

**DEVELOPER'S STATEMENT & MITIGATION MONITORING PROGRAM  
FOR EC GROW, LLC MINOR USE PERMIT  
(N-CNBS2021-0002)**

The applicant agrees to incorporate the following measures into the project. These measures become a part of the project description and therefore become a part of the record of action upon which the environmental determination is based. All development activity must occur in strict compliance with the following mitigation measures. These measures shall be perpetual and run with the land. These measures are binding on all successors in interest of the subject property.

Per Public Resources Code Section 21081.6 the following measures also constitute the mitigation monitoring and/or reporting program that will reduce potentially significant impacts to less than significant levels. These measures will become conditions of approval (COAs) should the project be approved. The Lead Agency (County) or other Responsible Agencies, as specified in the following measures, is responsible to verify compliance with these COAs.

**Note:** The items contained in the boxes labeled "Monitoring" describe the County procedures to be used to ensure compliance with the mitigation measures.

**AIR QUALITY (AQ)**

**AQ-1** During all construction and ground-disturbing activities, the applicant shall implement the following particulate matter control measures and detail each measure on the project grading and building plans:

1. Reduce the amount of disturbed area where possible.
2. Use of water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site and from exceeding the SLOAPCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour (mph). Reclaimed (non-potable) water should be used whenever possible.
3. All dirt stockpile areas (if any) shall be sprayed daily and covered with tarps or other dust barriers as needed.
4. Permanent dust control measures identified in the approved project revegetation and landscape plans shall be implemented as soon as possible, following completion of any soil-disturbing activities.

5. Exposed grounds that are planned to be reworked at dates greater than 1 month after initial grading shall be sown with a fast germinating, non-invasive, grass seed and watered until vegetation is established.
6. All disturbed soil areas not subject to revegetation shall be stabilized using approved chemical soil binders, jute netting, or other methods approved in advance by the SLOAPCD.
7. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible. In addition, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
8. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.
9. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or shall maintain at least 2 feet of freeboard (minimum vertical distance between top of load and top of trailer) in accordance with California Vehicle Code (CVC) Section 23114.
10. "Track out" is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in CVC Section 23113 and California Water Code (CWC) Section 13304. To prevent track out, designate access points and require all employees, subcontractors, and others to use them. Install and operate a "track-out prevention device" where vehicles enter and exit unpaved roads onto paved streets. The track-out prevention device can be any device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices need periodic cleaning to be effective. If paved roadways accumulate tracked-out soils, the track-out prevention device may need to be modified.
11. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers shall be used with reclaimed water where feasible. Roads shall be pre-wetted prior to sweeping when feasible.
12. All PM<sub>10</sub> Mitigation Measures required should be shown on grading and building plans.
13. The contractor or builder shall designate a person or persons whose responsibility is to ensure any fugitive dust emissions do not

result in a nuisance and to enhance the implementation of the Mitigation Measures as necessary to minimize dust complaints and reduce visible emissions below the SLOAPCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Their duties shall include holidays and weekend periods when work may not be in progress (for example, wind-blown dust could be generated on an open dirt lot). The name and telephone number of such persons shall be provided to the SLOAPCD Compliance Division prior to the start of any grading, earthwork, or demolition.

**Monitoring:** Required with construction or grading permits. Compliance will be verified by the County Department of Planning and Building and SLOAPCD.

### **BIOLOGICAL RESOURCES (BIO)**

**BIO-1 Environmental Awareness Training. Prior to the start of any project activities,** an environmental awareness training shall be presented to all personnel by a qualified biologist. The training shall include color photographs and a description of the ecology of all special-status species known or with potential to occur on site, as well as other sensitive resources requiring avoidance near the project site. The training shall include a description of protection measures required by discretionary permits, an overview of the Federal and State Endangered Species Acts, and implications of noncompliance with these regulations. The biologist shall provide an overview of the required avoidance, minimization, and mitigation measures. A sign-in sheet with the name and signature of the qualified biologist who presented the training and the names and signatures of the environmental awareness trainees shall be kept. A fact sheet conveying the information provided in the environmental awareness training shall be provided to all project personnel and anyone else who may enter the project site. If new personnel join the project after the initial training period, they shall receive the environmental awareness training from the qualified biologist or their designee before beginning work. A qualified biologist shall provide a refresher training during site visits or other monitoring events.

**Monitoring:** Required prior to initiation of project activities. Compliance will be verified by the County Department of Planning and Building.

**BIO-2 Site Maintenance and General Operations. During construction activities,** the following general measures shall be implemented to minimize impacts during ground disturbing activities:

1. The use of heavy equipment and vehicles shall be limited to the proposed project limits and defined staging areas/access points. The boundaries of each work area and staging area shall be clearly defined and marked with high visibility fencing or flagging, such as t-post and yellow rope; orange safety fencing shall not be used for fencing on site to avoid impacts to San Joaquin Kit Fox by entanglement. No work shall occur outside these limits.
2. In the vicinity of sensitive resources and habitats (e.g., swales and drainages), signs shall be posted at the boundary of the work area indicating the presence of sensitive resources.
3. Project plans, drawings, and specifications shall show the boundaries of all sensitive resource areas and the location of erosion and sediment controls, delineation of construction limits, and other pertinent measures to ensure the protection of sensitive habitats and resources.
4. Staging of equipment and materials shall occur in designated areas with appropriate demarcation and perimeter controls. No staging areas shall be located within 100 feet of drainages (Drainage 1, Drainage 2, Swale 1, or Swale 2).
5. Secondary containment, such as drip pans, shall be used to prevent leaks and spills of potential contaminants.
6. Washing of concrete, paint, or equipment, and refueling and maintenance of equipment shall occur only in designated staging areas. These activities shall occur at a minimum of 50 feet from Drainage 1, Drainage 2, Swale 1, and Swale 2. Sandbags and/or absorbent pads and spill control kits shall always be available for use in the event of a spill or leak.
7. Construction equipment shall be inspected by the operator daily to ensure that equipment is in good working order and that there are no fuel or lubricant leaks.
8. Plastic monofilament netting (erosion control matting) or similar material shall not be used on site due to the potential for entangling special-status small mammals or reptiles.
9. Acceptable substitutes are coconut coir matting or tackified hydroseeding compounds.

**Monitoring:** Required during construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-3 Special Status Plant Species Avoidance and Minimization Measures. Prior to initial ground disturbance and staging activities** in areas of known and suitable habitat for special-status plants, focused surveys shall be completed by a qualified biologist, and all sensitive plant populations shall be flagged for avoidance. The surveys shall be floristic in nature and shall be seasonally timed to coincide with the blooming period of the target species. Surveys shall be conducted in accordance with the most current protocols established by the CDFW and USFWS, and consistent with the County's policies. If special status plant species are identified within the proposed development footprint, impacts to these species will be avoided to the extent feasible.

If avoidance of state or federally listed plant species is not feasible, consultation with the applicable resource agency (CDFW, USFWS, or both) shall be initiated, depending on the designated FESA/CESA listing status of the plant. Work shall not begin at the location of the listed plant species until authorization to continue is provided by the applicable resource agency, or until applicable measures from a permit issued by the resource agency (CDFW, USFWS, or both) for the project are successfully implemented. All impacts to state or federally listed plant species shall be mitigated at a minimum ratio of 2:1 (number of acres/individuals restored to number of acres/individuals impacted) for each species as a component of habitat restoration. The requirements for a restoration plan are described below.

If non-listed special status plants species cannot be avoided, impacts shall be mitigated for all impacts that could cause the regional population of any of these species to drop below self-sustaining levels, threaten to eliminate any plant community of which the species is a key part, or substantially reduce the number of occurrences or individuals or restrict the range of that species. The threshold for impacts above which mitigation must be implemented shall be impacts that remove over 10 percent of the local (onsite and immediate vicinity) population of any CRPR 1B species that forms a unique vegetation type, is present in unusually large numbers, with implications for status of the species throughout its range, or is otherwise designated as locally rare. Impacts shall be mitigated at a minimum ratio of 1:1 (number of acres/individuals restored to number of acres/individuals impacted) for each species as a component of habitat restoration. A restoration plan shall be prepared and submitted to the County for approval. (Note: if a state listed plant species will be impacted, the restoration plan shall also be submitted to the CDFW for approval).

The restoration plan shall include, at a minimum, the following components:

1. Description of the project/impact site (i.e., location, responsible parties, areas to be impacted by habitat type).
2. Discuss the proposed construction methods, construction schedule, and implementation schedule of activities proposed as part of the plan.
3. Identify each special-status species observed on-site, including a description of the mitigation activities proposed for each.
4. Goal(s) of the compensatory mitigation project [type(s) and area(s) of habitat to be established, restored, enhanced, and/or preserved; specific functions and values of habitat type(s) to be established, restored, enhanced, and/or preserved].
5. Description of the proposed compensatory mitigation site (location and size, ownership status, existing functions and values).
6. Implementation plan for the compensatory mitigation site (rationale for expecting implementation success, responsible parties, schedule, site preparation, planting plan).
7. A detailed description of topsoil salvage procedures and soil stockpile storage methods.
8. Methods and timing of any proposed seed collection and storage.
9. Locations and demarcation of full-time avoidance areas during construction.
10. Locations and methods for restoration, replanting, and/or reseeded (e.g., decompaction, recontouring, scarification, mulching, hand broadcasting, hydroseeding, etc.); and,
11. Short- and/or long-term monitoring protocols and/or vegetative growth success criteria for mitigation and restoration.
12. Maintenance activities during the monitoring period, including weed removal as appropriate (activities, responsible parties, schedule).
13. Monitoring plan for the compensatory mitigation site, including no less than quarterly monitoring for the first year (performance standards, target functions and values, target acreages to be established, restored, enhanced, and/or preserved, annual monitoring reports).

14. Success criteria based on the goals and measurable objectives; said criteria to be, at a minimum, at least 80 percent survival of container plants and 30 percent relative cover by vegetation type.
15. An adaptive management program and remedial measures to address any shortcomings in meeting success criteria.
16. Notification of completion of compensatory mitigation.
17. Contingency measures (initiating procedures, alternative locations for contingency compensatory mitigation, funding mechanism).
18. Include a requirement for photographic documentation and a post-implementation report.
19. The restoration plan shall be prepared and submitted to the County Department of Planning and Building for approval prior to initial site disturbance.

**Monitoring:** Required prior to and during construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-4 Pre-construction Survey for Special-status Reptiles and Amphibians. Prior to issuance of grading and/or construction permits and immediately prior to initiation of site disturbance and/or construction,** a qualified biologist shall conduct a pre-construction survey immediately before any initial ground disturbances (i.e., the morning of the commencement of disturbance). Construction monitoring shall also be conducted by a qualified biologist during all initial ground-disturbing and vegetation removal activities (e.g., grading, grubbing, vegetation trimming, vegetation removal, etc.). To minimize the potential for impacts to dispersing amphibians, work within 100 feet of drainages and swales shall occur during dry conditions. If special-status wildlife is found within the work area, it shall be allowed to leave on its own volition and as appropriate, the resource agencies shall be contacted.

If avoidance is not possible and an Incidental Take Permit (ITP) is required, the requirements of the ITP shall take precedence over the requirements of this measure.

If any additional ground- or vegetation-disturbing activities occur on the project site, the above surveys and monitoring shall be repeated. The results of the survey shall be provided to the County of San Luis Obispo within 1 week of monitoring.

**Monitoring:** Required prior to construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-5 Pre-construction Survey for Nelson's Antelope Squirrel. Within 30 days prior to the start of initial project activities,** a qualified biologist shall conduct a preconstruction survey to verify that Nelson's antelope squirrel is not present within the proposed work areas and an approximate 50-foot buffer. If Nelson's antelope squirrel is present, active burrows shall be mapped and a 50-foot exclusion buffer shall be established and maintained until all project-related disturbances including initial set-up (not operational) have been terminated. The results of the survey shall be provided to the County of San Luis Obispo prior to initial project activities. If a 50-foot exclusion buffer is not feasible, consultation with CDFW shall be initiated. Work shall not begin at the location until authorization to continue is provided by CDFW, or until applicable measures from a permit issued by CDFW for the project are successfully implemented.

If avoidance is not possible and an Incidental Take Permit (ITP) is required, the requirements of the ITP shall take precedence over the requirements of this measure.

**Monitoring:** Required 0-30 days prior to construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-6 San Joaquin Kit Fox (*Vulpes macrotis multica*; SJKF) Habitat Mitigation Alternatives. Prior to issuance of grading and/or construction permits,** the applicant shall submit evidence to the County that states that one or a combination of the following three San Joaquin kit fox (SJKF) mitigation measures has been implemented:

- a. Provide for the protection in perpetuity, through acquisition of fee or a conservation easement of 26.7 acres of suitable habitat in the kit fox corridor area (e.g., within the San Luis Obispo County kit fox habitat area), either on site or off site, and provide for a non-wasting endowment to provide for management and monitoring of the property in perpetuity. Lands to be conserved shall be subject to the review and approval of the CDFW and the County.

This mitigation alternative (a.) requires that all aspects of this program must be in place before County permit issuance or initiation of any ground disturbing activities.

- b. Deposit funds into an approved in-lieu fee program, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area within San Luis Obispo County, and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.



Mitigation alternative (b.) can be completed by providing funds to The Nature Conservancy (TNC) pursuant to the Voluntary Fee-Based Compensatory Mitigation Program (Program). The Program was established in agreement between CDFW and TNC to preserve SJKF habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with the CEQA. This fee is calculated based on the current cost-per-unit of \$2,500 per acre of mitigation, which is scheduled to be adjusted to address the increasing cost of property in San Luis Obispo County; the actual cost may increase depending on the timing of payment. This fee must be paid after CDFW provides written notification about mitigation options but prior to County permit issuance and initiation of any ground disturbing activities. The fee, payable to "The Nature Conservancy", would total \$66,750 based on \$2,500 per acre (8.9 acres impacted \* 3 \* \$2,500 per acre).

- c. Purchase 26.7 (8.9 acres \* 3) credits in a CDFW-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat within the kit fox corridor area and provide for a non-wasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (c.) can be completed by purchasing credits from the Palo Prieto Conservation Bank. The Palo Prieto Conservation Bank was established to preserve SJKF habitat, and to provide a voluntary mitigation alternative to project proponents who must mitigate the impacts of projects in accordance with CEQA. The cost for purchasing credits is payable to the owners of The Palo Prieto Conservation Bank and would total \$66,750 (8.9 acres \* 3 \* \$2,500). This fee is calculated based on the current cost-per-credit of \$2,500 per acre of mitigation. The fee is established by the conservation bank owner and may change at any time. The actual cost may increase depending on the timing of payment. Purchase of credits must be completed prior to County permit issuance and initiation of any ground disturbing activities.

**Monitoring:** Required prior issuance of grading and/or construction permits. Compliance will be verified by the County Department of Planning and Building.

**BIO-7 San Joaquin Kit Fox Protection Measures.**

1. **SJKF Protection Measures on Plans.** All SJKF protection measures required before construction (prior to any project activities) and during construction shall be included as a note on all project plans.

Prior to issuance of grading and/or construction permits, the applicant shall clearly delineate the following as a note on the project plans: "Speed signs of 25 mph (or lower) shall be posted for all construction traffic to minimize the probability of road mortality of the San Joaquin kit fox". Speed limit signs shall be installed on the project site within 30 days prior to initiation of site disturbance and/or construction.

2. **Pre-construction Survey for SJKF.** Prior to issuance of grading and/or construction permits, the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County. The retained biologist shall perform the following monitoring activities:

- a. A qualified biologist shall complete a pre-construction survey for SJKF no less than 14 days and no more than 30 days prior to the start of initial project activities to ensure SJKF is not present within all proposed work areas and at least a 250-foot buffer around work areas per USFWS Standard Recommendations (2011). The biologist will survey for signs of SJKF and known or potential SJKF dens. The result of the survey shall be submitted to the County within 5 days of the survey and prior to start of initial project activities. The submittal shall include the date the survey was conducted, survey method, and survey results, including a map of the location of any SJKF signs, and/or known or potential SJKF dens, if present. If no SJKF signs, potential or known SJKF dens are identified, then the SJKF Standard Protection Avoidance and Protection Measure shall be applied.
- b. If the qualified biologist identifies potential SJKF den(s), the den(s) will be monitored for 3 consecutive nights with an infra-red camera, prior to any project activities, to determine if the den is being used by SJKF. If no SJKF activity is observed during the 3 consecutive nights of camera placement then project work can begin with the Standard SJKF Avoidance and Protection Measures and the SJKF Protection Measures if SJKF are observed.

- c. If a known den is identified within 250-feet of any proposed project work areas, no work may start in that area.
- d. If 30 days lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), where no or minimal work activity occurs, the SJKF survey shall be updated.
- e. If avoidance is not possible and an Incidental Take Permit (ITP) is required, the requirements of the ITP shall take precedence over the requirements of this measure.

**Monitoring:** Required prior to and during construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-8 Standard SJKF Avoidance and Protection Measures.** Throughout the life of the project:

- 1. If a SJKF is discovered at any time to be occupying an area within the project boundaries, all work must stop. The County will be notified, and they will consult with other agencies as needed.
- 2. A maximum of 25 mph speed limit shall be required at the project site during project activities. Speed limit signs shall be installed on the project site prior to start of all work.
- 3. All project activities shall cease at dusk and not start before dawn. This includes driving on the site for security purposes.
- 4. To prevent entrapment of SJKF and other special-status wildlife, all excavations, steep-walled holes or trenches greater than two feet deep shall be completely covered at the end of each work day by plywood or similar materials, or one or more escape ramps constructed of earth fill or wooden planks shall be installed a minimum of every 200 feet. All escape ramps shall be angled such that wildlife can feasibly use it to climb out of an area. All excavations, holes, and trenches shall be inspected daily for SJKF or other special-status species and immediately prior to being covered or filled. If a SJKF is entrapped, CDFW, USFWS, and the County will be contacted immediately to document the incident and advise on removal of the entrapped SJKF.
- 5. All pipes, culverts, or similar structures with a diameter of 4 inches or greater, stored overnight at the project site shall be thoroughly inspected for sheltering SJKF before burying, capping, or moving. All exposed openings of pipes, culverts, or similar structures shall be capped or temporarily sealed prior to the end of each working day.

No pipes, culverts, similar structures, or materials stored on site shall be moved if there is a SJKF present within or under the material. A 50-foot exclusion buffer will be established around the location of the SJKF until it leaves. The SJKF shall be allowed to leave on its own before the material is moved.

6. All food-related trash items such as wrappers, cans, bottles, and food scraps shall be disposed of in animal-proof closed containers only and regularly removed from the site.
7. No deliberate feeding of wildlife shall be allowed.
8. Water sources shall be managed to ensure no leaks occur or are fixed immediately upon discovery in order to prevent SJKF from being drawn to the project area to drink water.
9. Trash will be disposed of into containers rather than stockpiling on site prior to removal.
10. Materials or other stockpiles will be managed in a manner that will prevent SJKF from inhabiting them. Any materials or stockpiles that may have had SJKF take up residence shall be surveyed (consistent with pre-construction survey requirements) by a qualified biologist before they are moved.
11. The use of pesticides or herbicides shall be in compliance with all local, state, and federal regulations so as to avoid primary or secondary poisoning of endangered species and the depletion of prey upon which SJKF depend.
12. Permanent fences shall allow for SJKF passage through or underneath by providing frequent openings (8-inch x 12-inch) or an approximately 4-inch or greater passage gap between the ground and the bottom of the fence. Any fencing constructed after issuance of a final permit shall follow the above guidelines.
13. During project activities and/or the operation phase, any contractor or employee that inadvertently kills or injures a SJKF or who finds any such animal either dead, injured, or entrapped shall be required to report the incident immediately to the applicant and County. In the event that any observations are made of injured or dead SJKF, the applicant shall immediately notify the USFWS, CDFW, and the County by telephone. In addition, formal notification shall be provided in writing within 3 working days of the finding of any such animal(s). Notification shall include the date, time, location, and circumstances of the incident.

If potential SJKF dens are identified on site during the pre-construction survey, a qualified biologist shall be on site immediately prior to the initiation of project activities to inspect the site and dens for SJKF activity. If a potential den appears to be active or there is sign of SJKF activity on site and within the above-recommended buffers, no work can begin.

**Monitoring:** Required during construction and operation of the project. Compliance will be verified by the County Department of Planning and Building.

**BIO-9 American Badger (*Taxidea taxus*) Protection Measures**

**Pre-construction Survey for American Badger.** A qualified biologist shall complete a pre-construction survey for badgers no less than 14 days and no more than 30 days prior to the start of initial project activities to determine if badgers are present within proposed work areas, in addition to a 200-foot buffer around work areas. The results of the survey shall be provided to the County prior to initial project activities.

1. If a potential den is discovered, it shall be inspected to determine whether they are occupied. The survey shall cover the entire property and shall examine both old and new dens. The den will be monitored for 3 consecutive nights with an infra-red, motion-triggered camera, prior to any project activities, to determine if the den is being used by an American badger. If potential badger dens are too long to completely inspect from the entrance, a fiber optic scope shall be used to examine the den to the end. Inactive dens may be excavated by hand with a shovel to prevent re-use of dens during construction.
2. If an active badger den is found, an exclusion zone shall be established around the den. A minimum of a 50-foot exclusion zone shall be established during the non-reproductive season (July 1 to January 31) and a minimum 100-foot exclusion zone during the reproductive season (February 1 to June 30). Each exclusion zone shall encircle the den and have a radius of 50 feet (non-reproductive season) or 100 feet (reproductive season, nursing young may be present), measured outward from the burrow entrance. To avoid disturbance and the possibility of direct take of adults and nursing young, and to prevent badgers from becoming trapped in burrows during construction activity, no grading shall occur within 100 feet of active badger dens between February and July. All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related

disturbances have been terminated, or it has been determined by a qualified biologist that the den is no longer in use. If avoidance is not possible during project construction or continued operation, the County shall be contacted. The County will coordinate with appropriate resource agencies for guidance.

3. If more than 30 days pass between construction phases (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the badger survey shall be repeated.
4. If avoidance is not possible and an Incidental Take Permit (ITP) is required, the requirements of the ITP shall take precedence over the requirements of this measure.

**BIO-8** Within 14 days prior to removal of existing structures, a sunset and acoustic survey shall be conducted by a qualified biologist to determine if bats are roosting in the structures. If roosts of special-status bat species are identified and will be impacted during the proposed project, the California Department of Fish and Wildlife shall be consulted to determine appropriate measures to be implemented. If it is determined that no special-status bats are present, the project shall proceed under the guidance of a qualified biologist, in a manner that minimizes impacts to individual non-special-status species of bats and their roosts (e.g., conducting work only during the day, installing one-way exclusions prior to work, or removing the roof of the structure just prior to sunset). The results of the survey shall be provided to the County of San Luis Obispo prior to initial project activities.

**Monitoring:** Required 14-30 days prior to construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-10** **Within 14 days prior to removal of existing structures,** a sunset and acoustic survey shall be conducted by a qualified biologist to determine if bats are roosting in the structures. If roosts of special-status bat species are identified and will be impacted during the proposed project, the California Department of Fish and Wildlife shall be consulted to determine appropriate measures to be implemented. If it is determined that no special-status bats are present, the project shall proceed under the guidance of a qualified biologist, in a manner that minimizes impacts to individual non-special-status species of bats and their roosts (e.g., conducting work only during the day, installing one-way exclusions prior to work, or removing the roof of the structure just prior to sunset). The results of the survey shall be provided to the County of San Luis Obispo prior to initial project activities.

**Monitoring:** Required within 14 days prior to construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-11** If work will occur within 492 feet (150 meters) of burrowing owl habitat, within the breeding or non-breeding seasons, a qualified biologist shall conduct a preconstruction survey for this species within 14 days of the onset of construction. A second survey shall be completed immediately prior to construction (i.e., within the preceding 24 hours). The surveys shall be consistent with the methods outlined in Appendix D of the California Department of Fish and Wildlife 2012 Staff Report on Burrowing Owl Mitigation (Staff Report). Qualified biologists shall walk 20- to 65-foot-wide (7- to 20-meter) transects through the survey area and visually scan the entire project area for sign and individuals. These surveys may be completed concurrently with any other preconstruction surveys for special-status species. If occupied burrowing owl burrows are identified, the following buffer distances shall be observed by construction, unless otherwise authorized by California Department of Fish and Wildlife:

**Burrowing Owl Exclusion Buffer Distances**

Location	Time of Year	Level of Disturbance		
		Low	Medium	High
Nesting Sites	April 1–August 15	656 feet	1,640 feet	1,640 feet
Nesting Sites	August 16–October 15	656 feet	656 feet	1,640 feet
Any Occupied Burrow	October 16–March 31	164 feet	328 feet	1,640 feet

**Monitoring:** Required prior to construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-12** **Pre-construction Survey for Sensitive and Nesting Birds.** If work is planned to occur between February 1 and September 15, a qualified biologist shall survey the area for nesting birds within 1 week prior to initial project activity beginning, including ground disturbance and/or vegetation removal/trimming. If nesting birds are located on or near the proposed project site, they shall be avoided until they have successfully fledged, or the nest is no longer deemed active.

1. A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone shall be implemented for raptor species. Each exclusion zone shall encircle the nest and have a radius of 50 feet (non-listed passerine species)

or 250 feet (raptor species). All project activities, including foot and vehicle traffic and storage of supplies and equipment, are prohibited inside exclusion zones. Exclusion zones shall be maintained until all project-related disturbances have been terminated, or it has been determined by a qualified biologist that the young have fledged or that proposed project activities would not cause adverse impacts to the nest, adults, eggs, or young.

2. If special-status avian species (aside from the burrowing owl) are identified and nesting within the work area, no work shall begin until an appropriate exclusion zone is determined in consultation with the County of San Luis Obispo and any relevant resource agencies.
3. The results of the survey shall be provided to the County of San Luis Obispo prior to initial project activities. The results shall detail appropriate fencing or flagging of exclusion zones and include recommendations for additional monitoring requirements. A map of the project site and nest locations shall be included with the results. The qualified biologist conducting the nesting survey shall have the authority to reduce or increase the recommended exclusion zone depending on site conditions and species (if non-listed).
4. If 2 weeks lapse between different phases of project activities (e.g., vegetation trimming and the start of grading), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

**Monitoring:** Required during construction between February 1 and September 15. Compliance will be verified by the County Department of Planning and Building.

**BIO-13** The project site shall be regularly monitored by project personnel for microtrash that could be harmful to condors. All trash, including small microtrash items such as coins, screws, washers, and small metal or plastic debris, shall be placed in secure trash receptacles with lids (to prevent the container from being blown over and trash from blowing out of the container).

**Monitoring:** Required during construction between February 1 and September 15. Compliance will be verified by the County Department of Planning and Building.



**BIO-14** **Prior to initial project activities**, suitable habitat for Kern primrose sphinx moth present along Drainage 1 shall be avoided. No project activities shall occur within 50 feet of the top of bank of Drainage 1. This exclusion buffer shall be shown on all project plans and marked with high-visibility fencing or flagging. No work shall occur within these limits. If avoidance of suitable habitat is infeasible, the applicant shall contact the County of San Luis Obispo for further guidance prior to initial project activities.

**Monitoring:** Required prior to construction. Compliance will be verified by the County Department of Planning and Building.

**BIO-15** During construction, the following measures shall be implemented to protect drainages and swales on-site:

1. Prior to project initiation, all applicable agency permits with jurisdiction over the project area should be obtained, as necessary. All additional mitigation measures required by these agencies shall be implemented as necessary throughout the project.
2. Construction activity within 100 feet of Drainage 1, Drainage 2, Swale 1, and Swale 2 shall occur only when conditions are dry.
3. To prevent erosion and sedimentation into drainages during construction, an Erosion and Sedimentation Control Plan shall be developed and implemented. It shall outline best management practices for temporary stabilization. Acceptable stabilization methods include the use of weed-free, natural fiber (i.e., non-monofilament) rolls, jute or coir netting, and/or other industry standard materials. Erosion control devices shall be installed and maintained for the duration of the project.

**Monitoring:** Required during construction. Compliance will be verified by the County Department of Planning and Building.

**BR-16** **Weekly Site Visits.** During the site disturbance and/or construction phase, a qualified biologist shall conduct weekly site visits during site-disturbance activities (e.g., clearing, grading, disking, excavation, stock piling of dirt or gravel, etc.) that proceed longer than 14 days, to check the site for special-status species. Site-disturbance activities lasting up to 14 days do not require weekly monitoring by a biologist unless a potential SJKF den or special status small mammal burrow was identified on-site or the qualified biologist recommends monitoring for other sensitive species protection. When weekly monitoring is required, the biologist shall submit weekly monitoring reports to the County.

**Monitoring:** Required weekly during construction. Compliance will be verified by the County Department of Planning and Building.

**BR-17 Monthly Biological Monitoring.** Before (prior to ground disturbance), during, and after (one month following the end of annual operations) cannabis activities, the Applicant or project proponent must hire a qualified biologist to conduct monthly biological monitoring inspections. The qualified biologist will inspect the site to ensure compliance with the above-measures and to determine if any new activities have occurred. The biologist will provide a refresher survey and/or environmental training, as needed, during the monthly inspection. The biologist will be required to submit a report to the County within a week of the inspection. If major issues are identified during the inspection (e.g., encroachment into buffer zones, new activity outside previously surveyed area, etc.), then the biologist will notify the County immediately (via phone and/or in writing). If the results of monthly inspections show repeated noncompliance, the frequency of the inspections may be increased by the County. If the results of the monthly inspections consistently show compliance, the frequency of the inspections may be reduced by the County.

Alternatively, if the County implements a biological monitoring program, then the Applicant or project proponent will participate in that program and pay County-generated invoices in lieu of hiring the biologist directly.

**Monitoring:** Required monthly during construction and operation for the life of the project. Compliance will be verified by the County Department of Planning and Building.

**BR-18 Annual Biological Resource Surveys. Annual Pre-activity Survey for SJKF, Special-status Small Mammals, and Burrow Mapping.** Throughout the life of the project, the applicant or project proponent must hire a qualified biologist to complete an annual pre-activity survey for SJKF and special status small mammal species (e.g., giant kangaroo rat) no more than 14 days prior to the start of initial ground disturbance associated with the outdoor grow sites to ensure SJKF and special status small mammal species have not colonized the area and are not present within the grow site areas. The survey will include mapping of all potentially active SJKF and special status mammal burrows within the grow site areas plus a 50-foot buffer for small mammals and 250-foot buffer for SJKF. All potentially active burrows will be mapped and flagged for avoidance. If avoidance of state or federally-listed species burrows is not feasible, no work shall begin within 250 feet (for SJKF dens) or within 50 feet (state or federally-listed small mammal) and consultation with the

applicable resource agency (CDFW, USFWS, or both) shall be initiated, depending on the designated FESA/CESA listing status of the animal. Work shall not begin until authorization to continue is provided by the applicable resource agency, or until applicable measures from a permit issued by the resource agency (CDFW, USFWS, or both) for the project are successfully implemented.

**Monitoring:** Required within 14 days prior to construction. Compliance will be verified by the County Department of Planning and Building.

### **Energy**

**ENG-1** Prior to issuance of building permits for Phases 2 and 3, the applicant shall provide to the Department of Planning and Building for review and approval, an Energy Conservation Plan with a package of measures that, when implemented, would reduce or offset the project's energy demand to within 20% of the demand associated with a generic commercial building of the same size. The Energy Conservation Plan shall include the following:

- a. A detailed inventory of energy demand prepared by a Certified Energy Analyst. The inventory shall include an estimate of total energy demand from all sources associated with all proposed cannabis cultivation activities including, but not limited to, lighting, odor management, processing, manufacturing, and climate control equipment. The quantification of demand associated with electricity shall be expressed in total kilowatt hours (kWh) per year; demand associated with natural gas shall be converted to kWh per year.
- b. A program for providing a reduction or offset of all energy demand that is 20% or more than a generic commercial building of the same size. In this case, the estimated reduction or offset would be at least:  $4,328,299\text{kWhr/year} - 1,990,530\text{ kWh} = 2,337,769\text{ kWhr/year}$ ; and the amount of energy not otherwise reduced or offset must not exceed 1,990,530 kWh. Such a program (or programs) may include, but is not limited to, the following:
  - i. Evidence that the project will permanently source project energy demands from renewable energy sources (i.e. solar, wind, hydro). This can include purchasing the project's energy demand from a clean energy source by enrolling PG&E's Solar Choice program or Regional Renewable Choice program or other comparable public or private program.
  - ii. Evidence documenting the permanent retrofit or elimination of equipment, buildings, facilities, processes, or other energy saving strategies to provide a net reduction in electricity demand and/or

GHG emissions. Such measures may include, but is not limited to, the following:

1. Participating in an annual energy audit.
  2. Upgrading and maintaining efficient heating/ cooling/ dehumidification systems.
  3. Implement energy efficient lighting, specifically light-emitting diode (LED) over high-intensity discharge (HID) or high-pressure sodium (HPS) lighting.
  4. Implementing automated lighting systems.
  5. Utilizing natural light when possible.
  6. Utilizing an efficient circulation system.
  7. Ensuring that energy use is below or in-line with industry benchmarks.
  8. Implementing phase-out plans for the replacement of inefficient equipment.
  9. Adopting all or some elements of CalGreen Tier 1 and 2 measures to increase energy efficiency in greenhouses.
- iii. Construction of a qualified renewable energy source such as wind, solar photovoltaics, biomass, etc., as part of the project. [Note: Inclusion of a renewable energy source shall also be included in the project description and may be subject to environmental review.]
- iv. Any combination of the above or other qualifying strategies or programs that would achieve a reduction or offset of the project energy demand that is 20% or more above a generic commercial building of the same size.

**Monitoring:** Require prior to issuance of construction permits for Phase 2 and 3, prior to any site disturbance, and during project construction. Compliance will be verified by the County Department of Planning and Building.

**ENG-2** At time of quarterly monitoring inspection for Phases 2 and 3, the applicant shall provide to the Department of Planning and Building for review, a current energy use statement from the service provider (e.g. PG&E) that documents energy use to date for the year. The applicant shall demonstrate continued compliance with ENG-1 and ENG-2 (e.g. providing a current PG&E statement or contract showing continuous enrollment in the Solar Choice program or Regional Renewable Choice program).

**Monitoring:** Require quarterly post construction of Phases 2 and 3. Compliance will be verified by the County Department of Planning and Building.

### **Greenhouse Gas**

**GHG-1 Prior to issuance of building permits for Phase 2 and Phase 3 development,** the applicant shall provide to the Department of Planning and Building for review and approval, a program for providing a reduction or offset of greenhouse gas emissions below 690 MTCO<sub>2</sub>e. Such a program (or programs) may include, but is not limited to, the following:

- a. Purchase of greenhouse gas offset credits from any of the following recognized and reputable voluntary carbon registries:
  - i. American Carbon Registry;
  - ii. Climate Action Reserve;
  - iii. Verified Carbon Standard.
  - iv. Offsets purchased from any other source are subject to verification and approval by the Department of Planning and Building.
- b. Installation of battery storage to offset nighttime energy use. Batteries may only be charged during daylight hours with a renewable energy source and shall be used as the sole energy supply during non-daylight hours.

**Monitoring:** Require prior to issuance of construction permits. Compliance will be verified by the County Department of Planning and Building.

### **Noise**

**N-1 Noise Buffer. At time of application for construction permits for Phase 2 and Phase 3 development,** the applicant shall demonstrate sufficient insulation or other buffer methods for mechanical equipment and climate controls, including the use and specific siting of heating, ventilation, and air conditioning systems (HVAC), dehumidifiers, odor control systems (e.g., carbon scrubbers), so that noise associated with the mechanical equipment and climate controls does not exceed 45 dBA at the property lines. Prior to final inspection or occupancy, the applicant shall demonstrate implementation and compliance with this measure.

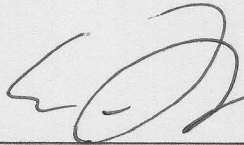
**Monitoring:** Required at the time of application for construction permits. Compliance will be verified by the County Department of Planning and Building.

The applicant understands that any changes made to the project description subsequent

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to this environmental determination must be reviewed by the Environmental Coordinator and may require a new environmental determination for the project. By signing this agreement, the owner(s) agrees to and accepts the incorporation of the above measures into the proposed project description.



Eric Charles

4-12-23

**Signature of Applicant**

**Name (Print)**

**Date**