CONDITIONS OF APPROVAL
PLN-2023-18697

APPROVAL OF THE CONDITIONAL USE PERMIT AND SPECIAL PERMIT IS CONDITIONED ON THE FOLLOWING TERMS AND REQUIREMENTS.

A. Conditions that must be completed within specified time frames or completed prior to commencing cultivation.

1. Cultivation is limited to 31,304 square feet until the pond is constructed and contains at least 560,000 gallons. Use of the groundwater well may not exceed 360,000 gallons per year.

2. Prior to using the pond for irrigation, the permittee shall install a wildlife exit ramp according to specifications to the satisfaction of California Department of Fish and Wildlife.

3. Construction or ground disturbance shall not occur between February 1 and July 31 unless a preconstruction survey for raptors is conducted that demonstrates to the satisfaction of the Planning and Building Department that no impact to raptors will occur. See also A7.

4. Per the recommendations of the Biological Assessment, no heavy equipment is allowed to be used between February 1 and July 31.

5. The permittee shall follow the invasive species control plan as described in the Operations Plan (Attachment 1C). Additionally, the invasive species control plan shall incorporate the recommendation of the Botanical Survey (Attachment 4C) regarding French broom, Scotch broom, and Himalayan blackberry.

6. The permittee shall coordinate with the Bear River Tribal Historic Preservation Office to ensure a cultural monitor is present during any ground disturbance that requires a grading permit including but not limited to the excavation for the pond.

7. Construction shall not occur during the nesting bird season of March 1 to August 15 unless protocol level surveys are conducted that demonstrate to the satisfaction of the Planning and Building Department that there will be no impact to nesting birds. See also A3.

8. No later than October 15, 2024, the permittee shall provide documentation demonstrating to the satisfaction of the Planning and Building Department that all

compost and soil management areas are contained and properly managed and maintained.

9. Prior to any construction of the commercial area taking access from Highway 271, the permittee shall provide documentation demonstrating to the satisfaction of the Planning and Building Department that an authorized encroachment from CalTrans has been issued.

10. Prior to constructing or installation any cultivation authorized by this permit, the permittee shall provide documentation from a qualified engineer demonstrating that new cultivations will be in areas where the natural, unmodified grade is 15% slope or less.

11. Any new structure authorized by this permit must be located at least 30 feet from existing trees. If tree removal for the new structures authorized by this permit is recommended by a registered professional forester, then one of the following must occur: 1) Relocate the structure to avoid tree removal; OR 2) Remove the structure and convert to a compatible use (e.g. remove greenhouse and convert to full sun cultivation; OR 3) Provide additional biological assessment conducted by a qualified professional demonstrating to the satisfaction of the Planning and Building Department that the tree removal will not have an impact on habitat or species or sensitive communities.

12. Within 60 days of the effective date of project approval, the permittee shall execute and file with the Planning Division the statement titled, "Notice and Acknowledgment regarding Agricultural Activities in Humboldt County," ("Right to Farm" ordinance) as required by the HCC and available at the Planning and Building Department.

13. Within 60 days of the effective date of project approval, the permittee shall pay a conformance review deposit as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The permittee is responsible for costs for post-approval review for determining project conformance with conditions. Payment shall be made to the Humboldt County Planning Division, 3015 H Street, Eureka. Permit conformance with conditions must be demonstrated prior to release of building permit or initiation of use and at time of annual inspection.

B. General Conditions

1. The Permittee shall adhere to all previously adopted conditions of approval for cannabis entitlements on the property unless superseded by conditions in this Conditional Use and Special Permit.

2. There shall be no interconnectivity between cannabis irrigation infrastructure and domestic water systems, nor shall there be connections to ineligible or unapproved water sources (e.g. the domestic well).

3. Water meter(s) shall be placed within the irrigation system to track both total well use, total rainwater use and total irrigation use. The water use for cultivation is limited to the use of the irrigation infrastructure described in the approved Operations Plan and Site Plan. The applicant will maintain monthly logs of water usage and make the logs available upon request. Monthly logs include photographing the meter reading(s) monthly.

4. Upon request, the permittee shall provide documentation that electricity for all cannabis operations on the property are sourced through an eligible renewable energy program. The generator is reserved for emergency use only.

5. All cannabis facilities shall be placed a minimum of 15 feet horizontal distance from PGE facilities.

6. The Permittee shall attempt to form or join a Road Maintenance Association for Milky Way. In the absence of a Road Maintenance Association, the permittee shall pay a fair and proportional share of the cost of necessary road improvements and maintenance.

7. Cultivation area is limited to the proportion of irrigation water available for the growing season. If adequate water is unavailable, the cultivation area must be proportionally reduced. Increasing the amount of water taken from the well above what is described in the staff report may not occur without permit modification.

8. Construction hours shall be limited to between the hours of 8:00 a.m. and 7:00 p.m. Monday through Friday, and between 9:00 and 7:00 p.m. on Saturdays. No heavy equipment or noise generating construction activities shall be allowed on Sundays or nationally recognized holidays.

9. The permittee must fully contain compost piles and imported soil and/or properly dispose of at a waste management facility.

10. A Notice of Determination (NOD) will be prepared and filed with the County Clerk for this project in accordance with the State CEQA Guidelines. The Department will file the NOD and the applicant is responsible for this cost to the project.

11. The applicant is responsible for obtaining all necessary County and State permits and licenses, and for meeting all requirements set forth by other regulatory agencies.

12. The applicant shall be compliant with the County of Humboldt's Certified Unified Program Agency (CUPA) requirements regarding hazardous materials. A written verification of compliance shall be required before any provisional permits may be finalized. Ongoing proof of compliance with this condition shall be required at each annual inspection to keep the permit valid.

13. The applicant is required to pay for permit processing on a time and material basis as set forth in the schedule of fees and charges as adopted by ordinance of the Humboldt County Board of Supervisors. The Planning and Building Department will provide a bill to the applicant after the decision. All outstanding planning fees to cover the processing of the application to decision by the Hearing Officer shall be paid to the Humboldt County Planning Division, 3015 "H" Street, Eureka.

C. Ongoing Requirements/Development Restrictions Which Must be Satisfied for the Life of the Project

1. If cultural resources are encountered during construction activities, the contractor on site shall cease all work in the immediate area and within a 50-foot buffer of the discovery location. A qualified archaeologist and the appropriate Tribal Historic Preservation Officer(s) are to be contacted to evaluate the discovery and, in consultation with the applicant and the lead agency, develop a treatment plan in any instance where significant impacts cannot be avoided. Prehistoric materials may include obsidian or chert flakes, tools, locally darkened midden soils, ground-stone artifacts, shellfish or faunal remains, and human burials. If human remains are found, California Health and Safety Code 7050.5 requires that the County Coroner be contacted immediately at 707-445-7242. If the Coroner determines the remains to be Native American, the Native American Heritage Commission will then be contacted by the Coroner to determine appropriate treatment of the remains pursuant to Public Resources Code (PRC) Section 5097.98. Violators shall be prosecuted in accordance with PRC Section 5097.99.

2. The following noise standards shall be followed:

a. The combination of background, generator and greenhouse fan or other operational equipment created noise must not result in the harassment of Northern Spotted Owl species as required to meet the performance standards for noise set by Department Policy Statement No. 16-005. The combined noise levels measured at 100 feet or the edge of habitat, whichever is closer, shall be at or below 50 decibels. Conformance will be evaluated using current auditory disturbance guidance prepared by the United State Fish and Wildlife Service, and further consultation where necessary. A building permit shall be obtained should any structures be necessary for noise attenuation.

b. The following noise limits are required at the property line as follows:

    i. 49.1 dB at the eastern property line; and

    ii. 47.1 dB at the southeastern property line; and

    iii. 43.5.5 dB at the western property line.

c. If more than one noise standard applies (e.g. generator and property line) then the more restrictive standard shall be used.

3. All artificial lighting shall be fully contained within structures such that no light escapes (e.g., through blackout curtains). Structures shall be shielded between 30 minutes prior to sunset and 30 minutes after sunrise to prevent disruption to crepuscular wildlife. Security lighting shall be motion activated and comply with the International Dark-Sky Association standards and Fixture Seal of Approval Program. Standards include but are not limited to the following, 1) light shall be shielded and downward facing, 2) shall consist of low-pressure sodium light or low spectrum light emitting diodes with a color temperature of 3000 kelvins or less and 3) only placed where needed.

4. Should the Humboldt County Planning Division receive complaints that lighting or noise is not complying with the standards listed above in this permit, within ten (10) working days of receiving written notification that a complaint has been filed, the applicant shall submit written verification that the light shielding and alignment, and noise levels have been repaired, inspected, and corrected as necessary.

5. The use of synthetic or monofilament (e.g. plastic or nylon) netting for all uses, including but not limited to erosion control, shall be prohibited. The prohibition includes biodegradable plastic netting. Geotextiles, fiber rolls, and other erosion control measure materials shall be made of loose-weave mesh, such as jute, hemp, coconut (coir) fiber, or other products without welded weaves to minimize the risk of ensnaring and strangling wildlife.

6. All refuse shall be contained in wildlife proof containers, always, and relocated to an authorized waste management facility, in compliance with State and local laws, on a regular and on-going basis.

7. Should any wildlife be encountered during work activities, the wildlife shall not be disturbed and be allowed to leave the work site unharmed.

8. The use of anticoagulant rodenticide is prohibited.

9. The operator shall provide information to all employees about the potential health impacts of cannabis use on children. Information shall be provided by posting the brochures from the Department of Health and Human Services titled "Cannabis Palm Card" and "Cannabis Rack Card." This information shall also be provided to all employees as part of the employee orientation.

10. All components of the project shall be developed, operated, and maintained in conformance with the Project Description, the approved Site Plan, the Plan of Operations, the CMMLUO, and these conditions of approval.

11. If operating pursuant to a written approved compliance agreement, permittee shall abate or cure violations at the earliest feasible date, but in no event no more than two (2) years from the date of issuance of a provisional clearance or permit. Permittee shall provide plans for curing such violations to the Planning and Building Department within one (1) year of issuance of the provisional clearance or permit. If good faith effort toward compliance can be shown within the two years following the issuance of the provisional clearance or permit, the Department may, at the discretion of the Director, provide for extensions of the provisional permit to allow additional time to meet the outstanding requirements.

12. Compliance with all statutes, regulations, and requirements of the California State Water Resources Control Board and the Division of Water Rights, at a minimum to include a statement of diversion of surface water from a stream, river, underground stream, or other watercourse required by Water Code Section 5101, or other applicable permit, license, or registration, as applicable.

13. Confinement of the area of cannabis cultivation, processing, manufacture, or distribution to the locations depicted on the approved site plan. The commercial cannabis activity shall be set back at least 30 feet from any property line, and 600 feet from any school, school bus stop, church or other place of religious worship, or tribal cultural resources, except where a reduction to this setback has been approved pursuant to Section 55.4.11(d).

14. Applicant must adhere to and implement the Site Management Plan. A copy of the reporting form portion of the Mitigation and Reporting Program (MRP) shall be submitted to the Planning and Building Department upon request.

15. Applicant must demonstrate and maintain enrollment in Tier 1 or 2 in accordance with State Water Resources Control Board Order No. WQ 2019-0001-DWQ, or any substantially equivalent rule that may be subsequently adopted by the County of Humboldt or other responsible agency.

16. Comply with the terms of any applicable Lake and Stream Alteration (1600 or 1602) Agreement obtained from the California Department of Fish and Wildlife (CDFW).

17. Comply with the terms of a less-than-3-acre conversion exemption or timberland conversion permit, approved by the California Department of Forestry and Fire Protection (Cal Fire), if applicable.

18. Consent to an annual on-site compliance inspection, with at least 24 hours prior notice, to be conducted by appropriate County officials during regular business hours (Monday through Friday, 9:00 a.m. to 5:00 p.m., excluding holidays).

19. Refrain from the improper storage or use of any fuels, fertilizer, pesticide, fungicide, rodenticide, or herbicide.

20. Pay all applicable application, review for conformance with conditions and annual inspection fees.

21. Fuel shall be stored and handled in compliance with applicable state and local laws and regulations, including the County of Humboldt's Certified Unified Program Agency (CUPA) program, and in such a way that no spillage occurs.

22. The master logbooks maintained by the applicant to track production and sales shall be maintained for inspection by the County.

23. Pay all applicable taxes as required by the Humboldt County Commercial Marijuana Cultivation Tax Ordinance (Humboldt County Code Section 719-1 et seq.).

<u>Performance Standards for Cultivation and Processing Operations</u>

24. Pursuant to Business and Professions Code section 26051.5(a)(8), an applicant seeking a cultivation license shall "provide a statement declaring the applicant is an

'agricultural employer,' as defined in the Alatorre-Zenovich-Dunlap-Berman Agricultural Labor Relations Act of 1975 (Part 3.5 commencing with Section 1140) of Division 2 of the Labor Code), to the extent not prohibited by law."

25. Cultivators shall comply with all applicable federal, state, and local laws and regulations governing California Agricultural Employers, which may include federal and state wage and hour laws, Cal/OSHA, OSHA, the California Agricultural Labor Relations Act, and the Humboldt County Code (including the Building Code).

26. Cultivators engaged in processing shall comply with the following Processing Practices:
    a. Processing operations must be maintained in a clean and sanitary condition including all work surfaces and equipment.
    b. Processing operations must implement protocols which prevent processing contamination and mold and mildew growth on cannabis.
    c. Employees handling cannabis in processing operations must have access to facemasks and gloves in good operable condition as applicable to their job function.
    d. Employees must wash hands sufficiently when handling cannabis or use gloves.

27. All persons hiring employees to engage in commercial cannabis cultivation and processing shall comply with the following Employee Safety Practices:
    a. Cultivation operations and processing operations must implement safety protocols and provide all employees with adequate safety training relevant to their specific job functions, which may include:
        (1) Emergency action response planning as necessary;
        (2) Employee accident reporting and investigation policies;
        (3) Fire prevention;
        (4) Hazard communication policies, including maintenance of material safety data sheets (MSDS);
        (5) Materials handling policies;
        (6) Job hazard analyses; and
        (7) Personal protective equipment policies, including respiratory protection.
    b. Cultivation operations and processing operations must visibly post and maintain an emergency contact list which includes at a minimum:
        (1) Operation manager contacts;

(2) Emergency responder contacts; and

(3) Poison control contacts.

c. At all times, employees shall have access to safe drinking water and toilets and handwashing facilities that comply with applicable federal, state, and local laws and regulations. Plumbing facilities and water source must be capable of handling increased usage without adverse consequences to neighboring properties or the environment.

d. On site-housing provided to employees shall comply with all applicable federal, state, and local laws and regulations.

28. All cultivators shall comply with the approved processing plan as to the following:

a. Processing practices

b. Location where processing will occur

c. Number of employees, if any

d. Employee Safety Practices

e. Toilet and handwashing facilities

f. Plumbing and/or septic system and whether or not the system is capable of handling increased usage

g. Drinking water for employees

h. Plan to minimize impact from increased road use resulting from processing

i. On-site housing, if any

29. Term of Commercial Cannabis Activity Permit. Any Commercial Cannabis Cultivation permit issued pursuant to the CMMLUO or CCLUO shall expire one (1) year after date of issuance, and on the anniversary date of such issuance each year thereafter, unless an annual compliance inspection has been conducted and the permittees and the permitted site have been found to comply with all conditions of approval.

30. Inspections. If the inspector or other County official determines that the permittees or site do not comply with the conditions of approval, the inspector shall serve the permit holder with a written statement identifying the items not in compliance, and the action that the permit holder may take to cure the noncompliance or file an appeal within ten (10) days of the date that the written statement is delivered to the permit holder. Personal delivery or mailing the written statement to the mailing address listed on the application by regular mail, plus three (3) days after date of mailing, shall constitute delivery. The permit holder may request a reinspection to determine whether or not the permit holder has cured all issues of noncompliance.

Failure to request reinspection or to cure any items of noncompliance shall terminate the Permit, immediately upon the expiration of any appeal period, or final determination of the appeal if an appeal has been timely filed.

The permit holder and subject property owner are to allow the County or representative(s) or designee(s) to make inspections at any reasonable time deemed necessary to assure that the activities being performed under the authority of this permit are in accordance with the terms and conditions prescribed herein.

31. Permit Renewals to Comply with Updated Laws and Regulations. Permit renewal is subject to the laws and regulations effective at the time of renewal, which may be substantially different than the regulations currently in place and may require the submittal of additional information to ensure that new standards are met.

32. Acknowledgements to Remain in Full Force and Effect. Permittee acknowledges that the County reserves the right to reduce the size of the area allowed for cultivation under any clearance or permit issued in accordance with this section in the event that environmental conditions, such as a sustained drought or low flows in the watershed in which the cultivation area is located, will not support diversions for irrigation.

33. Transfers. Transfer of any leases or permits approved by this project is subject to the review and approval of the Planning Director for conformance with CMMLUO eligibility requirements and agreement to permit terms and acknowledgments. The fee for required permit transfer review shall accompany the request. The request shall include the following information:

    a. Identifying information for the new owner(s) and management as required in an initial permit application;

    b. A written acknowledgment by the new owner in accordance as required for the initial permit application;

    c. The specific date on which the transfer is to occur;

    d. Acknowledgement of full responsibility for complying with the existing permit; and

    e. Execution of an Affidavit of Non-diversion of Medical Cannabis.

Informational Notes:

1. None