – City Council Resolution No. 5770, as amended by Condition No. 6 in Resolution No. PC 08-08)

3. All restaurants may provide full liquor service, which is incidental to, and in conjunction with, the service of food. Service of alcohol at the restaurants shall be in conjunction with the service of food at all times during all hours of operation.

**Procedural**

4. *Expiration.* Unless appealed to the City Council, the subject Master Use Permit Amendment shall become effective after expiration of the time limits for appeal [] established by Manhattan Beach Municipal Code and authorization by the California Coastal Commission.
5. *Terms and Conditions are Perpetual; Recordation of Covenant.* The provisions, terms and conditions set forth herein are perpetual, and are binding on the Applicant, its successors-in-interest, and, where applicable, all tenants and lessees of the site. Further, the Applicant shall submit to the City for recordation a covenant indicating its consent to the conditions of approval of this Resolution with the Office of the County Clerk/Recorder of Los Angeles. The covenant is subject to review and approval by the City Attorney. APPLICANT shall deliver the executed covenant, and all required recording fees, to the Department of Community Development within 30 days of the adoption of this Resolution. If APPLICANT fails to deliver the executed covenant within 30 days, this Resolution shall be null and void and of no further effect. Notwithstanding the foregoing, the Director may, upon a request by APPLICANT, grant an extension to the 30-day time limit.
6. *Review.* All provisions of the Use Permit, as amended by this Resolution No. 18-XX are subject to review by the Community Development Department 6 months after occupancy and yearly thereafter. At any time in the future, the Planning Commission or City Council may review the Use Permit for the purposes of revocation or modification. Modification may consist of conditions deemed reasonable to mitigate or alleviate impacts to adjacent land uses.
7. *Indemnity, Duty to Defend and Obligation to Pay Judgments and Defense Costs, Including Attorneys' Fees, Incurred by the City.* APPLICANT shall defend, indemnify, and hold harmless the City, its elected officials, officers, employees, volunteers, agents, and those City agents serving as independent contractors in the role of City officials (collectively "Indemnitees") from and against any claims, damages, actions, causes of actions, lawsuits, suits, proceedings, losses, judgments, costs,

and expenses (including, without limitation, attorneys' fees or court costs) in any manner arising out of or incident to this approval, related entitlements, or the City's environmental review thereof. APPLICANT shall pay and satisfy any judgment, award or decree that may be rendered against City or the other Indemnitees in any such suit, action, or other legal proceeding. The City shall promptly notify APPLICANT of any claim, action, or proceeding and the City shall reasonably cooperate in the defense. If the City fails to promptly notify APPLICANT of any claim, action, or proceeding, or if the City fails to reasonably cooperate in the defense, APPLICANT shall not thereafter be responsible to defend, indemnify, or hold harmless the City or the Indemnitees. The City shall have the right to select counsel of its choice. APPLICANT shall reimburse the City, and the other Indemnitees, for any and all legal expenses and costs incurred by each of them in connection therewith or in enforcing the indemnity herein provided. Nothing in this Section shall be construed to require APPLICANT to indemnify Indemnitees for any Claim arising from the sole negligence or willful misconduct of the Indemnitees. In the event such a legal action is filed challenging the City's determinations herein or the issuance of the approval, the City shall estimate its expenses for the litigation. APPLICANT shall deposit that amount with the City or enter into an agreement with the City to pay such expenses as they become due.

SECTION 3 The entitlements conferred by this Resolution shall lapse five years after the date of this resolution, unless the subject improvements are installed or the Applicant seeks an extension pursuant to Municipal Code Section 10.84.090.

SECTION 4 Pursuant to Public Resources Code Section 21089(b) and Fish and Game Code Section 711.4(c), the Project is not operative, vested or final until the required filing fees are paid.

SECTION 5 The Planning Commission's decision is based upon each of the totally independent and separate grounds stated herein, each of which stands alone as a sufficient basis for its decision.

SECTION 6 The Secretary shall certify to the adoption of this Resolution and shall forward a copy of this Resolution to the applicant. The Secretary shall make this resolution readily available for public inspection.

I hereby certify that the foregoing is a full, true, and correct copy of the Resolution as adopted by the Planning Commission at its regular meeting of February 14, 2018, and that said Resolution was adopted by the following vote:

**AYES:**  
**NOES:**  
**ABSTAIN:**  
**ABSENT:**

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ANNE MCINTOSH  
Secretary to the Planning Commission

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Rosemary Lackow  
Recording Secretary

# Exhibit B for Metlox Item

Link to Staff Report and all related attachments –  
Planning Commission Meeting of January 24, 2018

[http://cms6ftp.visioninternet.com/manhattanbeach/commissions/  
planning\\_commission/2018/20180124/20180124-3.pdf](http://cms6ftp.visioninternet.com/manhattanbeach/commissions/planning_commission/2018/20180124/20180124-3.pdf)

**EXHIBIT B  
PC MTG 02-14-18**

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