

TEMPORARY CONSTRUCTION RIGHT OF ENTRY

THIS Temporary Construction Right of Entry Agreement ("Agreement") is made and entered into as of June 18th, 2019 ("Effective Date"), by and between the County of Mendocino ("Grantor") and the Ukiah Natural Foods Cooperative ("Grantee").

Recitals

This Agreement is entered into pursuant to the following facts:

- A. Grantee is pursuing a construction project to expand its store located at 721 South State Street in Ukiah, California.
- B. Grantor owns certain property located at 727, 737 and 747 South State Street in Ukiah, California, including a parking lot and an unpaved vacant lot located on the rear, eastern side of the property.
- C. Grantee desires to temporarily occupy and use the unpaved vacant lot owned by Grantor located behind 727, 737 and 747 South State Street in Ukiah, California, which is shown in greater detail on Exhibit A attached to this agreement, for the purpose of parking two semi-truck trailers, material storage and staging to support the construction project.
- D. Grantor has no plans to use the described vacant lot during the time period described herein.

Now, therefore, it is mutually agreed as follows:

- 1. Permission is hereby granted to Grantee or its authorized agent[s] to enter upon a portion of Grantor's land located behind 727, 737, 747 South State Street, Ukiah, California, generally described as a dirt area behind 747 South State Street, bounded to the east by apartments, to the north by single-family residences, to the west by Porzio Lane, and to the south by the paved County parking lot, and which is more particularly shown on Exhibit A to this Agreement attached hereto and incorporated herein by this reference (the "Lot"), for the following purposes related to Grantee's construction project at 721 South State Street:
 - a. Parking two (2) semi-truck trailers to be used temporarily as construction office space and tool storage;
 - b. Materials storage; and
 - c. Staging of construction materials.
- 2. Grantor's permission in Paragraph 1 is subject to the following conditions, all of which are the responsibility of Grantee:
 - a. Prior to placing any trailers or materials on the Lot, Grantee shall install compacted road base over the Lot, for the purpose of mitigating potential fugitive dust resulting from use of the Lot. The installation of the compacted road base shall not negatively impact existing drainage conditions on County's property. County reserves the right to inspect Grantee's installation of compacted road base and require alterations to the installation if County determines that such alterations are necessary.
 - b. The Lot is to be fenced with portable construction panels with privacy screening.
 - c. Security lighting and security cameras may be installed within the Lot and monitored as appropriate by Grantee.

- d. The Lot shall be secured so as to prevent injury caused by attractive nuisances.
 - e. Any petroleum products or hazardous materials stored on the Lot shall be stored in compliance with all relevant laws and regulations.
 - f. Maintaining the Lot in a clean, neat and sanitary condition, and shall properly and promptly dispose of all litter and debris during construction of the project.
 - g. Securing any permits required for its activities on the Lot.
 - h. Grantee's use of the Lot shall be in such a manner as to minimize disruption or inconvenience to Grantor's use of its buildings and parking lot located at 727, 737, and 747 South State Street.
3. Grantee accepts the use of the Lot in an "as is" condition, with Grantor providing no warranties as to the condition of the Lot or its suitability for Grantee's proposed use of the Lot.
 4. Grantee's permission to use the Lot shall terminate upon the earlier of (a) twenty-four (24) months from the Effective Date, or (b) upon completion of the Grantee's construction project, which shall be defined as the date of issuance of a certificate of occupancy for Grantee's project. Grantor shall have the right to terminate this Agreement with or without cause upon 30-days written notice to Grantee. This Agreement shall be effective as of the Effective Date.
 5. Upon termination of this Agreement, Grantee shall remove from the Lot all trucks, structures and materials, with the exception of the installed compacted road base, provided, however, that any prior to any vacation of the Lot by Grantee, Grantee shall leave the Lot in a condition comparable to the condition of the Lot as of the Effective Date.
 6. Grantee shall notify Grantor concerning the release of petroleum products or other hazardous materials that have come or will come to be located in, on or beneath the Lot. Grantee shall indemnify, defend and hold Grantor harmless from any and all loss, claims, liability or costs (including court costs and attorneys fees) incurred by reason of any actual or asserted failure of Grantee to fully comply with all federal, state and local laws relating to the keeping, handling, use or disposition of hazardous materials.
 7. Grantee covenants and agrees to indemnify, defend and to hold Grantor, and its agents, officers, attorneys, and employees harmless from any and all claims, demands, damages, costs, liabilities and losses whatsoever (including reasonable attorneys fees and costs incurred in defending claims) alleged or arising out of Grantee's construction project, or Grantee's use of the Lot, or to attack or set aside the approval of this Agreement. Grantee shall add Grantor to any and all insurance policies pertaining to the Grantee's construction project as an additional insured, subject to the approval of Grantor's Risk Manager. Grantee agrees that it shall perform the Grantee's construction project only after securing all permits, licenses, or other legal authorizations required.

The parties have herein set forth the whole of their agreement. The performance of this agreement constitutes the entire consideration for said document.

IN WITNESS WHEREOF

DEPARTMENT FISCAL REVIEW:

[Signature] 6/3/19
DEPARTMENT HEAD DATE

Budgeted: ☐ Yes ☒ No

Budget Unit: N/A

Line Item: N/A

Grant: ☐ Yes ☒ No

Grant No.: N/A

CONTRACTOR/COMPANY NAME

By: Lori Rosenberg, General Manager
Date: 6/3/19

NAME AND ADDRESS OF CONTRACTOR:

Ukiah Natural Foods Cooperative

721 South State Street

Ukiah, CA 95482

COUNTY OF MENDOCINO

By: [Signature]
CARRE BROWN, Chair
BOARD OF SUPERVISORS

Date: JUN 19 2019

ATTEST:

CARMEL J. ANGELO, Clerk of said Board

By: [Signature]
Deputy
JUN 25 2019

I hereby certify that according to the provisions of Government Code section 25103, delivery of this document has been made.

CARMEL J. ANGELO, Clerk of said Board

By: [Signature]
Deputy
JUN 25 2019

INSURANCE REVIEW:

By: [Signature]
Risk Management

Date: 6/6/19

EXECUTIVE OFFICE/FISCAL REVIEW:

By: [Signature]
Deputy CEO

Date: 6/6/19

By signing above, signatory warrants and represents that he/she executed this Agreement in his/her authorized capacity and that by his/her signature on this Agreement, he/she or the entity upon behalf of which he/she acted, executed this Agreement

COUNTY COUNSEL REVIEW:

APPROVED AS TO FORM:

KATHARINE L. ELLIOTT,
County Counsel

By: [Signature]
Deputy

Date: 6/5/19

Signatory Authority: \$0-25,000 Department; \$25,001- 50,000 Purchasing Agent; \$50,001+ Board of Supervisors
Exception to Bid Process Required/Completed ☐
Mendocino County Business License: Valid ☐
Exempt Pursuant to MCC Section: _____

EXHIBIT A

