SUTTER CREEK
JEWEL OF THE MOTHER LODE

Supplemental Packet No. 3 – City Council Meeting Agenda

Monday, August 17, 2026 at 6:00 PM

33 Church Street, Sutter Creek, CA 95685

The Agenda can be found on the City's Website: www.cityofsuttercreek.org

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The City of Sutter Creek City Council Meeting will be available in person and LIVE on YouTube at

https://www.youtube.com/@CityofSutterCreek**.**

You can also watch the meeting on Zoom (please note Zoom participation is only available for viewing.

https://us02web.zoom.us/j/81391466458?pwd=4jXmBm1AP5bEbiID3iDwuxk4GpreRY.1

Or Dial by phone: 301 715 8592 Webinar ID: 816 8589 0182 Passcode: 186036

Unless stated otherwise on the agenda, every item on the agenda is exempt from review under the California Environmental Quality Act ("CEQA") per CEQA Guidelines Sections 15060(c), 15061(b)(3), 15273, 15378, 15301, 15323 and/or Public Resources Code Section 21065.

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1. Information and Correspondence

A. Updated Development Agreement and Public Correspondence

RECORDING REQUESTED BY
AND WHEN RECORDED MAIL TO:

City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

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 as of September __, 2026 (the "Execution Date"), by and between the City of Sutter Creek, a California municipal corporation ("City") and Sutter Creek Responsible and Compliant Retail LLC ("Permittee"). City and Permittee 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 a legal or equitable 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, and to meet certain public purposes of the local government.

C. As authorized by the Development Agreement Statutes, the City has adopted Section 17.40, *et seq*., of the City's municipal code (the "Municipal Code") establishing the procedures and requirements for the consideration of development agreements with the City.

D. Permittee currently owns legal or equitable interest in real property considered in this Agreement, located at 11 Ridge Rd., Sutter Creek, CA 95685, in the City of Sutter Creek, County of Amador, State of California (the "Site"). The Site includes Assessor's Parcel Number: ***044-020-063,*** as is more fully described in **Exhibit A** and shown on the map in **Exhibit B**, both exhibits being attached hereto and incorporated herein by this reference.

E. On September 18, 2017, the City Council adopted Ordinance No. 365 §2, 2017 prohibiting all marijuana uses in the City to the extent allowed under California law, with an exception for an individual who desires to grow up to six (6) marijuana plants at their private residence (the "Cannabis Ordinance").

F. On November 8, 2016, California voters approved Proposition 64, titled the "Adult Use of Marijuana Act" (the "AUMA") and enacted a state statutory scheme legalizing, controlling, and regulating the cultivation, processing, manufacturing, distribution, testing, and sale of nonmedical ("adult-use" or "recreational") cannabis, including cannabis products, for use by adults twenty-one (21) years of age and older.

G. On June 27, 2017, Governor Brown signed Senate Bill 94, the "Medicinal and Adult- Use Cannabis Regulation and Safety Act" ("SB 94" or the "MAUCRSA"). SB 94 creates one state regulatory structure for medical and adult-use cannabis use and commercial cannabis activities, reconciling AUMA, with Proposition 215 and MAUCRSA. SB 94 continues to provide that a state license will not be approved for a business to engage in Commercial Cannabis Activity if the business activity violates any local ordinance or regulation.

H. The City Council adopted ***an Ordinance Amending*** Municipal Code ***Sections 18.60.020, 18.60.030, and 18.60.040, on September __, 2026***, modifying the ***City Zoning Code*** to allow a single commercial cannabis retail business in the City, such that any proposed commercial cannabis retail business must have an Agreement and a business permit prior to operation. ***On September __, 2026, the City Council further adopted an ordinance amending the Cannabis Ordinance to authorize a single retail cannabis dispensary subject to the issuance of a conditional use permit and approval of a development agreement.***

I. In adopting the Municipal Code amendment authorizing a single commercial cannabis retail business, the City Council determined, as a legislative matter and in the exercise of its authority under Business and Professions Code section 26200 and the City's police power, that authorizing one commercial cannabis retailer is appropriate for the City at this time in light of the City's limited population, its limited law-enforcement and code-enforcement resources, and the City's interest in evaluating the operation of a single retailer through a review period before determining whether to authorize additional retailers. This limitation is a general regulatory limit on the number of retail permits, applicable without regard to the residency or principal place of business of any applicant; it does not confer any exclusive right, franchise, or monopoly on any person; and it does not foreclose the City from authorizing additional retail permits following a review period. This Agreement implements that regulatory framework as to the single authorized permit and does not itself establish the numerical limit.

J. Presently, Permittee intends to utilize the Site for the sale of cannabis. Permittee is an authorized corporation as allowed by law duly formed under California law for the purpose of commercial cannabis sales ("Commercial Cannabis Activity"). Such

Commercial Cannabis Activity facilities shall operate in accordance with the California State Compassionate Use Act (Health & Saf.Code, § 11362.5) (“CUA”), the Medical Marijuana Program Act (Health & Saf. Code, §§ 11362.7 et seq.) (“MMP”), the Control, Regulate and Tax Adult Use of Marijuana Act of 2016 (“AUMA”), and the Medicinal and Adult Use Regulation and Safety Act (“MAUCRSA”), Ordinance No. 365 §2, 2017 and regulations promulgated thereunder, and any additional California state law related to Commercial Cannabis Activity (collectively “State Cannabis Law”). Prior to operating a Commercial Cannabis Activity facility, Permittee shall be required to obtain a business permit from City pursuant to City ordinance.

K. Permittee shall obtain all required state licenses issued under State Cannabis Law.

L. Pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code §21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs ,tit. 14, §15000 et seq.), the whole of the Project, including the Development Agreement, has been reviewed and found to be categorically exempt from CEQA on two independent grounds: (a) State CEQA Guidelines section 15301 (Existing Facilities), because the Project involves the minor alteration of an existing commercial structure, with no expansion of the building and no more than a negligible change in the nature or degree of the existing or former use; and (b) State CEQA Guidelines section 15061, subdivision (b)(3) (the common-sense exemption), because it can be seen with certainty that there is no possibility the Project will have a significant effect on the physical environment. The City Council has further found that no exception under State CEQA Guidelines section 15300.2 applies, including the ‘unusual circumstances’ exception, and that the comments and materials submitted in opposition do not constitute substantial evidence of a significant physical environmental effect. A Notice of Exemption will be filed upon approval of this Agreement.

M. Permittee presently intends to develop and open a commercial cannabis facility on the Site consistent with State Cannabis Law, all other applicable California law, and Project approvals (known as the “Project”).

N. The Project will include commercial retail cannabis sales to individuals under State Cannabis Law at the Project Site.

O. Project Description. The Project will consist of ***the reuse of an existing building*** of approximately ***2,662 square feet with parking for 17 vehicles***. The Project is designed to integrate seamlessly into the City’s General Plan, and any applicable master plan, public financing plan, specific plan, and special purpose plan for Project Site.

P. City and Permittee have agreed that, as a condition of the City’s approval of the Project and the land use entitlements granted herein, and as negotiated consideration for the vested rights and regulatory services described in this Agreement, Permittee shall pay to the City a Retail Fee of eight percent (8%) of the gross receipts of Permittee’s commercial cannabis retail sales, as hereinafter defined. The Retail Fee is a charge imposed as a condition of property development within the meaning of Article XIII C, section 1, subdivision (e)(6) of the California Constitution, and is not imposed for general revenue purposes.

Q. The Parties acknowledge and agree that the Retail Fee and the Community Fund contribution provided for in this Agreement are negotiated contractual consideration and charges imposed as a condition of property development, and are not taxes. The primary purpose of these charges is to support the City's regulation of commercial cannabis activity and to compensate the City for the vested rights and regulatory services conferred under this Agreement, and not to raise general revenue. Commercial cannabis retail generates regulatory, code-enforcement, monitoring, inspection, law-enforcement-coordination, and public-safety burdens on the City that increase with the volume of Permittee's activity, and a charge measured as a percentage of gross receipts bears a fair and reasonable relationship to those burdens and to the benefits conferred on Permittee. To the extent any portion of these charges were determined to be a tax, the Parties intend that it qualify for an applicable exception under Article XIII C, section 1, subdivision (e).

R. City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code section 65867 and Municipal Code Section 17.40.040. 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 City's General Plan, zoning code, and municipal ordinances.

S. City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present City Council members, that this Agreement will serve to bind City and future City 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 City 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 staff, the Planning Commission, and the City 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 Agreement. Permittee has represented to City that it would not consider or engage in the Project absent City approving this Agreement; *i.e.*, assuring Permittee that it will enjoy the development rights given in this Agreement. The City Council specifically finds that this Agreement satisfies each and every one of the required findings in Municipal Code Section 17.40.050.

T. The City agrees that Permittee's land use entitlements for the Project shall vest for the term of this Agreement as described below, including, but not limited to, the right to commercial cannabis retail sales and related development in compliance with State Cannabis Law and local ordinances.

U. After conducting a duly noticed hearing on ***August 17,*** 2026, in conjunction with Section 17.40.040 of the City's Municipal Code, the Planning Commission of the City reviewed, considered, and approved Resolution No.***26-27-**** recommending approval of the Project to City Council. The Planning Commission 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 Commercial zone; is in conformity with the public necessity, public convenience, general welfare and good land use practices; will not be detrimental to the health, safety and general welfare of the city; will not adversely affect the orderly development of property or the preservation of property values; and will have a positive fiscal impact on the City.

V. After conducting a duly noticed hearing on ***August 17,*** 2026, in conjunction with Section 17.40.040 of the City's Municipal Code, 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 Commercial zone; 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 Sutter Creek and its residents.

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. This Agreement pertains to the Site as described in **Exhibit A** and shown in **Exhibit B**. Except as otherwise provided in Section 14 of this Agreement, the burdens of this Agreement are binding upon the Permittee. In order to provide continued notice thereof, the Parties will record this Agreement with the Amador County Recorder. 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 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 Permittee will be deemed to be the agent of the other for any purpose whatsoever. City and Permittee 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 Permittee joint venturers or partners.

3. Term. Except as otherwise specified herein, the initial term of this Agreement (the "Term") shall be for five (5) years from the Execution Date. The Term shall generally be subject to earlier termination or extension as hereinafter provided.

3.1 Term Extension. This Agreement shall be subject to any number of five (5) year extensions as provided in this Agreement. The City Manager is authorized to enter into the term extensions after conducting a periodic review in accordance with Government Code section 65865.1. If, on the basis of substantial evidence, the Permittee demonstrates to have complied in good faith with the terms and conditions of this Agreement, the Parties shall enter into a written extension signed by both Parties.

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) of any third party governmental agency, quasi-public entity or public utility, and beyond the reasonable control of Permittee.

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 affecting development involved personnel not employed by Permittee, its 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 may be extended in either of the following ways:

3.2.1 Request of Permittee. This Agreement's Term shall be extended for additional five (5) year periods following the expiration of the initial Term upon the occurrence of all of the following:

3.2.1.1 Written Notice. Permittee shall give written notice to City of a request for the Term Extension no later than one hundred twenty (120) calendar days before the expiration of the Term; and

3.2.1.2 No Default by Permittee. Permittee shall not be in default with respect to any material 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 Permittee did in fact default as to this Agreement, upon notice from City, that Permittee did cure said default during the period to cure provided herein to City's reasonable satisfaction.

3.2.1.3 ***Periodic Review.*** ***Within the 120-day period provided by Section 3.1., the City Manager shall ensure the completion of the periodic review required by Section 3.1 and, upon the demonstration of substantial evidence to support the extension, the City Manager shall execute the extension for the City.***

3.3 Default and Termination for Cause. Without prejudice to its other remedies at law or in equity, the City may terminate this Agreement for cause within thirty (30) days' written notice to Permittee ***in the manner provided in Section 22***. Cause as used in this section is defined as:

3.3.1 Failure to materially comply with the terms of the City of Sutter Creek Permits issued to Permittee by City;

3.3.2 Failure of Permittee to maintain a valid active City of Sutter Creek Business License;

3.3.3 Failure by Permittee to accurately report gross receipts information or other data necessary for City to calculate/confirm operating or development agreement fees (e.g., retail fee);

3.3.4 Failure by Permittee to pay operating agreement fees and related reimbursement costs within thirty (30) days of the date those fees are due;

3.3.5 Failure by Permittee to cooperate with City or City's authorized agents in any inspection, examination and audit of Permittee's commercial cannabis business books and records (including tax filings and returns).

3.3.6 Permittee's conditional use permit is revoked by City or is not renewed by City, or

3.3.7 Permittee transfers its Permit in violation of Paragraph 44 of this agreement.

3.4 Cure Period. Permittee shall cure the default resulting from the cause for termination within thirty (30) days of the date of the notice of termination. If Permittee fails to cure the default within thirty (30) days of the date of the notice of termination for cause, this Agreement will be terminated. If the default is of a nature that cannot reasonably be cured within thirty (30) days, Permittee shall not be in default if Permittee: (i) commences cure within the initial thirty (30) day period; (ii) diligently pursues cure to completion; and (iii) completes cure within ninety (90) days of the original notice of default. A default that is timely cured within the Cure Period shall be deemed fully cured and shall not constitute grounds for termination. This Agreement shall continue in full force and effect as if the default had not occurred.

3.4.1 If Permittee disputes in good faith that a default has occurred under Section 3.3 of this Agreement, Permittee shall provide written notice of such dispute to City within fifteen (15) days of receipt of the notice of default. The Cure Period shall be tolled during the pendency of any dispute resolution process, and City shall not terminate this Agreement while such dispute is pending.

3.5 License Compliance Review. No later than ninety (90) days following the first anniversary of the date Permittee opens the Project to the public, the City Manager shall conduct a License Compliance Review ("Compliance Review") to assess Permittee's compliance with the terms and conditions of this Agreement and all applicable City of Sutter Creek Permits. If, on the basis of substantial evidence, Permittee demonstrates to the City Manager that it has complied in good faith with the material terms and conditions of this Agreement, including but not limited to: (i) timely payment of Retail Fees; (ii) accurate submission of Certified Reports; (iii) maintenance of required state and local licenses and permits; (iv) compliance with the Security Plan and Good Neighbor obligations; and (v) satisfaction of Community Benefit obligations under Sections 8.4 and 8.5 of this Agreement; then the City Manager shall issue a written finding of compliance ("Compliance Finding") within thirty (30) days of the conclusion of the Compliance Review. If the City Manager determines, on the basis of substantial evidence, that Permittee has not complied in good faith with a material term or condition of this Agreement, the City Manager shall issue a written finding of non-compliance identifying: the specific provision(s) with which Permittee has failed to comply. A finding of non-compliance pursuant to this Section shall constitute a notice of default under Section 3.3 of this Agreement, subject to any applicable cure periods.

3.6 Termination of Agreement. Upon the termination of this Agreement, either by expiration or otherwise, Permittee shall have no right to engage in Commercial Cannabis Activity at the Project Site, except as may otherwise be allowed by City ordinance or law. Any such termination shall not relieve Permittee of any outstanding or previously incurred liability, payment or obligation to the City. All fees due between the Parties shall immediately be due and payable.

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 Permittee on a form acceptable to the City's Finance Supervisor to report to City of the sales by Permittee, 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 Permittee. City may also require certification by Permittee.

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

4.3 Gross Receipts. Except as otherwise specifically provided, means the total amount actually received or receivable from all sales and transfers; the total amount of compensation actually received or receivable for the performance of any act or service, of whatever nature it may be, for which a charge is made or credit allowed, whether or not such act or service is done as a part of or in connection with the sale of. materials, goods, wares or merchandise; and discounts, gifts, rents, royalties, fees, commissions, dividends, and gains realized from trading in stocks 'or bonds, however designated. Included in "gross receipts" shall be all receipts, cash, credits and property of any kind or nature, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever, except that the following shall be excluded therefrom.

4.3.1 Cash discounts where allowed and taken on sales;

4.3.2 Credit allowed on property accepted as part of the purchase price and which property may later be sold, at which time the sales price shall be included as gross receipts;

4.3.3 Any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser;

4.3.4 Such part of the sale price of any property returned by purchasers to the seller as refunded by the seller by way of cash or credit allowances or return of refundable deposits previously included in gross receipts;

4.3.5 Receipts derived from the occasional sale of used, obsolete or surplus trade fixtures, machinery or other equipment used by the taxpayer in the regular course of the taxpayer's business;

4.3.6 Receipts derived from convenience fees charged for ATM or cashless ATM services;

4.3.7 Receipts of refundable deposits, except that such deposits when forfeited and taken into income of the business shall not be excluded when in excess of one dollar; and

4.3.8 Retail sales of non-cannabis products, such as t-shirts, sweaters, hats, stickers, key chains, bags, books, posters, rolling papers, cannabis accessories such as pipes, pipe screens, vape pen batteries (without cannabis) or other personal tangible property.

4.4 Operational Quarter. "Operational Quarter" shall mean any calendar quarter, or portion of a calendar quarter, during which any Gross Receipts of the Project is produced, as defined herein. The calendar quarters shall begin and end as follows: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31.

4.5 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:

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

4.5.2 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 ***Permittee*** is paying any fee or providing any improvement pursuant to this Agreement;

4.5.3 The control and abatement of nuisances;

4.5.4 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 ***Permittee*** and City; and

4.5.5 The exercise of the power of eminent domain.

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

4.7 Retail Fee. Shall mean eight percent (8%) of Gross Receipts due to the City at the end of each Operational Quarter. In the event the City enacts or increases a voter-approved cannabis excise or business tax applicable to Permittee's operations at the

Project Site during the Term, the Retail Fee due under this Agreement for each applicable Operational Quarter shall be reduced by the amount of such voter-approved tax paid by Permittee for that quarter, provided that the Retail Fee shall not be reduced below zero. The Parties shall execute a written amendment memorializing any such reduction within thirty (30) days of the effective date of the applicable voter-approved tax.

5. Annual State Retail License; Background Checks.

5.1 Permittee shall be required to receive and maintain in good standing its state cannabis retail license issued by the Department of Cannabis Control (or successor agency) as a condition to operating, and any lapse or failure by Permittee to do so shall be deemed to be a default under this Agreement.

5.2 All of Permittee's "owners" (as defined under Cal. Code Regs. Tit. 4, § 15003), "financial interest holders" (as defined under Cal. Code Regs. Tit. 4, § 15004), and employees shall be disclosed to the City. All such owners, financial interest holders, and employees shall be subject to all applicable requirements and qualifications under State Cannabis Laws.

6. Fee Payments.

6.1.1 Fee Payments. In consideration of City's entering into this Agreement and, as a condition of the City's approval of the Project and the land use entitlements granted herein, including: (i) the vested rights to develop and operate the Project during the Term; (ii) City's ongoing cannabis permitting review and administration; (iii) annual compliance monitoring and periodic review pursuant to Government Code § 65865.1; (iv) law enforcement coordination and surveillance access administration; (v) community benefits program oversight; (vi) ALPR program administration; and (vii) all other City regulatory services and oversight required under this Agreement, State Cannabis Laws, and the City's municipal ordinances throughout the Term of this Agreement, the following payments shall be made to City:

6.1.2 Eight percent (8%) of Gross Receipts for operations from the Commercial Cannabis Activity of the storefront retail operations, to be paid quarterly. Retail Fees shall be ***paid to*** the City within thirty (30) calendar days following the end of each Operational Quarter, concurrent with submission of the Certified Report required under Section 7.1. Any Retail Fee not received by the City within thirty (30) calendar days following the end of the applicable Operational Quarter shall be deemed delinquent, and a penalty equal to twenty-five percent (25%) of the total delinquent amount shall be immediately due and payable.

6.1.3 The Parties acknowledge that the foregoing payments are negotiated consideration and a charge imposed as a condition of property development, are reasonably related to the City's regulatory burdens and to the benefits conferred on Permittee, and are not imposed for general revenue purposes.

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

7.1 Remittance of Retail Fees/Certified Reports. Within thirty (30) calendar days following the end of each Operational Quarter during the Term of this Agreement, commencing with the first Operational Quarter in which the Project has commenced, Permittee shall submit the Certified Report to the City's Finance Director together with payment of the Retail Fees for that Operational Quarter as identified in the Certified Report. Permittee shall pay Retail Fees to City on a quarterly basis without exception. Any material misstatement or misrepresentation in the Certified Report and any failure to pay Retail Fees when due shall constitute events of default by Permittee subject to the default provisions of this Agreement.

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

7.3 Audit. The City may conduct an audit or arrange for a third-party independent audit, at Permittee's expense, of Permittee records regarding Certified Reports and the Gross Receipts, at the sole discretion of the City. Such audit would not occur more than once in one calendar year. The City's Finance Director shall provide at least seven (7) business days written notice of the commencement of such audit to Permittee and shall reasonably attempt to schedule the audit so as to reduce the impact on Permittee operations as much as is feasible. Permittee shall cooperate with the City in completing the audit. If the audit reveals that Permittee has underpaid the payment due at the end of any Operational Quarter, Permittee shall pay such underpaid amounts to the City within thirty (30) calendar days of receipt of written notice from the City's Finance ***Director***. If the underpaid amount is more than five percent (5%) of the amount due, Permittee shall pay a penalty of an additional five percent (5%) of Gross Receipts for first time underpayment and an additional fifteen percent (15%) of Gross Receipts for any subsequent violations of the payment due at the end of the Operational Quarter. If the audit reveals that the Permittee has overpaid any amount of the Gross Receipts, City shall provide written notification to Permittee and shall credit such amount against Permittee's subsequent quarterly payments of Gross Receipts until the overpaid amount has been resolved.

7.4 Site Inspection. From time to time, the City has the right to inspect the Facility for the purpose of monitoring operations, checking quantities and verifying volumes of product during operating hours or any time deemed appropriate to insure accurate reporting. The City must give notice at least forty-eight (48) hours in advance of any inspection.

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

8.1 Implementation. Permittee 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 business permit, and the Municipal Code.

8.2 Maintain & Operate Project. Permittee shall maintain and operate the Project on the Site, throughout the Term of this Agreement, in accordance with the Project approvals and all City, State and Federal laws.

8.3 Operating Hours. Permittee shall operate the Project only during the hours agreed to within the business plan plan attached to this agreement, and in no case will exceed hours permitted under State Cannabis Law,.

8.4 Community Benefits. Permittee shall pay one percent (1%) of Gross Receipts into a community benefits fund (the "Community Fund"), for the benefit of the City and its residents. The Community Fund shall be governed and administered by a Community Advisory Board ("CAB") established and maintained by Permittee in accordance with Section 8.5 of this Agreement. All allocations from the Community Fund shall be made for public purposes benefiting the City and its residents, consistent with written allocation criteria provided in advance to the City Manager. Permittee shall provide the City Manager with an annual written report of all Community Fund receipts and allocations, due by January 31 of each calendar year, which report shall be a public record. The Community Fund shall not be used for the private benefit of Permittee or its owners, officers, or affiliates.

8.5 Community Advisory Board. Permittee shall establish and maintain a three person Community Advisory Board ("CAB") consisting of at least two (2) members who reside within the City of Sutter Creek and one (1) member who *works* within the City of Sutter Creek. The CAB shall meet no fewer than four (4) times per calendar year. The CAB shall have authority to direct all allocations from the Community Fund required under Section 8.4 of this Agreement. Permittee shall provide the City Manager with a written list of current CAB members by January 31 of each calendar year and shall invite City representatives to participate in each CAB meeting in a non-voting, advisory capacity. For the avoidance of doubt, a vacancy on the CAB shall not constitute a default under this Agreement. Permittee shall have sixty (60) days from the date the vacancy arises to appoint a replacement member.

8.6 Youth Drug Education and Prevention. Within six (6) months of the date Permittee first opens the Project to the public, Permittee shall fund and implement a youth drug education and prevention program using a curriculum recognized by the California Department of Education or a comparable accredited national evidence-based program. Permittee shall use commercially reasonable efforts to partner with at least one locally based youth-serving organization in delivering such program. Permittee shall provide the City Manager with an annual written summary of program activities and total expenditures, due by January 31 of each calendar year.

8.7 Local Hiring. Permittee shall use reasonable best efforts to recruit and

hire 100% of the employees from within the City of Sutter Creek and Amador County. In filling open positions, Permittee's recruitment process shall prioritize, in order: (i) qualified applicants residing within a five (5) mile radius of the Project Site; (ii) all other qualified residents of the City of Sutter Creek; and (iii) qualified residents of Amador County. Prior to the date Permittee first opens the Project to the public, Permittee shall conduct at least one community job fair at a location within Sutter Creek and shall post all open positions through at least one locally distributed media outlet. Permittee shall provide the City Manager with an annual written report by January 31 of each calendar year summarizing the number of employees hired during the preceding calendar year and the ZIP codes of their primary residence at the time of hire. Sutter Creek PD requires a Livescan for all Permittee employees

8.8 Window Design Standards. Permittee shall maintain clear, unobstructed windows in all areas of the Project premises where no commercial cannabis activity occurs. In areas where cannabis products, transactions, or displayed inventory would otherwise be visible from the public right-of-way, Permittee shall apply a frosted or opaque window treatment from floor level to a height of five (5) feet above finished floor. Permittee shall maintain all window treatments in good condition throughout the Term of this Agreement. Any material change to the window design shall require prior written approval from the City Manager, which shall not be unreasonably withheld.

8.9 Law Enforcement Surveillance Access. Permittee shall provide the Sutter Creek Police Department ("SCPD") with secure, real-time, read-only remote access to video surveillance cameras required to be maintained at the Project premises under State Cannabis Law. Permittee shall establish such access prior to the date Permittee first opens the Project to the public and shall maintain such access in good working order throughout the Term of this Agreement. In the event of any technical failure disrupting SCPD access, Permittee shall restore access within seventy-two (72) hours of written notice from the City. Permittee shall cooperate with all law enforcement requests for surveillance footage and still images within twenty-four (24) hours of any such request.

8.10 The Permittee shall immediately notify the Sutter Creek Police Department of any criminal activity, or suspected criminal activity, occurring at the Subject Property. In the event of any internal security system breach, including a faulty alarm system, broken or damaged surveillance cameras or other videorecording equipment, or broken or damaged locks, doors, or lighting which may increase risk of criminal activity at the Subject Property, the Manager of the Permittee shall notify the City Police Department as soon as practicable after becoming aware of the security system breach. The Permittee shall diligently attempt to fix or resolve any such security breach immediately; if circumstances require additional time and delay to remedy, the Permittee shall so notify the City Police Department and provide an estimated timeline the security breach will be secured.

8.11 City of Sutter Creek Surveillance Cameras. Permittee shall commit from the Community Fund payment in the amount of (i) 20% of the Community Fund or (ii) $25,000 annually, whichever is less towards a community camera fund available to the Sutter Creek Police Department ("SCPD") for use of installation and annual service fees of cameras throughout the City.

8.12 Security Plan. Prior to opening the Project to the public, Permittee shall file a written Security Plan with the City Manager detailing Permittee's security staffing, surveillance equipment specifications, alarm systems, access control measures, and cash handling procedures. Any material modification to the Security Plan that reduces security staffing levels or reduces surveillance coverage shall require prior written approval from the City Manager. Permittee shall conduct an annual review of the Security Plan and provide a written summary of any changes to the City Manager due by January 31 of each calendar year. For purposes of this Section, "material modification" means any change that reduces the number of security personnel on duty during operating hours by more than twenty-five percent (25%) from the levels set forth in the then-current Security Plan, or that eliminates coverage of any entrance, exit, or cannabis or currency storage area by the surveillance system.

8.13 Good Neighbor Obligations.

8.13.1 Community Hotline. Prior to the date Permittee first opens the Project to the public, Permittee shall establish a dedicated telephone number for community communications regarding the Project (the "Community Hotline"). Permittee shall post the Community Hotline number conspicuously at the entrance to the premises and shall provide the number in writing to all property owners and occupants of record within one thousand (1,000) feet of the Project Site. A designated manager shall be responsible for receiving and logging all Community Hotline communications. Permittee shall maintain a written log of all Community Hotline calls and shall retain such logs for no fewer than three (3) years. Permittee shall make the Community Hotline logs available to the City Manager within five (5) business days of written request.

8.13.2 Complaint Response Protocol. Permittee shall adopt and maintain a written complaint response protocol addressing noise, odor, litter, traffic, parking, loitering, and public consumption issues. The protocol shall require: (i) documentation of each complaint received, including date, time, nature of complaint, and contact information if provided; (ii) written or verbal response to the complainant within forty-eight (48) hours of receipt; (iii) documented resolution of the complaint; and (iv) implementation of corrective measures to prevent recurrence where feasible. Permittee shall provide a written summary of complaints received and resolutions reached to the City Manager within five (5) business days of written request.

8.13.3 Pre-Opening Neighbor Notification. Prior to the date Permittee first opens the Project to the public, Permittee shall provide the name, direct telephone number, and email address of the Project's designated on-site general manager to all property owners and occupants of record within one thousand (1,000) feet of the Project Site. Permittee shall provide updated contact information to such neighbors within thirty (30) days of any change in the designated contact person.

8.13.4 Graffiti on the property will be removed within 48 hours of discovery or notification, whichever is earlier.

8.13.5 In addition to responding to written requests within the specified time frame, Permittee will provide a monthly Good Neighbor Report that includes hotline calls and resolutions, complaint log and resolutions, and banned individual list.

8.14 Permittee agrees to comply with requirements found in Exhibits ***C to H*** to this agreement including Business Plan, Labor and Employment plan, Neighborhood compatibility plan, Security plan, Community Benefits plan, and Location plan.

8.15 No promotional messages will be visible outside of the building. Signage is limited to only what is approved in the Sign Permit.

8.16 The Parties acknowledge that, as of the Execution Date; the Project as proposed is consistent with the densities, building heights, setbacks, and lot sizes required by the Sutter Creek Municipal Code and that no new dedications of property or land for public use are required as a condition of this Agreement or the approvals granted hereunder.

9. Insurance and Indemnification.

9.1 Insurance Requirements. Permittee shall procure and maintain in full force and effect at all times during the Term of this Agreement, and any extensions thereof, policies of insurance issued by a carrier or carriers licensed and authorized to do business in the State of California, which: (A) are rated "A-VII" or better in Best's Key Rating Guide and financially sound on a current basis; (B) shall be primary and noncontributory with respect to City; (C) with respect to any liability policy, name City as an additional insured; and (D) include a waiver of subrogation in favor of City. Permittee shall deliver to City certificates of insurance no later than thirty (30) days prior to opening the Project to the public. Upon City's request, Permittee shall deliver complete copies of any insurance policies required under this Agreement. Permittee shall be required to procure the following coverages:

9.1.1 statutory workers' compensation insurance as required by applicable law, together with employer's liability insurance with limits of not less than One Million Dollars ($1,000,000) per accident, One Million Dollars ($1,000,000) disease-policy limit, and One Million Dollars ($1,000,000) disease-each employee;

9.1.2 commercial general liability insurance written on an occurrence basis, including, without limitation, premises/operations, broad-form property damage, personal injury and advertising injury, completed operations, products liability, independent contractors, fire legal liability, and assault-and-battery and security-services coverage, with limits of not less than Two Million Dollars ($2,000,000) per occurrence and Five Million Dollars ($5,000,000) general aggregate;

9.1.3 commercial automobile liability insurance covering owned, hired and non-owned vehicles used in connection with Permittee's business or operations at or relating to the Project, with limits of not less than One Million Dollars ($1,000,000) combined single limit per accident;

9.1.4 products and completed-operations liability insurance specifically covering cannabis goods sold, dispensed or distributed by Permittee, with limits of not less than Two Million Dollars ($2,000,000) per occurrence and Five Million Dollars ($5,000,000) general aggregate; and

9.1.6 crime/employee dishonesty/on-premises and in-transit money and securities coverage in an amount not less than One Million Dollars ($1,000,000) per occurrence.

9.2 Permittee shall defend (with Counsel reasonably approved by the City), indemnify, and hold harmless the City and its Council, boards and commissions, officers, officials, employees, and agents from and against any and all actual and alleged liabilities, demands, claims, losses, damages, injuries, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and attorney's fees), which arise out of, or which are in any way related to i) the business permit and any land use entitlement related thereto, ii) the proceedings undertaken in connection with the approval, denial, or appeal of the business permit and any land use entitlement related thereto, iii) any subsequent approvals or licensing/permits relating to the business permit and any land use entitlement related thereto, iv) the processing of the business permit and any land use entitlement related thereto, v) any amendments to the approvals for the business permit and any land use entitlement related thereto, vi) the City's approval, consideration, analysis, review, issuance, denial or appeal of the business permit; vii) the City's approval, consideration, analysis, review, issuance, denial or appeal of any land use entitlement related thereto, viii) the City's drafting, adoption and passage of an ordinance, and related resolutions, policies, rules and regulations, allowing for cannabis businesses, ix) the City's drafting, adoption and passage of an ordinance, and related resolutions if necessary in the future regarding any zoning law amendment(s) related to Permittee, x) the operation of Project or activity, xi) the process used by the City in making its decision to approve, consider, analyze, review, issue, or deny, the business permit or any related land use entitlement, or the appeal of either, xii) City's compliance or failure to comply with applicable laws and regulations or xiii) the alleged violation of any federal, state or local laws by Permittee or any of its officers, employees or agents, except where such liability is caused by the sole negligence or willful misconduct of the City.

9.3 City may (but is not obligated to) defend such a challenge as City, in its sole discretion, determines appropriate, all at applicant's sole cost and expense. Permittee shall bear any and all losses, damages, injuries, liabilities, costs, and expenses (including, without limitation, staff time and in-house attorney's fees on a fully-loaded basis, attorney's fees for outside legal counsel, expert witness fees, court costs, and other litigation expenses) arising out of or related to any challenge ("Costs"), whether incurred by Permittee, City, or awarded to any third party, and shall pay to the City upon demand any Costs incurred by the City. The Permittee shall have the right, at its sole cost and expense, to participate in the defense of any such challenge with counsel of its choosing. The City shall reasonably cooperate with Permittee in coordinating the defense, including sharing relevant non-privileged information and consulting in good faith regarding strategy; provided, however, that the City shall retain sole control over the defense and settlement of the matter. Permittee shall have the right to intervene in any such proceeding as a party, to the extent permitted by applicable law. The City shall not unreasonably withhold, condition, or delay its consent to such intervention; provided that such intervention does not, in the City's reasonable determination, compromise its legal positions, defenses, or immunities.

9.4 The City may require that Permittee fund a deposit account ("Fund") to reimburse the City's cost, including attorney's fees, to defend any claim, action, or proceeding that is or may be subject to the agreement on limitations of City's liability, and certifications, assurances warranties, and indemnification to City. In the event that any such claim, action, or proceeding is filed against the City, City may require that Permittee, within 30 days of the filing, deposit an initial sum of $25,000 to the Fund to reimburse my portion of the City defense costs, as determined by the City in its sole discretion. The Fund shall, once established, at all times contain an amount necessary to cover not less than three months' worth of budgeted expenditures by the City relating to the City's defense of the claim, action, or proceeding, including all time to appeal, or as long as expenditures made by the City relating to its defense remain unreimbursed, whichever is later. The City may, from time to time, in the City's sole and absolute discretion, request additional deposits from the Permittee to ensure the fund balance is adequate to defend any claim, action or proceeding, including appeals related thereto. Once all remaining and outstanding reimbursements have been paid to the City by Permittee, City shall return to Permittee any remaining unused portion of my deposit.

10. Hold Harmless.

10.1 Permittee hereby waives, releases, and holds harmless the City of Sutter Creek and its Council, boards and commissions, officers, officials, employees, and agents from any and all actual and alleged claims, losses, damages, injuries, liabilities, costs (including attorney's fees), suits or other expenses which arise out of, or which are in any way relate to my application for a business permit, the issuance of the business permit, the process used by the City in making its decision, the enforcement of the conditions of the business permit, or the cannabis business' operations.

10.2 Permittee hereby waives, releases and holds harmless the City and its Council, boards and commissions, officers, officials, employees, and agents from any and all actual and alleged claims, losses, damages, injuries, liabilities, costs (including attorney's fees), suits or other expenses which arise out of, or which are in any way relate to: (1) any repeal or amendment of any provision of the Sutter Creek Municipal Code or Zoning Ordinance relating to commercial cannabis activity; or (2) any investigation, arrest or prosecution of Permittee, operators, employees, clients or customers, for a violation of state or federal laws, rules or regulations relating to cannabis activities.

10.3 The provisions of this subsection shall survive the termination or expiration of this Agreement for any reason.

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

11.1 Expeditious Services. City shall process applications and address questions and concerns raised by Permittee representatives at the "counter" at City Hall as expeditiously as reasonably possible. Upon Permittee's request, or if, in an exercise of City's wn 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 Permittee's sole cost and expense, inclusive of any administrative cost to City of integrating services by Private Contractors into the project's development processing. Permittee 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.

11.2 Vested Rights. During the term of this Agreement, Permittee shall have the vested right and entitlement to develop and operate the Project in accordance with the Land Use Regulations, in addition to any operating standards found in the Municipal Code, which may be amended only to the minimum extent required to address an imminent and specifically identified public health or safety hazard, provided that: (i) the City Council adopts written findings identifying the specific hazard and the minimum amendment necessary to address it; (ii) Permittee receives at least thirty (30) days prior written notice of the proposed amendment and an opportunity to comment; and (iii) any such amendment does not materially impair Permittee's ability to operate the Project as authorized herein. Nothing in this Section shall limit the City's reserved powers under California Government Code § 65865.4.

11.3 Building Permits and Other Approvals and Permits. Subject to (a) Permittee's compliance with this Agreement, the Project approvals, and the Municipal Code; 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 Permittee promptly upon application therefore all necessary use permits, building permits, occupancy certificates, 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).

11.4 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.

12. Effect of Agreement.

12.1 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 Permittee 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 benefit which they otherwise would not receive.

12.2 Binding on City. This Agreement shall be binding upon the City and its successors in accordance with and subject to its terms and conditions, unless subsequent action is taken by the City, whether by ordinance or resolution of the City Council, by referenda, initiative, or otherwise. As long as the Development Agreement is in good standing, the Permittee shall have a right to a business permit.

12.3 Future Conflicting Local Laws. Notwithstanding any other provision of this Agreement, a conflicting City Law enacted after the Execution Date shall apply to the Project only if: (i) it is required by changes in State or Federal law; (ii) the City Council adopts written findings that the change is the minimum necessary to address an imminent and specifically identified threat to public health or safety; or (iii) it is agreed to in a written amendment signed by both Parties pursuant to Section 13.2 of this Agreement. The Parties acknowledge that the City's approval of this Agreement constitutes a legislative action subject to referendum; however, the Parties intend that the vested rights granted herein shall be enforceable against any subsequently enacted City Laws to the maximum extent permitted by California Government Code sections 65864 et seq.

13. Specific Criteria Applicable to Development of the Project.

13.1 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) Permittee 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) Permittee shall abide by the California Building Standards Codes in effect at the time of such applications, and (c) and development shall be consistent with current operating standards as set forth in the Municipal Code.

13.2 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, (i) 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; (ii) it is required by changes in State or Federal law; or (iii) it is otherwise expressly permitted by this Agreement.

14. Supersedure of Subsequent Laws or Judicial Action.

14.1 The provisions of this Agreement shall, to the extent feasible, be modified or suspended as may be necessary to comply with any new decision issued by a court of competent jurisdiction (a "Decision"), enacted or made after the Execution Date which prevents or precludes compliance with one or more provisions of this Agreement. Promptly after enactment of any such new 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, Permittee and City shall have the right to challenge the new 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 3.1 above, for a period of time equal to the length of time the challenge was pursued, to the extent such challenge delayed the implementation of the Project.

14.2 The Parties recognize that California adopted, through ballot initiative, the AUMA and may adopt through initiative or legislative action other laws and regulations pertaining to either medical or adult use of cannabis. The Parties intend through this Agreement that Permittee shall have the right for retail sales of cannabis as allowed by current State Cannabis Law, pertaining to Commercial Cannabis Activity. To the extent the changes in California law change the legal process or structure by which cannabis retailers can or may operate (i.e. for-profit vs. non-profit entities, size of licensees, etc.), the Parties intend this Agreement to be flexible to allow such changes and may alter the procedures specified herein, or otherwise, as may be necessary.

15. CEQA. The City has reviewed the Project pursuant to the California Environmental Quality Act ("CEQA") (Public Resources Code § 21000 et seq.) and the State CEQA Guidelines (Cal. Code Regs., tit. 14, § 15000 et seq.), and has determined that the Project, including this Development Agreement, is categorically exempt from CEQA on two

independent grounds: (a) State CEQA Guidelines section 15301 (Existing Facilities), because the Project involves the minor alteration of an existing private commercial structure, with no expansion of the building and no more than a negligible change in the nature or degree of the existing or former use; and (b) State CEQA Guidelines section 15061, subdivision (b)(3) (the common-sense exemption), because it can be seen with certainty that there is no possibility the Project will have a significant effect on the physical environment. The City has further determined that no exception under State CEQA Guidelines section 15300.2 applies, including the 'unusual circumstances' exception, and that the materials submitted in opposition do not constitute substantial evidence of a significant physical environmental effect. A Notice of Exemption shall be filed with the County Clerk-Recorder upon City Council approval of this Agreement. No Initial Study, Negative Declaration, Mitigated Negative Declaration, or Environmental Impact Report is required for this Project.

16. 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 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.

17. Review for Compliance.

17.1 Periodic Review. Pursuant to California Government Code section 65865.1, City shall engage in an annual review of this Agreement, on or before the anniversary of the Execution Date, in order to ascertain Permittee's good faith compliance with its terms (the "Periodic Review"). In the event City fails to formally conduct such annual review, Permittee shall be deemed to be in full compliance with the Agreement.

18. 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 California Government Code section 65865.1 or California Government Code section 65868.

19. Reserved.

20. 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.

21. 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:

<u>City of Sutter Creek</u>
<u>Attention: City Manager</u>
<u>18 Main Street</u>
<u>Sutter Creek, CA 95685</u>

If to Permittee: 440 N Barranca Ave #8433
Covina, CA 91723
Attention: Legal Notices

<u>With copy to</u>:

Embarc 1125 I St
Sacramento, CA 95814
Attention : Legal Notices

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.

22. <u>Breach and Remedies</u>. Notwithstanding any provision of this Agreement to the contrary, Permittee 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 Permittee' rights under this Agreement, unless City shall have first delivered a written notice of any alleged default to Permittee that specifies the nature of such default. If such default is not cured by Permittee within thirty (30) calendar days after receipt of such notice of default, City may terminate Permittee's rights under this Agreement. 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 Permittee 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.

23. <u>Entire Agreement</u>. This Agreement and the Exhibits A - ***<u>H</u>*** 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.

24. <u>Severability</u>. 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. Without limiting the foregoing provision, the Parties specifically agree that the Retail Fee (§ 4.7) and the Community Fund contribution (§ 8.5) are severable from the remainder of this Agreement. Permittee's vested rights and authority to develop and operate the Project constitute independent consideration supported by Permittee's covenants under this Agreement (including its operating, security, good-neighbor, and community-benefit obligations) and are not contingent upon the validity or payment of the Retail Fee or the Community Fund contribution. If the Retail Fee or the Community Fund contribution is held invalid or unenforceable by a final judgment, (i) that provision shall be severed and the remainder of this Agreement, including Permittee's rights to develop and operate the Project, shall continue in full force and effect, and (ii) the Parties shall negotiate in good faith a lawful, mutually acceptable replacement charge or arrangement consistent with the court's ruling. The Parties intend that any challenge to the financial provisions of this Agreement shall not impair the continued operation of the Project.

25. Attorneys' Fees. In the event any Party hereto brings an action or proceeding for a declaration of the rights of the Parties, for injunctive relief, for an alleged breach or default, or any other action arising out of this Agreement, or the transactions contemplated hereby or institutes a reference or arbitration proceeding as may expressly be permitted by the terms of this Agreement, the prevailing Party in any such action shall be entitled to an award of actual attorneys' fees and costs incurred in such action or proceeding, without regard to any rule of court or schedule of such fees maintained by the court, in addition to any other damages or relief awarded, regardless of whether such action proceeds to final judgment.

26. 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.

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

28. Estoppel Certificate. City shall, at any time and from time to time within ten (10) calendar days after receipt of written notice from Permittee so requesting, execute, acknowledge and deliver to Permittee 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 Permittee 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 Permittee's written request, City shall issue a certificate of performance evidencing completion of any of Permittee's obligation(s) under this Agreement.

29. Discretion to Encumber. The Parties hereto agree that this Agreement shall not prevent or limit Permittee, in any manner, at Permittee'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 Permittee 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 rights and privileges of Permittee herein.

30. Lender Requested Modification/Interpretation. City acknowledges that the lenders providing financing to Permittee may request certain interpretations and modifications of this Agreement. City therefore agrees upon request, from time to time, to meet with the Permittee 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.

31. 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 Amador County, California.

32. 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.

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

34. 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.

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

36. 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.

37. 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.

38. 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.

39. 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.

40. 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.

41. 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.

42. 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.

43. No Exclusive Rights. Nothing in this Agreement grants or shall be construed to grant Permittee any exclusive right, franchise, or monopoly to conduct Commercial Cannabis Activity in the City. The number of commercial cannabis retail permits authorized in the City is governed solely by the Municipal Code, as it may be amended from time to time. Permittee's rights under this Agreement are limited to the vested land use entitlements expressly provided herein for the single permit authorized to Permittee.

44. Assignment Permitted at City's Sole Discretion**.** The parties acknowledge that a commercial cannabis retail permit is personal to the licensed operator, that State Cannabis Law and the City's regulatory interest require the City to know and approve the identity of the operator conducting Commercial Cannabis Activity at the Site, and that the City's approval of this Agreement is based on the specific regulatory qualifications and licensing status of Permittee. Accordingly, Permittee may not assign, delegate, transfer, or otherwise convey any of its rights, duties, or obligations under this Agreement, whether voluntarily, involuntarily, by operation of law, merger, consolidation, sale of assets, change of control, or otherwise, without the prior written consent of the ***City,*** which consent may be withheld in the ***City's*** sole discretion. Any attempted assignment, delegation, transfer, or conveyance without such prior written consent shall be null, void, and of no force or effect.

[Signatures on following pages]

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

"CITY"

CITY OF SUTTER CREEK, CA
a California Municipal Corporation

Date: ______________________, 2026

By: ______________________________________

Attest:

By: ___________________________________

Approved as to form:

By: ___________________________________

ACKNOWLEDGEMENT

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

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

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

"PERMITTEE"

Sutter Creek Responsible and Compliant Retail LLC, a California limited liability company

Date: ______________________, 2026

By: ______________________________________

Attest:

By: ___________________________________

Approved as to form:

By:

ACKNOWLEDGEMENT

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

Exhibits

A. ***Property Description***
B. ***Property Map***
C. Business Plan
D. Labor and Employment Plan
E. Neighborhood Compatibility
F. Plan D Security Plan (confidential) Plan
G. Community Benefits Plan
H. Location Plan

JASUN C. MOLINELLI
Attorney at Law
JACKSON LEGAL CORPORATION
DIRECT DIAL (925) 705-5239
E-MAIL jcm@jacksonlegalcorp.com

August 16, 2026

VIA EMAIL
City Council
City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

RE: ***City Council Meeting, August 17, 2026, Agenda Item No. 8***

Dear Mayor and Members of the City Council:

I write today to respectfully request that the City Council not proceed with the current proposal to adopt cannabis ordinances (essentially drafted by the current applicant without proper/thorough municipal consideration) establishing the current applicant as the sole cannabis retailer in this City.

And as a kid, I recall hitting warning track outs in Little League at Cribbs Field. More recently, I have spent the better part of the last 25 years working as legal counsel for ACES Waste Services on all municipal and regulatory matters in Sutter Creek and throughout the County. I also have worked throughout California as a regulatory/municipal lawyer for the last 10 years in the cannabis business. I care very deeply for this City.

The proposed ordinances ("proposed ordinances") included in the August 17 Special Meeting Agenda Packet as written are deeply flawed, and imperils the City in a meaningful and real way. It was essentially drafted by the current applicant and is being rushed by the current applicant to avoid competition and/or a fair bidding process. The process in Sutter Creek, in fact, has gone faster than any other city/county I have ever witnessed.

It is being driven in haste by the current applicant, in self-interest, (and against the community interest) to avoid competition and/or a fair bidding process. And that is fact. In putting its bottom line above the best interest of the City, the current applicant deprives the City of good protective law, and the opportunity to discover what alternatives are available through the fair bidding process.

And the fair bidding process is designed to find the best fit (in all regards) for a specific city when enacting a new program. [1] There are alternatives out there that the City should take the time and opportunity to explore as it will serve the best interest of the public.

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[1] Even the current applicant will not argue that the fair bidding process is in the best interest of Sutter Creek. On January 13, 2026, in the City of Danville, the current applicant did just that when it asked Danville to open its cannabis program to the public bidding process rather than just select the first one that came to it, at a public hearing/study session with the Council on the matter, stating "… it will allow the City to find the operator that is the best fit for the City."

Incomplete Cannabis Regulatory Code

The proposed ordinances included in the August 17 Special Meeting Packet severely lack cannabis regulation. In fact, it contains no cannabis regulations at all. The proposed ordinances only contain a bare zoning carve out. All the protective regulation is contained in the proposed Development Agreement ("DA") without any foundational law. This presents a dangerous adoption, or lack of adoption rather. The proposed ordinances do not contain cannabis *regulatory* code. It is unheard of.

Of California's 540 local jurisdictions, roughly 238 allow some form of retail (DCC data, Feb. 2026). The number that contain only a bare zoning carve-out with all regulation housed in a development agreement and no cannabis regulatory code, is **zero**.

Every town in California, at or below Sutter Creek's size, that allows cannabis retail has a regulatory code. Every jurisdiction in the State using a Development Agreement system anchors the contract to a regulatory cannabis code. Sutter Creek would be the first verified California jurisdiction to run retail cannabis with no regulatory code at all.[2]

Again, this is attributable to the influence and haste of the current applicant putting its interests above the City's and the residents'. I have included a proposed code amendment with a cannabis regulatory code, written after reviewing darn near every code in the State, that was written to create the most prudent and safe code for the protection and best interests of the City, not the operator. Fair for the operator, but in the best interests of the City. (*See* proposed "Ordinance Set," attached hereto as *Attachment A*.)

Why Does It Matter?

For starters, and obviously, creating a retail cannabis program in Sutter Creek without an underlying cannabis regulatory code, does not create a uniform, statutory standard of operational regulation, easily enforceable against the business if it breaks the law. And that is so important when it comes to something so serious as cannabis in the community.

Lacking a regulatory code, City enforcement collapses to contract remedies. The city does not have administrative revocation ability, nuisance-per-se abatement, or misdemeanor prosecution. It is left with contractual cure periods, meet-and-confer, and a breach suit priced against a $3.2M general fund. And example of the lack of protection is found in the DA at Section17.1, which turnsa a *missed* annual review into deemed compliance.

Secondly, a contract binds only its parties, not employees, unlicensed pop-ups, or a second operator. The program is one contingency from vanishing: the DA ordinance is referendum-exposed, and its expiration, breach, or invalidation leaves a bare zoning carve-out with no

---

[2] Cal. Dep't of Cannabis Control, *Where Cannabis Businesses Are Allowed*, https://cannabis.ca.gov/cannabis-laws/where-cannabis-businesses-are-allowed/ (data updated Feb. 2026) (last visited Aug. 16, 2026)

standards, no renewal or transfer mechanism, no successor framework, and the City's largest revenue source resting on a contract clause.

Using a DA without an underlying regulatory code inverts the states Development Agreement statute (codifed by Govt. Code §§ 65864–65868) and vests the *operator's* rights. The DA requires mutual consent to amend, so a codeless city freezes nothing in its favor and can't legislate a binding fix mid-term of the Contract. There is zero real time enforceability. This is especially dangerous here as the proposed Development Agreement includes a supersedure clause.

Fair Bidding Process

The proposed Ordinance Set also includes a fair bidding process so the City is afforded the capability and opportunity to find the right permittee, should the City decide to go forward with any application. It also gives the City the right to select nobody at this time, or ever, while preserving the City's ability to permit up to two.

I would be doing the City a disservice if I didn't point out one potential, and better, alternative to the City, Velvet Cannabis from Martinez, California. I have worked as Velvet's general counsel/regulatory/ municipal lawyer since the company's inception. There are exactly two permitted cannabis retail stores in the City of Martinez, Velvet Martinez and the current applicant.

By direct comparison, for Fiscal Year 2024/2025, the City of Martinez collected approximately $1.3 million in public-benefit fees from its two licensed cannabis retailers, Velvet and the current applicant. Of that $1.3 million, **Velvet paid $1,041,175** and the current applicant paid $258,825.[3]

That is approximately a four-to-one difference.

Even more significant, Velvet's public-benefit fee was 6% of gross sales. The current applicant had committed to a 6% public-benefit payment together with an additional 2% public-safety payment and 1% community-benefit payment—a combined commitment of approximately 9%. Yet Velvet, operating under the lower percentage, generated dramatically more money for Martinez. That distinction matters enormously. A large promised percentage means very little if the business does not produce the sales necessary to generate revenue. The current applicant has VASTLY overpromised the revenue they will deliver to Sutter Creek. Not surprisingly, it mirrors their original overpromise in Martinez.

In a fair bidding process, Sutter Creek can judge operators by what they actually produce, not simply by what they promise in a presentation.

Must Be 21+ Years Old

Also by way of comparison, Velvet Martinez does not allow any person under 21 years of age in its store. No exceptions, period. Not even with a medical ID card.

The current applicant's Martinez store, located within a stone's throw from the local highschool Alhambra HS, allows all customers 18+ years with a medical ID card (easily obtained online).

[3] https://city-martinez-ca-budget-book.cleargov.com/20691/a-new-section/revenues

This opens up access to 18 year old high school students who can buy it legally and sell it to their classmates in school.

If it was in their best interest to change it, they would. But instead, the current applicant has only given lip service to that risk at the various public hearings on this matter, saying “we take the safety of the children in Sutter Creek as a priority.” But their current proposal is to open an 18+ up cannabis store here. It is in the City’s best interest to do everything in its power to limit access to teens in every way, shape and form. And opening up the selective bidding process to alternatives that actually do something about teen safety, even if it affects their bottom line.

The attached proposed Ordinance Set prohibits any cannabis retailer in Sutter Creek from permitting customers under 21.

<u>Selection Process</u>

The fair bidding process proposed in Ordinance Set includes a brief application period by a selected committee of city employees, that includes the Chief of Police and a community member, is cost effective, routine, and unbiased. It does not have to be a massive RFP with consultants and all the cost associated with that. By codifying the process in the municipal code, it creates a cost-efficient method of selecting a contractor for a new city regulated industry, through a tried-and-true land use application process.

Applicants should be evaluated by a committee composed of people who understand and care about Sutter Creek. Many California jurisdictions have already used comparable structures, e.g., Greenfield, Placerville, Willits, Carson, etc.

The current applicant has acted recklessly by putting the current proposal in front of the City and exposes the City without regard trying to hurry the City into an epic decision and legislation.

Sutter Creek does not have to accept that approach. This City can be conservative. It can be deliberate. It can protect itself. It can demand competition. And it can insist that the operator selected for Sutter Creek earn that privilege.[4]

The current applicant is asking Sutter Creek to move quickly. The City should do the opposite. There is no meaningful downside to allowing another 30 or 45 days for qualified operators to apply and compete. There is considerable downside to enacting a fundamentally flawed program and entering a long-term relationship with one company without knowing what another operator would have offered. Sutter Creek should not allow an applicant to dictate the timing, structure, or competitive conditions of the City’s cannabis program.

For these reasons, I respectfully request that the Council reject or defer the current applicant’s proposal, direct staff and the City Attorney to review the attached materials and develop a neutral

[4] *See* Section V. of Memorandum on Proposed Commercial Cannabis Structure - Survey of California Jurisdictions: Risks of (1) a Development-Agreement-Only Regulatory Approach and (2) Simultaneous Adoption of the Program and Award of Its Sole Permit to a Pre-Selected Applicant attached hereto as *Attachment B*.

and comprehensive cannabis ordinance, establish an open competitive application process, and return to the question of operator selection only after Sutter Creek has good law[5] in front of it and actually examined its alternatives.

Sincerely,

JACKSON LEGAL CORPORATION

Jasun C. Molinelli
Attorney at Law

cc: Mayor Claire Gunselman, Councilmembers Julia Sierk, Susan Feist, Jim Swift, Dan Reardon, Chief of Police Jim O'Connors, City Attorney Derek Cole, City Manager Tom DuBois

[5] Even beyond the defects identified above, there are a number of discrepancies in the proposed packet contents and law that need correction as described in the Memorandum of Discrepancy, Conflict, and Inconsistency Audit, attached hereto as *Exhibit C*.

ATTACHMENT A

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK

AMENDING SECTIONS 10.42.050 AND 10.42.060 OF THE SUTTER CREEK MUNICIPAL CODE TO AUTHORIZE COMMERCIAL CANNABIS LAND USES WHEN APPROVED BY CONDITIONAL USE PERMIT

WHEREAS, the City of Sutter Creek ("City") has separately adopted an Ordinance, Ordinance No. ____, amending provisions of Chapter 18.60 of the Sutter Creek Municipal Code to authorize the permitting of up to two (2) retail storefront canna5bis dispensaries within city limits, in the City's sole and absolute discretion, when each operator is selected through the competitive application and selection process established in Section 18.60.050 of the Sutter Creek Municipal Code and a development agreement is executed between the City and the selected applicant;

WHEREAS, to effectuate the intent of Ordinance No. ____, the City Council deems it necessary to also amend provisions in a separate title of the Sutter Creek Municipal Code, Title 10, concerning commercial cannabis uses;

WHEREAS, the City Council relies on, and incorporates by reference, the findings it made in support of Ordinance No. ____, as its findings in support of adoption of this ordinance.

NOW, THEREFORE, the City Council of the City of Sutter Creek does hereby ordain as follows:

Section 1.

Section 10.42.050 of the City Code is amended to read as follows:

> 10.42.050 - Sales, transfers, and deliveries prohibited.
>
> Except when a conditional use permit has been approved under Chapter 18.60 of this Code, sales, transfers, or deliveries of marijuana for any purpose, whether medical or non-medical, to any person at any residence or public place within city limits are prohibited.

Section 2.

Section 10.42.060 of the City Code is amended to read as follows:

> 10.42.060 - Commercial activity prohibited.
>
> Except when a conditional use permit has been approved under Chapter 18.60 of this Code, no commercial, office, industrial, or other non-residential building or structure within city limits may be used to allow, transact, or facilitate the cultivation, sale, processing, storage, or transfer of marijuana for any purpose, whether medical or non-medical.

<u>Section 3.</u> REPEAL OF INCONSISTENT ORDINANCES

Any provisions of the Sutter Creek Municipal Code inconsistent with this Ordinance are hereby repealed.

<u>Section 4.</u> SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Sutter Creek hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

<u>Section 5.</u> PUBLICATION

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in a newspaper of general circulation, published and circulated in the City of Sutter Creek.

PASSED, APPROVED, AND ADOPTED this ____ day of ________, 2026 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

____
Claire Gunselman, Mayor

ATTEST:

______________________________ __________________
Alejandra Zambrano, Interim City Clerk Date

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK

AMENDING SECTIONS 18.60.020, 18.60.030, AND 18.60.040 OF, AND ADDING SECTION 18.60.050 TO, THE SUTTER CREEK MUNICIPAL CODE AUTHORIZING UP TO TWO RETAIL STOREFRONT CANNABIS DISPENSARIES AS CONDITIONAL USES IN ANY ZONING DISTRICT, IN THE CITY'S SOLE AND ABSOLUTE DISCRETION, SUBJECT TO A COMPETITIVE APPLICATION AND SELECTION PROCESS AND THE EXECUTION OF A DEVELOPMENT AGREEMENT

WHEREAS, California law authorizes local jurisdictions to regulate or prohibit commercial cannabis activities within their jurisdictions and recognizes the authority of cities to determine whether, and under what conditions, cannabis businesses may operate within their boundaries;

WHEREAS, the City of Sutter Creek ("City") is located in a rural county and has a population of approximately 2,700 residents, so the City Council finds that land use decisions concerning commercial cannabis activities must be tailored to the City's unique size, character, geography, and public safety needs;

WHEREAS, the City Council recognizes that cannabis is a lawful product under California law for qualified medicinal use and adult-use consumption by persons 21 years of age and older;

WHEREAS, because residents of the City and the surrounding county areas currently must travel substantial distances to access licensed cannabis dispensaries located in the Sacramento Metropolitan Region, the City Council finds that permitting a limited number of locally regulated dispensaries will improve access to legal and regulated cannabis products while reducing reliance upon unregulated or illicit sources;

WHEREAS, the City Council further finds that locally regulated dispensaries, each subject to a development agreement, will provide economic benefits to the community through permit fees, regulatory fees, tax revenues, community benefit payments, employment opportunities, and related economic activity;

WHEREAS, the City Council finds that the establishment of a community benefit program, as would be required under each development agreement, would provide direct and measurable benefits to City residents and community organizations;

WHEREAS, the City Council finds that permitting no more than two (2) retail storefront cannabis dispensaries within city limits at any one time is necessary to ensure effective oversight, monitoring, and enforcement by City staff and law enforcement personnel. Given the City's size and available administrative resources, the City Council finds that no more than two dispensaries can be effectively regulated and monitored while minimizing impacts on surrounding properties and neighborhoods;

WHEREAS, the City Council finds that authorizing more than two dispensaries would not materially improve access to cannabis products for residents but could increase the risk of adverse land use impacts, enforcement burdens, market saturation, and incompatibility with the City's small population and location within a rural county outside a larger, metropolitan area;

WHEREAS, the City Council further finds that the decision whether to permit any retail storefront cannabis dispensary is a matter committed to the City's legislative and discretionary judgment, and the City retains sole and absolute discretion to permit zero (0), one (1), or two (2) dispensaries within city limits at any time. Nothing in this Ordinance obligates the City to approve any application, and nothing in this Ordinance creates any right, entitlement, or property interest in any person or applicant to the issuance of a conditional use permit, the approval of a development agreement, or the operation of a dispensary;

WHEREAS, the City Council finds that a competitive application and selection process, conducted during a fixed one-month application period and administered by a selection committee composed of the City Manager, members drawn from various City departments, and a citizen member, with recommendations subject to Planning Commission review and ultimate approval by the City Council, will best ensure the fair, transparent, and merit-based selection of the most qualified operator or operators;

WHEREAS, the City Council finds that state law and local regulations impose extensive security, age-verification, surveillance, inventory-control, and operational requirements designed to prevent access by persons under 21 years of age and to protect public health and safety;

WHEREAS, the City Council further finds that limiting cannabis retail activity to no more than two licensed dispensaries will allow the City to closely monitor compliance with these regulations and promptly address any operational concerns;

WHEREAS, the City Council finds that no more than two licensed dispensaries will adequately serve the needs of residents and visitors while preserving the City's small-town character, protecting public safety, minimizing land use impacts, and ensuring that commercial cannabis activity remains compatible with surrounding uses;

WHEREAS, the City Council therefore finds that allowing up to two licensed cannabis dispensaries, in the City's sole and absolute discretion and subject to the requirements of Chapter 18.60 of the Sutter Creek Municipal Code, appropriately balances lawful consumer access, economic development, community benefits, public safety, neighborhood compatibility, youth protection, and the preservation of the City's small community nature in a rural county;

WHEREAS, based upon the foregoing findings, the City Council determines that limiting the number of cannabis dispensaries within the City to no more than two licensed dispensaries, with the City retaining sole and absolute discretion to permit zero, one, or two dispensaries, is reasonable, necessary, and in the public interest.

NOW, THEREFORE, the City Council of the City of Sutter Creek does hereby ordain as follows:

Section 1.

Section 18.60.020 of the Sutter Creek City Code is amended to read as follows:

18.60.020 - Uses permitted in any zone.

The following uses may be permitted in any zone unless limited to specific zones, and upon the granting of a conditional use permit:

A. Bed and breakfast inns;

B. Cemeteries, columbariums, mausoleums and mortuaries;

C. Day care centers (adult/child);

D. Churches or other places used exclusively for religious worship;

E. Educational institutions including public and private schools;

F. Establishments or enterprises involving large assemblages of people or vehicles including: amusement parks, circuses, carnivals, expositions, fair grounds, open air theaters, recreational and sports centers, and recreation vehicle parks;

G. Hospitals and sanitariums;

H. Institutions of a philanthropic (benevolent) or eleemosynary (charitable) nature;

I. Libraries, museums and private clubs;

J. Large scale neighborhood housing projects having a minimum gross area of five acres;

K. Mining and natural resources development together with the necessary buildings, apparatus or appurtenances incidental thereto;

L. Outdoor retail sales;

M. Parks, playgrounds, parking lots or structures, and community buildings;

N. Public utility or public service buildings, structures and uses, except as otherwise provided in this ordinance;

O. New or remodeled residential structures in a commercial or industrial zone;

P. Existing structures converted to residential uses in a commercial or industrial zone;

Q. Golf courses, driving ranges and country clubs;

R. Special events; and

S. Retail storefront cannabis dispensaries, provided that: (1) no more than two (2) such dispensaries may operate within city limits at any one time; (2) the City retains sole and absolute discretion to permit zero (0), one (1), or two (2) dispensaries, and nothing in this title creates any right, entitlement, or property interest in any person to the issuance of a conditional use permit for a dispensary; (3) each operator has been selected through the application and selection process established in Section 18.60.050 of this chapter; and (4) each operator enters into a development agreement with the City for the same term as any approved conditional use permit.

Section 2.

Section 18.60.030 of the Sutter Creek City Code is amended to read as follows:

18.60.030 - Conditions.

In approving a use permit, the commission may include such conditions as the commission deems reasonable and necessary under the circumstances to preserve the integrity and character of the district and to secure the general purposes of this title and the general plan. Such conditions, without limiting the discretion and authority of the commission in this regard, may include time limitations, architectural and site approval, street dedication, and street and drainage improvements. For any application to conditionally permit a retail storefront cannabis dispensary, the commission may incorporate by reference into the conditional use permit any conditions that are separately included in any development agreement to be approved for the cannabis use.

Section 3.

Section 18.60.040 of the Sutter Creek City Code is amended to read as follows:

18.60.040 - Findings and decisions.

The commission, on the basis of the evidence submitted at the hearing, may grant use permits required by the provisions of this title when it finds that:

A. The proposed uses of the property are desirable to the public convenience or welfare;

B. The proposed uses will not impair the integrity and character of the area in which it is located or the zoning district;

C. The proposed uses would not be detrimental to public health, safety, or general welfare;

D. There are adequate public utilities and services available for the proposed uses;

E. The proposed uses of the property are in harmony with the various elements or objectives of the general plan and the purposes of this title; and

F. For any retail storefront cannabis dispensary, the applicant has been recommended for selection pursuant to the application and selection process established in Section 18.60.050, the proposed use will be subject to a separately approved development agreement for the same term as the approved conditional use permit, and:

1. The development agreement will provide for appropriate community benefit as consideration for the City's execution of the agreement;

2. The operator has a demonstrated record of successfully operating retail storefront cannabis dispensaries in more than one other jurisdiction for a period of at least three years preceding the date of its application;

3. The operator demonstrates it will have adequate capitalization, access to a stable workforce, and a business location conducive to sustaining long-term operations; and

4. The operator, including its principals, shareholders, partners, and officers, has not been convicted of, or found civilly liable for, having sold or distributed cannabis or cannabis products in violation of any state statute, state regulation, or local ordinance.

Section 4.

Section 18.60.050 is added to the Sutter Creek City Code to read as follows:

18.60.050 - Cannabis dispensary application period and selection process.

A. Application period. Applications for a conditional use permit to operate a retail storefront cannabis dispensary may be submitted to the City only during an application period opened by the City Manager at the direction of the City Council. The application period shall remain open for one (1) month (thirty (30) calendar days) from the date it is opened. The City Manager shall give public notice of the opening and closing dates of the application period, the application requirements, and any applicable fees, at least ten (10) days before the application period opens. Applications received after the close of the application period shall not be accepted. Applications that are incomplete at the close of the application period may be rejected without further consideration.

B. Selection Committee. There is hereby established a Cannabis Dispensary Selection Committee ("Selection Committee") to review and evaluate all timely applications. The Selection Committee shall be composed of: (1) the City Manager, who shall serve as chair; (2) members drawn from various City departments, as designated by the City Manager, which may include representatives of the planning, public safety, finance, and administrative functions of the City; and (3) one (1) citizen member who is a resident of the City, appointed by the City Council. No member of the Selection Committee shall have any financial interest in, or familial relationship with, any applicant.

C. Deliberation and recommendation. Within thirty (30) days after the close of the application period, the Selection Committee shall review and deliberate upon all timely and complete applications, may interview applicants and request supplemental information, shall evaluate each application against the findings and criteria set forth in Section 18.60.040(F) and any additional evaluation criteria adopted by resolution of the City Council, and shall recommend zero (0), one (1), or two (2) applicants for further consideration. The Selection Committee's recommendation is advisory only and shall be transmitted to the Planning Commission and the City Council.

D. Planning Commission approval. Any applicant recommended by the Selection Committee shall thereafter be subject to the conditional use permit hearing and approval process before the Planning Commission under this chapter, and to the Planning Commission's review and recommendation concerning the associated development agreement pursuant to Chapter 17.40 of this Code and Government Code section 65864 et seq. No conditional use permit for a retail storefront cannabis dispensary shall issue without the approval of the Planning Commission.

E. Ultimate City Council approval. Final approval of any retail storefront cannabis dispensary rests with the City Council, which shall consider and act by ordinance upon any associated development agreement. Notwithstanding any recommendation of the Selection Committee or the Planning Commission, the City Council retains sole and absolute discretion to approve zero (0), one (1), or two (2) applicants, or to decline to approve any applicant, and may terminate, suspend, or re-open any selection process at any time.

F. No entitlement. Neither the submission of an application, the payment of any fee, participation in the selection process, nor any recommendation by the Selection Committee or the Planning Commission shall create any right, entitlement, or property interest in any applicant. All costs of preparing and pursuing an application shall be borne solely by the applicant.

G. Pending applications. Any application for a retail storefront cannabis dispensary, and any associated proposed development agreement, pending before the City on the effective date of this section shall be remanded to the Selection Committee for consideration together with, and on the same terms as, all applications timely received during the application period, and shall be evaluated during the thirty (30) day deliberation period described in subsection C of this section.

<u>Section 5.</u> REPEAL OF INCONSISTENT ORDINANCES

Any provisions of the Sutter Creek Municipal Code inconsistent with this Ordinance are hereby repealed.

<u>Section 6.</u> SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Sutter Creek hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

<u>Section 7.</u> PUBLICATION

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in a newspaper of general circulation, published and circulated in the City of Sutter Creek.

Presented to the Planning Commission for recommendation on ________, 2026 and

PASSED, APPROVED, AND ADOPTED this ____ day of ________, 2026 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

____

Claire Gunselman, Mayor

ATTEST:

___________________________________ _____________________
Alejandra Zambrano, Interim City Clerk Date

RESOLUTION NO. ____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK

REMANDING THE PENDING RETAIL STOREFRONT CANNABIS DISPENSARY APPLICATION AND PROPOSED DEVELOPMENT AGREEMENT FOR THE REAL PROPERTY LOCATED AT 11 RIDGE ROAD, SUTTER CREEK, CALIFORNIA TO THE CANNABIS DISPENSARY SELECTION COMMITTEE

WHEREAS, an application to operate a retail storefront cannabis dispensary on the real property located at 11 Ridge Road, Sutter Creek, California, together with a proposed development agreement ("Pending Application"), was previously presented to the Planning Commission and transmitted to the City Council for consideration;

WHEREAS, the City Council has adopted Ordinance No. ____, amending Chapter 18.60 of the Sutter Creek Municipal Code to authorize up to two (2) retail storefront cannabis dispensaries within city limits, in the City's sole and absolute discretion, and adding Section 18.60.050, which establishes a one-month application period and a competitive selection process administered by the Cannabis Dispensary Selection Committee, subject to Planning Commission approval and ultimate approval by the City Council;

WHEREAS, Section 18.60.050(G) of the Sutter Creek Municipal Code provides that any application and any associated proposed development agreement pending before the City on the effective date of that section shall be remanded to the Selection Committee for consideration together with, and on the same terms as, all applications timely received during the application period;

WHEREAS, the City Council finds that fairness, transparency, and the public interest are best served by considering the Pending Application through the competitive selection process on equal footing with all other timely applications, rather than acting upon the Pending Application outside that process.

NOW, THEREFORE, the City Council of the City of Sutter Creek does hereby resolve as follows:

<u>Section 1.</u>

The City Council declines to act upon the proposed ordinance approving a development agreement for the Pending Application, and that proposed ordinance is withdrawn from consideration without prejudice.

<u>Section 2.</u>

The Pending Application, including the proposed development agreement associated therewith, is hereby remanded to the Cannabis Dispensary Selection Committee for consideration during the thirty (30) day deliberation period established by Section 18.60.050(C) of the Sutter Creek Municipal Code, together with, and on the same terms as, all applications timely received during the application period established by Section 18.60.050(A).

Section 3.

Nothing in this Resolution constitutes, or shall be construed as, an approval or denial of the Pending Application, and no right, entitlement, or property interest is created hereby in any applicant.

Section 4.

This Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED, AND ADOPTED this ____ day of ________, 2026 by the following vote:

AYES:
NOES:
ABSTENTIONS:
ABSENT:

APPROVED:

____
Claire Gunselman, Mayor

ATTEST:

______________________________ ____________________
Alejandra Zambrano, Interim City Clerk Date

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SUTTER CREEK ADDING CHAPTER 5.30, "COMMERCIAL CANNABIS RETAIL BUSINESSES," TO THE SUTTER CREEK MUNICIPAL CODE, ESTABLISHING A COMPREHENSIVE REGULATORY PROGRAM FOR RETAIL CANNABIS BUSINESSES PERMITTED UNDER CHAPTER 18.60

WHEREAS, the City Council has, by companion ordinances, amended Titles 10 and 18 of the Sutter Creek Municipal Code to authorize up to two (2) retail storefront cannabis dispensaries within city limits, in the City's sole and absolute discretion, when each, or any, operator is selected through the competitive application and selection process established in Section 18.60.050 and enters into a development agreement with the City;

WHEREAS, the City Council finds that the effective regulation of commercial cannabis requires uniform, codified operating, reporting, security, community benefit, renewal, transfer, and enforcement standards of general application, applicable equally to every permitted operator, in addition to the site-specific and financial terms negotiated in each development agreement;

WHEREAS, the City Council finds that codified standards preserve the City's police power to regulate cannabis operations, provide administrative and criminal enforcement remedies independent of contract, survive the expiration or termination of any individual permit or development agreement, and reflect the uniform practice of California jurisdictions that permit retail cannabis; and

WHEREAS, the City Council relies on, and incorporates by reference, the findings made in support of the companion ordinances amending Chapter 18.60, as findings in support of this ordinance.

NOW, THEREFORE, the City Council of the City of Sutter Creek does hereby ordain as follows:

<u>Section 1.</u>

Chapter 5.30, "Commercial Cannabis Retail Businesses," is added to the Sutter Creek Municipal Code to read as follows:

CHAPTER 5.30 - COMMERCIAL CANNABIS RETAIL BUSINESSES

5.30.010 Purpose and intent.

A. This chapter imposes regulatory requirements on retail commercial cannabis businesses authorized under Chapter 18.60 of this Code and licensed by the State of California. These requirements are in addition to the conditional use permit, the development agreement, the City business license, and all requirements of state law. If a commercial cannabis use is not expressly permitted by this Code, it is prohibited within the City.

B. The terms and conditions of any development agreement executed pursuant to Section 18.60.020(S) and Section 5.30.060 are in addition to the requirements of this chapter. Nothing in any development agreement shall be construed to excuse compliance with this chapter, and no provision of this chapter shall be waived, reduced, or superseded by a development agreement.

5.30.020 Definitions.

For purposes of this chapter: "Cannabis," "cannabis products," and "commercial cannabis activity" have the meanings in Business and Professions Code section 26001, as amended. "Department" means the California Department of Cannabis Control or successor agency. "State Cannabis Law" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act (MAUCRSA), the regulations of the Department (Cal. Code Regs., tit. 4, div. 19), and any successor statutes or regulations. “Retail cannabis business” or “dispensary” means a business holding a state storefront retailer license that sells cannabis or cannabis products to customers, and includes delivery conducted from the licensed premises. “Owner” has the meaning in California Code of Regulations, title 4, section 15003; “financial interest holder” has the meaning in section 15004 of the same title. “Regulatory permit” means the commercial cannabis regulatory permit issued under this chapter. “Permittee” means the holder of a regulatory permit. “Gross receipts” has the meaning set forth in the permittee’s development agreement or, if not defined therein, means the total amount of consideration received from retail sales of cannabis and cannabis products at or from the premises, without deduction, excluding state and local taxes collected from customers. “Sensitive use” means a school providing instruction in kindergarten or grades 1–12, a commercial day care center, or a youth center, each as defined in Business and Professions Code section 26054, in existence at the time the application is submitted. “Chief of Police” and “City Manager” include their designees.

5.30.030 Regulatory permit required.

A. No person shall engage in retail commercial cannabis activity within the City without each of the following, valid and in good standing: (1) selection through the process established in Section 18.60.050; (2) a conditional use permit issued under Chapter 18.60; (3) an executed development agreement with the City; (4) a regulatory permit issued under this chapter; (5) a state storefront retailer license issued by the Department; and (6) a City business license.

B. The City Manager shall issue the regulatory permit upon verification that the applicant has satisfied subsections (A)(1) through (A)(3), completed the background check requirements of Section 5.30.070, obtained all building permits and approvals required for the premises, and paid all required fees. Issuance of the regulatory permit is ministerial once these prerequisites are satisfied.

C. A regulatory permit is valid for twelve (12) months from issuance and may be renewed as provided in Section 5.30.130. A regulatory permit is not a vested right and does not run with the land.

5.30.040 Maximum number; City discretion; no entitlement.

A. No more than two (2) retail cannabis businesses may operate within city limits at any one time, consistent with Section 18.60.020(S).

B. This section establishes a maximum only. The City retains sole and absolute discretion to permit zero (0), one (1), or two (2) retail cannabis businesses. Nothing in this chapter obligates the City to open an application period, to select any applicant, or to issue any permit, and nothing in this chapter creates any right, entitlement, or property interest in any person to the issuance or renewal of any permit or approval.

5.30.050 Selection process; application requirements.

A. Operators shall be selected exclusively through the application and selection process established in Section 18.60.050, including the one-month application period, review by the Cannabis Dispensary Selection Committee, deliberation within thirty (30) days after the close of the application period, approval by the Planning Commission, and ultimate approval by the City Council.

B. In addition to any requirements adopted by resolution, each application shall include: identifying information for all owners and financial interest holders; a description of the proposed premises and the property owner’s written consent to the proposed use; a business plan including projected gross receipts; a security plan (which shall be maintained as a confidential record exempt from disclosure to the extent permitted by Government Code section 7922.000 et seq.); an odor control plan; a labor and employment plan; a neighborhood compatibility plan; a community benefits plan; proof of capitalization; a disclosure of license denials, suspensions, revocations, and administrative penalties in any jurisdiction during the preceding ten (10) years; and an agreement to pay the City's processing and review costs under Section 5.30.120.

5.30.060 Development agreement required; relationship to this chapter.

A. Each operator shall enter into a development agreement with the City for the same term as the conditional use permit, approved in accordance with Government Code section 65864 et seq. and Chapter 17.40 of this Code.

B. Each development agreement shall set forth the operator's financial consideration to the City, which shall include, at a minimum: (1) a retail fee measured as a percentage of gross receipts, payable quarterly, with a single payment deadline, together with audit rights and penalty provisions; (2) funding of a community benefits fund as provided in Section 5.30.090; and (3) reimbursement of the City's costs of administering and enforcing the agreement. The amount of the retail fee shall be established in the development agreement as negotiated consideration and is not fixed by this chapter.

C. The terms of each development agreement are in addition to the requirements of this chapter. In the event of any conflict between a development agreement and this chapter, the provision imposing the more protective or more restrictive standard upon the operator shall control.

5.30.070 Background checks; owner and employee requirements.

A. All owners, financial interest holders, managers, and employees of a permittee shall be disclosed to the City and shall complete fingerprint-based (Livescan) background checks through the Sutter Creek Police Department before beginning work at the premises. Confidential personal information submitted under this section shall be maintained in confidential files exempt from disclosure to the extent permitted by law.

B. The Chief of Police may disqualify any individual based on criteria consistent with Business and Professions Code section 26057. The permittee shall notify the Chief of Police of any staffing change within ten (10) days and shall maintain a current register of owners, officers, managers, and employees, which shall be provided to the City Manager upon request.

5.30.080 Operating standards.

A. Hours. Retail sales and deliveries shall occur only between 8:00 a.m. and 10:00 p.m., daily, and in no event outside the hours permitted by State Cannabis Law.

B. Access and age verification. Entry is limited to persons twenty-one (21) years of age or older upon verification of government-issued identification at entry.

C. Consumption prohibited. No cannabis, cannabis product, or alcoholic beverage shall be consumed on the premises or in adjacent areas under the permittee's control.

D. Indoor operations; visibility. All operations shall occur within a fully enclosed building. No business operations, cannabis, or cannabis products shall be visible from the exterior of the premises. In any area where products, transactions, or inventory would otherwise be visible from the public right-of-way, the permittee shall maintain frosted or opaque window treatment from floor level to a height of five (5) feet above finished floor.

E. Signage and advertising. No promotional messaging shall be visible from outside the building. Signage is limited to signs approved under the permittee's sign permit. Billboard advertising within the City is prohibited. Advertising and marketing shall not be targeted to individuals under twenty-one (21) years of age.

F. Odor control. Odors shall be contained on the property. The permittee shall install and maintain an odor-absorbing ventilation and exhaust system, including filtration and negative air pressure, such that cannabis odor is not detectable on adjacent properties or public rights-of-way.

G. Security. Before opening to the public, the permittee shall file a written security plan with the Chief of Police addressing security staffing, surveillance equipment, alarm systems, access control, and cash handling. Any material modification reducing security staffing or surveillance coverage requires the prior written approval of the Chief of Police. The permittee shall conduct an annual review of the security plan and provide a written summary of changes to the Chief of Police by January 31 of each year. The security plan is a confidential record to the extent permitted by law and shall not be attached to any recorded instrument.

H. Surveillance; law enforcement access. The permittee shall maintain the video surveillance required by State Cannabis Law and shall provide the Sutter Creek Police Department with secure, real-time, read-only remote access to required surveillance cameras before opening to the public, maintained in good working order at all times. Any disruption of access shall be restored within seventy-two (72) hours of written notice. Requested footage and still images shall be provided to law enforcement within twenty-four (24) hours of request. Surveillance recordings shall be retained for at least ninety (90) days.

I. Crime and breach notification. The permittee shall immediately notify the Sutter Creek Police Department of any criminal activity or suspected criminal activity at the premises, and shall notify the department as soon as practicable of any security system failure or breach, together with an estimated timeline for repair, and shall diligently repair the same.

J. Delivery. Delivery, if conducted, shall comply with State Cannabis Law and a delivery plan submitted to and approved by the City. No more than two (2) delivery trips shall depart the premises per day. Delivery vehicles shall be unmarked and shall carry copies of all required state and City permits.

K. Inventory control. The permittee shall maintain an inventory control and tracking system compliant with the state track-and-trace system and shall notify the City Manager within seventy-two (72) hours of discovery of any significant inventory discrepancy, theft, or diversion.

L. Compliance with approved plans. The permittee shall operate in conformance with its approved business, security, odor control, labor and employment, neighborhood compatibility, community benefits, and location plans, as each may be amended with City approval.

5.30.090 Community benefits and good neighbor standards.

A. Community benefits fund. Each permittee shall fund a community benefits fund in the amount set forth in its development agreement, which shall be not less than one percent (1%) of gross receipts, for the benefit of the City and its residents.

B. Community advisory board. Each permittee shall establish and maintain a three-member community advisory board consisting of at least two (2) members who reside within the City and one (1) member who resides or works within Amador County. The board shall meet at least four (4) times per year, shall direct allocations from the community benefits fund except as provided in subsection (C), and shall include City representatives in a non-voting advisory capacity. The permittee shall provide the City Manager a current member list by January 31 of each year. A vacancy shall be filled within sixty (60) days and is not itself a violation.

C. Community camera fund. Each permittee shall commit annually, from its community benefits fund, the lesser of (1) twenty percent (20%) of the fund or (2) twenty-five thousand dollars ($25,000), to a community camera fund available to the Sutter Creek Police Department for the installation and service of cameras within the City.

D. Youth education. Within six (6) months of opening to the public, each permittee shall fund and implement a youth drug education and prevention program using a curriculum recognized by the California Department of Education or a comparable accredited evidence-based program, in partnership where reasonably feasible with a locally based youth-serving organization, and shall report annually to the City Manager by January 31.

E. Local hiring. Each permittee shall use commercially reasonable efforts to recruit and hire employees from within the City and Amador County, prioritizing in order: qualified applicants residing within five (5) miles of the premises; other qualified City residents; and qualified Amador County residents. Before opening, the permittee shall hold at least one community job fair within the City and shall post open positions through at least one locally distributed outlet. The permittee shall report hiring annually to the City Manager by January 31.

F. Good neighbor obligations. Each permittee shall maintain a staffed 24-hour community hotline, shall log all hotline calls and retain the logs for three (3) years, shall provide the hotline number in writing to all property owners and occupants of record within one thousand (1,000) feet of the premises, and shall remove graffiti from the premises within forty-eight (48) hours of discovery or notification.

5.30.100 Location and separation requirements.

A. A retail cannabis business shall be located only where permitted under Chapter 18.60 and shall be at least six hundred (600) feet from any sensitive use, measured in a straight line from property line to property line, consistent with Business and Professions Code section 26054(b).

B. Retail cannabis businesses shall be located at least one thousand (1,000) feet from each other, measured in a straight line from property line to property line.

C. A retail cannabis business rendered nonconforming by the later establishment of a sensitive use, or by a change in zoning, may continue to operate so long as its regulatory permit remains valid and the business otherwise complies with this chapter.

5.30.110 Recordkeeping, reporting, audit, and inspections.

A. Certified reports. Within thirty (30) calendar days following the end of each calendar quarter, each permittee shall submit to the City's Finance Director a certified report of gross receipts for that quarter, certified as true and correct by a duly authorized officer of the permittee, together with any payment due under its development agreement. This deadline governs notwithstanding any inconsistent deadline in a development agreement.

B. Records. Each permittee shall maintain complete and accurate records of its operations, revenues, and expenses in accordance with generally accepted accounting practices, and shall retain such records for at least five (5) years.

C. Audit. The City may audit, or engage an independent third party to audit, a permittee's records at the permittee's expense not more than once per calendar year, upon at least seven (7) business days' written notice. Identified underpayments shall be paid within thirty (30) days of written notice, together with any penalty provided in the development agreement.

D. Inspections. City representatives, including peace officers and code enforcement officers, may enter and inspect the premises during operating hours, without advance notice, upon presentation of credentials, to determine compliance with this chapter. It is unlawful to impede, obstruct, or interfere with an inspection or to conceal, destroy, or falsify any record required by this chapter.

E. No deemed compliance. The City's failure to conduct any review, audit, or inspection shall not constitute a finding of compliance, a waiver of any violation, or a defense to enforcement.

5.30.120 Fees and cost recovery.

A. The City Council may establish by resolution application, review, permit, renewal, and annual regulatory fees in amounts sufficient to recover the City's reasonable costs of administering this chapter. Applicants and permittees shall reimburse the City for staff and consultant costs exceeding any deposit, pursuant to a cost recovery agreement executed at application.

B. Fees under this section are regulatory fees for cost recovery and are separate from any consideration payable under a development agreement.

5.30.130 Term; annual renewal.

A. A renewal application and fee shall be submitted at least sixty (60) days before expiration of the regulatory permit. The City Manager may declare expired any permit for which a complete renewal application is not timely submitted.

B. Renewal is subject to the laws in effect at the time of renewal. No person has a vested right to renewal. The City Manager may refuse to renew for any ground stated in Section 5.30.150, or where the business has not been in regular and continuous operation during the four (4) months preceding the renewal application.

5.30.140 Transfer and change of ownership.

A. No regulatory permit, and no ownership or control of a permittee, may be transferred without the prior written approval of the City Manager, which may be withheld in the City's sole discretion consistent with the permittee's development agreement. A cumulative change of more than five percent (5%) of the ownership interests in a permittee constitutes a transfer.

B. A proposed transferee shall complete the application and background requirements of this chapter as though applying for an original permit, and shall pay a transfer fee established by resolution. Any attempted transfer in violation of this section is void and constitutes grounds for revocation. No transfer shall be approved while a suspension or revocation is pending.

5.30.150 Suspension, revocation, and denial; immediate suspension.

A. The City Manager may deny, suspend, revoke, or refuse to renew a regulatory permit on any of the following grounds: failure to comply with this chapter, the conditional use permit, the development agreement, or any approved plan; suspension, revocation, expiration, or surrender of the state license; conviction of an owner or managing employee of an offense substantially related to the qualifications, functions, or duties of the business; failure to pay fees, amounts due under the development agreement, or taxes after notice; material misstatement in an application or certified report; or any violation of State Cannabis Law.

B. Before taking action under subsection (A), the City Manager shall serve the permittee with written notice stating the grounds, the effective date, and the right to appeal under Section 5.30.160.

Except as provided in subsection (C), the action shall not take effect until the appeal period has run or, if a timely appeal is filed, until the City Council acts.

C. When continued operation constitutes an imminent threat to public health, safety, or welfare, the City Manager may immediately and temporarily suspend the regulatory permit pending a hearing, which shall be scheduled within fifteen (15) days of the suspension.

D. Automatic suspension. A regulatory permit is automatically suspended, without further action, during any period in which the permittee's state license is suspended, revoked, or expired, or in which no development agreement is in effect.

5.30.160 Appeals.

A. Any decision of the City Manager, the Chief of Police, or the Selection Committee under this chapter may be appealed to the City Council by filing a written appeal, stating the grounds, with the City Clerk within ten (10) calendar days of the date the decision is deposited in the mail or with an overnight delivery service, accompanied by the appeal fee established by resolution.

B. The City Council shall hear the appeal de novo within a reasonable time, not to exceed ninety (90) days from filing, upon at least ten (10) days' notice to the appellant, and may affirm, reverse, or modify the decision. The City Council's decision is final. During the pendency of an appeal of a revocation, non-renewal, or expiration determination, the business shall not operate.

5.30.170 Limitation on City liability; indemnification and insurance.

A. To the fullest extent permitted by law, the City assumes no liability by issuing any permit or approval under this chapter. As a condition of the regulatory permit, each permittee shall execute an agreement, in a form approved by the City Attorney, to indemnify, defend, and hold harmless the City, its officers, officials, employees, and agents from all claims arising out of or related to the City's approvals, the permittee's operations, or any challenge thereto, and to reimburse the City's defense costs, including attorneys' fees.

B. Each permittee shall maintain commercial general liability insurance with limits of not less than two million dollars ($2,000,000) per occurrence, or such greater amount as the development agreement requires, naming the City, its officers, and employees as additional insureds, with coverage primary to any coverage held by the City.

5.30.180 Violations; public nuisance; enforcement remedies.

A. Any violation of this chapter, of a regulatory permit, or of a condition of approval is a separate offense for each day it continues, and each violation is hereby declared a public nuisance per se, subject to abatement and injunctive relief without proof of irreparable harm.

B. Any violation of this chapter may, in the discretion of the City Attorney or District Attorney, be prosecuted as a misdemeanor punishable by a fine not exceeding one thousand dollars ($1,000), imprisonment in county jail not exceeding six (6) months, or both.

C. In any enforcement action, the responsible person shall be liable for the City's costs of investigation and abatement, and the prevailing party shall be entitled to reasonable attorneys' fees where the City elects fee recovery at the initiation of the action, not to exceed the City's own reasonable fees.

D. The remedies in this chapter are cumulative and in addition to administrative citation, permit suspension or revocation, contractual remedies under any development agreement, and all other remedies available at law or in equity.

5.30.190 Relationship to state law.

The standards, requirements, and regulations of State Cannabis Law are the minimum standards applicable to commercial cannabis activity in the City. Where this chapter imposes a more protective or more restrictive standard, this chapter controls to the extent permitted by law.

Section 2. CEQA

The City Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act pursuant to CEQA Guidelines section 15061(b)(3), as it can be seen with certainty that establishing regulatory standards for uses separately authorized and reviewed under Chapter 18.60 has no possibility of a significant effect on the environment, and pursuant to any exemption findings adopted in connection with the companion ordinances.

Section 3. REPEAL OF INCONSISTENT ORDINANCES

Any provisions of the Sutter Creek Municipal Code inconsistent with this Ordinance are hereby repealed.

Section 4. SEVERABILITY

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason deemed or held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision will not affect the validity of the remaining portions of this Ordinance. The City Council of the City of Sutter Creek hereby declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or other portions might subsequently be declared invalid or unconstitutional.

Section 5. PUBLICATION

The City Clerk shall certify to the passage of this Ordinance and shall cause this Ordinance or a summary thereof to be printed once within fifteen (15) days after its adoption in a newspaper of general circulation, published and circulated in the City of Sutter Creek.

PASSED, APPROVED, AND ADOPTED this ____ day of ________, 2026 by the following vote:
AYES:

NOES:

ABSTENTIONS:

ABSENT:

APPROVED:

____
Claire Gunselman, Mayor

ATTEST:

______________________________ __________________
Alejandra Zambrano, Interim City Clerk Date

ATTACHMENT B

MEMORANDUM

To: City of Sutter Creek, File
From: Jackson Legal Corporation
Date: August 15, 2026
Re: Proposed Commercial Cannabis Structure - Survey of California Jurisdictions; Risks of (1) a Development-Agreement-Only Regulatory Approach and (2) Simultaneous Adoption of the Program and Award of Its Sole Permit to a Pre-Selected Applicant

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I. Executive Summary

The City's pending cannabis package suffers from two independent, compounding defects. The first is structural: the ordinances authorize retail cannabis through a bare zoning carve-out while placing every substantive operating, financial, and enforcement requirement in a negotiated development agreement ("DA"). A survey of California practice, statewide datasets covering all 540 cities and counties, plus individual verification of approximately forty allowing jurisdictions, found no California jurisdiction that operates retail cannabis this way; local authorization is universally accomplished by ordinance, and every jurisdiction individually verified, including four smaller than or comparable to Sutter Creek, pairs its authorization with codified cannabis regulations. The second defect is sequential: the same agenda that creates the program, caps it at one dispensary, and adopts the eligibility criteria also awards the program's only permit, by approving the DA, to a pre-identified applicant those criteria fit. Each act is defensible alone; bundled, they convert legislation of general application into a bespoke award and concentrate the program's entire legal and political risk into a single vote. This memorandum summarizes the survey, analyzes both defects, and recommends the cure: a short regulatory floor in the Municipal Code, DAs expressly subordinate to it, and strict sequencing, legislate first, open an application window second, and award only through the competitive process, with the pending application remanded into that process on equal footing.

II. The Proposed Structure

The package presented to the Planning Commission on July 8, 2026 consists of three instruments adopted as one item: (1) amendments to Title 10 converting the City's cannabis prohibitions (§§ 10.42.050, 10.42.060) into prohibitions-with-CUP-exception; (2) amendments to Chapter 18.60 adding a storefront dispensary to the conditional uses permitted in any zone, capped at one, conditioned on a DA coterminous with the CUP, and adding four cannabis-specific findings, community benefit as consideration, a demonstrated record operating dispensaries in more than one jurisdiction for at least three years, adequate capitalization and workforce, and a clean cannabis-compliance history; and (3) an ordinance approving a DA with the named applicant for the property at 11 Ridge Road, carrying all operational content, hours, security, real-time police surveillance access, local hiring, an 8% gross-receipts retail fee, a 1% community fund, good-neighbor obligations, enforceable only through contract remedies. The Municipal Code authorizes; the contract regulates; and the program's sole slot is filled the day the program is born.

III. Survey Findings

A. Statewide universe. Per the Department of Cannabis Control's dataset (updated February 2026), 256 of California's 540 cities and counties (47%) allow at least one cannabis business type; 302 (56%) allow no retail, leaving roughly 238 jurisdictions permitting some form of retail. The DCC compiled the dataset by reviewing local laws and websites and contacting jurisdictions directly, and it cannot approve a state license that would violate any local ordinance or regulation (Bus. & Prof. Code § 26200 et seq.; local jurisdictions must also file their cannabis ordinances and a designated contact with the state). Local allowance in California is everywhere a creature of adopted local law.

B. Full-universe verification. Independent research confirms the same at the level of every jurisdiction. A peer-reviewed study verified the active cannabis laws of all 539 California cities and counties using the Fyllo/CannaRegs regulatory database, municipal codes, jurisdiction websites, and direct contact with clerks, coding each as affirmatively allowed, prohibited, or silent. The Public Health Institute's "Getting it Right from the Start" project maintains an annually updated database of local cannabis policies for all 539 jurisdictions and publishes scorecards for every retail-allowing locality. Regulatory depth varies widely, some jurisdictions add little beyond the state MAUCRSA/DCC floor, but even the thin tail regulates by ordinance, not by contract.

C. Individual code review (-40 jurisdictions). Targeted verification deliberately sought a counterexample among the jurisdictions most likely to lack a code and found none. Towns smaller than or comparable to Sutter Creek all maintain codified programs: Point Arena (pop. 450, Ch. 5.20 licensing with administrative enforcement); Dunsmuir (1,600, which consolidated and strengthened its commercial cannabis chapter in May 2026); Del Rey Oaks (1,600, Ch. 5.20); Weed (2,700, Ch. 8.30); Rio Dell (3,300, CUP-based with a codified three-retailer cap filled by competitive RFP, the closest structural cousin to the City's revised draft); and Isleton (800, which adopted a suite of cannabis ordinances in 2018 before approving businesses by CUP and DA). The most DA-reliant programs in the state anchor the contract to a code: Baldwin Park requires every operator's DA to set terms "in addition to the requirements of this chapter" (BPMC § 127.06); Commerce, National City, Greenfield, and Riverside County all pair mandatory DAs with regulatory chapters. Martinez, which, like the revised Sutter Creek draft, caps storefront retail at two, regulates through a comprehensive chapter (Martinez Mun. Code Ch. 5.29) covering selection, operating standards, renewal, transfer, appeals, and enforcement, with each violation a separate offense and a public nuisance.

D. Cautionary precedents. Two are directly on point and are developed in Parts IV and V: Isleton (2011), the closest historical attempt at deal-first cannabis governance at this scale, and Baldwin Park (2017–2023), the leading example of what follows when a city awards cannabis exclusivity to a chosen company. (Both accounts below rest on press coverage and court filings located in research.)

IV. Defect One: Housing All Regulation in the Development Agreement

1. It inverts the development agreement statute. Government Code §§ 65864–65869.5 exist to vest the developer's rights against future changes in local regulation: the rules governing the project are those in force at execution (§ 65866), and amendment requires mutual consent (§ 65868). A city with no cannabis regulations freezes nothing in its own favor. If odor, diversion, security, or nuisance problems emerge mid-term, the Council cannot legislate a binding fix; the operator holds vested rights against precisely that, and the proposed DA contains a supersedure-of-subsequent-laws provision. Courts have sustained DAs against surrender-of-police-power challenges where the public entity retained its regulatory framework around the contract (see *Santa Margarita Area Residents Together v. County of San Luis Obispo* (2000) 84 Cal.App.4th 221); where the DA is the entire framework, the City has functionally bargained away its rulebook for a renewable five-year term.

2. Enforcement collapses to contract remedies. A code violation supports administrative citations, permit suspension or revocation after an administrative hearing, misdemeanor prosecution, and nuisance-per-se abatement, in which the City proves only the violation, not resulting harm. A DA breach runs through notice, cure periods, the agreement's meet-and-confer clause, and ultimately a breach-of-contract action, slow and litigation-priced for a city with a $3.2 million general fund. The statutory annual review (§ 65865.1) is the City's principal non-judicial lever and is a cumbersome, once-a-year process. Real-time surveillance access and immediate crime notification are only as good as the remedy behind them; under this structure the remedy is a demand letter.

3. The contract binds only its parties, a defect any multi-permit future magnifies. Operational standards in a DA reach the counterparty and successors to the property interest, not employees individually, not a second operator, and not an unlicensed pop-up.

4. The program is one contingency away from vanishing. A DA is adopted by ordinance and is referendum-exposed (§ 65867.5), and it can end by expiration, non-extension, breach, or judicial invalidation. Because the CUP conditions tie operation to a valid DA, termination leaves a bare zoning carve-out: no operating standards, no renewal mechanism, no transfer or change-of-ownership review, no framework for seating a replacement operator. The City's largest projected revenue source, the 8% retail fee, has the durability of a contract clause. A code chapter survives any individual permittee; a voter-approved cannabis business tax is the durable revenue instrument over time.

5. Governance and optics. Sutter Creek is administering this with a contract planner, an interim clerk, and city-manager-led negotiations. Contracts negotiated by particular people are institutional memory that departs with them; codes are the memory that stays. A DA-only program also presents as a bespoke deal for one company, the framing Amador County's opposition has already adopted, whereas a code of general application presents as regulation. In 2011, Isleton (pop. 800) approved a large cannabis operation through a negotiated agreement promising up to $600,000 in first-year revenue, without a regulatory framework; a Sacramento County grand jury condemned the approval as revenue-driven and inadequately vetted, the District Attorney's office found the city attorney had an improper financial interest through payments from the applicant, a U.S. Attorney warning letter ended the project, the responsible official was later terminated, and the town codified before proceeding again.

V. Defect Two: Adopting the Program and Awarding Its Only Permit to a Pre-Selected Applicant in the Same Act

Nothing in state law requires a competitive process for local cannabis permits, and a cap of one is lawful in the abstract. The vice is the bundle: the same agenda creates the program, adopts the eligibility criteria, and fills the program's sole slot by approving the DA with the one company those criteria fit. That sequence converts general legislation into a bespoke award and generates the following distinct risks, most notably, a viable constitutional equal protection lawsuit and strikedown of the proposed law(s).

1. The findings and criteria become provably reverse-engineered. The ordinance finds that a single dispensary "will adequately serve" residents and that more would risk market saturation and enforcement burdens; the criteria require a record of operating dispensaries in more than one jurisdiction for three-plus years, adequate capitalization, and a multi-jurisdiction compliance history. Drafted in a vacuum, these are policy choices. Drafted while the City holds exactly one application, from a multi-jurisdiction chain whose résumé matches each criterion, with its DA on the same agenda, they read as a test written after the exam was graded. Legislative acts receive deferential review under Code of Civil Procedure § 1085, but in a writ proceeding the administrative record (staff communications, drafting history, any applicant-funded reimbursement arrangement, the negotiation chronology) comes in, and criteria that exclude every local entrant while admitting precisely one company are the record of arbitrariness.

2. A scarce-license award with no process is the cleanest possible challenge. A one-license cap is a government-conferred exclusive. Excluded competitors can assert class-of-one equal protection claims (*Village of Willowbrook v. Olech* (2000) 528 U.S. 562), against which the City's rational-basis defense is its findings, which were drafted for the winner. An ordinary disappointed applicant's due process claim is weak because applicants hold no protected property interest; here the posture is worse for the City, because there were no other applicants for the simple reason that there was never a window. The challenge is not "I lost unfairly" but "no one could ever have competed", a far simpler story to present to a judge, a grand jury, or the electorate.

3. CEQA precommitment. Under Save *Tara v. City of West Hollywood* (2008) 45 Cal.4th 116, an agency may not commit itself to a project before completing environmental review. Simultaneous adoption of the enabling ordinances and execution of the project-specific DA is the precommitment fact pattern, and bundling invites the argument that the ordinance and the DA constitute a single "project" reviewed piecemeal, with the DA's Class 1 categorical exemption bootstrapped by legislation enacted for its benefit. A program ordinance adopted first, as generally applicable legislation, does not carry that baggage; an ordinance adopted as the delivery vehicle for a signed deal does.

4. Corruption-adjacent exposure, even absent any actual misconduct. When the winner precedes the program, everything the winner touched, reimbursement agreements funding staff and consultant time, ordinance drafts, fee negotiations, acquires the appearance of an applicant purchasing its own regulatory regime, implicating Government Code § 1090 sensitivities and inviting civil grand jury scrutiny (a live risk given the County's stated opposition). Baldwin Park is the controlling cautionary tale: after the city granted a chosen company an exclusive cannabis transport arrangement, a rejected applicant sued within months to freeze or nullify the agreement; the complaint cited the company CEO's campaign donation to a councilmember as evidence of collusion; the city attorney conceded publicly that the arrangement forced fourteen other companies to use the chosen firm; the city ultimately dissolved the exclusivity to settle litigation and waived hundreds of thousands of dollars in the operator's outstanding fees; and the broader licensing process later produced a $1.9 million verdict in which officials tied to the process were held personally liable for most of the damages. None of that requires wrongdoing in Sutter Creek to be relevant, the structure itself is what draws the lawsuits, the theories, and the personal-exposure claims.

5. The findings become a straitjacket and the incumbent becomes a moat. If the City later concludes a second dispensary is warranted, its own adopted findings, that one is sufficient and that more would cause saturation and enforcement burdens, are admissions against interest, and the incumbent will wield them, together with a five-year DA bearing extension rights, to oppose entry. The City will have legislated its own barrier to its own future policy. Conversely, if the sole permittee fails, is acquired, or loses its state license, a cap-of-one with no codified process leaves nothing in place to seat a successor.

6. The City negotiated its only deal with zero leverage. The 8% fee, the 1% community fund, and the community-benefit package were never tested against a competing bid. The ordinance requires a finding that the DA "will provide for appropriate community benefit as consideration", appropriate compared to what? Without an application window, that finding has no empirical basis, and the Council cannot know whether it left revenue or benefits on the table. Peer cities running competitive windows routinely extract materially better terms precisely because applicants bid against one another.

7. Referendum and political risk are concentrated and personalized. Each ordinance, including the DA ordinance (§ 65867.5), is referendum-exposed. A neutral program of general application is a difficult referendum target; a package reducible to "did the Council hand the town's only cannabis license to [the applicant]?" is an easy one, and it places the entire program, the projected revenue, and the Council's credibility on a single ballot question framed around a single company.

VI. Recommendation

The cure is structure plus sequence. Structurally, adopt a regulatory floor in the Municipal Code, three to five pages, either as an expansion of Chapter 18.60 or a short freestanding chapter, containing: (a) prohibition-unless-permitted language; (b) the dispensary cap (whether one or two) with express no-mandate, no-entitlement language and City discretion to permit fewer than the cap, including zero; (c) a codified application and selection process (the drafted § 18.60.050: a fixed one-month window, a selection committee of the City Manager, departmental designees, and a citizen member, thirty-day deliberation, Planning Commission approval, and ultimate Council approval); (d) separation distances and sensitive-use buffers; (e) hours, security, odor, visibility, and age-access standards; (f) renewal with no vested right, and transfer/change-of-ownership approval; (g) violations declared separate offenses and public nuisances per se, with administrative revocation and appeal procedures; and (h) incorporation of state cannabis law as the minimum standard. Martinez Mun. Code §§ 5.29.150–.170, .220, .240, .260, .280, and .300 supply directly adaptable text; Guadalupe's model (general chapter now, procedural detail by Council resolution) offers the lightest defensible drafting path.

Sequentially, decouple adoption from award and never place the rules and the winner on the same agenda: (1) adopt the program ordinances first, with no DA before the Council; (2) open the application window; (3) remand the pending application into the pool for consideration on equal footing with all timely applications (as the drafted § 18.60.050(G) and companion resolution provide), the pending applicant can still prevail, and if it does, the award is defensible precisely because it survived a process rather than preceded one; (4) convert the multi-jurisdiction/three-year experience requirement from an eligibility gate into a weighted scoring factor, so the record reflects criteria designed for a market rather than a company; and (5) calendar any DA approval at least one meeting after the Planning Commission's CUP recommendation.

ATTACHMENT C

MEMORANDUM

To:	City of Sutter Creek	
From:	Jackson Legal Corporation	
Date:	August 16, 2026	
Re:	Discrepancy, Conflict, and Inconsistency Audit, City Council Meeting Packet of 17, 2026 (Sutter Creek Responsible and Compliant Retail, LLC dba Embarc - Ridge Road)	August 11

This memorandum inventories the discrepancies, conflicts, and inconsistencies identified in a line-by-line review of the City Council meeting packet for August 17, 2026, the agenda, staff report, appeal letter, the three proposed ordinances, the Development Agreement (“DA”), the Council resolution, the amended notice of public hearing, the July 8, 2026 Planning Commission minutes, the Council presentation, the applicant’s plans and pro forma, and the correspondence. At this meeting the Council is asked to adopt the ordinance approving the DA; introduce, with reading waived, the ordinances amending Title 10 and Chapter 18.60; make CEQA exemption findings; and decide the appeal filed by Teresa Ryan, Martin Ryan, and the Sutter Creek Residents Against Marijuana-Dispensaries. Findings are grouped: conflicts between documents in the packet (Part I); internal conflicts within the DA (Part II); procedural and sequencing defects (Part III); figure errors (Part IV); representative clerical errors (Part V); and priorities for correction before the hearing (Part VI).

I. Conflicts Between Documents in the Packet

1. **The eligibility criteria differ between the ordinance and the resolution.** The Chapter 18.60 ordinance set for introduction requires a record of operating dispensaries “in more than one other jurisdiction” and contains no administrative-penalties disqualifier. The staff report (in three places) and the resolution the Council is asked to adopt recite a different standard: “at least three jurisdictions” and disqualification for having been “administratively ordered to fines or penalties.” If adopted as packaged, the Council will enact an ordinance and a resolution stating different eligibility rules at the same meeting. The ordinance’s subsection (F)(4) also omits a conjunction (“convicted of, found civilly liable for, having sold”).

2. **The “one-year pilot program” described to the Council does not exist in the DA.** The staff report describes “an initial one-year pilot program,” and the Council presentation states “the first year is a probationary pilot period.” The DA contains no pilot term: § 3.4 is a one-time compliance review after the first anniversary of opening whose only consequence is a notice of default under § 3.3, a remedy available at any time regardless, and the Term is unconditionally five years. The presentation further misdescribes the contract in two respects: it states “the City has the discretion to grant additional five-year extensions,” while §§ 3.1–3.2 make extensions mandatory (“shall”) upon compliance or notice, in “any number,” executed by the City Manager; and it states the City “retains the authority to terminate the agreement at any time” upon noncompliance, while § 22’s “notwithstanding” clause channels termination through notice and a thirty-day cure. The record itself now flags the gap: resident correspondence of July 4, 2026 asks “what ever happened to the proposed pilot program? That does not appear to be part of the package,” and documents the February 17, 2026 Council direction to discuss “an agreement and potential pilot program” from which the framing originates.

3. **A defunct state agency is cited in the adoption resolution.** Condition of Approval No. 11, in the staff report’s conditions list and in the resolution the Council is asked to adopt, requires notice of licensure

changes to the "California Bureau of Cannabis Control," an agency abolished in 2021, while DA § 5.1 correctly references the Department of Cannabis Control (or successor agency).

4. **The Planning Commission's amendment to Condition No. 27 may not have carried into the resolution.** The July 8 minutes and the staff recommendation modify Condition No. 27 so that delivery trips are governed by state law, but the two-trips-per-day limit persists in the staff report's conditions list and in the Council presentation, and the modified text could not be located in the resolution attached for adoption. If the resolution carries the superseded condition, the Council would adopt a condition the Commission already amended.

5. **The appellant's name is wrong in the attachment index.** The agenda and the appeal letter identify the appellant as Teresa Ryan; the attachment index titles the document "Appeal Letter by Teresa Martin," conflating her husband Martin Ryan's given name into her surname.

6. **The DA's ownership recital conflicts with the record.** Recital D states that "Permittee currently owns legal or equitable interest" in 11 Ridge Road; the record identifies the property owner as Vaquero Farms, Inc. No lease is evidenced and no owner consent or joinder appears, yet the DA is to be recorded against the property (DA § 36; Gov. Code § 65868.5), and § 29 assumes the Permittee may mortgage "the Site."

7. **The DA's exhibits contradict themselves.** Recital D describes the Site as "more fully described in Exhibit A and shown on the map in Exhibit B, both exhibits being attached hereto"; the exhibit schedule lists Exhibit A as the Business Plan, Exhibit B as the Labor and Employment Plan, and Exhibits C–F as the remaining plans. No legal description or parcel map appears anywhere, the assessor's parcel number field in Recital D is a blank bracket, and the confidential Security Plan is scheduled as an exhibit to a publicly recorded instrument.

8. **Clerk attestations conflict, and with the record.** The three ordinances are split between two attestation blocks: "Alejandra Zambrano, Interim City Clerk" on the Title 10 and DA ordinances, and "Pam Caronongan, City Clerk" on the Chapter 18.60 ordinance, while the appeal letter states, on the reported advice of the City's planning consultant, that the City "does not presently have a City Clerk."

9. **Amended notice defects.** The Amended Notice of Public Hearing describes the amendment as allowing "exactly one (1)" retail cannabis business, a mandate, where the ordinance imposes a one-at-a-time cap; omits the Title 10 ordinance from the matters to be considered even though the Council will act on it; and refers to the appealed "Site Permit" where "Sign Permit" is meant. (The hearing date and weekday, Monday, August 17, 2026, are stated correctly.)

II. Internal Development Agreement Conflicts

10. **The fee definition and the payment provisions state different deadlines.** § 4.7 defines the Retail Fee as "due to the City at the end of each Operational Quarter," while §§ 6.1.1 and 7.1 make payment due within thirty (30) calendar days following the end of each Operational Quarter, concurrent with the Certified Report. The definition should be conformed to the operative thirty-day rule.

11. **The audit penalty is measured against the wrong base.** § 7.3 imposes underpayment penalties of five percent (5%) (first occurrence) and fifteen percent (15%) (subsequent) of Gross Receipts, not of the underpaid amount. On the applicant's own Year 1 projection, a first offense would exceed $310,000. § 6.1.1's late-payment penalty, by contrast, is twenty-five percent (25%) of the delinquent amount, two inconsistent penalty bases. § 7.3 also uses both "Finance Director" and "Director of Finance."

12. **The extension provisions are internally inconsistent, and effectively evergreen.** § 3.1 mandates "any number" of five-year extensions, executed by the City Manager, whenever the periodic review shows good-faith compliance; § 3.2 separately makes extension self-executing on 120 days' notice plus the absence of uncured default. Both are mandatory with different triggers, and City Manager execution of a legislative act sits poorly with Government Code §§ 65867–65868. Sections 3.1.1–3.1.3 (Litigation; Government Agencies; Force Majeure) are orphaned fragments with no operative verb, imported from a template in which § 3.1 was a delay-tolling clause, which is how § 14.1 mistakenly cross-references it.

13. **Section 17.1 defeats the City's oversight.** "In the event City fails to formally conduct such annual review, Permittee shall be deemed to be in full compliance with the Agreement." A missed review year becomes a compliance certificate, and the § 3.1 extensions hang off that very review.

14. **Dual default regimes; damages bar versus fee award.** § 3.3 provides a thirty-day cure, a ninety-day extended cure, and automatic termination on permit revocation or improper transfer; § 22 opens "Notwithstanding any provision of this Agreement to the contrary" and permits termination only after notice and a thirty-day cure, arguably nullifying § 3.3. § 22 limits the Permittee to injunctive relief and specific performance, yet § 25 grants mutual prevailing-party "actual attorneys' fees … in addition to any other damages or relief awarded," exposing the City to fee awards under a contract that purports to bar money claims against it.

15. **Section 8.5 conflicts internally and with Section 8.11.** The "three person" Community Advisory Board consists of "at least two (2) members who reside within the City" plus "one (1) member who resides or works within the City", the second category duplicates the first (Amador County apparently intended). § 8.5 also gives the board authority to direct all allocations from the Community Fund, while § 8.11 pre-commits twenty percent of the fund or $25,000, whichever is less, to police cameras.

16. **Undefined terms, orphans, and title-text mismatches.** "Developer" appears five times although the contracting party is "Permittee"; § 19 is a subject-less fragment ("Provide the other Party with written notice of such State or Federal law …") whose antecedent was deleted; § 43 is titled "Assignment Permitted at City's Sole Discretion" but its text requires mutual consent withholdable in "the other party's" sole discretion; § 7.4 requires forty-eight hours' advance notice for City inspections, in tension with the real-time-oversight description in the staff materials; § 27 requires execution "on or within five (5) business days of approval," before any adopting ordinance could be effective; and § 8.3 sets no operating hours, deferring to "the hours agreed to within the business plan plan attached to this agreement."

17. **Signature blocks are irregular.** The Permittee's block is executed by "Eric Lightman, Esq. Attorney", counsel rather than an identified corporate officer (his correspondence in the packet identifies him as General Counsel; the block should so state, with authority confirmed), and the City's block identifies no signing officer or title for signature, attestation, or approval as to form.

III. Procedural and Sequencing Defects

18. **The adoption sequence is inverted.** The agenda asks the Council to adopt the DA-approval ordinance while only introducing, with reading waived, the Title 10 and Chapter 18.60 enabling ordinances, approving the DA before the law authorizing the use exists. On this sequence the enabling ordinances would be adopted no earlier than the next regular meeting (September 21, 2026) and effective thirty days later, while DA § 27 obligates execution within five business days of approval. Unless the August 3, 2026 minutes (supplemental packet only) show the DA ordinance was introduced at that meeting, its adoption on August 17 also presents a Government Code § 36934

introduction problem. The recurring phrase “Introduce, and Waive First Reading” is itself malformed, the motion waives the full reading of the text, not the first reading.

19. The resolution bears a placeholder number. “RESOLUTION 26-27-*.”

20. The CEQA findings rest on authority the packet describes secondhand. Applicant counsel’s correction letter reports that the California Supreme Court decided Sunflower Alliance v. Department of Conservation on June 25, 2026 (S287414), holding that Class 1’s “negligible or no expansion” language refers to the nature or degree of a facility’s use rather than the risk of environmental harm, and concedes counsel’s earlier letters misdescribed the case. The Council’s exemption findings (Class 1 and the common-sense exemption) should be verified against the slip opinion, not counsel’s characterization, before adoption, particularly with an appeal pending that squarely challenges both exemptions and invokes the unusual-circumstances exception.

21. Notice of Exemption follow-through. Staff recommends filing the NOE after Council action; before filing, the form should be corrected to identify the applicant (not the City Manager) as the person carrying out the project, to include the Title 10 amendment in the project description, and to route filing to the County Clerk consistently with DA § 15.

IV. Figure Errors

22. The staff report’s revenue table conflicts with the applicant’s own pro forma. For Year 5, the staff table shows $100,596 in the one-percent column; one percent of the stated $10,595,579 in gross receipts is $105,956, the figure the applicant’s pro forma itself shows for the Year 5 Community Investment Fund. The table also includes an unexplained “Tax (2%)” column, although the staff report’s premise is that no voter-approved cannabis tax exists (and the Bradley-Burns local share of sales tax is one percent); and the general-fund-share column (19.5% to 33.1%) counts the 8% fee plus the 2% “tax” while excluding the 1% fund, whereas the narrative claim of a roughly 20% first-year general-fund increase mixes bases.

V. Clerical Errors (Representative)

In the ordinances set for introduction: “OFTHE SUTTER CREEK” in the Chapter 18.60 ordinance title; “is a located in rural county”; “permitting only a single storefront retain cannabis dispensary”; “Chapters 10.42.050” (plural, and a section labeled a chapter); and broken list punctuation in § 18.60.020 (“clubs ;J.”, “clubs.:”, “events.; and”). Elsewhere in the packet: “a 8% retail fee”; “business plan plan”; “Site Permit” for “Sign Permit” in the amended notice; “Section 7.1.1” in the minutes (the DA has no § 7.1.1); and “insure” for “ensure.”

VI. Priorities Before the Hearing

Five corrections matter most in the time available. First, conform the resolution, the eligibility-criteria recital (Item 1), the Bureau of Cannabis Control citation (Item 3), the Condition 27 text (Item 4), and the resolution number (Item 19) all sit in the one document the Council will adopt outright at this meeting. Second, correct the presentation’s description of the City’s extension and termination rights (Item 2), or amend §§ 3.1–3.2 and § 22 so the contract matches the description, before those characterizations are made from the dais with an appellant building a record. Third, either add a genuine pilot mechanism to the DA, a year-one City option not to continue, or an early-termination right tied to the § 3.4 review, or stop describing the arrangement as a pilot; the question is already in the record and will be asked. Fourth, resolve the recorded-instrument defects (Items 6–7, 17), legal description, parcel number, exhibit schedule, owner joinder, and signature authority, before execution and recording. Fifth, re-sequence (Item 18): adopt nothing approving the DA until the enabling ordinances are at least adopted, and verify the

August 3 introduction; the current order compounds the exclusivity and fairness vulnerabilities the appeal already asserts.

embarc

August 17, 2026

Via Email — Submitted to the Administrative Record

Honorable Mayor Claire Gunselman and Members of the City Council
City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

Re: Response to Letter of Jasun C. Molinelli, Jackson Legal Corporation, on Behalf of Velvet Cannabis — August 16, 2026; Proposed Cannabis Retail Facility at 11 Ridge Road; August 17, 2026 City Council Hearing

Dear Mayor Gunselman and Honorable Councilmembers:

This letter is submitted on behalf of Sutter Creek Responsible and Compliant Retail LLC ("Applicant") in response to the letter submitted by Jasun C. Molinelli of Jackson Legal Corporation, dated August 16, 2026, on behalf of Velvet Cannabis (the "Velvet Letter"). The Velvet Letter concedes at the outset that everything the Council is doing tonight is lawful — the ordinance, the numerical cap, and the Development Agreement are each individually defensible. Applicant submits this response on the day of the hearing, within hours of receiving the Velvet Letter, because the record should be complete and because Applicant is committed to this community.

The Velvet Letter is a late hit. It was filed at the eleventh hour by the general counsel of a direct commercial competitor — a company that has every incentive to impede a competitor's expansion into a new market. It is framed as civic concern. It is commercial interference, filed too late for the City's staff or outside counsel to respond through the normal process, and timed with apparent precision to land in the Council's inbox on the morning of the hearing. The Council is entitled to recognize it for what it is and weigh its arguments accordingly.

Applicant addresses the substance below because the record should be complete. We respectfully request that this letter be entered into the administrative record in full.

1. Mr. Molinelli's Own Submission Concedes That Everything the City Is Doing Tonight Is Lawful.

Before addressing the legal arguments in the Velvet Letter, the Council should understand what Mr. Molinelli does and does not actually claim. In Attachment B to the Velvet Letter, Mr. Molinelli states explicitly: "Nothing in state law requires a competitive process for local cannabis permits, and a cap of one is lawful in the abstract." He further states that "each act is defensible alone" — meaning the enabling ordinance, the cap, and the DA are each individually lawful. His argument is not that the Council is acting illegally. His argument is about sequencing — that adopting the program and the DA on the same agenda creates an "appearance" of irregularity.

This is a remarkable concession from a critic submitting a last-minute opposition letter. Mr. Molinelli is telling the Council, in his own words, that the ordinance is lawful, the numerical cap is lawful, the Development Agreement is lawful, and the actions being taken tonight are individually defensible. His concern is optics, not legality. The Council should weigh that framing carefully: a competitor's lawyer is asking the Council to delay a lawful action because it might "look" a certain way. That is not a legal basis for a continuance. It is a political argument dressed in procedural language.

2. The CEQA Argument Made Under *Save Tara* Fails

Mr. Molinelli's reliance on *Save Tara v. City of West Hollywood* (2008) 45 Cal.4th 116 for a CEQA precommitment argument is also misplaced. Save Tara addressed agencies that approve projects and then conduct CEQA review later — a true precommitment problem. Here the City conducted its CEQA determination as part of tonight's integrated package. The categorical exemptions under §§ 15301 and 15061(b)(3) were reviewed, analyzed in the staff report, and are being adopted simultaneously with the DA. The City is not bypassing CEQA — it completed its CEQA determination as part of the same process. Moreover, *Cedar Fair, L.P. v. City of Santa Clara* (2011) 194 Cal.App.4th 1150 significantly narrowed Save Tara, holding that negotiating terms in advance of final approval does not constitute project precommitment. Tonight is not a precommitment — it is the final approval in a fully completed process. This is simply how CEQA exemptions are processed in this context.

3. The 18-and-Older Medical Access Standard Exists to Protect Patients — Not to Circumvent Youth Protections.

The Velvet Letter compares Velvet's 21-and-older entry policy to Applicant's practice of serving patients 18 and older who hold a valid physician recommendation and state-issued medical identification card. Applicant's practice is not a workaround. It is compliant with California law as written. The Legislature made a deliberate policy judgment that medically documented patients should have access to a legal, regulated cannabis supply when they are 18, 19, or 20 years old. Applicant follows that standard at all of its locations because it is the law, and it will follow it at 11 Ridge Road for the same reason.

Applicant has no interest in circumventing the spirit of youth-access protections. Customers under 21 without a valid medical identification card are categorically excluded. The 18-to-20-year-old patients that the Velvet Letter would bar from a local dispensary are not recreational users seeking convenient access. They are patients with physician-documented conditions who, if denied local access, must continue driving 44 to 64 miles round trip to reach a licensed, regulated facility — or turn to an unregulated market that has no age verification requirements at all. That outcome serves no public health interest. Velvet's choice to adopt a 21-plus policy in its own stores is a legitimate business decision. It is not a legal requirement, and the Council should not be persuaded that penalizing medical patients aged 18 to 20 makes Sutter Creek's cannabis program more responsible. It makes it less compliant with the Legislature's deliberate patient-access framework and more burdensome on the very residents who most need a local, regulated option.

4. The "No Regulatory Code" Argument Misreads Both State Law and California Cannabis Practice.

Mr. Molinelli's central argument is that Sutter Creek would be the first California jurisdiction to operate cannabis retail without a standalone cannabis regulatory code. This argument fails on the law, fails on the facts of how California cannabis regulation actually works, and ultimately asks the Council to require Sutter Creek to duplicate work the State of California has already done.

Start with the statutory framework. Business and Professions Code § 26200(d) expressly grants cities full power and authority to enforce MAUCRSA and the DCC's regulations directly against state licensees within their jurisdiction, if delegated by the state. This is not a theoretical backstop — it is an active enforcement mechanism that operates independently of whether any city has adopted a standalone cannabis ordinance. The DCC's regulations — codified at California Code of Regulations, Title 4, Division 19 — run to hundreds of pages of specific operational requirements: mandatory age verification and ID checking protocols, video surveillance technical specifications, state track-and-trace inventory requirements, packaging, labeling and testing standards, security plan requirements, cash handling procedures, delivery protocols, and employee licensing obligations. These are not aspirational guidelines. They are enforceable rules backed by the DCC's authority to suspend or revoke a state license for any violation. A state license suspension ends a dispensary's operations immediately and completely. That is an enforcement tool no city's misdemeanor prosecution statute can match.

The Development Agreement does not sit alongside this framework — it incorporates it. The DA requires Applicant to maintain its state license in good standing as a condition of operation and makes any lapse in state licensure an automatic default triggering the City's termination rights. Every operational obligation in the DA runs parallel to, and is reinforced by, the DCC's independent enforcement authority. A violation of state regulations is simultaneously a violation of the DA. The City does not need to have independently codified age verification requirements because the DCC's regulations mandate them and the DCC enforces them. The same is true for security plans, track-and-trace inventory, delivery procedures, and every other operational standard Molinelli implies Sutter Creek lacks.

Mr. Molinelli's survey of California jurisdictions concedes that those with standalone regulatory codes "vary" in their regulatory depth. That variation is telling. Jurisdictions that have adopted comprehensive cannabis codes — West Sacramento's Chapter 5.28, Santa Monica's Chapter 6.200, the City of Concord's Chapter 5.80 — explicitly state that their local requirements are in addition to state law and that state law governs where local ordinances are silent or less restrictive. West Sacramento's Chapter 5.28 expressly provides that "cannabis businesses shall comply with all provisions of the West Sacramento Municipal Code, state law, and all other applicable local codes and regulations." Santa Monica's Chapter 6.200 requires that "all permittees shall operate in full compliance with all applicable State laws." The operational substance in those codes is largely a restatement and local implementation of DCC regulations that already apply. Indeed, many Cities who have adopted code-specific regulations do no more than simply restate those DCC regulations. A city that chooses to govern through a carefully negotiated development agreement that incorporates state standards by reference rather than restating them in a separate ordinance is not operating outside California law — it is making a different but entirely lawful choice about the mechanism of local regulation.

The City has the power to enforce any and all of the DCC regulations through the DA that is being employed here. Furthermore, because the City is only allowing one operator at this time, the generalized provisions in the City's Code would serve no additional purpose. If the City decides, at a later time, to allow more than one operator in the City, the Council may adopt a supplemental cannabis regulatory code at a future meeting if it concludes additional local enforcement tools would add value. That is a legitimate future policy question. It is not a defect in tonight's package.

5. Attachment C Reviews a Working Draft That Was Already Being Finalized Through the Normal Process.

Mr. Molinelli's Attachment C presents itself as a discovery — a line-by-line audit revealing defects the City and Applicant had not identified. That framing is inaccurate. The Development Agreement presented to the Council is a working draft that has been in active finalization between Applicant's counsel and the City throughout this process. The conforming corrections Molinelli catalogues are items already identified through normal attorney review and being resolved in the ordinary course of finalizing a complex legal instrument before execution. They appear in Attachment C because Molinelli reviewed a draft that was not yet final — not because he discovered something that would otherwise have gone unaddressed. Also, none of the issues raised are substantive in nature. No complex DA is executed without a final conforming review by the parties' counsel.

The administrative record already reflects the substantively complete agreement that the Planning Commission reviewed 4-0, the City Attorney approved, and staff recommended. The City Attorney has confirmed the adoption sequence is legally defensible under Government Code § 36934 given the August 3 introduction. Attachment C reflects a competitor's attempt to manufacture the appearance of chaos in a process that is proceeding normally.

6. The Martinez Revenue Comparison Is Irrelevant and Should Be Disregarded.

The Martinez revenue comparison — Velvet's $1,041,175 against Applicant's $258,825 in FY 2024/2025 — is useless and ineffectual: the two stores are not comparable and the comparison tells the Council nothing useful about Sutter Creek. Velvet Martinez is a large-format, freeway-adjacent dispensary with years of first-mover advantage in one of the most competitive cannabis markets in the East Bay. Applicant's Martinez location was deliberately designed as a neighborhood market serving a defined local catchment area — a different format, a different location strategy, and a different competitive position. Comparing their revenue figures to predict performance in a rural foothill community of 2,700 people, where the operator would be the only licensed dispensary within 22 to 32 miles, is comparing apples to oranges. The Council should not give this comparison any weight.

7. The Competitive Bidding and Equal Protection Arguments Are Addressed in the Consolidated Response.

The Velvet Letter recycles the competitive bidding and equal protection arguments rebutted in full in Applicant's Consolidated Response of August 14, 2026, which is in the record and incorporated here by reference. As Mr. Molinelli himself concedes in Attachment B, a cap of one is lawful and nothing in state law requires a competitive process. California municipalities have broad authority under Bus. & Prof. Code § 26200 to cap cannabis retailers at any number, including one. The Council's decision is within its discretion and is legally sound.

Conclusion

Mr. Molinelli's own submission concedes that the ordinance is lawful, the cap is lawful, and the Development Agreement is lawful. The only objection is "appearance" — and that appearance is answered by the public hearings, noticed proceedings, staff review, and legal analysis that produced the complete record before this Council tonight. Not one of the various project opponents has identified a single act that is actually unlawful. Not one has submitted a single piece of site-specific environmental evidence for 11 Ridge Road. Applicant and the City staff have answered every argument.

In that time, Applicant has opened three additional licensed dispensaries in California — not because it was handed licenses, but because it earned them through rigorous, public entitlement review. That is the company asking this Council for its trust tonight. Not a competitor filing a last-minute letter. Not a neighboring county attempting to govern a city that is not its own. Embarc. Here. Ready to open.

Applicant respectfully urges the Council to deny all requests for continuance, deny the appeal filed by Teresa Ryan, uphold the Planning Commission's decisions, and approve all pending entitlements at tonight's hearing.

Respectfully submitted,

Eric Lightman, Esq.
General Counsel
Sutter Creek Responsible and Compliant Retail LLC
c/o Embarc | 1125 I Street, Sacramento, CA 95814
eric@goembarc.com | 215.582.7666

cc: Council Members Gunselman, Sierk, Feist, Riordan, Swift
Tom DuBois, City Manager (tdubois@cityofsuttercreek.org)
Erin Ventura, Planning Consultant (eventura@haugebrueck.com)
Derek Cole, City Attorney (dcole@colehuber.com)
Seena Samimi, Meyers Nave (ssamimi@meyersnave.com)
Josh Lewis, Embarc (jlewis@goembarc.com)

BOARD OF TRUSTEES
OF THE
AMADOR COUNTY UNIFIED SCHOOL DISTRICT
COUNTY OF AMADOR, CALIFORNIA

Resolution No. ACUSD 2026/2027 – 03

RESOLUTION OPPOSING CANNABIS DISPENSARY

WHEREAS, on February 17, 2026, the City Council ("City Council") for the City of Sutter Creek ("City") considered directing City staff to begin discussion with Embarc, one of California's largest cannabis retailers ("Dispensary"), regarding a development agreement to open a retail location on Ridge Road in the City.

WHEREAS, at its meeting on February 17, 2026, the City Council voted 3-2 to continue exploring the proposal and directed that the matter proceed through the City's review process and bring the matter back to the City Planning Commission for consideration and potential action.

WHEREAS, the District's Governing Board recognizes that land use and business licensing decisions are within the authority of the City and the City Council.

WHEREAS, the Trustees for the Amador County Unified School District provides for the education and security of 4,005 students within District boundaries which include the City;

WHEREAS, as part of its ongoing efforts to support healthy student outcomes, the District regularly reviews student wellness and substance use data, including data collected through the California Healthy Kids Survey ("CHKS").

WHEREAS, the CHKS survey finds that marijuana use continues to be present among secondary students in the District. As reported in the 2022-23 survey, current marijuana use was reported by 12% of 9th-grade students and 10% of 11th-grade students. More recent survey data shows lifetime marijuana use rates of approximately 20% among 9th-grade students and 27% among 11th-grade students.

WHEREAS, the District's secondary administrators regularly address student vaping, alcohol use, marijuana use, and other drug-related incidents on school campuses.

WHEREAS, these incidents require significant administrative time and resources and can impact student health, safety, attendance, behavior, and academic success. Therefore, issues related to substance use remain an ongoing concern for District staff and are directly connected to the Board's responsibility to support safe and healthy learning environments for students.;

WHEREAS, the Trustees for the Amador County Unified School District do not believe a cannabis dispensary is in the best interest of the District, its students, or the City.

NOW THEREFORE, BE IT RESOLVED AND ORDERED that the Board declares its opposition to the City Council's February 17, 2026 decision to direct staff to enter into a development agreement with a cannabis dispensary within the City and the District respectfully asks the City to change course.

BE IT FURTHER RESOLVED AND ORDERED that the Board directs the District Superintendent and staff to submit a formal letter to the City opposing the Dispensary and make public comment regarding the same.

PASSED AND ADOPTED THIS 22 day of July, 2026 at a meeting of the Governing Board, by the following vote:

AYES: 4

NOES: 1

ABSENT: Ø

ABSTAIN: Ø

AMADOR COUNTY UNIFIED SCHOOL DISTRICT
GOVERNING BOARD

Kayla P

Kayla Parker
President of the Governing Board
Amador County Unified School District

AMADOR COUNTY OFFICE OF EDUCATION
AMADOR COUNTY UNIFIED SCHOOL DISTRICT
Jared Critchfield
Superintendent, Amador County Unified School District
and Amador County Office of Education
(209) 257-5353 | Fax (209) 257-5360 | jcritchfield@acusd.org
217 Rex Avenue, Jackson, CA 95642 | www.amadorcoe.org

August 17, 2026

Sutter Creek City Council
City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

RE : Proposed Retail Cannabis Dispensary in the City of Sutter Creek

Dear Members of the Sutter Creek City Council:

Accompanying this letter is a resolution passed by the Amador County Unified School District Board of Trustees opposing the development agreement to allow a cannabis dispensary in the City of Sutter Creek. We understand and respect that the authority for this agreement falls within the discretion of the City of Sutter Creek. However, we believe this decision could have a significant and lasting impact on our community, particularly our youth.

The proposed location of this dispensary is 2.1 miles from Argonaut High School, 1.7 miles from Amador High School, and 0.6 miles from Independence High School. The close proximity to all three of the county's high schools raises concerns regarding the health and welfare of our students. While Embarc may meet all regulatory requirements for the sale and distribution of cannabis products, it can never guarantee what happens with those products after they are sold. Research has consistently shown that teenagers commonly access cannabis through friends, family members, and other interpersonal networks rather than through direct retail purchases. The fact that a dispensary will not sell directly to minors does not eliminate our concern about youth access through secondary sources.

This is not a hypothetical concern for our schools. The administrators at our junior and senior high schools deal with vaping, alcohol, marijuana, and other drug-related issues on an almost daily basis. These incidents negatively impact students' health, safety, attendance, behavior, and academic success.

Our own California Healthy Kids Survey data also tells us that marijuana is already reaching our students. In our most recent survey, approximately 20% of our 9th-grade students and 27% of our 11th-grade students reported having used marijuana at some point. As a school district, our responsibility is to do everything reasonably within our ability to prevent those numbers from increasing.

We recognize that cannabis is legal for adults in California and that adults in Amador County can already obtain cannabis outside the county or through legal delivery services. We also recognize the financial benefits that have been presented to the City as part of this proposal. However, the absence of a retail cannabis dispensary in Amador County creates an additional barrier to access that currently exists in our community. From the perspective of our schools and our students, we believe there is value in maintaining that barrier.

We also recognize the safeguards proposed by Embarc, including age verification, security measures, and funding for youth drug education and prevention. We appreciate those efforts. However, prevention funding after introducing greater local access to cannabis does not alleviate our concern about the potential impact that increased availability and normalization may have on young people.

The District respects the City of Sutter Creek and the difficult decisions its elected leaders are required to make. Our responsibility, however, is to advocate for the students we serve. When weighing the potential benefits of this proposal against the potential consequences for youth in our community, we believe the interests of our students must come first.

On behalf of the Amador County Unified School District Board of Trustees, I respectfully ask the Sutter Creek City Council to reconsider this agreement and maintain the City's current prohibition on retail cannabis sales.

Sincerely,

Jared Critchfield
Superintendent
Amador County Unified School District

Enclosure: Amador County Unified School District Board Resolution No. ACUSD 2026/2027-03

August 17, 2026

Via Email — Submitted to the Administrative Record
Honorable Mayor Claire Gunselman and Members of the City Council
City of Sutter Creek
18 Main Street
Sutter Creek, CA 95685

Re: Response to Letter of Superintendent Jared Critchfield, Amador County Unified School District — August 17, 2026; Proposed Cannabis Retail Facility at 11 Ridge Road; August 17, 2026 City Council Hearing

Dear Mayor Gunselman and Honorable Councilmembers:

This letter is submitted on behalf of Sutter Creek Responsible and Compliant Retail LLC (“Applicant”) in response to the letter submitted by Superintendent Jared Critchfield of the Amador County Unified School District, dated August 17, 2026. We want to begin by acknowledging what Superintendent Critchfield’s letter is: a sincere, thoughtful expression of concern for the students this district serves. That concern deserves a respectful response, and we offer one here. We respectfully request that this letter be entered into the administrative record in full.

Applicant shares the District’s commitment to youth wellbeing. It is the reason the Development Agreement requires Embarc to fund and implement a youth drug education and prevention program within six months of opening, using a curriculum recognized by the California Department of Education. It is the reason the DA requires mandatory age verification for every customer, real-time law enforcement surveillance access, employee background checks, and a Community Advisory Board composed of Sutter Creek residents with authority over how community benefit funds are spent. Superintendent Critchfield is right that these safeguards cannot guarantee what happens with cannabis products after they are sold — no regulatory framework can. But they are precisely the protections a regulated market provides that the current unregulated secondary market does not.

That is the point on which Applicant most respectfully disagrees with the District’s framing. The Superintendent’s own data is instructive: approximately 20% of 9th-grade students and 27% of 11th-grade students in Amador County have already used marijuana. Those students are obtaining cannabis today — not from a licensed dispensary with mandatory age verification, track-and-trace inventory, and law enforcement oversight, but from the unregulated secondary market the Superintendent describes: friends, family members, and interpersonal networks. The current absence of a local licensed dispensary is not a barrier that is preventing youth cannabis use in Amador County. It is a barrier that is channeling youth cannabis use through sources with no verification, no accountability, and no connection to the City’s community benefit and prevention programs. The research on this question is consistent: states with legal, regulated adult-use cannabis markets have not experienced statistically significant increases in adolescent use rates compared to states where cannabis remains illegal, precisely because regulation replaces the unregulated market rather than supplementing it. A licensed dispensary serving Sutter Creek adults does not create the secondary market problem the Superintendent describes — that problem already exists. What regulation adds is accountability, enforcement resources, and the youth education funding the DA requires.

Applicant is committed to being a genuine partner to the schools and students of this community. We welcome the opportunity to work directly with the District's youth-serving programs, to make Embarc's Community Advisory Board resources available to school-based prevention efforts, and to demonstrate through our operations that responsible cannabis retail can coexist with strong community values. The Council faces a difficult balancing decision, and we respect that the District has a role in informing that decision. We simply ask the Council to weigh the evidence on what regulated access actually produces for youth outcomes — and to consider that the choice before the Council tonight is not between cannabis access and no cannabis access in Amador County. It is between regulated, accountable, locally controlled access, and the unregulated secondary market that is already serving the students the Superintendent is rightly trying to protect.

We respectfully request that the Council approve all pending entitlements at tonight's hearing and that this letter be entered into the administrative record in its entirety.

Respectfully submitted,

Eric Lightman, Esq.
General Counsel
Sutter Creek Responsible and Compliant Retail LLC
c/o Embarc | 1125 I Street, Sacramento, CA 95814
eric@goembarc.com | 215.582.7666

cc: Superintendent Jared Critchfield, Amador County Unified School District (jcritchfield@acusd.org)
Council Members Gunselman, Sierk, Feist, Riordan, Swift
Tom DuBois, City Manager (tdubois@cityofsuttercreek.org)
Derek Cole, City Attorney (dcole@colehuber.com)
Seena Samimi, Meyers Nave (ssamimi@meyersnave.com)
Josh Lewis, Embarc (jlewis@goembarc.com)

Name: Lance Outland

Good evening, Honorable Mayor, members of the City Council, members of the community and city staff.

My name is Lance Outland, and I am a resident of Amador County. I am speaking tonight in strong support of the proposed **Embarc retail dispensary application**. When discussing cannabis retail, it is natural for a close-knit community to have questions about neighborhood fit. However, Embarc is not a generic corporation looking to extract wealth from our town. They operate under a unique model explicitly built to address small-town concerns through proactive communication, job security, and local reinvestment.As you evaluate this proposal, I ask the Council to consider three core benefits that this partnership brings to our community: First, **Embarc generates vital local revenue** and commits to immediate social investment. Unlike operators that funnel profits away, Embarc legally pledges **1% of its gross receipts** directly back to local community investment and small business funds. Furthermore, they support workforce stability by partnering with the **UFCW Local 5 union** to guarantee fair, unionized wages and benefits for the local residents they hire. The municipal tax revenue generated here will give this Council a reliable stream of funding to fix our roads, balance budget gaps, and support public services. Second, **Embarc is a proactive partner in community safety**. They operate fully banked, low-cash facilities to minimize on-site risks. They install state-of-the-art surveillance networks and exterior lighting, while offering **direct access to local law enforcement** for monitoring. To protect our youth, Embarc utilizes a strict, multi-stage ID verification check at the door that completely bars minors from entering. Finally, **Embarc normalizes responsible health access** and actively reduces old stigmas. Their open, **"bodega-style" retail format** replaces intimidating setups with a comfortable, standard shopping environment. This makes a difference for medical patients and older adults who currently travel long distances just to secure safe relief. Furthermore, Embarc supports our regional agricultural roots by dedicating **50% of its shelf space** to independent small farmers and equity brands, ensuring every product sold is third-party lab-certified to be free of dangerous contaminants. We can leave cannabis to an unregulated underground market, or we can partner with a transparent, unionized, community-first operator like Embarc. I respectfully urge the City Council to approve Embarc's application. Thank you for your time and your service to our community.

Section 1, Item A.

Gmail

Tom Dubois <tdubois@cityofsuttercreek.org>

Why would Sutter Creek want to make their City budget depend on drug sales and support pushing THC into our community??

Brian Comnes <bcomnes@yahoo.com> Sun, Aug 16, 2026 at 11:32 AM
To: Julia Sierk <juliasierk@comcast.net>, Jim Swift <apartsman9@gmail.com>, Dan Riordan <driordan@cityofsuttercreek.org>, "sfeist@cityofsuttercreek.org" <sfeist@cityofsuttercreek.org>, Claire Gunselman <cgunselman@cityofsuttercreek.org>
Cc: Tom Dubois <tdubois@cityofsuttercreek.org>, "azambrano@cityofsuttercreek.org" <azambrano@cityofsuttercreek.org>

Note to City Recorder , please add this letter to the administrative record.

Council
Looking at the transcript of the recent Planning Commission meeting Embarc CEO Carpenter and Marketing rep Lawler referred 5 times to the transformative nature of dispensary here. Unfortunately the transformation they bring is active marketing in Sutter Creek of THC impairment .

If you have any doubts about Embarc's mission to push pot usage in our community check these quotes:
Here's what Lauren Carpenter, Co-Founder & CEO of Embarc, has said publicly about destigmatizing cannabis, with sources:

On the retail experience itself: Talking to Cannabis Business Times about opening Ventura's first adult-use dispensary, Carpenter said the business gives her and her team the opportunity to help destigmatize cannabis in the community. — *Cannabis Business Times*, Sept. 18, 2023

On store design as destigmatization: Discussing Embarc's open, basket-in-hand shopping model (versus the old vault-and-counter dispensary style), she frames the layout itself as key to destigmatizing the act of buying weed. — *MG Magazine*, "Curating the Cannabis Dispensary Experience"

On events as a destigmatization vehicle: In a GreenState Q&A, Carpenter said Embarc has an unwavering commitment to destigmatization, with the team putting in years of work to push legalization forward in communities slow to accept local cannabis businesses. — *GreenState*, "Fast Five Q&A," April 4, 2024

Speaking to Muse by Clios about Embarc Events, she said it lets the company engage tens or hundreds of thousands of people over a single day or weekend and help destigmatize cannabis at scale. — *Muse by Clios*, "Rethinking Cannabis in Retail and Events"

On festivals specifically (Cali Roots / "The Smoke Show"): "Embarc's mission is to demonstrate the ways that cannabis can integrate positively and responsibly within our communities," Carpenter said, adding that the partnership showcases how cannabis can integrate responsibly into mainstream events and reflects a broader cultural shift toward acceptance. — *The Pier / PR Newswire*, May 2024

In *Marijuana Venture*'s "40 Under 40" profile, she described integrating onsite sales and consumption into large festivals as fundamental to Embarc's "North Star of destigmatizing cannabis at scale." — *Marijuana Venture*, July 25, 2024

On her personal role as a "bridge builder": Carpenter has described her pre-cannabi one of being a "bridge builder" — engaging communities on policy issues and engaging policymakers on emerging regulations — and says that background drives her day-to-day work at Embarc, where she works with communities reticent about local cannabis activity, sometimes for years, to build coalitions around cannabis businesses as community contributors. — *Marijuana Venture*, "40 Under 40"

On the broader industry stigma: In an Embarc company blog post marking her Sacramento Business Journal 40 Under 40 recognition, Carpenter is quoted saying getting recognized in her hometown business community for building a company in an industry that "still faces so much stigma" felt full circle, and that it validates cannabis finally being accepted in circles it had long been excluded from. — *Embarc company blog*, "Sacramento 40 Under 40"

On community-first mission (with co-founder Dustin Moore): An interview piece describes Carpenter and co-founder Dustin Moore as being on a mission to break the stigma through intentional community actions. — *Respect My Region*, "California Cannabis Dispensary Embarc Puts Community First"

A pattern across these: Carpenter frames destigmatization not as a slogan but as something built through three channels — retail design/experience, large-scale public events (festivals, the State Fair), and long-term local policy/community relationship-building.

===================
How about The Embarc web site?

- Consider this marketing from Embarc's FAQ PAGE
  ===========
  I'M NOT SURE WHAT PRODUCTS ARE RIGHT FOR ME...

  First off, don't worry – you've landed at the right place.

  Embarc is all about guiding folks like you, *no matter where you're at on your cannabis journey. Whether you're curious or are a seasoned consumer in the world of cannabis,* ***we're here to help you find products that are right for you.***

  Whether you're seeking relaxation, a touch of euphoria, or just want to learn more, pop by one of our neighborhood shops to talk with one of our friendly, knowledgeable Guides.

  We promise you'll leave with a smile, some knowledge, and the perfect product for your adventure.

  ============

"Getting High "is merely a euphemism for impairment. It is pervasive throughout their products and marketing, here's a sample

Section 1, Item A.

Section 1, Item A.

Inline image

Section 1, Item A.


HIGHDRATE
embarc


DON'T FEAR
THE REEFER

Section 1, Item A.

Section 1, Item A.


HIGH
from
CALIFORNIA
·EMBARC·


HOW TO Relax
WHEN EVERYTHING
IS Terrible
embarc

embarc

Shop ⌄ **Points Menu**

Discover your high...

and if that's not enough
how about this warning in small print at the bottom of their sales page

WARNING: Products sold here can expose you to chemicals including -THC, heavy metals like lead, and marijuana smoke, which are known to the State of California to cause cancer and birth defects or other reproductive harm. For more information, go towww.P65Warnings.ca.gov.

The County has said don't do it , ACUSD said don't do it, the County DA said don't do it, Sherriff Redman has said don't do it, Chief O'Connell said it will cost our Police a fortune, and the great predominance of voices from the community in letters and in-person comments to the Council were opposed.

VOTE NO on the dispensary !!

============>> ***Brian Comnes Sutter Creek, CA*** <<============

DKS
428 J STREET, SUITE 340 · SACRAMENTO, CA 95814 · 916.368.2000 · DKSASSOCIATES.COM

11 RIDGE ROAD INITIAL SITE REVIEW

DATE: August 14, 2026

TO: Glenn Spitzer | Amador County

FROM: Sean Carney, TE, RSP1 | DKS Associates

Ross Ainsworth, PE, TE | DKS Associates

Jim Damkowitch | DKS Associates

SUBJECT: Initial Site Review of 11 Ridge Road and Proposed Re-Use Project

INTRODUCTION

This memorandum is prepared for Amador County to respond to the City of Sutter Creek, CA and Embarc regarding the proposed cannabis facility at 11 Ridge Road. Specifically, upon review of the City of Sutter Creek staff report and the project site conditions DKS Associates has identified several misinterpretations related to the need for a Traffic Impact Analysis. This led City staff to erroneously conclude that a traffic analysis would not be necessary for the proposed use.

This memorandum revisits:

- the proposed development's trip generation calculations;
- reviews available data related to traffic safety;
- reviews the project site access against relevant local design standards;
- reviews parking conditions;
- reviews the sites previous use access characteristics; and,
- analyzes operations at the intersection of SR 49/SR 104-Ridge Road .

The conclusion of these reviews/assessments indicates that there is a clear need and justification for a Traffic Impact Analysis to be performed for the proposed use. The applicant should be required to conduct a Traffic Impact Analysis to confirm that the proposed use does not create nor exacerbate any existing traffic safety issues. This conclusion is in alignment with the comments submitted by Amador County Transportation Commission which sited similar concerns.

PROJECT BACKGROUND

The proposed project is a proposed re-use of the former Umpqua Bank building at 11 Ridge Road in Sutter Creek, CA. Based on a review of Google Street view imagery, this building was last occupied sometime between December 2019 and November 2021. Property is approximately 10,890 square feet with the building occupying 2,662 square feet. 17 angled parking stalls are provided on site with a one-way directional drive aisle going from west to east. One additional handicapped parking stall is provided near the rear of the building. The site ingress driveway is located on Old Airport Road. The egress driveway is a shared access driveway on Ridge Road opposite the intersection of Ridge Road and Sutter Hill Road. There are no sidewalks or bicycle lanes in the area. Transit service is provided nearby with a stop located on northbound State Route 49 north of Ridge Road. The Route 5 and Route 6 Amador Transit lines each stop at this location approximately 5 times per day.

TRIP GENERATION

The City staff report noted that trip generation analysis was done using rates published by ITE and suggested that the prior bank use generated approximately 100 trips per day per 1,000 square feet of floor area while the proposed project would generate between 70 to 250 trips per day per 1,000 square feet. Approximately 1,300 square feet of customer service area was available for the bank use and will be available for the proposed dispensary. The staff report used this square footage to estimate 195 additional daily trips over the previous bank use. Although the analysis is based on customer service area, the trip generation rates used are based on gross floor area for the building[1].

The 12th Edition of the ITE Trip Generation Manual documents daily trip rates for a drive-in bank (Code 912) and for a cannabis dispensary (Code 882). While trip generation rates for a walk-in bank (Code 911) would be more appropriate, this land use code has been effectively deprecated since the 8th Edition of the ITE Trip Generation Manual due to a lack of data.

Table 1 compares the ITE trip generation rates (both daily and PM peak hour) for the previous use relative to the proposed use. Trip generation for the walk-in bank use is provided for informational purposes only as there is insufficient data to confidently use these rates. The trip generation for a drive-in bank is used for comparison purposes, though this is likely an overestimate of the trip generation the site experienced when it was in operation.

[1] ITE publishes rates based on gross floor area because data is not always available to develop rates based on service area or other potential independent variables. Additionally, employees contribute to site trip generation estimates so business support areas cannot be discounted when estimating total site trip generation.

TABLE 1: TRIP GENERATION COMPARISON

LAND USE	ITE CODE	DAILY TRIP GEN. RATE (TRIPS/ KSF GFA)	PM PEAK HOUR TRIP GEN. RATE (TRIPS/ KSF GFA)	GROSS FLOOR AREA (KSF)	DAILY TRIP GEN.	PM PEAK HOUR TRIP GEN.
WALK-IN BANK	911	N/A	12.13	2.66	N/A	32
DRIVE-IN BANK	912	98.85	21.03	2.66	263	56
CANNABIS DISPENSARY	882	227.76	25.60	2.66	606	68
NET CHANGE IN TRIPS (CANNABIS DISPENSARY-DRIVE-IN BANK)	-	128.91	4.57		343	12

This revised trip generation shows that the proposed use could be expected to generate 343 or more additional trips per day over the previous use. Although this net difference is likely an underestimate given that the trip generation rate for a walk-in bank is lower than for a drive-in bank, the 343 net difference in daily trips is significantly greater than the 195 daily trip estimate documented in the City staff report.

THRESHOLD FOR REQUIRING A TRAFFIC STUDY

Based on the available public information, the City of Sutter Creek follows the *Traffic Impact Study Guidelines* published by Amador County Transportation Commission in 2009 and the *Technical Advisory on Evaluating Transportation Impacts in CEQA* published by the Governor's Office of Planning and Research (OPR; Now the Governor's Office of Land Use and Climate Innovation) in 2018. The first of these two documents sites a 200 vehicles per day daily trip rate as the threshold after which a traffic study shall be required. The OPR guidance suggests that "Absent substantial evidence indicating that a project would generate a potentially significant level of VMT, or inconsistency with a Sustainable Communities Strategy (SCS) or general plan, project that generate or attract fewer than 110 trips per day generally may be assumed to cause a less-than-significant transportation impact.". In either case, the estimated 343 net increase in daily trips of the proposed dispensary is above the "small project" threshold indicating that a traffic study is warranted.

Additionally, the OPR guidance includes a footnote related to trip generation screening criteria that indicates that the categorical exemption applies for "*existing facilities…so long as the project is in an area where public infrastructure is available to allow maximum planned development and the project is not in an environmentally sensitive area.*" Given the lack of walking and cycling infrastructure on Ridge Road, which is the current standard pursuant to the City of Sutter Creek's General Plan and published Design Guidelines, the public infrastructure at the project site is not in an area where public infrastructure supports maximum planned development.

Further, in the appellate court decision in *Cleveland National Forest Foundation, et al. v. County of San Diego* (2025) 109 Cal.App.5th 1257, the court found that use of the state small project exemption threshold was insufficient for awarding a categorical exemption unless the lead agency adopted such threshold and the decision **with substantial evidence**. This included the need to support the adopted threshold with local evidence showing that projects under a given size would be likely to cause a less than significant effect in the jurisdiction.

CONSISTENCY WITH LOCAL POLICY AND DESIGN STANDARDS

STREET FRONTAGE

Per the City of Sutter Creek General Plan Circulation Element (July 2019), Ridge Road is a Main Arterial roadway. Per the City of Sutter Creek Improvement Standards (May 2018), Arterial roadways should have a roadbed width of 44 feet and a sidewalk at least 6 feet wide in front of commercial properties. This width allows for one travel lane in each direction, a Class II bicycle lane in each direction, and a center turn lane. Currently, Ridge Road does not meet this standard. Ridge Road is approximately 36 feet wide (edge stripe to edge stripe) with variable width shoulders and no bicycle lanes or sidewalks. Additionally, the City of Sutter Creek Improvement standards require commercial driveways to be a minimum of 24 feet in width and a maximum of 30 feet in width. Field measurement of the driveways onto Ridge Road showed that the eastern shared site access driveway was more than 60 feet in width and the western driveway/Old Airport Road Intersection (which is poorly defined) is more than 70 feet in width.

Just west of this location, Ridge Road effectively allows continuous access to the adjacent businesses between the Chevron and Sutter Hill Smoke and Vape. This existing condition does not meet City Standards and creates a hazardous environment for people walking and biking who would potentially be accessing the proposed project site. Additionally, the lack of access management on Ridge Road is a safety hazard for motorists. Allowing motorists ingress and egress opportunities at nearly any point along the south side of Ridge Road, creates a significant number of conflict points that a driver must track along this 700-foot section. The proposed project would add a significant amount of traffic to this section of roadway potentially exacerbating the risk for motorists, pedestrians and bicyclists.

The intersection of State Route 49 and Ridge Road also does not provide adequate access for people who would be walking to or from the local transit stop to visit the proposed cannabis dispensary. The local bus stop is located just north of this intersection and the northeast, southeast, and southwest corners do not provide proper access in accordance with the Americans with Disabilities Act. No curb ramps, tactile strips, or compliant landing platforms are provided on these corners. Further, the southeast corner does not provide a safe waiting area within the public right-of-way for a person to wait for the crossing signal.

COLLISION HISTORY

Collision data was retrieved and reviewed for Ridge Road between Bowers Road and Sweet Pea Way to identify if the substandard roadway design conditions had contributed to any major collision trends. Between 2021 and 2025, 23 collisions occurred in this section with 15 collisions being either broadside, rear end, or head-on collisions which can be correlated with the lack of access control in the vicinity. The project would potentially contribute to these collision trends by adding to cross traffic at sub-standard locations.

PARKING LOT

The parking lot at 11 Ridge Road includes 17 general parking spaces and one marked disabled/handicapped parking space. Parking stalls are angled and oriented to a one-way eastbound drive aisle through the site. Per City code 18.48.030, 1 parking stall is required per 300 square feet of gross floor area which equates to 9 parking stalls for this site. The minimum parking standard is met for standard parking spaces. The proposed cannabis dispensary is a form of retail use and per City code 18.48.060 it is required to provide adequate space for loading services in order to avoid undue interference with the public use of streets or alleys. The City staff report is silent on this issue. Delivery vehicles stopping within the drive-aisle on site would interfere with public access and thus would not be acceptable during normal operating hours.

The design of the one-way drive aisle also creates potential safety concerns for access to the site from Ridge Road. Given the location of the western driveway, motorists traveling eastbound on Ridge Road would be required to stop in lane and cross the westbound left turn lane to Sutter Hill Road. This condition creates a risk for rear-end collisions as through drivers may not be expecting to stop. At the westbound left turn pocket from Ridge Road to State Route 49, vehicles queued in the westbound left turn lane restrict sight distance for westbound drivers turning left into the site. This increases the potential risk for broadside, angle, and head-on crashes at the driveway location. Motorists would not be able to enter the site at the eastern driveway location which is better located for left turn-in access given that the parking lot is oriented for an eastbound approach only. In reviewing historic site imagery from Google Earth, the parking lot was previously oriented for a westbound approach only, but was restriped for an eastbound approach at some time after the Umpqua bank closed. Hence, the current site has never operated with the current parking lot layout and access design.

OPERATIONS REVIEW

A field review was conducted of PM peak hour operations near the site on August 11, 2026 from 4:20 pm to 5:15 pm. During the review, westbound queues on Ridge Road were observed to extend from State Route 49 past Sutter Hill Road twice during the peak period and regularly extended 300-350 feet aligning with the site’s western driveway. The project would contribute to this queueing and queues extending between intersections is considered a safety impact under CEQA as it contributes to a higher risk for traffic collisions.

To confirm if the project could potentially contribute to a queueing safety impact, a sketch level operations analysis was performed for the intersection of State Route 49 and Ridge Road. Counts were identified for this intersection from prior traffic studies with data from 1993, 1998, 2007, and 2014. This data as well as published Caltrans peak hour volumes for SR 104 and SR 49 in the vicinity of their intersection showed that travel demand at the intersection has been relatively consistent over the 21-year time frame going from approximately 2,370 vehicles during the PM peak in 1993 to a peak of approximately 2,480 vehicles in the PM peak in 2007 before declining back to approximately 2,410 vehicles in the PM peak in 2014. For the purposes of this sketch level analysis, the 2014 count data was used with a 2% total growth applied to represent changes in demand between 2014 and 2026. Adjusted travel demand is shown in **Table 2** alongside the results of the Synchro analysis.

Based on this sketch level analysis, the project would potentially contribute to increasing queues on the westbound and southbound intersection approaches which exceed the available storage. This could lead to an increased incidence of rear end traffic collisions as drivers approaching the intersection would have to stop for the back of queue in advance of the intersection.

TABLE 2: ESTIMATED 2026 DEMAND VOLUMES AND QUEUES AT STATE ROUTE 49 AND RIDGE ROAD WITH AND WITHOUT THE PROPOSED PROJECT

	NBL	NBT	NBR	SBL	SBT	SBR	EBL	EBT	EBR	WBL	WBT	WBR
NO PROJECT DEMAND	50	510	310	170	490	50	130	250	40	180	170	100
WITH PROJECT DEMAND	50	510	322	175	490	50	130	260	40	192	180	105
AVAILABLE STORAGE	210	-	-	170	-	-	430	-	160	270	-	-
NO PROJECT 95^{TH} %ILE QUEUE	81	364	-	>285	237	-	168	253	-	>306	274	-
WITH PROJECT 95^{TH} %ILE QUEUE	82	374	-	>301	242	-	171	263	-	>337	291	-

Values reported as ">#" exceed capacity with 95^{th} percentile demands and may experience longer queues than reported, value is maximum after two cycles of high demand

CONCLUSION

Based on the review completed of the proposed Cannabis Dispensary at 11 Ridge Road, the following conclusions and recommendations are made:

- The project trip generation is sufficient to require a traffic study to confirm that the project does not create nor contribute to traffic safety impacts. The project is anticipated to generate more than 343 additional daily trips compared to the prior walk-in bank use and 606 additional daily trips above the currently vacant property.
- Insufficient evidence has been provided to show that this project would meet the "small project" exemption. The project is anticipated to generate more additional daily trips than any applicable "small project" exemption standard which could be applied and there is insufficient evidence to show what qualifies as a "small project" in Sutter Creek based on the standards set by the California courts.
- The street frontage in the vicinity of the project does not meet the City of Sutter Creek's Improvement Standards and does not provide safe facilities for those walking, biking, or taking transit to access to project site. The project would potentially create demand for people walking, biking, or taking transit which is a potential impact under CEQA and should be studied.
    - It is further recommended that the City of Sutter Creek conduct a Corridor Access Management Study along Ridge Road to identify and address existing substandard conditions. This study should be coordinated with Caltrans and Amador County as additional interested agencies as portions of the corridor are managed by each of these three agencies.
- The parking lot on the project site has been significantly modified since the last active operation of the site. This modification contributes to potential traffic safety concerns for those accessing the site and should be reviewed as part of a traffic study. This modification should also be considered as it may affect the applicability of the Section 15301 Existing Facilities exemption cited in the staff report.
- Sketch level traffic operations analysis shows that the project may contribute to intersection queueing at State Route 49 and Ridge Road. This would potentially contribute to a traffic safety issue of queues spilling beyond their available storage and creating an unsafe speed differential between queued vehicles and vehicles going through at the intersection. This should be further evaluated in a traffic study.

Queues
3: SR 49 & Ridge Road
08/14/2026

Lane Group	EBL	EBT	EBR	WBL	WBT	NBL	NBT	SBL	SBT
Lane Group Flow (vph)	141	272	43	196	294	54	891	185	587
v/c Ratio	0.59	0.65	0.10	0.82	0.72	0.29	0.80	0.77	0.45
Control Delay (s/veh)	52.9	42.4	0.5	71.8	43.7	50.1	33.9	66.9	26.1
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay (s/veh)	52.9	42.4	0.5	71.8	43.7	50.1	33.9	66.9	26.1
Queue Length 50th (ft)	83	154	0	119	156	31	230	112	144
Queue Length 95th (ft)	168	253	0	#306	274	81	364	#285	237
Internal Link Dist (ft)		606			612		600		660
Turn Bay Length (ft)	430		160	270		210		240	
Base Capacity (vph)	312	734	681	239	636	202	1383	239	1459
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.45	0.37	0.06	0.82	0.46	0.27	0.64	0.77	0.40

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Queues
3: SR 49 & Ridge Road 08/14/2026

Lane Group	EBL	EBT	EBR	WBL	WBT	NBL	NBT	SBL	SBT
Lane Group Flow (vph)	141	283	43	209	310	54	904	190	587
v/c Ratio	0.59	0.66	0.10	0.89	0.73	0.29	0.81	0.81	0.45
Control Delay (s/veh)	54.1	42.4	0.5	83.1	44.8	51.2	34.5	71.8	26.6
Queue Delay	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Total Delay (s/veh)	54.1	42.4	0.5	83.1	44.8	51.2	34.5	71.8	26.6
Queue Length 50th (ft)	86	165	0	134	172	33	237	120	148
Queue Length 95th (ft)	171	263	0	#337	291	82	374	#301	242
Internal Link Dist (ft)		606			612		600		660
Turn Bay Length (ft)	430		160	270		210		240	
Base Capacity (vph)	307	722	672	234	626	198	1368	234	1436
Starvation Cap Reductn	0	0	0	0	0	0	0	0	0
Spillback Cap Reductn	0	0	0	0	0	0	0	0	0
Storage Cap Reductn	0	0	0	0	0	0	0	0	0
Reduced v/c Ratio	0.46	0.39	0.06	0.89	0.50	0.27	0.66	0.81	0.41

Intersection Summary

95th percentile volume exceeds capacity, queue may be longer.
Queue shown is maximum after two cycles.

Land Use: 882
Cannabis Dispensary

Description

A cannabis dispensary is a stand-alone facility where cannabis is sold to patients or retail consumers in a legal manner. Cannabis cultivation and processing facility (Land Use 190) is a related land use.

Additional Data

The sites were surveyed in the 2010s and the 2020s in California, Colorado, Massachusetts, Michigan, and Oregon.

Source Numbers

867, 893, 919, 1041, 1059, 1203, 1243, 1275

Cannabis Dispensary (882)

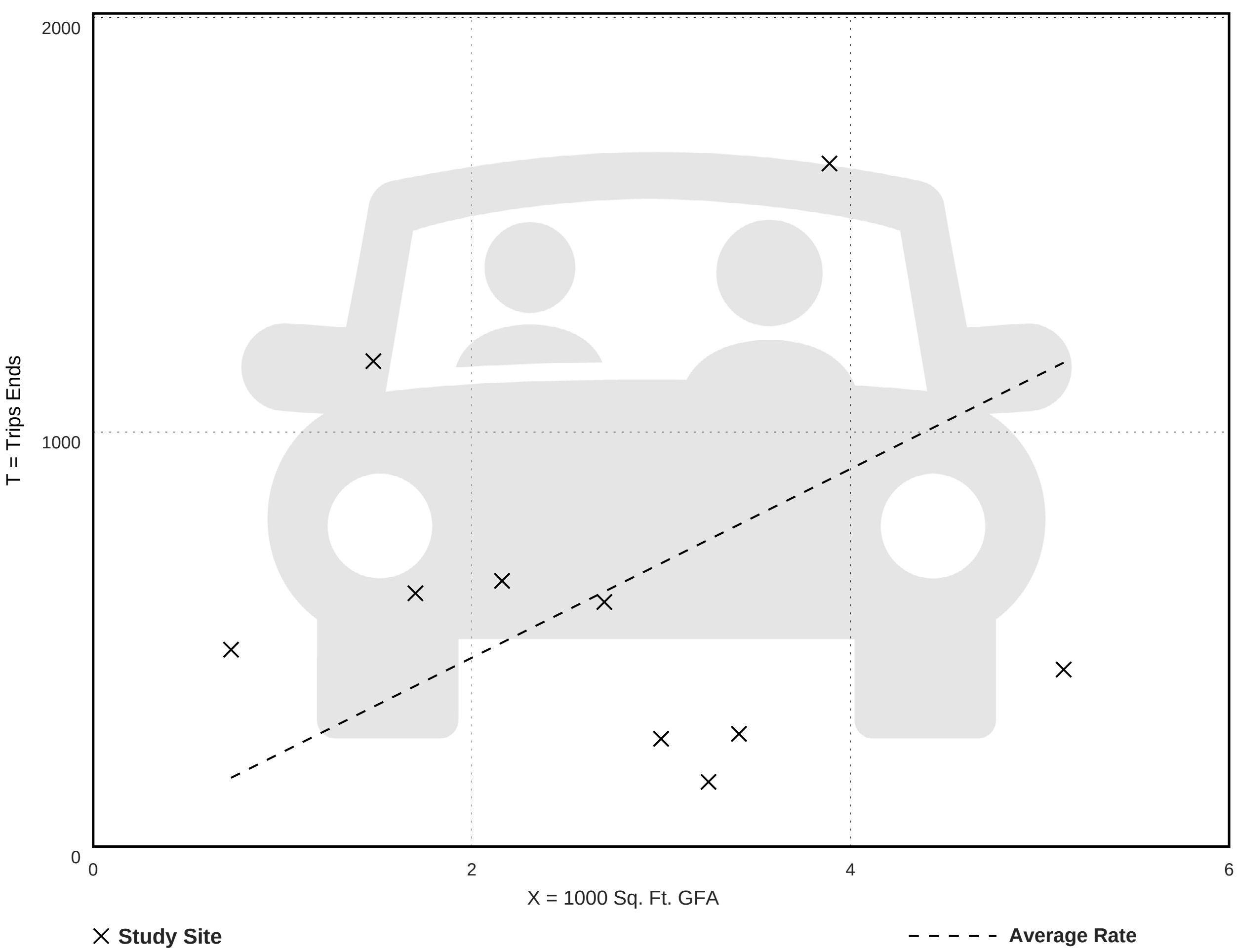
Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Weekday

Setting/Location: General Urban/Suburban
Number of Studies: 10
Avg. 1000 Sq. Ft. GFA: 3
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
227.76	48.00 - 791.22	214.53

Data Plot and Equation



Fitted Curve Equation: Not Given **R^2= ***

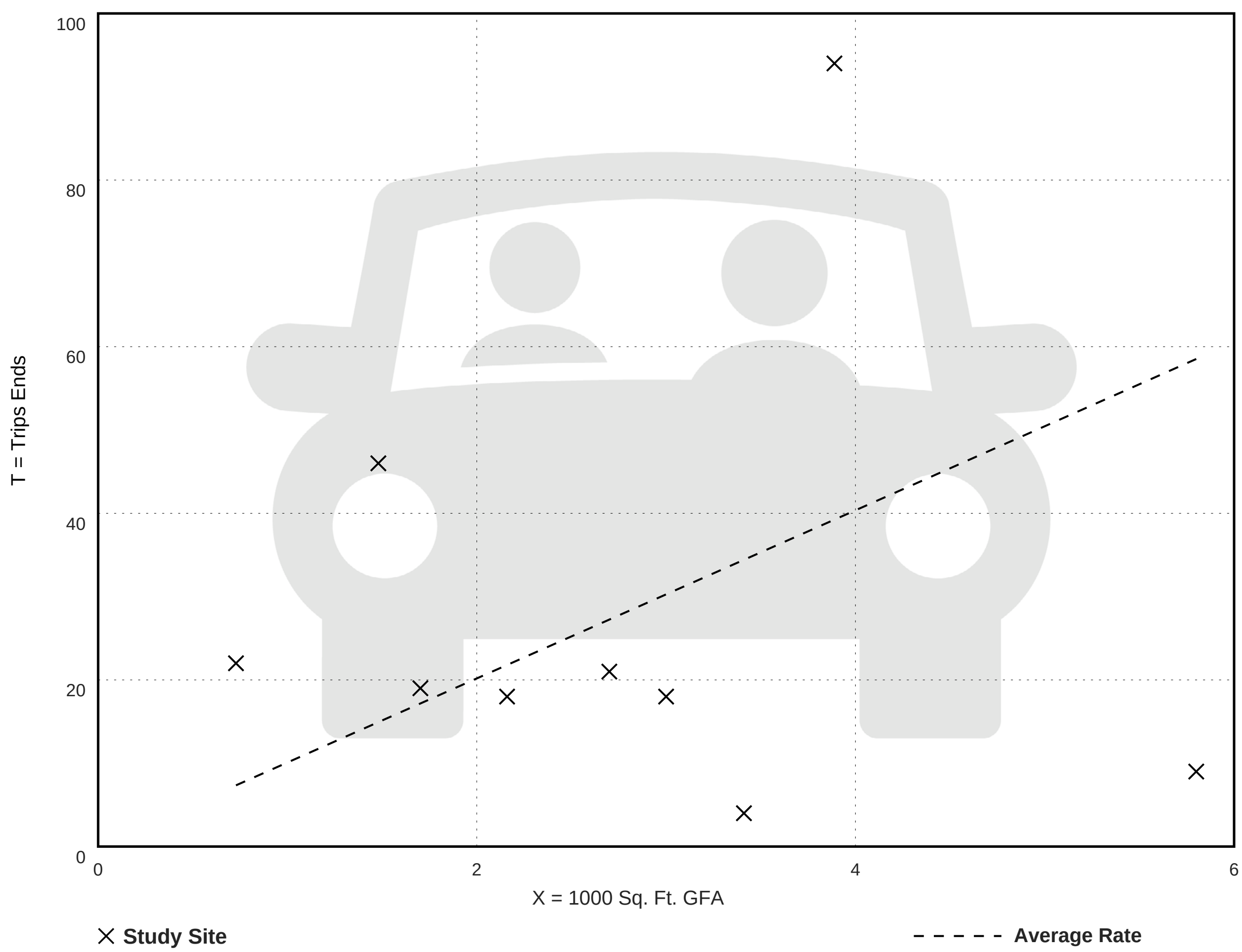
Cannabis Dispensary
(882)

Vehicle Trip Ends vs: **1000 Sq. Ft. GFA**
On a: **Weekday,**
Peak Hour of Adjacent Street Traffic,
One Hour Between 7 and 9 a.m.
Setting/Location: **General Urban/Suburban**
Number of Studies: 9
Avg. 1000 Sq. Ft. GFA: 3
Directional Distribution: 52% entering, 48% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
10.09	1.17 - 31.08	10.60

Data Plot and Equation



Fitted Curve Equation: Not Given

R^2= ***

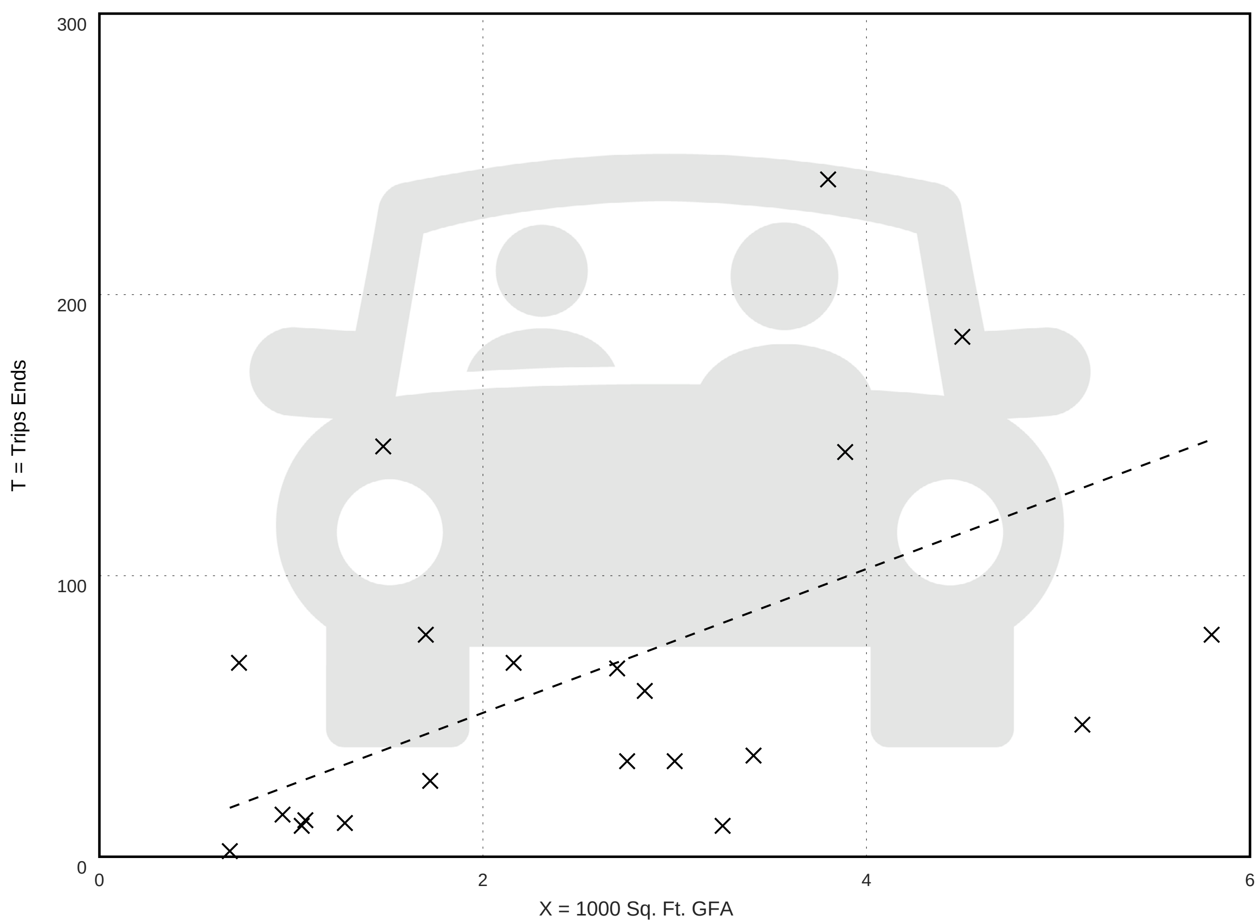
Cannabis Dispensary
(882)

Vehicle Trip Ends vs:	**1000 Sq. Ft. GFA**
On a:	**Weekday,**
	Peak Hour of Adjacent Street Traffic,
	One Hour Between 4 and 6 p.m.
Setting/Location:	**General Urban/Suburban**
Number of Studies:	21
Avg. 1000 Sq. Ft. GFA:	3
Directional Distribution:	51% entering, 49% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
25.60	2.94 - 98.65	22.66

Data Plot and Equation



× **Study Site** - - - - - **Average Rate**

Fitted Curve Equation: Not Given **R^2= *****

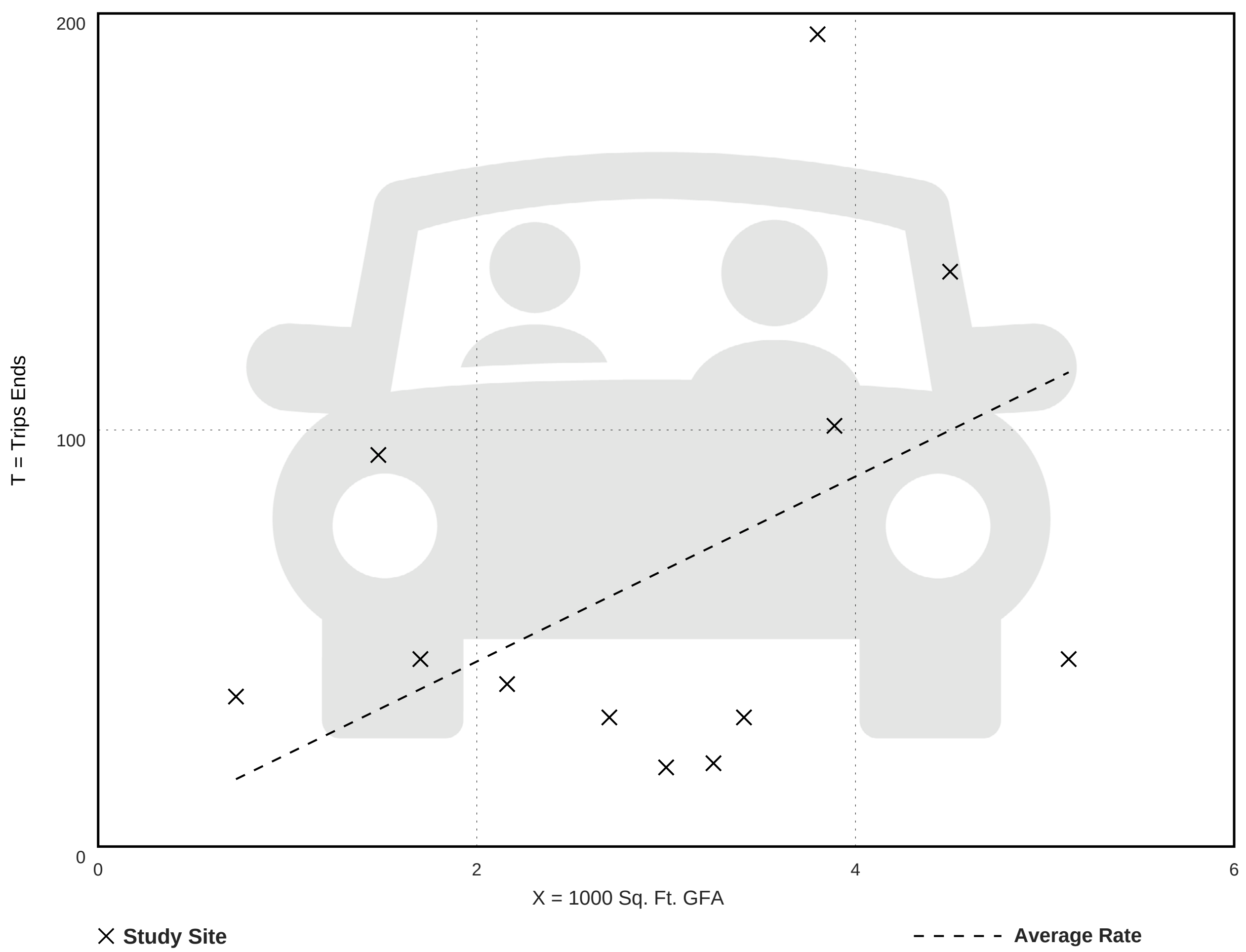
Cannabis Dispensary (882)

Vehicle Trip Ends vs:	**1000 Sq. Ft. GFA**
On a:	**Weekday,** **AM Peak Hour of Generator**
Setting/Location:	**General Urban/Suburban**
Number of Studies:	12
Avg. 1000 Sq. Ft. GFA:	3
Directional Distribution:	51% entering, 49% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
22.21	6.15 - 63.51	17.60

Data Plot and Equation



Fitted Curve Equation: Not Given

R^2= ***

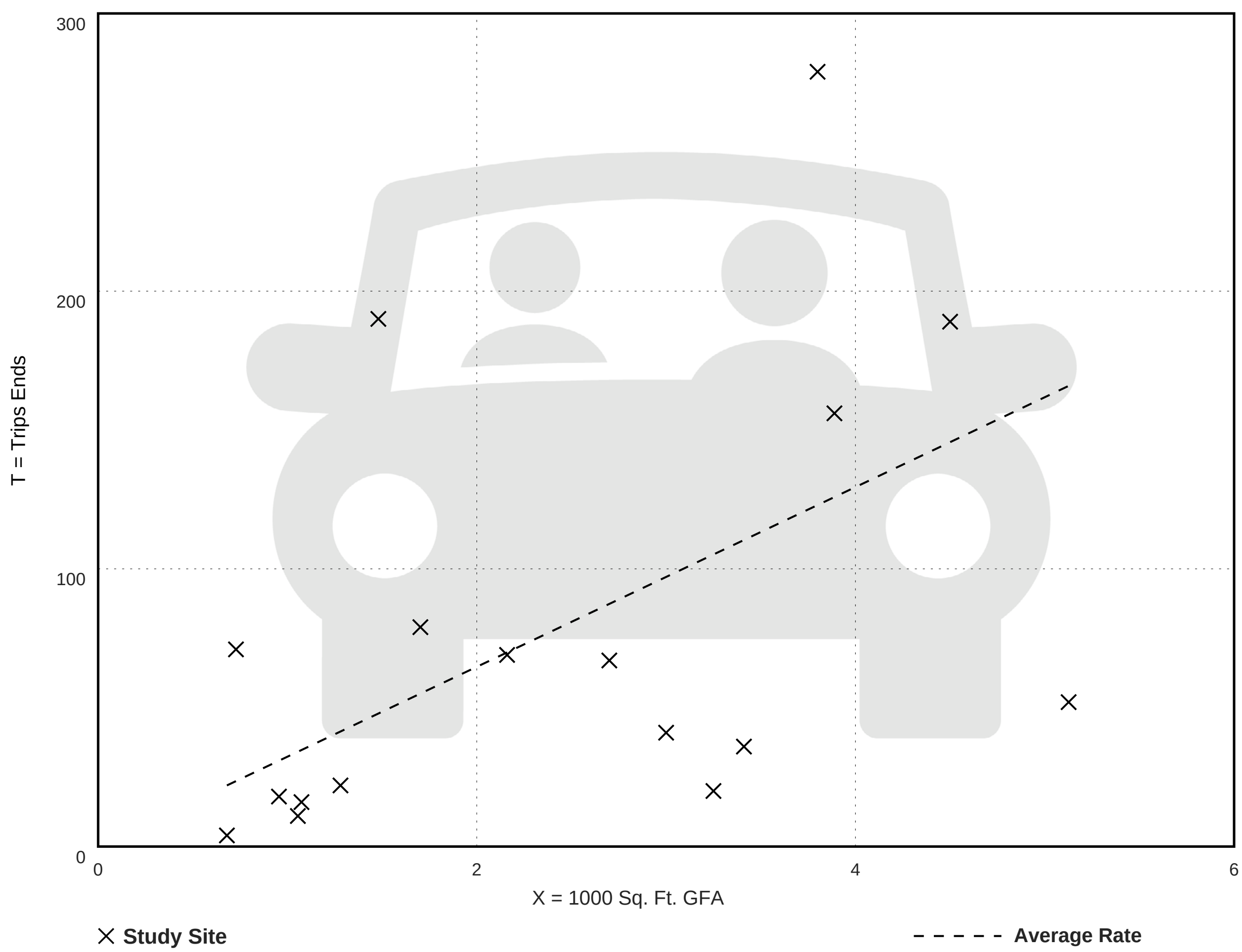
Cannabis Dispensary (882)

Vehicle Trip Ends vs:	**1000 Sq. Ft. GFA**
On a:	**Weekday, PM Peak Hour of Generator**
Setting/Location:	**General Urban/Suburban**
Number of Studies:	17
Avg. 1000 Sq. Ft. GFA:	2
Directional Distribution:	50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
32.36	5.88 - 128.38	29.54

Data Plot and Equation



Fitted Curve Equation: Not Given **R^2= *****

Cannabis Dispensary (882)

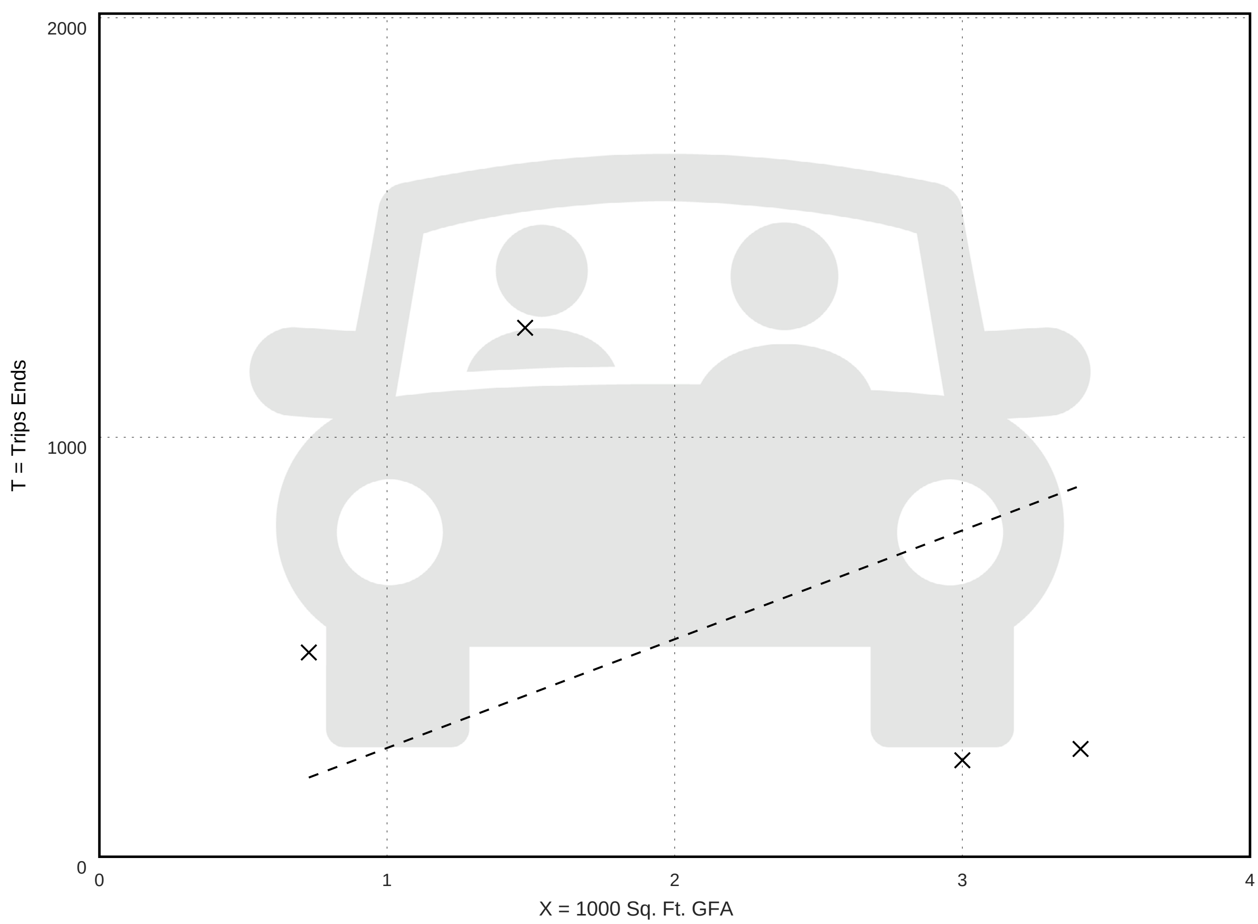
Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Saturday

Setting/Location: General Urban/Suburban
Number of Studies: 4
Avg. 1000 Sq. Ft. GFA: 2
Directional Distribution: 50% entering, 50% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
259.31	75.34 - 852.03	364.24

Data Plot and Equation



× **Study Site** - - - - - **Average Rate**

Fitted Curve Equation: Not Given **R^2= *****

Cannabis Dispensary (882)

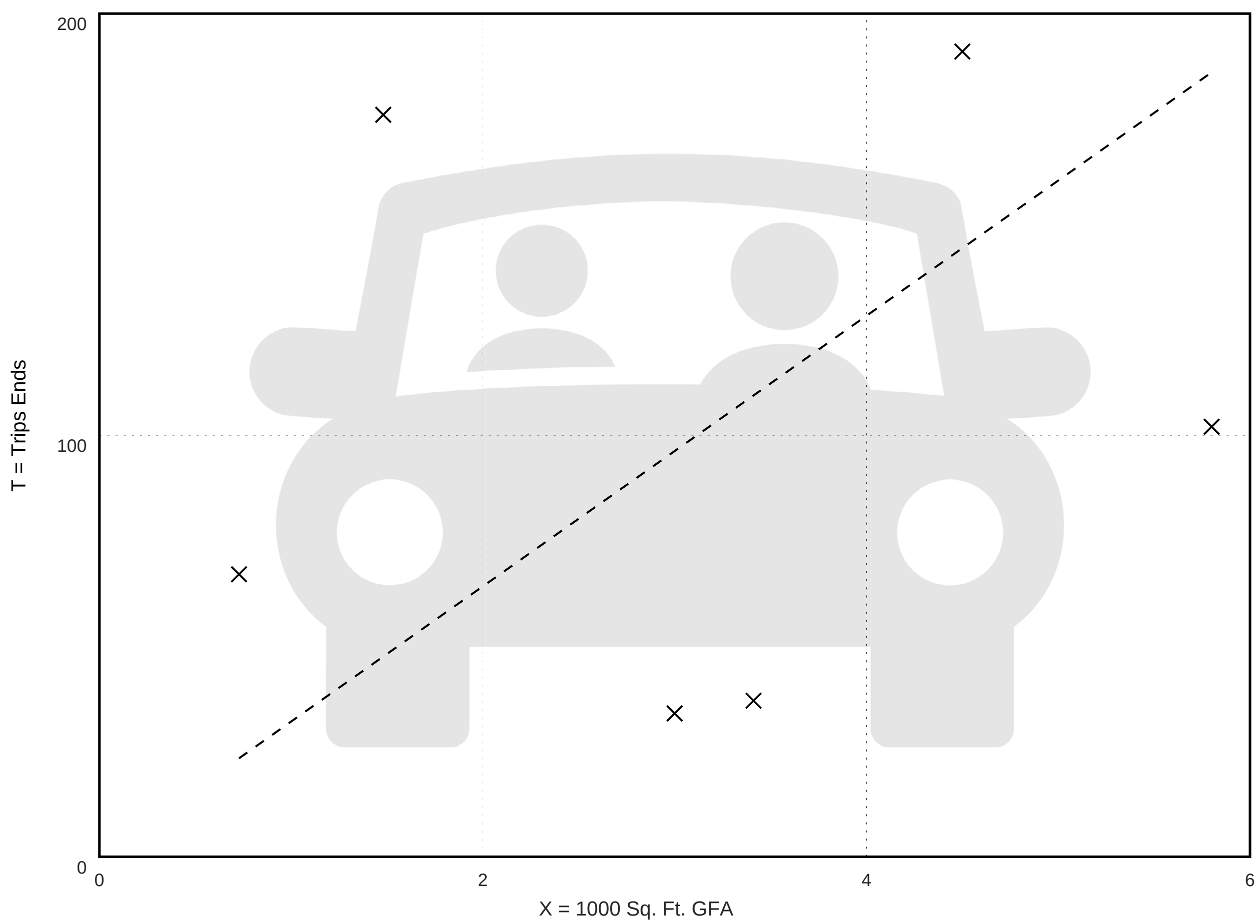
Vehicle Trip Ends vs: 1000 Sq. Ft. GFA
On a: Saturday, Peak Hour of Generator

Setting/Location: General Urban/Suburban
Number of Studies: 6
Avg. 1000 Sq. Ft. GFA: 3
Directional Distribution: 49% entering, 51% exiting

Vehicle Trip Generation per 1000 Sq. Ft. GFA

Average Rate	Range of Rates	Standard Deviation
32.08	10.85 - 118.92	34.08

Data Plot and Equation



× **Study Site** - - - - - **Average Rate**

Fitted Curve Equation: Not Given **R^2= *****