

Resolution No. 2023-XXX N.C.S. of the City of Petaluma, California

RESCINDING AND REPLACING RESOLUTION NO. 2020-081 N.C.S. AND APPROVING AN AGREEMENT BETWEEN THE CITY OF PETALUMA AND THE SONOMA MARIN AREA RAIL TRANSIT DISTRICT FOR CONSTRUCTION OF THE PETALUMA NORTH AT CORONA SMART STATION

WHEREAS, the City of Petaluma has been working to establish a second Petaluma passenger rail station in coordination with the Sonoma Marin Area Rail Transit District (SMART) for a number of years; and

WHEREAS, most recently, the City Council and the SMART Board approved an agreement for funding and construction of a second Petaluma SMART station at Corona Road as part of complex negotiations between SMART and private development entities controlled by Lomas partners involving a housing project to be located at Corona Road and North McDowell, referred to as the Corona Residential Project; and

WHEREAS, on February 24, 2020 the City Council held a public hearing on the Corona Residential Project approvals, and the City Council approved three resolutions and introduced two ordinances to grant approvals required for the project, including: Resolution No. 2020-029 N.C.S. approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; Ordinance 2721 N.C.S. introducing a Zoning Text Amendment to conditionally permit single family residential land use in the MU1B zoning district at a minimum density of 26 units/acre; Resolution No. 2020-030 N.C.S. approving a Density Bonus with concession/incentive for building height; Ordinance 2722 N.C.S. approving a Development Agreement between the City, Lomas Corona Station LLC, and Lomas SMART LLC; and Resolution No. 2020-031 N.C.S. approving a Vesting Tentative Subdivision Map for a 110-lot residential subdivision and including creation of a 1.27-acre remainder parcel, and all of the Council actions were expressly conditioned on the execution of an agreement between the City and SMART concerning the second Petaluma SMART station and approval of the required Zoning Text Amendment; and

WHEREAS, the two ordinances were subsequently adopted on March 16, 2020, and became effective 30 days later on April 16, 2020; and

WHEREAS, following the City's approval of the project entitlements for the Corona Residential Project, a citizens' group identified as the Petaluma Community Alliance filed a petition for writ of mandate and complaint for declaratory relief challenging the project approvals alleging, among other things, that the City's Mitigated Negative Declaration was inadequate and that the City should have prepared an environmental impact report for the project; and

WHEREAS, Lomas requested that the City rescind all the approvals associated with the Corona Residential Project and settled the litigation with the Petaluma Community Alliance, and, as a result, the Corona Residential Project did not go forward, and the agreement between the City and SMART, which the City Council approved on June 1, 2020, and which relied in part on the arrangements with Lomas, became moot; and

WHEREAS, in 2016, the City contracted with Willdan Financial Services ("Willdan") to perform a nexus analysis to determine the City's ability to fund the cost of parking improvements for a second Petaluma SMART station from the City's traffic development impact fees; and

WHEREAS, Willdan determined that a nexus exists for including parking structure improvements for a second Petaluma SMART station in the City's traffic impact fee program, that similar to other transit improvements included in the fee program, 22.43% of the cost of the SMART station parking improvements could be attributed to future development, and that based on an estimated parking structure improvement cost of \$10,500,000, \$2,355,134 of the parking structure improvement costs could be recovered through an increase in the City's traffic impact fees; and

WHEREAS, on May 16, 2016, the City Council approved Resolution No. 2016-076 N.C.S. repealing and replacing Resolution No. 2015-191 N.C.S and modifying the City's traffic impact fee program based on the Willdan analysis to add up to \$2,355,134 in funding for parking improvements for the second Petaluma SMART station; and

WHEREAS, the City anticipated after updating City traffic impact fees on May 16, 2016 that City funding for the second Petaluma SMART station would come entirely from traffic impact fee proceeds, and that City funding for the second Petaluma SMART station would be allocated entirely to parking improvement costs; and

WHEREAS, as a result of changed cost estimates and funding sources for the second Petaluma SMART station project, the City financial contribution must be designated more generally for SMART station improvements, which may include station design, construction, parking improvements and other costs; and

WHEREAS, Willdan, the consultants that prepared the 2016 update to the City's Traffic Impact fees have confirmed that using City traffic fee proceeds to fund part of the cost of a second Petaluma SMART station is permitted under the City's existing Traffic Impact Fee legislation because the nexus - traffic relief due to increased SMART ridership - is unchanged, and the costs are also comparable, and, as a result, the City may rely entirely on Traffic Impact Fee proceeds to provide \$2 million toward the second Petaluma SMART station project costs; and

WHEREAS, the attached, proposed City/SMART Agreement (Exhibit A) provides for allocation of \$2 million in City funds for a Second Petaluma SMART Station, now referred to as the Petaluma North at Corona SMART Station ("Project"), which will provide traffic relief in Petaluma via commuter use of the Project consistent with the purposes of the Traffic Impact fee proceeds allocated to the Project; and

WHEREAS, the potential environmental impacts of the Sonoma Marin Area Transit Project, inclusive of the Project, were identified and analyzed in accordance with the requirements of CEQA by the lead agency, SMART, and an Environmental Impact Report was certified by resolution (No. 2006-05 and 2008-05) addressing potential environmental impacts of the Project (SMART EIR, SCH # 2002112033); and

WHEREAS, SMART, as the lead agency, adopted a Mitigation Monitoring Plan (SMART MMP, January 2011), to be implemented for the SMART Project, inclusive the Project; and

WHEREAS, SMART, as the lead agency, is responsible for implementing the adopted MMP, inclusive of all measures applicable to the Project; and

WHEREAS, the City, as a responsible agency, has reviewed the SMART EIR and has accepted the analysis and supporting documentation as adequate; and

WHEREAS, the City, as a responsible agency, has reviewed the SMART EIR and MMP, and evaluated whether the City's actions to facilitate the Project would result in any new or more severe significant environmental impacts, and none have been identified; and

WHEREAS, the City, as a responsible agency, has determined based on the City's Review of the SMART MMP for the Project (Exhibit B) and findings therein, that there have not been any changes to the project or in the surrounding circumstances, or that there is any other relevant new information, that warrants subsequent or supplemental environmental review under CEQA Guidelines section 15162; and

WHEREAS, the City, as a responsible agency, finds that development of the Project will not result in any unmitigated significant unavoidable impacts on the environment, and that SMART has already adopted and committed to implementing all identified measures needed to mitigate identified impacts from the Project to a less than significant level; and

WHEREAS, in accordance with Article XI, Section 7, of the California Constitution, the City may make and enforce within its limits all local, police, sanitary, and other ordinances and regulations not in conflict with general laws; and

WHEREAS, in accordance with Article, XI, Section 5, of the California Constitution, as a charter City, the City may make and enforce all ordinances and regulations in respect to municipal affairs, subject only to restrictions and limitations provided in its charter, and with respect to municipal affairs, the City's ordinances and regulations shall supersede all inconsistent state laws; and

WHEREAS, in accordance with Article XI, Section 9, of the California Constitution, the City may establish, purchase and operate public works to furnish residents with light, water, power, heat, transportation, and means of communication; and

WHEREAS, in accordance with Section 54 of the Petaluma Charter, the City, by and through its council and other officials, shall have and may exercise all powers necessary or appropriate to the municipal corporation and the general welfare of its inhabitants, which are not prohibited by the constitution, and the specifications in the Petaluma Charter of any particular powers shall not be held to be exclusive or any limitation of the City's general grant of powers; and

WHEREAS, in accordance with Section 54981 of the Government Code, the City may contract with any other local agency for the performance of municipal services or functions within the City's territory; and

WHEREAS, in accordance with Section 105032 of the Public Utilities Code, the SMART Board has the power to own, operate, manage, and maintain a passenger rail system within the territory of the district, and to determine the rail transit facilities, including ancillary bicycle and pedestrian pathways, to be acquired and constructed by SMART, the manner of operation, and the means to finance them; and

WHEREAS, in accordance with Section 105070 of the Public Utilities Code, SMART may make contracts and enter into stipulations of any nature whatsoever, employ labor, and do all acts necessary and convenient for the full exercise of SMART's granted powers; and

WHEREAS, in accordance with Section 105085 of the Public Utilities Code, SMART may take by grant, purchase, devise, or lease, or condemn in proceedings under eminent domain, or otherwise acquire, and hold and enjoy, real property of every kind within or without the district necessary to the full or convenient exercise of its powers, and may lease, mortgage, sell, or otherwise dispose of any real or personal property when in its judgment it is in the best interests of SMART to do so; and

WHEREAS, in accordance with Section 105096 of the Public Utilities Code, SMART may acquire, construct, own, operate, control, or use rights-of-way, rail lines, stations, platforms, switches, yards, terminals, parking lots, and any and all other facilities necessary or convenient for rail transit within and without the district, together with all physical structures necessary or convenient for the access of persons and vehicles thereto, including ancillary bicycle and pedestrian pathways, and may acquire or contract for any interest in or rights to the use or joint use of any or all such facilities; and

WHEREAS, in accordance with Section 105101 of the Public Utilities Code, SMART may enter into agreements for the joint use of any property and rights by SMART and any city, public agency, or public utility operating transit facilities and may enter into agreements with any city, public agency, or public utility operating any transit facilities, wholly or partially within or without the district, for the joint use of any property of SMART or of the city, public agency, or public utility, or for the establishment of through routes, joint fares, transfer of passengers, or pooling agreements.

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

1. **Recitals Made Findings.** The above recitals are hereby declared to be true and correct and are incorporated into this resolution as findings of the City Council.
2. **Agreement Covered Under Certified EIR.** Approval of the City/SMART Agreement is not subject to subsequent or supplemental environmental review because the environmental impacts from development and operation of the Corona Station have already been assessed in the SMART EIR and supporting documentation (SCH #2002112033). The City/SMART agreement relates to the provision of funds for the design and construction of the Petaluma North SMART station, which was included in the certified EIR conducted for the SMART Project. No further environmental review is warranted. The Council adopts all CEQA Findings set forth in the attached “City of Petaluma CEQA Review of and CEQA Findings for Corona Station,” a copy of which is attached hereto as Exhibit B.
3. **Resolution 2020-081 N.C.S. Rescinded.** Resolution 2020-081 N.C.S. adopted June 1, 2020, is hereby rescinded and of no further force or effect.
4. **Agreement for Petaluma North SMART Station Approved.** The Agreement between the City of Petaluma and the Sonoma Marin Are Rail Transit District (“SMART”) for Construction of the Petaluma North at Corona SMART Station in the City of Petaluma and Related Matters (“Agreement”) which is attached to and made a part of this resolution as Exhibit A is hereby approved.
5. **City Manager Authorized to Execute Agreement.** The City Manager is hereby authorized and directed to execute an agreement for the Petaluma North at Corona SMART Station with SMART substantially in accordance with that attached as Exhibit A, subject to such changes to the agreement deemed necessary or appropriate by the City Manager and approved by the City Attorney to affect the intended purposes of this resolution.
6. **Construction of the Petaluma North SMART Station Improvements Subject to All Applicable Laws.** SMART’s construction of the Petaluma North SMART Station shall be subject to compliance with all laws and regulatory approvals applicable thereto, including, without limitation, approvals required pursuant to the California Environmental Quality Act (“CEQA”).

7.

8. **Severability.** The City Council hereby declares that every section, paragraph, sentence, clause, and phrase of this resolution is severable. If any section, paragraph, sentence, clause or phrase of this resolution is for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or phrases.
9. **Resolution Effective Immediately.** This Resolution shall take effect immediately upon its adoption.

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 DD day of Month YYYY, by the following vote:

Approved as to
form:

City Attorney

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

City Clerk

Mayor