



RESOLUTION No. _____

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF NEVADA

**RESOLUTION OF THE COUNTY OF NEVADA CERTIFYING
THE ADEQUACY OF THE FINAL ENVIRONMENTAL IMPACT
REPORT FOR THE NEVADA COUNTY COMMERCIAL
CANNABIS CULTIVATION ORDINANCE PROJECT (EIR18-0001,
SCH NO. 2018082023) IN ACCORDANCE WITH THE
CALIFORNIA ENVIRONMENTAL QUALITY ACT AND MAKING
CERTAIN FINDINGS CONCERNING ENVIRONMENTAL
IMPACTS, MITIGATION MEASURES AND ALTERNATIVES TO
THE PROJECT, ADOPTING A MITIGATION MONITORING AND
REPORTING PROGRAM AND ADOPTING A STATEMENT OF
OVERRIDING CONSIDERATIONS, IN CONNECTION WITH
APPROVAL OF THE PROJECT CONTEMPLATED BY THE
FINAL ENVIRONMENTAL IMPACT REPORT**

WHEREAS, on May 1, 2018, County staff presented a draft cannabis ordinance to the Board of Supervisors for review and direction. After public testimony and directing staff to make revisions to the document the Board directed staff to begin the Request for Proposal (RFP) process for an Environmental Impact Report (EIR) based on the draft cannabis ordinance; and

WHEREAS, the County of Nevada is the Lead Agency pursuant to Public Resources Code Section 21067 as it has the principal responsibility to approve and regulate the Project; and

WHEREAS, based on the nature of the proposed Project, including the potential for new significant impacts as a result of the proposed Project, the County determined that an EIR was required for the proposed Project; and

WHEREAS, the County exercised its independent judgment in accordance with Public Resources Code Section 2182.1(c), in retaining the independent consulting firm Kimley-Horn and Associates (Kimley-Horn) to prepare the Final EIR, and Kimley-Horn prepared the Final EIR under the supervision and at the direction of the County's Planning Director and Community Development Agency; and

WHEREAS, on August 10, 2018, the County, as the lead agency, published a Notice of Preparation ("NOP") of a EIR for the proposed Project; and

WHEREAS, the NOP provided notice of the County's determination, and solicited public input on the proposed scope and content of the EIR for the proposed Project; and

WHEREAS, the County, through Kimley-Horn, initially prepared the Draft EIR and circulated it for review by responsible and trustee agencies and the public and submitted it to the State Clearinghouse for review and comment by state agencies, for a comment period which ran from January 11, 2019, through February 25, 2019. As noted above, the Final EIR includes the Draft EIR, copies of all comments on the Draft EIR submitted during the comment period, the County's responses to those comments, and changes made to the Draft EIR following its public circulation; and

WHEREAS, during the 45-day public comment period the County received 25 letters commenting on the Draft EIR and numerous public testimonials, including from the Planning Commission and members of the public on February 7, 2019, at a noticed public hearing; and

WHEREAS, the County prepared written responses to all written comments received on the Draft EIR, said responses being contained in a Final Environmental Impact Report ("Final EIR") for the proposed Project, which Final EIR was prepared pursuant to Section 15089 of the CEQA Guidelines; and

WHEREAS, the Final EIR was published and distributed on April 1, 2019, and consists of the Draft EIR, a list of commenters, copies of all written comments received, responses to those comments that raise environmental issues, and any revisions to the text of the Draft EIR made in response to the comments or as staff-initiated text changes, as required by Section 15132 of the CEQA Guidelines; and

WHEREAS, the County proposes to approve and adopt the Project as analyzed by the Final EIR; and

WHEREAS, recommendation of certification of the Final EIR and approval of the proposed Project were scheduled for hearing by the Planning Commission to be held on April 11, 2019, in the Board of Supervisors Chambers located at 950 Maidu Avenue, Nevada City, California, at which date and time evidence both oral and documentary was received and considered by the Commission; and

WHEREAS, certification of the Final EIR and approval of the proposed Project were scheduled for hearing by the Board of Supervisors to be held on May 7, 2019 and May 14, 2019, in the Board of Supervisors Chambers located at 950 Maidu Avenue, Nevada City, California at which date and time evidence both oral and documentary was received and considered by the Board; and

WHEREAS, the County Planning Commission and Board of Supervisors have received and considered the Final EIR for the proposed Nevada County Commercial Cannabis Cultivation Ordinance project (SCH No. 2018082023) which analyzes the potential environmental effects of the proposed Project; and

WHEREAS, the County Planning Commission recommended that the Board of Supervisors certify the EIR and adopt the Findings set forth in Exhibit "A"; and

WHEREAS, CEQA requires that, in connection with the certification of a Final EIR, the decision-making agency make certain written findings.

NOW, THEREFORE, BE IT RESOLVED by the Board of Supervisors of the County of Nevada that it hereby finds and determines as follows:

1. The foregoing recitals are true and correct; and
2. The Final EIR has been completed in compliance with CEQA; and
3. The Final EIR has been presented to the Board of Supervisors and the Board has reviewed and analyzed the Final EIR and other information in the record and has considered the information contained therein, including the written and oral comments received at the public hearings on the Final EIR; and
4. That the Findings set forth in Exhibit "A" and incorporated by this reference are hereby adopted as the County's findings under the California Environmental Quality Act ("CEQA"), Public Resources Code Sections 21000, et seq., and the CEQA guidelines, Cal. Code Regs., Title 13, sec. 15000, et seq., relating to the Project. The Findings provide the written analysis and conclusions of the Board regarding the Project's environmental impacts, mitigation measures and alternatives to the Project; and

5. That pursuant to Public Resources Code Section 21091 and CEQA Guidelines Sections 15091, et seq., the Board of Supervisors hereby adopts and makes the Statement of Overriding Considerations as set forth in Section V of Exhibit A attached hereto and incorporated by this reference, regarding the remaining significant and unavoidable impacts of the Project and the anticipated environmental, economic, legal, social, technological, and other benefits of the Project. The significant and unavoidable impacts identified in the Final EIR cannot be avoided or substantially reduced by feasible changes or alterations to the Project, other than the changes or alterations already adopted; and
6. The Mitigation Monitoring and Reporting Program for the Final EIR (“MMRP”) is contained in the Final EIR and is attached to this resolution as Exhibit “B”, incorporated by this reference. The MMRP identifies impacts of the Project, corresponding mitigation, designation of responsibility for mitigation implementation and the agency responsible for the monitoring action. The Board hereby adopts the MMRP; and
7. The Final EIR contains additions, clarifications, modifications and other information in its responses to comments on the Draft EIR for the Project and also incorporates information obtained by the County since the Draft EIR was issued. This Board hereby finds and determines that such changes and additional information are not significant new information as that term is defined under the provisions of the CEQA, because such changes and additional information do not indicate that any new significant environmental impacts not already evaluated would result from the proposed Project and do not reflect any substantial increase in the severity of any environmental impact; no feasible mitigation measures considerably different from those previously analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the Project; and no feasible alternatives considerably different from those analyzed in the Draft EIR have been proposed that would lessen significant environmental impacts of the proposed Project. Accordingly, this Board hereby finds and determines that recirculation of the Final EIR for further public review and comment is not warranted; and
8. The Board of Supervisors does hereby designate the Planning Department at 950 Maidu Avenue, Nevada City, California 95959 as the custodian of documents and record of proceedings on which this decision is based; and
9. The Board of Supervisors does hereby make the foregoing findings with the stipulations that all information in these findings is intended as a summary of the full administrative record supporting certification of the Final EIR, which full administrative record should be consulted for the full details supporting these findings, and that any mitigation measures and/or alternatives that were suggested by commenters to the Draft EIR and were not certified as part of the Final EIR are hereby expressly rejected for the reasons stated in the responses to the comments set forth in the Final EIR and elsewhere in the record; and
10. The Final EIR and all findings contained herein represent the independent judgment of the County of Nevada; and
11. The Clerk of the Board is directed to file a Notice of Determination (NOD) with the County Clerk within five (5) working days of the date of this approval in accordance with Public Resources Code Section 21152(a) and CEQA Guidelines Section 15094. The NOD shall be posted by the County Clerk in the Clerk’s Office for no less than 30 full days.

BE IT FURTHER RESOLVED by the Board of Supervisors that it hereby certifies the Final Environmental Impact Report for the Nevada County Commercial Cannabis Ordinance (EIR18-0001, SCH No. 2018082023), a copy of which is available in the County Clerk of the Board Office.