RESOLUTION NO. 79-2022

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA DENYING THE APPEAL AND UPHOLDING PLANNING COMMISSION'S REVOCATION OF CANNABIS ACTIVITY PERMIT CAP-8-18 (FILE NOs. 2018-029 AND 2020-020) WHICH AUTHORIZES OPERATION OF A CANNABIS RETAIL OPERATION KNOWN AS SEAWEED HOLISTICS AT 450 DONDEE WAY, SUITE 2 (APN 022-021-640), AND FINDING THE ACTION EXEMPT FROM THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA).

WHEREAS, the Planning Commission of the City of Pacifica adopted Resolution No. 2019-031 to approve Cannabis Activity Permit CAP-8-18 (File No. 2018-029) to Seaweed Holistics, LLC ("Permittee") for a cannabis retail operation at 450 Dondee Way, Suite 2 (APN 022-021-640) subject to conditions of approval, at a duly noticed public hearing on September 16, 2019; and

WHEREAS, the Planning Commission of the City of Pacifica adopted Resolution No. 2021-001 on February 16, 2021 to amend Conditions of Approval No. 9 and 18 of Resolution 2019-031 to revise the timing of the implementation of the conditions to after commencement of operations of the cannabis retail operation (File No. 2020-020); and

WHEREAS, Condition No. 19 of Exhibit A of Resolution No. 2019-031 of the Planning Commission of the City of Pacifica requires the Planning Commission to perform two annual reviews of the cannabis retail operation authorized by Cannabis Activity Permit CAP-8-18, where the first annual review shall occur not less than one year but not more than two years from the issuance of the Cannabis Public Safety License (CPSL); and

WHEREAS, the Chief of Police issued a CPSL for the subject cannabis retail operation on October 16, 2019; and

WHEREAS, the Permittee commenced cannabis retail operations in September 2020 and therefore staff delayed the first annual review to occur not later than more than two years from the implementation of the CPSL; and

WHEREAS, the Planning Commission of the City of Pacifica did hold a duly noticed public hearing on August 15, 2022, to conduct an annual review of Cannabis Activity Permit CAP-8-18 and adopted Resolution No. 2022-016 finding that the operation of the subject cannabis retail operation is being conducted in a manner that is not in compliance with Article 48 of Title 9, Chapter 4 of the Pacifica Municipal Code (PMC) and the requirements of Planning Commission Resolution Nos. 2019-031 and 2021-001 and therefore, constitutes a public nuisance in accordance with PMC sec. 9-4.4806 and PMC sec. 9-4.4807; and

WHEREAS, the Planning Commission of the City of Pacifica adopted Resolution No. 2022-021 to revoke Cannabis Activity Permit CAP-8-18 (File No. 2018-029) to Seaweed Holistics, LLC by a vote of 3 to 2 (with 2 absences); and

WHEREAS, on October 10, 2022, the City Clerk received a written request from a Councilmember to call up the Planning Commission's action on the subject item for City Council review pursuant to PMC sec. 2-1.105; and

WHEREAS, On October 13, Ana Leaño-Williams of Seaweed Holistics (hereafter "Appellant" or "Permittee") timely submitted a City of Pacifica Appeal Form, and applicable fee to the City Clerk's office to appeal the Planning Commission's revocation of the CAP ("Appeal"); and

WHEREAS, on November 14, 2022, the City Council held a duly noticed public hearing to consider the call-up and appeal wherein it considered all written, oral and other evidence submitted.

NOW, THEREFORE BE IT RESOLVED, the City Council of the City of Pacifica does hereby find that revocation of the subject permit is exempt under the "Common Sense" exemption per CEQA Guidelines Section 15061(b)(3) because it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby deny the Appeal based upon the following findings:

The Appellant cited two reasons for the appeal in the appeal form, which are summarized and addressed below.

> ***Basis 1. "[D]ecision to revoke the Cannabis Activity Permit was based on a misapplication of the City's storefront window glazing ordinance/requirements. The project's existing window glazing is compliant with the ordinance."***

Finding: PMC Section 4-16.03(c)(1)(ii) details a quantitative standard CPSL condition for cannabis operations, which states, "*Windows and window coverings. Storefronts (front facade of the cannabis operation) shall be primarily glass with glass occupying at least forty-five (45%) percent of the entire store front and sixty (60%) percent of the horizontal length of the store. Window and door areas shall not be covered, tinted, or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment, or the like.*" This window provision of the CPSL is a provision that was included in the initial adoption of the CPSL ordinance in 2017 [1]. This requirement was included in the Conditions of Operation for requirements for cannabis operations to address the Police Department's concerns at the time that CROs are largely a cash-based business and are a high potential target for robbery. The window provisions ensure a consistent means of visibility into a CRO from the front exterior. This provision was also in effect when the Appellant submitted an application for a CAP for this commercial space in 2018.

In the September 16, 2019 Planning Commission staff report for the initial consideration of the approval of CAP-8-18, the storefront elevation was analyzed based on the Appellant's provided project plans and dimensions.

Staff identified that the existing windows along the front facade did not meet the window requirements of PMC sec. 4-16.03(c)(1)(ii). Furthermore, staff's recommended findings for approval of CAP-8-18 identified the use of the second floor as only for employee access and therefore recommended that the second-story portion of the front elevation not be calculated as part

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[1] City of Pacifica Ordinance No. 818-C.S., adopted July 2017. Initially adopted with the title "Marijuana Public Safety Licenses", which was subsequently changed to "Cannabis Public Safety Licenses" in City of Pacifica Ordinance No. 843-C.S., adopted in May 2019.

of the storefront for the purposes of calculating the window requirements of PMC sec. 4-16.03(c)(1)(ii). While "storefront" is not defined in the PMC, staff recognized a reasonable interpretation of storefront to include only the retail space along the front facade as "office" or "employee only" space is not typically located along the storefront. Staff also recognized that this interpretation would be beneficial to the Appellant as it would reduce the scale of window modifications that would be necessary to meet PMC sec. 4-16.03(c)(1)(ii).

The recommended Planning Commission findings for Resolution No. 2019-031 found that the existing windows along the first floor of the storefront did not meet PMC sec. 4-16.03(c)(1)(ii). However, with the inclusion of COA No. 9, which required modification of the front window to comply with PMC Section 4-16.03(c)(1)(ii), staff recommended approval of the CAP-8-18 [2]. The Planning Commission adopted the staff's recommended findings in Resolution No. 2019-031. No appeal was filed to challenge this action.

During execution of the Deferral Agreement to defer COA No. 9 and the processing of the amendment of CAP-8-18 to incorporate the deferral amendments to COA No. 9 (File No. 2020-020, Resolution No. 2021-001), the Appellant did not present any position that there was a misapplication of the City's storefront window glazing ordinance or requirements and no timely appeal was filed on Planning Commission's action.

Since no window modifications have been made to the first-story storefront, City Council and the Planning Commission [3] finds that Seaweed Holistics storefront remains out of compliance with PMC sec. 4-16.03(c)(1)(ii) and with COA No. 9 as revised by Resolution No. 2021-001, which sets a schedule to defer the installation of the window modification after commencement of operation of the CRO in accordance with the Deferral Agreement. Table 1 in the October 3, 2022 Planning Commission Staff Report details the Appellant's progress with this condition.

Finally, the Appellant did not provide additional details supporting their claim that the project's existing window glazing is compliant with the ordinance in their appeal materials. However, as part of the Appellant's presentation to Planning Commission at the October 3, 2022 public hearing, the Appellant claimed that the City miscalculated the storefront area. The Appellant's presentation suggested that a portion of the first-story storefront should not be counted as storefront because the stairs that lead to the second floor are not a part of the customer area. Additionally, the Appellant claimed that the width of the perpendicular walls against the front façade should also be removed from the storefront area calculation. City Council would not be supportive of this new and different interpretation of the calculation of the "storefront" area for the following reasons:

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[2] Planning Commission's findings in Resolution No. 2019-031 state: "The first floor of the proposed storefront is 24' wide and 8' high for a total of 192 sf. The first floor of the existing storefront currently has a 10' by 6' window and a door with a 2' by 5'-6" glass panel for a total of 71 sf of glass. Therefore, the existing glass along the first story storefront does not occupy at least 45 percent (86.4 sf minimum) of the storefront nor does the 10' wide window plus the 2' wide glass panel door meet the 60 percent of horizontal length of the store (14'-3" minimum). A COA would require modification of the front window to comply with the Security Plan standards of PMC Section 4-16.03(c)(1)(ii)."

[3] See Planning Commission Resolution Nos. 2022-016 and 2022-021.

1. Based on August 1, 2022 staff site visit, staff understands that there is an ATM for customer use in front of the stairs as well as an area at the stairway landing that is accessible to customers. Therefore, the claim that first-story storefront area in front of the stairs is an employee only area is not accurate as it may be accessed by customers who wish to use the ATM.
2. The reduction of the storefront based on perpendicular wall area is also not consistent with the Code nor is it consistent with the plain meaning of the words in the Code. PMC sec. 4-16.03(c)(1)(ii) clarifies the term "*Storefronts*" by including in parenthesis *"front facade of the cannabis operation";* therefore it is appropriate to use measurements from the exterior side of the wall which is considered the front façade rather than the interior area along the storefront. Furthermore, The City has not reduced the storefront area in any CAP application instance due to wall width as the front. Additionally, based on the figures provided by the Appellant the northern wall width is not counted as part of the current storefront as that wall continues past the storefront as part of the project perpendicular wall.
3. The interpretation that was suggested by the Appellant is not consistent with the manner that staff interpreted the requirement for other cannabis operations. Other cannabis operations have made modifications to their storefront to meet this requirement in the manner interpreted by staff. Furthermore, the only other two-story cannabis retailer (403 Dondee) has included areas where stairs/elevators occur along their front elevation as part of their storefront even though the second story is non-customer area as well as included the second story of the front elevation as "storefront."

For all the reasons provided above, Council denies this basis of the appeal.

Basis 2. "Disputes the $25,962.89 in assessed fees largely and inappropriately incurred by the City to address the window glazing non-issue"

***Finding*:** As discussed above, Seaweed Holistics storefront remains out of compliance with PMC sec. 4-16.03(c)(1)(ii) and with COA No. 9 as revised by Resolution No. 2021-001. Additionally, as further discussed below, the outstanding fees are not associated with the "window glazing non-issue," but are associated with the City's cost processing the Appellant's CAP-8-18. As the Appellant was made aware of the requirement to pay for all costs associated with processing its CAP application and agreed to such by signing an Agreement for Reimbursement of City Costs ("Reimbursement Agreement") as part of her initial application submittal. Because the City operates on a deposit system, an initial deposit is required with the submittal of an application, in this case $10,000 was provided and staff, including legal counsel, against which the actual costs to cover the time and expenses associated with processing the application are billed. By signing the Application [4] and the Reimbursement Agreement, the Appellant understood that the initial deposit may not be sufficient to cover the City's costs processing the application and agreed to make one or more additional deposits within 30 days of being notified that additional funds are required. Additionally, staff included COA No. 18 in Resolution No. 2019-031, which is a standard condition

[4] Subsection B of Section II. Acknowledgement and Agreement by Applicant and Owner of the signed Marijuana Use Permit Application (subsequently retitled Cannabis Activity Permit) states, in summary, that the undersigned agrees to pay any and all City costs incurred in connection with the application, enter into a reimbursement agreement with the City for the payment of such fees, and satisfy requests for further deposit of funds within 30 days of a City request.

of approval for all development permits, to require the Appellant to pay all outstanding fees associated with the processing of the project within 30 days of the approval of the permit and prior to commencement of operation.

In January 2020, the City sent the Appellant a letter to inform her that City costs to process CAP-8-18 had exceeded the initial deposit and that an additional $4,080.56 was requested. At the Appellant's request, staff began working on the Deferral Agreement to defer COA No. 9 and COA No. 18. As captured in the Deferral Agreement, the Appellant had indicated that she needed to commence operation of the cannabis retail to generate revenue to satisfy COA No. 18. The Appellant voluntarily entered the Deferral Agreement, which in addition to establishing a payment deadline for outstanding fees until after commencement of operation, included a provision that the Appellant would pay the outstanding $4,080.56, as well as, "all costs, including but not limited to, staff time, administrative costs, legal fees and any other cost incurred by the City ("City Costs") associated with preparing this Agreement and all City Costs and associated fees relating to the Planning Commission hearing to consider the Application for Amendments and appeal(s) of the Planning Commission decision, if any."

The Planning Commission adopted Resolution No. 2021-001 on February 16, 2021 to incorporate the deferral amendments to COA No. 18. The revised condition required the Appellant to pay all outstanding fees within 60 days of Planning Commission approval of the revised conditions (i.e., April 17, 2021). By March 10, 2021 staff calculated costs known at the time and informed the Appellant of the outstanding fees. No payment for the outstanding fees was made. On June 10, 2021 the City provided written notice to the Appellant that the final invoices for the processing of the amendment were received and the final total outstanding costs for the processing of the CAP, preparation and execution of the Deferral Agreement, and processing the amendments of the CAP was $25,952.89[5]. This amount remains outstanding.

For all the reasons provided above, Council denies this basis of the appeal.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby find that the operation of a Cannabis Retail Operation 450 Dondee Way, Suite 2 (APN 022-021-640) is not in full compliance with the requirements of Article 48 of Chapter 4 of Title 9 of the Pacifica Municipal Code as further discussed below:

PMC sec. 9-4.4803(d)(5) states, "The Planning Commission may impose additional conditions which it deems necessary to ensure that operation of the cannabis operation will be in accordance with the findings provided in Section 9-4.4805(a) and with the standards and regulations provided in this article and applicable state laws."

As further discussed below for Condition of Approval No. 9 and No. 18, the Permittee has not complied with these conditions imposed by the Planning Commission and therefore is out of compliance with PMC sec. 9-4.4803(d)(5) and Condition of Approval Nos. 1, No. 5, and No. 6.

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[5] This amount is the sum of the outstanding $4,080.56 for the original processing of CAP-8-18 and the outstanding $21,872.33 for the processing of the Deferral Agreement and the amendment to CAP-8-18.

Condition of Approval No. 1
This condition requires the development to be substantially in accordance with the approved plans modified by the conditions of approval. As further discussed below for COA No. 9, the Permittee has not complied with COA No. 9 which requires the modification of the storefront window. Therefore, the development is out of compliance COA No. 1.

Condition of Approval No. 5
This condition incorporates all the requirements of Article 48 of Chapter 4 of Title 9 of the PMC applicable to the cannabis retail operation. PMC Section 9-4.4803(d)(5) states, "The Planning Commission may impose additional conditions which it deems necessary to ensure that operation of the cannabis operation will be in accordance with the findings provided in Section 9-4.4805(a) and with the standards and regulations provided in this article and applicable state laws." As further discussed below for COA No. 9, and No. 18, the Permittee has not complied with these conditions imposed by the Planning Commission and therefore is out of compliance with PMC Section 9-4.4803(d)(5) and, therefore, COA No. 5.

Condition of Approval No. 6
This condition prohibits the operation of the cannabis retail operation from creating a public nuisance. As established in PMC sec 9-4.4807, "[a]ny use or condition caused or permitted to exist in violation of any provision of this article shall be and hereby is declared a public nuisance and may be summarily abated by the City pursuant to Code of Civil Procedure, section 731 or any other remedy available to the City." The cannabis retail operation is in violation of provision of Article 48 as demonstrated in this annual report because there are Conditions of Approval that have not been complied with and, as a result, the cannabis retail operation is considered a public nuisance, as defined in the PMC. Therefore, the Permittee is not in compliance with COA No. 6.

Condition of Approval No. 9
This condition was initially included in Resolution No. 2019-031 to bring the existing storefront window into the glazing requirements for the Security Plan standards of PMC sec. 4-16.03(c)(1)(ii), which states, "Windows and window coverings. Storefronts (front facade of the cannabis operation) shall be primarily glass with glass occupying at least forty-five (45%) percent of the entire store front and sixty (60%) percent of the horizontal length of the store. Window and door areas shall not be covered, tinted, or made opaque in any way, or obscured in any way by landscaping, floor displays, equipment, or the like."

Planning Commission's findings in Resolution No. 2019-031 detail "The first floor of the proposed storefront is 24' wide and 8' high for a total of 192 sf. The first floor of the existing storefront currently has a 10' by 6' window and a door with a 2' by 5'-6" glass panel for a total of 71 sf of glass. Therefore, the existing glass along the first story storefront does not occupy at least 45 percent (86.4 sf minimum) of the storefront nor does the 10' wide window plus the 2' wide glass panel door meet the 60 percent of horizontal length of the store (14'-3" minimum). A COA would require modification of the front window to comply with the Security Plan standards of PMC Section 4-16.03(c)(1)(ii)."

COA No. 9 initially required the Permittee to modify the storefront window prior to commencement of operations. However, in response to the Permittee's claims that revenue from the operation of the cannabis operation was necessary to generate the funds for the window modifications, the City worked with the Permittee to establish a mutually agreed upon schedule that would delay the

window modifications until after the commencement of operations. The City entered into a deferral agreement with the Permittee and the Planning Commission later amended the condition to be consistent with the deferral agreement. The Permittee's progress on this condition, and the associated milestone deadlines contained in the condition.

On April 26, 2021, the Permittee requested additional time from the City due to a personal loss related to COVID-19. In response, staff did suspend its regular reminders and check-ins to the Permittee for approximately one year, other than an email to update the Permittee on the total of outstanding funds as discussed under COA No. 18, below. Staff was unable to grant additional time to comply with the requirements of this COA because it was enacted by the Planning Commission. Thereafter, staff followed up with the Permittee in March 2022 to remind the Permittee of the outstanding window modification requirement (and outstanding fees as further discussed below), informed the Permittee that the annual report was upcoming, and encouraged resolution of these items before the report to Planning Commission. The Permittee responded stating that they were working with their landlord on next steps. On April 20, 2022, staff informed the Permittee the annual report has been scheduled for August 15, 2022 and further encouraged the Permittee to complete the window modification by July 27, 2022 so staff would have time to note satisfaction of the COA in the annual report. No progress was made on the window modification was made before July 27, 2022. Since the annual report to the Planning Commission on August 15, 2022, no progress has been made on the window modification. Therefore, the Permittee is not compliant with COA No. 9.

Condition of Approval No. 18

This condition in Resolution No. 2019-031 is standard language that is generally included in all Planning Commission resolutions. The condition required that all outstanding and applicable fees associated with the processing of this project shall be paid within 30 days of the approval of Cannabis Activity Permit CAP-8-18 and that cannabis retail operations shall not commence operation until such fees are paid. The City's master fee schedule establishes a time and materials billing system for planning applications. While staff collects an initial lump sum deposit and requires the Permittee to sign a reimbursement agreement form as part of the application, this standard condition provides an additional layer of authority for the City to collect any outstanding fees or payments prior to the commencement of the project.

The City calculated the outstanding fees associated with the permit to be $4,080.56. On January 31, 2020, the City sent the Permittee a written request for the funds within 30 days consistent with the payment terms in the reimbursement agreement. In February 2020, the Permittee requested to pay the amount in $1,000 monthly installments, which staff agreed to and established a payment plan over the next four months. The first payment was due March 31, 2020, however no payments for the outstanding fees were made.

In June 2020, staff began conversations with the Permittee of the option to enter a deferral agreement. The Permittee agreed to pay the cost of preparing the deferral agreement and processing the amendments to the conditions of approval. Staff worked with the Permittee to establish a mutually agreed upon payment deadline that would occur after the commencement of operations. The Planning Commission amended the condition to incorporate the deadline as established in the deferral agreement by adopting Resolution No. 2021-001 on February 16, 2021. The revised condition required the permittee to pay all outstanding fees within 60 days of Planning Commission approval of the revised conditions (i.e., April 17, 2021). Staff calculated costs at the time and

informed the Permittee of the outstanding fees of to be paid by March 10, 2021. No payment for the outstanding fees was made.

On April 26, 2021, the Permittee requested additional time from the City due to a personal loss related to COVID-19. Staff followed-up again with the Permittee on June 10, 2021 and informed the Permittee that the final invoice for the processing of the amendment was received and updated the final total outstanding costs for the processing of the CAP, preparation and execution of the deferral agreement and processing the amendments of the CAP was $25,952.89, which includes the outstanding $4,080.56 for the original processing of CAP-8-18 and outstanding $21,872.33 for the processing of the deferral agreement and the amendment to CAP-8-18. No response was received from the Permittee. Staff followed up with the Permittee again in March 2022 to remind the Permittee of the outstanding fees (and window modification requirement as discussed above), informed the Permittee that the annual report was upcoming, and encouraged resolution of these items before the report to Planning Commission. The Permittee responded with a written request for a payment plan. On April 20, 2022, staff denied the Permittee's request for the payment plan, and informed the Permittee the annual report had been scheduled for August 15, 2022 and further encouraged the Permittee to pay the outstanding fees by July 27, 2022, so staff would have time to note satisfaction of the COA in the annual report. No payment for the outstanding fees was made before July 27, 2022. Since the annual report to the Planning Commission on August 15, 2022, no progress has been made on the outstanding fees before publication of this report. Therefore, the Permittee is not compliant with COA No. 18.

BE IT FURTHER RESOLVED, that the City Council of the City of Pacifica does hereby find that operation of the subject cannabis retail operation is being conducted in a manner that constitutes a public nuisance in accordance with PMC sec. 9-4.4806 and PMC sec. 9-4.4807 because the operation is not in compliance with Article 48 of Title 9, Chapter 4 of the PMC and the requirements of Planning Commission Resolution Nos. 2019-031 and 2021-001.

BE IT FURTHER RESOLVED, that the City Council of the City of Pacifica does hereby find that operation of the subject cannabis retail operation is in violation of conditions of the permit, that the cannabis operation is being conducted in a manner that is not in compliance with Article 48 of Title 9, Chapter 4 of the PMC, and that the cannabis operation is being operated in a manner which constitutes a nuisance and the subject permit may be revoked in accordance with PMC sec. 9-4.4806.

BE IT FURTHER RESOLVED that PMC sec. 9-4.4806(b) establishes the criteria for revocation of a cannabis activity permit if any of the following are found to apply:

(i) If any of the conditions or terms of such permit are violated;
(ii) If any law is violated in connection there with;
(iii) If it appears to the Commission that the cannabis operation has violated any of the requirements of Article 48;
(iv) If the cannabis operation is being operated in a manner which violates the operational requirements or security plan required by this Code;
(v) If the cannabis operation is being operated in a manner which constitutes a nuisance;
(vi) If the cannabis operation has ceased to operate for thirty (30) days or more; or

(vii) If the cannabis operation is being operated in a manner which conflicts with or violates state cannabis law.

Based on evidence in the record, the City Council concludes that the operation of Cannabis Activity Permit CAP-8-18 is noncompliant with criteria (i), (ii), (iii), and (v) of PMC sec. 9-4.4806(b) and that revocation of said permit is justified in order to preserve the public health, safety, and welfare. In addition, the City Council finds that revocation is the appropriate remedy to noncompliance because there is no evidence in the record that a suspension would be likely to achieve compliance in the circumstances of this particular case.

BE IT FURTHER RESOLVED that the City Council of the City of Pacifica does hereby revoke Cannabis Activity Permit CAP-8-18, which shall take effect 14 months after November 15, 2022 ("Revocation Date") unless all of the following conditions ("Revocation Conditions") are satisfied before the Revocation Date:

1) Applicant shall pay $4,080.56 for all outstanding and applicable fees and costs associated with the processing of the application for approval of CAP 8-18, by end of business day, December 15, 2022. Failure to make the required payment of $4,080.56 by December 15, 2022 shall warrant immediate revocation.

2) Applicant shall pay a $5,000 deposit by end of business day on January 17, 2023 for estimated fees and costs associated with the processing of ordinance amendments and processing of amendments to CAP-8-18 to incorporate any revision the Pacifica Municipal Code adopted by the City Council. Any unused portion of the deposit shall be refunded and any additional costs beyond the deposit shall be borne by the City of Pacifica. Failure to make the required deposit of $5,000 by January 17, 2023 shall warrant immediate revocation.

3) Applicant shall pay $21,872.33 for all outstanding and applicable fees and costs associated with processing the amendment to CAP-8-18, and all outstanding and applicable fees and costs associated with the preparation and execution of the Deferral Agreement in 12 equal monthly payments of $1,822.69 by end of business day the 15th day of each month beginning February 15, 2023, or on the next business day when the 15th day of the month is not a business day. Failure to make any required monthly payment by the last day of the subject month in which the payment is due shall warrant immediate revocation.

4) Prior to the Revocation Date, PMC sec. 4-16.03(c)(1)(ii) relating to window coverings is amended in a manner which allows Applicant to retain its current window configuration.

5) Prior to the Revocation Date, Conditions of Approval Nos. 9 and 18 are modified by the Planning Commission to conform to any revisions made to PMC sec. 4-16.03(c)(1)(ii) as described in paragraph 2 above and reflect satisfaction of outstanding fees as described in paragraph 1.

6) Prior to the Revocation Date, City and Applicant execute an amendment to the Deferral Agreement to conform to revisions to PMC sec. 4-16.03(c)(1)(ii) and reflect satisfaction of outstanding fees and provide reimbursement to City for all costs, including but not limited to staff time, administrative costs, legal fees and any other costs incurred by the City in processing

amendments to Conditions of Approval Nos. 9 and 18 and Amendment to Deferral Agreement, subject to the $5,000 limit above.

BE IT FURTHER RESOLVED that if the foregoing Revocation Conditions are not completely satisfied by the Revocation Date, or any other date specified in Revocation Conditions 1-3 above, Cannabis Activity Permit CAP-8-18 shall be subject to immediate revocation and shall be deemed to be expired and shall no longer entitle the Permittee to any uses authorized by the cannabis activity permit and immediately upon the failure to meet any deadline set forth in the Revocation Conditions, the Permittee shall immediately cease operating, engaging in, conducting or carrying out any cannabis operation at 450 Dondee Way, Suite 2, including dispensing, selling, and/or delivering cannabis and/or cannabis products.

BE IT FURTHER RESOLVED that nothing stated in this Resolution shall be interpreted as forgiving or absolving the Permittee of those amounts owed and outstanding based on COA No. 18.

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PASSED AND ADOPTED at a regular meeting of the City Council of the City of Pacifica, California, held on the 14th day of November 2022.

AYES, Councilmembers: BECKMEYER, BIER, BIGSTYCK, O'NEILL, VATERLAUS

NOES, Councilmembers:

ABSENT, Councilmembers:

ABSTAIN, Councilmembers:

Mary Bier, Mayor

ATTEST:

Sarah Coffey, City Clerk

APPROVED AS TO FORM:

Michelle Kenyon, City Attorney