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DATE: May 1, 2023

TO: Honorable Mayor and Members of the City Council through City Manager

FROM: Eric Danly, City Attorney  
Peggy Flynn, City Manager

SUBJECT: Resolution Rescinding and Replacing Resolution No. 2020-081 N.C.S. and Approving an Agreement between the City and SMART for Construction of Petaluma North at Corona SMART Station Improvements (Project), and Finding That Approval of the Project is Not Subject to Subsequent or Supplemental Environmental Review Because the Environmental Impacts from Development and Operation of the Project Have Already Been Assessed in the Environmental Impact Report and Supporting Documentation for the SMART Rail Transit Project, State Clearing House No. 2002112033

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### **RECOMMENDATION**

Staff recommend that the City Council adopt the attached Resolution rescinding and replacing Resolution No. 2020-081 N.C.S. adopted June 1, 2020, and approving an agreement between the City and SMART for construction of Petaluma North at Corona SMART Station Improvements (Project), and finding that approval of the project is not subject to subsequent or supplemental environmental review because the environmental impacts from development and operation of the project have already been assessed in the EIR and supporting documentation for the SMART Rail Transit Project, State Clearing House No. 2002112033.

### **BACKGROUND**

The City 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 now. 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 also a development project being pursued by Hines on the SMART-owned parcel adjacent to the downtown Petaluma SMART station, which involved sale of the downtown SMART property, the proceeds of which would help fund the second Petaluma SMART station.

On February 24, 2020 the City Council approved three resolutions and introduced two ordinances to grant approvals required for the Corona Residential Project, including: Resolution No. 2020-29 approving a Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; Ordinance 2721 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. 2020-30 approving a Density Bonus with concession/incentive for building height; Ordinance 2722 approving a Development Agreement between the City, Lomas Corona Station LLC, and Lomas SMART LLC; and Resolution No. 2020-31 approving a Vesting Tentative Subdivision Map for a 110-lot residential subdivision and including creation of a 1.27-acre remainder parcel. The two ordinances were subsequently adopted on March 16, 2020 and became effective 30 days later on April 16, 2020. 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.

After the City Council's approval of project entitlements on February 24, 2020, the Planning Commission considered a Conditional Use Permit and Site Plan and Architectural Review (SPAR) for the Corona Residential Project. On March 10, 2020, the Planning Commission approved the SPAR application and denied the Conditional Use Permit (CUP). Subsequently, Lomas appealed the denial of the CUP to the City Council.

Meanwhile, 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 in the Sonoma County Superior Court. The writ alleged, 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. Ultimately, Lomas requested that the City rescind all the approvals associated with the Corona Residential Project and settled the litigation with the Petaluma Community Alliance. As a result, the Corona Residential Project and Hines 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. The action presently before the City Council would approve a stand-alone agreement with SMART for a second Petaluma SMART station, now referred to as the Petaluma North at Corona SMART Station. The Petaluma North SMART Station project itself has not changed, and is referred to in this staff report as the Project. If the City Council adopts the attached resolution, it will replace the Council's earlier action of June 1, 2020, to approve an agreement with SMART for a second Petaluma SMART station.

Prior to the Council action on an agreement with SMART on June 1, 2020, the City had taken two major steps in preparation for the agreement with SMART. Both of those steps remain important for the current action to approve a new agreement with SMART, and are summarized below.

The first action provided funding for the City's share of the Project costs. In May of 2016, the City Council adopted Resolution no. 2016-076 amending the City's Traffic Impact Mitigation Fees to

provide up to an estimated addition \$2,355,134 allocated to parking improvements required for the Project. When it later became clear that the City funding for the Project costs may need to be applied to Project improvements other than or in addition to parking improvements, the City consulted with Willdan, the same consultant that had prepared the City's 2016 impact fee amendments, regarding whether traffic impact fees allocated to Project parking improvements could lawfully be applied to other Project costs. Willdan concluded that the traffic relief resulting from Project ridership is the same whether the fee proceeds are used for parking or other Project improvements, and that the City may apply the traffic impact fee proceeds to Project costs other than parking improvements. Accordingly, City traffic impact fee proceeds allocated to the Project may be applied to any approved Project costs.

The City's second major preparatory step for an agreement with SMART for the Project involved confirming CEQA compliance for the Project. City staff reviewed the EIR and Mitigation and Monitoring Plan that SMART certified for the SMART Rail Transit Project, which included the Project. Based on staff's review, the Council's previous action to approve an agreement for the Project pursuant to Resolution 2020-081 N.C.S. included findings that approval of the agreement was not subject to subsequent or supplemental environmental review because the environmental impact from development and operation of the Project has already been assessed in the SMART EIR and supporting documents prepared for the Rail Transit Project (State Clearing House no. 2002112033). The findings also noted that the prior agreement regarding the Project related to the provision of funds for the design and construction of the Project, which was included in the SMART certified EIR. Resolution 2020-081 N.C.S adopted all CEQA findings set forth in the City of Petaluma CEQA Review of and CEQA Findings for Corona Station, which were attached to the resolution. Because neither the Project itself nor the related circumstances have changed since the Council action on June 1, 2020, the City Council is able to make the same CEQA findings concerning the Project as part of the present action. Accordingly, the same CEQA findings have been included as part of the attached resolution, so that the City Council can once again make the same findings as part of its action on the proposed SMART station agreement.

## **DISCUSSION**

SMART, in partnership with the Sonoma County Transportation Agency (SCTA) and local transit operators, has been awarded a 2022 Transit and Intercity Rail Capital Program (TIRCP) grant to complete construction of the Project. SMART has allocated a total of \$13,521,187 to the Project, as follows: \$9,521,187 in TIRCP funds, \$2,000,000 in SCTA Measure M funds, and \$2,000,000 in City traffic impact fee proceeds. Accordingly, the SMART Board adopted Resolution 2022-33 on October 19, 2022, to increase SMART's expenditure authority for fiscal year 2022-2023 by \$13,521,874 for the Project. The purpose of this action is to seek Council authority via adoption of the attached resolution for entering a new agreement with SMART for construction of the Project, consistent with the SMART Board's action on October 19, 2022, and the City's prior action to provide for the City's share of the Project costs and to confirm Project CEQA compliance.

The proposed agreement between the City and SMART for the Project, which is an exhibit to the attached resolution, defines a framework to enable the City and SMART to work cooperatively in delivering the Project in an effort to obtain traffic relief, as identified in the City's traffic impact

fee legislation, as amended in May, 2016, and to provide all of the other transportation and environmental and other benefits that the Project will provide for the SMART ridership generally, and to residents and visitors of the City and the surrounding region.

The proposed agreement is fairly straightforward. Following the recitals, which summarize some of the history leading to the current action, (as also summarized above), the agreement terms provide for: invoicing; legal compliance, record keeping; reporting; funding contingencies; the agreement term; termination; indemnities; noticing; and other standard terms. Now that the agreement between the City and SMART is being addressed on its own and apart from any separate development plans of SMART or private parties, it is a much simpler arrangement. SMART estimates that work on the Project can begin as soon as the Fall of 2023, and be completed approximately one year later.

### **PUBLIC OUTREACH**

Action on an agreement between the City and SMART for the Petaluma North SMART Station was listed among the action items on the Tentative Agenda for the May 1, 2023 City Council Meeting which the City Council approved on April 17, 2023.

### **COUNCIL GOAL ALIGNMENT**

Approval of an agreement with SMART for the Petaluma North SMART station aligns with Workplan Item no. 22 in the City Council goals for 2019-2021.

### **CLIMATE ACTION/SUSTAINABILITY EFFORTS**

The proposed action to approve an agreement with SMART for the Petaluma North SMART Station is consistent with the overall purpose of the Climate Emergency Framework which the City Council adopted on January 11, 2021— achieving carbon neutrality by 2030. This action is also directly aligned with some of the goals identified in the Framework, because construction and operation of the Petaluma North SMART Station will substitute rail ridership for vehicle miles traveled. Specifically, this action supports the following Climate Emergency Framework Goals: improve Petaluma’s existing transportation system, including walking, biking, and other forms of active transportation, to promote a low carbon, safe, convenient, and integrated network with reasonable access to all essential goods and services; and eliminate transportation emissions by increased public transit investment.

### **ENVIRONMENTAL REVIEW**

Approval of the proposed agreement between the City and SMART for construction of the Petaluma North SMART Station improvements is not subject to subsequent or supplemental environmental review because the environmental impacts from development and operation of the station have already been assessed in the SMART Rail Transit Project EIR and supporting documentation (SCH #2002112033). The proposed agreement relates to the provision of funds for the design and construction of the Petaluma North station, which was included in the certified EIR

conducted for the SMART Rail Transit Project. Accordingly, no further environmental review is warranted.

### **FINANCIAL IMPACTS**

Approval of the proposed agreement with SMART concerning the Petaluma North SMART station involves the City's contribution of \$2 million for the station. The City's contribution will be sourced entirely from Traffic Impact Fee revenues.

### **ALTERNATIVES**

The City Council could provide different direction concerning the proposed agreement with SMART for the Petaluma North SMART Station.

### **ATTACHMENTS**

1. Resolution with Exhibits:
  - a. Agreement between the City and SMART for the Petaluma North SMART Station at Corona
  - b. CEQA Review of and CEQA Findings for Petaluma North at Corona SMART Station
2. Excerpt from the 2016 Traffic Impact Fee Amendment