MEMBERS
S. William Abel
John Hamill
Peter N. Lindquist,
Vice-Chair
Gene Muir
David Myers
Toby Reading
Michael P. West, Chair

Department of Public Works
Mike Azevedo, Secretary to the
Airport Advisory Committee
1215 Market Street
Colusa, CA 95932
Phone: (530)458-0580
Fax: (530)458-5000
colusacountyca.iqm2.com
www.countyofcolusa.com

COLUSA COUNTY
Airport Advisory Committee
SPECIAL MEETING
AGENDA
August 3, 2022

Board Chambers
546 Jay Street, Suite 108
Colusa, CA 95932

Welcome to a meeting of the Colusa County Airport Advisory Committee. If you are scheduled to address the Committee, please state your full name for the record. Regularly numbered items may be considered at any time during the meeting. All items are listed in accordance with the Ralph M. Brown act. We invite all members of the public to attend.

You can listen to the meeting by dialing one of the teleconference numbers below:

Phone: **1-916-246-0723**
Toll-Free: **1-800-356-8278**
Conference Code: **401978** **(This line is for listening in only.)**

9:00 a.m. CALL TO ORDER
- Pledge Of Allegiance

I. PUBLIC COMMENT

II. SITTING AS THE AIRPORT LAND USE COMMISSION

1. Adopt a Resolution making a finding that the Joel Gonzalez Extracts' (ALUC #22-03) project is consistent with the County's Airport Land Use Compatibility Plan.

2. Adopt a Resolution making a finding that the XO Cannabis (ALUC #22-04) project is consistent with the County's Airport Land Use Compatibility Plan.

3. Adopt a Resolution making a finding that the Patrick Barros (ALUC #22-05) project is consistent with the County's Airport Land Use Compatibility Plan.

4. Adopt a Resolution making a finding that the RHF Partnership's (ALUC #22-06) project is consistent with the County's Airport Land Use Compatibility Plan.

III. REPORTS

1. Staff Comments/Reports
2. Member Comments/Reports
3. Ad Hoc Committee Report

ADJOURN

THE NEXT REGULAR MEETING OF THE COLUSA COUNTY AIRPORT ADVISORY COMMITTEE IS SCHEDULED FOR September 12, 2022.

PERIOD OF PUBLIC COMMENT: Any person may speak about any subject of concern, provided it is within the jurisdiction of the Colusa County Airport Advisory Committee and is not already on today's agenda. The total amount of time allotted for receiving such public communication shall be limited to a total of 15 minutes per issue and each individual or group will be limited to no more than 5 minutes each within the 15 minutes allocated per issue. **Note:** No action shall be taken on comments made under this comment period.

ADA COMPLIANCE: Upon request, Agendas will be made available in alternative formats to accommodate persons with disabilities. In addition, any person with a disability who requires a modification or accommodation to participate or attend this meeting may request necessary accommodation. Please make your request to the County Board Clerk, specifying your disability, the format in which you would like to receive this Agenda, and any other accommodation required no later than 24 hours prior to the start of the meeting.

All supporting documentation is available for public inspection and review in the office of the Board Clerk, 547 Market Street, Suite 102, Colusa, CA 95932 during regular business hours 8:30 a.m. to 5:00 p.m., Monday through Friday.

COUNTY OF COLUSA, CA

Request For Airport Advisory Committee

MEETING DATE: **August 3, 2022**

DEPARTMENT: **Community Development**

FROM: **Greg Plucker**

SUBJECT: **Joel Gonzalez Extracts (ALUC #22-03) Consistency Review**

SITTING AS COLUSA COUNTY AIRPORT LAND USE COMMITTEE
Adopt a Resolution making a finding that the Joel Gonzalez Extracts' (ALUC #22-03) project is consistent with the County's Airport Land Use Compatibility Plan.

PROJECT OVERVIEW:

Referring Agency:

City of Colusa
ATTN: Jesse Cain
425 Webster Street
Colusa, CA 95932
citymanager@cityofcolusa.com
(530) 458-4740

Owner:

Colusa Industrial Properties
50 Sunrise Boulevard
Colusa, California 95932

Project Summary:

The City of Colusa has referred the proposed the Joel Gonzalez Extracts' (ALUC #22-03) project to the Colusa County's Airport Land Use Commission (ALUC) for a consistency review of the project with the Colusa County's Airport Land Use Compatibility Plan (ALUCP).

As detailed in the project description (Exhibit "A"), Joel Gonzalez Extracts' proposes to establish a cannabis extraction manufacturing use within an existing 4,800 sq.ft. building and would utilize approximately .35 acres of an approximate 1.65-acre site in the Colusa Industrial Park. The existing building measures 80 feet in length by 60 feet in width, is approximately 15 feet tall and has corrugated metal siding and roof material.

The use within the building would involve separating cannabinoids from cannabis plant material using chemical solvents and processing. The cannabinoid extraction would involve a food grade propane/butane mixture, and food grade nitrogen stored within a C1D1 room inside the existing building. A Class 1 Division 1 room is a separate laboratory facility which is specifically designed and certified to prevent explosions, and fires. A C1D1 clean room typically includes the following features:

- Explosion proof lights
- Emergency lighting
- Explosion proof outlets and switches
- Explosion proof exit signs
- Explosion proof ventilation fans
- Fume hood lights

The hours of operation would generally occur overnight from between 11 pm to 10 am. Initially, the owner would be the sole employee but could add one to two employees depending on demand. Vehicular traffic would be limited to the employee(s) personal vehicle(s), weekly garbage truck, and monthly supply deliveries.

Exterior storage of processed material would be securely stored for weekly refuse pickup and there would be no exterior storage of hazardous materials.

Exterior lighting would be provided by exterior building lighting which would be shielded and directed downward to prevent off-site glare. The perimeter of the property is secured by an existing 6-foot high chain link fence.

Location:

The subject site has an address of 2876 Niagara Avenue in the City of Colusa. As shown in the location map (Attachment #1), the site is located approximately 500 feet west of the centerline of the Airport Runway.

<u>ANALYSIS:</u>

Airport Land Use Compatibility Plan Review (ALUCP):

The proposed project requires that the Commission review the proposed project for consistency with the ALUCP due to the following:

1.) Section 2.2.2 (e): Proposed development agreements or amendments to such agreements.

The following issues require the Commission's review for consistency with the ALUCP.

Use Compatibility:

The subject site is located in the ALUCP's B2 Compatibility Zone. The B2 Compatibility Zone is described as a "Sideline Zone" with Moderate to High Noise Level Risks and a Low to Moderate Risk Level Zone for Safety and Airspace Protection Factors.

The proposed use within the building would best be described as a laboratory by the ALUCP and is considered "conditionally compatible due to the storage of hazardous (flammable, explosive, corrosive, or toxic) materials which are allowed only for onsite use.

Population Density:

The B2 Compatibility Zone specifies a Maximum Sitewide Average density of 60 persons per acre and a Maximum Single Acre density of 180 persons. Since the total number of persons allowed by the Maximum Sitewide Average density (21 persons) is less than the Maximum Single Acre density (63) the Maximum Sitewide Average density would limit the total persons on the site to 21 persons.

The compatibility plan also assumes an indoor person density of 300 sq.ft. per person for laboratory uses for a total of 16 persons within the 4,800 sq.ft. building as shown in the below table. The applicant would be the sole employee present in the first phase and up to 2 additional employees could be added in the future.

B2 Compatibility Zones Maximum Density Intensity			
	People/Acre	Project Site Size (1.65 Total Acres)	Allowed Persons
Maximum Sitewide Average	60	0.35	21
Maximum Single Acre*	180	0.35	63

Anticapated Indoor Density (1,000 sq.ft. per person **)			
	Sq.Ft.	Persons Per Sq.Ft	Persons
Anticapated Indoor Occupancy	4,800	300	16

Notes: *The Maxium Sitewide Average would limit the total persons to 21.
**Employee Density from Table 3A, ALUCP, Page 3-36

Accordingly, the intensity of use is within the ALUCP requirements. Staff has included a consistency finding referencing the ALUCP employee density standards to provide flexibility for future employment changes without further ALUC review; provided that the person per acre density standard is not exceeded.

Open Space:

With respect to the open land requirement in the B2 Zone, as shown in the table below, there is no open space requirements for the B2 Zone per Table 3A of the ALUCP.

However, as is shown, there is approximately 73 acres of land which qualifies as open space per Section 3.4.10 of the ALUCP.

B2 Open Space Calculation					
Compatibility Zone	Total Acreage	Open Space % Required	Required Open Space	Ex Open Space Area(1)	Ex Open Space %(1)
B2 Open Space Calculation	180	N/A	N/A	73.30	40.63%

Notes: (1) Pursuant to ALUCP Section 3.4.10, only those areas that are free of most structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires with a minimum dimensions of 75 feet by 300 feet are included in the open space area calculation.

Noise Impacts To Sensitive Receptors:

Sensitive receptors at the site would be any office workers who could be exposed to aircraft noise levels in excess of 70 Ldn dB. The typical building construction standards for an office space (2 x 4 framing, dry wall construction, R13 insulation) would offer approximately a 25 dB reduction in the noise level. While office uses have not been specifically proposed at the present time, future office space tenant improvements would require additional noise reduction measures to ensure that the interior noise would be below the 45 Ldn dB interior noise standard for office users. Staff has included a consistency finding requiring additional noise mitigation measures to provide the flexibility to establish office uses in the future without further ALUC review.

Light and Glare:

The project description states that exterior wall-mounted lighting would be installed. Provided that the lights are downward facing and shielded it would prevent light and off-site glare impacts. A consistency finding has been included reiterating that all exterior lighting shall be shielded and facing downward to prevent off-site light and glare impacts.

Hazardous Materials

As previously mentioned, the use within the building would involve the separating cannabinoids from cannabis plant material using food grade propane/butane mixture, and food grade nitrogen stored within a C1D1 room inside the existing building. The quantities of the material include the propane/butane bottles (3 approximately 4'6" tall by 18" in diameter) and the nitrogen bottle (1 approximate 4' tall by 12" in diameter). With the storage in a Class 1 Division 1 room, review and approval by the City of Colusa Fire Department and the Colusa County Certified Unified Program Agency (CUPA), staff believes that the use would not propose a hazard to aviation or surrounding businesses.

Development Agreement:

The Development Agreement requirement is part of the City's entitlement requirements to permit a cannabis business within the City limits. Section 2.2.2(e) of the ALUCP specifies that "Development Agreements or Amendments to such Agreements" require ALUC consistency review. Since the City Code requires a Development Agreement as part of the entitlements for cannabis businesses, ALUC consistency review is required.

The proposed development agreement would vest the entitlement approvals of the project per its terms and conditions. The development agreement does not conflict with the proposed resolutions and the findings and conditions (Attachment #2).

Avigation Easement:

Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County. A finding has been included which requires that an Avigation Easement, substantially consistent with the sample easement of Appendix "E" of the ALUCP, shall be granted to the County of Colusa.

PUBLIC COMMENTS:

No public comments have been received at this time. If comments are received following distribution of this staff report, those comments will be provided to the Airport Land Use Commission at the meeting.

ALUC STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the proposed Resolution finding that this project is compatible with Airport Land Use Compatibility Plan.

FISCAL IMPACT/FUNDING SOURCE

None

PREPARATION:

Prepared By:

Greg Plucker, Community Development Director (530) 458-0483

ACTION FOR THE CLERK

Obtain the Chair's signature on the resolution and forward an electronic copy to the Community Development Director.

ATTACHMENTS:

- Resolution Approving ALUC 22 03 Joel Gonzalez Extracts (DOCX)
- Exhibit "A" - Project Description (PDF)
- Attachment #1 Project Location (DOCX)

- Attachment #2 Joel Gonzalez Extracts Development Agreement (PDF)

RESOLUTION NO. 22-__

A RESOLUTION OF THE COLUSA COUNTY AIRPORT LAND USE COMMISSION MAKING AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY FINDINGS REGARDING THE JOEL GONZALEZ EXTRACTS' PROJECT

WHEREAS, on the proposed Joel Gonzalez Extracts project was referred to the Airport Land Use Commission (ALUC) for a consistency determination with the Colusa County's Airport Land Use Compatibility Plan (ALUCP);

WHEREAS, the project site is located at 2876 Niagara Avenue (APN: 017-130-084) in the City of Colusa and is approximately 500 feet west of the centerline of the Colusa County Airport Runway;

WHEREAS, the project site is located within the ALUCP's B2 Compatibility Zone and pursuant to the Airport Land Use Compatibility Plan (ALUCP) Section 2.2.2 (e) (development agreement) the project is required to be reviewed by the ALUC for consistency with the ALUCP; and

WHEREAS, on the proposed project was submitted to the ALUC for review of its consistency with the ALUCP and at which time the Commission considered the staff report, the requirements of the ALUCP and all oral and written testimony presented concerning the application.

NOW, THEREFORE, BE IT RESOLVED that the Colusa County Airport Land Use Commission makes the following determinations and findings based on the totality review of the project:

I. The Commission can only make a finding of consistency or inconsistency for the proposed buildings and use considered herein and is unable to make any finding of consistency with respect to any future use or development on the project site and, as such, all future uses and development not considered herein must be submitted to the County's ALUC staff to determine if the Commission is required to make a review of consistency consistent with the ALUCP.

II. The proposed use and development as described in Exhibit "A" attached hereto and incorporated by reference has the potential to be inconsistent with the ALUCP due to use compatibility, density, light and glare impacts, and noise impacts to sensitive receptors. All of which could negatively impact aviation at the Colusa County Airport. However, based on the following facts, conditions on the proposed development and use, and agreement of project proponents to said conditions detailed herein the proposed project would be consistent with the ALUCP:

A. Use Compatibility

1. The subject site is located in the ALUCP's B2 Compatibility Zone and laboratories are defined as a "conditional" use within said zone.

2. The proposed laboratory use would involve the use of hazardous materials of an explosive and flammable nature. In order to mitigate this safety risk, the City of Colusa is requiring that a hazardous material safety plan be submitted to the City of Colusa Fire Chief for review and approval. In addition, a Hazardous Material Business Plan is also required to be submitted for review and approval to the Colusa County Certified Unified Program Agency (Colusa CUPA). Prior to any regulated materials being brought to the site, the Hazardous Material Plan shall be approved by the Colusa CUPA.

3. Hazardous materials (food grade propane/butane mixture, and food grade nitrogen) would be stored within a C1D1 room inside the existing building. The specifications of the C1D1 room is subject to review and approval by the City of Colusa Fire Chief.

B. Density

1. Based on the 300 sq.ft./employee standard of Table 3A of the ALUCP, a maximum of 16 persons would be anticipated indoors for the "laboratory" use;

2. Project Proponents have stated that a total of 1 employee would be present in the first phase and a maximum of 2 employees would be on the site at full occupancy. Therefore, the number of persons on the site would be consistent with the ALUCP.

3. In the future, should occupancy of the site be proposed or would exceed the ALUCP's calculated maximum of 21 persons the occupancy density shall be reviewed by ALUC staff to determine whether said occupancy would require further consistency review by the ALUC. This consistency review shall occur prior to said increased occupancy occurring.

C. Exterior Lighting Impacts

1. The installation of high-intensity and/or unshielded exterior building or other outside lighting could create a negative impact to night-time aircraft flight operations.

2. Any exterior lighting that is installed in conjunction with the proposed development shall be at the minimum intensity level to provide the necessary illumination, shall be shielded to prevent off-site glare impacts, and shall be directed downward to focus the light on the ground.

D. Avigation Easements

1. Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County.

2. An Avigation Easement substantially consistent with the sample easement of Appendix "E" of the ALUCP shall be granted to the County of Colusa to the satisfaction of the Community Development Director.

E. Exposure of Persons to Excess Noise

1. The proposed buildings are subject to a noise exposure level of approximately 70 dB Ldn. Typical construction techniques for possible future noise sensitive office space uses would afford approximately 25 dB of noise reduction and would significantly reduce aircraft noise impact.

2. Any future interior office space or use to support the proposed project shall be constructed to meet the minimum construction requirements necessary to obtain an interior noise level pursuant to the City's General Plan Noise Element (45 dB Ldn).

PASSED AND ADOPTED this _____ day of __________, 2022 by the following vote:

AYES:

NOES:

ABSENT:

____
Mike West, Chair
Airport Land Use Commission

ATTEST: Wendy G. Tyler, Secretary
Airport Land Use Commission

____
Melissa Kitts, Deputy Clerk

ATTEST TO FORM

____
Richard Stout, County Counsel

Exhibit "A"
Project Description
Joel Gonzalez Extracts

1. **Project Location:** Parcel "A" of LLA 17-8-6
2. **Building Size:** Existing 4,800 sq.ft. metal sided building.
3. **Proposed Use:** Cannabis Extraction Manufacturing Facility

Inside of Building Uses:

Uses occurring within the buildings will include the following – Cannabis Extraction Manufacturing (separating cannabinoids from cannabis plant material using chemical solvents) and post-processing will be done within the facility.

- **End Products:** Cannabis Concentrates
- **Hazardous materials:** Food Grade Propane / Butane Mixture, and Food Grade Nitrogen stored inside the C1D1 Room inside the facility.
- **Hours of operation:** Generally Off-Peak Hours between 11 pm - 10 am
- **Number of employees:** No Employees to start. Owner-operated in phase1 and I will hire one to two employees for phase2 as business deemed necessary.

Uses occurring outside the building:

- **Storage**: Processed material will be stored securely outside for weekly garbage pickup. There will be no external storage of end products or Hazardous materials.
- **Types of vehicles**: Standard personal vehicle for the owner, Garbage truck for weekly pick up, supply deliveries will be delivered monthly or every other month.
- **Projected number of trips:** Minimal trips to and from the facility mainly the owner during operating hours, and biomass deliveries.
- **Location of vehicle parking:** In the back of the building.
- **Exterior improvements:**
  A 6 ft in height perimeter fence has been installed.
  Gravel compacted base lot/dirt
- **Exterior lighting:** Exterior wall-mounted lighting will be installed

062822

ATTACHMENT #1
ALUC 22-03
Joel Gonzalez Extracts - Project Location

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Colusa
425 Webster Street
Colusa, CA 95932

Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this _________ day of ____________, 2022 (the "Execution Date"), by and between the **CITY OF COLUSA, a California municipal corporation** ("City") and **Joel Gonzalez Extracts, Inc.** ("Owner"). City and Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement.

RECITALS

A. The State of California enacted California Government Code Sections 65864 *et seq.* ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction.

B. The purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the developer, and to meet certain public purposes of the local government.

C. Owner intends to remodel up to 4,800 square feet of existing interior building space on 1.6 acres of currently developed property (APN: 017-130-028-000) for the purposes of cannabis extraction under a Type 7.(Volatile Extraction) California License. The site is more fully described in Exhibit A and shown on the map in Exhibit B.

D. Owner intends to operate a Cannabis Manufacturing Facility as defined in the City of Colusa City Code. Such Cannabis Manufacturing Facilities shall operate in accordance with the California State cannabis laws, creating a unified regulatory structure for adult use and medical cannabis. Prior to operating a cannabis facility, Tenants shall be required to obtain a special use permit and regulatory permit from City. Owner and Tenants (if any) shall collectively be referred to in this Agreement as Developers.

E. Ultimately, Developer intends to obtain all necessary state licenses issued pursuant to MAUCRSA to operate the Cannabis Manufacturing Facility at the Site once such licenses are being issued.

F. Developers presently intend to develop and open a Cannabis Manufacturing Facility on the Site (featuring 15 to 20 employees) consistent with the California Marijuana Laws and Project Approvals (known as the "Project" as further described below).

G. On July 18, 2017, City adopted Ordinance 519 permitting Cannabis Manufacturing Facilities in strict compliance with the applicable California laws regulating cannabis cultivation, manufacturing, processing, and distribution under certain conditions and provisions. Currently, City is updating the City Code to comply with new State cannabis regulations that are in effect as of the date of this Agreement.

H. City and Owner have agreed that, as a condition of allowing the Project, as defined herein, and due to the unique circumstances of the proposed Project, Owner shall pay to the City quarterly fees based on the gross revenue of the Cannabis Manufacturing operations as hereinafter defined, which fees shall abate if and when the City adopts a tax on Cannabis Manufacturing Facilities.

I. The City of Colusa, as "Lead Agency," has determined that —based upon CEQA Guidelines Section 15061 (b) (3)— the Project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

J. City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, zoning code and municipal ordinances.

K. City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than defer its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner has represented to City that it would not consider or engage in the Project absent City approving this Agreement; *i.e.*, assuring Owner that it will enjoy the development rights.

L. The City agrees that Owner's land use entitlements for the Project shall vest for the term of this Agreement as described below.

M. After conducting a duly noticed hearing on __________, 2022, the Planning Commission of the City reviewed, considered and voted ______, passed a resolution recommending City Council approval of an Ordinance approving this Agreement.

N. After conducting a duly noticed hearing on,______________ and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the zoning code; is in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Colusa and its residents.

O. Production Fee. "Production Fee" shall mean any cannabis cultivation, processing, testing, distribution, and transportation of cannabis and cannabis products.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Binding Effect of Agreement. The Parties agree that the Recitals above are true and correct and intend to be bound by same; the Parties further agree to the incorporation by reference herein of said Recitals, together with all definitions provided and exhibits referenced therein. Except as otherwise provided in Section 15 of this Agreement, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide continued notice thereof, the Parties will record this Agreement with the Colusa County Recorder. The word "Owner" as previously defined and used herein shall include successor owners, apart from government or quasi-public agencies, of any portion of the Site. Should the size or orientation of any Site

component specified above be changed in minor respects, *e.g.*, changed by a lot line adjustment, this Agreement shall not thereby be deemed to have been affected or invalidated, but the rights and obligations of the Parties and their successors shall remain as provided herein.

2. Relationship of the Parties. It is hereby specifically understood and acknowledged that the Project is a private project and that neither City nor Developers will be deemed to be the agent of the other for any purpose whatsoever. City and Developers hereby renounce the existence of any form of joint venture or partnership between or among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Developers joint venturers or partners.

3. Term. Except as otherwise specified herein, the term of this Agreement (the "Term") is 10 years from the date the Owner begins commercial operation at the Project Site ("Operation Date"). The Operation Date shall be no later than 12 months following the Execution Date. The Term shall generally be subject to earlier termination or extension as hereinafter provided.

3.1 Term Extension – Third Party Issues. Notwithstanding the Parties' expectation that there will be no limit or moratorium upon the Project's development or the issuance of building or other development related permits (a "Development Limitation") during the Term, the Parties understand and agree that various third parties may take action causing a *de facto* Development Limitation. Consequently, the Term shall be extended for any delay arising from or related to any of the potential Development Limitations that follow in the subsections below for a time equal to the duration of that delay occurring during the Term. No Development Limitation may arise or result from an action or omission by Developers.

3.1.1 Litigation. Any third party-initiated litigation that arises from or is related to any City action or omission with respect to this Agreement or any subsequent City approval required in connection with the Project's development, or third party initiated litigation having the actual effect of delaying the Project's development. This extension period related hereto shall include any time during which appeals may be filed or are pending.

3.1.2 Government Agencies. Any delay arising from or related to the act(s) or omission(s) any third-party governmental agency, quasi-public entity or public utility, and beyond the reasonable control of Developers.

3.1.3 *Force Majeure*. Any delay resulting from riot, war, acts of terrorism, an event during the Term creating radioactive or toxic/hazardous contamination, a catastrophic earthquake, flood, fire or other physical natural disaster, excluding weather conditions regardless of severity, strikes or industrial disputes at national level effecting development involved personnel not employed by Developers, their subcontractors or suppliers and effecting an essential portion of the Project's development, excluding any industrial dispute that is specific to development taking place as a part of the Project.

3.2 Term Extensions. The Term of this Agreement will be extended for seven additional years upon a determination of the City Council, by way of resolution of the City Council acted on at a regularly scheduled meeting, that both of the conditions listed in subparts 3.2.1 and 3.2.2 below have been fully satisfied are the Owner is in full compliance:

3.2.1. No Default by Owner. Owner shall not be in default with respect to any provision of this Agreement or any subsequent agreement or understanding between the Parties arising from or related to this Agreement, having received notice from City of said default per this Agreement, or if Owner did in fact default as to this Agreement, upon notice from City, that Owner did cure said default during the period to cure provided herein to City's satisfaction.

3.2.2 Finding of Community Compatibility. The City Council shall review the operations of Owner prior to granting an extension of the term of this Agreement and make a finding that the Cannabis Manufacturing, notwithstanding that the Cannabis Manufacturing may not be in precise technical compliance with the issued regulatory permit and special use permit, continue to be compatible with surrounding land uses and are not detrimental to the public health, safety and general welfare.

3.2.3. Mutual Agreement of Parties. In addition to the process listed above for a seven-year term extension, this Agreement's Term may be extended by mutual agreement of the Parties and formal amendment of this Agreement.

3.3 Termination of Agreement. Upon the termination of this Agreement, either by expiration or otherwise, Developers shall have no right to engage in Cannabis Manufacturing at the Project Site, except as may otherwise be allowed by City ordinance, law or separate development agreement.

4. Defined Terms. As used in this Agreement, the following terms shall have the meanings hereinafter set forth:

4.1. Certified Report. "Certified Report" shall mean a detailed document prepared by Developers on a form acceptable to the City's Director of Finance to report to the City of the Cannabis Manufacturing distribution and sales, as defined herein, in the Project during each Operational Quarter, as defined herein. Each Certified Report shall be certified as true and correct by a duly authorized officer of Owner.

4.2. Production Fee. "Production Fee" shall mean a quarterly fee remitted to the City by Owner based on the gross wholesale receipts of its operations, as defined below, in the amount of 3% of gross sales from operations to begin after 8 months of commencement of operation.

4.3. Certification of Non-Income Tax Exemption. Owner certifies that Owner is not income tax exempt under State or Federal Law and that Owner will not file for such an exemption from the Internal Revenue Service or the Franchise Tax

Board. Owner will also require all Tenant(s) to certify that Tenant(s) are not income tax exempt under State or Federal Law and will not file for such an exemption.

4.4. Land Use Regulations. "Land Use Regulations" shall mean all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation or dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Project. "Land Use Regulations" do not include any City ordinance, resolution, code, rule, regulation or official policy governing:

4.4.1. The conduct or taxation of businesses, professions, and occupations applicable to all businesses, professions, and occupations in the City;

4.4.2. Other than as provided in this Agreement, taxes and assessments of general application upon all residents of the City, provided that the taxes and assessments are not imposed for the purpose of taxing the right, power or privilege of developing or improving land (e.g., excise tax) or to directly finance the acquisition or dedication of open space or any other public improvement in respect of which the Developer is paying any fee or providing any improvement pursuant to this Agreement;

4.4.3. The control and abatement of nuisances.

4.4.4. The granting of encroachment permits and the conveyance of rights and interests which provides for the use of, access to or the entry upon public property, as may be approved by mutual agreement between Developer and City; and

4.4.5. The exercise of the power of eminent domain.

4.5. "Existing Land Use Regulations" means all Land Use Regulations in effect as of the approval date of this Agreement, including the Project Approvals.

4.6. Operational Quarter. "Operational Quarter" shall mean any calendar quarter during which any gross revenue of the Project is produced.

5. Fee Payments by Owner. In consideration of City's entering into this Agreement and authorizing the development and operation of the Project, the requirements for City services created by the Project, the City insuring Developers compliance with this Agreement, California medical marijuana laws and the City's municipal ordinances, throughout the Term of this Agreement, Owner shall make the following payments to City:

5.1. Production Fee Payments by Owner. Quarterly payments of the Production Fee by Owner to the City as specified in Section 6 herein. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement, but the Production Fee under this Agreement shall cease if any City-wide tax is imposed specifically on Cannabis Manufacturing operations.

6. Payment Procedures. The following payment procedures shall apply during the operation of the Project:

6.1. Remittance of Fees; Certified Reports. Within thirty (30) calendar days following the end of each quarterly period during the Term of this Agreement, Owner shall submit the Certified Report to the City's Finance Director and a payment for the Production and Manufacturing, Cultivation and Distribution Fees for that Operational Period as identified in the Certified Report. Owner shall pay Fees to the City on a quarterly basis without exception. Any material misstatement or misrepresentation in the Certified Report and any failure to pay Fees when due shall constitute events of default by Developers subject to the default provisions of this Agreement.

6.2. Maintenance of Records. Developers shall maintain complete records of their operations to substantiate and document the content of each Certified Report. Such records shall include, without limitation, invoices and payments taken by Tenants and/or any operator of the facility. Developers shall maintain such records in a form and location reasonably accessible to the City, following reasonable notice to Developers and/or any operator, for a period of at least five (5) calendar years following Owner's submission of the Certified Report to which the records apply.

6.3. Audit. Within ninety (90) calendar days following the end of each Operational Quarter, the City may conduct an audit or arrange for a third-party independent audit, at Developers' expense, of Developers records regarding Certified Reports and the Fees. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Developers, and shall reasonably attempt to schedule the audit so as to reduce the impact on Tenants' operations as much as is feasible. Developers shall cooperate with the City in completing the audit. If the audit reveals that Owner has underpaid the Fees, Owner shall pay such underpaid amounts to the City within thirty (30) calendar days of receipt of written notice from the City's Director of Finance in addition to all costs of the audit, including city staff time and outside consultants. If the audit reveals that the Owner has overpaid any amount of the Production or Nursery Fees, City shall provide written notification to Owner and shall credit such amount against Owner's subsequent quarterly payment of Fees.

7. Covenants of Owner. During the Term of this Agreement, Owner hereby covenants and agrees with the City as follows:

7.1. Implementation. Owner shall use commercial reasonable efforts to pursue the implementation of the Project as expeditiously as feasible, in the form approved by the City, subject to all applicable laws, this Agreement, the Project Approvals and the Municipal Code.

7.1.1. Developer shall comply with all applicable state regulations governing its manufacturing operations. If permanent regulations are not in place at the time operations commence, Developer shall comply with whatever temporary, interim, or urgency regulations that are in effect pending the State's consideration and adoption of permanent regulations.

7.2. Enhanced Design Requirement. Owner shall submit a design plan for the building and site, for review and approval by the Planning Director, which shall incorporate at a minimum, security fencing and landscaping improvements consistent with the policies in the City's General Plan.

7.3. Maintain & Operate Project. Owner and Tenants shall maintain and operate the Project on the Site, once constructed, throughout the Term of this Agreement, in accordance with the Project Approvals and all City, and State laws.

7.4. Hold Harmless. Owner shall defend (with counsel reasonably acceptable to City), indemnify and hold City and its councilpersons, officers, attorneys, agents, contractors, and employees (collectively, the "Indemnified Parties") harmless from and against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees and costs), damages (including, without limitation, consequential damages), claims and liabilities arising from the Project, this Agreement, the approval of the Project, and the activities of Developers, their members, officers, employees, agents, contractors, invitees and any third parties on the Site, from and against any challenges to the validity of this Agreement or other Project Approvals. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement.

8. Covenants of City. During the Term of this Agreement, City hereby covenants and agrees with Owner as follows:

8.1. Expeditious Services. City shall process applications and address questions and concerns raised by Developers representatives at the "counter" at City Hall as expeditiously as reasonably possible. Upon Owner's request, or if, in an exercise of City's own discretion, City staff determines that it cannot comply with this section, City shall expeditiously engage the services of private contract planners, plan checkers or inspectors ("Private Contractors") to perform such services as may be necessary to assist in processing the project plans as described herein. Compensation of such Private Contractors shall be at Owner's sole cost and expense, inclusive of any administrative cost to City of integrating services by Private Contractors into the project's development processing. Owner shall pay such costs and expenses of Private Contractors via reimbursement to City, per City's applicable policies and procedures. City shall have absolute discretion in the selection of such Private Contractors.

8.2 Vested Rights. During the Term of this Agreement, Owner shall have the vested right and entitlement to develop and operate the Project in accordance with the Existing Land Use Ordinances, in addition to any Cannabis Manufacturing Operating Standards adopted by the City Council, which may be amended at the City's discretion. Parties acknowledge that neither the City nor the Owner can at this time predict when or the rate at which or the order in which parts of the Project will be developed. Owner shall have the vested right to develop the Project in such order and at such rate and at such times as Owner deems appropriate in the exercise of its business judgment, provided that Owner is in compliance with the Project Approvals.

8.3 Building Permits and Other Approvals and Permits. Subject to (a) Owner's compliance with this Agreement, the Project Approvals the Existing Land Use Ordinances, the Building Ordinances, and Operating Standards; and (b) payment of the usual and customary fees and charges of general application charged for the processing of such applications, permits and certificates and for any utility connection, or similar fees and charges of general application, the City shall process and issue to Developers promptly upon application therefore all necessary use permits, building permits, occupancy certificates, regulatory permits, licenses and other required permits for the construction, use and occupancy of the Project, or any portion thereof, as applied for, including connection to all utility systems under the City's jurisdiction and control (to the extent that such connections are physically feasible and that such utility systems are capable of adequately servicing the Project).

8.4 Procedures and Standards. The standards for granting or withholding permits or approvals required hereunder in connection with the development of the Project shall be governed as provided herein by the standards, terms and conditions of this Agreement and the Project Approvals, and to the extent not inconsistent therewith, the Existing Land Use Ordinances, but the procedures for processing applications for such permits or approvals (including the usual and customary fees of general application charged for such processing) shall be governed by such ordinances and regulations as may then be applicable.

9. Effect of Agreement.

9.1 Grant of Right. This Agreement shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full. The Parties acknowledge that this Agreement grants Owner the right and entitlement to develop the Project and use the land pursuant to specified and known criteria and rules as set forth in the Project Approvals and Existing Land Use Ordinances, and to grant the City and the residents of the City certain benefits which they otherwise would not receive.

9.2 Binding on City/Vested Right of Owner. This Agreement shall be binding upon the City and its successors in accordance with and subject to its terms and conditions notwithstanding any subsequent action of the City, whether taken by ordinance or resolution of the City Council, by referenda, initiative, or otherwise. The Parties acknowledge and agree that by entering into this Agreement and relying thereupon, the Owner has obtained, subject to the terms and conditions of this Agreement, a vested right to proceed with its development of the Project as set forth in the Project Approvals and the Existing Land Use Ordinances, and the timing provisions of Section 3, and the City has entered into this in order to secure the public benefits conferred upon it hereunder which are essential to alleviate current and potential problems in the City and to protect the public health, safety and welfare of the City and its residents, and this Agreement is an essential element in the achievement of those goals.

9.3 Future Conflicting Local Laws. If any City law, including ordinances, resolutions, rules, regulations, standards, policies, conditions and specifications (collectively "City Laws") are enacted or imposed by a citizen-sponsored initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with this Agreement, such City Law shall not apply to the Project Site or Project. The Parties, however, acknowledge that the City's approval of this Agreement and the City Approvals are legislative actions subject to referendum.

9.3.1 Without limiting the generality of the foregoing, no moratorium or other limitation whether relating to the rate, timing, phasing or sequencing of development affecting subdivision maps, building permits, or other Subsequent Approvals shall apply to the Project. Owner agrees and understands that the City does not have authority or jurisdiction over another public agency's authority to grant a moratorium or to impose any other limitation that may affect the Project.

10. Specific Criteria Applicable to Development of the Project.

10.1 Applicable Ordinances. Except as set forth in the Project Approvals and subject to the provisions of Section 10.2 below, the Existing Land Use Ordinances shall govern the development of the Site hereunder and the granting or withholding of all permits or approvals required to develop the Site; provided, however, that (a) Owner shall be subject to all changes in processing, inspection and plan-check fees and charges imposed by City in connection with the processing of applications for development and construction upon the Site so long as such fees and charges are of general application and are not imposed solely with respect to the Project Site, (b) Owner shall abide by the Building Ordinances in effect at the time of such applications, (c) Development Impact Fees to be paid by Owner shall be those in effect at the time permits are issued subject to those fees, and (d) development shall be consistent with current Operating Standards.

10.2 Amendment to Applicable Ordinances. Any change to the Existing Land Use Ordinances that conflicts with the Project Approvals shall nonetheless apply to the Project_if, and only if (i) it is consented to in writing by Owner in Owner's sole and absolute discretion; (ii) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety; (iii) it is required by changes in State or Federal law; (iv) it consists of changes in, or new fees permitted by, Section 4.1;or (v) it is otherwise expressly permitted by this Agreement. The Parties anticipate that the City shall subsequently adopt Operating Standards that govern this type of use, which Regulations, and any amendments thereto, shall apply to the Project.

10.3 Applicability of Zoning Amendments. In the event that the City zoning ordinance is amended by the City in a manner which provides more favorable site development standards for the Project Site or any part thereof than those in effect as of the Effective Date, Owner shall have the right to notify the City in writing of its desire to be subject to all or any such new standards for the remaining term of this Agreement. If City agrees, by resolution of the City Council, such new standards shall become applicable to the Project. Should City thereafter amend such new standards, upon the effective date of such amendment, the original new standards shall continue to apply to the Project as provided above, but Owner may notify City in writing of its desire to be subject to all or any such amended new standards and City shall agree in the manner above provided to apply such amended new standards to the Project.

11. Permitted Delays; Supersedure by Subsequent Laws.

11.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, Owner and City shall be excused from performance of their obligations hereunder during any period of delay caused by acts of mother nature, civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, any referendum elections held on the Enacting Ordinance, or the Land Use Ordinances, or any other ordinance effecting the Project or the approvals, permits or other entitlements related thereto, or restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting provisions of the Constitution or laws of the United States of America or the State of California or any codes, statutes, regulations or executive mandates promulgated thereunder (collectively, "Laws"), orders of courts of competent jurisdiction, or any other cause similar or dissimilar to the foregoing beyond the reasonable control of City or Owner, as applicable. Each Party shall promptly notify the other Party of any delay hereunder as soon as possible after the same has been ascertained. The time of performance of such obligations shall be extended by the period of any delay hereunder.

11.2 Supersedure of Subsequent Laws or Judicial Action.

11.2.1 The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new Law or decision issued by a court of competent jurisdiction (a "Decision"), enacted or made after the Effective Date which prevents or precludes compliance with one or more provisions of this Agreement. Promptly after enactment of any such new Law, or issuance of such Decision, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Owner and City shall have the right to challenge the new Law or the Decision preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, except that the Term shall be extended, in accordance with Section 2.1 above, for a period of time equal to the length of time the challenge was pursued, to extent such challenge delayed the implementation of the project.

12. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and the Developers. It is anticipated due to the term of this Agreement that refinements to the approvals may be appropriate with respect to the details of performance of the City and the Developers. To the extent allowable by law, the Developers shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Agreement.

When and if the Developers finds it necessary or appropriate to make changes, adjustments or clarifications, the Parties shall enter into memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Agreement. Operating Memoranda are not intended to constitute an amendment to this Agreement but mere ministerial clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized upon consultation with the Developers, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Agreement which requires compliance with the provisions of this Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby authorized to execute any operating Memoranda hereunder without further City Council action.

13. CEQA. All procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq*., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 *et seq*. have been satisfied.

14. Building Permits. Nothing set forth herein shall impair or interfere with the right of City to require the processing of building permits as required by law relating to any specific improvements proposed for the Project pursuant to the applicable provisions of the City's municipal code, inclusive of such California and International Codes as have been adopted in accord therewith, that are in effect at the time such permits are applied for; provided, however, no such permit processing shall authorize or permit City to impose any condition on and/or withhold approval of any proposed improvement the result of which would be inconsistent with this Agreement.

15. Assignment and Transfer of Rights. Except as otherwise provided in this Section, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants that run with the Site. Owner, for itself, its heirs, distributes, executors, administrators, legal representatives, successors and assigns, shall not, at any time during the Term, assign, convey, lease, sell or otherwise transfer all or any portion of its rights under this Agreement ("Assignable Rights") to a third party, a subordinate entity, or a related entity (make an "Assignment") without the prior written consent of City in each instance, which consent which consent will not be unreasonably withheld, provided the entity receiving the Assignment is qualified to conduct business under all City codes and ordinances, and obtains all required state and City permits. Any assignment in violation of this Section will be void. No permitted assignee of this Agreement may further assign this Agreement without City's prior written consent.

16. Review for Compliance.

16.1 Periodic Review. Pursuant to CGC §65865.1, City shall engage in an annual review this Agreement, on or before the anniversary of the date of execution, in order to ascertain Owner's good faith compliance with its terms (the "Periodic Review"). In the event City fails to formally conduct such annual review, Owner shall be deemed to be in full compliance with the Agreement.

17. Amendment or Cancellation. This Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties or in the manner provided in CGC §65865.1 or CGC §65868 and subsection 3.2 above.

17.1 Provide Notice. Provide the other Party with written notice of such State or Federal law or regulation, a copy of such law or regulation and a statement identifying how such law regulation conflicts with the provisions of this Agreement.

17.2 Meet and Confer. Upon notice by one Party to another as to preemption or frustration of this Agreement by law or regulation, the Parties shall promptly meet and confer in good faith and make a reasonable attempt to modify or suspend this Agreement to comply with such applicable Federal or State law or regulation. If the Parties cannot agree on a manner or method to comply with such Federal or State law or regulation, the Parties may, but shall not be required to, engage in alternative dispute resolution.

18. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing [such as Federal Express or UPS]), sent by telecopier or facsimile ("Fax") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

If to City: City of Colusa
425 Webster Street
Colusa CA 95932
Attention: City Manager

With copy to: Jones & Mayer, City Attorney

8150 Sierra College Blvd., Suite 190
Roseville California 95661
Attention: Ryan R. Jones, Esq.

If to Owner: _____________, Inc.
[enter address]

Notices sent in accordance with this Section shall be deemed delivered upon the: ***(a)*** date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); ***(b)*** date of actual receipt (if personally delivered by other means); ***(c)*** date of transmission (if sent by email or telecopier, so long is sender receives actual confirmation that the transmission was received); or ***(d)*** date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this Section.

19. Breach and Remedies. Notwithstanding any provision of this Agreement to the contrary, Developers shall not be deemed to be in default under this Agreement with respect to any obligation owed solely to City, and City may not terminate or modify Developers' rights under this Agreement, unless City shall have first delivered a written notice of any alleged default to Owner that specifies the nature of such default. If such default is not cured by Owner within sixty (60) days after receipt of such notice of default, or with respect to defaults that cannot be cured within such period, Owner fails to commence to cure the default within thirty (30) days after receipt of the notice of default, or thereafter fails to diligently pursue the cure of such default, City may terminate Owner's rights under this Agreement. Default by any Assignee or Owner's successor in interest shall affect only that portion of the Site owned by such Assignee or successor, and shall not cancel or diminish in any way Owner's rights with respect to any portion of the Site not owned by such Assignee or successor. In the event that a breach of this Agreement occurs, irreparable harm is likely to occur to the non-breaching Party and damages will be an inadequate remedy. To the extent permitted by law, therefore, it is expressly recognized that injunctive relief and specific enforcement of this Agreement are proper and desirable remedies, and it is agreed that any claim by Owner against City for an alleged breach of this Agreement shall be remedied by injunctive relief or an appropriate action for specific enforcement of this Agreement and not by a claim or action for monetary damages.

20. Entire Agreement. This Agreement and the Exhibits herein contain the entire integrated agreement among the Parties. The Parties intend that this Agreement state their agreement in full to each and every one of its provisions. Any prior agreements, understandings, promises, negotiations or representations respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Agreement, are agreed by all Parties to be null and void.

21. Severability. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any Party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

22. Attorneys' Fees. If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which constitute one and the same instrument.

24. Execution of Agreement. The Parties shall sign this Agreement on or within five (5) business days of approval.

25. Estoppel Certificate. City shall, at any time and from time to time within ten (10) days after receipt of written notice from Owner so requesting, execute, acknowledge and deliver to Owner a statement in writing: ***(a)*** certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and ***(b)*** acknowledging that there are no uncured defaults on the part of Owner hereunder or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Site. Upon Owner's written request, City shall issue a certificate of performance evidencing completion of any of Owner's obligation(s) under this Agreement.

26. Encumbrances on Real Property.

26.1 Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Site or any portion thereof or any improvements thereon then owned by such person with any mortgage, deed of trust or other security device ("Mortgage") securing financing with respect to the Site or such portion. City acknowledges that the lenders providing such financing may require certain modifications, and City agrees, upon request, from time to time, to meet with Owner and/or representatives of such lenders to negotiate in good faith any such request for modification. City further agrees that it will not unreasonably withhold its consent to any such requested modification. Any mortgagee or trust deed beneficiary of the Site or any portion thereof or any improvements thereon and its successors and assigns ("Mortgagee") shall be entitled to the following rights and privileges.

26.2 Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Developers may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with the Developers and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, provided, further, that any modifications of this Agreement are subject to the provisions of this Agreement relative to modifications or amendments.

26.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Site or any portion thereof by a Mortgagee (whether pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise) shall be subject to all of the terms and conditions of this Agreement.

26.4 Mortgagee Not Obligated. Notwithstanding the provisions of Section 26.2, no Mortgagee will have any obligation or duty under this Agreement to perform the obligations of Owner or other affirmative covenants of Owner hereunder, or to guarantee such performance, except that to the extent that Mortgagee opts to receive the benefits of the Agreement, including the right to operate, any covenant to be performed by Owner is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder. No Mortgagee will be liable for any monetary defaults arising prior to its acquisition of title to the Site or any portion thereof. Uncured monetary defaults will terminate the Agreement and Mortgagee's right to operate.

26.5 Written Notice of Default. Each Mortgagee shall be entitled to receive written notice from City of any default by Owner under this Agreement, if such default is not cured within thirty (30) days, provided such Mortgagee has delivered a written request to City for such notice. Each Mortgagee shall have a further right, but not the obligation, to cure such default for a period of thirty (30) days after receipt of such notice of default. Any non-curable defaults of Owner of any obligation owed solely to City arising prior to Mortgagee's acquisition of title to the Site or any portion thereof shall be waived; provided, however, the non-payment of money shall not be deemed a non-curable default.

27. Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties to this Agreement and, subject to City's written consent, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

28. Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of California. Furthermore, the Parties agree to venue in the Superior Court of Colusa County, California.

29. Mutual Covenants. The covenants contained herein, including those contained in the Recitals herein, are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

30. Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement ("Successors"). Furthermore, the rights and remedies, together with the benefits and burdens of this Agreement of each Party to this Agreement shall be coextensive with those of its Successors. All provisions of this Agreement shall be enforceable as equitable servitude's and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Site: *(a)* is for the benefit of and is a burden upon every portion of the Site; *(b)* runs

with the Site and each portion thereof; and, *(c)* is binding upon each Party and each Successor during ownership of the Site or any portion thereof. From and after recordation of this Agreement, the Agreement shall impute notice to all persons and entities in accord with the recording laws of this State.

31. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their Successors and Assignees. No other person or entity shall have any right of action based upon any provision of this Agreement.

32. Waiver. Failure by a Party to insist upon the strict performance of any of this Agreement's provisions by the other party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

33. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

34. Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Government Code Section 65868.5.

35. Headings. The headings in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

36. Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

37. Jointly Drafted. It is agreed among the parties that this Agreement was jointly negotiated and jointly drafted by the Parties and their respective counsel, and that it shall not be interpreted or construed in favor of or against any party solely on the ground that it drafted the Agreement. It is also agreed and represented by all Parties that said Parties were of equal or relatively equal bargaining power and that in no way whatsoever shall this Agreement be deemed to be a contract of adhesion, or unreasonable or unconscionable.

38. Independent Legal Counsel. Each party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement or has knowingly and

voluntarily declined to consult legal counsel, and that each Party has executed this Agreement with the consent and on the advice of such independent legal counsel.

39. Further Cooperation. The parties herein agree to execute any and all agreements, documents or instruments as may be reasonably necessary in order to fully effectuate the agreements and covenants of the Parties contained in this Agreement, or to evidence this Agreement as a matter of public record, if required to fulfill the purposes of this Agreement. The Parties further agree to mutually cooperate with one another in carrying out the purposes of this Agreement.

40. Enforceability. This Agreement shall not become binding and shall have no force and effect whatsoever until such time as it has been fully executed by and delivered to all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Execution Date.

Signatures on Next Page

"CITY" CITY OF COLUSA, CA
a California Municipal Corporation

Date: ____________________, 2022 By: ________________________________

Mayor

Attest:

By: ________________________________

City Clerk

Approved as to form:

Jones & Mayer

By: ________________________________
Ryan R. Jones, Esq.
City Attorney

"Authorized Agent" Ray Davis

By: ______________________________

Date: ____________________, 2022 By: ______________________________

By: ______________________________

Approved as to form:

By: ______________________________
Attorney for Owner

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the

STATE OF CALIFORNIA }
COUNTY OF ________________ }

On____________________ before me, ____
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF _______________ }

On___________________ before me, ______________________________________
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

EXHIBIT "A"

Legal Description

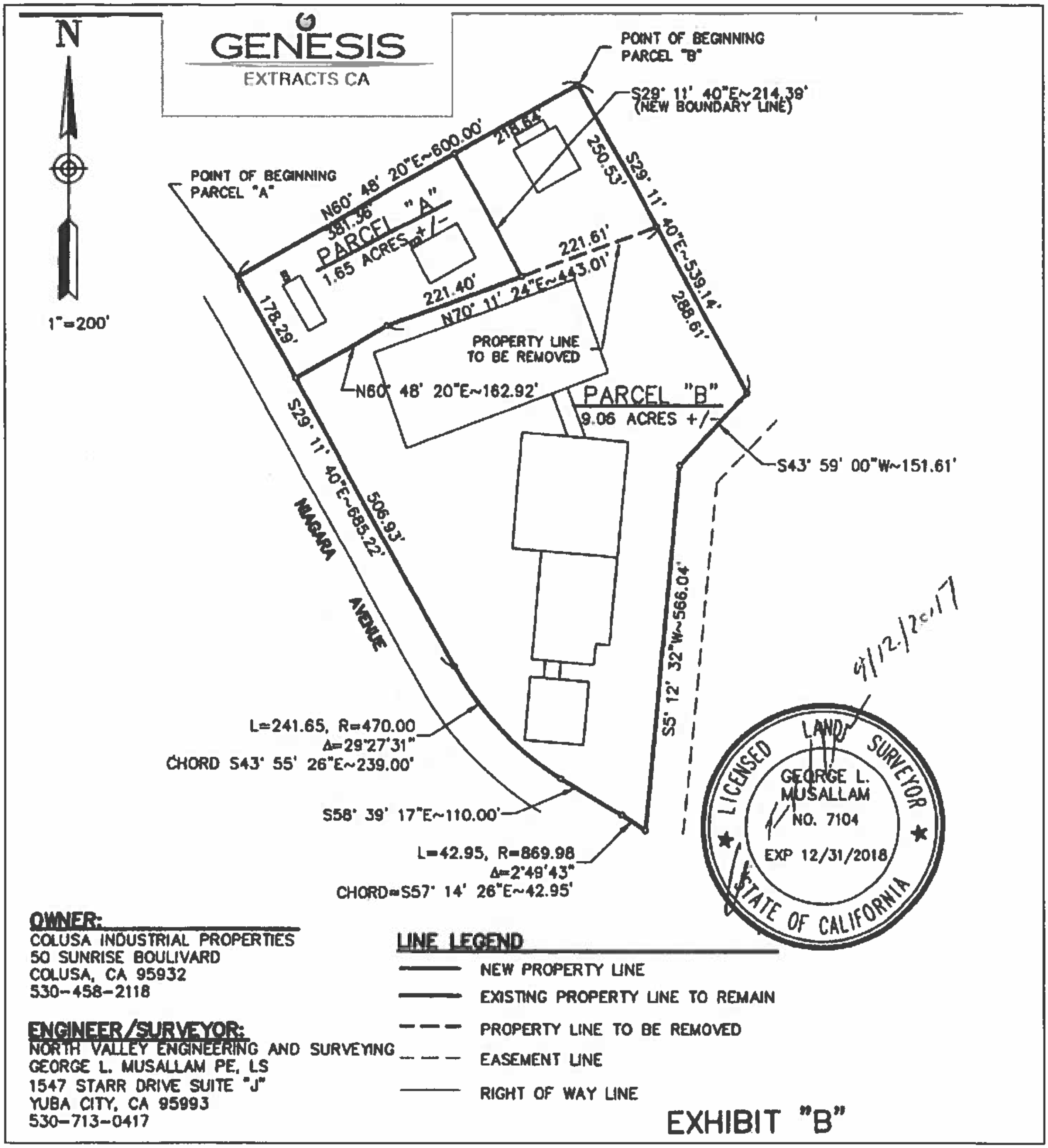
A PORTION OF PARCEL 2 AS SHOWN ON THAT CERTAIN MAP RECORDED IN BOOK 4 OF PARCEL MAPS AT PAGE 37 ON FILE IN THE OFFICE OF RECORDER, COUNTY OF COLUSA, STATE OF CALIFORNIA , AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID PARCEL 2; THENCE NORTH 60° 48' 20" EAST ALONG THE NORTHERLY PROPERTY LINE OF SAID PARCEL 2 A DISTANCE OF 381.36 FEET; THENCE SOUTH 29° 11' 40" EAST A DISTANCE OF 214.39 FEET; THENCE SOUTH 70° 11' 24" WEST A DISTANCE OF 221.40 FEET; THENCE SOUTH 60° 48' 20" WEST A DISTANCE OF 162.92 FEET TO A POINT ON THE EASTERLY RIGHT OF WAY LINE OF NIAGARA AVENUE; THENCE NORTH 29° 11' 40" WEST ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 178.29 FEET TO THE POINT OF BEGINNING.

CONTAINING 1.65 ACRES +/-.

EXHIBIT "B"

Site & Boundary Map



COUNTY OF COLUSA, CA

Request For Airport Advisory Committee

MEETING DATE:	**August 3, 2022**
DEPARTMENT:	**Community Development**
FROM:	**Greg Plucker**
SUBJECT:	**XO Cannabis (ALUC #22-04) Consistency Review**

SITTING AS COLUSA COUNTY AIRPORT LAND USE COMMITTEE
Adopt a Resolution making a finding that the XO Cannabis (ALUC #22-04) project is consistent with the County's Airport Land Use Compatibility Plan.

PROJECT OVERVIEW:

Referring Agency:

City of Colusa
ATTN: Jesse Cain
425 Webster Street
Colusa, CA 95932
citymanager@cityofcolusa.com
(530) 458-4740

Owner:

Colusa Industrial Properties
50 Sunrise Boulevard
Colusa, California 95932

Project Summary:

The City of Colusa has referred the proposed the XO Cannabis (ALUC #22-04) project to the Colusa County's Airport Land Use Commission (ALUC) for a consistency review of the project with the Colusa County's Airport Land Use Compatibility Plan (ALUCP).

As detailed in the project description (Exhibit "A"), the application proposes to establish a cannabis cultivation and processing use within an existing 2,400 sq.ft. building and would utilize approximately .87 acres of an approximate 1.22-acre site off Davison Court in the Colusa Industrial Park. The existing building measures 60 feet in length by 40 feet in width and is constructed from corrugated metal siding and roof material.

The use within the building would involve the cultivating cannabis plants and processing (drying and trimming) the cannabis flowers. Internal lighting would be used along with a recirculating hydroponics growing medium.

The hours of operation would be from 9 am to 5 pm. The owner would be the sole employee but “trimmers” would be contracted from an outside company. Vehicular traffic would be limited to the owner’s personal vehicle, weekly garbage truck, and monthly export of the finished product.

There would be no exterior storage or improvements for the proposed use and no exterior lighting has been proposed.

Location:

The subject site has an address of 2959 Davison Court in the City of Colusa. As shown in the location map (Attachment #1), the site is located approximately 1,800 feet north of the centerline of the Airport Runway.

ANALYSIS:

Airport Land Use Compatibility Plan Review (ALUCP):

The proposed project requires that the Commission review the proposed project for consistency with the ALUCP due to the following:

1.) Section 2.2.2 (e): Proposed development agreements or amendments to such agreements.

The following issues require the Commission's review for consistency with the ALUCP.

Use Compatibility:

The subject site is located in the ALUCP’s B1. Compatibility Zone. The B1 Compatibility Zone is described as a "Inner Approach/Departure Zone" with High Noise Level Risk and a High Risk Level Zone for Safety and Airspace Protection Factors.

The proposed use within the building would best be described as an Indoor Storage Greenhouse by the ALUCP and is considered "conditionally compatible” due to the potential intensity and airspace obstructions issues.

Population Density:

The B1 Compatibility Zone specifies a Maximum Sitewide Average density of 25 persons per acre and a Maximum Single Acre density of 50 persons. Per the below table, a maximum of 31 persons would be allowed on the parcel at any one time. Since the total number of persons allowed by the Maximum Sitewide Average density (31 persons) is less than the Maximum Single Acre density (50) the Maximum Sitewide Average density would limit the total persons on the site to 31 persons. Since there is a second building and use occurring on the parcel, staff is evaluating the person intensity density of the entire parcel.

The compatibility plan also assumes an indoor person density of 1,000 sq.ft. per person for greenhouse uses for a total of 2 persons within the 2,400 sq.ft. building as shown in the below table. The applicant would be the sole employee present, however a number of contract trimmers would occasionally be present. The total Maximum Sitewide Average allowed density of 31 persons would accommodate the proposed use with the occasional contract trimmers and the maximum occupancy occurring in the adjacent building (estimated to be less than 20 persons).

Accordingly, the intensity of use is within the ALUCP requirements. Staff has included a consistency finding referencing the ALUCP employee density standards to provide flexibility for future employment changes without further ALUC review; provided that the person per acre density standard is not exceeded.

B1 Compatibility Zones Maximum Density Intensity			
	People/Acre	Project Area Size (1.22 Total Acres)	Allowed Persons
Maximum Sitewide Average	25	1.22	31
Maximum Single Acre*	50	1.00	50

Anticapated Indoor Density (1,000 sq.ft. per person **)			
	Sq.Ft.	Persons Per Sq.Ft	Persons
Anticapated Indoor Occupancy	2,400	1,000	2

Notes: *The Maxium Sitewide Average would limit the total persons to 31.
**Employee Density from Table 3A, ALUCP, Page 3-36

Open Space:

With respect to the open land requirement in the B1 Zone, as shown in the table below, the open space requirement for the B1 Zone per Table 3A of the ALUCP is 18.57 acres. As is shown, there is approximately 26.5 acres of land which qualifies as open space per Section 3.4.10 of the ALUCP.

B2 Open Space Calculation					
Compatibility Zone	Total Acreage	Open Space % Required	Required Open Space	Ex Open Space Area(1)	Ex Open Space %(1)
B1	61.90	30.00%	18.57	26.50	42.81%

Notes: (1) Pursuant to ALUCP Section 3.4.10, only those areas that are free of most structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires with a minimum dimensions of 75 feet by 300 feet are included in the open space area calculation.

Noise Impacts To Sensitive Receptors:

Sensitive receptors at the site would be any office workers who could be exposed to aircraft noise levels in excess of 70 Ldn dB. The typical building construction standards for an office space (2 x 4 framing, dry wall construction, R13 insulation) would offer approximately a 25 dB reduction in the noise level. While office uses have not been specifically proposed at the present time, future office space tenant improvements would require additional noise reduction measures to ensure that the interior noise would be below the 45 Ldn dB interior noise standard for office users. Staff has included a consistency finding requiring additional noise mitigation measures to provide the flexibility to establish office uses in the future without further ALUC review.

Hazardous Materials:

No flammable materials are proposed to be used with the proposed project. The cannabis cultivation would use a variety of fertilizers and pesticides. General hydroponics fertilizer will be utilized with approximately 40 liters being stored on site and an essential oil pesticide mix would be used with approximately 4 liters being store on site.

The California Department of Food and Agriculture (CDFA) regulates the types of pesticides which can be used. In addition, pursuant to State law, all cultivators that use pesticides must be licensed and permitted by the County's Agricultural Commissioner's Office just like any other grower, including regular inspections and audits.

Light and Glare:

The project description does not include exterior wall-mounted lighting. However, should that change in the future, if exterior lights are positioned downward facing and shielded it would prevent light and off-site glare impacts. A consistency finding has been included reiterating that should any exterior lighting be installed in the future it shall be shielded and facing downward to prevent off-site light and glare impacts.

Development Agreement:

The Development Agreement requirement is part of the City's entitlement requirements to permit a cannabis business within the City limits. Section 2.2.2(e) of the ALUCP specifies that "Development Agreements or Amendments to such Agreements" require ALUC consistency review. Since the City Code requires a Development Agreement as part of the entitlements for cannabis businesses, ALUC consistency review is required.

The proposed development agreement (Attachment #2) would vest the entitlement approvals of the project per its terms and conditions. The development agreement does not conflict with the proposed resolutions and the findings and conditions.

Avigation Easement:

Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County. A finding has been included which requires an Avigation Easement, substantially consistent with the sample easement of Appendix "E" of the ALUCP, be granted to the County of Colusa.

PUBLIC COMMENTS:

No public comments have been received at this time. If comments are received following distribution of this staff report, those comments will be provided to the Airport Land Use Commission at the meeting.

ALUC STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the proposed Resolution finding that this project is compatible with Airport Land Use Compatibility Plan.

FISCAL IMPACT/FUNDING SOURCE

None

PREPARATION:

Prepared By:

Greg Plucker, Community Development Director (530) 458-0483

ACTION FOR THE CLERK

Obtain the Chair's signature on the resolution and forward an electronic copy to the Community Development Director.

ATTACHMENTS:

- ALUC Resolution Approving XO Cannabis (DOCX)
- Exhibit "A" - Project Description (PDF)
- Attachment #1 Project Location (PDF)
- Attachment #2 Proposed Development Agreement (PDF)

RESOLUTION NO. 22-__

A RESOLUTION OF THE COLUSA COUNTY AIRPORT LAND USE COMMISSION MAKING AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY FINDINGS REGARDING THE XO CANNABIS PROJECT

WHEREAS, on the proposed XO Cannabis project was referred to the Airport Land Use Commission (ALUC) for a consistency determination with the Colusa County's Airport Land Use Compatibility Plan (ALUCP);

WHEREAS, the project site is located at 2959 Davison Court (APN: 017-130-105) in the City of Colusa and is approximately 1,800 feet north of the centerline of the Colusa County Airport Runway;

WHEREAS, the project site is located within the ALUCP's B1 Compatibility Zone and pursuant to the Airport Land Use Compatibility Plan (ALUCP) Section 2.2.2 (e) (development agreement) the project is required to be reviewed by the ALUC for consistency with the ALUCP; and

WHEREAS, on the proposed project was submitted to the ALUC for review of its consistency with the ALUCP and at which time the Commission considered the staff report, the requirements of the ALUCP and all oral and written testimony presented concerning the application.

NOW, THEREFORE, BE IT RESOLVED that the Colusa County Airport Land Use Commission makes the following determinations and findings based on the totality review of the project:

I. The Commission can only make a finding of consistency or inconsistency for the proposed buildings and use considered herein and is unable to make any finding of consistency with respect to any future use or development on the project site and, as such, all future uses and development not considered herein must be submitted to the County's ALUC staff to determine if the Commission is required to make a review of consistency consistent with the ALUCP.

II. The proposed use and development as described in Exhibit "A" attached hereto and incorporated by reference has the potential to be inconsistent with the ALUCP due to use compatibility, density, light and glare impacts, and noise impacts to sensitive receptors. All of which could negatively impact aviation at the Colusa County Airport. However, based on the following facts, conditions on the proposed development and use, and agreement of project proponents to said conditions detailed herein the proposed project would be consistent with the ALUCP:

A. Use Compatibility

1. The subject site is located in the ALUCP's B1 Compatibility Zone and greenhouses are defined as a "conditional" use within said zone.

2. The use would be located within an existing building that does not penetrate any protected surface.

3. Pursuant to Section B (Density) below, the person density would be consistency with the ALUCP requirements.

B. Density

1. Based on the 1,000 sq.ft./employee standard of Table 3A of the ALUCP, a maximum of 2 persons would be anticipated indoors for the "greenhouse" use;

2. Project Proponents have stated that a total of 1 employee would be present but an additional contract "trimmers" would occasional be on the project site. Given the total number of persons anticipated to be on the project site and in the adjacent building at any one time in the future would be less than 31, the number of persons on the site would be consistent with the ALUCP.

3. In the future, should total occupancy of the site be proposed or would exceed the ALUCP's calculated maximum of 31 persons, the occupancy density shall be reviewed by ALUC staff to determine whether said occupancy would require further consistency review by the ALUC. This consistency review shall occur prior to said occupancy over 31 persons occurring.

C. Exterior Lighting Impacts

1. The installation of high-intensity and/or unshielded exterior building or other outside lighting could create a negative impact to night-time aircraft flight operations.

2. Any exterior lighting that is installed in conjunction with the proposed development shall be at the minimum intensity level to provide the necessary illumination, shall be shielded to prevent off-site glare impacts, and shall be directed downward to focus the light on the ground.

D. Avigation Easements

1. Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County.

2. Prior to the issuance of occupancy for any building, an Avigation Easement substantially consistent with the sample easement of Appendix "E" of the ALUCP shall be granted to the County of Colusa.

E. Exposure of Persons to Excess Noise

1. The proposed buildings are subject to a noise exposure level of approximately 70 dB Ldn. Typical construction techniques for possible future noise sensitive office space uses would afford approximately 25 dB of noise reduction and would significantly reduce aircraft noise impact.

2. Any future interior office space to support the proposed project shall be constructed to meet the minimum construction requirements necessary to obtain an interior noise level pursuant to the City's General Plan Noise Element (45 dB Ldn).

F. Hazardous Materials

1. No flammable materials are proposed to be used with the proposed project. The cannabis cultivation would use a variety of fertilizers and pesticides. Pesticides will be subject to approval by the California Department of Food and Agriculture (CDFA).

2. In order to ensure the safety within and around the project site, the project shall contact the Colusa County Certified Unified Program Agency and the Colusa County Agricultural Commissioner's Office to ensure that all applicable permits are obtained for any proposed pesticide and/or fertilizer prior to said substances being brought on to the subject site.

PASSED AND ADOPTED this _____ day of __________, 2022 by the following vote:

AYES:

NOES:

ABSENT:

____
Mike West, Chair
Airport Land Use Commission

ATTEST: Wendy G. Tyler, Secretary
Airport Land Use Commission

____
Melissa Kitts, Deputy Clerk

ATTEST TO FORM

____
Richard Stout, County Counsel

Exhibit "A"
Project Description
XO Cannabis

1. **Project Location: 2959 Davison Court**
2. **Building Size:** Existing 2,400 sq.ft. metal sided building.
3. **Proposed Use:** Cannabis Cultivation Facility

Inside of Building Uses:

Uses occurring within the buildings will include the following – Cannabis Cultivation and processing.

- **End Products:** Cannabis Flowers
- **Hazardous materials:** No, a non-hazardous essential oil pesticide will be used.
- **Hours of operation:** 9 am to 5 pm
- **Number of employees:** Applicant Only, periodically contract trimmers would be brought in to perform trimming functions.

Uses occurring outside the building:

- **Storage**: No outdoor storage will occur.
- **Types of vehicles**: Standard personal vehicle for the owner, garbage truck for weekly pick up, and SUV for transportation of the processed flowers on a weekly basis.
- **Projected number of trips:** Approximately 3 daily, when the contract trimmers are present 1 to 3 additional trips at a maximum.
- **Location of vehicle parking:** In the front of the building.
- **Exterior improvements:**
  No exterior improvements are planned.
- **Exterior lighting:** None proposed.

ATTACHMENT #1
ALUC 22-04
XO Cannabis - Project Location

Attachment #2

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Colusa
425 Webster Street
Colusa, CA 95932

Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this _________ day of ____________, 2022 (the "Execution Date"), by and between the **CITY OF COLUSA, a California municipal corporation** ("City") and Organic Crop Solutions, LLC ("Owner"). City and Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement.

RECITALS

A. The State of California enacted California Government Code Sections 65864 *et seq.* ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction.

B. The purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the developer, and to meet certain public purposes of the local government.

C. Owner intends to occupy an existing 2,400-sq-ft metal building on 1.22 acres of developed industrial property located at 2959 Davison Court (APN: 017-130-105) for the purposes of cannabis cultivation and distribution. The site is more fully described in Exhibit A and shown on the map in Exhibit B.

D. Owner intends to operate a Cannabis Manufacturing Facility as defined in the City of Colusa City Code. Such Cannabis Manufacturing Facilities shall operate in accordance with the California State cannabis laws, creating a unified regulatory structure for adult use and medical cannabis. Prior to operating a cannabis facility,

Owner shall be required to obtain a special use permit and regulatory permit from City. Owner and Tenants (if any) shall collectively be referred to in this Agreement as Developers.

E. Ultimately, Developer intends to obtain all necessary state licenses issued pursuant to MAUCRSA to operate the Cannabis Manufacturing Facility at the Site once such licenses are being issued.

F. Developers presently intend to develop and open a Cannabis Manufacturing Facility on the Site consistent with the California Marijuana Laws and Project Approvals (known as the "Project" as further described below).

G. On July 18, 2017, City adopted Ordinance 519 permitting Cannabis Manufacturing Facilities in strict compliance with the applicable California laws regulating cannabis cultivation, manufacturing, processing, and distribution under certain conditions and provisions. Currently, City is updating the City Code to comply with new State cannabis regulations that are in effect as of the date of this Agreement.

H. City and Owner have agreed that, as a condition of allowing the Project, as defined herein, and due to the unique circumstances of the proposed Project, Owner shall pay to the City quarterly fees based on the gross revenue of the Cannabis Manufacturing operations as hereinafter defined, which fees shall abate if and when the City adopts a tax on Cannabis Manufacturing Facilities.

I. The City of Colusa, as "Lead Agency," has determined that —based upon CEQA Guidelines Section 15061 (b) (3)— the Project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

J. City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, zoning code and municipal ordinances.

K. City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than defer its actions to some undetermined future date.

The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner has represented to City that it would not consider or engage in the Project absent City approving this Agreement; *i.e.*, assuring Owner that it will enjoy the development rights.

L. The City agrees that Owner's land use entitlements for the Project shall vest for the term of this Agreement as described below.

M. After conducting a duly noticed hearing on May 25, 2022, the Planning Commission of the City reviewed, considered and voted _____, passed a resolution recommending City Council approval of an Ordinance approving this Agreement.

N. After conducting a duly noticed hearing on, _________, 2022, and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses, and programs specified in the general plan; compatible with the uses authorized in the zoning code; is in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Colusa and its residents.

O. Production Fee. "Production Fee" shall mean any cannabis cultivation, processing, testing, distribution, and transportation of cannabis and cannabis products.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Binding Effect of Agreement. The Parties agree that the Recitals above are true and correct and intend to be bound by same; the Parties further agree to the incorporation by reference herein of said Recitals, together with all definitions provided and exhibits referenced therein. Except as otherwise provided in Section 15 of this Agreement, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide continued notice thereof, the Parties will record this Agreement with the Colusa County Recorder. The word "Owner" as previously defined and used herein shall include successor owners, apart from government or quasi-public agencies, of any portion of the Site. Should the size or orientation of any Site component specified above be changed in minor respects, *e.g.*, changed by a lot line adjustment, this Agreement shall not thereby be deemed to have been affected or invalidated, but the rights and obligations of the Parties and their successors shall remain as provided herein.

2. Relationship of the Parties. It is hereby specifically understood and acknowledged that the Project is a private project and that neither City nor Developers will be deemed to be the agent of the other for any purpose whatsoever. City and Developers hereby renounce the existence of any form of joint venture or partnership between or among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Developers joint venturers or partners.

3. Term. Except as otherwise specified herein, the term of this Agreement (the "Term") is 10 years from the date the Owner begins commercial operation at the Project Site ("Operation Date"). The Operation Date shall be no later than 12 months following the Execution Date. The Term shall generally be subject to earlier termination or extension as hereinafter provided.

3.1 Term Extension – Third Party Issues. Notwithstanding the Parties' expectation that there will be no limit or moratorium upon the Project's development or the issuance of building or other development related permits (a "Development Limitation") during the Term, the Parties understand and agree that various third parties may take action causing a *de facto* Development Limitation. Consequently, the Term shall be extended for any delay arising from or related to any of the potential Development Limitations that follow in the subsections below for a time equal to the duration of that delay occurring during the Term. No Development Limitation may arise or result from an action or omission by Developers.

3.1.1 Litigation. Any third party-initiated litigation that arises from or is related to any City action or omission with respect to this Agreement or any subsequent City approval required in connection with the Project's development, or third party initiated litigation having the actual effect of delaying the Project's development. This extension period related hereto shall include any time during which appeals may be filed or are pending.

3.1.2 Government Agencies. Any delay arising from or related to the act(s) or omission(s) any third-party governmental agency, quasi-public entity or public utility, and beyond the reasonable control of Developers.

3.1.3 *Force Majeure*. Any delay resulting from riot, war, acts of terrorism, an event during the Term creating radioactive or toxic/hazardous contamination, a catastrophic earthquake, flood, fire or other physical natural disaster, excluding weather conditions regardless of severity, strikes or industrial disputes at national level effecting development involved personnel not employed by Developers, their subcontractors or suppliers and effecting an essential portion of the Project's development, excluding any industrial dispute that is specific to development taking place as a part of the Project.

3.2 Term Extensions. The Term of this Agreement will be extended for seven additional years upon a determination of the City Council, by way of resolution of the City Council acted on at a regularly scheduled meeting, that both of the conditions listed in subparts 3.2.1 and 3.2.2 below have been fully satisfied are the Owner is in full compliance:

3.2.1. No Default by Owner. Owner shall not be in default with respect to any provision of this Agreement or any subsequent agreement or understanding between the Parties arising from or related to this Agreement, having received notice from City of said default per this Agreement, or if Owner did in fact default as to this Agreement, upon notice from City, that Owner did cure said default during the period to cure provided herein to City's satisfaction.

3.2.2 Finding of Community Compatibility. The City Council shall review the operations of Owner prior to granting an extension of the term of this Agreement and make a finding that the Cannabis Manufacturing, notwithstanding that the Cannabis Manufacturing may not be in precise technical compliance with the issued regulatory permit and special use permit, continue to be compatible with surrounding land uses and are not detrimental to the public health, safety and general welfare.

3.2.3. Mutual Agreement of Parties. In addition to the process listed above for a seven-year term extension, this Agreement's Term may be extended by mutual agreement of the Parties and formal amendment of this Agreement.

3.3 Termination of Agreement. Upon the termination of this Agreement, either by expiration or otherwise, Developers shall have no right to engage in Cannabis Manufacturing at the Project Site, except as may otherwise be allowed by City ordinance, law or separate development agreement.

4. Defined Terms. As used in this Agreement, the following terms shall have the meanings hereinafter set forth:

4.1. Certified Report. "Certified Report" shall mean a detailed document prepared by Developers on a form acceptable to the City's Director of Finance to report to the City of the Cannabis Manufacturing distribution and sales, as defined herein, in the Project during each Operational Quarter, as defined herein. Each Certified Report shall be certified as true and correct by a duly authorized officer of Owner.

4.2. Production Fee. "Production Fee" shall mean a quarterly fee remitted to the City by Owner based on the gross wholesale receipts of its operations, as defined below, in the amount of 3% of gross sales from operations to begin after 8 months of commencement of operation.

4.3. Certification of Non-Income Tax Exemption. Owner certifies that Owner is not income tax exempt under State or Federal Law and that Owner will not file for such an exemption from the Internal Revenue Service or the Franchise Tax Board. Owner will also require all Tenant(s) to certify that Tenant(s) are not income tax exempt under State or Federal Law and will not file for such an exemption.

4.4. Land Use Regulations. "Land Use Regulations" shall mean all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation

or dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Project. "Land Use Regulations" do not include any City ordinance, resolution, code, rule, regulation or official policy governing:

4.4.1. The conduct or taxation of businesses, professions, and occupations applicable to all businesses, professions, and occupations in the City;

4.4.2. Other than as provided in this Agreement, taxes and assessments of general application upon all residents of the City, provided that the taxes and assessments are not imposed for the purpose of taxing the right, power or privilege of developing or improving land (e.g., excise tax) or to directly finance the acquisition or dedication of open space or any other public improvement in respect of which the Developer is paying any fee or providing any improvement pursuant to this Agreement;

4.4.3. The control and abatement of nuisances.

4.4.4. The granting of encroachment permits and the conveyance of rights and interests which provides for the use of, access to or the entry upon public property, as may be approved by mutual agreement between Developer and City; and

4.4.5. The exercise of the power of eminent domain.

4.5. "Existing Land Use Regulations" means all Land Use Regulations in effect as of the approval date of this Agreement, including the Project Approvals.

4.6. Operational Quarter. "Operational Quarter" shall mean any calendar quarter during which any gross revenue of the Project is produced.

5. Fee Payments by Owner. In consideration of City's entering into this Agreement and authorizing the development and operation of the Project, the requirements for City services created by the Project, the City insuring Developers compliance with this Agreement, California medical marijuana laws and the City's municipal ordinances, throughout the Term of this Agreement, Owner shall make the following payments to City:

5.1. Production Fee Payments by Owner. Quarterly payments of the Production Fee by Owner to the City as specified in Section 6 herein. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement, but the Production Fee under this Agreement shall cease if any City-wide tax is imposed specifically on Cannabis Manufacturing operations.

6. Payment Procedures. The following payment procedures shall apply during the operation of the Project:

6.1. Remittance of Fees; Certified Reports. Within thirty (30) calendar days following the end of each quarterly period during the Term of this Agreement, Owner shall submit the Certified Report to the City's Finance Director and a payment for the Production and Manufacturing, Cultivation and Distribution Fees for that Operational Period as identified in the Certified Report. Owner shall pay Fees to the City on a quarterly basis without exception. Any material misstatement or misrepresentation in the Certified

Report and any failure to pay Fees when due shall constitute events of default by Developers subject to the default provisions of this Agreement.

6.2. Maintenance of Records. Developers shall maintain complete records of their operations to substantiate and document the content of each Certified Report. Such records shall include, without limitation, invoices and payments taken by Tenants and/or any operator of the facility. Developers shall maintain such records in a form and location reasonably accessible to the City, following reasonable notice to Developers and/or any operator, for a period of at least five (5) calendar years following Owner's submission of the Certified Report to which the records apply.

6.3. Audit. Within ninety (90) calendar days following the end of each Operational Quarter, the City may conduct an audit or arrange for a third-party independent audit, at Developers' expense, of Developers records regarding Certified Reports and the Fees. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Developers, and shall reasonably attempt to schedule the audit so as to reduce the impact on Tenants' operations as much as is feasible. Developers shall cooperate with the City in completing the audit. If the audit reveals that Owner has underpaid the Fees, Owner shall pay such underpaid amounts to the City within thirty (30) calendar days of receipt of written notice from the City's Director of Finance in addition to all costs of the audit, including city staff time and outside consultants. If the audit reveals that the Owner has overpaid any amount of the Production or Nursery Fees, City shall provide written notification to Owner and shall credit such amount against Owner's subsequent quarterly payment of Fees.

7. Covenants of Owner. During the Term of this Agreement, Owner hereby covenants and agrees with the City as follows:

7.1. Implementation. Owner shall use commercial reasonable efforts to pursue the implementation of the Project as expeditiously as feasible, in the form approved by the City, subject to all applicable laws, this Agreement, the Project Approvals and the Municipal Code.

7.1.1. Developer shall comply with all applicable state regulations governing its manufacturing operations. If permanent regulations are not in place at the time operations commence, Developer shall comply with whatever temporary, interim, or urgency regulations that are in effect pending the State's consideration and adoption of permanent regulations.

7.2. Enhanced Design Requirement. Owner shall submit a design plan for the building and site, for review and approval by the Planning Director, which shall incorporate at a minimum, security fencing and landscaping improvements consistent with the policies in the City's General Plan.

7.3. Maintain & Operate Project. Owner and Tenants shall maintain and operate the Project on the Site, once constructed, throughout the Term of this Agreement, in accordance with the Project Approvals and all City, and State laws.

7.4. Hold Harmless. Owner shall defend (with counsel reasonably acceptable to City), indemnify and hold City and its councilpersons, officers, attorneys, agents, contractors, and employees (collectively, the "Indemnified Parties") harmless from and against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees and costs), damages (including, without limitation, consequential damages), claims and liabilities arising from the Project, this Agreement, the approval of the Project, and the activities of Developers, their members, officers, employees, agents, contractors, invitees and any third parties on the Site, from and against any challenges to the validity of this Agreement or other Project Approvals. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement.

8. Covenants of City. During the Term of this Agreement, City hereby covenants and agrees with Owner as follows:

8.1. Expeditious Services. City shall process applications and address questions and concerns raised by Developers representatives at the "counter" at City Hall as expeditiously as reasonably possible. Upon Owner's request, or if, in an exercise of City's own discretion, City staff determines that it cannot comply with this section, City shall expeditiously engage the services of private contract planners, plan checkers or inspectors ("Private Contractors") to perform such services as may be necessary to assist in processing the project plans as described herein. Compensation of such Private Contractors shall be at Owner's sole cost and expense, inclusive of any administrative cost to City of integrating services by Private Contractors into the project's development processing. Owner shall pay such costs and expenses of Private Contractors via reimbursement to City, per City's applicable policies and procedures. City shall have absolute discretion in the selection of such Private Contractors.

8.2 Vested Rights. During the Term of this Agreement, Owner shall have the vested right and entitlement to develop and operate the Project in accordance with the Existing Land Use Ordinances, in addition to any Cannabis Manufacturing Operating Standards adopted by the City Council, which may be amended at the City's discretion. Parties acknowledge that neither the City nor the Owner can at this time predict when or the rate at which or the order in which parts of the Project will be developed. Owner shall have the vested right to develop the Project in such order and at such rate and at such times as Owner deems appropriate in the exercise of its business judgment, provided that Owner is in compliance with the Project Approvals.

8.3 Building Permits and Other Approvals and Permits. Subject to (a) Owner's compliance with this Agreement, the Project Approvals the Existing Land Use Ordinances, the Building Ordinances, and Operating Standards; and (b) payment of the usual and customary fees and charges of general application charged for the processing of such applications, permits and certificates and for any utility connection, or similar fees and charges of general application, the City shall process and issue to Developers promptly upon application therefore all necessary use permits, building permits, occupancy certificates, regulatory permits, licenses and other required permits for the construction, use and occupancy of the Project, or any portion thereof, as applied for,

including connection to all utility systems under the City's jurisdiction and control (to the extent that such connections are physically feasible and that such utility systems are capable of adequately servicing the Project).

8.4 Procedures and Standards. The standards for granting or withholding permits or approvals required hereunder in connection with the development of the Project shall be governed as provided herein by the standards, terms and conditions of this Agreement and the Project Approvals, and to the extent not inconsistent therewith, the Existing Land Use Ordinances, but the procedures for processing applications for such permits or approvals (including the usual and customary fees of general application charged for such processing) shall be governed by such ordinances and regulations as may then be applicable.

9. Effect of Agreement.

9.1 Grant of Right. This Agreement shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full. The Parties acknowledge that this Agreement grants Owner the right and entitlement to develop the Project and use the land pursuant to specified and known criteria and rules as set forth in the Project Approvals and Existing Land Use Ordinances, and to grant the City and the residents of the City certain benefits which they otherwise would not receive.

9.2 Binding on City/Vested Right of Owner. This Agreement shall be binding upon the City and its successors in accordance with and subject to its terms and conditions notwithstanding any subsequent action of the City, whether taken by ordinance or resolution of the City Council, by referenda, initiative, or otherwise. The Parties acknowledge and agree that by entering into this Agreement and relying thereupon, the Owner has obtained, subject to the terms and conditions of this Agreement, a vested right to proceed with its development of the Project as set forth in the Project Approvals and the Existing Land Use Ordinances, and the timing provisions of Section 3, and the City has entered into this in order to secure the public benefits conferred upon it hereunder which are essential to alleviate current and potential problems in the City and to protect the public health, safety and welfare of the City and its residents, and this Agreement is an essential element in the achievement of those goals.

9.3 Future Conflicting Local Laws. If any City law, including ordinances, resolutions, rules, regulations, standards, policies, conditions and specifications (collectively "City Laws") are enacted or imposed by a citizen-sponsored initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with this Agreement, such City Law shall not apply to the Project Site or Project. The Parties, however, acknowledge that the City's approval of this Agreement and the City Approvals are legislative actions subject to referendum.

9.3.1 Without limiting the generality of the foregoing, no moratorium or other limitation whether relating to the rate, timing, phasing or sequencing of development affecting subdivision maps, building permits, or other Subsequent Approvals shall apply to the Project. Owner agrees and understands that the City does not have authority or jurisdiction over another public agency's authority to grant a

moratorium or to impose any other limitation that may affect the Project.

10. Specific Criteria Applicable to Development of the Project.

10.1 Applicable Ordinances. Except as set forth in the Project Approvals and subject to the provisions of Section 10.2 below, the Existing Land Use Ordinances shall govern the development of the Site hereunder and the granting or withholding of all permits or approvals required to develop the Site; provided, however, that (a) Owner shall be subject to all changes in processing, inspection and plan-check fees and charges imposed by City in connection with the processing of applications for development and construction upon the Site so long as such fees and charges are of general application and are not imposed solely with respect to the Project Site, (b) Owner shall abide by the Building Ordinances in effect at the time of such applications, (c) Development Impact Fees to be paid by Owner shall be those in effect at the time permits are issued subject to those fees, and (d) development shall be consistent with current Operating Standards.

10.2 Amendment to Applicable Ordinances. Any change to the Existing Land Use Ordinances that conflicts with the Project Approvals shall nonetheless apply to the Project_if, and only if (i) it is consented to in writing by Owner in Owner's sole and absolute discretion; (ii) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety; (iii) it is required by changes in State or Federal law; (iv) it consists of changes in, or new fees permitted by, Section 4.1;or (v) it is otherwise expressly permitted by this Agreement. The Parties anticipate that the City shall subsequently adopt Operating Standards that govern this type of use, which Regulations, and any amendments thereto, shall apply to the Project.

10.3 Applicability of Zoning Amendments. In the event that the City zoning ordinance is amended by the City in a manner which provides more favorable site development standards for the Project Site or any part thereof than those in effect as of the Effective Date, Owner shall have the right to notify the City in writing of its desire to be subject to all or any such new standards for the remaining term of this Agreement. If City agrees, by resolution of the City Council, such new standards shall become applicable to the Project. Should City thereafter amend such new standards, upon the effective date of such amendment, the original new standards shall continue to apply to the Project as provided above, but Owner may notify City in writing of its desire to be subject to all or any such amended new standards and City shall agree in the manner above provided to apply such amended new standards to the Project.

11. Permitted Delays; Supersedure by Subsequent Laws.

11.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, Owner and City shall be excused from performance of their obligations hereunder during any period of delay caused by acts of mother nature, civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, any referendum elections held on the Enacting Ordinance, or the Land Use Ordinances, or

any other ordinance effecting the Project or the approvals, permits or other entitlements related thereto, or restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting provisions of the Constitution or laws of the United States of America or the State of California or any codes, statutes, regulations or executive mandates promulgated thereunder (collectively, "Laws"), orders of courts of competent jurisdiction, or any other cause similar or dissimilar to the foregoing beyond the reasonable control of City or Owner, as applicable. Each Party shall promptly notify the other Party of any delay hereunder as soon as possible after the same has been ascertained. The time of performance of such obligations shall be extended by the period of any delay hereunder.

11.2 Supersedure of Subsequent Laws or Judicial Action.

11.2.1 The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new Law or decision issued by a court of competent jurisdiction (a "Decision"), enacted or made after the Effective Date which prevents or precludes compliance with one or more provisions of this Agreement. Promptly after enactment of any such new Law, or issuance of such Decision, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Owner and City shall have the right to challenge the new Law or the Decision preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, except that the Term shall be extended, in accordance with Section 2.1 above, for a period of time equal to the length of time the challenge was pursued, to extent such challenge delayed the implementation of the project.

12. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and the Developers. It is anticipated due to the term of this Agreement that refinements to the approvals may be appropriate with respect to the details of performance of the City and the Developers. To the extent allowable by law, the Developers shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Agreement. When and if the Developers finds it necessary or appropriate to make changes, adjustments or clarifications, the Parties shall enter into memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Agreement. Operating Memoranda are not intended to constitute an amendment to this Agreement but mere ministerial clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized upon consultation with the Developers, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Agreement which requires compliance with the provisions of this Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby

authorized to execute any operating Memoranda hereunder without further City Council action.

13. CEQA. All procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq*., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 *et seq*. have been satisfied.

14. Building Permits. Nothing set forth herein shall impair or interfere with the right of City to require the processing of building permits as required by law relating to any specific improvements proposed for the Project pursuant to the applicable provisions of the City's municipal code, inclusive of such California and International Codes as have been adopted in accord therewith, that are in effect at the time such permits are applied for; provided, however, no such permit processing shall authorize or permit City to impose any condition on and/or withhold approval of any proposed improvement the result of which would be inconsistent with this Agreement.

15. Assignment and Transfer of Rights. Except as otherwise provided in this Section, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants that run with the Site. Owner, for itself, its heirs, distributes, executors, administrators, legal representatives, successors and assigns, shall not, at any time during the Term, assign, convey, lease, sell or otherwise transfer all or any portion of its rights under this Agreement ("Assignable Rights") to a third party, a subordinate entity, or a related entity (make an "Assignment") without the prior written consent of City in each instance, which consent which consent will not be unreasonably withheld, provided the entity receiving the Assignment is qualified to conduct business under all City codes and ordinances, and obtains all required state and City permits. Any assignment in violation of this Section will be void. No permitted assignee of this Agreement may further assign this Agreement without City's prior written consent.

16. Review for Compliance.

16.1 Periodic Review. Pursuant to CGC §65865.1, City shall engage in an annual review this Agreement, on or before the anniversary of the date of execution, in order to ascertain Owner's good faith compliance with its terms (the "Periodic Review"). In the event City fails to formally conduct such annual review, Owner shall be deemed to be in full compliance with the Agreement.

17. Amendment or Cancellation. This Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties or in the manner provided in CGC §65865.1 or CGC §65868 and subsection 3.2 above.

17.1 Provide Notice. Provide the other Party with written notice of such State or Federal law or regulation, a copy of such law or regulation and a statement identifying how such law regulation conflicts with the provisions of this Agreement.

17.2 Meet and Confer. Upon notice by one Party to another as to preemption or frustration of this Agreement by law or regulation, the Parties shall promptly meet and confer in good faith and make a reasonable attempt to modify or suspend this Agreement to comply with such applicable Federal or State law or regulation. If the Parties cannot agree on a manner or method to comply with such Federal or State law or regulation, the Parties may, but shall not be required to, engage in alternative dispute resolution.

18. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing [such as Federal Express or UPS]), sent by telecopier or facsimile ("Fax") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

If to City: City of Colusa
425 Webster Street
Colusa CA 95932
Attention: City Manager

With copy to: Jones & Mayer, City Attorney

8150 Sierra College Blvd., Suite 190
Roseville California 95661
Attention: Ryan R. Jones, Esq.

If to Owner: Organic Crop Solutions, LLC
C/O Patrick Griffith
2959 Niagara Ave.
Colusa, CA 95932

Notices sent in accordance with this Section shall be deemed delivered upon the: ***(a)*** date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); ***(b)*** date of actual receipt (if personally delivered by other means); ***(c)*** date of transmission (if sent by email or telecopier, so long is sender receives actual confirmation that the transmission was received); or ***(d)*** date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this Section.

19. Breach and Remedies. Notwithstanding any provision of this Agreement to the contrary, Developers shall not be deemed to be in default under this Agreement with respect to any obligation owed solely to City, and City may not terminate or modify

Developers' rights under this Agreement, unless City shall have first delivered a written notice of any alleged default to Owner that specifies the nature of such default. If such default is not cured by Owner within sixty (60) days after receipt of such notice of default, or with respect to defaults that cannot be cured within such period, Owner fails to commence to cure the default within thirty (30) days after receipt of the notice of default, or thereafter fails to diligently pursue the cure of such default, City may terminate Owner's rights under this Agreement. Default by any Assignee or Owner's successor in interest shall affect only that portion of the Site owned by such Assignee or successor, and shall not cancel or diminish in any way Owner's rights with respect to any portion of the Site not owned by such Assignee or successor. In the event that a breach of this Agreement occurs, irreparable harm is likely to occur to the non-breaching Party and damages will be an inadequate remedy. To the extent permitted by law, therefore, it is expressly recognized that injunctive relief and specific enforcement of this Agreement are proper and desirable remedies, and it is agreed that any claim by Owner against City for an alleged breach of this Agreement shall be remedied by injunctive relief or an appropriate action for specific enforcement of this Agreement and not by a claim or action for monetary damages.

20. Entire Agreement. This Agreement and the Exhibits herein contain the entire integrated agreement among the Parties. The Parties intend that this Agreement state their agreement in full to each and every one of its provisions. Any prior agreements, understandings, promises, negotiations or representations respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Agreement, are agreed by all Parties to be null and void.

21. Severability. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any Party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

22. Attorneys' Fees. If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which constitute one and the same instrument.

24. Execution of Agreement. The Parties shall sign this Agreement on or within five (5) business days of approval.

25. Estoppel Certificate. City shall, at any time and from time to time within ten (10) days after receipt of written notice from Owner so requesting, execute, acknowledge and deliver to Owner a statement in writing: ***(a)*** certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and ***(b)*** acknowledging that there are no uncured defaults on the part of Owner hereunder or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Site. Upon Owner's written request, City shall issue a certificate of performance evidencing completion of any of Owner's obligation(s) under this Agreement.

26. Encumbrances on Real Property.

26.1 Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Site or any portion thereof or any improvements thereon then owned by such person with any mortgage, deed of trust or other security device ("Mortgage") securing financing with respect to the Site or such portion. City acknowledges that the lenders providing such financing may require certain modifications, and City agrees, upon request, from time to time, to meet with Owner and/or representatives of such lenders to negotiate in good faith any such request for modification. City further agrees that it will not unreasonably withhold its consent to any such requested modification. Any mortgagee or trust deed beneficiary of the Site or any portion thereof or any improvements thereon and its successors and assigns ("Mortgagee") shall be entitled to the following rights and privileges.

26.2 Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Developers may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with the Developers and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, provided, further, that any modifications of this Agreement are subject to the provisions of this Agreement relative to modifications or amendments.

26.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Site or any portion thereof by a Mortgagee (whether pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise) shall be subject to all of the terms and conditions of this Agreement.

26.4 Mortgagee Not Obligated. Notwithstanding the provisions of Section 26.2, no Mortgagee will have any obligation or duty under this Agreement to perform the obligations of Owner or other affirmative covenants of Owner hereunder, or to guarantee such performance, except that to the extent that Mortgagee opts to receive the benefits of the Agreement, including the right to operate, any covenant to be performed by Owner is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder. No Mortgagee will be liable for any monetary defaults arising prior to its acquisition of title to the Site or any portion thereof. Uncured monetary defaults will terminate the Agreement and Mortgagee's right to operate.

26.5 Written Notice of Default. Each Mortgagee shall be entitled to receive written notice from City of any default by Owner under this Agreement, if such default is not cured within thirty (30) days, provided such Mortgagee has delivered a written request to City for such notice. Each Mortgagee shall have a further right, but not the obligation, to cure such default for a period of thirty (30) days after receipt of such notice of default. Any non-curable defaults of Owner of any obligation owed solely to City arising prior to Mortgagee's acquisition of title to the Site or any portion thereof shall be waived; provided, however, the non-payment of money shall not be deemed a non-curable default.

27. Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties to this Agreement and, subject to City's written consent, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

28. Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of California. Furthermore, the Parties agree to venue in the Superior Court of Colusa County, California.

29. Mutual Covenants. The covenants contained herein, including those contained in the Recitals herein, are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

30. Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement ("Successors"). Furthermore, the rights and remedies, together with the benefits and burdens of this Agreement of each Party to this Agreement shall be coextensive with those of its Successors. All provisions of this Agreement shall be enforceable as equitable servitude's and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Site: *(a)* is for the benefit of and is a burden upon every portion of the Site; *(b)* runs with the Site and each portion thereof; and, *(c)* is binding upon each Party and each Successor during ownership of the Site or any portion thereof. From and after recordation of this Agreement, the Agreement shall impute notice to all persons and entities in accord with the recording laws of this State.

31. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their Successors and Assignees. No other person or entity shall have any right of action based upon any provision of this Agreement.

32. Waiver. Failure by a Party to insist upon the strict performance of any of this Agreement's provisions by the other party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

33. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

34. Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Government Code Section 65868.5.

35. Headings. The headings in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

36. Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

37. Jointly Drafted. It is agreed among the parties that this Agreement was jointly negotiated and jointly drafted by the Parties and their respective counsel, and that it shall not be interpreted or construed in favor of or against any party solely on the ground that it drafted the Agreement. It is also agreed and represented by all Parties that said Parties were of equal or relatively equal bargaining power and that in no way whatsoever shall this Agreement be deemed to be a contract of adhesion, or unreasonable or unconscionable.

38. Independent Legal Counsel. Each party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement or has knowingly and voluntarily declined to consult legal counsel, and that each Party has executed this Agreement with the consent and on the advice of such independent legal counsel.

39. Further Cooperation. The parties herein agree to execute any and all agreements, documents or instruments as may be reasonably necessary in order to fully effectuate the agreements and covenants of the Parties contained in this Agreement, or to evidence this Agreement as a matter of public record, if required to fulfill the purposes of this Agreement. The Parties further agree to mutually cooperate with one another in carrying out the purposes of this Agreement.

40. Enforceability. This Agreement shall not become binding and shall have no force and effect whatsoever until such time as it has been fully executed by and delivered to all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Execution Date.

Signatures on Next Page

"CITY"	CITY OF COLUSA, CA a California Municipal Corporation
Date: ___________________, 2022	By: ______________________________
	Mayor
	Attest:
	By: ______________________________
	City Clerk
	Approved as to form:
	Jones & Mayer
	By: ______________________________ Ryan R. Jones, Esq. City Attorney
"Authorized Agent"	Patrick Griffith
	By: ______________________________
Date: ___________________, 2022	By: ______________________________
	By: ______________________________
	Approved as to form:
	By: ______________________________ Attorney for Owner

Attachment #2

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF ________________ }

On____________________ before me, ____
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

Attachment #2

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF _______________ }

On____________________ before me, ____
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

EXHIBIT "A"

Attachment #2

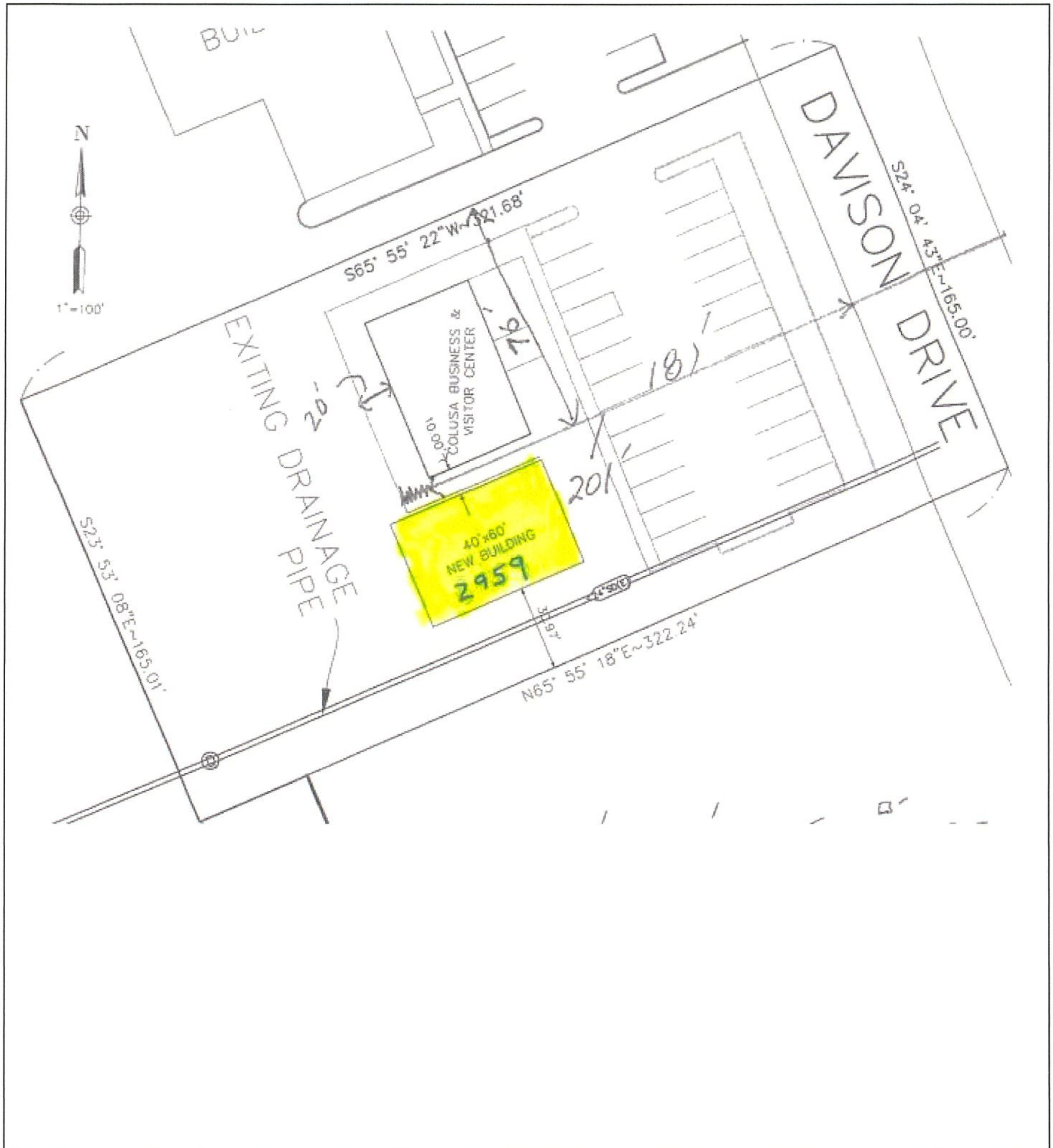
Legal Description

Pending

EXHIBIT "B"

Attachment #2

Site & Boundary Map



COUNTY OF COLUSA, CA

Request For Airport Advisory Committee

MEETING DATE:	**August 3, 2022**
DEPARTMENT:	**Community Development**
FROM:	**Greg Plucker**
SUBJECT:	**Patrick Barros (ALUC #22-05) Consistency Review**

SITTING AS COLUSA COUNTY AIRPORT LAND USE COMMITTEE
Adopt a Resolution making a finding that the Patrick Barros (ALUC #22-05) project is consistent with the County's Airport Land Use Compatibility Plan.

PROJECT OVERVIEW:

Referring Agency:

City of Colusa
ATTN: Jesse Cain
425 Webster Street
Colusa, CA 95932
citymanager@cityofcolusa.com
(530) 458-4740

Owner:

Colusa Industrial Properties
50 Sunrise Boulevard
Colusa, California 95932

Project Summary:

The City of Colusa has referred the proposed the Patrick Barros (ALUC #22-05) project to the Colusa County's Airport Land Use Commission (ALUC) for a consistency review of the project with the Colusa County's Airport Land Use Compatibility Plan (ALUCP).

As detailed in the project description (Exhibit "A"), the application proposes to establish a cannabis cultivation and processing use within an existing 7,200 sq.ft. building, within 4 10-feet high 30' x 100' greenhouses, and potentially 4 additional 10-feet high 30' x 100' greenhouses in the future. The use would be occurring within an approximate 2± acre portion of a 4.13 acre site in the Colusa Industrial Park.

The use within the buildings would involve the cultivating cannabis plants, processing (drying and trimming) the cannabis flowers, and office support uses. The greenhouses will feature supplemental low wattage LED lights which would supplement natural light 4 to 6 hours a day. The greenhouses are also fitted with blackout currents to prevent off-site light and glare impacts.

The hours of operation would be from 7 am to 7 pm. It is anticipated that up to 12 employees would be on site, not including the owner. Vehicular traffic would be limited to the personal vehicles, weekly garbage truck, and vans and trucks for import of material and product delivery.

Location:

The subject site has an address of 2857 Niagara Avenue in the Colusa Industrial Park in the City of Colusa. As shown in the location map (Attachment #1), the site is located approximately 4,000 feet southwest of the end of Airport Runway 31, generally south of CIP's septage ponds.

ANALYSIS:

Airport Land Use Compatibility Plan Review (ALUCP):

The proposed project requires that the Commission review the proposed project for consistency with the ALUCP due to the following:

1.) Section 2.2.2 (e): Proposed development agreements or amendments to such agreements.

The following issues require the Commission's review for consistency with the ALUCP.

Use Compatibility:

The subject site is located in the ALUCP’s C2. Compatibility Zone. The C2 Compatibility Zone is described as a "Primary Traffic/Pattern Zone" with Moderate Noise Level Risk and a Low to Moderate Risk Level Zone for Safety and Airspace Protection Factors.

The proposed use within the building would best be described as an Indoor Storage Greenhouse with ancillary office and assembly uses by the ALUCP and the greenhouse is considered "normally compatible”.

Population Density:

The C2 Compatibility Zone specifies a Maximum Sitewide Average density of 160 persons per acre and a Maximum Single Acre density of 640 persons. Per the below table, a maximum of 320 persons would be allowed on the parcel at any one time. Since the total number of persons allowed by the Maximum Sitewide Average density (320 persons) is less than the Maximum Single Acre density (640) the Maximum Sitewide Average density would limit the total persons on the site to 320 persons.

The compatibility plan also assumes an indoor person density of 1,000 sq.ft. per person for greenhouse uses, 100 sq.ft. per person for small assembly uses, and 215 sq.ft. per person for office uses for a total of 40 persons on the project site at buildout with a total of 8 greenhouses as shown in the below table. The applicant has stated that there would be a total of 12 employees, not including the owner. The total Maximum Sitewide Average allowed density of 320 persons would accommodate the proposed use.

Accordingly, the intensity of use is within the ALUCP requirements. Staff has included a consistency finding referencing the ALUCP employee density standards to provide flexibility for future employment changes without further ALUC review; provided that the person per acre density standard is not exceeded.

C2 Compatibility Zone Maximum Density Intensity			
	People/Acre	Project Size(1)	Allowed Persons
Maximum Sitewide Average	160	2.0	320
Maximum Single Acre*	640	1.0	640

Anticapated Indoor Density (assumes 8 greenhouses)**			
	Sq.Ft.	Persons Per Sq.Ft	Persons
Office Use	700	215	3
Small Assembly (trimming/processing)	768	100	8
Greenhouse/Drying Use	29,732	1,000	29
		TOTAL	**40**

Notes: (1) The project site is a portion of a larger 4.6± acre site.

*The Maxium Sitewide Average would limit the total persons to 320.

**Employee Density from Table 3A, ALUCP, Page 3-36

Open Space:

With respect to the open land requirement in the C2 Zone, as shown in the table below, the open space requirement for the C2 Zone per Table 3A of the ALUCP is 248 acres. As is shown, there is approximately 2,254 acres of land which qualifies as open space per Section 3.4.10 of the ALUCP.

C2 Open Space Calculation					
Compatibility Zone	Total Acreage	Open Space % Required	Required Open Space	Ex Open Space Area(1)	Ex Open Space %(1)
C2	2,478	10.00%	247.80	2,254	90.96%

Notes: (1) Pursuant to ALUCP Section 3.4.10, only those areas that are free of most structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires with a minimum dimensions of 75 feet by 300 feet are included in the open space area calculation.

Noise Impacts To Sensitive Receptors:

Sensitive receptors at the site would be any office workers who could be exposed to aircraft noise levels below 55 Ldn dB. The typical building construction standards for an office space (2 x 4 framing, dry wall construction, R13 insulation) would offer approximately a 25 dB reduction in the noise level. Standard office space construction would ensure that the interior noise would be below the 45 Ldn dB interior noise standard for office users.

Light and Glare:

The project description does not include exterior wall-mounted lighting. However, should that change in the future, if exterior lights are positioned downward facing and shielded it would prevent light and off-site glare impacts. In addition, black out curtains would be used when supplemental lighting is used during nighttime hours. A consistency finding has been included reiterating that should any exterior lighting be installed in the future it shall be shielded and facing downward to prevent off-site light and glare impacts and the use of blackout curtains.

Hazardous Materials:

No flammable materials are proposed to be used with the proposed project. The cannabis cultivation could use a variety of fertilizers and pesticides. The California Department of Food and Agriculture (CDFA) regulates the types of pesticides which can be used. In addition, pursuant to State law, all cultivators that use pesticides must be licensed and permitted by the County's Agricultural Commissioner's Office just like any other grower, including regular inspections and audits.

Development Agreement:

The Development Agreement requirement is part of the City's entitlement requirements to permit a cannabis business within the City limits. Section 2.2.2(e) of the ALUCP specifies that "Development Agreements or Amendments to such Agreements" require ALUC consistency review. Since the City Code requires a Development Agreement as part of the entitlements for cannabis businesses, ALUC consistency review is required.

The proposed development agreement (Attachment #2) would vest the entitlement approvals of the project per its terms and conditions. The development agreement does not conflict with the proposed resolutions and the findings and conditions.

Avigation Easement:

Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County. A finding has been included which requires that an Avigation Easement, substantially consistent with the sample easement of Appendix "E" of the ALUCP, shall be granted to the County of Colusa.

PUBLIC COMMENTS:

No public comments have been received at this time. If comments are received following distribution of this staff report, those comments will be provided to the Airport Land Use Commission at the meeting.

ALUC STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the proposed Resolution finding that this project is compatible with Airport Land Use Compatibility Plan.

FISCAL IMPACT/FUNDING SOURCE

None

PREPARATION:

Prepared By:

Greg Plucker, Community Development Director (530) 458-0483

ACTION FOR THE CLERK

Obtain the Chair's signature on the resolution and forward an electronic copy to the Community Development Director.

ATTACHMENTS:

- Resolution Consistency Finding Patrick Barros (DOCX)
- Exhibit "A" - Project Description (PDF)
- Attachment #1 Project Location (PDF)
- Attachment #2 - Development Agreement (PDF)

RESOLUTION NO. 22-__

A RESOLUTION OF THE COLUSA COUNTY AIRPORT LAND USE COMMISSION MAKING AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY FINDINGS REGARDING THE PATRICK BARROS PROJECT

WHEREAS, the proposed project was referred to the Airport Land Use Commission (ALUC) for a consistency determination with the Colusa County's Airport Land Use Compatibility Plan (ALUCP);

WHEREAS, the project site is located at 2857 Niagara Avenue in the Colusa Industrial Park approximately 4,000 feet southwest of the end of Airport Runway 31, generally south of CIP's septage ponds;

WHEREAS, the project site is located within the ALUCP's C2 Compatibility Zone and pursuant to the Airport Land Use Compatibility Plan (ALUCP) Section 2.2.2 (e) (development agreement) the project is required to be reviewed by the ALUC for consistency with the ALUCP; and

WHEREAS, on the proposed project was submitted to the ALUC for review of its consistency with the ALUCP and at which time the Commission considered the staff report, the requirements of the ALUCP and all oral and written testimony presented concerning the application.

NOW, THEREFORE, BE IT RESOLVED that the Colusa County Airport Land Use Commission makes the following determinations and findings based on the totality review of the project:

I. The Commission can only make a finding of consistency or inconsistency for the proposed buildings and use considered herein and is unable to make any finding of consistency with respect to any future use or development on the project site and, as such, all future uses and development not considered herein must be submitted to the County's ALUC staff to determine if the Commission is required to make a review of consistency consistent with the ALUCP.

II. The proposed use and development as described in Exhibit "A" attached hereto and incorporated by reference has the potential to be inconsistent with the ALUCP due to use compatibility, density, light and glare impacts, and noise impacts to sensitive receptors. All of which could negatively impact aviation at the Colusa County Airport. However, based on the following facts, conditions on the proposed development and use, and agreement of project proponents to said conditions detailed herein the proposed project would be consistent with the ALUCP:

A. Use Compatibility

1. The subject site is located in the ALUCP's C2 Compatibility Zone and greenhouses are defined as a "normally compatible" use within said zone.

2. Pursuant to Section B (Density) below, the person density would be consistency with the ALUCP requirements.

B. Density

1. Based on the sq.ft./employee standard of Table 3A of the ALUCP, a maximum of 40 persons would be anticipated indoors for the "greenhouse" and ancillary office and processing uses;

2. Project Proponents have stated that a total of 13 employees, including the owner, would be present on the project site. Given the total number of persons anticipated to be on the project site at any one time in the future would be less than 40, the number of persons on the site would be consistent with the ALUCP.

3. In the future, should total occupancy of the site be proposed or would exceed the ALUCP's calculated maximum of 40 persons, the occupancy density shall be reviewed by ALUC staff to determine whether said occupancy would require further consistency review by the ALUC. This consistency review shall occur prior to said occupancy over 40 persons occurring.

C. Exterior Lighting Impacts

1. The installation of high-intensity and/or unshielded exterior building or other outside lighting could create a negative impact to night-time aircraft flight operations.

2. Any exterior lighting that is installed in conjunction with the proposed development shall be at the minimum intensity level to provide the necessary illumination, shall be shielded to prevent off-site glare impacts, and shall be directed downward to focus the light on the ground.

3. The greenhouses would be supplemented with low wattage LED lights and blackout curtains would be utilized when the LED lights are on to prevent off-site light and glare impacts.

D. Avigation Easements

1. Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County.

2. An Avigation Easement substantially consistent with the sample easement of Appendix "E" of the ALUCP shall be granted to the County of Colusa to the satisfaction of the Community Development Director.

E. Exposure of Persons to Excess Noise

1. The proposed buildings are subject to a noise exposure level of below 55 dB Ldn. Typical construction techniques for possible future noise sensitive office space uses would afford approximately 25 dB of noise reduction and would significantly reduce aircraft noise impact.

2. Any future interior office space to support the proposed project shall be constructed to meet the minimum construction requirements necessary to obtain an interior noise level pursuant to the City's General Plan Noise Element (45 dB Ldn).

F. Hazardous Materials

1. No flammable materials are proposed to be used with the proposed project. The cannabis cultivation would use a variety of fertilizers and pesticides. Pesticides will be subject to approval by the California Department of Food and Agriculture (CDFA).

2. In order to ensure the safety within and around the project site, the project shall contact the Colusa County Certified Unified Program Agency and the Colusa County Agricultural Commissioner's Office to ensure that all applicable permits are obtained for any proposed pesticide and/or fertilizer prior to said substances being brought on to the subject site.

PASSED AND ADOPTED this _____ day of __________, 2022 by the following vote:

AYES:

NOES:

ABSENT:

____
Mike West, Chair
Airport Land Use Commission

ATTEST: Wendy G. Tyler, Secretary
Airport Land Use Commission

____
Melissa Kitts, Deputy Clerk

ATTEST TO FORM

____
Richard Stout, County Counsel

Exhibit "A"

Project Description Summary
Patrick Barros

1. **Project Location**: 2857 Niagara Avenue, APN: 017-030-099) 2959 Davison Court, approximate 2 acres of a 4.16-acre site.
2. **Building Size:** Existing 7,200 sq.ft. metal sided building and 4 - 3,000 sq.ft., 10-foot tall greenhouses, with the potential to add 4 additional greenhouses in the future.
3. **Proposed Use:** Cannabis Cultivation Facility

Inside of Building Uses:

Uses occurring within the buildings will include the following – Cannabis Cultivation and processing (drying and trimming).

- **End Products:** Cannabis Flowers
- **Hazardous materials:** No
- **Hours of operation: 7** am to 7 pm
- **Number of employees**: 13 Employees (12 workers plus the company president)

Uses occurring outside the building:

- **Storage**: No outdoor storage will occur.
- **Types of vehicles**: Standard personal vehicle for the owner, garbage truck for weekly pick up, and SUV for transportation of the processed flowers on a weekly basis.
- **Projected number of trips:** Approximately 3 daily, when the contract trimmers are present 1 to 3 additional trips at a maximum.
- **Location of vehicle parking:** In the front of the building.
- **Exterior improvements:**
  No exterior improvements are planned.
- **Exterior lighting:** None proposed. Greenhouses have blackout capability and will be blacked out while lighting is on and not visible at night (lighting will be LED low wattage greenhouse lights and will be on between 4 – 6 hours a day when in use).

Exhibit "A"

BUSINESS PLAN

& SECURITY LAYOUT

CANNALOOSA

Part 1 - Buildout

- Build (2) 16 x 22 dry rooms inside existing metal building
- Build (1) room for trimming and packaging dried flower
- Build office above dry rooms

Part 2 - Buildout

- Assemble (4) 30ft x 100ft autodep greenhouses
- Add power/electricity, 50 amp sub panels per greenhouse
- Add water tank and lines to all 4 greenhouses
- Install corrugated drains between and behind all 4 greenhouses for to be utilized as maintenance area
- Each greenhouse will have 37yrds of pea gravel as groundcover
- Ambient temp hot water lines will be added to heat greenhouse from ground
- Each greenhouse to be sealed with waterwall and light sealed with fans that will face south to ensure smell complies with city ordinance
- Each greenhouse will have its own water tank with PVC water to feed plants
- LED lightswill be added to all greenhouses to facilitate vegetation growth

Part 3 - Security

* WIFI motion sensors on all mandoors and green houses
*11 cameras (see diagrom with key)
* 8 outsid
* 3 inside
* 6 foot fence total linear feet 1380 ft
* 25 foot gate
* Barbed wire to be installed along total fence
* 20 foot container for storage of dry flour or cage to be built on top of mezonine.

Packaging room
* WIFI digital key pad locks on all doors
* Bay alarm in building with service to notify police department or other alarm company

GRATEFUL GREENS CANNABIS COMPANY GG

CANNALOOSA

Exhibit "A"

Employees, number of jops generated

• Initial number of employees needed

12 employees total:

6 employees for trim processing

2 gardeners

1 main gardener

2 sales

1 general manager

1 president

Estimated Product quantities

• Each greenhouse will have 4 separate tables equaling 2,500 sq ft of canopy (Permit Total 10,000 sq ft canopy)

• Each 2,500 sq ft canopy is estimated to output 50lbs of dry processed flower.

DISTRIBUTED BY

GRATEFUL GREENS CANNABIS COMPANY GG

5D1S LLC dba CannaLoosa Farms, Filing #202119310535

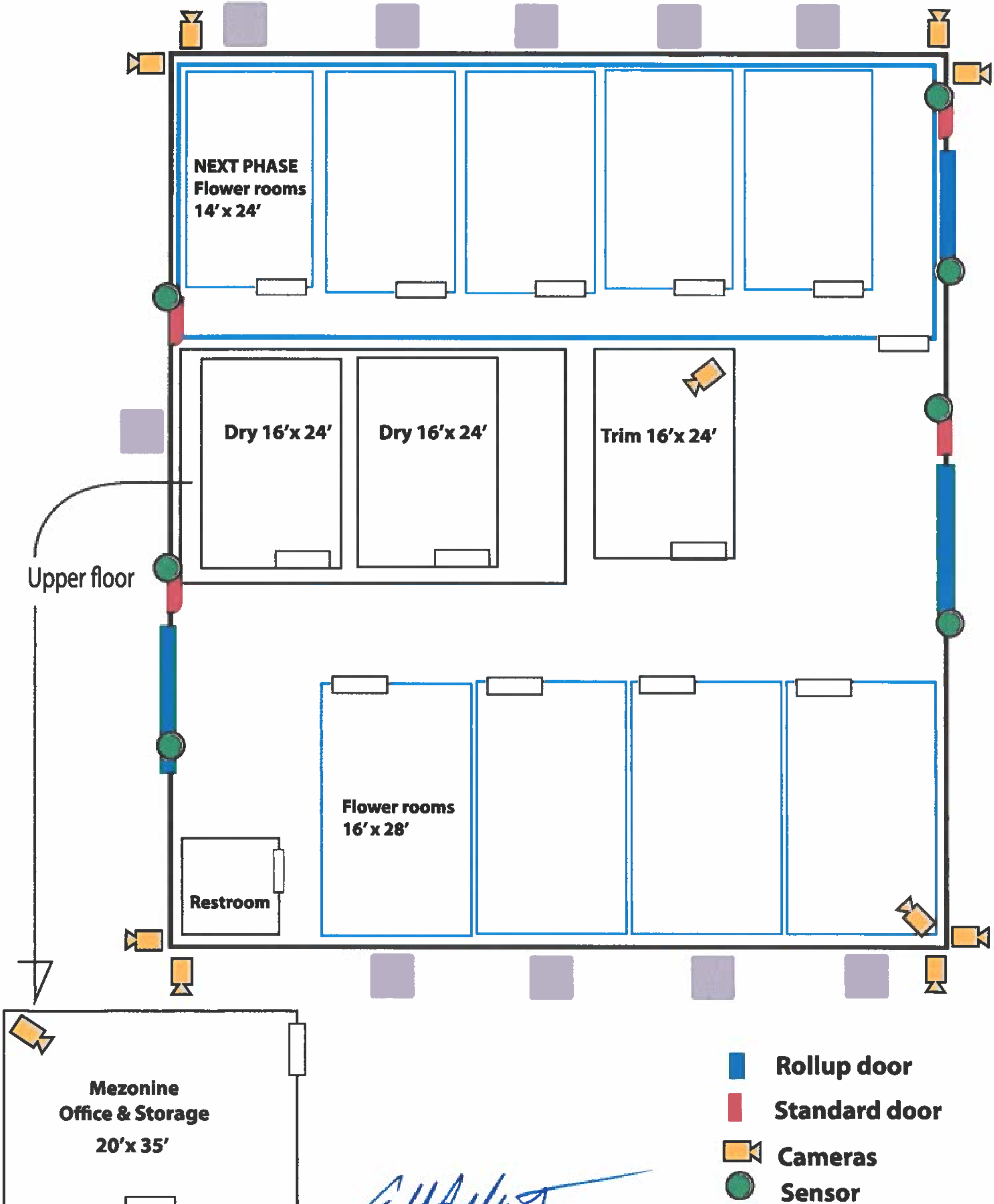
CORPORATE OFFICE

2857 NIAGARA AVENUE , CALOUSA CA 95932

Mailing address: P.O. Box 822, Calousa Ca 95932

Exhibit "A"

Security layout (Building A)



4/1/22

Exhibit "A"

SITE MAP - Google Maps

Main Gate

Outer Fence

Green
Houses

GRATEFUL GREENS CANNABIS COMPANY GG

4/1/22

Exhibit "A"

Exhibit "A"

ATTACHMENT #1
ALUC 22-05
Patrick Barros - Project Location

Attachment #2

**RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:**

City of Colusa
425 Webster Street
Colusa, CA 95932

Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this _________ day of ____________, 2022 (the "Execution Date"), by and between the **CITY OF COLUSA, a California municipal corporation** ("City") and **Patrick Barros** ("Owner"). City and Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement.

RECITALS

A. The State of California enacted California Government Code Sections 65864 *et seq.* ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction.

B. The purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the developer, and to meet certain public purposes of the local government.

C. Owner intends to remodel up to 4,800 square feet of existing interior building space and construct four new 3,000-sq-ft greenhouses totaling 16,800 square feet on 3.5 acres of partially developed industrial property located at 2857 Niagara Avenue (APN: 017-030-099) for the purposes of cannabis cultivation, distribution. The site is more fully described in Exhibit A and shown on the map in Exhibit B.

D. Owner intends to operate a Cannabis Manufacturing Facility as defined in the City of Colusa City Code. Such Cannabis Manufacturing Facilities shall operate in accordance with the California State cannabis laws, creating a unified regulatory structure for adult use and medical cannabis. Prior to operating a cannabis facility,

Owner shall be required to obtain a special use permit and regulatory permit from City. Owner and Tenants (if any) shall collectively be referred to in this Agreement as Developers.

E. Ultimately, Developer intends to obtain all necessary state licenses issued pursuant to MAUCRSA to operate the Cannabis Manufacturing Facility at the Site once such licenses are being issued.

F. Developers presently intend to develop and open a Cannabis Manufacturing Facility on the Site (including 12 employees) consistent with the California Marijuana Laws and Project Approvals (known as the "Project" as further described below).

G. On July 18, 2017, City adopted Ordinance 519 permitting Cannabis Manufacturing Facilities in strict compliance with the applicable California laws regulating cannabis cultivation, manufacturing, processing, and distribution under certain conditions and provisions. Currently, City is updating the City Code to comply with new State cannabis regulations that are in effect as of the date of this Agreement.

H. City and Owner have agreed that, as a condition of allowing the Project, as defined herein, and due to the unique circumstances of the proposed Project, Owner shall pay to the City quarterly fees based on the gross revenue of the Cannabis Manufacturing operations as hereinafter defined, which fees shall abate if and when the City adopts a tax on Cannabis Manufacturing Facilities.

I. The City of Colusa, as "Lead Agency," has determined that —based upon CEQA Guidelines Section 15061 (b) (3)— the Project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

J. City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, zoning code and municipal ordinances.

K. City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than defer its actions to some undetermined future date.

The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner has represented to City that it would not consider or engage in the Project absent City approving this Agreement; *i.e.*, assuring Owner that it will enjoy the development rights.

L. The City agrees that Owner's land use entitlements for the Project shall vest for the term of this Agreement as described below.

M. After conducting a duly noticed hearing on May 25, 2022, the Planning Commission of the City reviewed, considered and voted 5-0, passed a resolution recommending City Council approval of an Ordinance approving this Agreement.

N. After conducting a duly noticed hearing on, ______, 2022, and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses, and programs specified in the general plan; compatible with the uses authorized in the zoning code; is in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Colusa and its residents.

O. Production Fee. "Production Fee" shall mean any cannabis cultivation, processing, testing, distribution, and transportation of cannabis and cannabis products.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Binding Effect of Agreement. The Parties agree that the Recitals above are true and correct and intend to be bound by same; the Parties further agree to the incorporation by reference herein of said Recitals, together with all definitions provided and exhibits referenced therein. Except as otherwise provided in Section 15 of this Agreement, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide continued notice thereof, the Parties will record this Agreement with the Colusa County Recorder. The word "Owner" as previously defined and used herein shall include successor owners, apart from government or quasi-public agencies, of any portion of the Site. Should the size or orientation of any Site component specified above be changed in minor respects, *e.g.*, changed by a lot line adjustment, this Agreement shall not thereby be deemed to have been affected or invalidated, but the rights and obligations of the Parties and their successors shall remain as provided herein.

2. Relationship of the Parties. It is hereby specifically understood and acknowledged that the Project is a private project and that neither City nor Developers will be deemed to be the agent of the other for any purpose whatsoever. City and Developers hereby renounce the existence of any form of joint venture or partnership between or among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Developers joint venturers or partners.

3. Term. Except as otherwise specified herein, the term of this Agreement (the "Term") is 10 years from the date the Owner begins commercial operation at the Project Site ("Operation Date"). The Operation Date shall be no later than 12 months following the Execution Date. The Term shall generally be subject to earlier termination or extension as hereinafter provided.

3.1 Term Extension – Third Party Issues. Notwithstanding the Parties' expectation that there will be no limit or moratorium upon the Project's development or the issuance of building or other development related permits (a "Development Limitation") during the Term, the Parties understand and agree that various third parties may take action causing a *de facto* Development Limitation. Consequently, the Term shall be extended for any delay arising from or related to any of the potential Development Limitations that follow in the subsections below for a time equal to the duration of that delay occurring during the Term. No Development Limitation may arise or result from an action or omission by Developers.

3.1.1 Litigation. Any third party-initiated litigation that arises from or is related to any City action or omission with respect to this Agreement or any subsequent City approval required in connection with the Project's development, or third party initiated litigation having the actual effect of delaying the Project's development. This extension period related hereto shall include any time during which appeals may be filed or are pending.

3.1.2 Government Agencies. Any delay arising from or related to the act(s) or omission(s) any third-party governmental agency, quasi-public entity or public utility, and beyond the reasonable control of Developers.

3.1.3 *Force Majeure*. Any delay resulting from riot, war, acts of terrorism, an event during the Term creating radioactive or toxic/hazardous contamination, a catastrophic earthquake, flood, fire or other physical natural disaster, excluding weather conditions regardless of severity, strikes or industrial disputes at national level effecting development involved personnel not employed by Developers, their subcontractors or suppliers and effecting an essential portion of the Project's development, excluding any industrial dispute that is specific to development taking place as a part of the Project.

3.2 Term Extensions. The Term of this Agreement will be extended for seven additional years upon a determination of the City Council, by way of resolution of the City Council acted on at a regularly scheduled meeting, that both of the conditions listed in subparts 3.2.1 and 3.2.2 below have been fully satisfied are the Owner is in full compliance:

3.2.1. No Default by Owner. Owner shall not be in default with respect to any provision of this Agreement or any subsequent agreement or understanding between the Parties arising from or related to this Agreement, having received notice from City of said default per this Agreement, or if Owner did in fact default as to this Agreement, upon notice from City, that Owner did cure said default during the period to cure provided herein to City's satisfaction.

3.2.2 Finding of Community Compatibility. The City Council shall review the operations of Owner prior to granting an extension of the term of this Agreement and make a finding that the Cannabis Manufacturing, notwithstanding that the Cannabis Manufacturing may not be in precise technical compliance with the issued regulatory permit and special use permit, continue to be compatible with surrounding land uses and are not detrimental to the public health, safety and general welfare.

3.2.3. Mutual Agreement of Parties. In addition to the process listed above for a seven-year term extension, this Agreement's Term may be extended by mutual agreement of the Parties and formal amendment of this Agreement.

3.3 Termination of Agreement. Upon the termination of this Agreement, either by expiration or otherwise, Developers shall have no right to engage in Cannabis Manufacturing at the Project Site, except as may otherwise be allowed by City ordinance, law or separate development agreement.

4. Defined Terms. As used in this Agreement, the following terms shall have the meanings hereinafter set forth:

4.1. Certified Report. "Certified Report" shall mean a detailed document prepared by Developers on a form acceptable to the City's Director of Finance to report to the City of the Cannabis Manufacturing distribution and sales, as defined herein, in the Project during each Operational Quarter, as defined herein. Each Certified Report shall be certified as true and correct by a duly authorized officer of Owner.

4.2. Production Fee. "Production Fee" shall mean a quarterly fee remitted to the City by Owner based on the gross wholesale receipts of its operations, as defined below, in the amount of 3% of gross sales from operations to begin after 8 months of commencement of operation.

4.3. Certification of Non-Income Tax Exemption. Owner certifies that Owner is not income tax exempt under State or Federal Law and that Owner will not file for such an exemption from the Internal Revenue Service or the Franchise Tax Board. Owner will also require all Tenant(s) to certify that Tenant(s) are not income tax exempt under State or Federal Law and will not file for such an exemption.

4.4. Land Use Regulations. "Land Use Regulations" shall mean all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation

or dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Project. "Land Use Regulations" do not include any City ordinance, resolution, code, rule, regulation or official policy governing:

4.4.1. The conduct or taxation of businesses, professions, and occupations applicable to all businesses, professions, and occupations in the City;

4.4.2. Other than as provided in this Agreement, taxes and assessments of general application upon all residents of the City, provided that the taxes and assessments are not imposed for the purpose of taxing the right, power or privilege of developing or improving land (e.g., excise tax) or to directly finance the acquisition or dedication of open space or any other public improvement in respect of which the Developer is paying any fee or providing any improvement pursuant to this Agreement;

4.4.3. The control and abatement of nuisances.

4.4.4. The granting of encroachment permits and the conveyance of rights and interests which provides for the use of, access to or the entry upon public property, as may be approved by mutual agreement between Developer and City; and

4.4.5. The exercise of the power of eminent domain.

4.5. "Existing Land Use Regulations" means all Land Use Regulations in effect as of the approval date of this Agreement, including the Project Approvals.

4.6. Operational Quarter. "Operational Quarter" shall mean any calendar quarter during which any gross revenue of the Project is produced.

5. Fee Payments by Owner. In consideration of City's entering into this Agreement and authorizing the development and operation of the Project, the requirements for City services created by the Project, the City insuring Developers compliance with this Agreement, California medical marijuana laws and the City's municipal ordinances, throughout the Term of this Agreement, Owner shall make the following payments to City:

5.1. Production Fee Payments by Owner. Quarterly payments of the Production Fee by Owner to the City as specified in Section 6 herein. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement, but the Production Fee under this Agreement shall cease if any City-wide tax is imposed specifically on Cannabis Manufacturing operations.

6. Payment Procedures. The following payment procedures shall apply during the operation of the Project:

6.1. Remittance of Fees; Certified Reports. Within thirty (30) calendar days following the end of each quarterly period during the Term of this Agreement, Owner shall submit the Certified Report to the City's Finance Director and a payment for the Production and Manufacturing, Cultivation and Distribution Fees for that Operational Period as identified in the Certified Report. Owner shall pay Fees to the City on a quarterly basis without exception. Any material misstatement or misrepresentation in the Certified

Report and any failure to pay Fees when due shall constitute events of default by Developers subject to the default provisions of this Agreement.

6.2. Maintenance of Records. Developers shall maintain complete records of their operations to substantiate and document the content of each Certified Report. Such records shall include, without limitation, invoices and payments taken by Tenants and/or any operator of the facility. Developers shall maintain such records in a form and location reasonably accessible to the City, following reasonable notice to Developers and/or any operator, for a period of at least five (5) calendar years following Owner's submission of the Certified Report to which the records apply.

6.3. Audit. Within ninety (90) calendar days following the end of each Operational Quarter, the City may conduct an audit or arrange for a third-party independent audit, at Developers' expense, of Developers records regarding Certified Reports and the Fees. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Developers, and shall reasonably attempt to schedule the audit so as to reduce the impact on Tenants' operations as much as is feasible. Developers shall cooperate with the City in completing the audit. If the audit reveals that Owner has underpaid the Fees, Owner shall pay such underpaid amounts to the City within thirty (30) calendar days of receipt of written notice from the City's Director of Finance in addition to all costs of the audit, including city staff time and outside consultants. If the audit reveals that the Owner has overpaid any amount of the Production or Nursery Fees, City shall provide written notification to Owner and shall credit such amount against Owner's subsequent quarterly payment of Fees.

7. Covenants of Owner. During the Term of this Agreement, Owner hereby covenants and agrees with the City as follows:

7.1. Implementation. Owner shall use commercial reasonable efforts to pursue the implementation of the Project as expeditiously as feasible, in the form approved by the City, subject to all applicable laws, this Agreement, the Project Approvals and the Municipal Code.

7.1.1. Developer shall comply with all applicable state regulations governing its manufacturing operations. If permanent regulations are not in place at the time operations commence, Developer shall comply with whatever temporary, interim, or urgency regulations that are in effect pending the State's consideration and adoption of permanent regulations.

7.2. Enhanced Design Requirement. Owner shall submit a design plan for the building and site, for review and approval by the Planning Director, which shall incorporate at a minimum, security fencing and landscaping improvements consistent with the policies in the City's General Plan.

7.3. Maintain & Operate Project. Owner and Tenants shall maintain and operate the Project on the Site, once constructed, throughout the Term of this Agreement, in accordance with the Project Approvals and all City, and State laws.

7.4. Hold Harmless. Owner shall defend (with counsel reasonably acceptable to City), indemnify and hold City and its councilpersons, officers, attorneys, agents, contractors, and employees (collectively, the "Indemnified Parties") harmless from and against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees and costs), damages (including, without limitation, consequential damages), claims and liabilities arising from the Project, this Agreement, the approval of the Project, and the activities of Developers, their members, officers, employees, agents, contractors, invitees and any third parties on the Site, from and against any challenges to the validity of this Agreement or other Project Approvals. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement.

8. Covenants of City. During the Term of this Agreement, City hereby covenants and agrees with Owner as follows:

8.1. Expeditious Services. City shall process applications and address questions and concerns raised by Developers representatives at the "counter" at City Hall as expeditiously as reasonably possible. Upon Owner's request, or if, in an exercise of City's own discretion, City staff determines that it cannot comply with this section, City shall expeditiously engage the services of private contract planners, plan checkers or inspectors ("Private Contractors") to perform such services as may be necessary to assist in processing the project plans as described herein. Compensation of such Private Contractors shall be at Owner's sole cost and expense, inclusive of any administrative cost to City of integrating services by Private Contractors into the project's development processing. Owner shall pay such costs and expenses of Private Contractors via reimbursement to City, per City's applicable policies and procedures. City shall have absolute discretion in the selection of such Private Contractors.

8.2 Vested Rights. During the Term of this Agreement, Owner shall have the vested right and entitlement to develop and operate the Project in accordance with the Existing Land Use Ordinances, in addition to any Cannabis Manufacturing Operating Standards adopted by the City Council, which may be amended at the City's discretion. Parties acknowledge that neither the City nor the Owner can at this time predict when or the rate at which or the order in which parts of the Project will be developed. Owner shall have the vested right to develop the Project in such order and at such rate and at such times as Owner deems appropriate in the exercise of its business judgment, provided that Owner is in compliance with the Project Approvals.

8.3 Building Permits and Other Approvals and Permits. Subject to (a) Owner's compliance with this Agreement, the Project Approvals the Existing Land Use Ordinances, the Building Ordinances, and Operating Standards; and (b) payment of the usual and customary fees and charges of general application charged for the processing of such applications, permits and certificates and for any utility connection, or similar fees and charges of general application, the City shall process and issue to Developers promptly upon application therefore all necessary use permits, building permits, occupancy certificates, regulatory permits, licenses and other required permits for the construction, use and occupancy of the Project, or any portion thereof, as applied for,

including connection to all utility systems under the City's jurisdiction and control (to the extent that such connections are physically feasible and that such utility systems are capable of adequately servicing the Project).

8.4 Procedures and Standards. The standards for granting or withholding permits or approvals required hereunder in connection with the development of the Project shall be governed as provided herein by the standards, terms and conditions of this Agreement and the Project Approvals, and to the extent not inconsistent therewith, the Existing Land Use Ordinances, but the procedures for processing applications for such permits or approvals (including the usual and customary fees of general application charged for such processing) shall be governed by such ordinances and regulations as may then be applicable.

9. Effect of Agreement.

9.1 Grant of Right. This Agreement shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full. The Parties acknowledge that this Agreement grants Owner the right and entitlement to develop the Project and use the land pursuant to specified and known criteria and rules as set forth in the Project Approvals and Existing Land Use Ordinances, and to grant the City and the residents of the City certain benefits which they otherwise would not receive.

9.2 Binding on City/Vested Right of Owner. This Agreement shall be binding upon the City and its successors in accordance with and subject to its terms and conditions notwithstanding any subsequent action of the City, whether taken by ordinance or resolution of the City Council, by referenda, initiative, or otherwise. The Parties acknowledge and agree that by entering into this Agreement and relying thereupon, the Owner has obtained, subject to the terms and conditions of this Agreement, a vested right to proceed with its development of the Project as set forth in the Project Approvals and the Existing Land Use Ordinances, and the timing provisions of Section 3, and the City has entered into this in order to secure the public benefits conferred upon it hereunder which are essential to alleviate current and potential problems in the City and to protect the public health, safety and welfare of the City and its residents, and this Agreement is an essential element in the achievement of those goals.

9.3 Future Conflicting Local Laws. If any City law, including ordinances, resolutions, rules, regulations, standards, policies, conditions and specifications (collectively "City Laws") are enacted or imposed by a citizen-sponsored initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with this Agreement, such City Law shall not apply to the Project Site or Project. The Parties, however, acknowledge that the City's approval of this Agreement and the City Approvals are legislative actions subject to referendum.

9.3.1 Without limiting the generality of the foregoing, no moratorium or other limitation whether relating to the rate, timing, phasing or sequencing of development affecting subdivision maps, building permits, or other Subsequent Approvals shall apply to the Project. Owner agrees and understands that the City does not have authority or jurisdiction over another public agency's authority to grant a

moratorium or to impose any other limitation that may affect the Project.

10. Specific Criteria Applicable to Development of the Project.

10.1 Applicable Ordinances. Except as set forth in the Project Approvals and subject to the provisions of Section 10.2 below, the Existing Land Use Ordinances shall govern the development of the Site hereunder and the granting or withholding of all permits or approvals required to develop the Site; provided, however, that (a) Owner shall be subject to all changes in processing, inspection and plan-check fees and charges imposed by City in connection with the processing of applications for development and construction upon the Site so long as such fees and charges are of general application and are not imposed solely with respect to the Project Site, (b) Owner shall abide by the Building Ordinances in effect at the time of such applications, (c) Development Impact Fees to be paid by Owner shall be those in effect at the time permits are issued subject to those fees, and (d) development shall be consistent with current Operating Standards.

10.2 Amendment to Applicable Ordinances. Any change to the Existing Land Use Ordinances that conflicts with the Project Approvals shall nonetheless apply to the Project_if, and only if (i) it is consented to in writing by Owner in Owner's sole and absolute discretion; (ii) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety; (iii) it is required by changes in State or Federal law; (iv) it consists of changes in, or new fees permitted by, Section 4.1;or (v) it is otherwise expressly permitted by this Agreement. The Parties anticipate that the City shall subsequently adopt Operating Standards that govern this type of use, which Regulations, and any amendments thereto, shall apply to the Project.

10.3 Applicability of Zoning Amendments. In the event that the City zoning ordinance is amended by the City in a manner which provides more favorable site development standards for the Project Site or any part thereof than those in effect as of the Effective Date, Owner shall have the right to notify the City in writing of its desire to be subject to all or any such new standards for the remaining term of this Agreement. If City agrees, by resolution of the City Council, such new standards shall become applicable to the Project. Should City thereafter amend such new standards, upon the effective date of such amendment, the original new standards shall continue to apply to the Project as provided above, but Owner may notify City in writing of its desire to be subject to all or any such amended new standards and City shall agree in the manner above provided to apply such amended new standards to the Project.

11. Permitted Delays; Supersedure by Subsequent Laws.

11.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, Owner and City shall be excused from performance of their obligations hereunder during any period of delay caused by acts of mother nature, civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, any referendum elections held on the Enacting Ordinance, or the Land Use Ordinances, or

any other ordinance effecting the Project or the approvals, permits or other entitlements related thereto, or restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting provisions of the Constitution or laws of the United States of America or the State of California or any codes, statutes, regulations or executive mandates promulgated thereunder (collectively, "Laws"), orders of courts of competent jurisdiction, or any other cause similar or dissimilar to the foregoing beyond the reasonable control of City or Owner, as applicable. Each Party shall promptly notify the other Party of any delay hereunder as soon as possible after the same has been ascertained. The time of performance of such obligations shall be extended by the period of any delay hereunder.

11.2 Supersedure of Subsequent Laws or Judicial Action.

11.2.1 The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new Law or decision issued by a court of competent jurisdiction (a "Decision"), enacted or made after the Effective Date which prevents or precludes compliance with one or more provisions of this Agreement. Promptly after enactment of any such new Law, or issuance of such Decision, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Owner and City shall have the right to challenge the new Law or the Decision preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, except that the Term shall be extended, in accordance with Section 2.1 above, for a period of time equal to the length of time the challenge was pursued, to extent such challenge delayed the implementation of the project.

12. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and the Developers. It is anticipated due to the term of this Agreement that refinements to the approvals may be appropriate with respect to the details of performance of the City and the Developers. To the extent allowable by law, the Developers shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Agreement. When and if the Developers finds it necessary or appropriate to make changes, adjustments or clarifications, the Parties shall enter into memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Agreement. Operating Memoranda are not intended to constitute an amendment to this Agreement but mere ministerial clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized upon consultation with the Developers, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Agreement which requires compliance with the provisions of this Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby

authorized to execute any operating Memoranda hereunder without further City Council action.

13. CEQA. All procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq.*, and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 *et seq*. have been satisfied.

14. Building Permits. Nothing set forth herein shall impair or interfere with the right of City to require the processing of building permits as required by law relating to any specific improvements proposed for the Project pursuant to the applicable provisions of the City's municipal code, inclusive of such California and International Codes as have been adopted in accord therewith, that are in effect at the time such permits are applied for; provided, however, no such permit processing shall authorize or permit City to impose any condition on and/or withhold approval of any proposed improvement the result of which would be inconsistent with this Agreement.

15. Assignment and Transfer of Rights. Except as otherwise provided in this Section, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants that run with the Site. Owner, for itself, its heirs, distributes, executors, administrators, legal representatives, successors and assigns, shall not, at any time during the Term, assign, convey, lease, sell or otherwise transfer all or any portion of its rights under this Agreement ("Assignable Rights") to a third party, a subordinate entity, or a related entity (make an "Assignment") without the prior written consent of City in each instance, which consent which consent will not be unreasonably withheld, provided the entity receiving the Assignment is qualified to conduct business under all City codes and ordinances, and obtains all required state and City permits. Any assignment in violation of this Section will be void. No permitted assignee of this Agreement may further assign this Agreement without City's prior written consent.

16. Review for Compliance.

16.1 Periodic Review. Pursuant to CGC §65865.1, City shall engage in an annual review this Agreement, on or before the anniversary of the date of execution, in order to ascertain Owner's good faith compliance with its terms (the "Periodic Review"). In the event City fails to formally conduct such annual review, Owner shall be deemed to be in full compliance with the Agreement.

17. Amendment or Cancellation. This Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties or in the manner provided in CGC §65865.1 or CGC §65868 and subsection 3.2 above.

17.1 Provide Notice. Provide the other Party with written notice of such State or Federal law or regulation, a copy of such law or regulation and a statement identifying how such law regulation conflicts with the provisions of this Agreement.

17.2 Meet and Confer. Upon notice by one Party to another as to preemption or frustration of this Agreement by law or regulation, the Parties shall promptly meet and confer in good faith and make a reasonable attempt to modify or suspend this Agreement to comply with such applicable Federal or State law or regulation. If the Parties cannot agree on a manner or method to comply with such Federal or State law or regulation, the Parties may, but shall not be required to, engage in alternative dispute resolution.

18. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing [such as Federal Express or UPS]), sent by telecopier or facsimile ("Fax") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

If to City:

City of Colusa
425 Webster Street
Colusa CA 95932
Attention: City Manager

With copy to: Jones & Mayer, City Attorney

8150 Sierra College Blvd., Suite 190
Roseville California 95661
Attention: Ryan R. Jones, Esq.

If to Owner:

Patrick Barros
2857 Niagara Ave.
Colusa, CA 95932

Notices sent in accordance with this Section shall be deemed delivered upon the: ***(a)*** date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); ***(b)*** date of actual receipt (if personally delivered by other means); ***(c)*** date of transmission (if sent by email or telecopier, so long is sender receives actual confirmation that the transmission was received); or ***(d)*** date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this Section.

19. Breach and Remedies. Notwithstanding any provision of this Agreement to the contrary, Developers shall not be deemed to be in default under this Agreement with respect to any obligation owed solely to City, and City may not terminate or modify Developers' rights under this Agreement, unless City shall have first delivered a written

notice of any alleged default to Owner that specifies the nature of such default. If such default is not cured by Owner within sixty (60) days after receipt of such notice of default, or with respect to defaults that cannot be cured within such period, Owner fails to commence to cure the default within thirty (30) days after receipt of the notice of default, or thereafter fails to diligently pursue the cure of such default, City may terminate Owner's rights under this Agreement. Default by any Assignee or Owner's successor in interest shall affect only that portion of the Site owned by such Assignee or successor, and shall not cancel or diminish in any way Owner's rights with respect to any portion of the Site not owned by such Assignee or successor. In the event that a breach of this Agreement occurs, irreparable harm is likely to occur to the non-breaching Party and damages will be an inadequate remedy. To the extent permitted by law, therefore, it is expressly recognized that injunctive relief and specific enforcement of this Agreement are proper and desirable remedies, and it is agreed that any claim by Owner against City for an alleged breach of this Agreement shall be remedied by injunctive relief or an appropriate action for specific enforcement of this Agreement and not by a claim or action for monetary damages.

20. Entire Agreement. This Agreement and the Exhibits herein contain the entire integrated agreement among the Parties. The Parties intend that this Agreement state their agreement in full to each and every one of its provisions. Any prior agreements, understandings, promises, negotiations or representations respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Agreement, are agreed by all Parties to be null and void.

21. Severability. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any Party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

22. Attorneys' Fees. If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which constitute one and the same instrument.

24. Execution of Agreement. The Parties shall sign this Agreement on or within five (5) business days of approval.

25. Estoppel Certificate. City shall, at any time and from time to time within ten (10) days after receipt of written notice from Owner so requesting, execute, acknowledge and deliver to Owner a statement in writing: ***(a)*** certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and ***(b)*** acknowledging that there are no uncured defaults on the part of Owner hereunder or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Site. Upon Owner's written request, City shall issue a certificate of performance evidencing completion of any of Owner's obligation(s) under this Agreement.

26. Encumbrances on Real Property.

26.1 Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Site or any portion thereof or any improvements thereon then owned by such person with any mortgage, deed of trust or other security device ("Mortgage") securing financing with respect to the Site or such portion. City acknowledges that the lenders providing such financing may require certain modifications, and City agrees, upon request, from time to time, to meet with Owner and/or representatives of such lenders to negotiate in good faith any such request for modification. City further agrees that it will not unreasonably withhold its consent to any such requested modification. Any mortgagee or trust deed beneficiary of the Site or any portion thereof or any improvements thereon and its successors and assigns ("Mortgagee") shall be entitled to the following rights and privileges.

26.2 Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Developers may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with the Developers and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, provided, further, that any modifications of this Agreement are subject to the provisions of this Agreement relative to modifications or amendments.

26.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Site or any portion thereof by a Mortgagee (whether pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise) shall be subject to all of the terms and conditions of this Agreement.

26.4 Mortgagee Not Obligated. Notwithstanding the provisions of Section 26.2, no Mortgagee will have any obligation or duty under this Agreement to perform the obligations of Owner or other affirmative covenants of Owner hereunder, or to guarantee such performance, except that to the extent that Mortgagee opts to receive the benefits of the Agreement, including the right to operate, any covenant to be performed by Owner is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder. No Mortgagee will be liable for any monetary defaults arising prior to its acquisition of title to the Site or any portion thereof. Uncured monetary defaults will terminate the Agreement and Mortgagee's right to operate.

26.5 Written Notice of Default. Each Mortgagee shall be entitled to receive written notice from City of any default by Owner under this Agreement, if such default is not cured within thirty (30) days, provided such Mortgagee has delivered a written request to City for such notice. Each Mortgagee shall have a further right, but not the obligation, to cure such default for a period of thirty (30) days after receipt of such notice of default. Any non-curable defaults of Owner of any obligation owed solely to City arising prior to Mortgagee's acquisition of title to the Site or any portion thereof shall be waived; provided, however, the non-payment of money shall not be deemed a non-curable default.

27. Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties to this Agreement and, subject to City's written consent, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

28. Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of California. Furthermore, the Parties agree to venue in the Superior Court of Colusa County, California.

29. Mutual Covenants. The covenants contained herein, including those contained in the Recitals herein, are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

30. Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement ("Successors"). Furthermore, the rights and remedies, together with the benefits and burdens of this Agreement of each Party to this Agreement shall be coextensive with those of its Successors. All provisions of this Agreement shall be enforceable as equitable servitude's and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Site: *(a)* is for the benefit of and is a burden upon every portion of the Site; *(b)* runs with the Site and each portion thereof; and, *(c)* is binding upon each Party and each Successor during ownership of the Site or any portion thereof. From and after recordation of this Agreement, the Agreement shall impute notice to all persons and entities in accord with the recording laws of this State.

31. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their Successors and Assignees. No other person or entity shall have any right of action based upon any provision of this Agreement.

32. Waiver. Failure by a Party to insist upon the strict performance of any of this Agreement's provisions by the other party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

33. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

34. Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Government Code Section 65868.5.

35. Headings. The headings in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

36. Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

37. Jointly Drafted. It is agreed among the parties that this Agreement was jointly negotiated and jointly drafted by the Parties and their respective counsel, and that it shall not be interpreted or construed in favor of or against any party solely on the ground that it drafted the Agreement. It is also agreed and represented by all Parties that said Parties were of equal or relatively equal bargaining power and that in no way whatsoever shall this Agreement be deemed to be a contract of adhesion, or unreasonable or unconscionable.

38. Independent Legal Counsel. Each party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement or has knowingly and voluntarily declined to consult legal counsel, and that each Party has executed this Agreement with the consent and on the advice of such independent legal counsel.

39. Further Cooperation. The parties herein agree to execute any and all agreements, documents or instruments as may be reasonably necessary in order to fully effectuate the agreements and covenants of the Parties contained in this Agreement, or to evidence this Agreement as a matter of public record, if required to fulfill the purposes of this Agreement. The Parties further agree to mutually cooperate with one another in carrying out the purposes of this Agreement.

40. Enforceability. This Agreement shall not become binding and shall have no force and effect whatsoever until such time as it has been fully executed by and delivered to all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Execution Date.

Signatures on Next Page

Attachment #2

"CITY"

CITY OF COLUSA, CA
a California Municipal Corporation

Date: ____________________, 2022

By: ________________________________

Mayor

Attest:

By: ________________________________

City Clerk

Approved as to form:

Jones & Mayer

By: ________________________________
Ryan R. Jones, Esq.
City Attorney

"Authorized Agent"

Patrick Barros

By: ________________________________

Date: ____________________, 2022

By: ________________________________

By: ________________________________

Approved as to form:

By: ________________________________
Attorney for Owner

Attachment #2

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF _______________ }

On____________________ before me, ____
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

Attachment #2

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF ______________ }

On__________________ before me, ____________________________________
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

EXHIBIT "A"

Attachment #2

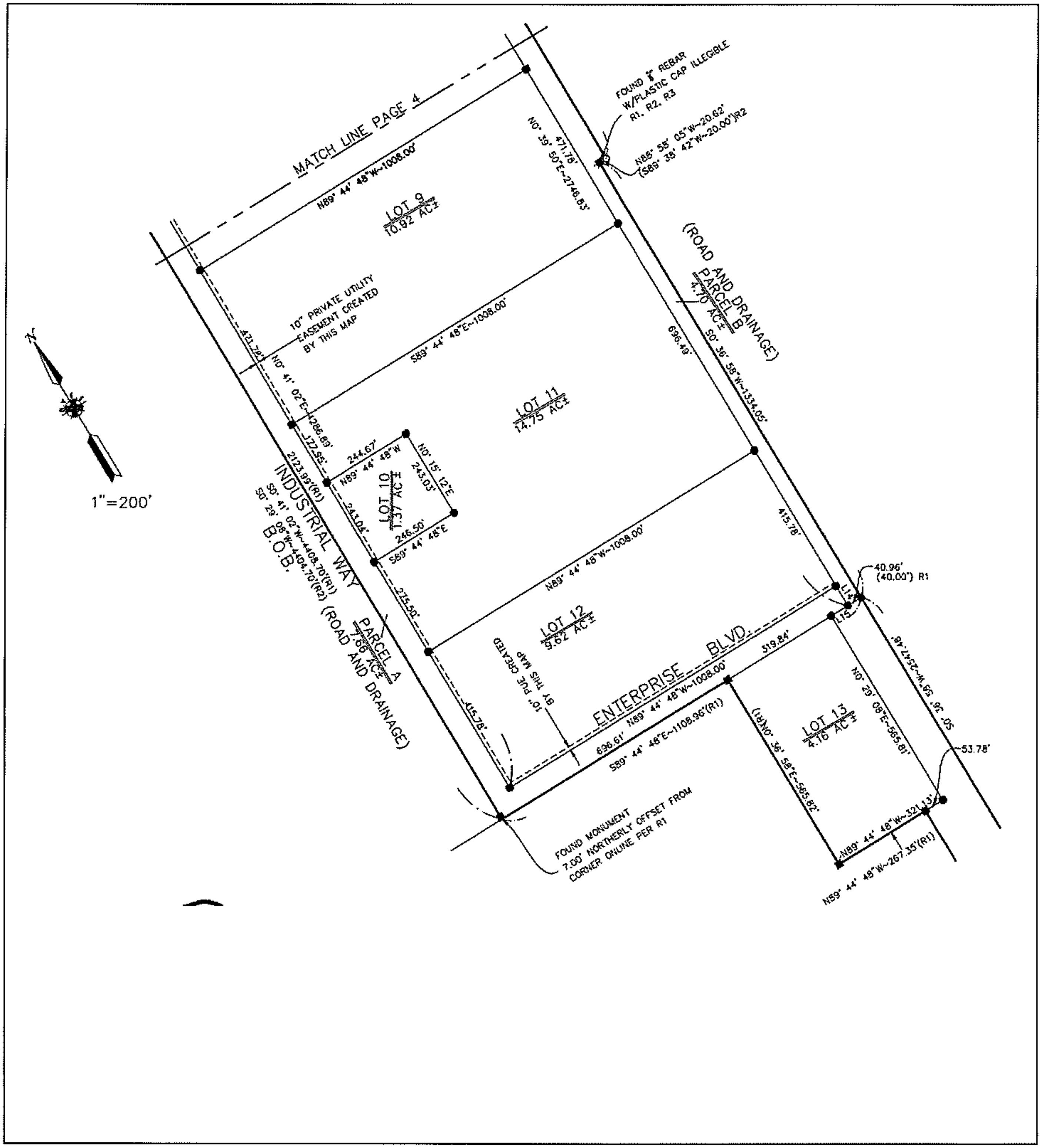
Legal Description

Pending

EXHIBIT “B”

Attachment #2

Site & Boundary Map



COUNTY OF COLUSA, CA

Request For Airport Advisory Committee

MEETING DATE:	**August 3, 2022**
DEPARTMENT:	**Community Development**
FROM:	**Greg Plucker**
SUBJECT:	**RHF Partnership LLC (ALUC #22-06) Consistency Review**

SITTING AS COLUSA COUNTY AIRPORT LAND USE COMMITTEE
Adopt a Resolution making a finding that the RHF Partnership's (ALUC #22-06) project is consistent with the County's Airport Land Use Compatibility Plan.

PROJECT OVERVIEW:

Referring Agency:

City of Colusa
ATTN: Jesse Cain
425 Webster Street
Colusa, CA 95932
citymanager@cityofcolusa.com
(530) 458-4740

Owner:

Colusa Industrial Properties
50 Sunrise Boulevard
Colusa, California 95932

Project Summary:

The City of Colusa has referred the proposed the RHF Partnership's (ALUC #22-06) project to the Colusa County's Airport Land Use Commission (ALUC) for a consistency review of the project with the Colusa County's Airport Land Use Compatibility Plan (ALUCP).

As detailed in the project description (Exhibit "A"), the application proposes to establish a cannabis cultivation and processing use within an existing 11,200 sq.ft. building. The use would be occurring within an approximate 1± acre portion of a 5 acre site in the Colusa Industrial Park.

The use within the building would involve cultivating cannabis plants (including mother plants to produce nursery starts) and processing (drying and trimming) the cannabis flowers. The project is expected to build out over a two-year period and would ultimately include a total of approximately 4,896 square feet of canopy, a nursery room, a drying room, a processing room, and small office and storage area. At full buildout, it is anticipated that there would be up to 15 full-time and part-time staff.

The hours of operation would be from 8 am to 6 pm daily. Vehicular traffic would be limited to personal vehicles, weekly garbage truck, and delivery and export vehicles. All delivery times and dates will be coordinated to ensure only one delivery vehicle is onsite at a time. Access would be from Niagara Avenue.

There would be no exterior storage or improvements for the proposed use and exterior lighting will be used for security purposes and normal business operations. All exterior lighting will be shielded downward to minimize offsite lighting and glare.

Location:

The subject site has an address of 2881 Niagara Avenue in the Colusa Industrial Park in the City of Colusa. As shown in the location map (Attachment #1), the site is located approximately 1,200 feet west of the centerline of the runway.

ANALYSIS:

Airport Land Use Compatibility Plan Review (ALUCP):

The proposed project requires that the Commission review the proposed project for consistency with the ALUCP due to the following:

1.) Section 2.2.2 (e): Proposed development agreements or amendments to such agreements.

The following issues require the Commission's review for consistency with the ALUCP.

Use Compatibility:

The subject site is located in the ALUCP’s B2 Compatibility Zone. The B2 Compatibility Zone is described as a "Sideline Zone" with a Moderate to High Noise Level Risk and a Low to Moderate Risk Level Zone for Safety and Airspace Protection Factors.

The proposed use within the building would best be described as an Indoor Storage Greenhouse with ancillary office and assembly uses by the ALUCP and is considered "conditionally compatible” due to the potential intensity and airspace obstructions issues.

Population Density:

The B2 Compatibility Zone specifies a Maximum Sitewide Average density of 60 persons per acre and a Maximum Single Acre density of 180 persons. Per the below table, a maximum of 60 persons would be allowed on the project site area at any one time. Although the entire parcel is 5 acres, it is assumed that the proposed use would be occupying approximately 1 acre of the larger parcel. Since the total number of persons allowed by the Maximum Sitewide Average density (60 persons) is less than the Maximum Single Acre density (180), the Maximum Sitewide Average density would limit the total persons on the project site at anyone time to 60 persons.

B2 Compatibility Zones Maximum Density Intensity			
	People/Acre	Project Site Size (1 acre of the 5 acre site)	Allowed Persons*
Maximum Sitewide Average	60	1	60
Maximum Single Acre*	180	1	180

Notes: *The Maxium Sitewide Average would limit the total persons to 60.

The compatibility plan also assumes an indoor person density of 1,000 sq.ft. per person for greenhouse uses, an indoor person density of 215 sq.ft. per person for office uses, and an indoor person density of 100 sq.ft. per person for small assembly uses (trimmers). The ALUCP would then assume a total occupancy of 14 persons on site at any one time. This number is very close to the applicant's full buildout employment estimate of 15 full-time and part-time staff. However, the total Maximum Sitewide Average allowed density of 60 persons is greater than what is anticipated to occur within the project area at full buildout.

ALUCP Anticapated Indoor Density **			
	Sq.Ft.	Persons Per Sq.Ft	Persons
Office Use	260	215	1
Small Assembly (processing)	260	100	3
Greenhouse/Drying Use	10680	1000	11
		Total	14

Notes: **Employee Density from Table 3A, ALUCP, Page 3-36

Accordingly, the intensity of use is within the ALUCP requirements. Staff has included a consistency finding referencing the ALUCP employee density standards to provide flexibility for future employment changes without further ALUC review; provided that the person per acre density standard is not exceeded.

Open Space:

With respect to the open land requirement in the B2 Zone, as shown in the table below, there is no open space requirement for the B2 Zone per Table 3A of the ALUCP. However, there is approximately 73 acres of land which qualifies as open space per Section 3.4.10 of the ALUCP.

B2 Open Space Calculation					
Compatibility Zone	Total Acreage	Open Space % Required	Required Open Space	Ex Open Space Area(1)	Ex Open Space %(1)
B2 Open Space Calculation	180	N/A	N/A	73.30	40.63%

Notes: (1) Pursuant to ALUCP Section 3.4.10, only those areas that are free of most structures and other major obstacles such as walls, large trees or poles (greater than 4 inches in diameter, measured 4 feet above the ground), and overhead wires with a minimum dimensions of 75 feet by 300 feet are included in the open space area calculation.

Noise Impacts To Sensitive Receptors:

Sensitive receptors at the site would be any office workers exposed to an indoor noise level in excess of 45 Ldn dB. The project site is projected to be exposed to a noise level of less than 65 Ldn dB. The typical building construction standards for an office space (2 x 4 framing, dry wall construction, R13 insulation) would offer approximately a 25 dB reduction in the noise level. Future office space tenant improvements would meet the 45 Ldn dB interior noise standard for office users with typical construction standards.

Hazardous Materials:

No flammable material are proposed to be used with the proposed project. The cannabis cultivation would use a variety of fertilizers and pesticides. Fertilizers will be stored in their original containers within locked cabinets. This will provide secondary containment and minimize the potential for spills and accidental exposure. RHF will use pesticides with ingredients that are approved by the California Department of Food and Agriculture (CDFA) as being exempt from residual tolerance requirements, and either exempt from registration requirements or registered for a use that's broad enough to include use on cannabis.

Pursuant to State law, all cultivators that use pesticides must be licensed and permitted by the County's Agricultural Commissioner's Office just like any other grower. They also are subject to regular inspections and audits just like any other grower. Failure to obtain the necessary permits is a violation of State law.

Light and Glare:

Exterior lighting is, and any future will be, positioned downward and shielded to prevent light and off-site glare impacts. A consistency finding has been included reiterating that exterior lighting shall be shielded and facing downward to prevent off-site light and glare impacts.

Development Agreement:

The Development Agreement requirement is part of the City's entitlement requirements to permit a cannabis business within the City limits. Section 2.2.2(e) of the ALUCP specifies that "Development Agreements or Amendments to such Agreements" require ALUC consistency review. Since the City Code requires a Development Agreement as part of the entitlements for cannabis businesses, ALUC consistency review is required.

The proposed development agreement (Attachment #2) would vest the entitlement approvals of the project per its terms and conditions. The development agreement does not conflict with the proposed resolutions and the findings and conditions.

Avigation Easement:

Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County. A finding has been included which requires that an Avigation Easement, substantially consistent with the sample easement of Appendix "E" of the ALUCP, shall be granted to the County of Colusa.

PUBLIC COMMENTS:

No public comments have been received at this time. If comments are received following distribution of this staff report, those comments will be provided to the Airport Land Use Commission at the meeting.

ALUC STAFF RECOMMENDATION:

Staff recommends that the Commission adopt the proposed Resolution finding that this project is compatible with Airport Land Use Compatibility Plan.

FISCAL IMPACT/FUNDING SOURCE

None

PREPARATION:

Prepared By:

Greg Plucker, Community Development Director (530) 458-0483

ACTION FOR THE CLERK

Obtain the Chair's signature on the resolution and forward an electronic copy to the Community Development Director.

ATTACHMENTS:

- ALUC Resolution Approving RHF Partnership (DOCX)
- Exhibit "A" - Project Description (PDF)
- Attachment #1 Project Location (PDF)
- Attachment #2 Proposed Development Agreement (PDF)

RESOLUTION NO. 22-__

A RESOLUTION OF THE COLUSA COUNTY AIRPORT LAND USE COMMISSION MAKING AIRPORT LAND USE COMPATIBILITY PLAN CONSISTENCY FINDINGS REGARDING THE RHF PARTNERSHIP'S CANNABIS PROJECT

WHEREAS, the proposed project was referred to the Airport Land Use Commission (ALUC) for a consistency determination with the Colusa County's Airport Land Use Compatibility Plan (ALUCP);

WHEREAS, the project site is located at 2881 Niagara Avenue (APN: 017-130-012) in the Colusa Industrial Park in the City of Colusa approximately 1,200 feet west of the centerline of the Colusa County Airport's runway.

WHEREAS, the project site is located within the ALUCP's B2 Compatibility Zone and pursuant to the Airport Land Use Compatibility Plan (ALUCP) Section 2.2.2 (e) (development agreement) the project is required to be reviewed by the ALUC for consistency with the ALUCP; and

WHEREAS, on the proposed project was submitted to the ALUC for review of its consistency with the ALUCP and at which time the Commission considered the staff report, the requirements of the ALUCP and all oral and written testimony presented concerning the application.

NOW, THEREFORE, BE IT RESOLVED that the Colusa County Airport Land Use Commission makes the following determinations and findings based on the totality review of the project:

I. The Commission can only make a finding of consistency or inconsistency for the proposed buildings and use considered herein and is unable to make any finding of consistency with respect to any future use or development on the project site and, as such, all future uses and development not considered herein must be submitted to the County's ALUC staff to determine if the Commission is required to make a review of consistency consistent with the ALUCP.

II. The proposed use and development as described in Exhibit "A" attached hereto and incorporated by reference has the potential to be inconsistent with the ALUCP due to use compatibility, density, light and glare impacts, and noise impacts to sensitive receptors. All of which could negatively impact aviation at the Colusa County Airport. However, based on the following facts, conditions on the proposed development and use, and agreement of project proponents to said conditions detailed herein the proposed project would be consistent with the ALUCP:

A. Use Compatibility

1. The subject site is located in the ALUCP's B2 Compatibility Zone and greenhouses are defined as a "conditional" use within said zone.

2. The use would be located within an existing building that does not penetrate any protected surface.

3. Pursuant to Section B (Density) below, the person density that would be located within the project site area would be consistent with the ALUCP requirements.

B. Density

1. Based on the Compatibility Zone's Maximum Density Intensity standard of Table 3A of the ALUCP, a maximum of 60 persons would be allowed within the project area;

2. Project Proponents have stated that a maximum of 15 employees could be present at build-out of the project. Given the total number of persons anticipated to be on the project site at any one time in the future would be less than 60, the number of persons on the site would be consistent with the ALUCP Compatibility Zone's Maximum Density Intensity standard.

3. In the future, should total occupancy of the site be proposed or would exceed the ALUCP's calculated maximum of 60 persons, the occupancy density shall be reviewed by ALUC staff to determine whether said occupancy would require further consistency review by the ALUC. This consistency review shall occur prior to said occupancy over 60 persons occurring.

C. Exterior Lighting Impacts

1. The installation of high-intensity and/or unshielded exterior building or other outside lighting could create a negative impact to night-time aircraft flight operations.

2. Any exterior lighting that is used or installed in conjunction with the proposed development shall be at the minimum intensity level to provide the necessary illumination, shall be shielded to prevent off-site glare impacts, and shall be directed downward to focus the light on the ground.

D. Avigation Easements

1. Section 3.7.1(b) of the Compatibility Plan specifies that an Avigation Easement shall be required for discretionary projects. The project triggers discretionary approval by the ALUC and, therefore, the proposed project is required to grant an Avigation Easement to Colusa County.

2. An Avigation Easement substantially consistent with the sample easement of Appendix "E" of the ALUCP shall be granted to the County of Colusa to the satisfaction of the Community Development Director.

E. Exposure of Persons to Excess Noise

1. The proposed buildings are subject to a noise exposure level of approximately 64 dB Ldn. Typical construction techniques for possible future noise sensitive office space uses would afford approximately 25 dB of noise reduction and would significantly reduce aircraft noise impact.

2. Any future interior office space or use to support the proposed project shall be constructed to meet the minimum construction requirements necessary to obtain an interior noise level pursuant to the City's General Plan Noise Element (45 dB Ldn).

F. Hazardous Materials

1. No flammable materials are proposed to be used with the proposed project. The cannabis cultivation would use a variety of fertilizers and pesticides. Fertilizers will be stored in their original containers within locked cabinets. This will provide secondary containment and minimize the potential for spills and accidental exposure. Pesticides with ingredients that are approved by the California Department of Food and Agriculture (CDFA) as being exempt from residual tolerance requirements, and either exempt from registration requirements or registered for a use that's broad enough to include use on cannabis would be used.

2. In order to ensure the safety within and around the project site, the project shall contact the Colusa County Certified Unified Program Agency and the Colusa County Agricultural Commissioner's Office to ensure that all applicable permits are obtained for any proposed pesticide and/or fertilizer prior to said substances being brought on to the subject site.

PASSED AND ADOPTED this _____ day of __________, 2022 by the following vote:

AYES:

NOES:

ABSENT:

____
Mike West, Chair
Airport Land Use Commission

ATTEST: Wendy G. Tyler, Secretary
Airport Land Use Commission

ATTEST TO FORM

____
Melissa Kitts, Deputy Clerk

____
Richard Stout, County Counsel

Exhibit "A"

Project Description
RHF Partnership LLC

1. **Project Location:** 2881 Niagara Avenue (APN: 017-130-012)
2. **Building Size:** Existing 11,200 sq.ft. metal sided building.
3. **Proposed Use:** Cannabis Cultivation Facility

Inside of Building Uses:

- **Uses occurring within the buildings will include the following** – Cannabis nursery and plant cultivation, cannabis processing (drying and trimming), general administrative office use, including nursery operations,
- **End Products:** Cannabis Flowers
- **Hazardous materials:** None
- **Hours of operation:** 8 am to 6 pm daily
- **Number of employees:** At full buildout, it is anticipated that there would be up to 15 full-time and part-time staff.

Uses occurring outside the building:

- **Storage**: No outdoor storage will occur.
- **Types of vehicles**: Standard personal vehicle for the owner, garbage truck for weekly pick up, and SUV/Van/Utility trucks for deliveries. import and export transportation of the processed flowers on a weekly basis. All delivery times and dates will be coordinated to ensure only one delivery vehicle is onsite at a time.
- **Projected number of trips:**
- **Location of vehicle parking:** Surrounding the building.
- **Exterior improvements:**

  No exterior improvements are planned.
- **Exterior lighting:** Existing, all exterior lighting will be shielded downward to minimize offsite lighting and glare.

Please see attached excerpts from the project's business plan for additional detail.

Exhibit "A"

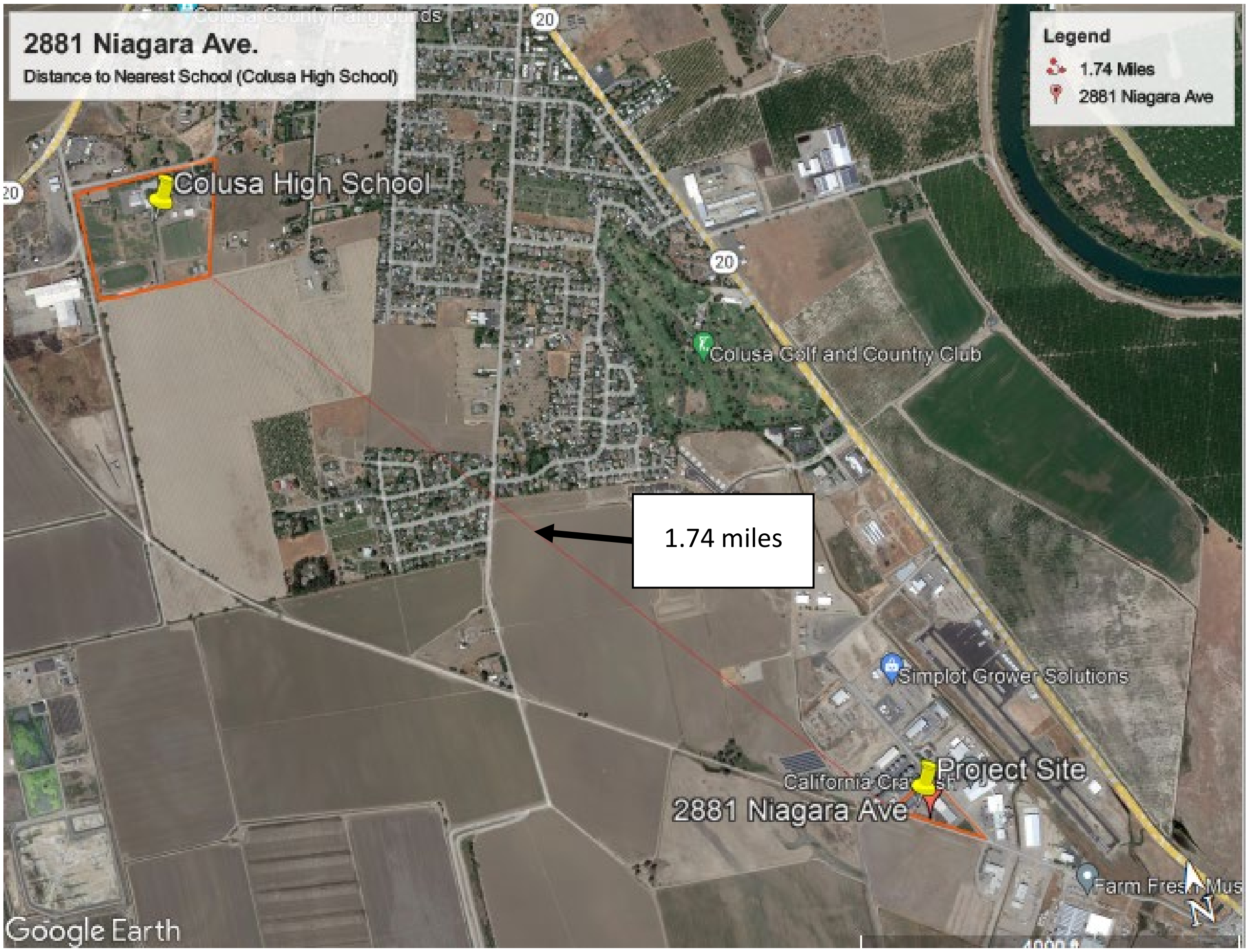


Figure 2. Distance of Project Site to Colusa High School (Google Earth, 2021).

2.2 PROPOSED PROJECT AND OPERATIONS

RFH proposes to cultivate a total of approximately 4,896 square feet of mature flowering cannabis canopy in two phases. Phasing the project allows RHF time to structure their operations in a manner that promotes operational efficiency and financial stability in an evolving cannabis industry.

Phase 1 construction will be implemented following project approval. RHF anticipates that the buildout and operation of Phase 1 will occur within 6 to 9 months following approval of the Development Agreement and Special Use Permit. Phase 1 improvements will include the following:

1. Construction of two 1,482 square foot cultivation rooms, for a total floor space of 2,964 square feet. Each cultivation room will have approximately 1,040 square feet of flowering canopy, for a total canopy of approximately 2,080 square feet.
2. Construction of a 780 square foot supportive (ancillary) nursery.
3. Construction of a 260 square foot drying room.

Exhibit "A"

4. Construction of a 260 square foot processing room for trimming, curing, storage, and processing of non-manufactured cannabis products.
5. Construction of a 260 square foot office space and secure product storage.
6. Additional improvements include:
    a. a delivery loading/unloading area;
    b. access (e.g., parking and walkways);
    c. installation of security equipment, fencing, and lighting;
    d. installation of cultivation equipment (e.g., irrigation equipment, lights, fans/filters, etc.); and
    e. installation of mechanical equipment for heating, ventilation, and air conditioning (HVAC).
7. The building has an existing restroom that is approximately 130 square feet and will be used for the project.

Phase 2 construction will be implemented approximately one year from the start of operations associated with Phase 1. RHF anticipates that the buildout and operation of Phase 2 will occur within 2 years following approval of the Development Agreement and Special Use Permit. Phase 2 improvements will include the following:

1. Construction of two 1,950 square foot cultivation rooms, for a total floor space of 3,900 square feet. Each cultivation room will have approximately 1,408 square feet of flowering canopy, for a total canopy of approximately 2,816 square feet.
2. Additional improvements include:
    a. installation of additional cultivation equipment (e.g., irrigation equipment, lights, fans/filters, etc.);
    b. installation of additional HVAC equipment; and
    c. additional power upgrade, as necessary

2.2.1 CULTIVATION AND HARVESTING

At full buildout, there will be a total of four rooms to cultivate flowering plants, for a total of approximately 4,896 square feet of canopy.

During Phase 1, two cultivation rooms will be constructed, for a total of approximately 2,080 square feet of mature cannabis canopy. Each room is expected to have approximately 65 lights, for a total of 130 lights, and each light covers 16 square feet of canopy (or 4 X 4-foot area).

During Phase 2, two additional cultivation rooms will be constructed for a total of approximately 2,816 square feet of mature cannabis canopy. Each room is expected to have approximately 88 lights, for a total of 176 lights, and each light covers 16 square feet of canopy (or 4 X 4-foot area).

Additional information on RHF's cultivation operations is discussed further below in Section 4.0.

RHF's minimum production goal is to harvest each room 4 times per year and produce a 1.5 pounds per light. Overall annual harvest production is based on the canopy size, cannabis strain being cultivated (which is typically based on market demand), proper plant management, and number of harvests per year.

Exhibit "A"

Based on the number of lights in each room and minimum production goals, RHF anticipates producing the 1,836 pounds per year at full buildout. This estimate is based on the following calculations:

Phase 1: 130 lights X 1.5 pounds per light X 4 harvests per year = **780 pounds per year**.

Phase 2: 176 lights X 1.5 pounds per light X 4 harvests per year = **1,056 pounds per year**.

Total: 780 pounds + 1,056 pounds = **1,836 pounds**.

A discussion on the projected annual gross revenue is discussed further below in Section 2.2.17.

2.2.2 DRYING AND PROCESSING

As part of Phase 1, there will be a 260-square foot room for drying the cannabis plants once they are harvested. Additionally, there will be a 260-square foot room for processing to trim, cure, store, and process non-manufactured cannabis products once the cannabis plants are dried. Having a separate drying and processing room will ensure efficient operations and allow RHF to maximize the number of harvests per year.

2.2.3 ANCILLARY NURSERY

As part of Phase 1, there will be a 760 square foot nursery room to support the ongoing cultivation operations. The nursery room be used to cultivate mother plants, clones, and teens. All nursery plants will remain in a vegetative state and will not be used for flower production. Having a nursery room will ensure efficient operations and allow RHF to maximize the number of harvests per year.

Additional information on RHF's cultivation operations is discussed further below in Section 4.0.

2.2.4 OFFICE AND STORAGE

As part of Phase 1, there will be a 260-square foot room for general office use, storage of video surveillance recordings and equipment, and secure storage of cannabis products.

Video surveillance secure storage of cannabis products is discussed further below in Section 7.0.

2.2.5 HOURS OF OPERATION

Hours of operation will be from 8 a.m. to 6 p.m., Monday through Sunday, for all activities occurring onsite. However, there may be job specific requirements and general maintenance duties that require employees to work outside these hours.

All visitors entering and exiting the site will occur between the hours of 9 a.m. to 5 p.m., Monday through Friday.

2.2.6 DELIVERIES

Deliveries of non-cannabis goods (e.g., cultivation equipment and office supplies) will occur during operating business hours. All vehicles making deliveries of non-cannabis products will make deliveries to the designated loading and unloading area. All deliveries will be coordinated with the General Manager or their authorized designee.

Deliveries of cannabis products to and from the Project Site will occur during operating business hours. All vehicles making deliveries of cannabis products will make deliveries to the designated loading and unloading area. Only authorized employees will be present when cannabis products are being delivered. Deliveries of cannabis products will be accompanied by a transportation manifest and will be tracked and traced according to state requirements.

Exhibit "A"

2.2.7 DOORS, GATE, ENTRY, AND EXIT

The facility premise will be secured by fencing and a rolling gate, which will only allow authorized personnel to enter the premise. The building will have one main entry/exit door for all employees and visitors. The building will also have one roll-up door for deliveries. All interior doors will be accessible to authorized employees.

Security and authorized access areas are discussed further below in Section 7.0.

2.2.8 WASTE STORAGE

Trash and recycling dumpsters will be placed in receptacles located inside and outside the building. Cannabis waste will be stored inside the building and disposed in accordance with federal, state, and local waste regulations.

Waste management is discussed further below in Section 6.0.

2.2.9 PARKING, CIRCULATION, AND EMERGENCY ACCESS

There will be a total of a minimum of 11 designated parking spaces. This is consistent with the City's parking standards for industrial/warehousing uses, which requires one parking space every 1,000 feet of gross floor area. Additionally, the Project Site has adequate space for additional parking if needed. Parking is for RHF managers, employees, contractors, and agency inspectors. Public parking will not be available unless a visit has been approved by the General Manager.

Access to the Project Site will be from Niagara Avenue. The Project Site driveway provides a turnaround to allow for emergency vehicle ingress and egress. A Knox Box will be located the driveway gates to allow for emergency access. RHF will coordinate with emergency services for Knox Box location and emergency access.

2.2.10 LIGHTING

Exterior lighting will be used for security purposes and normal business operations. All exterior lighting will be and shielded downward in compliance with City requirements to minimize offsite lighting and glare.

Interior lighting for cultivation will consist of light emitting diode (LED) technology, which are more efficient and reduce energy consumption. Cultivation operations are discussed further below in Section 4.0.

2.2.11 LANDSCAPING AND SIGNAGE

RHF does not propose landscaping or signage.

2.2.12 ENERGY USE AND CONSERVATION MEASURES

The Project Site currently has an existing 480-volt service and 400-amp electrical meter that will supply power to the building. Electrical improvements will be installed to provide power for lighting, ancillary equipment (e.g., HVAC, fans, security equipment, etc.), and normal business operations. It is anticipated that an electrical service upgrade will be needed for implementation of Phase 2.

RHF is dedicated to minimizing energy use as part of operations. To minimize energy use, and to the maximum amount feasible, RHF will implement the following:

1. Use energy efficient lighting fixtures for normal business operations.

Exhibit "A"

2. Use LED lighting fixtures for cultivation operations.
3. Utilize best available environmental control systems to minimize use of heating and cooling.
4. Use energy efficient mechanical equipment.
5. Utilize the existing solar power.

Additionally, RHF proposes to install a backup generator in the event of a power outage. The backup generator will not be used for normal operations.

2.2.13 WATER USE AND CONSERVATION MEASURES

The Project Site has existing water service to serve the project. RHF will use a reverse osmosis system to purify the water for irrigation activities. Irrigation water will be stored in tanks located inside the building, and fertilizers will be added to the tanks prior to watering the plants.

The amount of water used for irrigation is dependent on the canopy size, size of the plant, life cycle of the plant (i.e., vegetative, or flowering stage), and environmental factors (i.e., temperature and humidity).

In order to minimize water use, RHF will implement the following:

1. Install water fixtures that minimize water consumption, such as low-flow toilets and sink aerators in compliance with the California Building Code.
2. Irrigate cultivation areas using drip irrigation, to the maximum extent feasible.
3. Monitor water usage and adjust as necessary to ensure plants are not overwatered.
4. Utilize best available environmental control systems to control temperature and humidity.
5. Recycle and reuse irrigation water, to the maximum extent feasible.
6. Develop procedures for inspecting and maintaining all irrigation equipment.

2.2.14 WASTEWATER, RUNOFF, AND STORMWATER

Wastewater from restroom activities will be managed through an existing sewer connection.

Plants will be irrigated using a drip system, and runoff will be minimal. Any excess runoff will drain into portable buckets and will either be reused or disposed of in accordance with agency regulations.

RHF does not propose any substantial grading, the creation of impervious surfaces, or changes to the Project Site that will create additional stormwater runoff from current existing site conditions.

2.2.15 PROPERTY MAINTENANCE

RHF will keep the Project Site in a clean and safe condition by, at a minimum, performing all of the following tasks:

1. Cleanup and dispose of all trash, litter, and debris at the end of each business day.
2. Provide security lighting at the Project Site to ensure the safety of the public and the employees.
3. Perform facility and equipment inspections and maintenance on a regularly scheduled basis.
4. Otherwise operate in a manner that does not create or result in any significant adverse impacts at the Project Site or its adjacent areas.

Exhibit "A"

2.2.16 SUPPLY CHAIN

RHF has been in contact with existing licensed distributors to purchase their cannabis flowers and non-manufactured cannabis products once they are ready for market. All shipments of cannabis products will be entered into the state's track and trace system (i.e., Metrc System). Inventory Management is discussed further below in Section 8.0.

ATTACHMENT #1
ALUC 22-06
RHF Partnership LLC - Project Location

Attachment #2

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Colusa
425 Webster Street
Colusa, CA 95932

Attention: City Clerk

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this ________ day of ___________, 2022 (the "Execution Date"), by and between the **CITY OF COLUSA, a California municipal corporation** ("City") and **RHF Partnership LLC.** ("Owner"). City and Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement.

RECITALS

A. The State of California enacted California Government Code Sections 65864 *et seq.* ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having an interest in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction.

B. The purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the developer, and to meet certain public purposes of the local government.

C. Owner intends to convert, through the course of two phases, an existing 11,200-square-foot industrial building at 2881 Niagara Avenue (APN: 017-130-012-000) into a cannabis manufacturing facility for the purposes of cannabis cultivation. Owner may expand operations in future phases to include other cannabis uses. The site is more fully described in Exhibit A and shown on the map in Exhibit B.

D. Owner intends to operate a Cannabis Manufacturing Facility as defined in the City of Colusa City Code. Such Cannabis Manufacturing Facilities shall operate in accordance with the California State cannabis laws, creating a unified regulatory structure for adult use and medical cannabis. Prior to operating a cannabis facility,

Tenants shall be required to obtain a special use permit and regulatory permit from City. Owner and Tenants (if any) shall collectively be referred to in this Agreement as Developers.

E. Ultimately, Developer intends to obtain all necessary state licenses issued pursuant to MAUCRSA to operate the Cannabis Manufacturing Facility at the Site once such licenses are being issued.

F. Developers presently intend to develop and open a Cannabis Manufacturing Facility on the Site (featuring up to 15 employees) consistent with the California Marijuana Laws and Project Approvals (known as the "Project" as further described below).

G. On July 18, 2017, City adopted Ordinance 519 permitting Cannabis Manufacturing Facilities in strict compliance with the applicable California laws regulating cannabis cultivation, manufacturing, processing, and distribution under certain conditions and provisions. Currently, City is updating the City Code to comply with new State cannabis regulations that are in effect as of the date of this Agreement.

H. City and Owner have agreed that, as a condition of allowing the Project, as defined herein, and due to the unique circumstances of the proposed Project, Owner shall pay to the City quarterly fees based on the gross revenue of the Cannabis Manufacturing operations as hereinafter defined, which fees shall abate if and when the City adopts a tax on Cannabis Manufacturing Facilities.

I. The City of Colusa, as "Lead Agency," has determined that —based upon CEQA Guidelines Section 15061 (b) (3)— the Project is covered by the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

J. City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in the City's General Plan, zoning code and municipal ordinances.

K. City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of entering into this Agreement rather than defer its actions to some undetermined future date.

The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner has represented to City that it would not consider or engage in the Project absent City approving this Agreement; *i.e.*, assuring Owner that it will enjoy the development rights.

L. The City agrees that Owner's land use entitlements for the Project shall vest for the term of this Agreement as described below.

M. After conducting a duly noticed hearing on April 13, 2022, the Planning Commission of the City reviewed, considered and voted 5-0, passed a resolution recommending City Council approval of an Ordinance approving this Agreement.

N. After conducting a duly noticed hearing on, May 17, 2022 and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the zoning code; is in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Colusa and its residents.

O. <u>Production Fee</u>. "Production Fee" shall mean any cannabis cultivation, processing, testing, distribution, and transportation of cannabis and cannabis products.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. <u>Binding Effect of Agreement</u>. The Parties agree that the Recitals above are true and correct and intend to be bound by same; the Parties further agree to the incorporation by reference herein of said Recitals, together with all definitions provided and exhibits referenced therein. Except as otherwise provided in Section 15 of this Agreement, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide continued notice thereof, the Parties will record this Agreement with the Colusa County Recorder. The word "Owner" as previously defined and used herein shall include successor owners, apart from government or quasi-public agencies, of any portion of the Site. Should the size or orientation of any Site component specified above be changed in minor respects, *e.g.*, changed by a lot line adjustment, this Agreement shall not thereby be deemed to have been affected or invalidated, but the rights and obligations of the Parties and their successors shall remain as provided herein.

2. Relationship of the Parties. It is hereby specifically understood and acknowledged that the Project is a private project and that neither City nor Developers will be deemed to be the agent of the other for any purpose whatsoever. City and Developers hereby renounce the existence of any form of joint venture or partnership between or among them and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making City and Developers joint venturers or partners.

3. Term. Except as otherwise specified herein, the term of this Agreement (the "Term") is 10 years from the date the Owner begins commercial operation at the Project Site ("Operation Date"). The Operation Date shall be no later than 12 months following the Execution Date. The Term shall generally be subject to earlier termination or extension as hereinafter provided.

3.1 Term Extension – Third Party Issues. Notwithstanding the Parties' expectation that there will be no limit or moratorium upon the Project's development or the issuance of building or other development related permits (a "Development Limitation") during the Term, the Parties understand and agree that various third parties may take action causing a *de facto* Development Limitation. Consequently, the Term shall be extended for any delay arising from or related to any of the potential Development Limitations that follow in the subsections below for a time equal to the duration of that delay occurring during the Term. No Development Limitation may arise or result from an action or omission by Developers.

3.1.1 Litigation. Any third party-initiated litigation that arises from or is related to any City action or omission with respect to this Agreement or any subsequent City approval required in connection with the Project's development, or third party initiated litigation having the actual effect of delaying the Project's development. This extension period related hereto shall include any time during which appeals may be filed or are pending.

3.1.2 Government Agencies. Any delay arising from or related to the act(s) or omission(s) any third-party governmental agency, quasi-public entity or public utility, and beyond the reasonable control of Developers.

3.1.3 *Force Majeure*. Any delay resulting from riot, war, acts of terrorism, an event during the Term creating radioactive or toxic/hazardous contamination, a catastrophic earthquake, flood, fire or other physical natural disaster, excluding weather conditions regardless of severity, strikes or industrial disputes at national level effecting development involved personnel not employed by Developers, their subcontractors or suppliers and effecting an essential portion of the Project's development, excluding any industrial dispute that is specific to development taking place as a part of the Project.

3.2 Term Extensions. The Term of this Agreement will be extended for seven additional years upon a determination of the City Council, by way of resolution of the City Council acted on at a regularly scheduled meeting, that both of the conditions listed in subparts 3.2.1 and 3.2.2 below have been fully satisfied are the Owner is in full compliance:

3.2.1. No Default by Owner. Owner shall not be in default with respect to any provision of this Agreement or any subsequent agreement or understanding between the Parties arising from or related to this Agreement, having received notice from City of said default per this Agreement, or if Owner did in fact default as to this Agreement, upon notice from City, that Owner did cure said default during the period to cure provided herein to City's satisfaction.

3.2.2 Finding of Community Compatibility. The City Council shall review the operations of Owner prior to granting an extension of the term of this Agreement and make a finding that the Cannabis Manufacturing, notwithstanding that the Cannabis Manufacturing may not be in precise technical compliance with the issued regulatory permit and special use permit, continue to be compatible with surrounding land uses and are not detrimental to the public health, safety and general welfare.

3.2.3. Mutual Agreement of Parties. In addition to the process listed above for a seven-year term extension, this Agreement's Term may be extended by mutual agreement of the Parties and formal amendment of this Agreement.

3.3 Termination of Agreement. Upon the termination of this Agreement, either by expiration or otherwise, Developers shall have no right to engage in Cannabis Manufacturing at the Project Site, except as may otherwise be allowed by City ordinance, law or separate development agreement.

4. Defined Terms. As used in this Agreement, the following terms shall have the meanings hereinafter set forth:

4.1. Certified Report. "Certified Report" shall mean a detailed document prepared by Developers on a form acceptable to the City's Director of Finance to report to the City of the Cannabis Manufacturing distribution and sales, as defined herein, in the Project during each Operational Quarter, as defined herein. Each Certified Report shall be certified as true and correct by a duly authorized officer of Owner.

4.2. Production Fee. "Production Fee" shall mean a quarterly fee remitted to the City by Owner based on the gross wholesale receipts of its operations, as defined below, in the amount of 3% of gross sales from operations to begin after 8 months of commencement of operation.

4.3. Certification of Non-Income Tax Exemption. Owner certifies that Owner is not income tax exempt under State or Federal Law and that Owner will not file for such an exemption from the Internal Revenue Service or the Franchise Tax Board. Owner will also require all Tenant(s) to certify that Tenant(s) are not income tax exempt under State or Federal Law and will not file for such an exemption.

4.4. Land Use Regulations. "Land Use Regulations" shall mean all ordinances, resolutions, codes, rules, regulations and official policies of the City governing the development and use of land, including, without limitation, the permitted use of land, the density or intensity of use, subdivision requirements, timing and phasing of development, the maximum height and size of buildings, the provisions for reservation

or dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Project. "Land Use Regulations" do not include any City ordinance, resolution, code, rule, regulation or official policy governing:

4.4.1. The conduct or taxation of businesses, professions, and occupations applicable to all businesses, professions, and occupations in the City;

4.4.2. Other than as provided in this Agreement, taxes and assessments of general application upon all residents of the City, provided that the taxes and assessments are not imposed for the purpose of taxing the right, power or privilege of developing or improving land (e.g., excise tax) or to directly finance the acquisition or dedication of open space or any other public improvement in respect of which the Developer is paying any fee or providing any improvement pursuant to this Agreement;

4.4.3. The control and abatement of nuisances.

4.4.4. The granting of encroachment permits and the conveyance of rights and interests which provides for the use of, access to or the entry upon public property, as may be approved by mutual agreement between Developer and City; and

4.4.5. The exercise of the power of eminent domain.

4.5. "Existing Land Use Regulations" means all Land Use Regulations in effect as of the approval date of this Agreement, including the Project Approvals.

4.6. Operational Quarter. "Operational Quarter" shall mean any calendar quarter during which any gross revenue of the Project is produced.

5. Fee Payments by Owner. In consideration of City's entering into this Agreement and authorizing the development and operation of the Project, the requirements for City services created by the Project, the City insuring Developers compliance with this Agreement, California medical marijuana laws and the City's municipal ordinances, throughout the Term of this Agreement, Owner shall make the following payments to City:

5.1. Production Fee Payments by Owner. Quarterly payments of the Production Fee by Owner to the City as specified in Section 6 herein. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement, but the Production Fee under this Agreement shall cease if any City-wide tax is imposed specifically on Cannabis Manufacturing operations.

6. Payment Procedures. The following payment procedures shall apply during the operation of the Project:

6.1. Remittance of Fees; Certified Reports. Within thirty (30) calendar days following the end of each quarterly period during the Term of this Agreement, Owner shall submit the Certified Report to the City's Finance Director and a payment for the Production and Manufacturing, Cultivation and Distribution Fees for that Operational Period as identified in the Certified Report. Owner shall pay Fees to the City on a quarterly basis without exception. Any material misstatement or misrepresentation in the Certified

Report and any failure to pay Fees when due shall constitute events of default by Developers subject to the default provisions of this Agreement.

6.2. Maintenance of Records. Developers shall maintain complete records of their operations to substantiate and document the content of each Certified Report. Such records shall include, without limitation, invoices and payments taken by Tenants and/or any operator of the facility. Developers shall maintain such records in a form and location reasonably accessible to the City, following reasonable notice to Developers and/or any operator, for a period of at least five (5) calendar years following Owner's submission of the Certified Report to which the records apply.

6.3. Audit. Within ninety (90) calendar days following the end of each Operational Quarter, the City may conduct an audit or arrange for a third-party independent audit, at Developers' expense, of Developers records regarding Certified Reports and the Fees. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Developers, and shall reasonably attempt to schedule the audit so as to reduce the impact on Tenants' operations as much as is feasible. Developers shall cooperate with the City in completing the audit. If the audit reveals that Owner has underpaid the Fees, Owner shall pay such underpaid amounts to the City within thirty (30) calendar days of receipt of written notice from the City's Director of Finance in addition to all costs of the audit, including city staff time and outside consultants. If the audit reveals that the Owner has overpaid any amount of the Production or Nursery Fees, City shall provide written notification to Owner and shall credit such amount against Owner's subsequent quarterly payment of Fees.

7. Covenants of Owner. During the Term of this Agreement, Owner hereby covenants and agrees with the City as follows:

7.1. Implementation. Owner shall use commercial reasonable efforts to pursue the implementation of the Project as expeditiously as feasible, in the form approved by the City, subject to all applicable laws, this Agreement, the Project Approvals and the Municipal Code.

7.1.1. Developer shall comply with all applicable state regulations governing its manufacturing operations. If permanent regulations are not in place at the time operations commence, Developer shall comply with whatever temporary, interim, or urgency regulations that are in effect pending the State's consideration and adoption of permanent regulations.

7.2. Enhanced Design Requirement. Owner shall submit a design plan for the building and site, for review and approval by the Planning Director, which shall incorporate at a minimum, security fencing and landscaping improvements consistent with the policies in the City's General Plan.

7.3. Maintain & Operate Project. Owner and Tenants shall maintain and operate the Project on the Site, once constructed, throughout the Term of this Agreement, in accordance with the Project Approvals and all City, and State laws.

7.4. Hold Harmless. Owner shall defend (with counsel reasonably acceptable to City), indemnify and hold City and its councilpersons, officers, attorneys, agents, contractors, and employees (collectively, the "Indemnified Parties") harmless from and against all losses, costs and expenses (including, without limitation, reasonable attorneys' fees and costs), damages (including, without limitation, consequential damages), claims and liabilities arising from the Project, this Agreement, the approval of the Project, and the activities of Developers, their members, officers, employees, agents, contractors, invitees and any third parties on the Site, from and against any challenges to the validity of this Agreement or other Project Approvals. The obligations of Owner under this Section shall survive the expiration or any earlier termination, as applicable, of this Agreement.

8. Covenants of City. During the Term of this Agreement, City hereby covenants and agrees with Owner as follows:

8.1. Expeditious Services. City shall process applications and address questions and concerns raised by Developers representatives at the "counter" at City Hall as expeditiously as reasonably possible. Upon Owner's request, or if, in an exercise of City's own discretion, City staff determines that it cannot comply with this section, City shall expeditiously engage the services of private contract planners, plan checkers or inspectors ("Private Contractors") to perform such services as may be necessary to assist in processing the project plans as described herein. Compensation of such Private Contractors shall be at Owner's sole cost and expense, inclusive of any administrative cost to City of integrating services by Private Contractors into the project's development processing. Owner shall pay such costs and expenses of Private Contractors via reimbursement to City, per City's applicable policies and procedures. City shall have absolute discretion in the selection of such Private Contractors.

8.2 Vested Rights. During the Term of this Agreement, Owner shall have the vested right and entitlement to develop and operate the Project in accordance with the Existing Land Use Ordinances, in addition to any Cannabis Manufacturing Operating Standards adopted by the City Council, which may be amended at the City's discretion. Parties acknowledge that neither the City nor the Owner can at this time predict when or the rate at which or the order in which parts of the Project will be developed. Owner shall have the vested right to develop the Project in such order and at such rate and at such times as Owner deems appropriate in the exercise of its business judgment, provided that Owner is in compliance with the Project Approvals.

8.3 Building Permits and Other Approvals and Permits. Subject to (a) Owner's compliance with this Agreement, the Project Approvals the Existing Land Use Ordinances, the Building Ordinances, and Operating Standards; and (b) payment of the usual and customary fees and charges of general application charged for the processing of such applications, permits and certificates and for any utility connection, or similar fees and charges of general application, the City shall process and issue to Developers promptly upon application therefore all necessary use permits, building permits, occupancy certificates, regulatory permits, licenses and other required permits for the construction, use and occupancy of the Project, or any portion thereof, as applied for,

including connection to all utility systems under the City's jurisdiction and control (to the extent that such connections are physically feasible and that such utility systems are capable of adequately servicing the Project).

8.4 Procedures and Standards. The standards for granting or withholding permits or approvals required hereunder in connection with the development of the Project shall be governed as provided herein by the standards, terms and conditions of this Agreement and the Project Approvals, and to the extent not inconsistent therewith, the Existing Land Use Ordinances, but the procedures for processing applications for such permits or approvals (including the usual and customary fees of general application charged for such processing) shall be governed by such ordinances and regulations as may then be applicable.

9. Effect of Agreement.

9.1 Grant of Right. This Agreement shall constitute a part of the Enacting Ordinance, as if incorporated by reference therein in full. The Parties acknowledge that this Agreement grants Owner the right and entitlement to develop the Project and use the land pursuant to specified and known criteria and rules as set forth in the Project Approvals and Existing Land Use Ordinances, and to grant the City and the residents of the City certain benefits which they otherwise would not receive.

9.2 Binding on City/Vested Right of Owner. This Agreement shall be binding upon the City and its successors in accordance with and subject to its terms and conditions notwithstanding any subsequent action of the City, whether taken by ordinance or resolution of the City Council, by referenda, initiative, or otherwise. The Parties acknowledge and agree that by entering into this Agreement and relying thereupon, the Owner has obtained, subject to the terms and conditions of this Agreement, a vested right to proceed with its development of the Project as set forth in the Project Approvals and the Existing Land Use Ordinances, and the timing provisions of Section 3, and the City has entered into this in order to secure the public benefits conferred upon it hereunder which are essential to alleviate current and potential problems in the City and to protect the public health, safety and welfare of the City and its residents, and this Agreement is an essential element in the achievement of those goals.

9.3 Future Conflicting Local Laws. If any City law, including ordinances, resolutions, rules, regulations, standards, policies, conditions and specifications (collectively "City Laws") are enacted or imposed by a citizen-sponsored initiative or referendum, or by the City Council directly or indirectly in connection with any proposed initiative or referendum, which City Law would conflict with this Agreement, such City Law shall not apply to the Project Site or Project. The Parties, however, acknowledge that the City's approval of this Agreement and the City Approvals are legislative actions subject to referendum.

9.3.1 Without limiting the generality of the foregoing, no moratorium or other limitation whether relating to the rate, timing, phasing or sequencing of development affecting subdivision maps, building permits, or other Subsequent Approvals shall apply to the Project. Owner agrees and understands that the City does not have authority or jurisdiction over another public agency's authority to grant a

moratorium or to impose any other limitation that may affect the Project.

10. Specific Criteria Applicable to Development of the Project.

10.1 Applicable Ordinances. Except as set forth in the Project Approvals and subject to the provisions of Section 10.2 below, the Existing Land Use Ordinances shall govern the development of the Site hereunder and the granting or withholding of all permits or approvals required to develop the Site; provided, however, that (a) Owner shall be subject to all changes in processing, inspection and plan-check fees and charges imposed by City in connection with the processing of applications for development and construction upon the Site so long as such fees and charges are of general application and are not imposed solely with respect to the Project Site, (b) Owner shall abide by the Building Ordinances in effect at the time of such applications, (c) Development Impact Fees to be paid by Owner shall be those in effect at the time permits are issued subject to those fees, and (d) development shall be consistent with current Operating Standards.

10.2 Amendment to Applicable Ordinances. Any change to the Existing Land Use Ordinances that conflicts with the Project Approvals shall nonetheless apply to the Project if, and only if (i) it is consented to in writing by Owner in Owner's sole and absolute discretion; (ii) it is determined by City and evidenced through findings adopted by the City Council that the change or provision is reasonably required in order to prevent a condition dangerous to the public health or safety; (iii) it is required by changes in State or Federal law; (iv) it consists of changes in, or new fees permitted by, Section 4.1;or (v) it is otherwise expressly permitted by this Agreement. The Parties anticipate that the City shall subsequently adopt Operating Standards that govern this type of use, which Regulations, and any amendments thereto, shall apply to the Project.

10.3 Applicability of Zoning Amendments. In the event that the City zoning ordinance is amended by the City in a manner which provides more favorable site development standards for the Project Site or any part thereof than those in effect as of the Effective Date, Owner shall have the right to notify the City in writing of its desire to be subject to all or any such new standards for the remaining term of this Agreement. If City agrees, by resolution of the City Council, such new standards shall become applicable to the Project. Should City thereafter amend such new standards, upon the effective date of such amendment, the original new standards shall continue to apply to the Project as provided above, but Owner may notify City in writing of its desire to be subject to all or any such amended new standards and City shall agree in the manner above provided to apply such amended new standards to the Project.

11. Permitted Delays; Supersedure by Subsequent Laws.

11.1 Permitted Delays. In addition to any other provisions of this Agreement with respect to delay, Owner and City shall be excused from performance of their obligations hereunder during any period of delay caused by acts of mother nature, civil commotion, riots, strikes, picketing, or other labor disputes, shortage of materials or supplies, or damage to or prevention of work in process by reason of fire, floods, earthquake, or other casualties, litigation, acts or neglect of the other party, any referendum elections held on the Enacting Ordinance, or the Land Use Ordinances, or

any other ordinance effecting the Project or the approvals, permits or other entitlements related thereto, or restrictions imposed or mandated by governmental or quasi-governmental entities, enactment of conflicting provisions of the Constitution or laws of the United States of America or the State of California or any codes, statutes, regulations or executive mandates promulgated thereunder (collectively, "Laws"), orders of courts of competent jurisdiction, or any other cause similar or dissimilar to the foregoing beyond the reasonable control of City or Owner, as applicable. Each Party shall promptly notify the other Party of any delay hereunder as soon as possible after the same has been ascertained. The time of performance of such obligations shall be extended by the period of any delay hereunder.

11.2 Supersedure of Subsequent Laws or Judicial Action.

11.2.1 The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new Law or decision issued by a court of competent jurisdiction (a "Decision"), enacted or made after the Effective Date which prevents or precludes compliance with one or more provisions of this Agreement. Promptly after enactment of any such new Law, or issuance of such Decision, the Parties shall meet and confer in good faith to determine the feasibility of any such modification or suspension based on the effect such modification or suspension would have on the purposes and intent of this Agreement. In addition, Owner and City shall have the right to challenge the new Law or the Decision preventing compliance with the terms of this Agreement. In the event that such challenge is successful, this Agreement shall remain unmodified and in full force and effect, except that the Term shall be extended, in accordance with Section 2.1 above, for a period of time equal to the length of time the challenge was pursued, to extent such challenge delayed the implementation of the project.

12. Operating Memoranda. The provisions of this Agreement require a close degree of cooperation between the City and the Developers. It is anticipated due to the term of this Agreement that refinements to the approvals may be appropriate with respect to the details of performance of the City and the Developers. To the extent allowable by law, the Developers shall retain a certain degree of flexibility as provided herein with respect to all matters, items and provisions covered in general under this Agreement. When and if the Developers finds it necessary or appropriate to make changes, adjustments or clarifications, the Parties shall enter into memoranda ("Operating Memoranda") approved by the Parties in writing, which reference this Section of the Agreement. Operating Memoranda are not intended to constitute an amendment to this Agreement but mere ministerial clarifications; therefore, public notices and hearings shall not be required. The City Attorney shall be authorized upon consultation with the Developers, to determine whether a requested clarification may be effectuated pursuant to this Section or whether the requested clarification is of such character to constitute an amendment to the Agreement which requires compliance with the provisions of this Agreement pertaining to amendments. The authority to enter into such Operating Memoranda is hereby delegated to the City Manager, and the City Manager is hereby

authorized to execute any operating Memoranda hereunder without further City Council action.

13. CEQA. All procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 *et seq*., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 *et seq*. have been satisfied.

14. Building Permits. Nothing set forth herein shall impair or interfere with the right of City to require the processing of building permits as required by law relating to any specific improvements proposed for the Project pursuant to the applicable provisions of the City's municipal code, inclusive of such California and International Codes as have been adopted in accord therewith, that are in effect at the time such permits are applied for; provided, however, no such permit processing shall authorize or permit City to impose any condition on and/or withhold approval of any proposed improvement the result of which would be inconsistent with this Agreement.

15. Assignment and Transfer of Rights. Except as otherwise provided in this Section, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all successors-in-interest of the Parties and constitute covenants that run with the Site. Owner, for itself, its heirs, distributes, executors, administrators, legal representatives, successors and assigns, shall not, at any time during the Term, assign, convey, lease, sell or otherwise transfer all or any portion of its rights under this Agreement ("Assignable Rights") to a third party, a subordinate entity, or a related entity (make an "Assignment") without the prior written consent of City in each instance, which consent which consent will not be unreasonably withheld, provided the entity receiving the Assignment is qualified to conduct business under all City codes and ordinances, and obtains all required state and City permits. Any assignment in violation of this Section will be void. No permitted assignee of this Agreement may further assign this Agreement without City's prior written consent.

16. Review for Compliance.

16.1 Periodic Review. Pursuant to CGC §65865.1, City shall engage in an annual review this Agreement, on or before the anniversary of the date of execution, in order to ascertain Owner's good faith compliance with its terms (the "Periodic Review"). In the event City fails to formally conduct such annual review, Owner shall be deemed to be in full compliance with the Agreement.

17. Amendment or Cancellation. This Agreement may be amended or canceled in whole or in part only by mutual consent of the Parties or in the manner provided in CGC §65865.1 or CGC §65868 and subsection 3.2 above.

17.1 Provide Notice. Provide the other Party with written notice of such State or Federal law or regulation, a copy of such law or regulation and a statement identifying how such law regulation conflicts with the provisions of this Agreement.

17.2 Meet and Confer. Upon notice by one Party to another as to preemption or frustration of this Agreement by law or regulation, the Parties shall promptly meet and confer in good faith and make a reasonable attempt to modify or suspend this Agreement to comply with such applicable Federal or State law or regulation. If the Parties cannot agree on a manner or method to comply with such Federal or State law or regulation, the Parties may, but shall not be required to, engage in alternative dispute resolution.

18. Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be either personally delivered (which shall include delivery by means of professional overnight courier service which confirms receipt in writing [such as Federal Express or UPS]), sent by telecopier or facsimile ("Fax") machine capable of confirming transmission and receipt, or sent by certified or registered mail, return receipt requested, postage prepaid to the following parties at the following addresses or numbers:

If to City: City of Colusa
425 Webster Street
Colusa CA 95932
Attention: City Manager

With copy to: Jones & Mayer, City Attorney

8150 Sierra College Blvd., Suite 190
Roseville California 95661
Attention: Ryan R. Jones, Esq.

If to Owner: RHF Partnership, LLC.
2881 Niagara Ave
Colusa, CA 95932

Notices sent in accordance with this Section shall be deemed delivered upon the: ***(a)*** date of delivery as indicated on the written confirmation of delivery (if sent by overnight courier service); ***(b)*** date of actual receipt (if personally delivered by other means); ***(c)*** date of transmission (if sent by email or telecopier, so long is sender receives actual confirmation that the transmission was received); or ***(d)*** date of delivery as indicated on the return receipt (if sent by certified or registered mail, return receipt requested). Notice of change of address shall be given by written notice in the manner detailed in this Section.

19. Breach and Remedies. Notwithstanding any provision of this Agreement to the contrary, Developers shall not be deemed to be in default under this Agreement with respect to any obligation owed solely to City, and City may not terminate or modify Developers' rights under this Agreement, unless City shall have first delivered a written notice of any alleged default to Owner that specifies the nature of such default. If such default is not cured by Owner within sixty (60) days after receipt of such notice of default, or with respect to defaults that cannot be cured within such period, Owner fails to commence to cure the default within thirty (30) days after receipt of the notice of default, or thereafter fails to diligently pursue the cure of such default, City may terminate Owner's rights under this Agreement. Default by any Assignee or Owner's successor in interest shall affect only that portion of the Site owned by such Assignee or successor, and shall not cancel or diminish in any way Owner's rights with respect to any portion of the Site not owned by such Assignee or successor. In the event that a breach of this Agreement occurs, irreparable harm is likely to occur to the non-breaching Party and damages will be an inadequate remedy. To the extent permitted by law, therefore, it is expressly recognized that injunctive relief and specific enforcement of this Agreement are proper and desirable remedies, and it is agreed that any claim by Owner against City for an alleged breach of this Agreement shall be remedied by injunctive relief or an appropriate action for specific enforcement of this Agreement and not by a claim or action for monetary damages.

20. Entire Agreement. This Agreement and the Exhibits herein contain the entire integrated agreement among the Parties. The Parties intend that this Agreement state their agreement in full to each and every one of its provisions. Any prior agreements, understandings, promises, negotiations or representations respecting the matters dealt with herein or the duties of any Party in relation thereto, not expressly set forth in this Agreement, are agreed by all Parties to be null and void.

21. Severability. If any term, provision, condition, or covenant of this Agreement, or the application thereof to any Party or circumstance, shall to any extent be held invalid or unenforceable, the remainder of the instrument, or the application of such term, provision, condition or covenant to persons or circumstances other than those as to whom or which it is held invalid or unenforceable, shall not be affected thereby and each term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

22. Attorneys' Fees. If the services of any attorney are required by any party to secure the performance of this Agreement or otherwise upon the breach or default of another party, or if any judicial remedy or arbitration is necessary to enforce or interpret any provisions of this Agreement or the rights and duties of any person in relation to this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees, costs and other expenses, in addition to any other relief to which such party may be entitled. Prevailing party includes (a) a party who dismisses an action in exchange for sums allegedly due; (b) the party that receives performance from the other party of an alleged breach of covenant or a desired remedy, if it is substantially equal to the relief sought in an action; or (c) the party determined to be prevailing by a court of law.

Whenever provision is made in this Agreement for the payment of attorney's fees, such fees shall be payable whether the legal services are rendered by a salaried employee for the party or by independent counsel and shall include such fees as are incurred in connection with any pretrial proceeding, trial or appeal of the action. Any award of damages following judicial remedy or arbitration as a result of the breach of this Agreement or any of its provisions shall include an award of prejudgment interest from the date of the breach at the maximum amount of interest allowed by law.

23. Counterparts. This Agreement may be executed in one or more counterparts, each of which will be deemed an original, but all of which constitute one and the same instrument.

24. Execution of Agreement. The Parties shall sign this Agreement on or within five (5) business days of approval.

25. Estoppel Certificate. City shall, at any time and from time to time within ten (10) days after receipt of written notice from Owner so requesting, execute, acknowledge and deliver to Owner a statement in writing: ***(a)*** certifying that this Agreement is unmodified and in full force and effect (or, if modified, stating the nature of such modification and certifying that this Agreement, as so modified, is in full force and effect); and ***(b)*** acknowledging that there are no uncured defaults on the part of Owner hereunder or specifying such defaults if any are claimed. Any such statement may be relied upon by any prospective purchaser or encumbrancer of all or any portion of the Site. Upon Owner's written request, City shall issue a certificate of performance evidencing completion of any of Owner's obligation(s) under this Agreement.

26. Encumbrances on Real Property.

26.1 Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Owner, in any manner, at Owner's sole discretion, from encumbering the Site or any portion thereof or any improvements thereon then owned by such person with any mortgage, deed of trust or other security device ("Mortgage") securing financing with respect to the Site or such portion. City acknowledges that the lenders providing such financing may require certain modifications, and City agrees, upon request, from time to time, to meet with Owner and/or representatives of such lenders to negotiate in good faith any such request for modification. City further agrees that it will not unreasonably withhold its consent to any such requested modification. Any mortgagee or trust deed beneficiary of the Site or any portion thereof or any improvements thereon and its successors and assigns ("Mortgagee") shall be entitled to the following rights and privileges.

26.2 Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Developers may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with the Developers and representatives of such lenders to negotiate in good faith any such request for interpretation or modification. The City will not unreasonably withhold its consent to any such requested interpretation or modification provided such interpretation or modification is consistent with the intent and purposes of this Agreement, provided, further, that any modifications of this Agreement are subject to the provisions of this Agreement relative to modifications or amendments.

26.3 Mortgage Protection. This Agreement shall be superior and senior to the lien of any Mortgage. Notwithstanding the foregoing, no breach of this Agreement shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, and any acquisition or acceptance of title or any right or interest in or with respect to the Site or any portion thereof by a Mortgagee (whether pursuant to a Mortgage, foreclosure, trustee's sale, deed in lieu of foreclosure or otherwise) shall be subject to all of the terms and conditions of this Agreement.

26.4 Mortgagee Not Obligated. Notwithstanding the provisions of Section 26.2, no Mortgagee will have any obligation or duty under this Agreement to perform the obligations of Owner or other affirmative covenants of Owner hereunder, or to guarantee such performance, except that to the extent that Mortgagee opts to receive the benefits of the Agreement, including the right to operate, any covenant to be performed by Owner is a condition to the performance of a covenant by City, the performance thereof shall continue to be a condition precedent to City's performance hereunder. No Mortgagee will be liable for any monetary defaults arising prior to its acquisition of title to the Site or any portion thereof. Uncured monetary defaults will terminate the Agreement and Mortgagee's right to operate.

26.5 Written Notice of Default. Each Mortgagee shall be entitled to receive written notice from City of any default by Owner under this Agreement, if such default is not cured within thirty (30) days, provided such Mortgagee has delivered a written request to City for such notice. Each Mortgagee shall have a further right, but not the obligation, to cure such default for a period of thirty (30) days after receipt of such notice of default. Any non-curable defaults of Owner of any obligation owed solely to City arising prior to Mortgagee's acquisition of title to the Site or any portion thereof shall be waived; provided, however, the non-payment of money shall not be deemed a non-curable default.

27. Binding Effect. This Agreement shall be binding on and inure to the benefit of the Parties to this Agreement and, subject to City's written consent, their heirs, personal representatives, successors, and assigns, except as otherwise provided in this Agreement.

28. Governing Law and Venue. This Agreement and the legal relations between the Parties shall be governed by and construed in accordance with the laws of the State of California. Furthermore, the Parties agree to venue in the Superior Court of Colusa County, California.

29. Mutual Covenants. The covenants contained herein, including those contained in the Recitals herein, are mutual covenants and also constitute conditions to the concurrent or subsequent performance by the party benefited thereby of the covenants to be performed hereunder by such benefited party.

30. Successors in Interest. The burdens of this Agreement shall be binding upon, and the benefits of this Agreement shall inure to, all successors in interest to the Parties to this Agreement ("Successors"). Furthermore, the rights and remedies, together with the benefits and burdens of this Agreement of each Party to this Agreement shall be coextensive with those of its Successors. All provisions of this Agreement shall be enforceable as equitable servitude's and constitute covenants running with the land. Each covenant to do or refrain from doing some act hereunder with regard to development of the Site: *(a)* is for the benefit of and is a burden upon every portion of the Site; *(b)* runs with the Site and each portion thereof; and, *(c)* is binding upon each Party and each Successor during ownership of the Site or any portion thereof. From and after recordation

of this Agreement, the Agreement shall impute notice to all persons and entities in accord with the recording laws of this State.

31. No Third-Party Beneficiaries. This Agreement is made and entered into for the sole protection and benefit of the Parties and their Successors and Assignees. No other person or entity shall have any right of action based upon any provision of this Agreement.

32. Waiver. Failure by a Party to insist upon the strict performance of any of this Agreement's provisions by the other party, or the failure by a Party to exercise its rights upon the default of the other Party, shall not constitute a waiver of such Party's right to insist and demand strict compliance by the other Party with the terms of this Agreement thereafter.

33. Time of Essence. Time is of the essence in the performance of the provisions of this Agreement as to which time is an element.

34. Recordation of Agreement. This Agreement and any amendment or cancellation thereof shall be recorded with the County Recorder by the City Clerk within the period required by Government Code Section 65868.5.

35. Headings. The headings in this Agreement are inserted for convenience only. They do not constitute part of this Agreement and shall not be used in its construction.

36. Waiver. The waiver by any party to this Agreement of a breach of any provision of this Agreement shall not be deemed a continuing waiver or a waiver of any subsequent breach of that or any other provision of this Agreement.

37. Jointly Drafted. It is agreed among the parties that this Agreement was jointly negotiated and jointly drafted by the Parties and their respective counsel, and that it shall not be interpreted or construed in favor of or against any party solely on the ground that it drafted the Agreement. It is also agreed and represented by all Parties that said Parties were of equal or relatively equal bargaining power and that in no way whatsoever shall this Agreement be deemed to be a contract of adhesion, or unreasonable or unconscionable.

38. Independent Legal Counsel. Each party acknowledges that it has been represented by independent legal counsel of its own choice throughout all of the negotiations that preceded the execution of this Agreement or has knowingly and voluntarily declined to consult legal counsel, and that each Party has executed this Agreement with the consent and on the advice of such independent legal counsel.

Attachment #2

39. Further Cooperation. The parties herein agree to execute any and all agreements, documents or instruments as may be reasonably necessary in order to fully effectuate the agreements and covenants of the Parties contained in this Agreement, or to evidence this Agreement as a matter of public record, if required to fulfill the purposes of this Agreement. The Parties further agree to mutually cooperate with one another in carrying out the purposes of this Agreement.

40. Enforceability. This Agreement shall not become binding and shall have no force and effect whatsoever until such time as it has been fully executed by and delivered to all of the parties hereto.

IN WITNESS WHEREOF, the undersigned have executed this Agreement as of the Execution Date.

Signatures on Next Page

"**CITY**"

CITY OF COLUSA, CA
a California Municipal Corporation

Date: ____________________, 2022

By: ________________________________

Mayor

Attest:

By: ________________________________

City Clerk

Approved as to form:

Jones & Mayer

By: ________________________________
Ryan R. Jones, Esq.
City Attorney

"Authorized Agent"

Date: ____________________, 2022

Brad Ravin

By: ________________________________

Paul Hand

By: ________________________________

Approved as to form:

By: ________________________________
Attorney for Owner

Attachment #2

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF ________________ }

On____________________ before me, ____
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

Attachment #2

ACKNOWLEGEMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA }
COUNTY OF ________________ }

On____________________ before me, ____
(insert name and title of the officer)

personally appeared ____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

____
Signature of Notary

EXHIBIT "A"

Attachment #2

Legal Description

pending

EXHIBIT "B"

Attachment #2

Boundary Map