BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF FRESNO, CALIFORNIA, REPEALING SECTION 6-516 OF THE FRESNO MUNICIPAL CODE AND AMENDING SECTION 6-501(ee), RELATING TO TRANSMISSION GRID MAINS AND ASSOCIATED REIMBURSEMENTS

WHEREAS, in 2017, the City Council adopted Ordinance 2017-19, which revised the Fresno Municipal Code to provide for a citywide water capacity fee. The City Council also adopted Resolution No. 2017-99 updating and setting the amount of the City's water capacity fee; and

WHEREAS, the City intends to amend portions of the Fresno Municipal Code that address the process for reimbursing developers that construct transmission grid mains; and

WHEREAS, the amendments to the Fresno Municipal Code, adopted by this Ordinance, are not intended to increase, alter, modify, amend, or extend the City's previously adopted water capacity fees; and

WHEREAS, the City Council has determined that since the amendments to the Fresno Municipal Code, adopted by this Ordinance, do not increase, alter, modify, amend, or extend the City's previously adopted water capacity fees, this Ordinance is not subject to the requirements of Government Code section 66013.

THE COUNCIL OF THE CITY OF FRESNO DOES ORDAIN AS FOLLOWS:

Date Adopted:
Date Approved
Effective Date:
City Attorney Approval: _____ Ordinance No.

SECTION 1. The above recitals are true and correct, are material to the adoption of this ordinance, and are incorporated herein by reference.

SECTION 2. Subsection (ee) of Section 6-501 the Fresno Municipal Code is amended to read:

SECTION 6-501 DEFINITIONS.

(ee) "Transmission grid main" means a portion of a network of large ~~(ten-inch diameter or larger)~~ [(14 inch diameter or larger)] water mains lying generally at one-half mile intervals, which in the judgment of the Director serves primarily to transmit water from supply wells [and surface water treatment facilities] to the distribution system of mains which supply water to individual properties, or which serves to interconnect the supply wells. Service connections may be made to transmission grid mains but all water mains ~~ten inches~~ [fourteen inches] in diameter or larger are not necessarily transmission grid mains. The Director shall maintain in his office a map of the transmission grid main network, which shall be revised from time to time to show necessary additions to and deletions from the network.

SECTION 3. Section 6-516 of the Fresno Municipal Code is repealed.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or portion of this amended ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this amended ordinance. The City Council hereby declares

that it would have adopted this amended ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions thereof may be declared invalid or unconstitutional. Additionally, the City Council intends to preserve all applicable defenses to any challenge to any portions of the underlying ordinance or any amendment to the same where the applicable statute of limitations to challenge the ordinance has expired. The City Council further expresses its intent to preserve all applicable defenses to the ordinance based on the Court of Appeal having previously upheld the validity of the ordinance and the amendments thereto in Granville Homes, Inc. v. City of Fresno, Fifth Appellate District Court of Appeal, case number F077870. The City Council also does not intend to waive any legal defenses based on the adoption of the underlying ordinance and the City Council's amendments to its municipal code in 2017 to replace prior ordinance provisions with a new citywide water capacity fee program. The City Council hereby expresses its intent for the underlying ordinance and all amendments to the same that were previously adopted by the City Council to remain in effect should any portion of the ordinance or amendment to the ordinance be held to be invalid by a court.

SECTION 5. The City Council has reviewed this matter under the California Environmental Quality Act (CEQA) and determined that this item is not a project, nor is it an approval of any expansion project or any other project. The City Council has adopted Resolution No. 2023-____ making findings concerning the same.

SECTION 6. This ordinance shall become effective and in full force and effect at 12:01 a.m. on the thirty-first day after its final passage.

* * * * * * * * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
CITY OF FRESNO)

I, TODD STERMER, City Clerk of the City of Fresno, certify that the foregoing ordinance was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____ 2023.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2023
Mayor Approval/No Return: _____, 2023
Mayor Veto: _____, 2023
Council Override Vote: _____, 2023

TODD STERMER, CMC
City Clerk

By: _____
Deputy Date

APPROVED AS TO FORM:
ANDREW JANZ
City Attorney

By: _____
Jennifer M. Quintanilla Date
Senior Deputy City Attorney