
Date: March 19, 2019

Item Number: _____

Resolution Number: _____



4/5 Vote Required

Resolution Of The Board Of Directors Of the Sonoma County Agricultural Preservation and Open Space District, County of Sonoma, State Of California, Authorizing a \$282,760 Matching Grant to the Sonoma-Marin Area Rail Transit District (SMART) Under the Matching Grant Program Toward the Development of a Pathway Between Hearn and Bellevue Avenues; Authorizing Execution of a Matching Grant Agreement with SMART; Delegating the General Manager Authority to Approve and Execute the Grant Agreement; Determining that the Grant is Consistent with the Sonoma County General Plan 2020 and the District's Expenditure Plan; Authorizing and Directing the President to Execute a Conservation Easement over the Property; Authorizing and Directing the President to Execute a Recreation Conservation Covenant; Authorizing Execution of a Certificate of Acceptance; Making Certain Findings Under the California Environmental Quality Act (CEQA); and Directing the Filing of a Notice of Exemption in Compliance with CEQA.

Whereas, in accordance with the voter-approved Expenditure Plan, the District has established a competitive Matching Grant Program ("the Program") for projects that provide open space, community recreation, or public access opportunities within and near incorporated areas and other urbanized areas of Sonoma County; and

Whereas, the Program requires applicants to provide a matching contribution for the project; and

Whereas, on July 26, 2012, SMART's application was recommended for funding in the amount of \$282,760 by the Sonoma County District's Advisory Committee; and

Whereas, on September 18, 2012, the Board of Directors approved granting of \$282,760 in funds, contingent upon the execution of a matching grant agreement, and conveyance of a conservation easement and recreation conservation covenant in favor of the District; and

Whereas, on July 19, 2006, the Grantee's Board, as lead agency, approved Resolution No. 2006-005, Pursuant to the California Environmental Quality Act (CEQA), the SMART Rail and Pathway Environmental Impact Report (EIR). A Supplemental EIR was approved by the SMART Board on July 16, 2008 (SCH #2002112033), Resolution No. 2008-05. In

addition, though no federal funds were spent on the construction of the project, a Categorical Exclusion Determination was completed on March 18, 2016, for the SMART Pathway, including the Hearn to Bellevue segment, with Caltrans as the Federal Highway Administration-designated lead agency; and

Whereas, the District's acquisition of a conservation easement and recreation conservation covenant are exempt from CEQA pursuant to Section 15317 of Title 14 of the California Code of Regulations because the purpose of the project is to maintain the open space character of the pathway through the use of a conservation easement. Alternatively, the project is exempt pursuant to Section 15325 (f) of Title 14 of the California Code of Regulations because the conservation easement preserves the pathway as open space, and the recreation conservation covenant requires the pathway to be open for public use in perpetuity; and

Whereas, pursuant to CEQA Guidelines section 15096, the Board of Directors, as a responsible agency, has independently considered the EIR adopted by Grantee's Board and finds that the EIR describes all proposed development of the SMART pathway, including the Hearn to Bellevue segment, and is adequate for use by the District in connection with awarding the Matching Grant (the District Grant Project). There have been no substantial changes to the Project or in the circumstances under which it will be undertaken that would require any revisions to the EIR prepared by SMART, nor is there any new information of any substantial importance with respect to either the District Grant Project or the Project as a whole. The EIR confirms that mitigation measures have been incorporated into the Project that will reduce any potential environmental impacts, including those portions that comprise the District Grant Project, to less than significant. The EIR is on file at the SMART office; and

Whereas, the District Grant Project, and its acquisition of a conservation easement and recreation conservation covenant are exempt from CEQA pursuant to Section 15317 (open space contracts or easements); and alternatively is exempt pursuant to Section and alternatively is exempt pursuant to Section 15325 (f) (preserve open space); and

Whereas, the District and SMART desire to execute a conservation easement, and a recreation conservation covenant by which SMART accepts the affirmative obligation to use, operate and maintain the pathway for public outdoor recreation in perpetuity.

Now, Therefore, Be It Resolved that this Board of Directors hereby finds, determines, declares, and orders as follows:

1. **Truth of Recitals.** That the foregoing recitations are true and correct.
2. **General Plan Consistency.** That the Project is consistent with the Sonoma County General Plan 2020, specifically the Open Space and Recreation Element.

3. Expenditure Plan Consistency. That the Project is consistent with the District's Expenditure Plan, as it states that sales tax monies may be spent on urban open space and recreation projects within and near incorporated areas and other urbanized areas of Sonoma County, including, but not limited to creek restoration and enhancement, trails, athletic fields, and urban greenspace.

4. Conservation Easement and Certificate of Acceptance. That the President is authorized and directed to execute, on behalf of the District, the certain agreement in connection with the Project entitled "Deed of Conservation Easement and Agreement By and Between SMART and the Sonoma County Agricultural Preservation and Open Space District." ("Conservation Easement"), together with the certificate of acceptance required by Government Code 27281.

5. Recreation Covenant and Certificate of Acceptance. That the President is authorized and directed to execute, on behalf of the District, the certain agreement in connection with the Project entitled "SMART Recreation Conservation Covenant" ("Recreation Covenant"), together with the certificate of acceptance required by Government Code 27281.

6. Authority to Sign Grant Agreement. That the District's General Manager is authorized to execute that certain agreement in connection with the Project entitled "SMART Matching Grant Agreement" between the Sonoma County Agricultural Preservation and Open Space District and SMART ("Matching Grant Agreement").

8. Payment of Grant Funds. That, subject to the provisions of the Matching Grant Agreement, at the request of the General Manager, the County Auditor shall draw a warrant or warrants against available funds in the District's Land Acquisition Fund in amounts, cumulatively, not to exceed \$282,760 to reimburse SMART for the costs of pathway improvements. All expenditures under this Paragraph 8 are subject to the following:

- i. No reimbursements shall be made until the Conservation Easement and Recreation Conservation Covenant is fully executed and recorded in the office of the Sonoma County Recorder.
- ii. No reimbursements shall be made until the Matching Grant Agreement is fully executed.
- iii. Reimbursements shall be made only upon a determination by the District's General Manager, or his designee, that the reimbursement of SMART's costs are reasonable and

necessary to the District Grant Project as approved.

- iv. The District's General Manager is hereby authorized to approve and pay claims that are submitted and reviewed in accordance with this Resolution, and the Matching Grant Agreement, and that he finds to have been reasonably and necessarily incurred in connection with the Project as approved.

9. Necessary Documents. That the General Manager is authorized to make technical, non-substantive changes in the Conservation Easement and Matching Grant Agreements with the prior approval of the District's Counsel.

10. California Environmental Quality Act.

On July 19, 2006, the Grantee's Board, as lead agency, approved Resolution No. 2006-005, Pursuant to the California Environmental Quality Act (CEQA), the SMART Rail and Pathway Environmental Impact Report (EIR). A Supplemental EIR was approved by the SMART Board on July 16, 2008 (SCH #2002112033), Resolution No. 2008-05. In addition, though no federal funds were spent on the construction of the project, a Categorical Exclusion Determination was completed on March 18, 2016, for the SMART Pathway, including the Hearn to Bellevue segment, with Caltrans as the Federal Highway Administration-designated lead agency.

As a responsible agency, the District, through its Board of Directors, has independently considered the EIR adopted by Grantee's Board and finds that the EIR describes all proposed development of the SMART pathway, including the Hearn to Bellevue segment, and is adequate for use by the District in connection with awarding the Matching Grant (the District Grant Project). There have been no substantial changes to the Project or in the circumstances under which it will be undertaken that would require any revisions to the EIR prepared by SMART, nor is there any new information of any substantial importance with respect to either the District Grant Project or the Project as a whole. The EIR confirms that mitigation measures have been incorporated into the Project that will reduce any potential environmental impacts, including those portions that comprise the District Grant Project, to less than significant. The EIR is on file at the SMART office.

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Moreover, the District Grant Project, and its acquisition of a conservation easement and recreation conservation covenant are exempt from CEQA pursuant to Section 15317 (open space contracts or easements); and alternatively is exempt pursuant to Section and alternatively is exempt pursuant to Section 15325 (f) (preserve open space).

11. Posting. Immediately upon adoption of this resolution, the General Manager is directed to file with the County Clerk, and the County Clerk is directed to post and to maintain the posting of a notice of exemption pursuant to Public Resources Code Section 21152.

12. Validation. The agreement authorized by this resolution is a contract within the definition of Government Code Section 53511 and as such, any action challenging the validity of the contract including the source of funding for the consideration to be paid by this District must be commenced within sixty (60) days of the adoption of this resolution pursuant to section 863 of the Code of Civil Procedure.

Supervisors:

Gorin:

Rabbitt:

Zane:

Hopkins:

Gore:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.