



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING & BUILDING
Trevor Keith *Director of Planning & Building*

December 09, 2020

ESTRELLA RIVER FARMS LLC
5165 ESTRELLA RD
PASO ROBLES, CA 93446

SUBJECT: Notice of Final County Action, Minor Use Permit DRC2019-00189

Dear Sir/Madam,

On **December 04, 2020**, the above-referenced application was approved by the **Planning Department Hearing Officer** based on the approved Findings, and subject to the approved Conditions, which are both enclosed for your records.

If you disagree with this action, pursuant to (County Real Property Ordinance Section 21.04.020 / County Land Use Ordinance Section 22.70.050 / County Coastal Zone Land Use Ordinance (CZLUO) Section 23.01.042), and in the manner described therein, you have the right to appeal this decision, or a portion of this decision, to the Board of Supervisors within 14 calendar days after the date of the action.

The appeal must be submitted to the Department of Planning and Building on the proper Department appeal form, as provided on the County website. The appeal form must be submitted with an original signature; a facsimile will not be accepted. The appeal fee is set by the current fee schedule and must accompany your appeal form for your appeal to be accepted for processing.

If you have any questions regarding your project, please contact **Cassidy McSurdy** at (805) 781-5600.

Daniela Chavez

Daniela Chavez, Secretary
County of San Luis Obispo
Department of Planning & Building

CC: BILL HODSON
1137 WILSON
ORANGE, CA 92867

EXHIBIT A – FINDINGS
ESTRELLA RIVER FARMS, LLC (DRC2019-00189)

ENVIRONMENTAL DETERMINATION

- A. The Environmental Coordinator, after completion of the initial study, finds that there is no substantial evidence that the project may have a significant effect on the environment, and the preparation of an Environmental Impact Report is not necessary. Therefore, a Mitigated Negative Declaration (pursuant to Public Resources Code Section 21000 et seq., and CA Code of Regulations Section 15000 et seq.) has been issued on August 26, 2020, for this project. Mitigation measures are proposed to address Aesthetics, Biological Resources, Hydrology & Water Quality, Utilities & Services, and Mandatory Findings of Significance and are included as conditions of approval.

MINOR USE PERMIT

- B. The proposed project or use is consistent with the San Luis Obispo County General Plan because cannabis outdoor cultivation is an allowed use and, as conditioned, is consistent with all of the General Plan policies.
- C. As conditioned, the proposed project and uses satisfy all applicable provisions of Title 22 of the County Code.
- D. The establishment and subsequent operation or conduct of the use will not, because of the circumstances and conditions applied in the particular case, be detrimental to the health, safety, or welfare of the general public or persons residing or working in the neighborhood of the use, or be detrimental or injurious to property or improvements in the vicinity of the use because the proposed cannabis cultivation does not generate activity that presents a potential threat to the surrounding property or buildings. Water use of the project would be minimized and actual usage shall be monitored, energy usage shall be monitored, State water quality regulations shall be met, security fencing shall be installed, pesticide use shall comply with County Department of Agriculture / Weights and Measures regulations, solid waste shall be properly disposed of, and nuisance odors shall be controlled and monitored. This project is subject to Land Use Ordinance and Building Code requirements designed to address health, safety, and welfare concerns.
- E. The proposed project or use will not be inconsistent with the character of the immediate neighborhood or contrary to its orderly development because the proposed uses and development are similar in size and activities as surrounding agricultural operations, the proposed uses would be minimally visible from surrounding public roadways, and all potential nuisance odors would be adequately controlled to not be detectable from offsite.
- F. The proposed project or use will not generate a volume of traffic beyond the safe capacity of all roads providing access to the project, either existing or to be improved with the project. The project site is accessed from Estrella Road, a collector road owned and maintained by the County. The project is conditioned so that the driveway provides for adequate sight distance that exceeds the minimum stopping sight distance per the California Department of Transportation (Caltrans) Highway Design Manual Standards and County 5-5a standards. Projected trip generation from the project would be generally consistent with surrounding land uses and would not have a significant effect on existing roadway operations.

CANNABIS CULTIVATION

- G. The cannabis cultivation, as proposed, shall comply with all requirements of the State and County for the cultivation of cannabis, including dual licensure and participation in an authorized track-and-trace program.
- H. The cannabis cultivation will not be located within 1,000 feet of any pre-school, elementary school, junior high school, high school, library, park, playground, recreation or youth center, licensed drug or alcohol recovery facility, or licensed sober living facility.
- I. The cannabis cultivation includes adequate measures that minimize use of water for cannabis cultivation at the site, including a requirement to monitor water use and offset all water use at a 2:1 ratio.
- J. The cannabis cultivation includes adequate quality control measures to ensure cannabis cultivated at the site meets State regulatory standards.
- K. The cannabis cultivation includes measures that address enforcement priorities for cannabis activities including restricting access to minors and ensuring that cannabis and cannabis products are not supplied to unlicensed or unpermitted persons within the state and not distributed out of state.

ADJUSTMENT

- L. A modification from the fencing standards set forth in Land Use Ordinance Section 22.40.050.D.6 is justified to waive the requirement for solid fencing. The project site is located in a rural area and the areas for proposed cultivation would not be visible from any surrounding public roadway or other public viewpoint. Therefore, the request for a fencing modification meets the finding that the requirements for solid fencing materials at this location would be unnecessary, as no plants or other project component would be visible from surrounding public viewpoints.

WAIVER OF LIABILITY

- M. It is the declared policy of this County under Chapter 5.16 of the San Luis Obispo County Code and the County Agriculture Element to protect and encourage agricultural operations and conserve agricultural resources. Pursuant to Section 22.40.020 of the San Luis Obispo County Code, cannabis is not an agricultural commodity with respect to local "right to farm" ordinances nor is it considered "crop production and grazing" as a land use type. In this regard, the County has significant interest in ensuring the continued viability of agricultural operations adjacent and near cannabis cultivation operations. The County acknowledges that the establishment of the proposed project has the potential to cause traditional agricultural operations to cease or curtail their crop production activities near the proposed site because of state regulations which have imposed pesticide residue thresholds for cannabis which are significantly lower than the residue thresholds allowed for traditional agricultural crops. More specifically, the County has received substantial evidence indicating pesticide applicators would refuse to serve an agricultural operation if a cannabis site is permitted in close proximity to the agricultural operation because fear of potential crippling liability should a nearby cannabis operation be able to allege their cannabis has been made unmarketable by an offsite pesticide application, even if the levels of pesticide residue on

the cannabis would otherwise be well within the amounts allowed for traditional agricultural food crops, like citrus, avocado, vineyards, vegetables and strawberries. The County has received reports in other jurisdictions, such as the County of Santa Barbara, of agricultural operations curtailing activities because of nearby cannabis operations, as well as lawsuits being filed by cannabis operations against nearby traditional agricultural operations and pesticide applicators related to cannabis allegedly made unmarketable by pesticide applications in nearby traditional agricultural fields. In accordance with the rights afforded to the County by Article XI, section 7 of the California Constitution, and in order to adequately protect agricultural operations and conserve agricultural resources within the County, the imposition and enforceability of the condition of approval requiring the applicant to release, waive, discharge, hold harmless and covenant not to sue for any claim, loss or damage to cannabis or cannabis products related to an offsite pesticide application, as set forth within the condition of approval, is a condition to the issuance of the land use permit and making the findings required to approve this land use permit under County Code, specifically, the findings required by Sections 22.62.050.C.1 and 22.62.060.C.4c and d. If any clause or provision of this condition of approval is asserted by Releasing Party to be illegal, invalid or unenforceable, or is determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable under present or future laws and the applicant does not provide or agree to adequate alternatives, this land use permit may be deemed void ab initio and there would be no vested rights to commence or continue cannabis activities on the site

**EXHIBIT B - CONDITIONS OF APPROVAL
ESTRELLA RIVER FARMS, LLC (DRC2019-00189)**

APPROVED DEVELOPMENT

1. This approval authorizes use for the following cannabis activities in two phases:
 - a. 3 acres of outdoor cannabis cultivation area within hoop structures;
 - b. use of an existing 2,170-square-foot structure for office and security monitoring uses;
 - c. maximum of 3 full time and up to 4 seasonal employees; and
 - d. maximum water use of up to 2.17 acre-feet per year (AFY).
2. Phasing. The project shall be subject to the following phasing plan:

Phase	Project Components
Phase 1	Establish cultivation Area 1 (32,670 square feet)
	Establish cultivation Area 2 (15,246 square feet)
	Utilization of existing 2,170-square-foot structure for offices, employee breakroom, restroom
	Designation of 12 parking spaces
	Upgrades to Area 1 and Area 2 fencing and upgrades to six existing flood lights
Phase 2	Establish cultivation Area 3 (10,890 square feet)
	Establish cultivation Area 4 (17,424 square feet)
	Establish cultivation Area 5 (54,450 square feet)
	Upgrades to Area 3 and Area 4 fencing, installation of new fencing around Area 5

3. This Minor Use Permit authorizes a modification of the fencing and screening standards set forth in Section 22.40.050 of the Land Use Ordinance (LUO) to allow for the use of livestock fencing with no-climb mesh wiring and barbed wire to enclose four of the five cultivation areas. Solid fencing may be required if requested by the County of San Luis Obispo Sheriff's Office.

Conditions Required to be Completed Prior to Commencing Permitted Activities and the Initiation of Subsequent Phases

4. **Prior to commencing permitted activities**, the applicant shall obtain a business license through the County of San Luis Obispo Tax Collector's Office. Business license renewals shall be obtained by the applicant annually as required by County Code Title 6.
5. **Prior to commencing permitted activities**, the applicant shall complete all State licensing requirements for cultivation at the approved location. A copy of all pertinent State licenses shall be submitted to the County of San Luis Obispo Planning and Building Department prior to commencing permitted activities.

6. **Prior to commencing permitted activities**, the applicant shall demonstrate to the County of San Luis Obispo Planning and Building Department how cannabis activities will be physically and adequately separated from vacant areas or other non-cannabis uses on site. The applicant shall obtain any necessary building permits to create the separation between uses.
7. **Prior to commencing permitted activities**, the applicant shall have a well meter installed on any new or existing well proposed to be used for cannabis activities. Installation of the meter must be performed to the satisfaction of the County Public Works Inspector and shall be in conformance with the Water Well Metering Standards and Installation Guidelines set forth by the Department of Public Works and incorporated into the County Public Improvement Standards.
8. **Prior to commencing permitted activities**, the applicant shall complete and submit the Hazardous Materials Declaration Flowchart to the Environmental Health Services office.
9. **Prior to commencing permitted activities**, the applicant shall obtain final inspection and approval from the California Department of Forestry and Fire Protection (CAL FIRE)/ County Fire for all required fire/life safety measures.
10. **Prior to commencing permitted activities**, the applicant shall contact the County of San Luis Obispo Planning and Building Department to have the site inspected for compliance with these conditions of approval.
11. **Prior to commencing permitted activities**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plans are to include, as applicable, reconstruction of existing **Estrella Road** project site access driveway approaches to current B-1a and A-5 standards.
12. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.
13. **Prior to commencing permitted activities**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway. with the conditions of this approval.

Conditions Required to be Completed Prior to Issuance of a County Business License

14. **Prior to issuance of a County Business License**, the applicant shall enter the County of San Luis Obispo Cannabis Monitoring Program. Any associated fees shall be paid to the County of San Luis Obispo Planning and Building Department.
15. **Prior to issuance of a County Business License**, the applicant shall submit evidence of compliance with all requirements of the Central Coast Regional Water Quality Control Board.

16. **Prior to issuance of a County Business License**, the applicant shall submit evidence that coverage has been obtained under the Cannabis Cultivation General Order from the State Water Resources Control Board.
17. **Prior to issuance of a County Business License**, the applicant shall submit evidence that solid waste and recycling collection will be consistent with Land Use Ordinance Sections 22.10.150.B and C.
18. **Prior to issuance of a County Business License**, the applicant shall submit evidence that the project security plan has been reviewed and approved by the County of San Luis Obispo Sheriff's Office as required by Land Use Ordinance Section 22.40.040.D.
19. **Prior to issuance of a County Business License**, the applicant shall provide evidence to the County of San Luis Obispo Planning and Building Department that on-site circulation and pavement structural sections have been designed and shall be constructed in conformance with CAL FIRE/ County Fire Department standards and specifications back to the nearest public maintained roadway.
20. **Prior to issuance of a County Business License**, the applicant shall obtain an Operator Identification Number (OIN), if required by the County of San Luis Obispo Department of Agriculture / Weights and Measures, prior to any pesticides being used in conjunction with the commercial cultivation of cannabis; "pesticide" is a broad term, which includes insecticides, herbicides, fungicides, rodenticides, etc., as well as organically approved pesticides.
21. **Prior to issuance of a County Business License**, the applicant shall install security fencing as approved by the County of San Luis Obispo Sheriff's Office.
22. **Prior to issuance of a County Business License**, the applicant shall be responsible for the timely payment of all fees associated with this approval. Failure to pay fees in a timely manner may result in revocation of the permit.
23. **Prior to issuance of a County Business License**, and within 30 days of Land Use Permit approval, the applicant shall submit evidence to the County of San Luis Obispo Planning and Building Department that all necessary copies of any leases (ground, greenhouse, or otherwise) or production-sharing agreements related to "Cannabis Activities" on the subject property have been provided to the County of San Luis Obispo Assessor's Office.
24. **Prior to issuance of a County Business License**, the applicant shall demonstrate compliance with Williamson Act Contract or that the site has initiated non-renewal of the Williamson Act Contract.

Conditions required to be completed at the time of application for construction permits

SITE DEVELOPMENT

25. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan.
26. **At the time of application for construction permits**, all project conditions shall be clearly printed on the site and grading plans and shall be consistent with the currently adopted California Codes.
27. **At the time of application for construction permits**, all plans and engineering shall be prepared by a California Licensed Architect of Record or Engineer for all design

portions of the project that do not meet “conventional construction” as defined by the current building code.

28. **At the time of application for construction permits**, the submitted building plan set shall demonstrate consistency with California State Title 24 energy laws.
29. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark in color.
30. **At the time of application for construction permits**, the applicant shall demonstrate that noise generated by project air conditioning, ventilation and odor management equipment complies with applicable County standards for nighttime noise levels at the property lines. This shall be accomplished by:
 - a. Locating the equipment so that the building shields the noise from the nearest property line;
 - b. Constructing an acoustical enclosure around the equipment; or
 - c. Any combination of equipment location and shielding that enables the project to meet the standards.
31. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

FIRE SAFETY

32. **At the time of application for construction permits**, the applicant shall obtain a Fire Safety Plan from CAL FIRE/County Fire. All plans submitted to the County of San Luis Obispo Planning and Building Department shall meet the fire and life safety requirements of the California Fire Code and those outlined in the Fire Safety Plan and the applicable requirements outlined in the letter from CalFire dated August 8, 2020.

DRAINAGE

33. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval as determined by the County of San Luis Obispo Public Works Department and in accordance with Land Use Ordinance Section 22.52.110 (Drainage) or 23.05.040 (Drainage).
34. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Land Use Ordinance Section 22.52.120.
35. **At the time of application for construction permits**, the applicant shall show the 100-year flood hazard boundary on the project plan and submit evidence to the Department of Public Works that all new structures comply with County flood hazard construction standards, Section 22.14.060.

STORMWATER

36. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

SERVICES

37. **At the time of application for construction permits**, the applicant shall submit evidence to County of San Luis Obispo Building and Safety staff that there is adequate water to serve the proposal on-site.
38. **At the time of application for construction permits**, the applicant shall submit evidence to County of San Luis Obispo Building and Safety staff that the existing septic system is adequate to serve the proposal.

Conditions to be Completed Prior to Issuance of Building Permits Or any ground disturbing activities

39. **AES-1 Nighttime lighting. Prior to issuance of construction permits**, the applicant shall submit a light pollution prevention plan to the County Department of Planning and Building for review and approval that demonstrates all exterior lighting would conform to LUO Section 22.10.060, be located and designed to be motion activated, and be directed downward and to the interior of the site to avoid the light source from being visible off-site. All exterior lighting shall be "warm-white" or filtered (correlated color temperature of < 3,000 Kelvin; scotopic/photopic ratio of < 1.2) to minimize blue emissions.

Monitoring: Compliance to be verified during quarterly inspections associated with the County Cannabis Monitoring Program.

40. **BIO-1 Retention of a Qualified Biologist.** Prior to issuance of construction permits or ground disturbing activities, whichever occurs first, the applicant shall provide evidence to the County that they have retained a County-approved qualified biologist. The scope of work shall include preconstruction surveys, training, monitoring, and reporting, as detailed in the mitigation measures listed below.
41. **BIO-2 Preconstruction Survey for Special-Status Reptiles.** A qualified biologist shall conduct a preconstruction survey immediately prior to initial project activities (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. 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.) within suitable habitat. If any special-status reptile or amphibian species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. If any additional ground- or vegetation- disturbing activities occur on the project site, the above surveys and mitigation shall be repeated.

42. **BIO-3 Preconstruction 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 associated with installation of new fencing, planter boxes, etc. 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, as detailed below.

- a. A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone will 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.
- b. If special-status avian species (aside from burrowing owl [*Athene cunicularia*]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- c. The results of the survey shall be provided to the County 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).

If 2 weeks lapse between different phases of project activities (e.g., fencing and planter installation, driveway improvements, etc.), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

43. **BIO-4 Preconstruction survey for American Badgers.** A qualified biologist shall complete a preconstruction 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.

- d. If a potential den is discovered, the den will be monitored for 3 consecutive nights with an infrared, motion-triggered camera, prior to any project activities, to determine if the den is being used by an American badger.
- e. 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), measured outward from the burrow entrance. 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.

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.

44. **BIO-5 Environmental Awareness Training.** Prior to major construction activities (e.g., site mobilization, clearing, grubbing, preparation for installing new facilities, etc.), an environmental awareness training shall be presented to all project personnel by a qualified biologist prior to the start of any project activities. The training shall include color photographs and a description of the ecology of all special-status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by the project's discretionary permits; an overview of the FESA, the CESA, and the implications of noncompliance with these regulations; and an overview of the required avoidance and minimization 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 trainees will be kept and provided to the County. If new project personnel join the project after the initial training period, they will receive the environmental awareness training from a designated crew member on-site before beginning work. A qualified biologist will provide refresher trainings during site visits or other monitoring events.

45. **BIO-6 San Joaquin Kit Fox Compensatory Mitigation Acreage.** Prior to initiation of site disturbance activities (e.g., installation of planter boxes, driveway improvements, etc.), the applicant shall submit evidence to the CDFW and County that satisfactorily demonstrates one or a combination of the following SJKF mitigation measure options has been implemented to offset the project's calculated compensatory impacts:

- a. **Habitat Set Aside:** Provide for the protection in perpetuity, through acquisition of fee or a conservation easement, suitable habitat in the kit fox corridor area (e.g., within the San Luis Obispo kit fox habitat area northwest of SR 58), either on- or off-site, and provide for a nonwasting endowment to provide for management and monitoring of the property in perpetuity. Total area of habitat set aside shall be determined by the CDFW. Lands conserved shall be subject to the review and approval by the CDFW and County.

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. **In-Lieu Fee:** 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 located within San Luis Obispo County and provide for a nonwasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) could be completed by providing funds to TNC pursuant to the Voluntary Fee-Based Compensatory Mitigation Program. The program was established in agreement between the 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 CEQA. This fee is calculated based on the current cost-per-unit of \$2,500 per acre of required 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 the 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 be determined by CDFW based on \$2,500 per acre (e.g., 3 acres impacted × 3 acres mitigation per acre impacted × \$2,500 per acre = \$22,500).

- c. **Conservation Bank Credit:** Purchase credits in a CDFW-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area and provide for a nonwasting endowment for management and monitoring of the property in perpetuity. The number of credits required shall be determined by the CDFW.

Mitigation alternative (c) can be completed by purchasing credits through the CDFW-approved 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 be 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.

- 46. **BIO-7 San Joaquin Kit Fox Measures on Plans.** Prior to initiation of site-disturbance activities, 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.
- 47. **BIO-8 Preconstruction Survey for San Joaquin Kit Fox.** A qualified biologist shall complete a preconstruction 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 200-foot buffer around work areas per USFWS Standard Recommendations (2011). The biologist will survey for sign 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 sign, and/or known or potential SJKF dens, if present. If no SJKF sign, potential or known SJKF dens are identified, then the SJKF Standard Protection Avoidance and Protection Measure shall be applied.
 - a. If the qualified biologist identifies potential SJKF den(s), the den(s) will be monitored for 3 consecutive nights with an infrared 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.

- b. If a known den is identified within 200 feet of any proposed project work areas, no work may start in that area.

If 30 days lapse between different phases of project activities, where no or minimal work activity occurs, the SJKF survey shall be updated.

48. **BIO-14 Roosting Bat Survey and Avoidance.** Site preparation and construction activities shall be conducted outside of the typical bat maternity roosting and pupping season (February 1 through August 31), if feasible. If construction activities are to occur within this season, the applicant shall retain a County of San Luis Obispo-approved qualified biologist to conduct a preconstruction survey within 14 days prior to commencement of proposed site disturbance activities. If any roosting bats are found during preconstruction surveys, no work activities shall occur within 100 feet of active roosts until bats have left the roosts. The County-approved qualified biologist shall prepare a report after each survey and a copy of the report shall be provided to the County within 14 days of completion of each survey. If no bat roosting activities are detected within the proposed work area, site disturbance and noise-producing construction activities may proceed and no further mitigation is required.

Monitoring: Prior to the onset of site disturbance activities, project plans shall be checked for inclusion of the general measures for site maintenance and general operations. All survey reports shall be submitted to the County Department of Planning and Building prior to onset of site disturbance activities. Compliance will be verified by the County Department of Planning and Building prior to and during construction and for the life of the project through quarterly inspections associated with the County Cannabis Monitoring Program.

49. **WQ-1** Prior to issuance of building permits (or prior to initiation of use if no building permits are required), all applicants for cannabis-related activities within the PRGWB shall provide to the County Department of Planning and Building for review and approval a Water Conservation Plan with a package of measures that, when implemented, will achieve the water demand offset required by LUO Sections 22.40.050 D.5, 22.40.060 D.5, and 22.94.025 F and Building Ordinance Section 19.07.042(4). The Water Conservation Plan shall include the following:
- a. The quantification of water demand expressed in total acre-feet per year, consistent with the Water Management Plan required by LUO Sections 22.40.050 C.1 and 22.40.060 C.1.
 - b. A program for achieving a water demand offset of the quantified water demand as required by LUO Sections 22.40.050 D.5, 22.40.060 D.5, and 22.94.025 F and Building Ordinance Section 19.07.042(4). Such a program may include, but is not limited to, the following:
 - i. The permanent installation of water facilities and/or infrastructure to improve the efficient use of water on existing irrigated agricultural lands within the basin. Such improvements shall be accompanied by an audit of existing agricultural water demand prepared by an Agricultural Engineer,

or other licensed engineer or qualified professional as approved by the Director of Planning and Building. Water efficiency improvements may include, but are not limited to, the following:

1. Installation of drip irrigation.
 2. Installation of smart controllers, which are irrigation controllers that are climatologically controlled without human intervention, that adjust irrigation based on the amount of moisture lost from soil and plant material since the previous irrigation by utilizing climate data (evapo-transpiration rates) broadcast to the controller from the California Irrigation Management Information System and other sources, and that have been tested and certified 100% for irrigation adequacy and schedule shall be installed and maintained on all irrigated and landscaped areas.
 3. Installation of float valves on water tanks to prevent tanks from overflowing.
 4. Conversion from using overhead sprinklers to wind machines for frost protection. (Note: The installation of wind machines shall be included in the project description for cannabis activities and subject to environmental review.)
 5. Installation of rainwater catchment systems to reduce demand on groundwater. (Note: The installation of rainwater catchment facilities shall be included in the project description for cannabis activities and subject to environmental review.)
 6. Participation in an approved water conservation program within the PRGWB that is verifiable, results in a permanent reduction of water demand equal to, or exceeding, the required water demand offset, and has been subject to environmental review.
 7. Any combination of the above or other qualifying strategies or programs that would achieve the required water demand offset.
- c. The water demand offset documented by the Water Conservation Plan shall be verifiable and permanent and shall not result in adverse environmental effects beyond those assessed by the CEQA compliance document for the proposed cannabis project.

Conditions to be Completed During Project Site Disturbance Activities

50. **During project site disturbance activities**, cannabis cultivation grading activities shall be consistent with the conservation practices and standards contained in the U.S. Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide. Practices shall not adversely affect slope stability or groundwater recharge and shall prevent off-site drainage, erosion, and sedimentation impacts. Erosion and sedimentation control activities shall adhere to the standards in Land Use Ordinance Section 22.52.150C.
51. **Biological Monitoring.** A qualified biologist shall conduct weekly site visits during site-disturbance activities (e.g., installation of planter boxes, installation of fencing, driveway

improvements, clearing, 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 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.

52. **BIO-10 San Joaquin Kit Fox Avoidance and Protection Measures.** During all site-disturbance activities, the following measures shall be adhered to and listed on all project plans:

- a. If an 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.
- b. A maximum 25-mile-per-hour (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.
- c. All project activities shall cease at dusk and not start before dawn. This includes driving on the site for security purposes.
- d. To prevent entrapment of SJKF and other special-status wildlife, all excavations, steep-walled holes, or trenches greater than 2 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 an SJKF is entrapped, the USFWS, CDFW, and County will be contacted immediately to document the incident and advise on removal of the entrapped SJKF.
- e. 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 an 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.
- f. 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.
- g. No deliberate feeding of wildlife shall be allowed.
- h. 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.
- i. Trash will be disposed of into containers rather than stockpiling on-site prior to removal.

- j. 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 preconstruction survey requirements) by a qualified biologist before they are moved.
- k. The use of pesticides or herbicides shall be in compliance with all federal, state, and local regulations so as to avoid primary or secondary poisoning of endangered species and the depletion of prey upon which SJKF depend.
- l. For any fenced area exceeds 100 yards of linear fencing, permanent fences shall allow for SJKF passage through or underneath by providing frequent openings (8 × 12-inch) or an approximately 4-inch or greater passage gap between the ground and the bottom of the fence every 100 yards. Any fencing constructed after issuance of a final permit shall follow the above guidelines.
- m. During project activities and/or the operation phase, any contractor or employee that inadvertently kills or injures an 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 of injured or dead SJKF are made, the applicant shall immediately notify the USFWS, CDFW, and 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.
- n. 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.

53. **BIO-12 Site Maintenance and General Operations.** The following measures are required to minimize impacts during active construction and ongoing operations. All measures applicable during construction shall be included on plans. All measures applicable to operation shall be clearly posted on-site in a location(s) visible to workers and anyone visiting the site:

- a. 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 shall be clearly defined and marked with high visibility fencing (e.g., t-posts and yellow rope) and/or flagging. No work or travel shall occur outside these limits.
- b. Project plans, drawings, and specifications shall show the boundaries of all work areas on-site and the location of erosion and sediment controls, limit delineation, and other pertinent measures to ensure the protection of sensitive habitat areas and associated resources.
- c. Staging of equipment and materials shall occur in designated areas at least 100 feet from aquatic habitat (e.g., swales, drainages, ponds, vernal pools, if identified on-site).
- d. Secondary containment such as drip pans shall be used to prevent leaks and spills of potential contaminants.

- e. Washing of concrete, paint, and equipment and refueling and maintenance of equipment shall occur only in designated areas. Sandbags and/or absorbent pads shall be available to prevent water and/or spilled fuel from leaving the site.
- f. Equipment shall be inspected by the operator daily to ensure that equipment is in good working order and no fuel or lubricant leaks are present.

Ongoing Conditions for the Life of the Project

54. This Land Use Permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the Land Use Permit is considered vested. This Land Use Permit is considered to be vested once a construction permit has been issued and substantial site work has been completed, or pursuant to Land Use Ordinance Section 22.64.090.B, the Director verifies that the use or activity not involving a building or grading permit is occurring on the subject site in compliance with all applicable provisions of the Land Use Ordinance and these Conditions of Approval. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations and construction occurring above grade.
55. **BIO-13 Annual Pre-Activity Survey for San Joaquin Kit Fox.** For the life of the project, if outdoor cultivation areas at any point change from aboveground planter boxes to in-ground planning, the applicant or project proponent shall hire a qualified biologist to complete an annual pre-activity survey for SJKF no more than 14 days prior to the start of initial ground disturbance associated with the outdoor grow sites to ensure SJKF and other 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 200-foot buffer for SJKF. All potentially active burrows will be mapped and flagged for avoidance. If avoidance of the burrows is not feasible, the County shall be contacted for further guidance. The County will contact the appropriate resource agencies. If a SJKF den is found within 200 feet of the disturbance area, then the County must be contacted for further guidance. The County will contact the appropriate resource agencies.
56. **WQ-2 At the time of quarterly monitoring inspection,** the applicant shall provide to the County Department of Planning and Building for review, evidence that the water efficiency improvements associated with the approved Water Conservation Program remain in full effect and are continuing to achieve the required water demand offset associated with the approved cannabis activities.

Monitoring: Prior to the onset of permitted activities, the applicant shall submit the Water Conservation Plan for County review and approval. Compliance will be verified by the County Department of Planning and Building prior to cultivation activities and for the life of the project through quarterly inspections associated with the County Cannabis Monitoring Program.

57. **Throughout the life of the project**, and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, landscaping, agricultural operations, etc., without a valid Encroachment Permit issued by the County of San Luis Obispo Public Works Department.
58. **On-going condition of approval (valid for the life of the project):** Any gate constructed on a driveway to the site shall be a minimum of 75-feet from the traveled way of any Collector or Arterial Road.
59. **Throughout the life of the project**, all conditions of this approval shall be strictly adhered to, within the time frames specified, and in an ongoing manner for the life of the project. Failure to comply with these Conditions of Approval may result in an immediate enforcement action by the County of San Luis Obispo Planning and Building Department. If it is determined that violation(s) of these Conditions of Approval have occurred, or are occurring, this approval may be revoked pursuant to Land Use Ordinance Sections 22.74.160, 22.40.110, and 22.40.120. Revocation may require restoration to pre-existing conditions of areas of disturbance for cannabis-related activities authorized by this permit.
60. **Throughout the life of the project**, the applicant shall post on-site all required Land Use Permit approvals and all required State of California and County of San Luis Obispo permits and licenses required to operate. Such posting shall be in a central location, visible to the visitors, at the operating site.
61. **Throughout the life of the project**, the applicant shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from, and are provided to, other permitted and licensed cannabis operations. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County of San Luis Obispo upon request.
62. **Throughout the life of the project**, the applicant shall conduct all cannabis activities in compliance with the approved Operations Plan, as well as all required State of California licenses, laws, and regulations and County of San Luis Obispo permits and ordinances. The applicant shall be responsible for the payment of all required fees and taxes.
63. **Throughout the life of the project**, the cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected off-site so as to not invoke any verified nuisance complaints. In the event of a verified nuisance complaint, the County of San Luis Obispo may pursue remedial action that may include the reduction or cessation of operations until a revised operations plan is reviewed and approved by the County of San Luis Obispo Planning and Building Department, abatement of the violation pursuant to Land Use Ordinance Section 22.40.130 and permit revocation pursuant to Land Use Ordinance Sections 22.40.110 and 22.40.120.
64. **Throughout the life of the project** the cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite so as to not invoke any verified nuisance complaints. In the event of a verified nuisance complaint, the County may pursue remedial action that may include the reduction or cessation of operations until a revised Operations Plan is reviewed and approved by the Department of Planning and Building, abatement of the violation

pursuant to Land Use Ordinance Section 22.40.130 and permit revocation pursuant to Land Use Ordinance Sections 22.40.110 and 120.

65. **Throughout the life of the project**, pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.
66. **Throughout the life of the project**, best management water conservation practices shall be maintained to reduce water use below the water analysis projections as described in the applicant's Water Management Plan.
67. **Throughout the life of the project**, solid waste and recycling shall be conducted in accordance with Land Use Ordinance Sections 22.10.150.B and C.
68. **Throughout the life of the project**, immature plants and clones shall only be used for the cultivation on the project site and shall not be sold or transported off-site.
69. **Throughout the life of the project**, no minors or unauthorized personnel shall be permitted inside any restricted access areas, including the cultivation areas, under any circumstance.
70. **Throughout the life of the project**, no outdoor lighting for the purposes of photosynthesis or plant manipulation is allowed with this Land Use Permit. Indoor lights shall be screened to not be seen from off-site and consistent with dark-sky standards.
71. **Throughout the life of the project**, the applicant or responsible party designated by the applicant shall maintain daily records of all water used for cannabis activities. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County of San Luis Obispo upon request.
72. **Throughout the life of the project** cannabis cultivation grading activities shall be consistent with the conservation practices and standards contained in the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG). Practices shall not adversely affect slope stability or groundwater recharge and shall prevent off-site drainage and erosion and sedimentation impacts. Erosion and sedimentation control activities shall adhere to the standards in Section 22.52.150C of the Land Use Ordinance.
73. **Throughout the life of the project**, the property owner(s) shall grant access to the County of San Luis Obispo and its officers, agents, and employees, and any other governmental entities and their respective officers, agents, and employees, to enter onto the subject property to conduct site inspections for the purposes of compliance with this Use Permit. Inspections may occur any day of the week, without prior notice, between the hours of 8:00 a.m. and 6:00 p.m.
74. **Throughout the life of the project**, the project would utilize three existing on-site wells located on the project property. If at any point in time any of these wells serve 25 or more of the same individuals at least 6 months of the year, including all full-time employees, a public water system permit is required to be obtained from the State Water Resources Control Board.
75. **Throughout the life of the project**, the applicant shall submit to the County of San Luis Obispo Planning and Building Department any proposed changes to the approved Site Plans, Operations Plan, Security Plan, or other plan approved through this Use Permit

prior to the proposed change. Changes shall be submitted in writing and must be approved by the County of San Luis Obispo Planning and Building Department prior to the implementation of the proposed changes. Any changes to the approved project, including features identified in the Conditions of Approval stated herein, may require additional environmental analysis and/or revisions to the approved Use Permit that requires review and approval by the appropriate Review Authority.

76. **Throughout the life of the project**, the applicant shall submit to the County of San Luis Obispo Planning and Building Department any changes to the applicant name, business name, business owners, State license status, landowner, or changes in ownership requiring approval from the County of San Luis Obispo Tax Collector's Office or Sheriff's Office prior to the proposed change. Changes shall be submitted in writing and must be approved by the County of San Luis Obispo Planning and Building Department prior to the implementation of the proposed changes.
77. **Throughout the life of the project**, the applicant, and their representatives, agents, officers, employees, successors, landlords, tenants, insurers, assigns and any other party claiming a direct or indirect financial, ownership or commercial interest in the project or the cannabis or cannabis products produced or located on the site (Releasing Parties"), shall, as a condition of approval of this land use permit, release, waive, discharge, hold harmless and covenant not to sue any property owner, property operator/tenant or pest control business, pest control advisor or qualified applicator, including their owners, agents, officers, employees and authorized representatives ("Released Parties"), for any claim, loss or damage to cannabis or cannabis products located on the project site arising out of the recommendation or application of a registered pesticide on an agricultural commodity located outside the project site by a person or business who holds the required state license or certificate and local Operator Identification Number and, if applicable, Restricted Materials Permit, and who follows required state and local pesticide use reporting and does not grossly depart from industry norms, standards and practices regarding the application of said pesticide. This condition does not extend to any loss or damage caused by the gross negligence or willful misconduct of a Released Party, or a violation of Food and Agricultural Code Section 12972 verified by the County Agricultural Commissioner. This condition expressly extends to any statutory violations, except as set forth herein, including but not limited to actual or alleged violations of Food and Agricultural Code Section 12973, so long as the violations are not caused by the gross negligence or willful misconduct of a Released Party. Approval of this land use permit, as a land use decision, is a quasi-judicial action regulatory in nature involving the application of preexisting laws or standards to a specific project and does not involve negotiated consideration by both the County and the application, unlike a development agreement (see 78 Ops.Cal.Atty.Gen. 230), and therefore is not subject to the limitations of Civil Code section 1668 because this land use decision is not contractual in nature. This condition of approval shall have no impact on the enforcement or application of State pesticide laws and regulations by state or local agencies, including but not limited to licensing and certification requirements, pesticide use reporting and operator identification numbers, pesticide use enforcement inspections and investigations, issuance of cease and desist orders, initiation of administrative or criminal enforcement actions, and imposition of administrative, civil and criminal penalties.
78. **Throughout the life of the project** the Williamson Act Contract shall be maintained. The County of San Luis Obispo shall have the right to examine, monitor, and audit such

records and documentation pertaining to the Williamson Act Contract, which shall be made available to the County of San Luis Obispo upon request.. In the event that the Williamson Act Contract enters into owner-initiated non-renewal, this shall no longer apply.

79. **Throughout the life of the project** the parcels described as APNs 015-021-023 and 015-021-022 remain in common ownership. In the event that one of the subject parcels is sold, the use must cease until a new use permit can be issued authorizing the newly defined project site for cannabis use.

Land Use Permit Expiration

80. This Minor Use Permit for cannabis cultivation shall expire in 5 years from the approval date. Within a 12-month period prior to expiration, the applicant may request the Minor Use Permit be renewed for an additional 5-year period. Any such request for renewal shall be in writing to the County of San Luis Obispo Planning and Building Department and shall be submitted in conjunction with the appropriate Land Use Permit application. The request for renewal shall be processed with the same type of permit for the original entitlement. If a request for renewal is not requested or not granted, the Minor Use Permit shall be deemed expired.
- i. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the County Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to LUO Section 22.74.1



COUNTY OF SAN LUIS OBISPO
DEPARTMENT OF PLANNING &
BUILDING

TREVOR KEITH *DIRECTOR OF PLANNING & BUILDING*

VIA ELECTRONIC MAIL

April 15, 2023

Atten: James Charnel
5165 Estrella Road.
Paso Robles, CA. 93446

SUBJECT: Approval of Substantial Conformance Determination for MOD2021-00056 for Minor Use Permit DRC2019-00189 Estrella River Farms.

Dear Mr. Charnel,

This letter relates to the Project Modification Application MOD2021-00056 for Minor Use Permit DRC2019-0000189 Estrella River Farms. Based on the information provided, the Planning and Building Department has determined that the proposed changes are in Substantial Conformance with the approved development and County Code Section 22.64.050. A review of the proposed changes and the reason for the determination are provided below.

Description of Proposed Changes:

To allow the relocation of the driveway from APN: 015-021-022 to APN: 015-021-023. However, the parcel APN: 015-021-022 will continue to be part of the project to meet the required setbacks.

Basis for Substantial Conformance Determination:

1. The proposed changes cannot result in any new or increased environmental impacts.
 - a. The relocation of the driveway from APN: 015-021-022 to APN: 015-021-023 will not require any additional grading or improvements and therefore, it will not increase environmental impacts.
2. The proposed Changes cannot result in the need to modify any of the conditions of approval.
 - a. No conditions of approval will be modified.
3. The proposed changes cannot result in any changes to the aspects of the project that were a specific consideration of the review authority.
 - a. The approved driveway was not a specific consideration of the review authority. Therefore, the proposed change is acceptable. All other components of the project will remain the same.

Special Requirements:

The proposed modifications shall comply with all original conditions from Minor Use Permit DRC2019-00189, as well as the following requirements:

1. At the time of application for a construction permit, this letter, and a copy of the conditions of approval from the Minor Use Permit DRC2019-00189 shall be provided with the Construction permit application.
2. Indemnification, the applicant shall, as a condition of approval of this land use permit

application, defend, hold harmless and indemnify, at his or her sole expense (including attorney's fees, with Counsel approved by the County), any action brought against the County of San Luis Obispo, its present or former officers, agents, or employees, by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to approval or implementation of this land use permit. The applicant shall reimburse the County for any court costs and attorney fees that the County may be required by a court to pay as a result of such action, but such participation shall not relieve the Applicant of his obligation under this condition. Upon request of the County, the applicant shall also enter into a separate agreement with the County (the "Indemnity Agreement"), in a form approved by County Counsel, agreeing to defend, indemnify, save and hold harmless the County, its present or former officers, agents, or employees, against actions by a third party challenging either its decision to approve this land use permit or the manner in which the County is interpreting or enforcing the conditions of this land use permit, or any other action by a third party relating to or arising out of the approval or implementation of this land use permit. The agreement shall provide that the applicant will indemnify the County and reimburse it for any costs and/or attorney's fees which the County incurs as a result of such action, and that the County's participation or non-participation in any such litigation shall not relieve the applicant of his or her obligations under this condition or the agreement. The applicant shall also provide sufficient guarantees for the obligations hereunder as determined by County Counsel. Any violation of this Condition, including the applicant's failure to execute the Indemnity Agreement or breach thereof, or failure to provide sufficient guarantees, is grounds for the County to rescind and/or revoke its approval of this land use permit. These defense and indemnity obligations shall survive any rescission, revocation and/or set aside of this land use permit.

If you have any questions regarding this determination, please contact me at emoreno@co.slo.ca.us or at (805) 781-5721.

Sincerely,



Elizabeth Moreno, Planner

Attachments:

Attachment A — Conditions of Approval

Attachment C — Public Works Referral

**EXHIBIT B - CONDITIONS OF APPROVAL
MINOR USE PERMIT DRC2019-00189/ ESTRELLA RIVER FARMS, LLC**

APPROVED DEVELOPMENT

1. This approval authorizes use for the following cannabis activities in two phases:
 - a. 3 acres of outdoor cannabis cultivation area within hoop structures;
 - b. use of an existing 2,170-square-foot structure for office and security monitoring uses;
 - c. maximum of 3 full time and up to 4 seasonal employees; and
 - d. maximum water use of up to 2.17 acre-feet per year (AFY).
2. Phasing. The project shall be subject to the following phasing plan:

Phase	Project Components
Phase 1	Establish cultivation Area 1 (32,670 square feet)
	Establish cultivation Area 2 (15,246 square feet)
	Utilization of existing 2,170-square-foot structure for offices, employee breakroom, restroom
	Designation of 12 parking spaces
	Upgrades to Area 1 and Area 2 fencing and upgrades to six existing flood lights
Phase 2	Establish cultivation Area 3 (10,890 square feet)
	Establish cultivation Area 4 (17,424 square feet)
	Establish cultivation Area 5 (54,450 square feet)
	Upgrades to Area 3 and Area 4 fencing, installation of new fencing around Area 5

3. This Minor Use Permit authorizes a modification of the fencing and screening standards set forth in Section 22.40.050 of the Land Use Ordinance (LUO) to allow for the use of livestock fencing with no-climb mesh wiring and barbed wire to enclose four of the five cultivation areas. Solid fencing may be required if requested by the County of San Luis Obispo Sheriff's Office.

Conditions Required to be Completed Prior to Commencing Permitted Activities and the Initiation of Subsequent Phases

4. **Prior to commencing permitted activities**, the applicant shall obtain a business license through the County of San Luis Obispo Tax Collector's Office. Business license renewals shall be obtained by the applicant annually as required by County Code Title 6.
5. **Prior to commencing permitted activities**, the applicant shall complete all State licensing requirements for cultivation at the approved location. A copy of all pertinent State licenses shall be submitted to the County of San Luis Obispo Planning and Building Department prior to commencing permitted activities.
6. **Prior to commencing permitted activities**, the applicant shall demonstrate to the County of San Luis Obispo Planning and Building Department how cannabis activities will be physically and adequately separated from vacant areas or other non-cannabis

uses on site. The applicant shall obtain any necessary building permits to create the separation between uses.

7. **Prior to commencing permitted activities**, the applicant shall have a well meter installed on any new or existing well proposed to be used for cannabis activities. Installation of the meter must be performed to the satisfaction of the County Public Works Inspector and shall be in conformance with the Water Well Metering Standards and Installation Guidelines set forth by the Department of Public Works and incorporated into the County Public Improvement Standards.
8. **Prior to commencing permitted activities**, the applicant shall complete and submit the Hazardous Materials Declaration Flowchart to the Environmental Health Services office.
9. **Prior to commencing permitted activities**, the applicant shall obtain final inspection and approval from the California Department of Forestry and Fire Protection (CAL FIRE)/ County Fire for all required fire/life safety measures.
10. **Prior to commencing permitted activities**, the applicant shall contact the County of San Luis Obispo Planning and Building Department to have the site inspected for compliance with these conditions of approval.
11. **Prior to commencing permitted activities**, the applicant shall submit to the Department of Public Works an encroachment permit application, plans, fees, and post a cash damage bond to install improvements within the public right-of-way in accordance with County Public Improvement Standards. The plans are to include, as applicable, reconstruction of existing **Estrella Road** project site access driveway approaches to current B-1a and A-5 standards.
12. **Prior to commencing permitted activities**, all work in the public right-of-way must be constructed or reconstructed to the satisfaction of the Public Works Inspector and in accordance with the County Public Improvement Standards; the project conditions of approval, including any related land use permit conditions; and the approved improvement plans.
13. **Prior to commencing permitted activities**, the applicant shall provide evidence to the Department of Planning and Building that onsite circulation and pavement structural sections have been designed and shall be constructed in conformance with Cal Fire standards and specifications back to the nearest public maintained roadway. with the conditions of this approval.

CONDITIONS REQUIRED TO BE COMPLETED PRIOR TO ISSUANCE OF A COUNTY BUSINESS LICENSE

14. **Prior to issuance of a County Business License**, the applicant shall enter the County of San Luis Obispo Cannabis Monitoring Program. Any associated fees shall be paid to the County of San Luis Obispo Planning and Building Department.
15. **Prior to issuance of a County Business License**, the applicant shall submit evidence of compliance with all requirements of the Central Coast Regional Water Quality Control Board.
16. **Prior to issuance of a County Business License**, the applicant shall submit evidence that coverage has been obtained under the Cannabis Cultivation General Order from the State Water Resources Control Board.

17. **Prior to issuance of a County Business License**, the applicant shall submit evidence that solid waste and recycling collection will be consistent with Land Use Ordinance Sections 22.10.150.B and C.
18. **Prior to issuance of a County Business License**, the applicant shall submit evidence that the project security plan has been reviewed and approved by the County of San Luis Obispo Sheriff's Office as required by Land Use Ordinance Section 22.40.040.D.
19. **Prior to issuance of a County Business License**, the applicant shall provide evidence to the County of San Luis Obispo Planning and Building Department that on-site circulation and pavement structural sections have been designed and shall be constructed in conformance with CAL FIRE/ County Fire Department standards and specifications back to the nearest public maintained roadway.
20. **Prior to issuance of a County Business License**, the applicant shall obtain an Operator Identification Number (OIN), if required by the County of San Luis Obispo Department of Agriculture / Weights and Measures, prior to any pesticides being used in conjunction with the commercial cultivation of cannabis; "pesticide" is a broad term, which includes insecticides, herbicides, fungicides, rodenticides, etc., as well as organically approved pesticides.
21. **Prior to issuance of a County Business License**, the applicant shall install security fencing as approved by the County of San Luis Obispo Sheriff's Office.
22. **Prior to issuance of a County Business License**, the applicant shall be responsible for the timely payment of all fees associated with this approval. Failure to pay fees in a timely manner may result in revocation of the permit.
23. **Prior to issuance of a County Business License**, and within 30 days of Land Use Permit approval, the applicant shall submit evidence to the County of San Luis Obispo Planning and Building Department that all necessary copies of any leases (ground, greenhouse, or otherwise) or production-sharing agreements related to "Cannabis Activities" on the subject property have been provided to the County of San Luis Obispo Assessor's Office.
24. **Prior to issuance of a County Business License**, the applicant shall demonstrate compliance with Williamson Act Contract or that the site has initiated non-renewal of the Williamson Act Contract.

Conditions required to be completed at the time of application for construction permits

SITE DEVELOPMENT

25. **At the time of application for construction permits**, plans submitted shall show all development consistent with the approved site plan.
26. **At the time of application for construction permits**, all project conditions shall be clearly printed on the site and grading plans and shall be consistent with the currently adopted California Codes.
27. **At the time of application for construction permits**, all plans and engineering shall be prepared by a California Licensed Architect of Record or Engineer for all design portions of the project that do not meet "conventional construction" as defined by the current building code.
28. **At the time of application for construction permits**, the submitted building plan set shall demonstrate consistency with California State Title 24 energy laws.

29. **At the time of application for construction permits**, the applicant shall provide details on any proposed exterior lighting, if applicable. The details shall include the height, location, and intensity of all exterior lighting. All lighting fixtures shall be shielded so that neither the lamp nor the related reflector interior surface is visible from adjacent properties. Light hoods shall be dark in color.
30. **At the time of application for construction permits**, the applicant shall demonstrate that noise generated by project air conditioning, ventilation and odor management equipment complies with applicable County standards for nighttime noise levels at the property lines. This shall be accomplished by:
 - a. Locating the equipment so that the building shields the noise from the nearest property line;
 - b. Constructing an acoustical enclosure around the equipment; or
 - c. Any combination of equipment location and shielding that enables the project to meet the standards.
31. **At the time of application for construction permits**, the applicant shall demonstrate that the project construction plans are in conformance with their Stormwater Control Plan.

FIRE SAFETY

32. **At the time of application for construction permits**, the applicant shall obtain a Fire Safety Plan from CAL FIRE/County Fire. All plans submitted to the County of San Luis Obispo Planning and Building Department shall meet the fire and life safety requirements of the California Fire Code and those outlined in the Fire Safety Plan and the applicable requirements outlined in the letter from CalFire dated August 8, 2020.

DRAINAGE

33. **At the time of application for construction permits**, the applicant shall submit complete drainage plans for review and approval as determined by the County of San Luis Obispo Public Works Department and in accordance with Land Use Ordinance Section 22.52.110 (Drainage) or 23.05.040 (Drainage).
34. **At the time of application for construction permits**, the applicant shall submit complete erosion and sedimentation control plan for review and approval in accordance with Land Use Ordinance Section 22.52.120.
35. **At the time of application for construction permits**, the applicant shall show the 100-year flood hazard boundary on the project plan and submit evidence to the Department of Public Works that all new structures comply with County flood hazard construction standards, Section 22.14.060.

STORMWATER

36. **At the time of application for construction permits**, if the project disturbs more than 1.0 acre or is part of a common plan of development, the applicant must enroll for coverage under California's Construction General Permit. Sites that disturb less than 1.0 acre must implement all required elements within the site's erosion and sediment control plan as required by San Luis Obispo County Codes.

SERVICES

37. **At the time of application for construction permits**, the applicant shall submit evidence to County of San Luis Obispo Building and Safety staff that there is adequate water to serve the proposal on-site.
38. **At the time of application for construction permits**, the applicant shall submit evidence to County of San Luis Obispo Building and Safety staff that the existing septic system is adequate to serve the proposal.

CONDITIONS TO BE COMPLETED PRIOR TO ISSUANCE OF BUILDING PERMITS OR ANY GROUND DISTURBING ACTIVITIES

39. **AES-1 Nighttime lighting. Prior to issuance of construction permits**, the applicant shall submit a light pollution prevention plan to the County Department of Planning and Building for review and approval that demonstrates all exterior lighting would conform to LUO Section 22.10.060, be located and designed to be motion activated, and be directed downward and to the interior of the site to avoid the light source from being visible off-site. All exterior lighting shall be “warm-white” or filtered (correlated color temperature of < 3,000 Kelvin; scotopic/photopic ratio of < 1.2) to minimize blue emissions.

Monitoring: Compliance to be verified during quarterly inspections associated with the County Cannabis Monitoring Program.

40. **BIO-1 Retention of a Qualified Biologist.** Prior to issuance of construction permits or ground disturbing activities, whichever occurs first, the applicant shall provide evidence to the County that they have retained a County-approved qualified biologist. The scope of work shall include preconstruction surveys, training, monitoring, and reporting, as detailed in the mitigation measures listed below.
41. **BIO-2 Preconstruction Survey for Special-Status Reptiles.** A qualified biologist shall conduct a preconstruction survey immediately prior to initial project activities (i.e., the morning of the commencement of project activities) within 50 feet of suitable habitat. 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.) within suitable habitat. If any special-status reptile or amphibian species are discovered during surveys or monitoring, they will be allowed to leave the area on their own or will be hand-captured by a qualified biologist and relocated to suitable habitat outside the area of impact. If any additional ground- or vegetation-disturbing activities occur on the project site, the above surveys and mitigation shall be repeated.
42. **BIO-3 Preconstruction 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 associated with installation of new fencing, planter boxes, etc. 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, as detailed below.

- a. A 50-foot exclusion zone shall be placed around non-listed, passerine species, and a 250-foot exclusion zone will 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.
- b. If special-status avian species (aside from burrowing owl [*Athene cunicularia*]) are identified and nesting within the work area, no work will begin until an appropriate exclusion zone is determined in consultation with the County and any relevant resource agencies.
- c. The results of the survey shall be provided to the County 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).

If 2 weeks lapse between different phases of project activities (e.g., fencing and planter installation, driveway improvements, etc.), during which no or minimal work activity occurs, the nesting bird survey shall be repeated.

43. **BIO-4 Preconstruction survey for American Badgers.** A qualified biologist shall complete a preconstruction 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.
- d. If a potential den is discovered, the den will be monitored for 3 consecutive nights with an infrared, motion-triggered camera, prior to any project activities, to determine if the den is being used by an American badger.
 - e. 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), measured outward from the burrow entrance. 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.

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.

44. **BIO-5 Environmental Awareness Training.** Prior to major construction activities (e.g., site mobilization, clearing, grubbing, preparation for installing new facilities, etc.), an environmental awareness training shall be presented to all project personnel by a qualified biologist prior to the start of any project activities. The training shall include color photographs and a description of the ecology of all special-status species known or determined to have potential to occur, as well as other sensitive resources requiring avoidance near project impact areas. The training shall also include a description of protection measures required by the project's discretionary permits; an overview of the FESA, the CESA, and the implications of noncompliance with these regulations; and an overview of the required avoidance and minimization 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 trainees will be kept and provided to the County. If new project personnel join the project after the initial training period, they will receive the environmental awareness training from a designated crew member on-site before beginning work. A qualified biologist will provide refresher trainings during site visits or other monitoring events.

45. **BIO-6 San Joaquin Kit Fox Compensatory Mitigation Acreage.** Prior to initiation of site disturbance activities (e.g., installation of planter boxes, driveway improvements, etc.), the applicant shall submit evidence to the CDFW and County that satisfactorily demonstrates one or a combination of the following SJKF mitigation measure options has been implemented to offset the project's calculated compensatory impacts:

- a. **Habitat Set Aside:** Provide for the protection in perpetuity, through acquisition of fee or a conservation easement, suitable habitat in the kit fox corridor area (e.g., within the San Luis Obispo kit fox habitat area northwest of SR 58), either on- or off-site, and provide for a nonwasting endowment to provide for management and monitoring of the property in perpetuity. Total area of habitat set aside shall be determined by the CDFW. Lands conserved shall be subject to the review and approval by the CDFW and County.

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. **In-Lieu Fee:** 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 located within San Luis Obispo County and provide for a nonwasting endowment for management and monitoring of the property in perpetuity.

Mitigation alternative (b) could be completed by providing funds to TNC pursuant to the Voluntary Fee-Based Compensatory Mitigation Program. The program was established in agreement between the 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 CEQA. This fee is calculated based on the current cost-per-unit of \$2,500 per acre of required 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 the 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 be determined by CDFW based on \$2,500 per acre (e.g., 3 acres impacted × 3 acres mitigation per acre impacted × \$2,500 per acre = \$22,500).

- c. **Conservation Bank Credit:** Purchase credits in a CDFW-approved conservation bank, which would provide for the protection in perpetuity of suitable habitat in the kit fox corridor area and provide for a nonwasting endowment for management and monitoring of the property in perpetuity. The number of credits required shall be determined by the CDFW.

Mitigation alternative (c) can be completed by purchasing credits through the CDFW-approved 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 be 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.

- 46. **BIO-7 San Joaquin Kit Fox Measures on Plans.** Prior to initiation of site-disturbance activities, 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.
- 47. **BIO-8 Preconstruction Survey for San Joaquin Kit Fox.** A qualified biologist shall complete a preconstruction 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 200-foot buffer around work areas per USFWS Standard Recommendations (2011). The biologist will survey for sign 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 sign, and/or known or potential SJKF dens, if present. If no SJKF sign, potential or known SJKF dens are identified, then the SJKF Standard Protection Avoidance and Protection Measure shall be applied.
 - a. If the qualified biologist identifies potential SJKF den(s), the den(s) will be monitored for 3 consecutive nights with an infrared 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.
 - b. If a known den is identified within 200 feet of any proposed project work areas, no work may start in that area.

If 30 days lapse between different phases of project activities, where no or minimal work activity occurs, the SJKF survey shall be updated.

- 48. **BIO-14 Roosting Bat Survey and Avoidance.** Site preparation and construction activities shall be conducted outside of the typical bat maternity roosting and pupping season (February 1 through August 31), if feasible. If construction activities are to occur within this season, the applicant shall retain a County of San Luis Obispo-approved qualified biologist to conduct a preconstruction survey within 14 days prior to

commencement of proposed site disturbance activities. If any roosting bats are found during preconstruction surveys, no work activities shall occur within 100 feet of active roosts until bats have left the roosts. The County-approved qualified biologist shall prepare a report after each survey and a copy of the report shall be provided to the County within 14 days of completion of each survey. If no bat roosting activities are detected within the proposed work area, site disturbance and noise-producing construction activities may proceed and no further mitigation is required.

Monitoring: Prior to the onset of site disturbance activities, project plans shall be checked for inclusion of the general measures for site maintenance and general operations. All survey reports shall be submitted to the County Department of Planning and Building prior to onset of site disturbance activities. Compliance will be verified by the County Department of Planning and Building prior to and during construction and for the life of the project through quarterly inspections associated with the County Cannabis Monitoring Program.

49. **WQ-1** Prior to issuance of building permits (or prior to initiation of use if no building permits are required), all applicants for cannabis-related activities within the PRGWB shall provide to the County Department of Planning and Building for review and approval a Water Conservation Plan with a package of measures that, when implemented, will achieve the water demand offset required by LUO Sections 22.40.050 D.5, 22.40.060 D.5, and 22.94.025 F and Building Ordinance Section 19.07.042(4). The Water Conservation Plan shall include the following:

- a. The quantification of water demand expressed in total acre-feet per year, consistent with the Water Management Plan required by LUO Sections 22.40.050 C.1 and 22.40.060 C.1.
- b. A program for achieving a water demand offset of the quantified water demand as required by LUO Sections 22.40.050 D.5, 22.40.060 D.5, and 22.94.025 F and Building Ordinance Section 19.07.042(4). Such a program may include, but is not limited to, the following:
 - i. The permanent installation of water facilities and/or infrastructure to improve the efficient use of water on existing irrigated agricultural lands within the basin. Such improvements shall be accompanied by an audit of existing agricultural water demand prepared by an Agricultural Engineer, or other licensed engineer or qualified professional as approved by the Director of Planning and Building. Water efficiency improvements may include, but are not limited to, the following:
 1. Installation of drip irrigation.
 2. Installation of smart controllers, which are irrigation controllers that are climatologically controlled without human intervention, that adjust irrigation based on the amount of moisture lost from soil and plant material since the previous irrigation by utilizing climate data (evapo-transpiration rates) broadcast to the controller from the California Irrigation Management Information System and other sources, and that have been tested and certified 100% for irrigation adequacy and

schedule shall be installed and maintained on all irrigated and landscaped areas.

3. Installation of float valves on water tanks to prevent tanks from overflowing.
 4. Conversion from using overhead sprinklers to wind machines for frost protection. (Note: The installation of wind machines shall be included in the project description for cannabis activities and subject to environmental review.)
 5. Installation of rainwater catchment systems to reduce demand on groundwater. (Note: The installation of rainwater catchment facilities shall be included in the project description for cannabis activities and subject to environmental review.)
 6. Participation in an approved water conservation program within the PRGWB that is verifiable, results in a permanent reduction of water demand equal to, or exceeding, the required water demand offset, and has been subject to environmental review.
 7. Any combination of the above or other qualifying strategies or programs that would achieve the required water demand offset.
- c. The water demand offset documented by the Water Conservation Plan shall be verifiable and permanent and shall not result in adverse environmental effects beyond those assessed by the CEQA compliance document for the proposed cannabis project.

CONDITIONS TO BE COMPLETED DURING PROJECT SITE DISTURBANCE ACTIVITIES

50. **During project site disturbance activities**, cannabis cultivation grading activities shall be consistent with the conservation practices and standards contained in the U.S. Department of Agriculture Natural Resources Conservation Service Field Office Technical Guide. Practices shall not adversely affect slope stability or groundwater recharge and shall prevent off-site drainage, erosion, and sedimentation impacts. Erosion and sedimentation control activities shall adhere to the standards in Land Use Ordinance Section 22.52.150C.
51. **Biological Monitoring.** A qualified biologist shall conduct weekly site visits during site-disturbance activities (e.g., installation of planter boxes, installation of fencing, driveway improvements, clearing, 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 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.
52. **BIO-10 San Joaquin Kit Fox Avoidance and Protection Measures.** During all site-disturbance activities, the following measures shall be adhered to and listed on all project plans:

- a. If an 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.
- b. A maximum 25-mile-per-hour (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.
- c. All project activities shall cease at dusk and not start before dawn. This includes driving on the site for security purposes.
- d. To prevent entrapment of SJKF and other special-status wildlife, all excavations, steep-walled holes, or trenches greater than 2 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 an SJKF is entrapped, the USFWS, CDFW, and County will be contacted immediately to document the incident and advise on removal of the entrapped SJKF.
- e. 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 an 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.
- f. 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.
- g. No deliberate feeding of wildlife shall be allowed.
- h. 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.
- i. Trash will be disposed of into containers rather than stockpiling on-site prior to removal.
- j. 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 preconstruction survey requirements) by a qualified biologist before they are moved.
- k. The use of pesticides or herbicides shall be in compliance with all federal, state, and local regulations so as to avoid primary or secondary poisoning of endangered species and the depletion of prey upon which SJKF depend.
- l. For any fenced area exceeds 100 yards of linear fencing, permanent fences shall allow for SJFK passage through or underneath by providing frequent openings (8

× 12-inch) or an approximately 4-inch or greater passage gap between the ground and the bottom of the fence every 100 yards. Any fencing constructed after issuance of a final permit shall follow the above guidelines.

- m. During project activities and/or the operation phase, any contractor or employee that inadvertently kills or injures an 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 of injured or dead SJKF are made, the applicant shall immediately notify the USFWS, CDFW, and 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.
- n. 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.

53. **BIO-12 Site Maintenance and General Operations.** The following measures are required to minimize impacts during active construction and ongoing operations. All measures applicable during construction shall be included on plans. All measures applicable to operation shall be clearly posted on-site in a location(s) visible to workers and anyone visiting the site:

- a. 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 shall be clearly defined and marked with high visibility fencing (e.g., t-posts and yellow rope) and/or flagging. No work or travel shall occur outside these limits.
- b. Project plans, drawings, and specifications shall show the boundaries of all work areas on-site and the location of erosion and sediment controls, limit delineation, and other pertinent measures to ensure the protection of sensitive habitat areas and associated resources.
- c. Staging of equipment and materials shall occur in designated areas at least 100 feet from aquatic habitat (e.g., swales, drainages, ponds, vernal pools, if identified on-site).
- d. Secondary containment such as drip pans shall be used to prevent leaks and spills of potential contaminants.
- e. Washing of concrete, paint, and equipment and refueling and maintenance of equipment shall occur only in designated areas. Sandbags and/or absorbent pads shall be available to prevent water and/or spilled fuel from leaving the site.
- f. Equipment shall be inspected by the operator daily to ensure that equipment is in good working order and no fuel or lubricant leaks are present.

ONGOING CONDITIONS FOR THE LIFE OF THE PROJECT

54. This Land Use Permit is valid for a period of 24 months from its effective date unless time extensions are granted pursuant to Land Use Ordinance Section 22.64.070 or the Land Use Permit is considered vested. This Land Use Permit is considered to be vested once

a construction permit has been issued and substantial site work has been completed, or pursuant to Land Use Ordinance Section 22.64.090.B, the Director verifies that the use or activity not involving a building or grading permit is occurring on the subject site in compliance with all applicable provisions of the Land Use Ordinance and these Conditions of Approval. Substantial site work is defined by Land Use Ordinance Section 22.64.080 as site work progressed beyond grading and completion of structural foundations and construction occurring above grade.

55. **BIO-13 Annual Pre-Activity Survey for San Joaquin Kit Fox.** For the life of the project, if outdoor cultivation areas at any point change from aboveground planter boxes to in-ground planning, the applicant or project proponent shall hire a qualified biologist to complete an annual pre-activity survey for SJKF no more than 14 days prior to the start of initial ground disturbance associated with the outdoor grow sites to ensure SJKF and other 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 200-foot buffer for SJKF. All potentially active burrows will be mapped and flagged for avoidance. If avoidance of the burrows is not feasible, the County shall be contacted for further guidance. The County will contact the appropriate resource agencies. If a SJKF den is found within 200 feet of the disturbance area, then the County must be contacted for further guidance. The County will contact the appropriate resource agencies.
56. **WQ-2 At the time of quarterly monitoring inspection,** the applicant shall provide to the County Department of Planning and Building for review, evidence that the water efficiency improvements associated with the approved Water Conservation Program remain in full effect and are continuing to achieve the required water demand offset associated with the approved cannabis activities.

Monitoring: Prior to the onset of permitted activities, the applicant shall submit the Water Conservation Plan for County review and approval. Compliance will be verified by the County Department of Planning and Building prior to cultivation activities and for the life of the project through quarterly inspections associated with the County Cannabis Monitoring Program.

57. **Throughout the life of the project,** and in accordance with County Code Section 13.08, no activities associated with this permit shall be allowed to occur within the public right-of-way including, but not limited to, project signage, landscaping, agricultural operations, etc., without a valid Encroachment Permit issued by the County of San Luis Obispo Public Works Department.
58. **On-going condition of approval (valid for the life of the project):** Any gate constructed on a driveway to the site shall be a minimum of 75-feet from the traveled way of any Collector or Arterial Road.
59. **Throughout the life of the project,** all conditions of this approval shall be strictly adhered to, within the time frames specified, and in an ongoing manner for the life of the project. Failure to comply with these Conditions of Approval may result in an immediate enforcement action by the County of San Luis Obispo Planning and Building Department. If it is determined that violation(s) of these Conditions of Approval have occurred, or are

occurring, this approval may be revoked pursuant to Land Use Ordinance Sections 22.74.160, 22.40.110, and 22.40.120. Revocation may require restoration to pre-existing conditions of areas of disturbance for cannabis-related activities authorized by this permit.

60. **Throughout the life of the project**, the applicant shall post on-site all required Land Use Permit approvals and all required State of California and County of San Luis Obispo permits and licenses required to operate. Such posting shall be in a central location, visible to the visitors, at the operating site.
61. **Throughout the life of the project**, the applicant shall maintain clear and adequate records and documentation demonstrating that all cannabis or cannabis products have been obtained from, and are provided to, other permitted and licensed cannabis operations. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County of San Luis Obispo upon request.
62. **Throughout the life of the project**, the applicant shall conduct all cannabis activities in compliance with the approved Operations Plan, as well as all required State of California licenses, laws, and regulations and County of San Luis Obispo permits and ordinances. The applicant shall be responsible for the payment of all required fees and taxes.
63. **Throughout the life of the project**, the cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected off-site so as to not invoke any verified nuisance complaints. In the event of a verified nuisance complaint, the County of San Luis Obispo may pursue remedial action that may include the reduction or cessation of operations until a revised operations plan is reviewed and approved by the County of San Luis Obispo Planning and Building Department, abatement of the violation pursuant to Land Use Ordinance Section 22.40.130 and permit revocation pursuant to Land Use Ordinance Sections 22.40.110 and 22.40.120.
64. **Throughout the life of the project** the cannabis cultivation shall be sited and/or operated in a manner that prevents cannabis nuisance odors from being detected offsite so as to not invoke any verified nuisance complaints. In the event of a verified nuisance complaint, the County may pursue remedial action that may include the reduction or cessation of operations until a revised Operations Plan is reviewed and approved by the Department of Planning and Building, abatement of the violation pursuant to Land Use Ordinance Section 22.40.130 and permit revocation pursuant to Land Use Ordinance Sections 22.40.110 and 120.
65. **Throughout the life of the project**, pesticides and fertilizers shall be properly labeled, stored, and applied to avoid and prevent contamination through erosion, leakage, or inadvertent damage from rodents, pests, or wildlife.
66. **Throughout the life of the project**, best management water conservation practices shall be maintained to reduce water use below the water analysis projections as described in the applicant's Water Management Plan.
67. **Throughout the life of the project**, solid waste and recycling shall be conducted in accordance with Land Use Ordinance Sections 22.10.150.B and C.
68. **Throughout the life of the project**, immature plants and clones shall only be used for the cultivation on the project site and shall not be sold or transported off-site.

69. **Throughout the life of the project**, no minors or unauthorized personnel shall be permitted inside any restricted access areas, including the cultivation areas, under any circumstance.
70. **Throughout the life of the project**, no outdoor lighting for the purposes of photosynthesis or plant manipulation is allowed with this Land Use Permit. Indoor lights shall be screened to not be seen from off-site and consistent with dark-sky standards.
71. **Throughout the life of the project**, the applicant or responsible party designated by the applicant shall maintain daily records of all water used for cannabis activities. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation, which shall be made available to the County of San Luis Obispo upon request.
72. **Throughout the life of the project** cannabis cultivation grading activities shall be consistent with the conservation practices and standards contained in the USDA Natural Resources Conservation Service (NRCS) Field Office Technical Guide (FOTG). Practices shall not adversely affect slope stability or groundwater recharge and shall prevent off-site drainage and erosion and sedimentation impacts. Erosion and sedimentation control activities shall adhere to the standards in Section 22.52.150C of the Land Use Ordinance.
73. **Throughout the life of the project**, the property owner(s) shall grant access to the County of San Luis Obispo and its officers, agents, and employees, and any other governmental entities and their respective officers, agents, and employees, to enter onto the subject property to conduct site inspections for the purposes of compliance with this Use Permit. Inspections may occur any day of the week, without prior notice, between the hours of 8:00 a.m. and 6:00 p.m.
74. **Throughout the life of the project**, the project would utilize three existing on-site wells located on the project property. If at any point in time any of these wells serve 25 or more of the same individuals at least 6 months of the year, including all full-time employees, a public water system permit is required to be obtained from the State Water Resources Control Board.
75. **Throughout the life of the project**, the applicant shall submit to the County of San Luis Obispo Planning and Building Department any proposed changes to the approved Site Plans, Operations Plan, Security Plan, or other plan approved through this Use Permit prior to the proposed change. Changes shall be submitted in writing and must be approved by the County of San Luis Obispo Planning and Building Department prior to the implementation of the proposed changes. Any changes to the approved project, including features identified in the Conditions of Approval stated herein, may require additional environmental analysis and/or revisions to the approved Use Permit that requires review and approval by the appropriate Review Authority.
76. **Throughout the life of the project**, the applicant shall submit to the County of San Luis Obispo Planning and Building Department any changes to the applicant name, business name, business owners, State license status, landowner, or changes in ownership requiring approval from the County of San Luis Obispo Tax Collector's Office or Sheriff's Office prior to the proposed change. Changes shall be submitted in writing and must be approved by the County of San Luis Obispo Planning and Building Department prior to the implementation of the proposed changes.
77. **Throughout the life of the project**, the applicant, and their representatives, agents, officers, employees, successors, landlords, tenants, insurers, assigns and any other

party claiming a direct or indirect financial, ownership or commercial interest in the project or the cannabis or cannabis products produced or located on the site (Releasing Parties”), shall, as a condition of approval of this land use permit, release, waive, discharge, hold harmless and covenant not to sue any property owner, property operator/tenant or pest control business, pest control advisor or qualified applicator, including their owners, agents, officers, employees and authorized representatives (“Released Parties”), for any claim, loss or damage to cannabis or cannabis products located on the project site arising out of the recommendation or application of a registered pesticide on an agricultural commodity located outside the project site by a person or business who holds the required state license or certificate and local Operator Identification Number and, if applicable, Restricted Materials Permit, and who follows required state and local pesticide use reporting and does not grossly depart from industry norms, standards and practices regarding the application of said pesticide. This condition does not extend to any loss or damage caused by the gross negligence or willful misconduct of a Released Party, or a violation of Food and Agricultural Code Section 12972 verified by the County Agricultural Commissioner. This condition expressly extends to any statutory violations, except as set forth herein, including but not limited to actual or alleged violations of Food and Agricultural Code Section 12973, so long as the violations are not caused by the gross negligence or willful misconduct of a Released Party. Approval of this land use permit, as a land use decision, is a quasi-judicial action regulatory in nature involving the application of preexisting laws or standards to a specific project and does not involve negotiated consideration by both the County and the application, unlike a development agreement (see 78 Ops.Cal.Atty.Gen. 230), and therefore is not subject to the limitations of Civil Code section 1668 because this land use decision is not contractual in nature. This condition of approval shall have no impact on the enforcement or application of State pesticide laws and regulations by state or local agencies, including but not limited to licensing and certification requirements, pesticide use reporting and operator identification numbers, pesticide use enforcement inspections and investigations, issuance of cease and desist orders, initiation of administrative or criminal enforcement actions, and imposition of administrative, civil and criminal penalties.

78. **Throughout the life of the project** the Williamson Act Contract shall be maintained. The County of San Luis Obispo shall have the right to examine, monitor, and audit such records and documentation pertaining to the Williamson Act Contract, which shall be made available to the County of San Luis Obispo upon request.. In the event that the Williamson Act Contract enters into owner-initiated non-renewal, this shall no longer apply.
79. **Throughout the life of the project** the parcels described as APNs 015-021-023 and 015-021-022 remain in common ownership. In the event that one of the subject parcels is sold, the use must cease until a new use permit can be issued authorizing the newly defined project site for cannabis use.

LAND USE PERMIT EXPIRATION

80. This Minor Use Permit for cannabis cultivation shall expire in 5 years from the approval date. Within a 12-month period prior to expiration, the applicant may request the Minor Use Permit be renewed for an additional 5-year period. Any such request for renewal shall be in writing to the County of San Luis Obispo Planning and Building Department and shall be submitted in conjunction with the appropriate Land Use Permit application.

The request for renewal shall be processed with the same type of permit for the original entitlement. If a request for renewal is not requested or not granted, the Minor Use Permit shall be deemed expired.

- i. All conditions of this approval shall be strictly adhered to, within the time frames specified, and in an on-going manner for the life of the project. Failure to comply with these conditions of approval may result in an immediate enforcement action by the County Department of Planning and Building. If it is determined that violation(s) of these conditions of approval have occurred, or are occurring, this approval may be revoked pursuant to LUO Section 22.74.16



COUNTY OF SAN LUIS OBISPO
Department of Public Works
John Diodati, *Director*

RECOMMENDED CONDITIONS

Date: June 15, 2022
To: Elizabeth Moreno, Project Planner
From: David E. Grim, Development Services
Subject: **MOD2021-00056 for DRC2019-00189 GHC Ventures MUP 5165 Estrella Rd., San Miguel, APN 015-021-022/023**

Thank you for the opportunity to provide information on the proposed subject project. It has been reviewed by several divisions of Public Works, and this represents our consolidated response.

Public Works Comments

- A. Public Works supports the modification to use the driveway at APN 015-021-023 to access the project site. The original referral response for DRC2019-00189 included conditions to reconstruct both driveways to County Standards. It appears the driveway at APN 015-021-023 was reconstructed and inspected on September 20, 2021; therefore, the relevant conditions are considered fulfilled. All other ongoing conditions of approval for DRC2019-00189 remain valid.

Public Works Recommended Conditions

None.

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