

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF FRESNO, CALIFORNIA, CERTIFYING ENVIRONMENTAL IMPACT REPORT SCH No. 2020039061 AS RELATED TO PLAN AMENDMENT AND REZONE APPLICATION NO. P19-00417, VESTING TENTATIVE TRACT MAP NO. 6212/UGM, AND VESTING TENTATIVE TRACT MAP APPLICATION NO. 6276/UGM; ADOPTING FINDINGS OF FACT AS REQUIRED BY PUBLIC RESOURCES CODE SECTION 21081(a) AND CEQA GUIDELINES, SECTION 15091, APPROVING A WATER SUPPLY ASSESSMENT IN COMPLIANCE WITH CEQA GUIDELINES SECTION 15155, APPROVING A MITIGATION MONITORING PROGRAM AS REQUIRED BY PUBLIC RESOURCES CODE SECTION 21081.6 AND CEQA GUIDELINES SECTION 15097, ADOPTING THE STATEMENT OF OVERRIDING CONSIDERATIONS AS REQUIRED BY PUBLIC RESOURCES CODE SEC. 21081(b) AND CEQA GUIDELINES SECTION 15093, AS RELATED TO THE ADOPTION OF THE SUBJECT APPLICATIONS

WHEREAS, Plan Amendment Application No. P19-00417, Rezone Application No. P19-00417, Vesting Tentative Tract Map No. 6212/UGM and Vesting Tentative Tract Map No. T-6276/UGM ("Project") were submitted by Gary Giannetta on behalf of GVM Holdings, Inc., and pertain to property located at 4445 North Grantland Avenue, specifically Assessor Parcel Numbers 512-021-26, 50S & 512-070-55 ("Subject Property"); and

WHEREAS, the development of the Subject Property would consist of the construction of 844 single-family residential lots at full project buildout, with an 84-lot and an 83-lot single family residential subdivision being proposed for the first two phases of buildout located at the southwest and northwest corners of the North Grantland Avenue and West Indianapolis Avenue alignment, respectively; and

WHEREAS, upon submittal of the entitlement applications related to the Project, an Initial Study was performed by Crawford & Bowen (“Consultant”) under the direction of the City of Fresno (“City”), as Lead Agency, which identified potentially significant environmental impacts resulting from the Project and concluded that an Environmental Impact Report (“EIR”) needed to be prepared for the Project pursuant to the provisions of CEQA; and,

WHEREAS, on March 20, 2020, the Planning and Development Department duly issued and circulated a Notice of Preparation, pursuant to CEQA Guidelines Section 15082 and Public Resources Code Section 21080.4; and

WHEREAS, on June 29, 2020, the Planning and Development Department held a scoping meeting pursuant to CEQA Guidelines Section 15082(c) and Public Resources Code Section 21080.4 attended by members of the public and at which written and verbal comments were submitted; and

WHEREAS, on June 30, 2020, the Planning and Development Department staff exercising their independent judgment, completed the draft environmental impact report (hereinafter Draft EIR), and the City provided due public Notice of Availability of the Draft EIR for public comments pursuant to Public Resources Code Section 21092 and CEQA Guidelines Section 15087; and

WHEREAS, on June 30, 2020, the City issued a Notice of Completion pursuant to Public Resources Code Section 21161 and CEQA Guidelines Section 15085; and

WHEREAS, on June 30, 2020, a public Notice of Availability of the Draft EIR was posted in the office of the Fresno County Clerk pursuant to Section 15087(d) of the CEQA Guidelines; and

WHEREAS, for at least 45 days following the date of publication of the Notice of Availability, the public was given opportunity to comment, in writing, on the adequacy of the Draft EIR as an informational document; and

WHEREAS, the City caused the preparation of a Final EIR (SCH No. 2020039061), completed on September 22, 2020 and dated September 2020 ("Final EIR" or "FEIR") pursuant to CEQA Guidelines Sections 15088, 15089 and 15132, which included the Draft EIR, responses to public comments on the Draft EIR, and minor corrections, as well as all appendices; and

WHEREAS, on December 2, 2020, the Planning Commission held a duly noticed public hearing at which the Commission considered and discussed the adequacy of proposed Final EIR (which included the Draft EIR, Responses to Comments and Revisions, the Mitigation Monitoring and Reporting Program, and draft Findings of Fact and Statement of Overriding Considerations), as an informational document and voted to recommend to the City Council certification of the Final EIR; and

WHEREAS, pursuant to CEQA Guidelines Section 15132 the Final EIR is required to be completed in compliance with CEQA; and

WHEREAS, pursuant to Section 21092.5 of CEQA, the City provided written responses to comments to all public agencies as well as private parties that commented on the Draft EIR; and

WHEREAS, on December 10, 2020, the City Council conducted a public hearing and considered the record of proceedings for the EIR, which includes, but is not limited to the following:

- (1) The Notice of Preparation for the Project (the "NOP"), and all other public notices issued by the City in connection with the Project;

- (2) The Final EIR dated September 2020;
- (3) The Draft EIR dated June 2020;
- (4) All written comments submitted by agencies or members of the public during any public review comment period on the Draft EIR;
- (5) All written and verbal public testimony presented during a noticed public hearing for the Project (consistent with City Council policy) at which such testimony was taken, including without limitation, the Report to Council, including all attachments, any all presentations by City staff, the City's consultants, the applicant and the applicant's consultants, the public, and any other interested party; and
- (6) The Mitigation Monitoring and Reporting Program for the Project (the "MMRP");
- (7) The reports, studies and technical memoranda included and/or referenced in the DEIR and the FEIR and or their appendices;
- (8) All documents, studies, EIRs, or other materials incorporated by reference in the DEIR and the FEIR;
- (9) All Ordinances and Resolutions presented to and/or adopted by the City in connection with the Project; and all documents incorporated by reference therein, specifically including, but not limited to, this resolution and all of its exhibits, the plan amendment resolutions, and the rezone ordinance bills;
- (10) Matters of common knowledge to the City, including but not limited, to federal, state, and local laws and regulations, adopted City plans, policies, and the professional qualifications of its staff members;

(11) Any documents expressly cited in this Resolution and its exhibits, the Report to Council, the Final EIR or the Draft EIR; and

(12) Any other relevant materials required to be in the record of proceedings under Section 21167.6(e) of the Public Resources Code; and

WHEREAS, the City Council concluded the public comment portion of the hearing on December 10, 2020, deliberated the matter on the same day; and

WHEREAS, on December 10, 2020, the City Council considered and discussed the adequacy of the proposed Final EIR as an informational document and applied its own independent judgment and analysis to the review and hereby desires to take action to certify the Final EIR, as having been completed in compliance with CEQA, based on the findings found herein; and

WHEREAS, notice of the December 10, 2020 Council hearing was properly noticed at least 10 days before the hearing, by publication in the Fresno Bee; and

WHEREAS, CEQA guidelines require the following for certification of a final environmental impact report:

SECTION 15090. CERTIFICATION OF THE FINAL EIR

(a) Prior to approving a project the lead agency shall certify that:

- (1) The final EIR has been completed in compliance with CEQA;
- (2) The final EIR was presented to the decision making body of the lead agency and that the decision making body reviewed and considered the information contained in the final EIR prior to approving the project; and
- (3) The final EIR reflects the lead agency's independent judgment and analysis.

SECTION 15091. FINDINGS.

(a) No public agency shall approve or carry out a project for which an EIR has been certified which identifies one or more significant environmental effects of the project unless the public agency makes one or more written findings for each of those significant effects, accompanied by a brief explanation of the rationale for each finding.

The possible findings are:

- (1) Changes or alterations have been required in, or incorporated into, the project which avoid or substantially lessen the significant environmental effect as identified in the final EIR.
- (2) Such changes or alterations are within the responsibility and jurisdiction of another public agency and not the agency making the finding. Such changes have been adopted by such other agency or can and should be adopted by such other agency.
- (3) Specific economic, legal, social, technological, or other considerations, including provision of employment opportunities for highly trained workers, make infeasible the mitigation measures or project alternatives identified in the final EIR.

(b) The findings required by subdivision (a) shall be supported by substantial evidence in the record.

(c) The finding in subdivision (a)(2) shall not be made if the agency making the finding has concurrent jurisdiction with another agency to deal with identified feasible mitigation measures or alternatives. The finding in subdivision (a)(3) shall describe the specific reasons for rejecting identified mitigation measures and project alternatives.

(d) When making the findings required in subdivision (a)(1), the agency shall also adopt a program for reporting on or monitoring the changes which it has either required in the project or made a condition of approval to avoid or substantially lessen significant environmental effects. These measures must be fully enforceable through permit conditions, agreements, or other measures.

(e) The public agency shall specify the location and custodian of the documents or other material which constitute the record of the proceedings upon which its decision is based.

(f) A statement made pursuant to Section 15093 does not substitute for the findings required by this section.

SECTION 15092. APPROVAL

(a) After considering the final EIR and in conjunction with making findings under Section 15091, the lead agency may decide whether or how to approve or carry out the project.

(b) A public agency shall not decide to approve or carry out a project for which an EIR was prepared unless either:

- (1) The project as approved will not have a significant effect on the environment, or
- (2) The agency has:
 - (A) Eliminated or substantially lessened all significant effects on the environment where feasible as shown in findings under Section 15091, and
 - (B) Determined that any remaining significant effects on the environment found to be unavoidable under Section 15091

are acceptable due to overriding concerns as described in Section 15093.

(c) With respect to a project which includes housing development, the public agency shall not reduce the proposed number of housing units as a mitigation measure if it determines that there is another feasible specific mitigation measure available that will provide a comparable level of mitigation.

SECTION 15093. STATEMENT OF OVERRIDING CONSIDERATIONS

(a) CEQA requires the decision-making agency to balance, as applicable, the economic, legal, social, technological, or other benefits of a proposed project against its unavoidable environmental risks when determining whether to approve the project. If the specific economic, legal, social, technological, or other benefits of a proposal project outweigh the unavoidable adverse environmental effects, the adverse environmental effects may be considered "acceptable."

(b) When the lead agency approves a project which will result in the occurrence of significant effects which are identified in the final EIR but are not avoided or substantially lessened, the agency shall state in writing the specific reasons to support its action based on the final EIR and/or other information in the record. The statement of overriding considerations shall be supported by substantial evidence in the record.

(c) If an agency makes a statement of overriding considerations, the statement should be included in the record of the project approval and should be mentioned in the notice of determination. This statement does not substitute for, and shall be in addition to, findings required pursuant to Section 15091.

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Fresno as follows:

1. Recitals. The foregoing recitals are true and correct and incorporated herein by reference.
2. Findings. Council finds based upon the substantial evidence in the record of proceedings, and its independent judgment and analysis that:
 - (a) Compliance with CEQA. The Final EIR in Exhibit 1 to this Resolution, which is attached hereto and incorporated herein by this reference, includes the Draft EIR SCH No. 2020039061 dated June 2020 and all related appendices, the Response to Comments, the Revisions and all related appendices and attachments to the Final EIR. The Final EIR was prepared, in both substance and procedures, in compliance with the requirements of the California Environmental Quality Act (CEQA).
 - (b) Ratification of Findings and Analysis in the FEIR. In making the findings in this Resolution, the City ratifies, adopts, and incorporates the analysis and explanation in the Final EIR, and ratifies, adopts, and incorporates in these findings the determinations and conclusions in the Final EIR relating to environmental impacts and mitigation measures.
 - (c) Findings Regarding Significant Effects that Can be Mitigated to Less Than Significant. Council adopts the statements and

findings regarding significant effects that can be mitigated to less than significant in Exhibit 2 (Section 2) to this resolution, which is attached hereto and incorporated herein by this reference. The Project has significant effects that can be mitigated to a less than significant level through the imposition of mitigation measures. These avoidable significant effects are identified in Exhibit 2 (Section 2). These avoidable significant effects will be reduced to a less than significant effect with the changes that have been required in, or incorporated into, the project through the imposition of mitigation measures as described in Exhibit 2 (Section 2). These mitigation measures identified in Exhibit 2 will be imposed pursuant to the MMRP attached as Exhibit 4. All mitigation measures in the MMRP are feasible.

To the extent that any of the mitigation measures are within the responsibility and jurisdiction of another public agency and not the City, those mitigation measures can and will be adopted and imposed by the other agency based on state and/or federal law, communications by those agencies, and/or existing policies and/or intergovernmental relationships with those agencies.

(d) Findings Regarding Unavoidable Significant Impacts.

Council adopts the statements and findings regarding unavoidable significant impacts in Exhibit 2 (Section 2) to

this resolution, which is attached hereto and incorporated herein by this reference. The Project has significant effects that cannot be mitigated to a less than significant level through the imposition of mitigation measures. These significant effects are identified in Exhibit 2 (Section 2).

Specific economic, legal, social, technological, or other considerations make infeasible the mitigation measures or project alternatives identified in the FEIR for the significant impacts identified in Exhibit 2 (Section 2) to this resolution, including considerations based upon the findings in Exhibit 2 (Section 2), and the findings in Exhibit 2 (Section 3) regarding the proposed alternatives. Therefore, those impacts are found to be significant and unavoidable.

- (e) Finding Regarding Insignificant Impacts. Any and all potential significant impacts discussed in the Final EIR that are not subject to paragraph 2(c) or 2(d), above, as either an avoidable significant impact, or as an unavoidable significant impact, are insignificant impacts to the environment.
- (f) Alternatives. The City Council adopts the Statement of Findings on Project Alternatives in Exhibit 2 (Section 3 at pp. 35) to this resolution, which is attached hereto and incorporated herein by this reference.

- 3. FEIR Reviewed and Considered. The Council certifies that the Final EIR:

- (a) has been completed in compliance with CEQA;
 - (b) was presented to the Council and that the Council has reviewed and considered the information contained in the Final EIR prior to approval of the Project, and all of the information contained therein has substantially influenced all aspects of the decision by the Council; and
 - (c) reflects Council's independent judgment and analysis.
4. Statement of Overriding Considerations. The Council adopts the Statement of Overriding Considerations in Exhibit 3 to this resolution, which is attached hereto and incorporated herein by this reference. Council finds that each of the Significant and Unavoidable Impacts identified in Exhibit 2) may be considered acceptable.
5. Mitigation Monitoring. Pursuant to Public Resources Code Section 21081.6 and CEQA Guidelines Section 15097, the mitigation monitoring and reporting program ("MMRP") set forth in Exhibit 4 to this resolution, which sets forth specific monitoring actions, timing requirements and monitoring/verification entities for each mitigation measure contained in the Final EIR and which is attached hereto and incorporated herein by this reference, is hereby adopted to ensure that all mitigation measures adopted for the Fresno General Plan and Development Code Update are fully implemented. Additionally, compliance with any applicable mitigation measures will be made a condition of approval of any subsequently approved

Conditional Use Permit issued pursuant to Fresno Municipal Code § 15-2739.

6. Location and Custodian of Documents. The record of project approval shall be kept in the office of the City Clerk, City of Fresno, City Hall, 2600 Fresno Street, Fresno, California 93721 which shall be held by the City Clerk as the custodian of the documents; all other record of proceedings shall be kept with the Planning and Development Department and the Director of the Planning and Development and Department shall be the custodian of the documents.
7. Certification. Based on the above facts and findings, the Council of the City of Fresno certifies the Final EIR in Exhibit 1 for the Fresno Cannabis Actions as accurate and adequate. The City Council further certifies that the FEIR was completed in compliance with CEQA and the CEQA Guidelines. The Director of the Planning and Development Department is directed to file a Notice of Determination as required by the Public Resources Code and CEQA Guidelines within five (5) working days of adoption of this resolution.
8. Adoption of Water Supply Assessment. The City Council hereby finds that projected water supplies are sufficient to satisfy the demands of the potential uses analyzed in the FEIR in addition to existing and future uses. The City Council hereby approves the Water Supply Assessment (WSA), attached to the FEIR as

Appendix H in compliance with Section 10910 of the California Water Code and Section 15155 of the CEQA Guidelines, and adopts the WSA as a technical addendum to the Environmental Impact Report.

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

I, YVONNE SPENCE, City Clerk of the City of Fresno, certify that the foregoing resolution was adopted by the Council of the City of Fresno, at a regular meeting held on the _____ day of _____, 2020.

AYES :
NOES :
ABSENT :
ABSTAIN :

Mayor Approval: _____, 2020
Mayor Approval/No Return: _____, 2020
Mayor Veto: _____, 2020
Council Override Vote: _____, 2020

YVONNE SPENCE, MMC CRM
City Clerk

By: _____
Deputy

APPROVED AS TO FORM:
DOUGLAS T. SLOAN
City Attorney

By: _____
Mary Raterman-Doidge Date
Senior Deputy City Attorney

Exhibits: 1 - Final EIR
2 - CEQA Findings of Fact which include:
Impacts Mitigated to a Level of Insignificance
Significant Unavoidable Impacts
Feasibility of Project Alternatives
3 - Statement of Overriding Considerations
4 - Mitigation Monitoring and Reporting Program
5 - Water Supply Assessment