

Resolution No. 2022-XXX N.C.S.
of the City of Petaluma, California

**APPROVING AND CERTIFYING AN ADDENDUM TO THE ENVIRONMENTAL IMPACT
REPORT FOR THE ELLIS CREEK WATER RECYCLING FACILITY AND MAKING A FINDING
OF EXEMPTION IN ACCORDANCE WITH CEQA, MAKING ENERGY SAVINGS FINDINGS IN
ACCORDANCE WITH GOVERNMENT CODE SECTION 4217.12, AND AUTHORIZING THE CITY
MANAGER TO EXECUTE ALL DOCUMENTS NECESSARY FOR ENTERING A POWER
PURCHASE AGREEMENT FOR A FLOATING SOLAR ARRAY AT THE ELLIS CREEK WATER
RECYCLING FACILITY WITH ELLIS CREEK SOLAR LLC**

WHEREAS, it is the policy of the State of California and the intent of the State Legislature to promote all feasible means of energy conservation and all feasible uses of alternative energy supply sources; and

WHEREAS, the City of Petaluma desires to reduce the steadily rising costs of meeting the energy needs at its facilities; and

WHEREAS, the City proposes to enter into a power purchase agreement (“Power Purchase Agreement”) and related contract documents with Ellis Creek Solar LLC for facilities at the City’s Ellis Creek Water Recycling Facility, pursuant to which Ellis Creek Solar LLC will design, construct, and install a certain photovoltaic system, arrange with the local utility for interconnection of the facilities, and generate electricity to be sold to the City at specified rates; and

WHEREAS, the City has entered into a certain Professional Services Agreement with NV5 to advise and assist City in the development and implementation of a Power Purchase Agreement with Ellis Creek Solar LLC; and

WHEREAS, NV5 has provided the City with analysis showing the financial and other benefits of entering into the Power Purchase Agreement, which analysis is attached hereto as Attachment 3 and made part hereof by this reference; and

WHEREAS, Attachment 3 includes data showing that the anticipated cost to the City for the electrical energy provided by the solar photovoltaic facilities will be less than the anticipated cost to the City of electrical energy that would have been consumed by the City in the absence of such measures; and

WHEREAS, White Pine Renewables was the selected vendor from the City’s competitive Request for Proposal process for installation and operation of a solar array at the Ellis Creek Water Recycling Facility, and White Pine Renewables will establish an entity called Ellis Creek Solar, LLC, a Delaware corporation, to enter a Power Purchase Agreement with the City and perform the energy services to be provided under the agreement, consistent with common practice in the solar energy services industry; and

WHEREAS, the City proposes to enter into the Power Purchase Agreement and related contract documents, each in substantially the form presented at this meeting, which documents are hereby made a part of this resolution by this reference, subject to such changes as the City Manager reasonably deems necessary following the Council’s adoption of this Resolution authorizing entering the agreement; and

WHEREAS, in accordance with the requirements of Government Code section 4217.12, the City Council held a public hearing, public notice of which was given two weeks in advance, to receive public comment on the proposed Power Purchase Agreement from all interested parties; and

WHEREAS, the terms of the Power Purchase Agreement are in the best interest of the City because the anticipated cost to the City for the electrical energy and related services to be provided under the agreement will be less than the marginal cost to the City of the electrical energy that would have been consumed by the City in the absence of the agreement, in accordance with the analysis in Attachment 3, because there will be no ground lease of City property related to the Power Purchase Agreement, and the site license authorizing the use of a portion of the Ellis Creek Water Recycling Facility for installation and operation of a solar voltaic array involves City land and facilities with de minimis rental value, comprising as they do part of a working municipal waste treatment and water recycling facility, and any such de minimis rental value of the City land and facilities involved will be offset by energy savings and other benefits under the Power Purchase Agreement, in accordance with the analysis in Attachment 3, and the terms of the Power Purchase Agreement are otherwise protective of the interests of the City, its wastewater customers and Petaluma community members generally; and

WHEREAS, the City proposes to execute a Site License for the portions of the Ellis Creek Water Recycling Facility where the construction, installation, operation and maintenance of a floating solar array will be carried out pursuant to the Power Purchase Agreement, which Site License comprises one of the contract documents making up the Power Purchase Agreement; and,

WHEREAS, the City's proposed approval of the Power Purchase Agreement is a "Project" for purposes of the California Environmental Quality Act ("CEQA"); and

WHEREAS, in 2002, the City Council certified the Water Recycling Facility and River Access Improvements Environmental Impact Report (EIR), State Clearinghouse # 2001052089) and adopted the accompanying Mitigation Monitoring Program (MMP); and

WHEREAS, subsequent to the EIR certification, between 2004 and 2022 the City has adopted seven (7) prior Addenda to the 2002 EIR in accordance with CEQA Guidelines Section 15164; and

WHEREAS, the City has prepared Addendum #8 to the EIR and minor modifications to the MMP to address minor modifications to the Ellis Creek Facility as proposed pursuant to the Power Purchase Agreement to install a floating solar array on Pond 3 and make associated improvements connecting the array to PG&E energy distribution facilities; and

WHEREAS, as documented in Addendum #8, the project would not generate any new or more severe impacts, and none of the conditions enumerated in CEQA Guidelines Section 15162 or 15163 requiring preparation of a subsequent and supplement environmental document are present; and

WHEREAS, additionally, approval of the Power Purchase Agreement, although a discretionary act subject to CEQA, is exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines as the installation of small structures that are accessory to the Ellis Creek Water Recycling Facilities; and

WHEREAS, the City has submitted a Planning Application for administrative Site Plan and Architectural review and approval, and the project has been conditioned to consider site mitigations to minimize visual impacts to the site.

NOW, THEREFORE, be it resolved by the City Council of the City of Petaluma as follows:

1. The above recitals are hereby declared to be true and correct and are incorporated into this resolution as findings of the City Council.

2. In accordance with the requirements of Government Code section 4217.12, and based on data provided in Attachment 3, the City Council finds that the terms of the Power Purchase Agreement and related agreements are in the best interest of the City because the anticipated cost to the City for the electrical energy and related services to be provided under the agreement will be less than the marginal cost to the City of the electrical energy that would have been consumed by the City in the absence of the agreement, because there will be no ground lease of City property related to the Power Purchase Agreement, and the site license authorizing the use of a portion of the Ellis Creek Water Recycling Facility for installation and operation of a solar voltaic array involves City land and facilities with de minimis rental value, comprising as they do part of a working municipal waste treatment and water recycling facility, and any such de minimis rental value of the City land and facilities involved will be offset by energy savings and other benefits under the Power Purchase Agreement, and the terms of the Power Purchase Agreement are otherwise protective of the interests of the City, its wastewater customers and Petaluma community members generally.
3. Addendum #8 to the EIR for the Ellis Creek Water Recycling Facility adequately fulfills the requirements of CEQA in accordance with CEQA Guidelines Section 15164. Addendum # 8 concludes that installation of a floating solar array on Pond No. 3 of the Ellis Creek Water Recycling Facility does not result in new significant impacts and does not cause substantially more severe significant impacts relative to the impacts previously disclosed in the 2002 EIR. None of the conditions described in Sections 15162 or 15163 of the CEQA Guidelines exist so as to require preparation of additional, supplemental CEQA documents. Addendum #8 is therefore certified and approved, as is the Mitigation Monitoring Program, Attachment 6, which is hereby made a part of this resolution by this reference. Additionally, installation of the floating solar array at the Ellis Creek Water Recycling Facility, although a discretionary act subject to CEQA, is exempt from CEQA pursuant to Section 15303 of the CEQA Guidelines as the installation of small structures that are accessory to the Ellis Creek Water Recycling Facilities.
4. The Council hereby approves the Power Purchase Agreement (Attachment 2, with additional supporting exhibits and attachments) in accordance with Government Code section 4217.12, the Petaluma City Charter and the City's purchasing requirements.
5. The City Manager is hereby authorized and directed to enter into a Power Purchase Agreement with Ellis Creek Solar LLC on behalf of the City substantially in accordance with the documents attached and made a part of this resolution as Attachment 2 and to negotiate any further changes, to the Power Purchase Agreement as she reasonably deems necessary, and thereafter to execute and deliver the Power Purchase Agreement. The City Manager is further authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this resolution and said agreements.
6. City staff are hereby authorized to file and process a Notice of Determination for the Project in accordance with CEQA and the State CEQA Guidelines, and the findings set forth in this resolution.

Under the power and authority conferred upon this Council by the Charter of said City.

REFERENCE:

I hereby certify the foregoing Resolution was introduced and adopted by the Council of the City of Petaluma at a Regular meeting on the 5th day of December 2022, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor