DEVELOPER'S STATEMENT FOR DOWDEN MINOR USE PERMIT N-DRC2022-00038

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

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

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

EXHIBIT B - MITIGATION SUMMARY

The following mitigation measures address impacts that may occur as a result of the development of the project.

AIR QUALITY

AQ-1 **Fugitive Dust Construction Control Measures.** ***Prior to issuance of construction permits***, the following measures shall be incorporated into the construction phase of the project and shown on all applicable plans:

a. Reduce the amount of the disturbed area where possible;

b. Use water trucks or sprinkler systems in sufficient quantities to prevent airborne dust from leaving the site. Increased watering frequency would be required whenever wind speeds exceed 15 miles per hour. Reclaimed (non-potable) water should be used whenever possible; When water use is a concern due to drought conditions, the contractor or builder shall consider use of a dust suppressant that is effective for the specific site conditions to reduce the amount of water used for dust control;

c. All dirt stock-pile areas shall be sprayed daily as needed;

d. All roadways, driveways, sidewalks, etc. to be paved shall be completed as soon as possible, and building pads shall be laid as soon as possible after grading unless seeding or soil binders are used;

e. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least two feet of freeboard (minimum vertical distance between top of load and top of trailer) or otherwise comply with California Vehicle Code (CVC) Section 23114.

f. "Track-Out" is defined as sand or soil that adheres to and/or agglomerates on the exterior surfaces of motor vehicles and/or equipment (including tires) that may then fall onto any highway or street as described in CVC Section 23113 and California Water Code 13304. To prevent 'track out', designate access points and require all employees, subcontractors, and others to use them. Install and operate a 'track-out prevention device' where vehicles enter and exit unpaved roads onto paved streets. The 'track-out prevention device' can be any device or combination of devices that are effective at preventing track out, located at the point of intersection of an unpaved area and a paved road. Rumble strips or steel plate devices need periodic cleaning to be effective. If paved roadways accumulate tracked out soils, the track-out prevention device may need to be modified.

g. All of these fugitive dust mitigation measures shall be shown on grading and building plans; and

h. The contractor or builder shall designate a person or persons whose responsibility is to ensure any fugitive dust emissions do not result in a nuisance and to enhance the implementation of the mitigation measures as necessary to minimize dust complaints and reduce visible emissions below the APCD's limit of 20% opacity for greater than 3 minutes in any 60-minute period. Their duties shall include holidays and weekend periods when work may not be in progress (for example, wind-blown dust could be generated on an open dirt lot). The name and telephone number of such persons shall be provided to the APCD Compliance Division prior to the start of any grading, earthwork, or demolition (Contact the Compliance Division at 805-781-5912).

i. Permanent dust control measures identified in the approved project revegetation and landscape plans should be implemented as soon as possible, following completion of any soil disturbing activities.

j. Exposed ground areas that are planned to be reworked at dates greater than one month after initial grading should be sown with a fast germinating, non-invasive grass seed and watered until vegetation is established.

k. All disturbed soil areas not subject to revegetation should be stabilized using approved chemical soil binders, jute netting, or other methods approved in advanced by the APCD.

l. Vehicle speed for all construction vehicles shall not exceed 15 mph on any unpaved surface at the construction site.

m. Sweep streets at the end of each day if visible soil material is carried onto adjacent paved roads. Water sweepers shall be used with reclaimed water where feasible. Roads shall be pre-wetted prior to sweeping when feasible.

n. Take additional measures as needed to ensure dust from the project site is not impacting areas outside the project boundary.

AQ-2 **ROG, NO_x, DPM Emissions.** ***Prior to issuance of construction permits***, the following measures based on the SLOAPCD standard mitigation measures for construction equipment for reducing nitrogen oxides (NOx), reactive organic gases (ROG), and diesel particulate matter (DPM) emissions from construction equipment shall be implemented to reduce expose of sensitive receptors to substantial pollutant concentrations. These measures shall be shown on grading and building plans:

a. Implement Mitigation Measure AQ-1, as identified above.

b. On-road diesel vehicles shall comply with Section 2485 of Title 13 of the California Code of Regulations. This regulation limits idling from diesel-fueled commercial motor vehicles with gross vehicular weight ratings of more than 10,000 pounds and licensed for operation on highways. It applies to California and non-California based vehicles. In general, the regulation specifies that drivers of said vehicles:

   i. Shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, except as noted in Subsection (d) of the regulation; and,

   ii. Shall not operate a diesel-fueled auxiliary power system to power a heater, air conditioner, or any ancillary equipment on that vehicle during sleeping or resting in a sleeper berth for greater than 5.0 minutes at any location when within 1,000 feet of a restricted area, except as noted in Subsection (d) of the regulation.

c. Maintain all construction equipment in proper tune according to manufacturer's specifications.

d. Fuel all off-road and portable diesel-powered equipment with ARB certified motor vehicle diesel fuel (non-taxed version suitable for use off-road).

e. Use diesel construction equipment meeting ARB's Tier 2 certified engines or cleaner off-road heavy-duty diesel engines and comply with the State Off-Road Regulation.

f. Use on-road heavy-duty trucks that meet the CARB's 2010 or cleaner certification standard for on-road heavy-duty diesel engines and comply with the State On-Road Regulation.

g. Idling of all on and off-road diesel-fueled vehicles shall not be permitted when not in use. Signs shall be posted in the designated queuing areas and/or job site to remind drivers and operators of the no idling limitation.

h. Electrify equipment when possible.

i. Substitute gasoline-powered in place of diesel-powered equipment, when available. and,

j. Use alternatively fueled construction equipment on-site when available, such as compressed natural gas (CNG), liquefied natural gas (LNG), propane or biodiesel.

AQ-1 and AQ-2 Monitoring: Required prior to issuance of construction permits. Compliance will be verified by the County Department of Planning and Building.

BIOLOGICAL RESOURCES

BIO-1 **Contract.** ***Prior to issuance of grading and/or construction permits,*** the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Department of Planning and Building to perform the training and monitoring activities described in the adopted mitigation measures for biological resources.

BIO-1 Monitoring: Required prior to issuance of grading and/or construction permits. Compliance will be verified by the County Department of Planning and Building.

BIO-2 **Environmental Awareness Training.** ***Prior to the start of grading or construction, mobilization of any equipment on the project site, and installation of project limit fencing/flagging for project construction***, a qualified biologist shall conduct an environmental sensitivity training for all project personnel during the project kick-off meeting. The purpose of the training is to educate the personnel on the identification of special-status wildlife species that may occur within the project area and to provide an overview of the avoidance and minimization measures to be adhered to during the project. Specifically, the training shall emphasize on all special-status wildlife species that would be expected to occur within the project limits, applicable regulatory policies and provisions regarding their protection, and a review of measures being implemented to avoid and/or minimize impacts to the species and their associated habitat. Crew members shall be briefed on the reporting process in the event that an inadvertent injury should occur to a special-status species during construction.

BIO-2 Monitoring: Required prior to ground disturbance and construction activities. Compliance will be verified by the County Department of Planning and Building.

BIO-3 **Oak Tree Mitigation Plan.** ***At the time of application for grading and/or construction permits,*** the following measures shall be implemented to reduce project effects on oak trees:

1. **Employ a certified arborist for oak tree trimming.** The applicant shall employ the services of a County of San Luis Obispo-qualified, certified arborist to trim trees and roots as necessary for clearance. The arborist shall record the number of oak trees that require extensive canopy trimming (i.e., over 30% of the canopy), and incorporate these trees into the mitigation plan in Mitigation Measure BIO-3.3, below.
2. **Install protective fencing around the dripline and critical root zone of oak trees.** Project site plans shall show tree locations around the proposed disturbance footprint. Within two weeks prior to the initiation of work to improve the driveway and construct the house, protective fencing shall be installed around oak trees within the 30-foot buffer distance that are to remain undisturbed. The project biologist or certified arborist shall work with the project engineer and grading contractor to provide information on how to avoid and minimize impacts of fill and/or grading within the critical root zone of oak trees. The protective fencing shall be orange plastic construction fencing or similar material and staked into the ground delineating each tree's critical root zone. Fencing or stakes should be installed and maintained throughout construction and removed only after there is no potential for construction-related impacts. For any work that will impact the area within the critical root zone of oak trees, Mitigation Measure BIO-3.3 is required.
1. **Prepare and Implement an Oak Tree Mitigation Plan.** The following Oak Tree Mitigation Plan shall be implemented by the applicant and overseen by a qualified botanist or arborist for all replacement oak trees. The plan incorporates by reference and shall follow current County guidelines and

mitigate removed trees at a 4:1 ratio (i.e., 4 trees planted for every tree removed). For trees that were impacted through extensive trimming (i.e., over 30% of the canopy), grading or placement of fill or structures within the critical root zone, a mitigation ratio of 2:1 shall be employed. The following are the minimum requirements of the mitigation plan:

- Replacement trees shall be coast live oaks acquired from a native plant nursery with container stock from the southern San Luis Obispo County region.
- The mitigation sites shall be located along the perimeter of the property away from development and identified in the field through appropriate flagging or fencing.
- Planting areas shall be prepared prior to container stock installation and have all non-native plant cover removed from the planting site through hand pulling or use of hand or mechanical equipment.
- Replacement trees shall be planted approximately 10 to 20 feet on center to emulate conditions onsite.
- Caging of plants and rootballs shall be done as needed to avoid herbivory and gopher/ground squirrel damage.
- A low nitogren, slow-release fertilizer may be used as well as a mycorrhizal inoculant to promote successful establishment.
- Plantings shall be irrigated by hand or with a drip irrigation system, and mulched (compost or wood chips) to promote appropriate soil conditions. Irrigation shall occur regularly for a minimum of two years and then tapered off during the third rain season as determined by the qualified botanist/arborist.
- Container plants shall be tagged and numbered following installation and mapped with a GPS unit to track their establishment.
- An as-built Planting Plan shall be prepared with GPS data to track the replacement trees.
- Maintenance shall occur on a weekly to monthly basis following installation and then gradually reduced as determined by the qualified botanist/arborist.
- Monitoring shall occur at least twice a year (spring and fall) for a seven-year period to document establishment and guide maintenance activities.
- Annual Reports detailing monitoring of the mitigation effort shall be prepared by a qualified botanist or arborist and submitted to the County by December 31st of each year following planting.
- All replacement trees shall be maintained and monitored for a minimum of seven (7) years to ensure successful establishment of a minimum of 30 replacement trees based on current numbers removed and trimmed. If additional trees are impacted during construction of the project, the replacement number shall be adjusted accordingly.
- The goal of the plan is to have at least 30 healthy coast live oak trees with no need for supplemental irrigation. There shall be no signs of

necrosis or plant damage, and all planted specimens shall show signs of new growth.

BIO-4 **Oak Tree Mitigation Plantings.** ***At the time of application for construction or grading permits,*** if replacement mitigation plantings are unable to be satisfactorily implemented, the applicant shall coordinate with the County of San Luis Obispo Planning and Building Department to determine the appropriate fee and submit payment to the California Wildlife Conservation Board's Oak Woodlands Conservation Program to mitigate for up to 50% of oak trees impacted by the project that have not mitigated through on-site replacement plantings (as described in Mitigation Measure BIO-3.3, above). Contribution to the Oak Woodlands Conservation Fund shall be paid in full prior to issuance of grading or construction permits. The cost of each tree will be determined at the time of application for building permits.

BIO-3 and BIO-4 Monitoring: Required prior to issuance of construction permits and prior to site disturbance and construction activities. Compliance will be verified by the County Department of Planning and Building.

BIO-5 **Preconstruction Surveys for Reptiles.** The following measures shall be implemented to reduce project effects on special-status reptile species during the proposed development:

1. ***Prior to the start of grading or construction,*** conduct a preconstruction survey and avoid construction in any areas with special-status reptile species. Immediately prior to the start of vegetation removal or grading, a qualified biologist shall survey permanent and temporary impact areas for special-status reptile species. Raking surveys in areas with leaf litter under shrubs and trees shall be used to detect the northern California legless lizard, as well as searches under lumber or other cover objects. Visual surveys of the disturbance areas shall be conducted for the horned lizard. Construction activities may begin once it has been determined that there are no special-status reptile species within impact areas. If any individuals are found within the impact area or would otherwise be at risk during construction, work activities shall be delayed in that particular area and the wildlife allowed to leave the work zone on its own volition or relocated by the qualified biologist. The biologist shall confirm when individuals of special-status species have left, and work can commence.

2. ***During all ground-disturbing activities,*** conduct biological monitoring for special-status wildlife species. A qualified biologist shall monitor vegetation removal and site grading to search for unearthed northern California legless lizards and coast horned lizards. The biologist shall be on-site daily until all vegetation has been cleared. The biologist shall monitor construction activities from a safe distance using binoculars and walk through the site to look for disturbed wildlife during breaks. Any animals found shall be moved out of harm's way or allowed to move to an undisturbed location on their own volition. As necessary, appropriate regulatory agency permits and/or approvals shall be obtained to allow relocation of special-status species from the project area.

3. ***During grading and construction,*** employ measures to prevent entrapment of reptiles in open excavations and trenches. During the period in which there are open trenches or excavations more than six (6) inches deep, such as during the excavation for building foundations or utility lines, escape ramps shall be installed so that reptiles and other wildlife that may have become entrapped have the ability to escape. Escape ramps are to consist of a 2:1 sloped soil area leading from the bottom to ground level. If this is not possible, qualified personnel shall inspect open trenches each day prior to the start of work for entrapped animals. A third option is that trenches/excavations shall be completely covered with plywood or similar material during overnight periods. If a horned lizard is located, a qualified biologist shall be contacted immediately to assist with relocation. Work shall be halted until the entrapped wildlife has been relocated.

BIO-5 Monitoring: Required immediately prior to site disturbance or construction activities, and during all ground-disturbing activities. A report shall be provided to the County prior to initial project activities, and a final close-out report prior to final inspection. Compliance will be verified by the County Department of Planning and Building.

BIO-6 **Preconstruction Den Survey.** ***Prior to the start of grading or construction,*** conduct a preconstruction den survey and establish no-work buffers around potential dens. Within 2 weeks prior to the start of ground-disturbing activities, a qualified biologist shall survey the project impact area, including areas to be used for stockpiling materials or storing equipment plus a 100-foot buffer within the parcel, for potential American badger dens. If no potential dens are found, work may proceed. Any potential dens found shall be identified with flagging or stakes, and a 100-foot no-work buffer shall be flagged. If the potential den cannot be avoided during all work activities with at least a 100-foot buffer, Mitigation Measure BIO-6.1 would be required.

1. If any potential American badger dens are found that cannot be avoided including buffer area, employ standard measures to determine whether the dens are active and excavate non-maternal dens to prevent re-occupation. A qualified biologist shall install wildlife trail cameras, install tracking media, or use a fiber optic scope to determine whether the potential dens on-site are actively being used by a badger. Potential dens shall be monitored daily for at least three (3) days to determine whether they are currently occupied. If the work takes place in the late-spring or summer, additional measures shall be employed to determine whether dens are occupied by badger young. No dens with young shall be disturbed, and no work shall be conducted within 200 feet of maternal dens until the young have left the den. Dens occupied by a single adult badger can be avoided with a 50-foot buffer. If any active dens occupied by a single adult are found and cannot be avoided with the 50-foot buffer, the burrow opening should be gradually covered with sticks and debris to deter the individual from using the den. The biologist shall place sticks and debris over the entrance for 3 to 5 days to discourage the badger from using the den. Only after the badger has left the den, as determined by the qualified biologist implementing the wildlife camera

and/or tracking medium methods, can the burrow be excavated, and work proceed.

Destruction of a den is typically done by incrementally excavating the burrow until it is confirmed that no wildlife are occupying it. Excavation using hand tools is the recommended method for destroying a den. Use of excavating equipment can be done with extreme caution and while being monitored by a qualified biologist. After the den is destroyed, the excavation is to be filled with dirt and compacted to make sure that burrowing wildlife cannot reenter or use the burrow during construction. If an American badger is discovered inside the den during the excavation activities, excavation should cease immediately, and monitoring of the den reinitiated. Den destruction may proceed once it is determined that the wildlife has left the den.

BIO-6 Monitoring: Required 2 weeks prior to the start of ground-disturbing activities. Compliance will be verified by the County Department of Planning and Building. A report shall be provided to the County prior to initial project activities, and a final close-out report prior to final inspection. Compliance will be verified by the County Department of Planning and Building.

BIO-7 **Oak Tree Delineation.** ***At the time of application for construction and grading permits,*** final project plans shall clearly delineate all trees within 50 feet of the proposed area of disturbance, and indicate which trees are to be removed or impacted and which trees are to remain unharmed.

BIO-7 Monitoring: Required prior to issuance of construction permits. Compliance will be verified by the County Department of Planning and Building.

BIO-8 **Preconstruction Survey for Nesting Birds.** ***Prior to initiation of any site preparation/construction activities,*** if work is planned to occur between February 1 and September 1, a qualified biologist shall conduct a preconstruction survey for nesting birds within a 250-foot buffer of project impact areas. This survey shall be conducted within seven (7) days before the initiation of construction activities or vegetation trimming/removal. During this survey, the qualified biologist shall search for birds exhibiting nesting behavior (i.e., food or stick carries, territorial displays, courtship, etc.), and inspect all potential nest substrates in the impact and buffer areas. Any nests identified will be monitored to determine if they are active. If no active nests are found, construction may proceed. If an active nest is found within 50 feet (250 feet for raptors) of the construction area, the biologist shall determine the extent of a buffer to be established around the nest. The buffer will be delineated with flagging, and no work shall take place within the buffer area until the young have left the nest, as determined by the qualified biologist.

BIO-8 Monitoring: Required 1 week prior to the start of ground-disturbing activities. Compliance will be verified by the County Department of Planning and Building. A report shall be provided to the County prior to initial project activities, and a final close-out report prior to final inspection. Compliance will be verified by the County Department of Planning and Building.

CULTURAL RESOURCES

CR-1 **Contract.** ***Prior to issuance of grading and/or construction permits,*** the applicant shall provide evidence that they have retained a qualified biologist acceptable to the County Department of Planning and Building to perform the training and monitoring activities described in the adopted mitigation measures for cultural resources.

CR-1 Monitoring: Required prior to issuance of construction permits. Compliance will be verified by the County Department of Planning and Building.

CR-2 **Worker Environmental Awareness Training.** ***Prior to any proposed construction ground disturbing activities within the project area,*** project personnel (e.g., contractors, construction workers) shall be briefed by a qualified archaeologist (retained on-call by applicant) about the potential and procedures for inadvertent discovery of prehistoric and historic archaeological resources. In addition, the training shall include established procedures for temporarily halting or redirection of work in the event of a discovery, identification and evaluation procedures for finds, and a discussion on the importance of, and the legal basis for, the protection of archaeological resources. Personnel will be given a training brochure/handout regarding identification of cultural resources, protocols for inadvertent discoveries, and contact procedures in the event of a discovery.

CR-2 Monitoring: Required prior to any proposed ground disturbance or construction activities within the project area. Compliance will be verified by the County Department of Planning and Building.

CR-3 **Monitoring Plan.** ***Prior to the start of construction,*** the applicant shall submit a monitoring plan, prepared by a subsurface-qualified archaeologist, for review and approval by the Environmental Coordinator. The monitoring plan shall include at a minimum:

a. List of personnel involved in the monitoring activities;

b. Description of how the monitoring shall occur;

c. Description of frequency of monitoring (e.g., part time, spot checking);

d. Description of what resources are expected to be encountered;

e. Description of circumstances that would result in the halting of work at the project site (e.g., what is considered "significant" archaeological resources);

f. Description of procedures for halting work on the site and notification procedures; and

g. Description of monitoring reporting procedures.

CR-3 Monitoring: Required prior to the start of construction. Compliance will be verified by the County Department of Planning and Building.

CR-4 **Cultural Resource Monitoring.** ***During initial ground disturbing construction activities***, the applicant shall retain a qualified archaeologist (approved by the Environmental Coordinator) and Native American to monitor all earth disturbing activities, per the approved monitoring plan. After initial ground disturbance, if determined acceptable by the archaeologist and Native American monitor, monitoring frequency may be adjusted to reflect the potential for buried cultural resources. If any significant archaeological resources or human remains are found during monitoring, work shall stop within the immediate vicinity (precise area to be determined by the archaeologist in the field) of the resource until such time as the resource can be evaluated by an archaeologist and any other appropriate individuals. The applicant shall implement the mitigation as required by the Environmental Coordinator.

CR-4 Monitoring: Required during initial ground disturbing construction activities. Compliance will be verified by the County Department of Planning and Building.

CR-5 **Monitoring Report.** ***Prior to final inspection, and upon completion of all monitoring/mitigation activities***, the consulting archaeologist shall submit a report to the Environmental Coordinator summarizing all monitoring/mitigation activities and confirming that all mitigation measures have been met.

CR-5 Monitoring: Required prior to final inspection. Compliance will be verified by the County Department of Planning and Building.

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

Signature of Agent(s)/Owner

7/22/24
Date

John Dowden
Name (Print)