

## RESOLUTION NO. 790(21)

**A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF IRWINDALE RECOMMENDING THAT THE CITY COUNCIL CERTIFY THE ENVIRONMENTAL IMPACT REPORT (SCH#2013051029), ADOPT CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF FACT AND STATEMENT OF OVERRIDING CONSIDERATIONS, AND ADOPT THE MITIGATION MONITORING AND REPORTING PROGRAM FOR THE MATERIALS RECOVERY FACILITY AND TRANSFER STATION PROJECT**

### **A. RECITALS.**

WHEREAS, Athens Services, 14048 Valley Boulevard, City of Industry, CA 91746, the Applicant, has proposed construction and operation of a Materials Recovery Facility and Transfer Station ("MRF/TS") and a convenience store/public gas station located at 2200 Arrow Highway (APN 8535-001-911) ("Project"). To effectuate the Project, the Applicant is seeking approval of General Plan Amendment No. 02-2016, Zoning Ordinance Amendment No. 04-2016; Development Agreement No. 02-2016; Conditional Use Permit No. 08-2016; and Site Plan and Design Review (DA) Permit No. 06-2016; and

WHEREAS, the proposed ±265,230 square foot development will include a MRF/TS, convenience store and public gas station on a 17.22-acre site that is zoned M-2 (Heavy Manufacturing); and

WHEREAS, pursuant to section 21067 of the California Environmental Quality Act ("CEQA") (Pub. Resources Code, § 21000 et seq.) and section 15367 of the State CEQA Guidelines (Cal. Code Regs., § 15000 et seq.), the City of Irwindale ("City") is the lead agency for the proposed Project; and

WHEREAS, in May 2013, the City circulated a Notice of Preparation ("NOP") of a Draft Environmental Impact Report ("2014 DEIR") (SCH# 2013051029) for the proposed Project. In April 2014, the 2014 DEIR was circulated for public review and comment. In response to comments received, the City elected to prepare a 2014 Recirculated DEIR, to include minor revisions to the Project Description, modified analyses of air quality and greenhouse gas emissions and traffic circulation, and include additional Project alternatives; and

WHEREAS, the City then prepared the 2016 Final EIR, which included all comments received during the public review and comment period on the 2014 DEIR and 2014 Recirculated DEIR, responses to those comments, and revisions to the 2014 RDEIR made as a result of those comments; and

WHEREAS, on June 8, 2016, the City Council of the City of Irwindale ("City Council") certified the 2016 Final FEIR; and

WHEREAS, in July 2017, Addendum No. 1 to the 2016 FEIR was prepared to address minor, internal site plan adjustments made in the final design of the Project; and

WHEREAS, on September 20, 2017, the Planning Commission of the City of Irwindale ("Planning Commission") conducted a duly noticed public hearing on the Project, at which time they received input from staff, the City Attorney, and the Applicant; heard public testimony; discussed the proposed Project; closed the public hearing; and, after discussion: approved (a) Resolution No. 736(17), recommending that the City Council approve GPA No. 02-2016; (b) Resolution No. 737(17), recommending that the City Council amend the Municipal Code regarding solid waste franchises, material recovery facilities in the M-2 Zone, and distance requirements for alcohol beverage establishments; (c) Resolution No. 738(17), recommending that the City Council approve Development Agreement No. 02-2016; (d) Resolution No. 739(17), recommending that the City Council approve Conditional Use Permit No. 08-2016; and (e) Resolution No. 740(17), recommending that the City Council approve Site Plan and Design Review DA No. 06-2016; and

WHEREAS, on October 11, 2017, the City Council conducted a duly noticed public hearing, as required by law, on the Application and approved the Project. Specifically, the City Council approved: (a) Resolution No. 2017-72-2970 approving GPA No. 02-2016; (b) Resolution No. 2017-75-2973 granting Conditional Use Permit No. 08-2016; and (c) Resolution No. 2017-76-2974 approving Site Plan and Design Review (DA) No. 06-2016; and

WHEREAS, on October 25, 2017, the City Council also approved Ordinance No. 718, amending the Municipal Code regarding solid waste franchises, material recovery facilities in the M-2 Zone, and distance requirements for alcohol beverage establishments, and Ordinance No. 719, approving Development Agreement No. 02-2016; and

WHEREAS, two lawsuits were subsequently filed in Los Angeles County Superior Court challenging the resolutions and ordinances approving the Project on the basis of, among other things, alleged inadequacies in the Project's environmental review documents; and

WHEREAS, on September 5, 2019, the Los Angeles County Superior Court issued rulings in the two cases. While the Court dismissed the vast majority of the lawsuits' claims, the Court did determine that the environmental review for the Project required additional analysis in regards to four discrete issues; and

WHEREAS, as a result of its rulings, the Court ordered that the City set aside and vacate the Project-related resolutions and ordinances until the Project's environmental review addressed the four discrete issues identified by the Court; and

WHEREAS, on November 13, 2019, in compliance with the Court's order, the City Council adopted Resolution No. 2019-63-3147 and SA Resolution No. 2019-64-3148, rescinding approvals for the Project; and

WHEREAS, to address the four discrete issues identified by the Court, and pursuant to requirements, authority, and criteria contained in CEQA, the City, as lead agency, prepared the 2020 Recirculated Draft Environmental Impact Report ("2020 RDEIR"); and

WHEREAS, the 2020 RDEIR addresses the following four discrete issues as directed by the Court: 1) Truck Fueling Operations; 2) Greenhouse Gas Emissions; 3) Transportation Energy Use; and 4) Project-Specific Air Emissions Health Risks of ROG, NOx and ozone; and

WHEREAS, after completion of the 2020 RDEIR, the City filed a Notice of Completion ("NOC")/Notice of Availability ("NOA") with the Governor's Office of Planning and Research on June 17, 2020, indicating that the 2020 RDEIR was complete and available for public review and comment. The City also filed the NOC/NOA with the Los Angeles County Clerk on June 17, 2020, and mailed a copy of the NOC/NOA to surrounding cities and property owners within a 500-foot radius of the Project site. The 2020 RDEIR was also made available on the City's website at: <http://www.ci.irwindale.ca.us/>; and

WHEREAS, the City also provided notice of the 2020 RDEIR's availability via publication in the San Gabriel Valley Tribune newspaper, via mailing and outreach to interested agencies and other parties, and by postings on the City's website; and

WHEREAS, the 2020 RDEIR was available for a 45-day public review and comment period commencing on June 22, 2020 and ending on August 5, 2020. During the public review and comment period for the 2020 RDEIR, six comment letters were received. Five of the six comment letters were submitted by public agencies, and one letter was submitted by Waste Management Collection and Recycling, a competitor of the Project Applicant. No comment letters were received from individuals or residents; and

WHEREAS, after the close of the public review and comment period for the 2020 RDEIR, the City prepared written responses to each comment letter submitted during the review period. The City also prepared the 2020 Final Environmental Impact Report ("2020 FEIR") for the proposed Project. The 2020 FEIR includes the 2020 RDEIR, all comments received during the public review and comment period for the 2020 RDEIR, the City's responses to those comments, and revisions and corrections to the 2020 RDEIR made in response to comments received; and

WHEREAS, the 2020 FEIR for the proposed Project also includes the 2014 Draft EIR, 2014 Recirculated Draft EIR, and the 2016 Final EIR except for those

portions required to be reassessed by the Superior Court. The 2020 FEIR also includes and incorporates therein the 2017 Addendum No. 1 to the 2016 Final EIR; and

WHEREAS, the 2020 FEIR was made available on the City's website; and

WHEREAS, written responses to all public agency comment letters received during the public review and comment period were also sent to each commenting agency at least 10 days prior to this hearing; and

WHEREAS, on January 20, 2021, the Planning Commission conducted a duly noticed public hearing on the Project, at which time all persons wishing to testify were heard; and

WHEREAS, **Exhibit A** to this Resolution, *California Environmental Quality Act Findings of Fact and Statement of Overriding Considerations*, lays out the findings of fact upon which the Planning Commission has made its certification recommendation; and

WHEREAS, the environmental impacts identified in the 2020 FEIR that the City finds are of no impact or constitute a less than significant impact and do not require mitigation are set forth in **Section 2 of Exhibit A** to this Resolution; and

WHEREAS, the environmental impacts identified in the 2020 FEIR that the City finds are potentially significant, but which the City finds can be mitigated to a level of less than significant through the incorporation of feasible Mitigation Measures, are set forth in **Section 3 of Exhibit A** to this Resolution; and

WHEREAS, the environmental impacts identified in the 2020 FEIR that the City finds are potentially significant, but which the City finds cannot be mitigated to a level of less than significant, despite the imposition of feasible Mitigation Measures, are set forth in **Section 4 of Exhibit A** to this Resolution; and

WHEREAS, the cumulative impacts of the Project identified in the 2020 FEIR are set forth in **Section 5 of Exhibit A** to this Resolution; and

WHEREAS, the irreversible environmental changes caused by the Project identified in the 2020 FEIR are set forth in **Section 6 of Exhibit A** to this Resolution; and

WHEREAS, the existence of any growth-inducing impacts resulting from the proposed Project identified in the 2020 FEIR are set forth in **Section 7 of Exhibit A** to this Resolution; and

WHEREAS, alternatives to the proposed Project identified for their potential to eliminate or reduce significant environmental impacts are described in **Section 8 of Exhibit A** to this Resolution; and

WHEREAS, the benefits of the Project outweighing its potential significant environmental impacts are set forth in the Statement of Overriding Considerations included in **Section 9 of Exhibit A** to this Resolution; and

WHEREAS, the Mitigation Monitoring and Reporting Program setting forth the Mitigation Measures to which the City shall bind itself in connection with the Project, is attached as **Exhibit B** to this Resolution; and

WHEREAS, prior to taking action, the Planning Commission has heard, been presented with, reviewed and considered, all of the information and data in the administrative record, including the 2020 FEIR, and all oral and written evidence presented to it during all meetings and hearings; and

WHEREAS, the 2020 FEIR reflects the independent judgment of the Planning Commission and is deemed adequate for purposes of making decisions on the merits of the Project; and

WHEREAS, the Planning Commission has not received any comments or additional information constituting substantial new information requiring recirculation of any portion of the environmental review for the Project under Public Resources Code section 21092.1 and State CEQA Guidelines section 15088.5; and

WHEREAS, all the requirements of CEQA, the State CEQA Guidelines, and the City of Irwindale's Local CEQA Guidelines have been satisfied by the City in the 2020 FEIR, which is sufficiently detailed such that all of the potentially significant effects of the Project have been adequately evaluated; and

WHEREAS, all other legal prerequisites to the adoption of this Resolution have occurred.

## **B. RESOLUTION.**

NOW, THEREFORE, it is hereby found, determined and resolved by the Planning Commission of the City of Irwindale as follows:

**SECTION 1. Recitals.** The Planning Commission hereby specifically finds that all of the statements set forth in the Recitals, Part A, of this Resolution are true and correct, and incorporated into this Resolution by reference as findings of fact.

**SECTION 2. CEQA.** The Planning Commission hereby specifically finds and determines that it has been presented with the 2020 FEIR, which it has reviewed and considered along with all public testimony and the entirety of the administrative record.

The Planning Commission further finds that the 2020 FEIR is an accurate and objective statement that has been completed in full compliance with CEQA, the State CEQA Guidelines and the City's Local CEQA Guidelines, and the 2020 FEIR reflects the independent judgment and analysis of the Planning Commission.

The Planning Commission finds that **Exhibit A** to this Resolution, together with the 2020 FEIR, lays out the substantial evidence and facts sufficient to support each of the findings on each of the potential impacts that may occur as a result of the proposed Project, and that all potentially significant impacts that have not been mitigated to a level of less than significant have nonetheless been mitigated to the extent that is physically, legally, and technologically feasible.

The Planning Commission declares that no evidence of new significant impacts as defined by the State CEQA Guidelines section 15088.5 has been received by the City after circulation of the 2020 RDEIR which would require recirculation.

Finally, the Planning Commission finds that based upon the Statement of Overriding Considerations contained in **Section 9** of **Exhibit A** to this Resolution, the benefits of the proposed Project outweigh the potentially significant environmental impacts that cannot be feasibly reduced to a level of less than significant.

**SECTION 3. Certification of the 2020 FEIR.** The Planning Commission hereby recommends that the City Council certify the 2020 FEIR and adopt the CEQA Findings of Facts and a Statement of Overriding Considerations, attached as **Exhibit A** to this Resolution, based on the entirety of the record of proceedings.

**SECTION 4. Mitigation Monitoring and Reporting Program.** Pursuant to Public Resources Code section 21081.6, the Planning Commission finds that all feasible Project Mitigation Measures have been identified in the Mitigation Monitoring and Reporting Program attached as **Exhibit B** to this Resolution. The Planning Commission hereby recommends that the City Council adopt the Mitigation Monitoring and Reporting Program. The Planning Commission further recommends that implementation of the Mitigation Measures contained in the Mitigation Monitoring and Reporting Program be made a condition of approval of the Project. In the event of any inconsistencies between the Mitigation Measures set forth in **Exhibit B** to this Resolution and the 2020 FEIR, the Mitigation Monitoring and Reporting Program adopted by the City Council shall control.

**SECTION 5. Record of Proceedings and Custodian of Record.** The documents and materials that constitute the record of proceedings upon which this Resolution has been based are located at 5050 N. Irwindale Avenue, Irwindale, California. The custodian for these records is the Community Development Manager. This information is provided in compliance with Public Resources Code section 21081.6.

**SECTION 6. Notice of Determination.** The Planning Commission hereby recommends that the City Council direct that a Notice of Determination be filed with the County of Los Angeles and the California State Clearinghouse within five working days of final Project approval.

**SECTION 7.** The Secretary shall:

- a. Certify to the adoption of this Resolution; and
- b. Forthwith transmit a certified copy of this Resolution, by mail, to the Applicant at the address of record set forth in the Application.

ADOPTED AND APPROVED this 20<sup>th</sup> day of January 2021.



Arthur R. Tapia, Chair  
City of Irwindale Planning Commission

ATTEST:



Marilyn Simpson, Secretary

CITY OF IRWINDALE  
COUNTY OF LOS ANGELES                    } ss.  
STATE OF CALIFORNIA

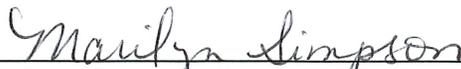
I, Marilyn Simpson, Community Development Manager/City Planner of the City of Irwindale, do hereby certify that the foregoing Resolution was adopted at a regular meeting of the Planning Commission of the City of Irwindale held on the 20th day of January 2021, by the following vote:

AYES:                   COMMISSIONERS: R. Hartman, L. Corpis, R. Chico, E. Burrola A. Tapia

NOES:                   COMMISSIONERS:

ABSENT:               COMMISSIONERS:

ABSTAIN:             COMMISSIONERS:



Marilyn Simpson, Secretary

**EXHIBIT A**

**CALIFORNIA ENVIRONMENTAL QUALITY ACT FINDINGS OF FACT  
AND STATEMENT OF OVERRIDING CONSIDERATIONS**