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RESOLUTION 24-XXX (A)

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES
CERTIFYING A MITIGATED NEGATIVE DECLARATION (SCH #2023090132) AND MITIGATION MONITORING AND
REPORTING PLAN PURSUANT TO THE CALIFORNIA ENVIRONMENTAL QUALITY ACT (CEQA) FOR A PROJECT
CONSISTING OF: COVELOP/MD3 - (PLANNED DEVELOPMENT 22-20, OAK TREE REMOVAL 23-11, VESTING
TENTATIVE PARCEL MAP PR 22-0054, CONDITIONAL USE PERMIT 23-14) - 2930 UNION ROAD, APN: 025-362-043**

WHEREAS, the City of Paso Robles has received applications from Kirk Consulting on behalf of Covelop/MD3, requesting a commercial subdivision, development plan, conditional use permit, and oak tree removal permit to develop an approximate 14-acre site with six (6) commercial/light industrial buildings totaling 240,327± square feet; and

WHEREAS, the Project will require the following entitlements: Planned Development PD 22-20, Oak Tree Removal 23-11 for six (6) native oak trees, Vesting Tentative Parcel Map PR 22-0054, and Conditional Use Permit 23-14; and

WHEREAS, the site has a General Plan land use designation of Commercial Service (CS) and is in the Commercial Light-Industrial zoning district, Planned Development zoning overlay (C3-PD); and

WHEREAS, commercial and light-industrial uses, included warehousing, are allowed uses in the C3-PD zoning district; and

WHEREAS, Vesting Tentative Parcel Map PR 22-0054 would subdivide Parcel 6, which is currently 6.76 (net) acres, into two parcels where Parcel A would be 4.03 acres and Parcel B would be 2.73 acres. Existing Lot 13 is approximately 7 acres and while included as part of the development plan, is not included in the subdivision; and

WHEREAS, the purpose and intent of the planned development (PD) district zoning overlay is to provide for innovation and flexibility in the design of residential, commercial, and industrial developments. Approval of a development plan is required for all development in the planned development (overlay) district; and

WHEREAS, pursuant to the Statutes and Guidelines of the California Environmental Quality Act (CEQA), Public Resources Code, Section 21000, et seq., and the City's Procedures for Implementing CEQA, an Initial Study and a Draft Mitigated Negative Declaration (MND) SCH 2023090132 were prepared and were circulated for a 30-day public review period beginning on September 11, 2023 and ending October 10, 2023. This process was noticed by: (1) filing a Notice of Intent to Adopt a Mitigated Negative Declaration (NOI) with the State Clearinghouse; (2) filing an NOI with the San Luis Obispo County Clerk; (3) placing an NOI in the Tribune Newspaper, a newspaper of general circulation; (4) mailing the NOI to various interested persons, agencies, and tribes; and (5) posting the NOI on the City website; and

WHEREAS, the MND was made available during the public review period at the Paso Robles Community Development Department and on the City's web page; and

WHEREAS, mitigation measures have been incorporated into the MND and will be imposed on the project through the adoption of a Mitigation Monitoring and Reporting Plan (MMRP) in compliance with CEQA Guidelines Section 15074(d). These mitigation measures are imposed on the project to address potential environmental effects to: Biological Resources, Cultural Resources, and Tribal Cultural Resources. With the implementation of this mitigation, all potential environmental effects will be reduced to a less than significant level. These mitigation measures are provided in the exhibits of this resolution; and

WHEREAS, mitigation measures set forth in the MMRP are specific and enforceable. The MMRP adequately describes implementation procedures, monitoring responsibility, reporting actions, compliance schedule, and verification of compliance in order to ensure that the Project complies with the adopted mitigation measures; and

WHEREAS, the mitigation measures contained in the MMRP will also be imposed as enforceable conditions of

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approval; and

WHEREAS, two written comments were received before the Planning Commission hearing and were initially considered and responded to at the hearing. These comments are summarized as follows:

- A. Air Pollution Control District (APCD) Letter (Attachment 4) – suggesting some additional thresholds to consider and associated dust control conditions and greenhouse gas emission conditions.
- B. Lozeau Drury, LLP, on behalf of Supporters Alliance for Environmental Responsibility (SAFER) Letter (Attachment 5) – indicating that SAFER is concerned that the proposed MND does not analyze the project impacts related to proposed oak removals and San Joaquin Kit Fox habitat impacts, and requests that an EIR be prepared for the project.

A more thorough response to these comments letters has been prepared and is attached hereto as Exhibit A of this resolution; and

WHEREAS, a public hearing was conducted by the Planning Commission on October 10, 2023 to consider the Final MND and the MMRP prepared for the proposed project, and to accept public testimony and written comments on the Development Plan, Oak Tree Removal Permit, Vesting Tentative Parcel Map, and Conditional Use Permit; at the close of this public hearing, the Planning Commission recommended, on a 5-0 vote (two Commissioners were absent), that the City Council adopt the MND, the MMRP, and the proposed Project with the addition of conditions of approval to address the APCD letter; and

WHEREAS, a copy of the Final MND is included in Exhibit A of this resolution; and

WHEREAS, a public hearing was conducted by the City Council on November 7, 2023, to consider the Final MND and MMRP prepared for the proposed project, and to accept public testimony on the Development Plan, Oak Tree Removal Permit, Vesting Tentative Parcel Map, and Conditional Use Permit; and

WHEREAS, on November 7, 2023 just prior to the start of the City Council meeting information was provided by Lozeau Drury, LLP, on behalf of SAFER, indicating concerns with the project MND; and

WHEREAS, on 5-0 vote the City Council unanimously continued the item to the December 5, 2023, City Council agenda to allow staff and the applicant time to review the information provided from SAFER; and

WHEREAS on December 5, 2023, the City Council continued the item to a date uncertain; and

WHEREAS, on January 31, 2023, the City Clerk received a letter from Lozeau Drury, LLP, withdrawing the previous comments on the MND for the project, indicating that SAFER and the applicants have reached an agreement resolving the issues raised in their comments on the project.

WHEREAS, the project was duly noticed for the February 20, 2024 City Council Agenda; and

WHEREAS, a public hearing was conducted by the City Council on February 20, 2024, to consider the Final MND and MMRP prepared for the proposed project, and to accept public testimony on the Development Plan, Oak Tree Removal Permit, Vesting Tentative Parcel Map, and Conditional Use Permit; and

WHEREAS, based on the information and analysis contained in the Final MND prepared for this Project and testimony received as a result of the public notice, the Planning Commission recommends the City Council find there is no substantial evidence supporting a fair argument that there would be a significant impact on the environment, with the mitigation measures imposed on the Project; and

WHEREAS, pursuant to CEQA, the City Council has independently reviewed the Final MND, and all comments received regarding the Final MND, and neither additional information submitted to the City nor other circumstances have produced substantial new information requiring substantial revisions that would trigger recirculation of the Final MND or additional environmental review of the Project under State CEQA Guidelines section 15073.5. Based on the whole record before it, the City Council finds that the Final MND was prepared in

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compliance with CEQA and the CEQA Guidelines, that there is no substantial evidence that the Project will have a significant effect on the environment with the incorporation of mitigation, and the Final MND reflects the independent judgment and analysis of the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF EL PASO DE ROBLES DOES HEREBY RESOLVE AS FOLLOWS:

Section 1. All of the above recitals are true and correct and incorporated herein by reference.

Section 2. The City Council has reviewed and considered the Final MND and administrative record for the Project, including all oral and written comments received during the comment period. Based on the City's independent review and analysis, the City Council finds that the Final MND and the administrative record contain a complete and accurate reporting of the environmental impacts associated with the Project, and that the Final MND has been completed in compliance with CEQA and the State CEQA Guidelines.

Section 3. Based on the Final MND and the administrative record, including all public comments (written and oral evidence) presented to the City Council as of February 20, 2024, the City Council finds that all environmental impacts of the Project are less than significant with the mitigation set forth in the MND and the MMRP. The City Council further finds that there is no substantial evidence in the administrative record supporting a fair argument that the Project may result in significant environmental impacts. The City Council finds that the Final MND contains a complete, objective, and accurate reporting of the environmental impacts associated with the Project and reflects the independent judgment and analysis of the City. No new significant environmental effects have been identified in the Final MND and any changes to the Final MND in response to comments or otherwise do not constitute substantial revisions requiring recirculation under State CEQA Guidelines section 15073.5. Based on these findings, the City Council approves and adopts the Final MND for this Project, which is attached to this Resolution as Exhibit "B", pursuant to Public Resources Code section 21080, subdivision (c)(2).

Section 4. The City Council has also reviewed and considered the MMRP for the Project that has been prepared pursuant to the requirements of Public Resources Code section 21081.6 and finds that such Plan is designed to ensure compliance with the mitigation measures during Project implementation. The City Council therefore approves and adopts the MMRP for the Project, which is attached to this Resolution as Exhibit "C" and made a condition of Project approval.

Section 5. The City Council directs staff to file a Notice of Determination with the San Luis Obispo County Clerk and the Office of Planning and Research within five (5) working days of approval of the Project.

Section 6. The custodian of records for the Final MND, MMRP, and all other materials that constitute the record of proceedings on which these findings have been based are located at the Paso Robles Community Development Department, located at 1000 Spring Street, Paso Robles, California 93446. The custodian of these documents is the City Clerk of the City of Paso Robles.

APPROVED this 20th day of February 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

John R. Hamon, Jr., Mayor

Melissa Boyer, City Clerk

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Exhibit A - Response to Comments

Exhibit B – Initial Study and Mitigated Negative Declaration SCH 2023090132

Exhibit C – Mitigation Monitoring and Reporting Plan