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DATE: November 2, 2020

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

FROM: Heather Hines, Planning Manager

SUBJECT: Approval of a Resolution Rescinding Previously Approved Resolution Nos. 2020-29, 2020-30, and 2020-31 and Introduction (First Reading) of an Ordinance Rescinding Previously Approved Ordinance Nos. 2721 and 2722 for the Corona Station Residential Project

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## **RECOMMENDATION**

It is recommended that the City Council take the following actions to rescind the previously approved entitlements for the Corona Station Residential Project:

- Approve a Resolution Rescinding previously approved Resolution Nos. 2020-29 (Mitigated Negative Declaration), 2020-30 (Density Bonus), and 2020-31 (Vesting Tentative Map); and
- Introduce an Ordinance rescinding previously approved Ordinance Nos. 2721 (Zoning Text Amendment) and 2722 (Development Agreement).

Together, these actions will rescind all approved entitlements associated with the Corona Station Residential Project, with the exception of Planning Commission Resolution No. 2020-05 approving Site Plan and Architectural Review (SPAR) for the project. Rescission of Planning Commission Resolution No. 2020-05 will be scheduled for Planning Commission consideration on November 17, 2020 following the City Council's action on the above listed rescission actions.

## **BACKGROUND**

On February 24, 2020 the City Council approved entitlements, including approval of three resolutions and introduction of two ordinances, for the Corona Station Residential Project. The project entitlements included the following:

- Resolution No. 2020-29 (Attachment 3) approving the project level Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program; and
- Ordinance 2721 (Attachment 4) introducing a Zoning Text Amendment to modify Implementing Zoning Ordinance Table 4.3 to conditionally permit single family residential

land use in the MU1B zoning district and adding footnote #16 specifying single family may be conditionally allowed in the MU1B as part of a residential project adjacent to a planned SMART station and at a minimum density of 26 units/acre; and

- Resolution No. 2020-30 (Attachment 5) approving a Density Bonus with concession/incentive for building height but not increasing the allowable density under the base General Plan Mixed Use land use designation; and
- Ordinance 2722 (Attachment 6) introducing an ordinance to approve a Development Agreement between the City, Lomas Corona Station LLC, and Lomas SMART LLC; and
- Resolution No. 2020-31 (Attachment 7) 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 approved (second reading) on March 16, 2020 and after the requisite 30-day referendum period both ordinances became effective.

All three of the resolutions and the two ordinances approved by the City Council included language that conditioned the approvals on the execution of an agreement between the City and SMART and on the approval of the related Zoning Text Amendment to modify IZO Table 4.3.

After the City Council's approval of project entitlements on February 24, 2020, the Planning Commission considered a Conditional Use Permit and SPAR for the project. At their meeting on March 10, 2020 the Planning Commission approved Resolution 2020-05 (Attachment 8) approving SPAR and denied, by motion, the Conditional Use Permit (CUP) to allow residential development of the site in the MU1B zoning district. Subsequently the applicant appealed the denial of the CUP.

Following the City's approval of the project entitlements for the Corona Station Residential Project, a petition for writ of mandate and complaint for declaratory relief was filed by a group identified as the Petaluma Community Alliance in the Sonoma County Superior Court, 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. The applicant has since requested that the City rescind all approved entitlements associated with the Corona Station Residential Project.

## **DISCUSSION**

The consideration and ultimate approval of entitlements for the Corona Station Residential Project involved approval of the development of a 110-unit residential project at 890 North McDowell Boulevard and approval of alternative compliance for the required inclusionary housing for the Hines Downtown development. These approvals were related to the terms of the signed agreement between Lomas and SMART for purchase of the downtown SMART property to be developed by Hines and the subsequent execution of an agreement between the City and SMART. The Corona Residential Project applicant has requested rescission of the approved project entitlements to resolve the Petaluma Community Alliance litigation. Additionally, the rescission action facilitates the City's consideration of a new development concept for the property at 890 North McDowell. These items are discussed in more detail below.

### **Corona Station Residential Project**

The rescission actions before the Council will eliminate all project approvals associated with the

110-unit residential project on the 6.5-acre property located at 890 North McDowell Blvd. The rescission action will eliminate City approvals for the Mitigated Negative Declaration, Zoning Text Amendment, Density Bonus, Development Agreement, and Vesting Tentative Subdivision Map. Following the Council's action, the Planning Commission will take action to rescind the project's Site Plan and Architectural Review approval.

The Conditional Use Permit required for the Corona Station Residential Project was denied by the Planning Commission and subsequently appealed by the applicant. No action has been taken on the appeal. Once the rescission actions are made by the City Council the CUP denial and appeal application will be moot.

Similarly, the applicant's current Final Map application has not been approved by the City Council as required by Petaluma Municipal Code Section 20.24. Once the Vesting Tentative Subdivision Map is rescinded the application for Final Map will be moot and no further processing will occur.

### **Zoning Text Amendment**

Rescinding Ordinance No. 2721 will rescind the modification to the Implementing Zoning Ordinance Land Use Table 4.3 allowing single family residential to be approved in the MU1B zoning district with a Conditional Use Permit. Like the initial ZTA, the ordinance rescinding it requires introduction (first reading), approval (second reading), and the running of a 30-day referendum period. Following this process, the IZO will be modified to eliminate single family residential land use as an allowable use in the MU1B zoning district and will delete footnote 16 which specifically references residential projects adjacent to a proposed SMART station and with a density of at least 26 units per net acre.

### **Lomas/SMART Agreement**

The existing agreement between Lomas Corona LLC and SMART is an agreement that was executed separately from project approvals associated with the Corona Station Residential Project. As discussed during consideration of the Corona Station Residential Project, two of the key components of the Lomas/SMART agreement are Lomas' dedication of a 1.27 acre parcel to SMART for future parking associated with the future SMART station and payment of \$8 million dollars for the purchase of the downtown SMART owned property. The rescission of the approved project entitlements does not impact the existing agreement between Lomas and SMART.

It is staff's understanding that Lomas and SMART are currently negotiating a 90-day extension to the existing agreement, which could extend the close of escrow to February 17<sup>th</sup>. Lomas would be required to satisfy all terms of the agreement by the new closing date, including dedication of the 1.27-acre property at the Corona Station site and payment of the \$8 million for the sale of the downtown SMART-owned property.

Lomas will create the necessary 1.27 acre parcel for dedication to SMART through recordation of a grant deed conveying the 1.27 acres to SMART.

Staff are informed that the agreement between Lomas and Hines requires all Hines project approvals to be secured prior to the closing of the sale of the downtown property to Hines. In an effort to keep the review of the Hines project on track with these contractual milestones, the Hines project will be brought before the Planning Commission on December 15 for a study session and return for consideration of SPAR on January 12, 2021.

### **City/SMART Agreement**

The City/SMART agreement is not affected by the rescission actions.

### **Hines Development Inclusionary Housing**

The rescission of Ordinance 2722 withdraws the City Council's prior approval of a development agreement between the City and Lomas Corona LLC and Lomas SMART LLC. While most of the Development Agreement terms were specific to the Corona Station Residential Project, the Agreement also provided for approval of alternative compliance of inclusionary housing requirements for the Hines Downtown Project. More specifically, the Development Agreement approves alternative compliance for the Hines Downtown project to satisfy the required inclusionary housing for the 402-unit apartment project through provision of 11 low income units as part of the downtown development, dedication of an approximately 2.5 acre property currently owned by Lomas and located at 1601 Petaluma Boulevard South, and payment of \$862,208 in housing in lieu fees.

Rescission of Ordinance 2722 eliminates the approved alternative compliance for the Hines Downtown development and makes the Hines project subject to the onsite inclusionary provisions for the project as specified in IZO Section 3.040. However, Hines and Lomas have submitted a new request for alternative compliance with the onsite inclusionary housing requirements applicable to the Hines project. The new alternative inclusionary housing compliance proposal for the Hines project will be to be processed separately and is scheduled to be brought before the City Council for consideration on November 16, ahead of the Planning Commission's consideration of SPAR for the overall Hines Downtown project. The action of rescinding Ordinance 2722 does not obligate the Council to approve a new request for alternative compliance for the Hines Downtown Station Project, as that would be a separate and distinct action occurring at a future meeting.

Rescission of Ordinance 2722 also eliminates the dedication requirement for the property at 1601 Petaluma Boulevard South. In July 2020, the City approved an SB 35 application for a 50 unit affordable housing development of the property submitted by Burbank Housing, based on the understanding that the property would be dedicated to the City for development of affordable housing in partnership with an affordable housing developer. While the property will no longer be dedicated to the City, the project approval under SB 35 was not explicitly tied to the ownership of the property and therefore that approval will remain in effect. Burbank Housing can proceed with their approved affordable housing development if they are able to secure the property. It is staff's understanding that Burbank has an option to purchase the property from Lomas.

### **Danco Housing Proposal**

The Danco Group is under contract with Lomas Corona LLC to purchase the 6.5-acre property at 890 North McDowell Blvd. Danco is an affordable housing developer and has initiated discussion with staff regarding plans for a 130-unit multi-family residential development. Danco's intent is to apply for City approvals for the project under AB 2162, which is recently enacted state legislation that provides for streamlined, ministerial review and CEQA exemptions for qualifying supportive housing development.

The Danco proposal was recently reviewed by staff at a Development Review Committee meeting and staff anticipates a formal submittal on October 30, 2020. As currently conceived (Attachment 9), the Danco project would be a 130-unit multi-family residential project comprised of studio, one-bedroom, two-bedroom, and three-bedroom units located in three and four story buildings. The project would be 100% affordable to low and very low-income households (20% to 60% AMI) and



include 25% supportive housing units. A Density Bonus would be requested to provide for reduced parking requirements and increased building height. The project incorporates a small retail coffee shop onsite and provides onsite supportive housing services in a community building. Additionally, the project provides onsite resident amenities such as a dog run, community garden, basketball court, playground, fitness center, and tot lot. The project is proposed as all electric with no natural gas infrastructure proposed and incorporates roof top solar and electrical vehicle charging stations for residents. The project has not secured all necessary funding for development.

Based on requirements in the assembly bill and Petaluma’s population size, approval of the Danco project under AB 2162 will require that the City Council first approve a policy allowing an AB 2162 project greater than 50 units. Staff is preparing this item for the City Council’s consideration at their November 16<sup>th</sup> hearing.

**ENVIRONMENTAL REVIEW**

The action before the City Council is to rescind the previously approved entitlements associated with the Corona Station Residential Project, including the previous approval of the project level Mitigated Negative Declaration. While the rescission action is a discretionary action by the City Council, the activity is categorically exempt from the California Environmental Quality Act (CEQA) under the Section 15061(b)(3), General Rule. Section 15061(b)(3) applies in that the activity will eliminate all approvals associated with the Corona Station Residential Project and therefore there is no possibility the rescission actions could cause a significant effect on the environment.

**ATTACHMENTS**

- Attachment 1: Draft Resolution
- Attachment 2: Draft Ordinance
- Attachment 3: CC Resolution No. 2020-029
- Attachment 4: CC Ordinance No. 2721
- Attachment 5: CC Resolution No. 2020-030
- Attachment 6: CC Ordinance No. 2722
- Attachment 7: CC Resolution No. 2020-031
- Attachment 8: PC Resolution No. 2020-05
- Attachment 9: Danco Concept Site Plan

**RESOLUTION OF THE CITY OF PETALUMA CITY COUNCIL RESCINDING RESOLUTION NOS. 2020-29, 2020-30, AND 2020-31 RELATING TO ADOPTION AND APPROVAL OF: A MITIGATED NEGATIVE DECLARATION AND A MITIGATION AND MONITORING REPORTING PROGRAM, A DENSITY BONUS HOUSING AGREEMENT, AND A VESTING TENTATIVE MAP FOR THE CORONA STATION RESIDENTIAL PROJECT LOCATED AT 890 NORTH MCDOWELL BOULEVARD (APN: 137-061-019; FILE NO. PLMA-2018-0006)**

**WHEREAS**, Todd Kurtin with Lomas Properties LLC (“Applicant”) submitted an application for the Corona Station Residential Project, including a Zoning Text Amendment, Development Agreement, Density Bonus and Development Concession/Incentive, Tentative Subdivision Map, Conditional Use Permit and Site Plan and Architectural Review for a 110-unit residential project within the MU113 zone with Flood Plain-Combining (FP -C) Overlay, located on a 6.5-acre site at 890 North McDowell Boulevard (APN 137- 061- 019) (the " Project"); and

**WHEREAS**, on November 12, 2019 and January 14, 2020, the Planning Commission held duly noticed public hearings to consider the Project and adopted Planning Commission Resolution Nos. 2019-18, 2019-19, and 2020-20, which found the environmental analysis contained in the Mitigation Negative Declaration to be adequate to disclose potential environmental impacts of the Project, but ultimately denied the Zoning Text Amendment and recommended denial of the remainder of the Project to the City Council; and

**WHEREAS**, on January 15, 2020, the Applicant appealed the Planning Commission’s decision on the Zoning Text Amendment to the City Council; and

**WHEREAS**, on January 27, 2020 and February 24, 2020, the City Council held duly noticed public hearings to consider the Project, the Planning Commission’s recommendations, and the Applicant’s appeal; and

**WHEREAS**, on February 24, 2020, the City Council adopted three resolutions relating to the approval of the Project: Resolution No. 2020-29 (adopting the mitigated negative declaration and mitigation monitoring and reporting program), 2020-30 (approving the density bonus housing agreement), and 2020-31 (approving the vesting tentative map) (collectively, the “Project Approval Resolutions”); and

**WHEREAS**, on February 24, 2020, the City Council also introduced two ordinances relating to approval of the Project: Ordinance No. 2721 (approving the implementing zoning ordinance text amendment), and Ordinance No. 2722 (approving the development agreement) (collectively, the “Project Approval Ordinances”); and

**WHEREAS**, at a duly noticed public hearing on March 10, 2020, the Planning Commission adopted Resolution 2020-05 approving the Site Plan and Architectural Review for the Project (“Project SPAR Approval Resolution”); and

**WHEREAS**, on March 16, 2020, the City Council formally adopted the Project Approval Ordinances; and

**WHEREAS**, on April 15, 2020, a group identified as the Petaluma Community Alliance filed a petition for writ of mandate and complaint for declaratory relief in the Sonoma County Superior Court, 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**, in order to avoid potentially costly litigation, the Applicant has requested that the City rescind the Project Approval Resolutions and the Project Approval Ordinances so as to effectively rescind all Project approvals and entitlements; and

**WHEREAS**, the City Council recognizes that to complete the rescission of all Project approvals it will be necessary for the Planning Commission to rescind the SPAR Approval Resolution following adoption of this Resolution No. \_\_\_\_\_ and of Ordinance No. \_\_\_\_\_, which will rescind the Project Approval Ordinances; and

**WHEREAS**, while the rescission of the Project Approval Resolutions and the Project Approval Ordinances is a discretionary action, the action is categorically exempt consistent with the California Environmental Quality Act Guidelines pursuant to Section 15061(b)(3) (General Rule) in that the activity, along with rescission of the SPAR Approval Resolution, will eliminate all Corona Station Residential Project approvals and therefore no possibility exists that the action could cause a significant effect on the environment; and

**WHEREAS**, public notice of the November 2, 2020 public hearing before the City Council to consider the requested rescission actions was published as a 1/8 page ad in the Argus Courier on October 22, 2020 and notice was mailed to all property owners and tenants in a 1,000 foot radius of the project site, in accordance with the notice requirements that apply to zoning amendments in accordance with the State Planning and Zoning Law and the City's Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S;

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PETALUMA AS FOLLOWS:**

1. The foregoing recitals are hereby declared to be true and correct and are hereby incorporated herein by reference as findings of the City Council.
2. The rescission of Resolution Nos. 2020-29, 2020-30, and 2020-31 is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines in that the proposed activity, along with rescission of the Project Approval Ordinances and the SPAR Approval

Resolution, will eliminate all Corona Station Residential Project approvals and therefore there is no possibility that the action could cause a significant effect on the environment.

3. The Project Approval Resolutions (City Council Resolutions 2020-19, 2020-20, and 2020-21) are hereby rescinded in their entirety and shall no longer be of any force or effect upon this resolution taking effect.
4. This Resolution No. \_\_\_\_ shall take immediate effect upon its adoption.

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA RESCINDING ORDINANCE NOS. 2721 AND 2722 RELATING TO AMENDMENT TO THE TEXT OF THE IMPLEMENTING ZONING ORDINANCE, ORDINANCE 2300 N.C.S. (TABLE 4.3 – ALLOWED LAND USES AND PERMIT REQUIREMENTS FOR MIXED USE ZONES) AND TO ADOPTION OF A DEVELOPMENT AGREEMENT BETWEEN THE CITY OF PETALUMA AND LOMAS CORONA STATION LLC AND LOMAS SMART LLC CONCERNING DEVELOPMENT OF THE CORNOA STATION RESIDENTIAL PROJECT LOCATED AT 890 NORTH MCDOWELL BOULEVARD (APN 137- 061- 019) AND PROPERTY OWNED BY THE SONOMA MARIN AREA RAIL TRANSIT DISTRICT LOCATED AT 315 EAST D STREET (APN 007- 131- 003)**

**WHEREAS**, Todd Kurtin with Lomas Properties LLC (“Applicant”) submitted an application for the Corona Station Residential Project, including a Zoning Text Amendment, Development Agreement, Density Bonus and Development Concession/Incentive, Tentative Subdivision Map, Conditional Use Permit and Site Plan and Architectural Review for a 110-unit residential project within the MU113 zone with Flood Plain -Combining (FP -C) Overlay, located on a 6.5-acre site at 890 North McDowell Boulevard (APN 137- 061- 019) (the "Project"); and

**WHEREAS**, on November 12, 2019 and January 14, 2020, the Planning Commission held duly noticed public hearings to consider the Project and adopted Planning Commission Resolutions Nos. 2019-18, 2019-19, and 2020-20, which found the environmental analysis contained in the Mitigation Negative Declaration to be adequate to disclose potential environmental impacts of the Project, but ultimately denied the Zoning Text Amendment and recommended denial of the remainder of the Project to the City Council; and

**WHEREAS**, on January 15, 2020, the Applicant appealed the Planning Commission’s decision on the Zoning Text Amendment to the City Council; and

**WHEREAS**, on January 27, 2020 and February 24, 2020, the City Council held duly noticed public hearings to consider the Project, the Planning Commission’s recommendations, and the Applicant’s appeal; and

**WHEREAS**, on February 24, 2020, the City Council adopted three resolutions relating to the approval of the Project: Resolution No. 2020-29 (adopting the mitigated negative declaration and mitigation monitoring and reporting program), 2020-30 (approving the density bonus housing agreement), and 2020-31 (approving the vesting tentative map) (collectively, the “Project Approval Resolutions”); and

**WHEREAS**, on February 24, 2020, the City Council also introduced two ordinances relating to approval of the Project: Ordinance No. 2721 (approving the implementing zoning

ordinance text amendment), and Ordinance No. 2722 (approving the development agreement) (collectively, the “Project Approval Ordinances”); and

**WHEREAS**, at a duly noticed public hearing on March 10, 2020, the Planning Commission adopted Resolution 2020-05 approving the Site Plan and Architectural Review for the Project (“Project SPAR Approval Resolution”); and

**WHEREAS**, on March 16, 2020, the City Council formally adopted the Project Approval Ordinances; and

**WHEREAS**, on April 15, 2020, a group identified as the Petaluma Community Alliance filed a petition for writ of mandate and complaint for declaratory relief in the Sonoma County Superior Court, 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**, in order to avoid potentially costly litigation, the Applicant has requested that the City rescind the Project Approval Resolutions and the Project Approval Ordinances so as to effectively rescind all Project approvals and entitlements; and

**WHEREAS**, the City Council recognizes that to complete the rescission of all Project approvals it will be necessary for the Planning Commission to rescind the SPAR Approval Resolution following adoption of this Ordinance No. \_\_\_\_\_ and of Resolution No. \_\_\_\_\_, which will rescind the Project Approval Resolutions; and

**WHEREAS**, while the rescission of the Project Approval Resolutions and the Project Approval Ordinances is a discretionary action, the action is categorically exempt consistent with the California Environmental Quality Act Guidelines pursuant to Section 15061(b)(3) (General Rule) in that the activity, along with the rescission of the SPAR Approval Resolution will eliminate all Corona Station Residential Project approvals and therefore no possibility exists that the action could cause a significant effect on the environment; and

**WHEREAS**, public notice of the November 2, 2020 public hearing before the City Council to consider the requested rescission actions was published as a 1/8 page ad in the Argus Courier on October 22, 2020 and notice was mailed to all property owners and tenants in a 1,000 foot radius of the project site, in accordance with the requirements that apply to zoning amendments in the State Planning and Zoning Law, and the City’s Implementing Zoning Ordinance, Ordinance 2300 N.C.S.; and

**NOW THEREFORE BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PETALUMA AS FOLLOWS:**

**Section 1:** Findings. The City Council of the City of Petaluma hereby declares

the foregoing recitals to be true and correct and incorporates the recitals herein by reference as findings of the City Council.

- Section 2:** CEQA Exemption. Rescission of the Project Approval Ordinances, Ordinance 2721 and 2722, in accordance with this ordinance is exempt from CEQA pursuant to Section 15061(b)(3) of the CEQA Guidelines in that the proposed activity, together with rescission of the Project Approval Resolutions and rescission of the SPAR Approval Resolution will eliminate all Corona Station Residential Project approvals and therefore no possibility exists that this action could cause a significant effect on the environment.
- Section 3:** Ordinances Rescinded. The Project Approval Ordinances, Ordinance No. 2721 and Ordinance No. 2722, are hereby rescinded in their entirety, and shall no longer be of any force or effect upon this ordinance taking effect.
- Section 4:** Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.
- Section 5:** Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council.
- Section 6:** Posting/Publishing of Notice. The City Clerk is hereby directed to publish or post this ordinance or a synopsis for the period and in the manner provided by the City Charter and other applicable law.

Resolution No. 2020-029 N.C.S.  
of the City of Petaluma, California

**RESOLUTION OF THE CITY OF PETALUMA CITY COUNCIL ADOPTING A  
MITIGATED NEGATIVE DECLARATION AND MITIGATION MONITORING AND  
REPORTING PROGRAM FOR THE CORONA STATION RESIDENTIAL PROJECT  
LOCATED AT 890 NORTH MCDOWELL BOULEVARD**

**APN: 137-061-019**

**FILE NO. PLMA-18-0006**

**WHEREAS**, Todd Kurtin with Lomas Properties LLC submitted an application for the Corona Station Residential Project, including a Zoning Text Amendment, Development Agreement, Density Bonus and Development Concession/Incentive, Tentative Subdivision Map, Conditional Use Permit and Site Plan and Architectural Review for a 110 unit residential project within the MU1B zone with Flood Plain-Combining (FP-C) Overlay, located on a 6.5-acre site at 890 North McDowell Boulevard (APN 137-061-019) (the “Project”); and

**WHEREAS**, the Project is subject to the Petaluma General Plan 2025, adopted by the City on May 19, 2008; and

**WHEREAS**, in evaluating certain potential environmental effects of the Project in the Initial Study, including but not limited to effects of climate change, water supply, and traffic, the City relied on the Program EIR for the City of Petaluma General Plan 2025, certified on April 7, 2008 (General Plan EIR) by the adoption of Resolution No. 2008-058 N.C.S., which is incorporated herein by reference

**WHEREAS**, the General Plan EIR identified potentially significant environmental impacts and related mitigation measures and the City also adopted a Statement of Overriding Considerations for significant impacts that could not be avoided; and

**WHEREAS**, the City prepared an Initial Study for the proposed Project consistent with CEQA Guidelines §15162 and 15163 and determined that a Mitigated Negative Declaration (MND) was required in order to analyze the potential for new or additional significant environmental impacts of the Project beyond those identified in the General Plan EIR; and

**WHEREAS**, on or before October 17, 2019, the City’s Notice of Intent to Adopt a Mitigated Negative Declaration based on the Initial Study, providing for a 30-day public comment period commencing October 18, 2019 and ending November 18, 2019, and a Notice of Public Hearing to be held on November 12, 2019 before the City of Petaluma Planning Commission were published in the *Petaluma Argus-Courier* and mailed to all residents and property owners within 1,000 feet of the Project as well as all persons having requested special notice of said proceedings; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing on November 12, 2019, at which time all interested parties had the opportunity to be heard; and



**WHEREAS**, the Planning Commission considered the Project, the MND, the supporting Initial Study, the staff report, and received and considered all written and oral public comments on environmental effects of the Project which were submitted up to and at the time of the public hearings and continued the item to a date certain of November 19, 2019; and

**WHEREAS**, on November 19, 2019 the Planning Commission approved Resolution No. 2019-17 recommending the City Council adopt the MND and while the Planning Commission was not supportive of the overall project for the reasons expressed at the November 12, 2019 Planning Commission and summarized in Resolution No. 2019-18, Resolution No. 2019-19, and Resolution No. 2019-20, the Planning Commission found the environmental analysis contained in the project-specific Mitigated Negative Declaration to be adequate to disclose potential environmental impacts of the project; and

**WHEREAS**, the Initial Study applies the BAAQMD's California Environmental Quality Act - Air Quality Guidelines including the BAAQMD thresholds of significance, and as lead agency under CEQA, the City of Petaluma has the discretion to rely upon the BAAQMD CEQA Guidelines and thresholds of significance, since they include the best available scientific data and most conservative thresholds available for comparison of the Project's emissions, and comparison of the Project's emissions against these thresholds provides a conservative assessment as the basis for a determination of significance; and

**WHEREAS**, pursuant to further analysis in the Initial Study, including evaluation using the BAAQMD CEQA Guidelines and thresholds of significance, the Project does not make a considerable contribution to cumulative impacts from air quality or greenhouse gas emissions identified as significant and unavoidable in the General Plan 2025 EIR, because the Project's emissions are below the significance thresholds identified; and

**WHEREAS**, the MND reflects the City's independent judgment and analysis of the potential for environmental impacts from the Project; and

**WHEREAS**, the MND, Initial Study and related project and environmental documents, including the General Plan 2025 EIR and all documents incorporated herein by reference, are available for review in the City Community Development Department at Petaluma City Hall, during normal business hours, and the custodian of the documents and other materials which constitute the record of proceedings for the proposed project is the City of Petaluma Community Development Department, 11 English St. Petaluma, CA 94952; and

**WHEREAS**, while the Initial Study for the Project identified potentially significant impacts, all potentially significant impacts are mitigated to a less than significant level and therefore the Project as mitigated would not result in any significant impacts to the environment; and

**WHEREAS**, the City Council held duly noticed public hearings on January 27, 2020 and February 24, 2020, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, the City Council considered the Project, the MND, the supporting Initial Study, Response to Comments, the staff report, and received and considered all written and oral public comments on environmental effects of the Project which were submitted up to and at the time of the public hearings;

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**

1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Based on its review of the entire record herein, the City Council makes the following findings:
  - a. The Project is consistent with the General Plan 2025 Mixed Use land use designation in that the Mixed Use provides for a mix of land uses, including residential at densities up to 30 units per acre.
  - b. The Project is, for the reasons discussed in the November 12, 2019 Planning Commission staff report, consistent with the following General Plan policies: Policy 1-P-1 (Range of densities), 1-P-2 (Efficient Land Use), Policy 1-P-6 (Encourage Mixed-Use Development), Policy 2-P-5 (Character of Arterials), Policy 2-P-90 (Corona Rail Station), Policy 4-P-1.D (Creek Setbacks), Policy 4-P- (Street Trees) Policy 5-P-4 (Offsite Mobility Improvements), Policy 5-P-20 (Connections), Policy 5-P-23 (Pedestrian Site Access), Policy 5-P-43 (Transit Oriented Development), Policy 5-P-50 (SMART Corridor) and Housing Element Policy 1.1 (Encourage Residential Development), Policy 1.2 (Optimize Development Potential), Policy 2.2 (Flexibility), Program 3.1 (Code Amendments), Policy 4.2 (Affordable Housing Production), and Program 4.3 (Onsite Inclusionary).
  - c. The project is adjacent to the planned Corona Station SMART station and has therefore been reviewed for consistency with applicable provisions of the Station Area Master Plan (SAMP). For the reasons discussed in the November 12, 2019 Planning Commission staff report, the project is consistent with key recommendations from the SAMP in that the project does not incorporate retail adjacent to the Corona Road Station, proposes increased density and ground floor flex opportunities, presents a density within the parameters of the underlying Mixed Use designation and in character with the surrounding area, provides necessary land dedication and financial contribution to develop the second station, and incorporates key connectivity enhancements in the immediate vicinity of the future station.
  - d. As conditioned, the Project is consistent with all development standards of the MU1B zoning district, including but not limited to, those pertaining to uses, setbacks, building height, floor area ratio, and parking.
  - e. Pursuant to the analysis in the Initial Study, the Project does not make a cumulatively considerable contribution to the significant and unavoidable cumulative traffic and/or noise impacts identified in the General Plan 2025 EIR because although the Project would contribute vehicle trips to intersections identified in the General Plan EIR as operating at an unacceptable LOS at build-out, the affected intersections have either already been determined to acceptably operate at an LOS E or LOS F due to overriding considerations and conflicts with other General Plan policies or the Project's contribution to those intersections are below the threshold established by the General Plan EIR (i.e., cause the LOS to deteriorate to the next lowest level).
  - f. With regard to noise, the Project will result in a less than cumulatively considerable impact to noise because the project excludes new stationary noise sources and its

incremental contribution through vehicular trips is insufficient to result in a perceptible change in noise.

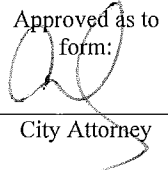
3. Based on its review of the entire record herein, including the MND, the Initial Study, all supporting, referenced and incorporated documents and all comments received, the City Council finds that there is no substantial evidence that the Project as mitigated will have a significant effect on the environment, that the MND reflects the City's independent judgment and analysis, and that the MND, Initial Study and supporting documents provide an adequate description of the impacts of the Project and comply with CEQA, the State CEQA Guidelines and the City of Petaluma Environmental Guidelines.
4. The MND, Initial Study and related project and environmental documents, including the General Plan 2025 EIR and all documents incorporated herein by reference, are available for review in the City Community Development Department at Petaluma City Hall, during normal business hours. The custodian of the documents and other materials which constitute the record of proceedings for the proposed project is the City of Petaluma Community Development Department, 11 English St. Petaluma, CA 94952.
5. Based on its review of the entire record herein, including the November 12, 2019 and November 19, 2019 Planning Commission staff reports and the January 27, 2020 and February 24, 2020 City Council staff reports, all supporting, referenced, and incorporated documents, and all comments received, the City Council hereby adopts the Mitigated Negative Declaration (Exhibit 1) and associated Mitigation Monitoring and Reporting Plan (Exhibit 2) prepared for the Project.

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 24<sup>th</sup> day of February 2020, by the following vote:

Approved as to  
form:



City Attorney

**AYES:**

Healy; Kearney; King; Miller

**NOES:**

Mayor Barrett; Vice Mayor Fischer; McDonnell

**ABSENT:**

None

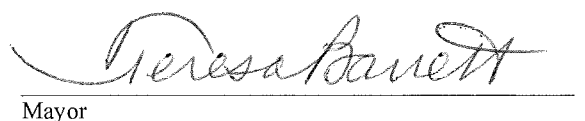
**ABSTAIN:**

None

**ATTEST:**



City Clerk



Mayor

<b>EFFECTIVE DATE OF ORDINANCE</b>  April 16, 2020
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**ORDINANCE NO. 2721 N.C.S.**

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Introduced by  
  
Mike Healy

Seconded by  
  
Dave King

**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PETALUMA  
 UPHOLDING THE APPEAL FILED BY LOMAS-CORONA, LLC, OVERTURNING THE PLANNING  
 COMMISSION'S DENIAL, AND AMENDING THE TEXT OF THE IMPLEMENTING ZONING  
 ORDINANCE, ORDINANCE 2300 N.C.S., TABLE 4.3 (ALLOWED LAND USES AND  
 PERMIT REQUIREMENTS FOR MIXED USE ZONES)**

**WHEREAS**, City of Petaluma Implementing Zoning Ordinance (IZO) §25.010 provides in pertinent part that no amendment that regulates matters listed in Government Code §65850 shall be made to the IZO unless the Planning Commission and City Council find the amendment to be in conformity with the General Plan; and

**WHEREAS**, recently adopted citywide goals include efforts to create diverse housing opportunities for all Petalumans; and

**WHEREAS**, at their Housing Workshop on July 29, 2019, the City Council provided feedback to consider zoning changes to remove barriers from housing production; and

**WHEREAS**, pursuant to IZO §25.050, the Planning Commission held a duly noticed public hearing to consider the zoning text amendment on November 12, 2019, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, at their meeting on November 12, 2019 the Planning Commission continued the item to a date certain of November 19, 2019 and directed staff to return with a resolution to deny the Zoning Text Amendment; and

**WHEREAS**, on November 13, 2019 the applicant submitted a request to withdraw the Zoning Text Amendment; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the project on November 19, 2019 and approved Resolution No. 2019-17 recommending City Council approval of the Mitigated Negative Declaration, Resolution No. 2019-18 recommending City Council denial of the Development Agreement, Resolution No. 2019-19 recommending City Council denial of the Density Bonus, and Resolution No. 2019-20 recommending City Council Denial of the Tentative Subdivision Map with findings that the project is inconsistent with General Plan 2025 and the SMART Station Master Plan; and

**WHEREAS**, subsequent to the November 19, 2019 Planning Commission the applicant requested reinstatement of the Zoning Text Amendment as part of the final consideration of the

1 project; and  
2

3 **WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the zoning  
4 text amendment on January 14, 2020, at which time all interested parties had the opportunity to be  
5 heard; and  
6

7 **WHEREAS**, the Planning Commission considered the staff reports dated November 12, 2019  
8 and January 14, 2020, including the California Environmental Quality Act (CEQA) determination  
9 included therein; and

10 **WHEREAS**, at their meeting on January 14, 2020 the Planning Commission approved Resolution  
11 No. 2020-01 denying the Zoning Text Amendment; and  
12

13 **WHEREAS**, in accordance with IZO Section 25.050(B), a Planning Commission denial of a  
14 proposed zoning amendment shall terminate the proceedings unless such decision is appealed to  
15 the City Council; and  
16

17 **WHEREAS**, on January 15, 2020 the applicant submitted an appeal of the Planning  
18 Commission's denial of the Zoning Text Amendment; and  
19

20 **WHEREAS**, IZO §25.010 provides for Zoning Text Amendments which in this case has been  
21 initiated by the applicant; and  
22

23 **WHEREAS**, on January 16, 2019, a public notice of the January 27, 2020 public hearing before  
24 the City Council to consider the amendment was published as an eighth page ad in the Argus-Courier  
25 and mailed to all properties within a 1,000 foot radius of the project site; and  
26

27 **WHEREAS**, on January 27, 2020, the City Council of the City of Petaluma held a duly noticed  
28 public hearing to consider the amendment and continued the item to a date certain of February 10,  
29 2020; and  
30

31 **WHEREAS**, the February 10, 2020 City Council meeting was cancelled; and  
32

33 **WHEREAS**, on February 13, 2020, a public notice of the February 24, 2020 public hearing before  
34 the City Council to consider the amendment was published as an eighth page ad in the Argus-Courier  
35 and mailed to all properties within a 1,000 foot radius of the project site; and  
36

37 **WHEREAS**, the City Council of the City of Petaluma held a duly noticed public hearing on  
38 February 24, 2020 to consider the amendment.  
39

40 **NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PETALUMA AS FOLLOWS:**  
41

42 **Section 1:** Findings. The City Council of the City of Petaluma hereby finds:  
43

- 44 1. The proposed amendments to the Implementing Zoning Ordinance Table 4.3 to conditionally  
45 allow single family residential use in the MU1B zoning district when part of a residential project  
46 is adjacent to an existing or planned SMART rail station at a density of 26 units or greater are in  
47 general conformity with the Petaluma General Plan 2025 and the Station Area Master Plan in  
48 that the amendments implement the policies of the Petaluma General Plan and key  
49 recommendations from the Station Area Plan, as described in the November 12, 2019 Planning  
50 Commission staff report.  
51
- 52 2. The proposed amendments are consistent with the public necessity, convenience and welfare  
53 in that they update and clarify existing regulations, provide greater flexibility to facilitate the  
54 production of essential housing for Petaluma residents including a range of housing types and

1 income levels adjacent to planned transit stations, and facilitate the construction of the  
2 planned second SMART station implementing the policies of the General Plan.  
3

- 4 3. An Initial Study was prepared in compliance with the California Environmental Quality Act for  
5 the proposed project, inclusive of the proposed zoning text amendments. It was determined  
6 that the proposed project could result in potentially significant impacts related to Air Quality,  
7 Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards,  
8 Hydrology, Noise, and Utilities. However, the Initial Study found that project impacts would be  
9 mitigated to a less-than-significant level through implementation of recommended mitigation  
10 measures or through compliance with existing Municipal Code requirements or City standards.  
11 The City Council approved Resolution No. XX on February 24, 2020 approving the Mitigated  
12 Negative Declaration and Mitigation Monitoring and Reporting Program for the project.  
13

14 **Section 2:** Table 4.3 (Allowable Land Uses and Permit Requirements for Mixed Use Zones) of the  
15 City of Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. is hereby  
16 amended to read as follows:  
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<b>Mixed Use Zones</b>						2 3
<b>TABLE 4.3</b>		P(16)	Permitted Use			
<b>Allowed Land Uses and Permit Requirements for Mixed Use Zones</b>		CUP	Conditional Use Permit Required			
<b>LAND USE TYPE (1)</b>		S	Permit Requirement in Specific Use Regulations			
<b>Permit Required by Zone</b>		A	Accessory Use			
<b>MU1A</b>		—	Use Not Allowed			
<b>MU1B</b>						
<b>MU1C</b>						
<b>MU2</b>						
<b>Specific Use Regulations</b>						
<b>INDUSTRY, MANUFACTURING &amp; PROCESSING</b>						
Artisan/craft product manufacturing	P	P	—	CUP(6)		
Catering service, as a primary use	P(6)	P	—	P(6)		
Furniture and fixture manufacturing, cabinet making	—	P	—	—		
Laboratory - Medical, analytical	—	P	—	—		
Manufacturing, light	—	P(14)	—	—		
Media production	P(6)	P	—	P(6)		
Printing and publishing	P(6)	P	—	P(6)		
Research and development	—	P	—	—		
<b>LODGING</b>						
Lodging - Short-Term Vacation Rentals	P(15)	P(15)	P(15)	P(15)	Section 7.110	
Lodging - Bed & breakfast inn (B&B)	—	—	—	P		
Lodging - Hotel/Motel	P	P	—	P		
<b>RECREATION, EDUCATION &amp; PUBLIC ASSEMBLY</b>						
Cardroom	CUP	CUP	—	CUP	Chapter 9	
Community Meeting Facility	CUP	CUP	CUP	CUP		
Commercial recreation - Indoor	CUP	CUP	—	P(6)		
Fitness/health facility	P	P	—	P		
Library, museum, art gallery	P	P	—	P		
Park	P	P	P	P		
School - Elementary, secondary, or college, private	CUP	CUP	CUP	CUP		
School - Specialized Education and Training	CUP	CUP	—	CUP		
Studio - Art, dance, martial arts, music, etc.	P	P	—	P		
Theater, cinema or performing arts	CUP	CUP	—	CUP	Theater District Ord. 2158	
<b>RESIDENTIAL</b>						
Dwelling, Multiple	CUP	CUP	P	—		
Dwelling, Accessory	—	—	A,S	—	Section 7.030	
Dwelling, Junior Accessory	—	—	A,S	—	Section 7.035	
Dwelling, Single	—	CUP(16)	P	—		
Home Occupation	A,S(2)	A,S(2)	A,S(2)	A,S(2)	Section 7.050	
Residential care, 7 or more clients	P(10)	P(10)	P	CUP(10)		
Residential care facility, adult	P(6)	P(6)	—	CUP(10)		
Residential care facility, for the chronically ill	P(6)	P(6)	—	CUP(10)		
Residential care facility, for the elderly	P(6)	P(6)	—	CUP(10)		
Residential in mixed use building	P(10)	P(10)	P(10)	P(10)		
Work/Live	P(6)	P(6)	P	P(6)		

TABLE 4.3 Allowed Land Uses and Permit Requirements for Mixed Use Zones	Permit Required by Zone					Specific Use Regulations
	MU1A	MU1B	MU1C	MU2		
P(16) Permitted Use CUP Conditional Use Permit Required S Permit Requirement in Specific Use Regulations A Accessory Use — Use Not Allowed						
LAND USE TYPE (1)	Permit Required by Zone				Specific Use Regulations	
<b>RETAIL</b>						
Adult oriented business	CUP	CUP	—	CUP	Chapter 10	
Artisan Shop	P	P	—	P		
Auto parts sales	P	P	—	—		
Bar, tavern, night club	CUP	CUP	—	CUP	Chapter 8	
Building and landscape materials sales - Indoor	P	P	—	P		
Gas station	CUP	CUP	—	—		
General retail	P	P	—	P		
Groceries/specialty foods - 25,000 sf or less	P	P	—	P		
Groceries/specialty foods - More than 25,000 sf	P	P	—	—		
Plant nursery	P	P	—	—		
Restaurant, café, coffee shop	P	P	CUP	P		
<b>SERVICES - BUSINESS, FINANCIAL, PROFESSIONAL</b>						
ATM	P	P	P	P		
Bank, financial services	P	P	—	P		
Business support service	P	P	—	P		
Medical services - Health Care Facility	P(6)	P(6)	—	P(6)		
Medical services - Major	P	P	—	P		
Medical services - Minor	P(6), (11)	P(6), (11)	P	P(6), (11)		
Office - government	P	P	P	P(6)		
Office - Headquarters, or processing	P(6)	P	—	P(6)		
Office - Professional, administrative	P	P	P	P(6)		
<b>SERVICES - GENERAL</b>						
Adult Day Program	CUP	CUP	CUP	P		
Child Care Center	P(6)	P(6)	—	P(6)		
Child day care - Large Family	—	—	A(4)	—	Section 7.060	
Child day care - Small Family	A(3)	A(3)	A(3)	A(3)		
Kennel, animal boarding	—	CUP	—	—		
Meals Assembly Business	P(12)	—	—	—		
Mortuary, funeral home	CUP	—	—	—		
Personal services	P	P	—	P		
Personal services - Restricted	P	P	—	P		
Public safety facility	P	P	P	P		
Vehicle services - Minor maintenance/repair	—	P	—	CUP		
Veterinary clinic, animal hospital	P(8)	P(8)	—	P(8)		
<b>TRANSPORTATION, COMMUNICATIONS, INFRASTRUCTURE</b>						
City water & sewer facility	P	P	P	P		
Parking facility, public or commercial	CUP	—	—	CUP		
Telecommunications facility	S	S	S	S	Section 7.090 & Muni Code 14.44	
Utility facility	CUP	CUP	—	CUP		

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**Key to zone symbols**

MU1A - Mixed Use 1A

MU1B - Mixed Use 1B

MU1C - Mixed Use 1C

MU2 - Mixed Use 2

**Notes:**

- (1) See Glossary for land use definitions.
- (2) Home Occupation Permit and Business License Required
- (3) Business License Required
- (4) Business License & Compliance with Section 7.060 Required
- (5) Site Plan and Architectural Review Required & Compliance with Section 7.040 Required
- (6) Use allowed only on an upper floor or behind a ground floor street fronting use; use in other locations allowed subject to a CUP
- (7) Permitted use (P) if limited to a maximum of 5,000 square feet on the ground floor
- (8) A CUP is required for overnight board and care
- (9) Neighborhood serving and open at lunch
- (10) Allowed only on floors above the ground floor
- (11) Urgent care facilities may be located on the ground floor as a street fronting use
- (12) Allowed only in a shopping center
- (13) Use permitted only on Lakeville Highway between Baywood Drive and Casa Grande Road
- (14) See section 21.030 (Residential Uses Abutting Non-Residential Uses)
- (15) Short-term vacation rental permit, business license and transient occupancy tax certificate required (section 7.110 of IZO)
- (16) Conditionally allowed as part of residential project adjacent to a planned SMART station and at a minimum density of 26 units/acre

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**Section 5:** Except as amended herein, the City of Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S. remains unchanged and in full force and effect.

**Section 6:** Severability. If any section, subsection, sentence, clause, phrase or word of this ordinance is for any reason held to be unconstitutional, unlawful or otherwise invalid by a court of competent jurisdiction or preempted by state legislation, such decision or legislation shall not affect the validity of the remaining portions of this ordinance. The City Council of the City of Petaluma hereby declares that it would have passed and adopted this ordinance and each and all provisions thereof irrespective of the fact that any one or more of said provisions be declared unconstitutional, unlawful or otherwise invalid.

**Section 7:** Effective Date. This ordinance shall become effective thirty (30) days after the date of its adoption by the Petaluma City Council; except that, approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road shall be a condition precedent to this ordinance taking effect. Absent such approval by the SMART Board and the City Council, this ordinance shall be of no force or effect.

**Section 8:** Posting/Publishing of Notice. The City Clerk is hereby directed to publish or post this ordinance or a synopsis for the period and in the manner provided by the City Charter and other applicable law.

1 **INTRODUCED** and ordered posted/published, this 24<sup>th</sup> day of February 2020.

2  
3 **ADOPTED** this 16<sup>th</sup> day of March 2020, by the following vote:

- 4
- 5 Ayes: Healy, Kearney, King, Miller
- 6 Noes: Mayor Barrett, Vice Mayor, Fischer, McDonnell
- 7 Abstain: None
- 8 Absent: None


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 \_\_\_\_\_  
 Teresa Barrett, Mayor

ATTEST:

  
 \_\_\_\_\_  
 Claire Cooper, CMC, City Clerk

APPROVED AS TO FORM:

  
 \_\_\_\_\_  
 Eric Danly, City Attorney

Resolution No. 2020-030 N.C.S.  
of the City of Petaluma, California

**RESOLUTION OF THE CITY OF PETALUMA CITY COUNCIL APPROVING  
A RESIDENTIAL DENSITY BONUS HOUSING AGREEMENT  
FOR THE CORONA STATION RESIDENTIAL PROJECT  
LOCATED AT 890 NORTH MCDOWELL BOULEVARD  
APN: 137-061-019  
FILE NO. PLMA 18-0006**

**WHEREAS**, Todd Kurtin with Lomas Properties LLC submitted an application for the Corona Station Residential Project, including a Zoning Text Amendment, Development Agreement, Density Bonus and Development Concession/Incentive, Tentative Subdivision Map, Conditional Use Permit and Site Plan and Architectural Review for a 110 unit residential project within the MU1B zone with Flood Plain-Combining (FP-C) Overlay, located on a 6.5-acre site at 890 North McDowell Boulevard (APN 137-061-019) (the “Project”); and

**WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the Project on November 12, 2019, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, public notice of the Planning Commission hearing was published in the Petaluma Argus-Courier, mailed to residents and occupants within 1,000 feet of the Project site, and posted on-site in compliance with state and local law; and

**WHEREAS**, at said hearing, the Planning Commission considered the staff report dated November 12, 2019, analyzing the Project, including the Mitigated Negative Declaration and continued the item to a date certain of November 19, 2019; and

**WHEREAS**, the Planning Commission found the overall project inconsistent with key policies in the General Plan and Station Area Master Plan calling for a mixed use transit oriented development to enhance and facilitate the second SMART station and therefore approved Resolution No. 2019-19 recommending denial of the density bonus; and

**WHEREAS**, Petaluma’s Implementing Zoning Ordinance Chapter 27 (Residential Density Bonus) provides for provision of a local Residential Density Bonus and Development Incentives/Concessions program consistent with California state density bonus law; and

**WHEREAS**, the intent of IZO Chapter 27 is to provide incentives for the production of housing for very low, low, moderate income or senior housing in accordance with California state law and facilitate the development of affordable housing consistent with the goals, policies, and programs of the City’s Housing Element; and

**WHEREAS**, the project applicant submitted a request for a Residential Density Bonus and a Development Incentive/Concession as allowed under IZO Chapter 27; and

**WHEREAS**, the project proposes to provide eleven on-site multi-family affordable units available to moderate income households (approximately 10 percent of the proposed units) and six units available to low income households; and

**WHEREAS**, IZO Section 27.030 states that the City shall grant either a Density Bonus or a Density Bonus with a Concession or Incentive to an applicant who agrees to provide at least ten percent of the total units of the housing development as restricted affordable units affordable to a moderate income household; and

**WHEREAS**, consistent with IZO Section 27.040.D, the inclusion of eleven on-site units affordable to moderate income households as part of the subject project entitles the project to a residential density bonus of up to 5 percent above the base maximum density of 30.0 units per acre; and

**WHEREAS**, IZO Section 27.070 states that a housing development that provides at least ten percent of the units affordable to moderate income households shall entitle the developer to one concession or incentive; and

**WHEREAS**, IZO Section 27.070 further provides that the City may grant a waiver or modification of site development standards to increase maximum building height; and

**WHEREAS**, consistent with IZO Sections 27.070 the applicant has requested a development incentive to increase the maximum building height up to 34'-7", an increase of approximately 4'-7" above the 30-foot maximum building height allowed in the MU1B zoning district; and

**WHEREAS**, the applicant has not requested an increase in density above the allowable 30 units per net acre allowed in the Mixed Use land use designation; and

**WHEREAS**, the increase in the maximum building height allows for a more dense development pattern on the irregular shaped parcel and is not anticipated to have a specific adverse impact upon the public health and safety or physical environment or any real property that is listed on the California Register of Historic Resource, and is not contrary to state or federal law; and

**WHEREAS**, IZO Section 27.070.C states that the City shall not require a vehicular parking ratio that exceeds one onsite parking space for each studio and one-bedroom unit, two onsite parking spaces for each two and three bedroom units, and two and one-half onsite parking spaces for each four or more bedroom unit; and

**WHEREAS**, the project has been designed with 247 onsite parking spaces to satisfy the maximum parking requirement as specified in IZO Section 27.070.C; and

**WHEREAS**, IZO Section 27.050 provides for development standards for affordable units, all of which have been incorporated into the draft Density Bonus Housing Agreement for the project; and

**WHEREAS**, Chapter 27.090 of the Implementing Zoning Ordinance requires applicants for a Density Bonus, Incentive or Concession to enter into a Density Bonus Housing Agreement with the City, approved by the City Council; and

**WHEREAS**, Chapter 27.090 provides the requirements for a Density Bonus Housing Agreement, which have been incorporated into the draft Density Bonus Housing Agreement for the project.

**WHEREAS**, the City Council held duly noticed public hearings to consider the project on January 27, 2020 and February 24, 2020 at which time they considered the Planning Commission's recommendation and all interested parties had the opportunity to be heard.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL AS FOLLOWS:**


1. The foregoing recitals are true and correct and incorporated herein by reference.
2. Based on its review of the entire record herein, the City Council makes the following findings:
  - a. The Project is consistent with the General Plan 2025 Mixed Use land use designation in that the Mixed Use designation provides for a robust mix of uses, including residential at a density of up to 30 units per acre.
  - b. The Project is, for the reasons discussed in the November 12, 2019 Planning Commission staff report, consistent with the following General Plan policies: Policy 1-P-1 (Range of densities), 1-P-2 (Efficient Land Use), Policy 1-P-6 (Encourage Mixed-Use Development), Policy 2-P-5 (Character of Arterials), Policy 2-P-90 (Corona Rail Station), Policy 4-P-1.D (Creek Setbacks), Policy 4-P- (Street Trees) Policy 5-P-4 (Offsite Mobility Improvements), Policy 5-P-20 (Connections), Policy 5-P-23 (Pedestrian Site Access), Policy 5-P-43 (Transit Oriented Development), Policy 5-P-50 (SMART Corridor) and Housing Element Policy 1.1 (Encourage Residential Development), Policy 1.2 (Optimize Development Potential), Policy 2.2 (Flexibility), Program 3.1 (Code Amendments), Policy 4.2 (Affordable Housing Production), and Program 4.3 (Onsite Inclusionary).
  - c. The project is adjacent to the planned Corona Station SMART station and has therefore reviewed for consistency with applicable provisions of the Station Area Master Plan (SAMP). For the reasons discussed in the November 12, 2019 Planning Commission staff report, the project is consistent with key recommendations from the SAMP in that the project does not incorporate retail adjacent to the Corona Road Station, proposes increased density and ground floor flex opportunities, presents a density within the parameters of the underlying Mixed Use designation and in character with the surrounding area, provides necessary land dedication and financial contribution to develop the second station, and incorporates key connectivity enhancements in the immediate vicinity of the future station.
  - d. The Project is consistent with all development standards of the MU1B zoning district, including but not limited to, those pertaining to uses, setbacks, building height, floor area ratio, and parking.
  - e. The Project is consistent with all requirements for a Density Bonus with a Concession as outlined in IZO Chapter 27 (Residential Density Bonus) and California state density bonus law.

3. An Initial Study was prepared in compliance with the California Environmental Quality Act for the proposed project, inclusive of the proposed zoning text amendments. It was determined that the proposed project could result in potentially significant impacts related to Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards, Hydrology, Noise, and Utilities. However, the Initial Study found that project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. The City Council approved Resolution No. 2020-029 N.C.S. approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.
4. Based on its review of the entire record herein, including the November 12, 2019 and November 19, 2019 Planning Commission staff reports, the City Council January 27, 2020 and February 24, 2020 staff reports, all supporting, referenced, and incorporated documents, and all comments received, the City Council hereby approves the Density Bonus Housing Agreement attached as Exhibit 1 hereto and incorporated herein by reference.
5. Approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road shall be a condition precedent to this resolution taking effect. Absent such approval by the SMART Board and the City Council, this resolution shall be of no force or effect. In addition, this resolution will be of no force and effect unless and until the Ordinance Upholding the Appeal Filed by Lomas-Corona LLC, Overturning the Planning Commission's Denial, and Amending the Text of the Implementing Zoning Ordinance, Ordinance 2300 N.C.S., Table 4.3, Ordinance 2721 N.C.S. takes effect. Upon approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road, and upon Ordinance 2721 N.C.S taking effect, this resolution will take effect, without further action of the City Council.

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 24<sup>th</sup> day of February 2020, by the following vote:

Approved as to form:

  
City Attorney

**AYES:** Healy; Kearney; King; Miller

**NOES:** Mayor Barrett; Vice Mayor Fischer; McDonnell

**ABSENT:** None

**ABSTAIN:** None

**ATTEST:**

  
City Clerk

  
Mayor

RECORDING REQUESTED BY  
AND WHEN RECORDED MAIL TO:

City of Petaluma  
11 English Street  
Petaluma, CA 94952  
Attn: City Manager

EXEMPT FROM RECORDING FEES PER  
GOVERNMENT CODE §§6103, 27383

Space above this line for Recorder's use.

APN: 137-061-019

**AFFORDABLE HOUSING REGULATORY AGREEMENT  
AND  
DECLARATION OF RESTRICTIVE COVENANTS**

by and between

**THE CITY OF PETALUMA**

and

**Lomas Corona Station LLC**

**Density Bonus Housing Agreement**

This Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants (this “**Agreement**”) is entered into effective as of \_\_\_\_\_, 20\_\_\_\_ (“**Effective Date**”) by and between the City of Petaluma, a California municipal corporation and charter city (“**City**”) and Lomas Partners LLC, a California limited liability company (“**Developer**”). The City and the Developer are collectively referred to herein as the “**Parties.**”

## RECITALS

A. Developer is the owner of the real property located at 890 North McDowell Boulevard in the City of Petaluma, California, known as Sonoma County Assessor’s Parcel No. 137-061-019, and more particularly described in Exhibit A attached hereto (the “**Property**”).

B. Developer intends to construct a residential development on the Property consisting of 65 single family attached units and 45 single family detached units (the “**Project**”).

C. On November 12, 2019 and November 19, 2019, the Planning Commission considered Developer’s application for a density bonus and certain incentives and concessions for the Project pursuant to the Density Bonus Statute and Density Bonus Ordinance, and recommended that the City Council deny the granting of a density bonus and certain incentives and concessions for the Project as outlined in Planning Commission Resolution No. 2019-20.

D. On January 27, 2020 and February 24, 2020, the City Council considered the Planning Commission’s recommendation and the density bonus and incentives and concession as requested by the Developer, and approved the grant of a density bonus and incentives and concessions for the Project subject to subsequent approval of a Conditional Use Permit and Site Plan and Architectural Review for the Project, and conditioned upon the execution and recordation of this Agreement.

E. This Agreement implements California Government Code Section 65915 *et seq.* (the “**Density Bonus Statute**”), Chapter 27 of the City of Petaluma Implementing Zoning Ordinance (the “**Density Bonus Ordinance**”) and Section 3.040 of Chapter 3 of the City of Petaluma Implementing Zoning Ordinance (the “**Inclusionary Zoning Ordinance**”). To satisfy the requirements of the Density Bonus Statute, the Density Bonus Ordinance, and the Inclusionary Zoning Ordinance, Developer has agreed to provide eleven (11) residential units in the Project as below market-rate units that will be available for sale to, and occupancy by, Moderate-Income Households, and six (6) units that will be available for sale to, and occupancy by, Low-Income Households, at Affordable Sale Prices (as defined below) (collectively, the “**BMR Units**”).

F. Pursuant to the Density Bonus Ordinance and the Inclusionary Zoning Ordinance, Developer is required to enter into and record this Agreement against the Property for the benefit of City.



G. The Parties intend the covenants set forth in this Agreement to run with the land and to be binding on the Property, the Developer, and Developer's successors and assigns.

## AGREEMENT

**NOW THEREFORE**, in consideration of the foregoing, and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows.

1. Incorporation of Recitals; Definitions.

1.1 Incorporation of Recitals; Acknowledgement. The Parties acknowledge the truth of the foregoing Recitals which are hereby incorporated into this Agreement. Developer acknowledges and agrees that the City has granted incentives and concessions for the Project, including an increase in building height and use of a reduced parking ratio for the Project, and that therefore, in addition to City's authority under the Inclusionary Zoning Ordinance, the City has authority to impose sale price and income eligibility requirements on the BMR Units pursuant to the Density Bonus Statute and the Density Bonus Ordinance.

1.2 Definitions. The following terms shall have the meanings set forth in this Section wherever used in this Agreement or the attached exhibits.

**"Actual Household Size"** means the actual number of persons in the applicable household.

**"Affordable Housing Cost"** means a monthly obligation to pay mortgage payments (principal and interest), property taxes, property insurance, mortgage insurance, utilities, and homeowners' association dues (if applicable) in an aggregate amount not greater than the following: (i) for units that are restricted for sale to Moderate-Income Households - one-twelfth of thirty-five percent (35%) of one hundred and ten percent (110%) of Area Median Income, adjusted for Assumed Household Size, and (ii) for units that are restricted for sale to Low-Income Households - one-twelfth of thirty percent (30%) of seventy percent (70%) of Area Median Income, adjusted for Assumed Household Size. (*Govt Code 65915(c)(2); Health & Safety Code 50052.5*)

**"Affordable Sales Price"** means the maximum sales price for a BMR Unit as determined by the City pursuant to Section 10 below that will result in an Affordable Housing Cost for the homebuyer.

**"Area Median Income"** or **"AMI"** means the area median income for Sonoma County, California, adjusted for Actual Household Size, as determined by the United States Department of Housing and Urban Development ("**HUD**") and as published from time to time by the State of California Department of Housing and Community Development ("**HCD**") in Section 6932 of Title 25 of the California Code of Regulations

or successor provision published pursuant to California Health and Safety Code Section 50093(c).

**“Assumed Household Size”** means a household of two persons for a one-bedroom unit, three persons for a two-bedroom unit, and one additional person for each additional bedroom.

**“BMR Units”** means the seventeen (17) units in the Project that are required to be sold to Eligible Households at Affordable Sales Prices in accordance with this Agreement.

**“City Council”** means the City Council of the City of Petaluma

**“Claims”** is defined in Section 17.

**“Density Bonus Ordinance”** means Chapter 27 of the City of Petaluma Implementing Zoning Ordinance.

**“Density Bonus Statute”** means California Government Code Section 65915 *et seq.*

**“Effective Date”** is the date set forth in the preamble to this Agreement.

**“Eligible Household”** means a household whose Gross Income does not exceed the applicable household income limit for a BMR Unit as specified in this Agreement and which otherwise qualifies to purchase a BMR Unit pursuant to this Agreement.

**“Gross Income”** shall have the meaning set forth in Section 6914 of Title 25 of the California Code of Regulations as such section may be revised from time to time.

**“Implementing Zoning Ordinance”** means City of Petaluma Ordinance No. 2300 N.C.S. as amended.

**“Inclusionary Zoning Ordinance”** means Section 3.040 of Chapter 3 of the City of Petaluma Implementing Zoning Ordinance.

**“Income Category”** means the income category to be used to qualify Eligible Households and determine the Affordable Sales Price for the BMR Units.

**“Indemnitees”** is defined in Section 17.

**“Low-Income Household”** means a household whose Gross Income does not exceed the qualifying limit for lower income households as established and amended from time to time by HUD pursuant to Section 8 of the United States Housing Act of 1937 and published by HCD in the California Code of Regulations pursuant to Health and Safety Code Section 50079.5. In the event such limits are not published, the income limit to qualify as a Low-Income Household shall be eighty percent (80%) of

AMI, adjusted for Actual Household Size.

“**Low-Income Units**” means the six (6) BMR Units that are restricted for sale to Low-Income Households pursuant to this Agreement.

“**Moderate-Income Household**” means a household whose Gross Income does not exceed one hundred twenty percent (120%) of Area Median Income, adjusted for actual household size.

“**Moderate-Income Units**” means the eleven (11) BMR Units that are restricted for sale to Moderate-Income Households pursuant to this Agreement.

“**Official Records**” means the Official Records of the Sonoma County Recorder.

“**Planning Commission**” means the Planning Commission of the City of Petaluma.

“**Project**” is defined in Recital B.

“**Property**” is defined in Recital A.

“**Regulatory Agreement**” is defined in Section 2.

“**Resale Restriction Agreement**” is defined in Section 2.

2. Conveyance to Housing Land Trust; Recordation of Regulatory Agreement. The Parties agree that Developer may satisfy the requirements of the Density Bonus Ordinance and the Inclusionary Zoning Ordinance by conveying the BMR Units to the Housing Land Trust of Sonoma County, a California nonprofit public benefit corporation (“HLT”). HLT in turn, will be obligated to sell each BMR Unit to an Eligible Household at an Affordable Sales Price, and concurrently with the sale of each BMR Unit, HLT and the purchaser will be required to enter into and record (i) a ground lease of the land underlying each BMR Unit, and (ii) a resale restriction agreement that restricts the future resale price of the BMR Unit (“**Resale Restriction Agreement**”). To implement the requirements of this Section, concurrently with, and as a condition to the conveyance of the BMR Units to HLT, the City and HLT will enter into and record an Affordable Housing Agreement and Declaration of Restrictive Covenants (“**Regulatory Agreement**”) substantially in the form attached hereto as Exhibit B.

3. Resale Restriction Agreement; Affordability Restrictions. Among other provisions, the Regulatory Agreement will require HLT to sell each BMR Unit to an Eligible Household at a price that does not exceed the Affordable Sales Price for such unit as determined by City in accordance with this Agreement taking into consideration the number of bedrooms in the BMR Unit and the Income Category for the BMR Unit, and will require that each purchaser of a BMR Unit must execute and record a Resale Restriction Agreement and a Performance Deed of Trust in forms approved by City. Among other provisions, the Resale Restriction Agreement will require the purchaser of

each BMR Unit to occupy such unit as their principal residence, will impose limits on rental of the unit, and will restrict the future sale price of the unit. The Parties acknowledge that pursuant to the Regulatory Agreement and the Resale Restriction Agreement, the BMR Units will be subject to affordability restrictions in perpetuity.

4. Recordation; Reconveyance. This Agreement shall be recorded in the Official Records promptly following execution by the Parties, but in all events prior to the approval of the Conditional Use Permit or Site Plan and Architectural Review for the Project, and shall remain in full force and effect until all of the BMR Units are sold to HLT in accordance with Section 2 above, and a Regulatory Agreement in compliance with the requirements of this Agreement has been executed by City and HLT and recorded against all BMR Units. Upon sale of all of the BMR Units to HLT in compliance with this Agreement and the recordation of the Regulatory Agreement, the City shall record a release and reconveyance of this Agreement.

5. Number, Size, and Location of BMR Units. The seventeen (17) BMR Units shall consist of the following:

(a) Two (2) 2-bedroom units that will be sold at Affordable Sales Price for occupancy by Eligible Households that qualify as Low-Income Households;

(b) Four (4) 3-bedroom units that will be sold at Affordable Sales Price for occupancy by Eligible Households that qualify as Low-Income Households;

(c) Three (3) 2-bedroom units that will be sold at Affordable Sales Price for occupancy by Eligible Households that qualify as Moderate-Income Households;

(d) Eight (8) 3-bedroom units that will be sold at Affordable Sales Price for occupancy by Eligible Households that qualify as Moderate-Income Households;

The location, type (number of bedrooms and bathrooms), square footage and unit number of each BMR Unit shall be set forth in a Below-Market Rate Housing Plan approved by City and recorded against the Property (the "**BMR Plan**"). In the event of any inconsistency between the provisions of this Agreement and the provisions of the BMR Plan, the provisions of this Agreement shall prevail.

6. Phasing. The BMR Units shall be constructed and sold to HLT concurrently with or prior to the construction and sale of the market-rate units in the Project. All of the BMR Units must have been sold to HLT in compliance with this Agreement by not later than the date upon which fifty percent (50%) of the market-rate units have received certificates of occupancy.

7. Design; Amenities. The design, appearance, and general quality of the BMR Units shall be comparable to that of the unrestricted residential units in the Project. The BMR Units may have different interior finishes and features than market-rate units in the Project so long as such finishes and features are durable, of good quality, compatible with market-rate units, and consistent with contemporary standards for new housing.

The BMR Units must contain a dishwasher, refrigerator, garbage disposal, cooking facilities and laundry facilities. The BMR Units need not contain optional upgrades and luxury items, and Developer may install such optional upgrades and luxury items in market-rate units in the Project. The City shall have the right to inspect the BMR Units to determine whether they have been constructed in accordance with this Section. Residents of the BMR Units shall have access to all Project amenities and recreational facilities available to occupants of the Project's market-rate units.

8. No Condominium Conversion. Neither Developer nor HLT, nor any successor in interest shall be permitted to convert the BMR Units to condominium or cooperative ownership or sell condominium or cooperative rights to the BMR Units. The restrictions set forth in this Section shall be stated in the Regulatory Agreement and the Resale Restriction Agreement.

9. Occupancy as Principal Residence; No Short-Term Rentals. The BMR Units must be occupied as the principal residence of the owner of each BMR Unit. The Resale Restriction Agreement will require purchasers of the BMR Units to sign a written statement acknowledging their agreement that the BMR Unit must be occupied as the household's principal residence, that the unit may not be rented or leased except as allowed under the Resale Restriction Agreement, that the owner may not make the unit available for short-term rental, and that the owner is required to annually sign a written statement certifying compliance with all of the foregoing requirements.

10. Sale of BMR Units; Determination of Affordable Sales Price.

(a) Following conveyance of the BMR Units to HLT, the BMR Units may be sold only to Eligible Households whose Gross Income is of the Income Category applicable to the particular BMR Unit, i.e., the Low-Income Units may only be sold to Low-Income Households, and the Moderate-Income Units may only be sold to Moderate-Income Households.

(b) The sale price of each BMR Unit may not exceed the Affordable Sales Price for a household of the Assumed Household Size and Income Category for the applicable unit. Prior to conveyance of the BMR Units to HLT, Developer shall provide not less than 90 days' written notice to City. HLT will market the BMR units as described in Sections 3 and 4 of the Affordable Housing Agreement and Declaration of Restrictive Covenants attached as Exhibit B to this agreement.

11. Compliance with Fair Housing Laws; Nondiscrimination. Developer shall comply with all state and federal fair housing laws, rules, regulations and guidelines in the marketing and rental of the units in the Project. Developer shall not restrict the rental, sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or the Project, or any portion thereof, on the basis of race, color, religion, creed, sex, sexual orientation, disability, marital status, ancestry, or national origin of any person. Developer covenants for itself and all persons claiming under or through it, and this Agreement is made and accepted upon and subject to the condition that there shall be

no discrimination against or segregation of any person or group of persons on account of any basis listed in subdivision (a) or (d) of Section 12955 of the Government Code, as those bases are defined in Sections 12926, 12926.1, subdivision (m) and paragraph (1) of subdivision (p) of Section 12955, and Section 12955.2 of the Government Code, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the Property or part thereof, nor shall Developer or any person claiming under or through Developer establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of purchasers, tenants, lessees, subtenants, sublessees or vendees in, of, or for the Property or part thereof. Developer shall include such provision in all deeds, leases, contracts and other instruments executed by Developer, and shall enforce the same diligently and in good faith.

12. Effectiveness Succeeds Conveyance of Property. This Agreement shall remain effective and fully binding regardless of any sale, assignment, transfer, or conveyance of the Property or the Project or any part thereof or interest therein.

13. Binding Upon Successors; Covenants to Run with the Land. The City and the Developer hereby declare their express intent that the covenants and restrictions set forth in this Agreement shall run with the land and shall be binding upon all successors in title to the Property, regardless of any sale, assignment, conveyance or transfer of the Property, the Project or any part thereof or interest therein. Any successor-in-interest to Developer, including without limitation any purchaser, transferee or lessee of the Property or the Project (other than the tenants or purchasers of individual dwelling units or commercial space within the Project) shall be subject to all of the duties and obligations imposed hereby. Each and every contract, deed, ground lease or other instrument affecting or conveying the Property or the Project or any part thereof, shall conclusively be held to have been executed, delivered and accepted subject to the covenants, restrictions, duties and obligations set forth herein, regardless of whether such covenants, restrictions, duties and obligations are set forth in such contract, deed, ground lease or other instrument. This Agreement shall bind any successor, heir or assign of the Developer, whether a change in interest occurs voluntarily or involuntarily, by operation of law or otherwise. Developer agrees for itself and its successors that in the event that a court of competent jurisdiction determines that the covenants herein do not run with the land, such covenants shall be enforced as equitable servitudes against the Property and the Project in favor of City.

Without limiting the generality of the foregoing, Developer and City hereby declares their understanding and intent that:

- (a) The covenants and restrictions contained in this Agreement shall be construed as covenants running with the land pursuant to California Civil Code section 1468 and not as conditions which might result in forfeiture of title by Developer;

(b) The burden of the covenants and restrictions set forth in this Agreement touch and concern the Property in that the Developer's legal interest in the Property and all improvements thereon are rendered less valuable thereby;

(c) The benefit of the covenants and restrictions set forth in this Agreement touch and concern the land by enhancing and increasing the enjoyment and use of the Property by the purchasers of the BMR Units; and

(d) All covenants and restrictions contained herein without regard to technical classification or designation shall be binding upon Developer and its successors in interest for the benefit of the City, and such covenants and restrictions shall run in favor of the City for the entire period during which such covenants and restrictions shall be in force and effect, without regard to whether the City is an owner of any land or interest therein to which such covenant and restrictions relate.

14. Recordation; No Subordination. This Agreement shall be recorded in the Official Records. Developer hereby represents, warrants and covenants that with the exception of easements of record, absent the written consent of City, this Agreement shall not be subordinated in priority to any lien (other than those pertaining to taxes or assessments), encumbrance, or other interest in the Property or the Project. If at the time this Agreement is recorded, any interest, lien, or encumbrance has been recorded against the Project in position superior to this Agreement, upon the request of City, Developer hereby covenants and agrees to promptly undertake all action necessary to clear such matter from title or to subordinate such interest to this Agreement consistent with the intent of and in accordance with this Section 14, and to provide such evidence thereof as City may reasonably request.

15. Mortgagee Protection. No violation of any provision contained herein shall defeat or render invalid the lien of any mortgage or deed of trust made in good faith and for value upon all or any portion of the Project or the Property, and the purchaser at any trustee's sale or foreclosure sale shall not be liable for any violation of any provision hereof occurring prior to the acquisition of title by such purchaser. Such purchaser shall be bound by and subject to this Agreement from and after such trustee's sale or foreclosure sale. Promptly upon determining that a violation of this Agreement has occurred, City shall give written notice to the holders of record of any mortgages or deeds of trust encumbering the Project or the Property that such violation has occurred.

16. Default and Remedies.

16.1 Events of Default. An Event of Default shall arise hereunder upon the occurrence of Developer's default in the performance of any term, provision or covenant under this Agreement and the continuation of such default for ten (10) days in the event of a monetary default or thirty (30) days in the event of a non-monetary default following the date upon which City shall have given written notice of the default to Developer, or if the nature of any such non-monetary default is such that it cannot be cured within thirty (30) days, Developer's failure to commence to cure the default within thirty (30) days

and thereafter prosecute the curing of such default with due diligence and in good faith, but in no event longer than sixty (60) days from the date of delivery of the notice of default.

16.2 Remedies. Upon the occurrence of an Event of Default and its continuation beyond any applicable cure period, City may proceed with any of the following remedies:

- A. Bring an action for equitable relief seeking the specific performance of the terms and conditions of this Agreement, and/or enjoining, abating, or preventing any violation of such terms and conditions, and/or seeking declaratory relief;
- B. Bring an action for damages or pursue any other remedy allowed at law, or in equity;
- C. Pursue any remedy available under the Density Bonus Ordinance or the Inclusionary Zoning Ordinance.

Each of the remedies provided herein is cumulative and not exclusive. The City may exercise from time to time any rights and remedies available to it under applicable law or in equity, in addition to, and not in lieu of, any rights and remedies expressly provided in this Agreement.

17. Indemnity. To the greatest extent permitted by law, Developer shall indemnify, defend (with counsel approved by City) and hold the City and its elected and appointed officers, officials, employees, agents, consultants, contractors and representatives (collectively, the "**Indemnitees**") harmless from and against all liability, loss, cost, expense (including without limitation attorneys' fees and costs of litigation), claim, demand, action, suit, judicial or administrative proceeding, penalty, deficiency, fine, order, and damage (all of the foregoing collectively "**Claims**") arising directly or indirectly, in whole or in part, as a result of or in connection with Developer's construction, management, or operation of the Property and the Project or any failure to perform any obligation as and when required by this Agreement. Developer's indemnification obligations under this Section 17 shall not extend to Claims to the extent resulting from the gross negligence or willful misconduct of Indemnitees. The provisions of this Section 17 shall survive the expiration or earlier termination of this Agreement.

18. Miscellaneous.

18.1 Amendments. This Agreement may be amended or modified only by a written instrument signed by both Parties.

18.2 No Waiver. Any waiver by City of any term or provision of this Agreement must be in writing. No waiver shall be implied from any delay or failure by City to take action on any breach or default hereunder or to pursue any remedy allowed under this Agreement or applicable law. No failure or delay by City at any time to require strict



performance by Developer of any provision of this Agreement or to exercise any election contained herein or any right, power or remedy hereunder shall be construed as a waiver of any other provision or any succeeding breach of the same or any other provision hereof or a relinquishment for the future of such election.

18.3 Notices. Except as otherwise specified herein, all notices to be sent pursuant to this Agreement shall be made in writing and sent to the Parties at their respective addresses specified below or to such other address as a Party may designate by written notice delivered to the other parties in accordance with this Section. All such notices shall be sent by: (i) personal delivery, in which case notice is effective upon delivery; (ii) certified or registered mail, return receipt requested, in which case notice shall be deemed delivered upon receipt if delivery is confirmed by a return receipt; or (iii) nationally recognized overnight courier, with charges prepaid or charged to the sender's account, in which case notice is effective on delivery if delivery is confirmed by the delivery service.

**City:** City of Petaluma  
11 English Street  
Petaluma, CA 94952  
Attention: City Manager

**Developer:** Todd Kurtin  
Lomas Partners LLC  
13848 Weddington Street  
Sherman Oaks, CA 91401

18.4 Further Assurances. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement.

18.5 Parties Not Co-Venturers; Independent Contractor; No Agency Relationship. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another. The relationship of Developer and City shall not be construed as a joint venture, equity venture, partnership or any other relationship. City neither undertakes nor assumes any responsibility or duty to Developer (except as expressly provided in this Agreement) or to any third party with respect to the Project. Developer and its employees are not employees of City but rather are and shall always be considered independent contractors. Furthermore, Developer and its employees shall at no time pretend to be or hold themselves out as employees or agents of City. Except as City may specify in writing, Developer shall not have any authority to act as an agent of City or to bind City to any obligation.

18.6 Action by the City. Except as may be otherwise specifically provided

herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Manager of the City of Petaluma or by any person who shall have been designated by the City Manager, without further approval by the City Council.

18.7 Non-Liability of City and City Officials, Employees and Agents. No member, official, employee or agent of the City shall be personally liable to Developer or any successor in interest, in the event of any default or breach by the City, or for any amount of money which may become due to Developer or its successor or for any obligation of City under this Agreement.

18.8 Headings; Construction; Statutory References. The headings of the sections and paragraphs of this Agreement are for convenience only and shall not be used to interpret this Agreement. The language of this Agreement shall be construed as a whole according to its fair meaning and not strictly for or against any Party. All references in this Agreement to particular statutes, regulations, ordinances or resolutions of the United States, the State of California, or the City of Petaluma shall be deemed to include the same statute, regulation, ordinance or resolution as hereafter amended or renumbered, or if repealed, to such other provisions as may thereafter govern the same subject.

18.9 Time is of the Essence. Time is of the essence in the performance of this Agreement.

18.10 Governing Law; Venue. This Agreement shall be construed in accordance with the laws of the State of California without regard to principles of conflicts of law. Any action to enforce or interpret this Agreement shall be filed and heard in the Superior Court of Sonoma County, California or in the Federal District Court for the Northern District of California.

18.11 Attorneys' Fees and Costs. If any legal or administrative action is brought to interpret or enforce the terms of this Agreement, the prevailing party shall be entitled to recover all reasonable attorneys' fees and costs incurred in such action.

18.12 Severability. If any provision of this Agreement is held invalid, illegal, or unenforceable by a court of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not be affected or impaired thereby.

18.13 Entire Agreement; Exhibits. This Agreement contains the entire agreement of Parties with respect to the subject matter hereof, and supersedes all prior oral or written agreements between the Parties with respect thereto. Exhibits A through C attached hereto are incorporated herein by this reference.

18.14 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be an original and all of which together shall constitute one

agreement.

**SIGNATURES ON FOLLOWING PAGES.**

IN WITNESS WHEREOF, the Parties have executed this Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants as of the date first written above.

**OWNER:**

Lomas Partners LLC, a California limited liability company

By: \_\_\_\_\_

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

**CITY:**

City of Petaluma, a California municipal corporation and charter city

By: \_\_\_\_\_  
Peggy Flynn, City Manager

**ATTEST:**

\_\_\_\_\_  
Claire Cooper, City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Eric W. Danly, City Attorney

*SIGNATURES MUST BE NOTARIZED.*

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ (here insert name and title of the officer), personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

**CALIFORNIA ALL-PURPOSE ACKNOWLEDGMENT**

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF \_\_\_\_\_

On \_\_\_\_\_ before me, \_\_\_\_\_ (here insert name and title of the officer), personally appeared \_\_\_\_\_ who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature \_\_\_\_\_ (Seal)

Exhibit A

**PROPERTY**

Real property situated in the City of Petaluma, County of Sonoma, State of California, State of California described as follows:

[Insert legal description.]

APN: 137-061-019

Exhibit B

**FORM OF REGULATORY AGREEMENT**

(Attach form of Affordable Housing Regulatory Agreement and Declaration of Restrictive Covenants to be executed by and between City and HLT.)

**Recording requested by and when recorded mail to:**

1.

City of Petaluma  
\_\_\_\_\_  
\_\_\_\_\_  
Attn: City Clerk

EXEMPT FROM RECORDING FEES  
PER GOVERNMENT CODE §§6103,  
27383

Space above this line for Recorder's use.

2.

**AFFORDABLE HOUSING AGREEMENT AND DECLARATION OF  
RESTRICTIVE COVENANTS  
("REGULATORY AGREEMENT")**

This Affordable Housing Agreement and Declaration of Restrictive Covenants (this "**Agreement**") is entered into effective as of \_\_\_\_\_, 2019 ("**Effective Date**") by and between the City of Petaluma, a California municipal corporation and charter city ("**City**") and the Housing Land Trust of Sonoma County, a California nonprofit public benefit corporation ("**HLT**"). City and HLT are hereafter referred to as the "**Parties.**"

RECITALS

A. Pursuant to the Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S., Section 3.040 (the "**Ordinance**"), residential developments of five (5) or more units are required to contribute to the provision of below market-rate housing as specified therein. In order to satisfy its obligation under the Ordinance with respect to that certain development known as the Corona Station Subdivision, consisting of 110 residential units (the "**Development**") in the City of Petaluma, County of Sonoma, and State of California, Lomas Partners, a Limited Partner ("**Developer**"), has agreed to contribute a portion of the property in the Development, for the construction of 17 residential units to be restricted for occupancy to certain income levels (the "**Restricted Homes**" or the "**Project**"), as set forth herein, and as more particularly described in Exhibit B



B. As of the Effective Date, the land underlying \_\_\_\_\_, and as more particularly described in Exhibit A, has been conveyed to HLT by Developer pursuant to a Grant Deed recorded in the Official Records of Sonoma County ("**Official Records**").

C. HLT has entered into, or shall enter into an agreement with Developer, pursuant to which Developer will construct the Restricted Homes as part of the larger Development, and sell the Restricted Homes constructed on the Property to eligible homebuyers at an affordable price. Concurrently with the sale of each of the Restricted Homes, HLT will enter into a Declaration of Affordability Covenants, Buyer's Occupancy Resale Restriction and Option to Purchase ("**Declaration**") as well as a ground lease ("**Ground Lease**") for Restricted Homes with each homebuyer in order to ensure long-term affordability of the Restricted Homes.

D. This Agreement is entered into to provide assurance to City that the Restricted Homes shall comply with the requirements of the Ordinance and the conditions of approval for the Subdivision.

NOW, THEREFORE, the Parties agree as follows:

1. Definitions. As used in this Agreement, the following terms shall have the meanings set forth below. Additional terms are defined in the Recitals and the text of this Agreement.

(a) "**Affordable Purchase Price**" means a home purchase price resulting in an average monthly housing payment (including mortgage loan principal and interest, mortgage insurance fees, property taxes and assessments, a reasonable allowance for property maintenance and repairs, homeowners insurance premiums, a reasonable utility allowance, and homeowners association dues, if any) which is affordable to households of Low to Moderate-Income, as determined using standard underwriting criteria in common use by Fannie Mae or the California Housing Finance Agency.

(b) "**Area Median Income**" means the median household income, adjusted for household size, applicable to Sonoma County, California as published periodically by the State Department of Housing and Community Development in the California Code of Regulations, Title 25, Section 6932 pursuant to California Health and Safety Code Section 50093(c) (or successor provision).

(c) "**Eligible Buyer**" means a household of Low- to Moderate—Income, as applicable, which the City has determined meets the eligibility requirements for purchase of a Restricted Home.

(e) **"Low-Income"** means an annual income which does not exceed eighty percent (80%) of the Area Median Income adjusted for household size.

(f) **"Median-Income"** means an annual income which does not exceed one hundred percent (100%) of the Area Median Income, adjusted for household size.

(g) **"Moderate-Income"** means an annual income which does not exceed one hundred twenty percent (120%) of the Area Median Income, adjusted for household size.

(h) **"Maximum Initial Sales Price"** means the initial Affordable Purchase Price for a Home as determined by City.

2. Satisfaction of Affordable Housing Obligation. Developer will construct \_\_\_\_\_ Restricted Homes on the Property and sell \_\_\_\_\_ Restricted Homes at an Affordable Purchase Price to an Eligible Buyer of Low-Income, \_\_\_\_\_ Restricted Homes at an Affordable Purchase Price to an Eligible Buyer of Moderate-Income, in accordance with income categories specified in Exhibit B. Concurrently with the sale of each Restricted Home, HLT shall require the homebuyer to execute a Declaration and related Deed of Trust (the "Deed of Trust") substantially in the form attached hereto as Exhibit C or a Ground Lease, substantially in for the attached hereto as Exhibit C-1. Among other provisions, the Declaration or Ground Lease, as applicable, will require each Restricted Home (i) to be used solely for residential purposes (ii) to be occupied as the homebuyer's principal residence, and (iii) to be permitted to be transferred only to HLT, another Eligible Buyer, or upon the death of the homebuyer, to the homebuyer's heirs who qualify as Low-Income, Median-Income or Moderate-Income, as applicable. HLT agrees that the intent of this Agreement, the Declaration and Ground Lease is that the Restricted Homes shall be permanently affordable to Eligible Buyers of Low-Income to Moderate-Income, as applicable, and HLT agrees that resale of the Restricted Homes shall be so restricted pursuant to the Declaration or Ground Lease, as applicable.

3. Marketing and Sale to Eligible Buyers. HLT shall require Subdivider to sell the Restricted Homes developed on the Property at an Affordable Purchase Price as described in Section 4 to Eligible Buyers of Low-Income, Median-Income or Moderate-Income, as applicable, and in accordance with Exhibit B. Within the pool of eligible applicants, preference is to be given to persons that either live or work in Petaluma. City shall cooperate with HLT to identify Eligible Buyers; however, HLT will have primary responsibility for marketing the Restricted Homes, finding qualified Eligible Buyers, and screening and selecting applicants. City shall have no obligation to pay costs related to marketing, sales efforts or real estate commissions. HLT agrees that it shall comply, and shall require Developer to comply, with applicable fair housing laws in the marketing and sale, as applicable, of the Restricted Homes.

4. Affordable Purchase Price. The Maximum Initial Sales Price for the Homes is shown in Exhibit B attached hereto and incorporated herein.
5. City Review of Documents. Upon request, HLT agrees that it shall provide the form of Ground Lease, Declaration and Deed of Trust to be executed by the homebuyers.
6. Compliance Reports, Inspections, Monitoring. Upon completion of construction of the Restricted Homes, and annually thereafter by no later than each anniversary of the Effective Date, upon City's request HLT shall submit to City a Compliance Report verifying HLT's compliance with this Agreement, and certified as correct by HLT under penalty of perjury. The Compliance Report shall be in such format as City may reasonably request and shall contain certifications regarding the eligibility of homebuyers and evidence of the homebuyer's and HLT's execution of the Ground Lease or Declaration, as applicable.

HLT shall retain all records related to compliance with this Agreement, and shall make such records available to City or its designee for inspection and copying on five (5) business days' written notice. HLT shall permit City and its designees to inspect the Property to monitor compliance with this Agreement following two (2) business days' written notice.

7. Covenants Run with the Land. The covenants and conditions herein contained shall apply to and bind, during their respective periods of fee ownership, HLT and its heirs, executors, administrators, successors, transferees, and assignees having or acquiring any right, title or interest in or to any part of the Property and shall run with and burden such portions of the Property. This Agreement shall remain in effect in perpetuity unless released by City pursuant to an instrument recorded in the Official Records of Sonoma County.

8. Default and Remedies. Failure of HLT to cure any default in HLT's obligations under this Agreement within thirty (30) days after the delivery of a notice of default from the City will constitute an Event of Default under this Agreement. In addition to remedies set forth in this Agreement, the City may exercise any and all remedies available under law or in equity, instituting against HLT or other applicable parties, a civil action for declaratory relief, injunction or any other equitable relief, or relief at law, including without limitation an action to rescind a transaction and/or to require repayment of any funds received in connection with such a violation.

9. Option to Purchase, Enter and Possess or Assignment of Rights.

A. For those Restricted Homes that are subject to a Ground Lease the following shall apply. City shall have the right at its option to purchase, enter and take possession of the Property or any portion thereof owned by HLT with all improvements thereon (the "Option"), if, at or after the initial sale of the Restricted Homes to Eligible Buyers, the Restricted Homes are sold to persons who do not qualify as Eligible Buyers. In such event City shall have an option to purchase any such Restricted Homes at the Affordable Purchase Price as determined pursuant to this Agreement, or the City may pursue any remedies it may have under this Agreement, the Deed of Trust or under law or in equity.

In order to exercise the Option, the City shall give HLT notice of such exercise, and HLT shall, within thirty (30) days after receipt of such notice, provide the City with a summary of all of HLT's costs incurred as described in this Section. Within thirty (30) days of the City's receipt of such summary, the City shall pay into an escrow established for such purpose cash in the amount of all sums owing pursuant to this Section 9, and HLT shall execute and deposit into such escrow a grant deed transferring to the City all of HLT's interest in the Property, or portion thereof, as applicable and the improvements located thereon.

B. For those Restricted Homes that are subject to a Declaration, the following shall apply: If, at or after the initial sale of the Restricted Homes to Eligible Buyers, the Restricted Homes are sold to persons who do not qualify as Eligible Buyers, the City shall have the option to assume HLT's rights under each Declaration and Deed of Trust. Upon notice from the City of a violation under this Section 9B and the exercise of the option under this Section 9B by the City, HLT shall assign its interest in the applicable Declaration(s) and Deed(s) of Trust to the City. In such event City shall assume the rights and obligations of HLT under the applicable Declaration(s) and Deed(s) of Trust.

In order to exercise the option to assume described in 9B above, the City shall give HLT notice of assignment, and HLT shall, within thirty (30) days after receipt of such notice to assign its rights and obligations under the applicable Declaration and Deed of Trust to the City.

10. Mortgagee Protection. The City's rights pursuant to Section 9 shall not defeat, limit or render invalid any mortgage or deed of trust recorded against the Property or any portion thereof, including without limitation, any Restricted Home. Any conveyance of the Property to the City pursuant to Section 9 shall be subject to mortgages and deeds of trust permitted by this Agreement. Notwithstanding any other provision in this Agreement to the contrary, this Agreement shall not diminish or affect the rights of the California Housing Finance Agency ("CalHFA"), HUD, the Federal National Mortgage Association ("FNMA"), or the Veterans Administration ("VA") under any mortgage recorded against the Property in compliance with the Declaration.

11. Remedies Cumulative. No right, power, or remedy specified in this

Agreement is intended to be exclusive of any other right, power, or remedy, and each and every such right, power, or remedy shall be cumulative and in addition to every other right, power, or remedy available to the City under law or in equity. Neither the failure nor any delay on the part of the City to exercise any such rights, powers or remedies shall operate as a waiver thereof, nor shall any single or partial exercise by the City of any such right, power or remedy preclude any other or further exercise of such right, power or remedy, or any other right, power or remedy.

12. Attorneys' Fees and Costs. The City shall be entitled to receive from HLT or any person violating the requirements of this Agreement, in addition to any remedy otherwise available under this Agreement or at law or equity, whether or not litigation is instituted, the costs of enforcing this Agreement, including without limitation reasonable attorneys' fees and the costs of City staff time. In any dispute arising in connection with this Agreement, the prevailing party shall be entitled to recover reasonable attorneys' fees.

13. Appointment of Other Agencies. In its sole discretion, the City may designate, appoint or contract with any other person, public agency or public or private entity to perform some or all of the City's obligations under this Agreement.

14. Hold Harmless. HLT agrees to indemnify, defend (with counsel approved by the City) and hold harmless City and its elected and appointed officials, officers, employees, representatives and agents (all of the foregoing, collectively the "**Indemnitees**") from and against all liability, loss, cost, claim, demand, action, suit, legal or administrative proceeding, penalty, deficiency, fine, damage and expense (including, without limitation, reasonable attorney's fees and costs of litigation) (all of the foregoing, collectively hereinafter "**Claims**") arising or allegedly arising out of or relating in any manner to the Project, the Property, or HLT's performance or nonperformance under this Agreement, except to the extent arising from the gross negligence or willful misconduct of the City. The provisions of this section shall survive the expiration or other termination of this Agreement or any release of part or all of the Property from the burdens of this Agreement.

15. Insurance Requirements. HLT shall obtain and maintain at HLT's expense, Commercial General Liability, naming Indemnitees as additional insureds with aggregate limits of not less than Two Million Dollars (\$2,000,000) for bodily injury and death or property damage including coverage for contractual liability and premises operations, purchased from an insurance company duly licensed to issue such insurance in the State of California with a current Best's Key Rating of not less than A-V, such insurance shall be evidenced by an endorsement which so provides and delivered to the City prior to the Effective Date.

16. Notices. All notices required pursuant to this Agreement shall be in writing and may be given by personal delivery or by registered or certified mail, return receipt requested, to the party to receive such notice at the addresses set forth below:

**City:**

II. City of Petaluma  
11 English Street  
Petaluma, CA 94952  
Attn: City Clerk

**HLT:**

Housing Land Trust of Sonoma County  
P.O. Box 5431  
Petaluma, CA 94955-5431  
Attn: Executive Director

Any party may change the address to which notices are to be sent by notifying the other parties of the new address, in the manner set forth above.

17. Integrated Agreement; Amendments. This Agreement, together with the exhibits hereto constitutes the entire Agreement between the Parties with respect to the subject matter hereof. No modification of or amendment to this Agreement shall be binding unless reduced to writing and signed by the Parties. The City Manager or his or her designee shall have authority to approve or disapprove minor or technical amendments to this Agreement on behalf of the City.

18. Subordination; Execution of Riders for the Benefit of Mortgage Lenders. City agrees that if required in order to assist Eligible Buyers to secure purchase money financing for the acquisition of a Home, the City will enter into a subordination agreement with a purchase money lender to subordinate this Agreement under such terms as the City and the purchase money lender shall negotiate provided that City is granted reasonable notice and cure rights under the first mortgage. The City further agrees that if City succeeds to the interest of HLT under the Ground Lease applicable to any one or more Restricted Homes pursuant to the exercise of City's remedies under this Agreement or the Deed of Trust, the City agrees that it shall recognize the Lessee under the Ground Lease and shall comply with the requirements of Fannie Mae Form 2100 (3/06) and Fannie Mae Announcement 06-03 or similar successor policy, as such documents may be modified or amended. Notwithstanding any other provision hereof, the provisions of this Agreement shall be subordinate to the lien of the First Lender Loan (as defined in the Declaration) and shall not impair the rights of the First Lender, or the First Lender's successor or assign, to exercise its remedies under the First Lender Deed of Trust in the event of default under the First Lender Deed of Trust by the Owner. Such remedies under the First Lender

Deed of Trust include the right of foreclosure or acceptance of a deed or assignment in lieu of foreclosure. After such foreclosure or acceptance of a deed or assignment in lieu of foreclosure, this Agreement shall be forever terminated and shall have no further effect as to the Unit or any transferee thereafter; provided, however, if the holder of such First Lender Deed of Trust acquired title to the Home pursuant to a deed or assignment in lieu of foreclosure and no notice of default was recorded against the Home by such holder in connection therewith, this Agreement shall automatically terminate upon such acquisition of title, only if (i) the City has been given written notice of default under such First Lender Deed of Trust with a sixty (60)-day cure period (which requirement shall be satisfied by recordation of a notice of default under California Civil Code Section 2924), and (ii) the City shall not have cured the default within the sixty (60)-day period. Owner agrees to record any necessary documents to effect such termination, if applicable

19. Parties Not Co-Venturers. Nothing in this Agreement is intended to or shall establish the Parties as partners, co-venturers, or principal and agent with one another.

20. Further Assurances; Action by the City. The Parties shall execute, acknowledge and deliver to the other such other documents and instruments, and take such other actions, as either shall reasonably request as may be necessary to carry out the intent of this Agreement. Except as may be otherwise specifically provided herein, whenever any approval, notice, direction, consent or request by the City is required or permitted under this Agreement, such action shall be in writing, and such action may be given, made or taken by the City Manager or by any person who shall have been designated by the City Manager, without further approval by the City Council unless the City Manager determines in his or her discretion that such action requires such approval.

21. Governing Law; Venue. This Agreement shall be construed and enforced in accordance with the laws of the State of California without regard to principles of conflicts of law. The Parties consent to the jurisdiction of any federal or state court in the jurisdiction in which the Property is located (the "**Property Jurisdiction**"). Borrower agrees that any controversy arising under or in relation to this Agreement shall be litigated exclusively in courts having jurisdiction in the Property Jurisdiction. Borrower irrevocably consents to service, jurisdiction, and venue of such courts for any such litigation and waives any other venue to which it might be entitled by virtue of domicile, habitual residence or otherwise.

22. No Waiver. Any waiver by the City of any obligation or condition in this Agreement must be in writing. No waiver will be implied from any delay or failure by the City to take action on any breach or default of HLT or to pursue any remedy allowed under this Agreement or applicable law. Any extension of time granted to HLT to perform any obligation under this Agreement shall not operate as a waiver or release from any of its obligations under this Agreement. Consent

by the City to any act or omission by HLT shall not be construed to be a consent to any other or subsequent act or omission or to waive the requirement for the City 's written consent to future waivers.

23. Headings. The titles of the sections and subsections of this Agreement are inserted for convenience of reference only and shall be disregarded in interpreting any part of the Agreement's provisions.

24. Counterparts. This Agreement may be executed in counterparts, each of which shall be an original and all of which taken together shall constitute one and the same instrument.

25. Severability. If any provision contained in this Agreement is to be held by a court of competent jurisdiction to be void or unenforceable the remaining portions of this Agreement shall remain in full force and effect.

26. Exhibits. The following exhibits attached to this Agreement are hereby incorporated herein by reference:

Exhibit A Legal Description of the Property

Exhibit B Maximum Homebuyer Income Level; Unit Size and Bedroom Count; Maximum Initial Sales Price

Exhibit C Form of Declaration and Deed of Trust

Exhibit C-1 Form of Ground Lease

**[SIGNATURES ON FOLLOWING PAGE; SIGNATURES MUST BE NOTARIZED]**



IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**HLT:**  
Housing Land Trust of Sonoma County,  
A nonprofit public benefit corporation

By: \_\_\_\_\_

Its: \_\_\_\_\_

**CITY :**  
  
City of Petaluma,  
a California municipal corporation

By: \_\_\_\_\_  
Peggy Flynn, City Manager

**ATTEST:** \_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**  
  
By: \_\_\_\_\_  
Eric W. Danly, City Attorney

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 )  
COUNTY OF \_\_\_\_\_)

On \_\_\_\_\_, before me, \_\_\_\_\_, Notary Public, personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify UNDER PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

\_\_\_\_\_  
Name: \_\_\_\_\_  
Notary Public

Exhibit A

**LEGAL DESCRIPTION OF THE PROPERTY**

Real property in the City of Petaluma, County of Sonoma, State of California,  
described as follows:

\_\_\_\_\_, as shown upon the map entitled “\_\_\_\_\_”,  
filed \_\_\_\_\_, 200\_\_ in Book \_\_\_\_\_ of Maps Pages \_\_\_\_\_  
Sonoma County Records.

APN: \_\_\_\_\_

**EXHIBIT B**

**Workforce housing maximum sales price sheet**

**17 ATTACHED SINGLE FAMILY:**

**Low Income Households: 80% area medium income:**

	<u>2 Bedroom</u>	<u>3 Bedroom</u>
<u>Sales Price</u>	\$	\$

**Moderate Income Households: 120% area medium income:**

	<u>2 Bedroom</u>	<u>3 Bedroom</u>
<u>Sale Price</u>	\$	\$

Exhibit C-1

[Attach form of Ground Lease]



1           **WHEREAS**, Lomas Corona Station LLC, the owner of property at 890 North McDowell  
2 Boulevard, APN 137-061-019, in Petaluma ("Corona Property") and Lomas SMART LLC, which is in  
3 contract to purchase property owned by the Sonoma Marin Area Transit District ("SMART") located  
4 at 315 East D Street, APN 007-131-003, in Petaluma ("Downtown SMART Property") are under the  
5 same management and ownership, referred to in this ordinance as the "Developer;" and

6           **WHEREAS**, Developer has submitted applications to the City for approval of development of  
7 the Corona Station Residential Project (the "Corona Project") on the Corona Property, including  
8 applications for a Zoning Text Amendment ("Corona Zoning Amendment"), a Development  
9 Agreement ("Agreement"), a Density Bonus and Development Concession/Incentive ("Corona  
10 Density Bonus"), a Tentative Subdivision Map ("Corona Tentative Map"), Conditional Use Permit  
11 ("Corona Use Permit"), and Site Plan and Architectural Review ("Corona SPAR") for a 110 unit  
12 residential project within the MU1B zone with Flood Plain-Combining (FP-C) Overlay, on the Corona  
13 Property; and

14           **WHEREAS**, Developer has also proposed alternative compliance with the City's Inclusionary  
15 Housing requirements pursuant to Section 3.040 of the IZO ("Inclusionary Housing Requirements") for  
16 the Corona Project in the form of 10% of the residential units in the Corona Project being affordable  
17 to persons of moderate income level, and 5% of the residential units being affordable to persons of  
18 low income level, and the affordable units provided as single family attached units with an  
19 affordability term of at least 99 years ("Corona Alternative Inclusionary Compliance"); and

20           **WHEREAS**, Developer is also in contract with SMART to purchase the Downtown SMART  
21 Property which shall in turn be sold to the Hines company ("Hines") for development of a residential  
22 project ("Downtown Project") on the Downtown SMART Property; and

23           **WHEREAS**, Developer has provided the City conceptual plans for the Downtown Project, but  
24 no application has been submitted to the City for the Downtown Project, and the conceptual plans  
25 for the Downtown Project indicate a project consisting of 402 residential units and ground floor  
26 tenant amenity uses; and

27           **WHEREAS**, Developer plans to obtain agreement with the City regarding alternative  
28 inclusionary housing compliance for the Downtown Project consisting of eleven (11) low income  
29 units, two (2) studio units, six (6) one bedroom units, and three (3) two bedroom units, dispersed  
30 throughout the Downtown Project (not clustered) and constructed as part of the Downtown Project,  
31 conveyance to the City of fee title to 2.5 developable acres located at 1601 Petaluma Boulevard  
32 South in Petaluma, A.P.Ns.019-210-039, 019-210-010, and 019-210-038, for development of affordable  
33 housing, and payment of housing in-lieu fees of \$862,208 ("Downtown Alternative Inclusionary  
34 Compliance"), and

35           **WHEREAS**, Developer plans to use the proceeds from Developer's sale of the Corona Project  
36 to purchase the Downtown SMART Property from SMART, and to sell the Downtown SMART Property  
37 to Hines, including City-approved alternative inclusionary housing compliance, but otherwise  
38 subject to future City approval of subsequent entitlement applications to be submitted by Hines;  
39 and

40           **WHEREAS**, Developer's fee ownership of the Corona Property entitles Developer to engage in  
41 the development of the Corona Property in accordance with Section 23.030 of the City  
42 Development Agreement Requirements; and

43           **WHEREAS**, Developer's contractual obligation to purchase the Downtown SMART Property in  
44 accordance with the Developer/SMART Agreement entitles the Developer to engage in  
45 Development of the Downtown SMART Property in accordance with Section 23.030 of the City

1 Development Agreement Requirements subject to the terms of the Developer/SMART Agreement;  
2 and

3 **WHEREAS**, the agreement between Developer and SMART dated October 12, 2019  
4 ("Developer/SMART Agreement") is attached to and made a part of the Agreement, and in  
5 accordance with Section 9(a) of the Developer/SMART Agreement, the close of escrow on the  
6 purchase of the Downtown SMART Property is required to occur on May 19, 2020; and

7 **WHEREAS**, Section 2(a) of the Developer/SMART Agreement requires as consideration for  
8 purchase of the Downtown SMART Property a payment of \$8 million, and in accordance with  
9 Section 9(c) of the Developer/SMART Agreement, Developer must deposit into escrow the  
10 remainder of the \$8 million purchase amount, less a non-refundable \$500,000 deposit already given  
11 by Developer and closing costs allocable to Developer by May 15, 2020; and

12 **WHEREAS**, section 9(e), the Developer/SMART Agreement also requires Developer to  
13 dedicate to SMART 1.27 acres of land for construction of a SMART station on land at the corner of  
14 McDowell Boulevard and Corona Road in Petaluma ("Second Petaluma Station"), and the Corona  
15 Tentative Map includes such 1.27 acres of land as a remainder parcel; and

16 **WHEREAS**, SMART intends to use the proceeds from sale of the Downtown SMART Property for  
17 construction of the Second Petaluma Station, with terms regarding construction of the Second  
18 Petaluma Station to be the subject of a separate agreement to be executed between SMART and  
19 the City ("City/SMART Agreement"); and

20 **WHEREAS**, among other terms, the City/SMART Agreement will provide for allocation of \$2  
21 million to the Second Petaluma Station improvements, which will provide traffic relief in Petaluma via  
22 commuter use of the Second Petaluma Station to be funded at least in part by City Traffic  
23 Development Impact Fees; and

24 **WHEREAS**, Developer's payment for purchase of the Downtown SMART Property in  
25 accordance with the Developer/SMART Agreement, the proceeds of which are to be used to fund  
26 construction of the Second Petaluma Station, and Developer's dedication of 1.27 acres of land at  
27 McDowell Boulevard and Corona Road for the Second Petaluma Station are critical elements of  
28 achieving the Second Petaluma Station and essential consideration regarding the City's review of  
29 the Corona Project, the Downtown Project, and the Agreement; and

30 **WHEREAS**, the City's payment of \$2 million at least part of which will be sourced from City  
31 traffic impact fee proceeds allocated to the Second Petaluma Station improvements is also a  
32 critical element of achieving the Second Petaluma Station and essential consideration for purchase  
33 of the Downtown SMART Property and the Agreement; and

34 **WHEREAS**, SMART indicates that construction work for the second planned Petaluma SMART  
35 station must coincide with the construction work on the planned Windsor SMART station scheduled  
36 for March 2020, such that Developer's payment for the Downtown SMART Property and dedication  
37 of 1.27 acres at Corona Road and Mc Dowell Boulevard must occur by the scheduled closing on  
38 the Downtown SMART Property purchase on May 19, 2020 for the Second Petaluma Station  
39 construction to proceed approximately concurrently with the Windsor station; and

40 **WHEREAS**, the justification for entering into the Agreement with the Developer regarding the  
41 Corona Station Residential Project and the Downtown Project, as further described below in this  
42 ordinance, and the special long-term project considerations that make preservation of existing  
43 zoning requirements desirable throughout the life of the Corona Project, or so long as otherwise  
44 provided in the Agreement, consist of dedication of land for, and funding of, construction of the



1 Second Petaluma SMART Station on land at McDowell Boulevard and Corona Road in Petaluma, as  
2 well as considerations regarding inclusionary housing compliance of the Corona and Downtown  
3 projects; and

4 **WHEREAS**, in accordance with Section 65867 of the State Development Agreement Law and  
5 Section 23.070 of the City Development Agreement Requirements, hearings on proposed  
6 development agreements shall be held before the City's Planning Commission and the City Council,  
7 with mailed and published notice of the Planning Commission and City Council hearings given in  
8 accordance with the requirements of the State Development Agreement Law and the City  
9 Development Agreement requirements; and

10 **WHEREAS**, in connection with the development of the Corona Project and Downtown  
11 Project, City Staff have prepared the proposed Agreement in accordance with the requirements of  
12 the State Development Agreement Law and the City Development Agreement Requirements for  
13 the Corona Project, which Agreement is attached to and made a part of this ordinance as Exhibit  
14 A; and

15 **WHEREAS**, in accordance with the State Development Agreement Law and the City  
16 Development Agreement Requirements, the Agreement includes provisions setting forth, among  
17 other things, the effective date and term of the agreement, applicable fees, applicable rules,  
18 regulations, and policies, required infrastructure improvements and other conditions of approval,  
19 affordable housing obligations, prevailing wage rules, provisions on amendments, annual review  
20 and default, and other provisions; and

21 **WHEREAS**, the conditions of approval addressed in the Agreement also include conditions  
22 requiring the Developer to build the Corona Project to sustainability standards greater than existing  
23 code requirements in that the Corona Project shall be all-electric, without any natural gas  
24 infrastructure, shall include installation of photovoltaic panels on each residential unit, shall include  
25 installation of an electric vehicle charger in each garage, and shall include a gray water valve on  
26 each residential unit; and

27 **WHEREAS**, the conditions of approval addressed in the Agreement also include conditions  
28 requiring the Downtown Project to be built to sustainability standards greater than existing code  
29 requirements, in that the Downtown Project shall be all-electric, without any natural gas  
30 infrastructure; and

31 **WHEREAS**, in accordance with Section 65867.5(b) of the State Development Agreement Law  
32 and Section 23.090 of the City Development Agreement Requirements, the provisions of the  
33 Agreement are consistent with the City's General Plan and Station Area Master Plan in that the  
34 Corona Property has a Mixed Use General Plan land use designation, with a density range of up to  
35 30 units per acre, and is consistent with the Station Area Master Plan ("**SAMP**") in that the project  
36 introduces residential units adjacent to the future SMART station at a density higher than surrounding  
37 development but in character with residential development in the area, provides bicycle and  
38 pedestrian connectivity improvements as prioritized in the SAMP, and directly furthers the  
39 development of the Corona Station which is a priority in both the General Plan and SAMP, and the  
40 Agreement will not be detrimental to the public health, safety or welfare in that adequate public  
41 facilities exist or will be installed as part of the Corona Project, including roads, sidewalks, water,  
42 sewer, storm drains and other infrastructure, and the Corona Property is physically suitable for the  
43 density and the type of development proposed in that it is a flat, undeveloped lot within the City's  
44 urban growth boundary with direct access to North McDowell Boulevard and Corona Road, and  
45 adjacent to the planned second Petaluma SMART station, and supports efficient land use and  
46 promotes infill at a residential density consistent with the General Plan based on the proposed  
47 density of 26 units per net acre for the Corona Project; and

1           **WHEREAS**, the potential environmental impacts of the Corona Project were identified and  
2 analyzed in accordance with the requirements of the California Environmental Quality Act ("**CEQA**")  
3 and the CEQA Guidelines, and an Initial Study/Mitigated Negative Declaration ("**IS/MND**") was  
4 prepared to address potential environmental impacts of the Corona Project; and

5           **WHEREAS**, pursuant to the State Development Agreement Law and the City Development  
6 Agreement Requirements, notice of a public hearing before the Planning Commission on the  
7 Corona Project Approvals, including the Agreement was mailed to all property owners within a  
8 1,000 radius of the Corona Property, and a public hearing notice was published once in the  
9 Petaluma Argus Courier on October 17, 2019, twenty-seven days prior to the Planning Commission  
10 hearing on the Project and the Development Agreement; and

11           **WHEREAS**, on November 12, 2019, November 19, 2019, and January 14, 2020, the Planning  
12 Commission held public hearing on the Corona Project Approvals, including the Agreement, at  
13 which time interested persons had an opportunity to testify either in support or opposition; and

14           **WHEREAS**, at the November 19, 2019 public hearing on the Corona Project Approvals,  
15 including the Agreement, the Planning Commission considered the IS/MND prepared for the Corona  
16 Project, and deliberated on the IS/MND and the Corona Project Approvals, including the proposed  
17 Agreement, and by a vote of 5-2 adopted Resolution no. 2019-017 recommending approval of the  
18 IS/MND, Resolution no. 2019-018 recommending City Council denial of the Agreement, Resolution  
19 No. 2019-019 recommending denial of the Corona Density Bonus, and Resolution no. 2019-020  
20 recommending denial of the Corona Tentative Map; and

21           **WHEREAS**, at the January 14, 2020 public hearing on the Corona Zoning Amendment the  
22 Planning Commission by a vote of 6-1 adopted Resolution No. 2020-01 denying the Corona Zoning  
23 Amendment; and

24           **WHEREAS**, on January 15, 2020 the applicant submitted an application appealing the  
25 Planning Commission's denial of the Zoning Text Amendment; and

26           **WHEREAS**, pursuant to the State Development Agreement Law and the City Development  
27 Agreement Requirements, notice of a public hearing before the City Council on the Project  
28 Approvals, including the Agreement, was mailed to all property owners within a 1,000 radius of the  
29 Property, and a public hearing notice was published once in the Petaluma Argus Courier on  
30 January 16, 2020, 11 days prior to the City Council hearing on the Project Approvals, including the  
31 Agreement; and

32           **WHEREAS**, on January 27, 2020 the City Council held a public hearing on the Project  
33 Approvals, including the Agreement, at which time interested persons had an opportunity to testify  
34 either in support or opposition to the proposal; and

35           **WHEREAS**, at the January 27, 2020 public hearing on the Project Approvals, including the  
36 Agreement, the City Council considered Planning Commission Resolution no. 2019-017  
37 recommending approval of the IS/MND prepared for the Corona Project, Resolution no. 2020-001  
38 denying the Corona Zoning Amendment, Resolution no. 2019-018 recommending denial of the  
39 Agreement, Resolution no. 2019-019 recommending denial of the Corona Density Bonus, and  
40 Resolution no. 2019-020 recommending denial of the Corona Tentative Map, and deliberated on  
41 the IS/MND and the Project Approvals sought, including the Agreement; and

42           **WHEREAS**, following the January 27, 2020 public hearing on the Project Approvals, the City  
43 Council continued the hearing to a date certain of February 10, 2020; and

1           **WHEREAS**, the February 10, 2020 City Council meeting was cancelled; and

2           **WHEREAS**, pursuant to the State Development Agreement Law and the City Development  
3 Agreement Requirements, notice of a public hearing on February 24, 2020 before the City Council  
4 on the Project Approvals, including the Agreement, was mailed to all property owners within a 1,000  
5 radius of the Property, and a public hearing notice was published once in the Petaluma Argus  
6 Courier on February 13, 2020, 11 days prior to the City Council hearing on the Project Approvals,  
7 including the Development Agreement; and

8           **WHEREAS**, on February 24, 2020 the City Council held a public hearing on the Project  
9 Approvals, including the Agreement, at which time interested persons had an opportunity to testify  
10 either in support or opposition to the proposal; and

11           **WHEREAS**, at the February 24, 2020 public hearing on the Project Approvals, including the  
12 Agreement, the City Council considered Planning Commission Resolution no. 2019-017  
13 recommending approval of the IS/MND prepared for the Project, Resolution no. 2020-001 denying  
14 the Corona Zoning Amendment, Resolution no. 2019-018 recommending denial of the Agreement,  
15 Resolution no. 2019-019 recommending denial of the Corona Density Bonus, and Resolution no.  
16 2019-020 recommending denial of the Corona Tentative Map, and deliberated on the Corona  
17 Project IS/MND and the Project Approvals sought, including a resolution approving the IS/MND, an  
18 ordinance approving the appeal and introducing the Corona Zoning Amendment, an ordinance  
19 introducing the Agreement, a resolution approving the Corona Density Bonus, and a resolution  
20 approving the Corona Tentative Map, and considered all of the information contained in the record  
21 concerning the proposed Project Approvals including the Agreement, and approved the Project  
22 Approvals, including the ordinance introducing the Agreement; and

23           **WHEREAS**, the City Council has reviewed and considered all of the information contained in  
24 the record concerning the proposed Project Approvals including the Agreement;

25           **NOW, THEREFORE**, be it ordained by the Council of the City of Petaluma as follows:

26           **SECTION 1. Recitals Made Findings**

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

29           **SECTION 2. Findings for Adoption of Development Agreement**

30           The City Council has reviewed the proposed Corona Project development applications, including  
31 the proposed Agreement, and hereby makes the following findings:

- 32           A.   The Planning Commission has reviewed and considered the Agreement in conjunction with its  
33 review of the Corona Project and the Corona Project Approvals at the November 12, 2019 and  
34 November 19, 2019 Planning Commission hearings on the Corona Project, and following that  
35 hearing, by a vote of 5-2, adopted Resolution no. 2019-017 recommending approval of the  
36 IS/MND, Resolution no. 2019-018 recommending denial of the Agreement, Resolution No. 2019-  
37 019 recommending denial of the Corona Density Bonus, and Resolution no. 2019-020  
38 recommending approval of the Corona Tentative Map.
- 39           B.   The Planning Commission has reviewed and considered the Corona Zoning Amendment at the  
40 January 14, 2020 Planning Commission hearing and following that hearing, by a vote of 6-1,  
41 adopted Resolution No. 2020-001 denying the Corona Zoning Amendment.

- 1 C. The City Council held a duly noticed public hearing regarding the Corona Project Approvals  
2 including the Agreement, on January 27, 2020 and on February 24, 2020, in conformance with  
3 the notice and other provisions of the State Development Agreement Law, including  
4 Government Code Sections 65090 and 65091, and the City Development Agreement  
5 requirements.
- 6 D. The Corona Project application proposes a 110 unit residential development referred to as the  
7 Corona Station Residential Project and seeks related land use entitlements for the Corona  
8 Project, including applications for the Corona Zoning Amendment, the Agreement, Corona  
9 Density Bonus, Tentative Map, Conditional Use Permit, and SPAR on the Corona Property which  
10 is within the MU1B zone with Flood Plain-Combining (FP-C) Overlay
- 11 E. The potential environmental impacts of the Corona Project were identified and analyzed in  
12 accordance with the requirements of the California Environmental Quality Act ("CEQA") and  
13 the CEQA Guidelines, and an IS/MND was prepared to address potential environmental  
14 impacts of the Project. The Planning Commission adopted Resolution No. 2019-017 on  
15 November 19, 2019 recommending approval of the IS/MND.
- 16 F. The City Council approved the IS/MND for the Corona Project Approvals including the  
17 Agreement by adoption of Resolution No. 2020-029 N.C.S. on February 24, 2020
- 18 G. The proposed Agreement, Exhibit A to this ordinance, is consistent with the City's General Plan  
19 and the Station Area Master Plan in accordance with the recitals demonstrating such  
20 consistency that are incorporated into this ordinance and would direct the Corona Project's  
21 development in an orderly manner that benefits the City.
- 22 H. Pursuant to the State Development Agreement Law and Section 23.090 of the City  
23 Development Agreement Requirements, the following factors, among others, have been taken  
24 into consideration, as applicable, with respect to the Agreement: the permitted uses of the  
25 Corona Property, the density or intensity of use, the maximum height and size of proposed  
26 buildings, provisions for reservation or dedication of land for public purposes, and conditions of  
27 approval necessary to ensure construction of a second planned Petaluma SMART station as  
28 well as conditions of approval specifying sustainability standards for the Corona Project and  
29 alternative inclusionary housing compliance for the Corona Project and the Downtown Project.

30 **SECTION 2. Approval of Development Agreement**

31 The City hereby approves the Agreement and authorizes the City Manager to execute on behalf of  
32 the City a Development Agreement in substantially the same form as attached hereto and  
33 incorporated herein as Exhibit A along with such changes to the Agreement deemed necessary or  
34 appropriate by the City Manager and approved by the City Attorney to affect the intended  
35 purposes of the Agreement.

36 **SECTION 3. Compliance with State Law**

- 37 A. The City will comply with all requirements of the State Development Agreement Law, and the  
38 City Development Agreement Requirements applicable to the Agreement, including, but not  
39 limited to, the requirements of Government Code sections 65856(e) and 66006.
- 40 B. In accordance with Section 65868.5 of the State Development Agreement Law and Section  
41 23.130 of the City Development Agreement requirements, no later than 10 days after the City  
42 enters into the Agreement, the City Clerk will record the Agreement with the County Recorder.
- 43 C. In accordance with Section 65865.1 of the State Development Agreement Law and Section  
44 23.080 of the City Development Agreement Requirements, the City will conduct an annual  
45 review of the Agreement to ensure compliance with its terms.

1 **SECTION 4. Severability**

2 The City Council hereby declares that every section, paragraph, sentence, clause, and phrase of  
3 this ordinance is severable. If any section, paragraph, sentence, clause or phrase of this ordinance is  
4 for any reason found to be invalid or unconstitutional, such invalidity, or unconstitutionality shall not  
5 affect the validity or constitutionality of the remaining sections, paragraphs, sentences, clauses, or  
6 phrases.

7 **SECTION 5. Effective Date.**

8 This ordinance shall be in full force and effective 30 days after its adoption and shall be published  
9 and/or posted in the manner required by the City's charter.

10 **INTRODUCED** and ordered posted/published, this 24<sup>th</sup> day of February 2020.

11  
12 **ADOPTED** this 16<sup>th</sup> day of March 2020, by the following vote:

- 13
- 14 Ayes: Healy, Kearney, King, Miller
- 15 Noes: Mayor Barrett, Vice Mayor Fischer, McDonnell
- 16 Abstain: None
- 17 Absent: None

18  
19  
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21   
22 \_\_\_\_\_  
23 Teresa Barrett, Mayor

24  
25 ATTEST:

APPROVED AS TO FORM:

26  
27  
28   
29 \_\_\_\_\_  
30 Claire Cooper, CMC, City Clerk

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Eric Danly, City Attorney

1 RECORD WITHOUT FEE  
2 PURSUANT TO GOVERNMENT CODE § 6103

3 RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

4 City of Petaluma  
5 City Clerk’s Office  
6 11 English Street  
7 Petaluma, CA 94952

8 \_\_\_\_\_ SPA  
9 CE ABOVE THIS LINE FOR RECORDER’S USE ONLY

10 **DEVELOPMENT AGREEMENT**

11 **by and between**

12 **the City of Petaluma, a California municipal corporation and charter city,**

13 **and**

14 **Lomas Corona Station, LLC and Lomas SMART, LLC, California limited liability companies**

15 **concerning**

16 **Property at 890 North McDowell Boulevard, A.P.N. 137-061-019**

17 **and 315 East D Street, A.P.N. 007-131-003 in Petaluma, California**

18 This DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into as of the Effective Date by  
19 and between the CITY OF PETALUMA (“**City**”), a California municipal corporation and charter  
20 city, and LOMAS CORONA STATION LLC and LOMAS SMART LLC, which are California  
21 limited liability companies. As both companies are under the same management and ownership, and  
22 the development projects the companies are pursuing are closely interrelated, both companies are  
23 collectively referred to as the “**Developer**” for purposes of this Agreement. This Agreement,  
24 concerns the development of certain real property consisting of a 6.5 acre site located at 890 North  
25 McDowell Boulevard, A.P.N. 137-061-019 (“**Corona Property**”) in the City of Petaluma, and the  
26 development of certain real property consisting of a 6.4 acre site located at 315 East D Street A.P.N.  
27 007-131-003, (“**Downtown Smart Property**”) in the City of Petaluma. City and Developer may  
28 each be referred to as a “**Party**,” and collectively the “**Parties.**”

29 *RECITALS*

30 Developer and City enter into this Agreement on the basis of the following facts, understandings and  
31 intentions, and the following recitals are a substantive part of this Agreement:

32 A. Government Code §65864, *et seq.*, (“**State Development Agreement Law**”) and Chapter 23,  
33 entitled “Development Agreements” (“**City Development Agreement Requirements**”) of the

- 1 Petaluma Implementing Zoning Ordinance, Ordinance No. 2300 N.C.S, (“**IZO**”) specifically  
2 including IZO Section 23.010, authorize the City to enter into development agreements which may  
3 provide certainty to project applicants that upon approval of a project, the applicant may proceed  
4 with the project in accordance with the existing policies, rules, and regulations, and subject to  
5 conditions of approval so as to strengthen the public planning process, encourage private  
6 participation in comprehensive planning, and reduce the economic costs of development.
- 7 B. In accordance with Section 23.020 of the City Development Agreement Requirements, City  
8 development agreements are considered a combining zone with the existing district.
- 9 C. In accordance with Section 23.030 of the City Development Agreement Requirements, the City  
10 may enter into a development agreement with any person having a legal or equitable interest in real  
11 property for the development of the property so long as the person’s interest entitles him or her to  
12 engage in such development.
- 13 D. The City Development Agreement Requirements provide that development agreement  
14 applications shall be made in the same fashion as applications to amend the IZO, subject to the  
15 additional requirements specified in the City Development Agreement Requirements. Such  
16 additional City Development Agreement Requirements include, as specified in Section 23.060: a  
17 copy of the proposed development agreement, or substantive summary of the terms proposed to be  
18 included in the development agreement: a statement signed by the applicant setting out the  
19 justification for the agreement, including a statement of special financial or long-term project  
20 considerations which make preservation of existing zoning requirements desirable throughout the  
21 life of the project; and submission of the filing fee as established by City Council resolution, or  
22 absent such resolution the fee for a rezoning application. The justification for this Agreement and  
23 special long-term project considerations that make preservation of existing zoning requirements  
24 desirable throughout the life of the Corona Project, or so long as otherwise provided in this  
25 Agreement, consist of dedication of land for, and funding of, construction of a second Petaluma  
26 SMART station on land at McDowell Boulevard and Corona Road in Petaluma (“**Second Petaluma**  
27 **Station**”), as well as considerations regarding inclusionary housing compliance of proposed  
28 development projects on the Corona and the Downtown SMART Properties.
- 29 E. In accordance with Section 65867 of the State Development Agreement Law and Section 23.070  
30 of the City Development Agreement Requirements, hearings on proposed development agreements  
31 shall be held before the City’s Planning Commission and the City Council, with mailed and  
32 published notice of the Planning Commission and City Council hearings given in accordance with  
33 the requirements of the State Development Agreement Law and the City Development Agreement  
34 requirements.
- 35 F. Developer owns in fee the Corona Property, as further described in **Exhibit A**, which is attached  
36 hereto and hereby made a part of this Agreement. Developer’s fee ownership of the Corona Property  
37 entitles Developer to engage in the development of the Corona Property in accordance with Section  
38 23.030 of the City Development Agreement Requirements. Developer plans to entitle the Corona  
39 Property and then sell it to a residential property developer who will develop the Corona Project.
- 40 G. Developer has submitted applications to the City for approval of development of the Corona  
41 Station Residential Project (the “**Corona Project**”), including applications for a Zoning Text  
42 Amendment (“**Corona Zoning Amendment**”), this Agreement, a Density Bonus and Development

1 Concession/Incentive (“**Corona Density Bonus**”), a Tentative Subdivision Map (“**Corona**  
2 **Tentative Map**”), Conditional Use Permit (“**Corona Use Permit**”), and Site Plan and Architectural  
3 Review (“**Corona SPAR**”) for a 110 unit residential project within the MU1B zone with Flood  
4 Plain-Combining (FP-C) Overlay, on the Corona Property. Developer has also proposed alternative  
5 compliance with the City’s Inclusionary Housing requirements pursuant to Section 3.040 of the IZO  
6 (“**Inclusionary Housing Requirements**”) in the form of 10% of the residential units in the Corona  
7 Project being affordable to persons of moderate income level, and 5% of the residential units being  
8 affordable to persons of low income level, and the affordable units provided as single family  
9 attached units with an affordability term of at least 99 years (“**Corona Alternative Inclusionary**  
10 **Compliance**”). An Initial Study and Mitigated Negative Declaration (“**Corona IS/MND**”) has been  
11 prepared for the Corona Project that will require approval by the City Council in accordance with the  
12 requirements of the California Environmental Quality Act (“**CEQA**”). Together, the approvals  
13 required for the Corona Project are referred to as the “**Corona Project Approvals**”.

14 H. Developer is also in contract with the Sonoma Marin Area Rail Transit District (“**SMART**”) to  
15 purchase the Downtown SMART Property which shall in turn be sold to the Hines company  
16 (“**Hines**”) for development of a residential project (“**Downtown Project**”) on the Downtown  
17 SMART Property. Developer plans to obtain agreement with the City regarding inclusionary  
18 housing compliance for the Downtown Project, use the proceeds from Developer’s sale of the  
19 Corona Project to purchase the Downtown SMART Property from SMART, and to sell the  
20 Downtown SMART Property to Hines, including City-approved alternative inclusionary housing  
21 compliance, but otherwise subject to future City approval of subsequent entitlement applications to  
22 be submitted by Hines. The agreement between Developer and SMART dated October 12, 2019  
23 (“**Developer/SMART Agreement**”) is attached to this Agreement as **Exhibit B**. In accordance with  
24 Section 9(a) of the Developer/SMART Agreement, the close of escrow on the purchase of the  
25 Downtown SMART Property is required to occur on May 19, 2020.

26 I. Developer’s contractual obligation to purchase the Downtown SMART Property in accordance  
27 with the Developer/SMART Agreement entitles the Developer to engage in development of the  
28 Downtown SMART Property in accordance with Section 23.030 of the City Development  
29 Agreement Requirements subject to the terms of the Developer/SMART Agreement.

30 J. Developer has provided the City conceptual plans for the Downtown Project, but no application  
31 has been submitted to the City for the Downtown Project. The conceptual plans for the Downtown  
32 Project indicate a project consisting of 402 residential units and ground floor tenant amenity uses.

33 K. Developer seeks approval of alternative compliance with the City’s Inclusionary Housing  
34 Requirements for the Downtown Project in the form of a combination of on-site affordable units,  
35 off-site land donation and payment of in lieu fees as provided for in the paragraph D of the City’s  
36 Inclusionary Housing Requirements. Specifically, the Developer seeks approval of alternative  
37 compliance in the form of eleven (11) low income units consisting of two (2) studio units, six (6)  
38 one bedroom units, and three (3) two bedroom units, dispersed throughout the Downtown Project  
39 (not clustered) and constructed as part of the Downtown Project, conveyance to the City of fee title  
40 to 2.5 developable acres located at 1601 Petaluma Boulevard South in Petaluma, A.P.Ns.019-210-  
41 039, 019-210-010, and 019-210-038, for development of affordable housing, and payment of  
42 housing in-lieu fees of \$862,208 (“**Downtown Alternative Inclusionary Compliance**”).



1 L. Section 2(a) of the Developer/SMART Agreement requires as consideration for purchase of the  
2 Downtown SMART Property a payment of \$8 million. In accordance with Section 9(c) of the  
3 Developer/SMART Agreement, Developer must deposit into escrow the remainder of the \$8 million  
4 purchase amount, less a non-refundable \$500,000 deposit already deposited by Developer plus  
5 closing costs allocable to Developer by May 15, 2020. Section 9(e), the Developer/SMART  
6 Agreement also requires Developer to dedicate to SMART 1.27 acres of land at the corner of  
7 McDowell Boulevard and Corona Road in Petaluma for construction of parking improvements at the  
8 Second Petaluma Station. The Corona Tentative Map includes such 1.27 acres of land as a  
9 remainder parcel.

10 M. SMART intends to use the proceeds from sale of the Downtown SMART Property for  
11 construction of the Second Petaluma Station on land at McDowell Boulevard and Corona Road in  
12 Petaluma. Terms regarding construction of the Second Petaluma Station will be the subject of a  
13 separate agreement to be executed between SMART and the City (“**City/SMART Agreement**”).  
14 Among other terms, the City/SMART Agreement will provide for allocation of \$2 million of the \$8  
15 million Developer must pay SMART for the Downtown SMART Property to the Second Petaluma  
16 Station improvements that will provide traffic relief in Petaluma via commuter use of the Second  
17 Petaluma Station. The \$2 million of the \$8 million Developer must pay under the  
18 Developer/SMART Agreement that is allocated to Second Petaluma Station improvements will be  
19 provided by the City to Developer pursuant to this Agreement at least in part from the proceeds of  
20 City traffic impact fees.

21 N. Developer’s payment for purchase of the Downtown SMART Property in accordance with the  
22 Developer/SMART Agreement, the proceeds of which are to be used to fund construction of the  
23 Second Petaluma Station, and Developer’s dedication of 1.27 acres of land at McDowell Boulevard  
24 and Corona Road for the Second Petaluma Station improvements are critical elements of achieving  
25 the Second Petaluma Station and essential consideration regarding the City’s review of the Corona  
26 Project, the Downtown Project, and this Agreement.

27 O. The City’s payment to Developer of \$2 million sourced at least in part from City traffic impact  
28 fee proceeds allocated to the Second Petaluma Station improvements is also a critical element of  
29 achieving the Second Petaluma Station and essential consideration for Developer’s purchase of the  
30 Downtown SMART Property and this Agreement.

31 P. SMART indicates that construction work for the Second Petaluma Station must coincide with the  
32 completion of the construction work on the planned Windsor SMART station scheduled to  
33 commence in March, 2020 such that Developer’s payment for the Downtown SMART Property and  
34 dedication of 1.27 acres at Corona Road and Mc Dowell Boulevard must occur by the scheduled  
35 closing on the Downtown SMART Property purchase on May 19, 2020 for the Second Petaluma  
36 Station construction to proceed approximately concurrently with the Windsor station.

37 Q. Through this Agreement, the Parties intend to preserve the size and density and other  
38 considerations regarding the Corona Project as set forth in the Corona Project Approvals, as defined  
39 below, and Downtown Alternative Inclusionary Compliance, as set forth in this Agreement. City and  
40 Developer each acknowledge that development and construction of the Corona Project, and the  
41 Downtown Project are large-scale undertakings involving major investments by Developer and City,  
42 and assurances that the Corona Project, and the Downtown Residential Project can be developed and  
43 used in accordance with the terms and conditions set forth herein and the existing rules governing

1 development of the Corona Property and the Downtown SMART Property will benefit both  
2 Developer and City.

3 R. This Agreement will eliminate uncertainty in the comprehensive development planning of the  
4 Corona Project, and alternative compliance for inclusionary housing requirements associated with  
5 the Downtown Project and provide that the Corona Property may be developed, constructed,  
6 completed and used pursuant to this Agreement, and in accordance with existing policies, rules and  
7 regulations of the City, subject to the exceptions and limitations expressed herein. Further this  
8 Agreement will (i) secure orderly development, and fiscal benefits for public services,  
9 improvements and facilities in the City (namely, funding and land for construction of the Second  
10 Petaluma Station improvements); (ii) meet the goals of the City's General Plan; (iii) plan for and  
11 concentrate public and private resources for the mutual benefit of both Developer and City; (iv)  
12 allow the City and public to obtain the benefits of public ownership and use of the public  
13 improvements contemplated herein; and (vi) establish the timing and extent of contributions required  
14 from Developer and City for these purposes.

15 S. Prior to and/or in conjunction with approval of this Agreement and/or it taking effect, the City has  
16 taken and will take actions ("**Project Approvals**") in connection with the development of the  
17 Corona Project, including the following:

18 i. Initial Study and Mitigated Negative Declaration. The environmental impacts of the Corona  
19 Project have properly been reviewed and assessed pursuant to the California Environmental Quality  
20 Act, California Public Resources Code Section 21000 *et seq.*; California Code of Regulations Title  
21 14, Section 15000 *et seq.* ("**CEQA Guidelines**"); and City's local guidelines promulgated  
22 thereunder. On February 24, 2020, pursuant to CEQA, the City Council of City ("**City Council**")  
23 adopted Resolution No. 2020-029 N.C.S. approving the Corona IS/MND, with an effective date of  
24 February 24, 2020. As required by CEQA, City also adopted written findings and a Mitigation  
25 Monitoring and Reporting Program ("**MMRP**") for the Corona Project.

26 ii. Development Agreement. On February 24, 2020, the City Council introduced Ordinance 2722  
27 N.C.S. for approval of this Agreement. On March 2, 2020, the City Council adopted Ordinance  
28 2722 N.C.S. approving this Agreement, with an estimated effective date of April 2, 2020.

29 iii. Zoning Text Amendment. On February 24, 2020 the City Council introduced Ordinance 2721  
30 N.C.S. for approval of the Corona Zoning Amendment. On March 2, 2020, the City Council  
31 adopted Ordinance 2721 N.C.S., with an estimated effective date of April 2, 2020 amending the text  
32 of Section 4.3 of the IZO to conditionally permit single family residential land use in the Mu1B  
33 zoning district when adjacent to an existing or future SMART station.

34 iv. Density Bonus. On February 24, 2020, the City Council adopted Resolution No. 2020-030  
35 N.C.S., with an estimated effective date of April 2, 2020 approving the Density Bonus and  
36 Development Concession/Incentive for the Corona Project.

37 v. Tentative Map. On February 24, 2020 the City Council adopted Resolution No. 2020-031 N.C.S.,  
38 with an estimated effective date of April 2, 2020, approving the Tentative Map for the Corona  
39 Property.

1 vi. Subsequent Project Approvals – Corona Final Subdivision Map, Conditional Use Permit and Site  
2 Plan and Architectural Review. On \_\_\_\_\_, Developer submitted for approval a Final  
3 Subdivision Map application for the Corona Project (“**Corona Final Map**”). It is estimated that on  
4 or about \_\_\_\_\_, Planning Commission approval will be sought for adoption of a resolution  
5 approving the Corona Use Permit, subject to certain conditions of approval, for the Corona Property.  
6 It is also estimated that on or about \_\_\_\_\_, Planning Commission approval will be sought for  
7 adoption of a resolution approving the Corona SPAR for the Corona Project. Subsequent to  
8 approval of this Agreement, the City and Developer anticipate that the City will consider for  
9 approval the Use Permit, SPAR and Final Subdivision Map for the Corona Project, and applications  
10 for additional approvals, entitlements, and permits related to the development and operation of the  
11 Downtown Project (the “**Subsequent Project Approvals**”).

12 *AGREEMENT*

13 NOW, THEREFORE, pursuant to the authority contained in Section 65864 of the State  
14 Development Agreement Law, and the City Development Agreement Requirements in Chapter 23 of  
15 the IZO, and in consideration of the mutual representations, covenants and promises of the Parties,  
16 the Parties hereto agree as follows:

17 **1. DEFINITIONS.**

18 “*Administrative Agreement Amendment*” shall have the meaning set forth in Section 7.4(a).

19 “*Administrative Project Amendment*” shall have the meaning set forth in Section 6.3(a)(i).

20 “*Agreement*” shall have the meaning set forth in the introductory paragraph preceding the Recitals.

21 “*Applicable Law*” shall have the meaning set forth in Section 3.2.

22  
23 “*Building Permit*” means a permit issued by the City for the renovation or construction of a building  
24 or structure, as required by the California Building Standards Code as adopted by the City and  
25 incorporated in the Petaluma Municipal Code by reference.

26 “*CEQA*” shall have the meaning set forth in Recital G.

27 “*CEQA Guidelines*” shall have the meaning set forth in Recital S.

28 “*Changes in the Law*” shall have the meaning set forth in Section 3.6.

29 “*Cure Period*” shall have the meaning set forth in Section 8.1.

30 “*City*” shall have the meaning set forth in the introductory paragraph preceding the Recitals.

31 “*City Council*” shall have the meaning set forth in Recital S.

32 “*City Manager*” means the City Manager of the City or his/her designee.

33 “*Consultant Fees*” shall have the meaning set forth in Section 5.5.

1    “*Corona IS/MND*” shall have the meaning set forth in Recital G.

2    “*Corona Project*” shall have the meaning set forth in Recital G.

3    “*Corona Project Approvals*” has the meaning set forth in Recital G and including any approved  
4    Subsequent Project Approvals.

5    “*Corona Property*” shall have the meaning set forth in opening paragraph of this Agreement.  
6

7    “*Default*” shall have the meaning set forth in Section 8.2.

8    “*Developer*” means Lomas Corona Station, LLC, and Lomas Smart LLC, California limited liability  
9    companies, and their permitted successors and assigns.

10   “*Downtown SMART Property*” shall have the meaning set forth in the opening paragraph of this  
11   Agreement.

12   “*Effective Date*” shall have the meaning set forth in Section 2.1.

13   “*Extended Cure Period*” shall have the meaning set forth in Section 8.1.

14   “*Extended Term*” shall have the meaning set forth in Section 2.2(b).

15   “*Grading Permit*” means a permit to commence grading issued by the City.

16   “*Impact Fees*” shall have the meaning set forth in Section 5.2.  
17

18   “*Initial Term*” shall have the meaning set forth in Section 2.3(a).  
19

20   “*Major Agreement Amendment*” shall have the meaning set forth in Section 7.4(b).  
21

22   “*MMRP*” shall have the meaning set forth in Recital G.  
23

24   “*Mortgage*” shall have the meaning set forth in Section 9.1.  
25

26   “*Mortgagee*” shall have the meaning set forth in Section 9.1.

27   “*New City Laws*” shall mean City’s laws, rules, regulations, official policies, standards and  
28   specifications, including those enacted or imposed by a citizen-sponsored initiative or referendum or  
29   by the City Council directly or indirectly in connection with any proposed initiative or referendum,  
30   in each case to the extent amended or otherwise imposed following the Effective Date.

31   “*Official Policy*” shall mean a policy that is approved in accordance with the City’s normal practice  
32   for adopting policies, that is in writing, and that was adopted prior to the Effective Date of this  
33   Agreement or that is approved by the City Council and consistent with federal, state or local laws.

1 “Party/Parties” shall have the meaning set forth in the introductory paragraph preceding the  
2 Recitals of this Agreement.

3 “Planning Commission” shall mean the Planning Commission of the City.

4  
5 “Prevailing Wage Laws” shall have the meaning set forth in Section 4.2(a).

6  
7 “Processing Fees” shall have the meaning set forth in Section 5.3.

8 “Planning Manager” means the Planning Manager for the City.

9 “State Development Agreement Law” shall have the meaning set forth in Recital A.

10 “Subsequent Project Approvals” shall have the meaning set forth in Recital S.

11 “Subsequent Discretionary Approvals” means all other Subsequent Project Approvals other than  
12 Subsequent Ministerial Approvals, including amendments of the project approvals, improvement  
13 agreements, architectural review permits, use permits, lot line adjustments, subdivision maps,  
14 rezonings, development agreements, permits that are not Subsequent Ministerial Approvals,  
15 resubdivisions, and any amendments to, or repealing of, any of the foregoing.

16 “Subsequent Ministerial Approvals” means permits or approvals that are required by Applicable  
17 Law and that are to be issued upon compliance with uniform, objective standards and regulations.  
18 They include applications for road construction permits or authorizations; grading and excavation  
19 permits; building permits, including electrical, plumbing, mechanical, Title 24 Electrical, and Title  
20 24 Handicap permits or approvals; certificates of occupancy; encroachment permits; water  
21 connection permits; and any other similar permits required for the development and operation of the  
22 Project.

23 “Term” shall have the meaning set forth in Section 2.2.

24  
25 “Transfer” shall have the meaning set forth in Section 10.1.

26 **2. EFFECTIVE DATE AND TERM.**

27 2.1 Effective Date. This Agreement shall become effective upon the date that the ordinance  
28 approving this Agreement becomes effective (the “**Effective Date**”).

29 2.2 Term. The term (“**Term**”) of this Agreement shall be the Initial Term together with any  
30 Extended Term.

31 (a) Initial Term. The Term of this Agreement shall commence upon the Effective Date and shall  
32 extend for a period of five (5) years thereafter provided however this Agreement shall terminate with  
33 respect to the Corona Property upon the close of escrow on the Downtown SMART Property if the  
34 Developer has satisfied the City Benefit Conditions (“**Initial Term**”). The Initial Term has been  
35 established by the City and Developer as a reasonable estimate of the time required for the City to  
36 receive the public benefits set forth in Article 6 with respect to the Corona Project and to develop the  
37 Downtown Project.

1 (b) Extended Term. Provided neither City nor Developer have terminated this Agreement, or this  
2 Agreement has not expired in accordance with its terms, and Developer has fully complied with all  
3 terms of this Agreement, Developer may request in writing that City extend the Initial Term of this  
4 Agreement for an additional two-year period (“**Extended Term**”). Such written request must be  
5 delivered to City not earlier than two hundred seventy (270) days nor later than one hundred twenty  
6 (120) days prior to the termination date of the Initial Term.

7 (c) City Review of Request for Extended Term. Upon receipt of such request, City shall undertake a  
8 review of Developer’s good faith compliance with the terms of this Agreement in the same manner  
9 as set forth in Section 8.5 for a periodic review of this Agreement. Developer and City shall comply  
10 with the provisions of Section 8.5 with respect to such review so that it can be completed prior to the  
11 expiration of the Initial Term. If Developer has met all requirements of this Agreement in City’s  
12 reasonable discretion, City may approve such extension. If the Initial Term of this Agreement is  
13 extended in accordance with the provisions of this Section, City shall record an instrument giving  
14 notice of the Extended Term and the termination date thereof, provided that if this Agreement has  
15 terminated with respect to the Corona Property, such notice shall only be recorded against the  
16 Downtown SMART Property.

17 2.3 Expiration. Following the earlier of the expiration of the Term or the close of escrow on the  
18 Downtown SMART Property and satisfaction of the City Benefit Conditions in accordance with this  
19 Agreement, this Agreement shall be deemed terminated and of no further force and effect with  
20 respect to the Corona Property. Following the expiration of the Term, or the earlier completion of  
21 development of the Downtown Project, and all of Developer’s obligations in connection therewith,  
22 or the earlier termination of this Agreement in accordance with its terms, this Agreement shall be  
23 deemed terminated and of no further force and effect with respect to the Downtown Project, subject,  
24 however, to the provisions of Section 8 below.

25 2.4 Developer Representations and Warranties. Developer represents and warrants to City that, as of  
26 the Effective Date:

27 (a) Developer is owner in fee of the Corona Property;

28 (b) Developer is in contract with SMART to purchase the Downtown SMART Property pursuant to  
29 the Developer/SMART Agreement, the Developer/SMART Agreement remains in effect and  
30 Developer is in compliance in all material respects with the Developer/SMART Agreement

31 (c) Developer: (i) is organized and validly existing under the laws of the State of California; (ii) to  
32 the extent required, has qualified and been authorized to do business in the State of California and  
33 has complied with all requirements pertaining thereto; and (iii) to the extent required, is in good  
34 standing and has all necessary powers under the laws of the State of California to own property;

35 (d) No approvals or consents of any persons are necessary for the execution, delivery or performance  
36 of this Agreement by Developer, except as have been obtained;

37 (e) The execution and delivery of this Agreement have been duly authorized by all necessary  
38 corporate action; and

1 (f) This Agreement is a valid obligation of Developer and is enforceable in accordance with its  
2 terms.

3 **3. DEVELOPMENT OF THE PROPERTY.**

4 3.1 Vested Rights. The Corona Property and the Downtown SMART Property are hereby made  
5 subject to the provisions of this Agreement. Developer shall have the vested right to develop the  
6 Corona Property, and the Corona Project in accordance with and subject to the Corona Project  
7 Approvals, the Subsequent Project Approvals, Applicable Law and this Agreement, which shall  
8 control the permitted uses, density and intensity of use of the Corona Property and the maximum  
9 height and size of buildings on the Corona Property and the alternative inclusionary housing  
10 compliance for the Corona Property.

11 Developer shall, subject to obtaining the necessary entitlement for the development of the  
12 Downtown SMART Property, have the vested right to develop the Downtown SMART Property in  
13 accordance with the Downtown Alternative Inclusionary Compliance.

14 3.2 Applicable Law. City and Developer acknowledge and agree that City is restricted in its  
15 authority to limit its police power by contract and that the limitations, reservations and exceptions  
16 contained in this Agreement are intended to reserve to City all of its police power that cannot be so  
17 limited. Notwithstanding the foregoing reservation of City, it is the intent of City and Developer that  
18 this Agreement be construed to provide Developer with the maximum rights afforded by law,  
19 including but not limited to, the State Development Agreement Law and the City Development  
20 Agreement Requirements. Therefore, the laws, rules, regulations, official policies, standards and  
21 specifications of City applicable to the development of the Corona Property and/or the Corona  
22 Project shall be (collectively, "**Applicable Law**");

23 (a) Those rules, regulations, official policies, standards and specifications of the City set forth in the  
24 Corona Project Approvals and this Agreement;

25 (b) With respect to matters not addressed by and not otherwise inconsistent with the Corona Project  
26 Approvals and this Agreement, those laws, rules, regulations, official policies, standards and  
27 specifications (including City ordinances and resolutions) governing permitted uses, building  
28 locations, timing and manner of construction, densities, intensities of uses, heights and sizes, and  
29 requirements for on- and off-site infrastructure and public improvements, in each case only to the  
30 extent in full force and effect on the Effective Date;

31 (c) New City Laws that relate to hearing bodies, petitions, applications, notices, findings, records,  
32 hearings, reports, recommendations, appeals and any other matter of procedure imposed at any time,  
33 provided such New City Laws are uniformly applied on a City- wide basis to all substantially similar  
34 types of development projects and properties;

35 (d) New City Laws that revise City's uniform construction codes, including City's building code,  
36 plumbing code, mechanical code, electrical code, fire code, grading code and other uniform  
37 construction codes, as of the date of permit issuance, provided, that such New City Laws are  
38 uniformly applied on a City-wide basis to all substantially similar types of development projects and  
39 properties;

1 (e) New City Laws that are necessary to protect physical health and safety of the public, provided,  
2 that such New City Laws are uniformly applied on a City-wide basis to all substantially similar types  
3 of development projects and properties; and

4 (f) New City Laws that do not apply to the Corona Property and/or the Corona Project due to the  
5 limitations set forth above, but only to the extent that such New City Laws are accepted in writing by  
6 Developer in its sole discretion.

7 3.3 Regulation by Other Public Agencies. City and Developer acknowledge and agree that other  
8 governmental or quasi-governmental entities not within the control of City possess authority to  
9 regulate aspects of the development of the Corona Property, the Corona Project, the Downtown  
10 SMART Property and the Downtown Project, and that this Agreement does not limit the authority of  
11 such other public agencies. City shall cooperate with Developer in Developer's effort to obtain such  
12 permits and approvals as may be required by other governmental or quasi-governmental entities in  
13 connection with the development of, or the provision of services to, the Corona Property, the Corona  
14 Project, Downtown SMART Property and the Downtown Project; provided, however, City shall  
15 have no obligation to incur any costs, without compensation or reimbursement, or to amend any City  
16 policy, regulation or ordinance in connection therewith.

17 3.4 Life of Project Approvals. The term of any and all Corona Project Approvals shall automatically  
18 be extended for the longer of the Term or the term otherwise applicable to such Corona Project  
19 Approvals. The term of the Downtown Alternative Inclusionary Compliance shall be the Term of  
20 this Agreement. Without limiting the generality of the foregoing, pursuant to the Subdivision Map  
21 Act, any vesting or tentative maps heretofore or hereafter approved in connection with development  
22 of the Corona Project and the Corona Property shall be extended for the Term (and may be subject to  
23 other extensions provided under the Subdivision Map Act).

24 3.5 Developer's Right to Rebuild. City agrees that Developer may renovate or rebuild portions of the  
25 Corona Project at any time within the Term should it become necessary due to any casualty,  
26 including natural disaster or changes in seismic requirements. Such renovations or reconstruction  
27 shall be processed as a Subsequent Project Approval consistent with all prior Project Approvals and  
28 Applicable City Law. Any such renovation or rebuilding shall be subject to all design, density and  
29 other limitations and requirements imposed by this Agreement, and shall comply with the Project  
30 Approvals, Applicable City Law, and the requirements of CEQA.

31 3.6 State and Federal Law. As provided in Section 65869.5 of the State Development Agreement  
32 Law, this Agreement shall not preclude the applicability to the Corona Project or the Downtown  
33 Project of changes in laws, regulations, plans or policies, to the extent that such changes are  
34 specifically mandated and required by changes in State or Federal laws or by changes in laws,  
35 regulations, plans or policies of special districts or other governmental entities, other than City,  
36 created or operating pursuant to the laws of the State of California ("**Changes in the Law**"). In the  
37 event Changes in the Law prevent or preclude, or render substantially more expensive or time  
38 consuming, compliance with one (1) or more provisions of this Agreement, the City and Developer  
39 shall meet and confer in good faith in order to determine whether such provisions of this Agreement  
40 shall be modified or suspended, or performance thereof delayed, as may be necessary to comply with  
41 Changes in the Law. Nothing in this Agreement shall preclude City or Developer from contesting by  
42 any available means (including administrative or judicial proceedings) the applicability to the  
43 Corona Project or the Downtown Project any such Changes in the Law.



1 **4. DEVELOPMENT STANDARDS.**

2 4.1 Compliance with State and Federal Law. Developer, at its sole cost and expense, shall comply  
3 with requirements of, and obtain all permits and approvals required by, regional, State and Federal  
4 agencies having jurisdiction over the Corona Project and the Downtown Project.

5 4.2 Prevailing Wage Requirements.

6 (a) Developer acknowledges and agrees that all improvements paid for directly or indirectly with  
7 public funds will constitute construction, alteration, demolition, installation, or repair work done  
8 under contract and paid for in whole or in part out of public funds as provided under California  
9 Labor Code Section 1720. Accordingly, if and only to the extent applicable, Developer shall comply  
10 with, and cause its contractors and subcontractors to comply with, all State Labor Code requirements  
11 and implementing regulations of the Department of Industrial Relations pertaining to “public works”  
12 (collectively, “**Prevailing Wage Laws**”). Developer shall require the contractor(s) for the Corona  
13 Project, the Downtown Project, or any portion thereof involving any such publicly financed  
14 improvements, to submit, upon request by City or County, as applicable, certified copies of payroll  
15 records to City, and to maintain and make records available to City and its designees for inspection  
16 and copying to ensure compliance with Prevailing Wage Laws, as applicable. Developer shall also  
17 include in each of its contractor agreements with respect to any such publicly financed  
18 improvements, a provision in form acceptable to City, obligating the contractor to require its  
19 contractors and/or subcontractors to comply with Prevailing Wage Laws, as applicable, and to  
20 submit, upon request by City, certified copies of payroll records to City and to maintain and make  
21 such payroll records available to City and its designees for inspection and copying during regular  
22 business hours at the Property or at another location within City.

23 (b) Developer shall defend (with counsel chosen by the City), indemnify, assume all responsibility  
24 for, and hold harmless City and its officers, officials, employees, volunteers, agents and  
25 representatives from and against any and all present and future liabilities, obligations, orders, claims,  
26 damages, fines, penalties and expenses (including attorneys’ fees and costs) arising out of or in any  
27 way connected with Developer’s or its contractors’ obligations to comply with all Prevailing Wage  
28 Laws, including all claims that may be made by contractors, subcontractors or other third party  
29 claimants pursuant to Labor Code sections 1726 and 1781.

30 4.3 Sales Tax Point of Sale Designation. Developer shall request that all persons and entities  
31 providing bulk lumber, concrete, structural steel and pre-fabricated building components, such as  
32 roof trusses, to be used in connection with the construction and development of, or incorporated into,  
33 the Corona Project and/or the Downtown Project, designate City as the sole point-of-sale for  
34 purposes of computing sales taxes due under the Bradley-Burns Uniform Local Sales and Use Tax  
35 Law (California Revenue and Taxation Code sections 7200 *et seq.* and implementing regulations) on  
36 the sale of such bulk construction and building materials and components. Developer shall not be in  
37 default hereunder if such request is not agreed to by such persons and entities providing such  
38 materials to the Project.

39 **5. FEES AND EXACTIONS.**

40 5.1 Development Fees, Taxes and Exactions. Developer shall pay all fees, special assessments,  
41 special taxes, exactions and dedications payable due to the development, build out, occupancy and

1 use of the Corona Property and the Downtown Property pursuant to this Agreement including Impact  
2 Fees, Processing Fees, Taxes and Assessments, and Consultant Fees.

3 5.2 Impact Fees. Developer shall pay all development impact fees in effect and applicable to the  
4 Corona Project as of the Effective Date (“**Impact Fees**”). Impact fees shall be paid at the rate in  
5 effect as of the Effective Date with annual increases based on the Construction Cost Index from the  
6 Engineering News Report. The impact fees for the Downtown Project shall be those in effect and  
7 applicable to the Downtown Project when its project approvals are sought.

8 5.3 Processing Fees. City may charge and Developer agrees to pay all processing fees, application,  
9 inspection and monitoring fees, and staff and legal fees (“**Processing Fees**”), for land use approvals,  
10 grading and building permits, general plan maintenance fees, and other permits and entitlements,  
11 which are in force and effect on a City-wide basis at the time those permits, approvals or  
12 entitlements are applied for on any or all portions of the Corona Project and the Downtown Project,  
13 and which are intended to cover the actual costs of processing the foregoing.

14 5.4 Taxes and Assessments. City may charge and Developer agrees to pay any new, increased or  
15 modified taxes or assessments, imposed as a condition of or in connection with any Subsequent  
16 Project Approvals or otherwise, provided such taxes and assessments are equally applied on a City-  
17 wide basis and have a uniform effect on a broadly-based class of land, projects, or taxpayers, as  
18 applicable, within the City (“**Taxes and Assessments**”).

19 5.5 Consultant Fees. In addition to charging the foregoing Processing Fees, City may, in its sole  
20 discretion, contract with one or more outside inspectors, engineers, attorneys or consultants to  
21 perform all or any portion of the monitoring, inspection, testing, application processing and  
22 evaluation services to be performed in connection with construction and development of the Corona  
23 Project and/or the Downtown Project or in connection with the periodic review of the Agreement  
24 (“**Consultant Fees**”). Developer shall pay to City, within 30 days following City’s written demand  
25 therefore, the full amount of all Consultant Fees. City shall provide copies of consultant bills that  
26 City asks Developer to pay pursuant to this paragraph at the same time that the City submits an  
27 invoice seeking payment to Developer. In the event that a consultant bill contains attorney-client  
28 privileged communications, City may redact those portions of the consultant bill that are privileged.  
29 The Consultant Fees shall be in addition to, and not in lieu of, the Processing Fees. The City shall  
30 not double-charge Developer through the imposition of both Processing Fees and Consultant Fees.

31 **6. BENEFITS TO CITY.**

32 The following conditions regarding benefits to City related to the Corona Project and the Downtown  
33 Project (“**City Benefit Conditions**”) are essential consideration for this Agreement, without which  
34 the City would not have entered this Agreement and/or may have made different decisions regarding  
35 the Project Approvals for the Corona Project and the Downtown Alternative Inclusionary Housing  
36 Compliance. The City Benefit Conditions in Sections 6.1 and 6.2 must be satisfied by or before May  
37 15, 2020, which is the date set forth in the Developer/SMART Agreement for deposit of funds into  
38 escrow, provided, however, if the date for deposit of funds in the Developer/SMART Agreement is  
39 extended, the date for satisfaction of the City Benefit Conditions shall also be extended. Satisfaction  
40 of the City Benefit Conditions is dependent upon in part the City taking certain actions, including  
41 entering into the City/SMART Agreement and approving the Corona Final Map, Corona Use Permit  
42 and Corona SPAR for the Corona Project. If Developer fails to satisfy the City Benefit Conditions

1 in Sections 6.1 and 6.2 by the close of escrow on the Downtown SMART Property and the City's  
2 condition precedents to the satisfaction of the City Benefit Conditions have been satisfied, then,  
3 unless the City and Developer otherwise agree in writing by amendment to this Agreement in  
4 accordance with its terms, the City may pursue any of its remedies in accordance with Section 8  
5 against Developer and/or any successor owner(s) of the Corona Property. Without limiting  
6 Developer's obligations under Section 10.2 of this Agreement, Developer's obligations to satisfy the  
7 City Benefit Conditions and the City's remedies for breach of such obligations shall be covenants  
8 running with the Corona Property in accordance with Section 10.2 unless and until satisfied.  
9 Developer's obligations to satisfy the conditions in sections 6.1 and 6.2 of this Agreement are  
10 subject to the City providing the payment specified in Section 6.1(a) into escrow in accordance with  
11 that provision. Once the City Benefit Conditions in Sections 6.1 and 6.2 are satisfied, they shall  
12 cease to be covenants running with the Corona Property in accordance with Section 10.2 and this  
13 Agreement shall terminate with respect to the Corona Property subject, however, to the provisions of  
14 Section 8 below.

15 6.1 Payment to SMART. In accordance with Section 9(c) of the Developer/SMART Agreement,  
16 Developer is obligated to deposit into escrow \$8 million, \$2 million of which is to be paid by the  
17 City in accordance with subsection (a) below and \$500,000 of which has already been deposited, as  
18 payment for the Downtown SMART Property, which funds will be used to fund the cost of  
19 constructing the Second Petaluma Station in accordance with this section. Developer must cause  
20 deposit into escrow for SMART \$5.5 million.

21 (a) If, and only if, City and SMART have executed the City/SMART Agreement providing for  
22 allocation of \$2 million of the \$8 million Developer must pay SMART for the Downtown SMART  
23 Property to fund the Second Petaluma Station improvements that will provide traffic relief in  
24 Petaluma via commuter use of the Second Petaluma Station, and obligating SMART to construct the  
25 Second Petaluma Station without further financial contribution by the City, then, by or before May  
26 17, 2020, City will deposit into the escrow established for Developer's purchase of the Downtown  
27 SMART Property pursuant to the Developer/SMART Agreement \$2 million sourced at least in part  
28 from City traffic impact fee proceeds for the Second Petaluma Station improvements. In the event  
29 City and SMART are unable to reach agreement on the City/SMART agreement in accordance with  
30 this provision, despite City's reasonable efforts to do so, then City's obligation to provide a \$2  
31 million payment to Developer pursuant to this Agreement is excused, without City liability of any  
32 kind, notwithstanding any provision of this Agreement to the contrary, and Developer and/or City  
33 may terminate this Agreement in accordance with its terms.

34 (b) To satisfy this condition, Developer's payment to SMART must be at the time and in the manner  
35 and in all respects in accordance with the Developer/SMART Agreement. Provided that the City  
36 has approved the Corona Final Map, the Corona Use Permit and the Corona SPAR for the Corona  
37 Project, and timely paid into escrow \$2 million sourced at least in part from City traffic impact fee  
38 proceeds for the Second Petaluma Station improvements, Developer's payment of the purchase price  
39 for the Downtown SMART Property in accordance with the Developer/SMART Agreement must  
40 occur by or before May 15, 2020. Developer must provide City with verification, reasonably  
41 satisfactory to the City, of the deposit of all funds required from Developer under the  
42 Developer/SMART Agreement in satisfaction of this condition.

43 6.2 Dedication of 1.27 acres to SMART. Provided that the City has approved the Corona Final Map  
44 for the Corona Project, the Developer must dedicate to SMART approximately 1.27 acres of land at

1 the corner of McDowell Boulevard and Corona road in Petaluma for construction of improvements  
2 for the Second Petaluma Station. To satisfy this condition, Developer's dedication to SMART of  
3 approximately 1.27 acres of land must be at the time and in the manner and in all respects in  
4 accordance with the Developer/SMART Agreement. In any case, Developer's dedication of  
5 approximately 1.27 acres of land to SMART must occur by or before May 15, 2020. Developer  
6 must provide City with verification reasonably satisfactory to the City, of dedication to SMART of  
7 approximately 1.27 acres of land, which verification may be accomplished via a dedication of  
8 property pursuant to the Final Subdivision Map.

9 6.3 Project sustainability standards. Developer agrees that the Corona Project will be subject to  
10 sustainability standards greater than those in existing code requirements in that the Corona Project  
11 shall be all-electric, without any natural gas infrastructure, shall include installation of photovoltaic  
12 panels on each residential unit, and shall include installation of an electric vehicle charger in each  
13 garage. Developer agrees that the Downtown Project will also be subject to sustainability standards  
14 greater than those in existing code requirements in that the Downtown Project shall be all electric,  
15 without any natural gas infrastructure.

16 6.4 Alternative inclusionary housing compliance for the Corona Project. In satisfaction of the  
17 inclusionary housing requirements prescribed by Section 3.040 of the IZO, the City will accept the  
18 Corona Project including a mix of affordable units such that 10% of the residential units are  
19 affordable to persons of moderate income level, and 5% of the units are affordable to persons of low  
20 income level, with all of the Corona Project affordable units provided as single family attached units  
21 with an affordability term of at least 99 years.

22 6.5 Alternative inclusionary housing compliance for the Downtown Project. In satisfaction of the  
23 inclusionary housing requirements prescribed by Section 3.040 of the IZO, the City will accept  
24 alternative compliance to satisfy the inclusionary housing requirements for the Downtown Station  
25 Residential Project including eleven (11) low income units consisting of two (2) studio units, six (6)  
26 one bedroom units, and three (3) two bedroom units, dispersed throughout the Downtown Project  
27 (not clustered) and constructed as part of the Downtown Project, donation of 2.5 acres of  
28 developable property at 1601 Petaluma Boulevard South, A.P.Ns.019-210-039, 019-210-010, and  
29 019-210-038, for development of affordable housing, and payment of housing in-lieu fees of  
30 \$862,208.

31 6.6 Public Improvements. Developer shall construct public improvements that are requirements of  
32 the Corona Project Approvals in accordance with the City's standards and specifications and plans  
33 and specifications to be approved by City, in City's sole discretion, pursuant to the Project  
34 Approvals and the conditions of approval set forth therein.

## 35 **7. COOPERATION AND IMPLEMENTATION.**

36 7.1 Subsequent Project Approvals. Developer and City acknowledge and agree that Developer may  
37 submit applications for Subsequent Project Approvals. In connection with any Subsequent Project  
38 Approval, the City shall exercise its discretion in accordance with Applicable Law, the Corona  
39 Project Approvals and the Downtown Alternative Inclusionary Compliance and, as provided by this  
40 Agreement.

41 7.2 Processing Applications for Subsequent Project Approvals.

1 (a) Developer acknowledges that City cannot begin processing applications for Subsequent Project  
2 Approvals until Developer submits complete applications on a timely basis. Developer shall use its  
3 best efforts to (i) provide to City in a timely manner any and all documents, applications, plans, and  
4 other information necessary for City to carry out its obligations hereunder; and (ii) cause  
5 Developer’s planners, engineers, and all other consultants to provide to City in a timely manner all  
6 such documents, applications, plans and other materials required under Applicable Law. It is the  
7 express intent of Developer and City to cooperate and diligently work to obtain any and all  
8 Subsequent Project Approvals.

9 (b) Upon submission by Developer of all appropriate applications and processing fees for any  
10 pending Subsequent Project Approval, City shall, as allowed by law, reasonably and diligently,  
11 subject to City ordinances, policies and procedures regarding hiring and contracting, commence and  
12 complete all steps necessary to act on Developer’s currently pending Subsequent Project Approval  
13 applications.

14 (d) Nothing herein shall limit the ability of City to require the necessary environmental review,  
15 reports, analysis or studies to assist in determining that the requested Subsequent Ministerial  
16 Approval is consistent with this Agreement and the Corona Project Approvals. If the City determines  
17 that an application for a Subsequent Ministerial Approval is not consistent with this Agreement or  
18 the Corona Project Approvals and should be processed as an application for a Subsequent  
19 Discretionary Approval rather than a Subsequent Ministerial Approval, the City shall specify in  
20 writing the reasons for such determination and may propose a modification which would be  
21 processed as a Subsequent Ministerial Approval. Developer shall then either modify the application  
22 to conform to this Agreement and the Corona Project Approvals, as the case may be, or the City  
23 shall process the application as an application for a Subsequent Discretionary Approval.

24 (e) City shall process Developer’s applications for Subsequent Project Approvals to the fullest extent  
25 allowed by Applicable Law and Developer may proceed with Subsequent Project Approvals as  
26 provided for herein to the fullest extent allowed by Applicable Law.

27 7.3 Amendment of this Agreement. This Agreement may be amended from time to time, in whole or  
28 in part, by mutual written consent of the Parties or their successors in interest, as follows:

29 (a) Administrative Agreement Amendments. Any amendment to this Agreement which does not  
30 substantially affect (a) the Term of this Agreement; (b) permitted uses of the Corona Property; (c)  
31 provisions for the reservation or dedication of land; (d) conditions, terms restrictions or requirements  
32 for subsequent discretionary actions; (e) increases in the density or intensity of the use of the Corona  
33 Property or the maximum height or size of proposed buildings; (f) the Downtown Alternative  
34 Inclusionary Housing Compliance or (g) monetary contributions by Developer, shall be deemed an  
35 “**Administrative Agreement Amendment**” and the City Manager, except to the extent otherwise  
36 required by Applicable Law, may approve the Administrative Agreement Amendment without  
37 notice and public hearing.

38 (b) Major Agreement Amendments. Any amendment to this Agreement which is determined not to  
39 be an Administrative Agreement Amendment as set forth above shall be deemed a “**Major**  
40 **Agreement Amendment**” and shall require giving of notice and a public hearing before the  
41 Planning Commission and City Council in accordance with Applicable Law. The City Manager shall

1 have the authority to determine if an amendment is a Major Agreement Amendment or an  
2 Administrative Agreement Amendment.

3 7.4 Mitigation Measures. Developer shall comply with all mitigation measures in the Corona Project  
4 MMRP. Developer shall comply with all additional mitigation measures imposed as a result of the  
5 Corona IS/MND.

6 7.5 Cooperation in the Event of Legal Challenge.

7 (a) City and Developer, at Developer's sole cost and expense, shall cooperate in the event of any  
8 court action instituted by a third party or other governmental entity or official challenging the  
9 validity of any provision of this Agreement, any Corona Project Approvals, any Subsequent Project  
10 Approvals or the Downtown Alternative Inclusionary Compliance and City shall appear in the action  
11 and defend its decision, except that City shall not be required to be an advocate for Developer. To  
12 the extent that Developer determines to contest or defend such litigation challenges, Developer shall  
13 reimburse City, within ten (10) days following City's written demand therefore, which may be made  
14 from time to time during the course of such litigation, all costs incurred by City in connection with  
15 the litigation challenge, including City's administrative, legal and court costs, provided that City, at  
16 its sole discretion shall determine to either: (a) elect to joint representation by Developer's counsel;  
17 or (b) retain an experienced litigation attorney. If Developer defends any such legal challenge,  
18 Developer shall indemnify, defend, and hold harmless City and its officials and employees from and  
19 against any claims, losses, or liabilities assessed or awarded against City by way of judgment,  
20 settlement, or stipulation. Nothing herein shall authorize Developer to settle such legal challenge on  
21 terms that would constitute an amendment or modification of this Agreement, any Corona Project  
22 Approvals, any Subsequent Project Approvals or the Downtown Alternative Inclusionary  
23 Compliance, unless such amendment or modification is approved by City in accordance with  
24 applicable legal requirements, and City reserves its full legislative discretion with respect thereto.

25 (b) In addition, City shall have the right, but not the obligation, to contest or defend such litigation  
26 challenges in the event the Developer elects not to do so. If the City elects to contest or defend such  
27 litigation challenges and is successful, Developer shall be bound by the terms of this Agreement and  
28 shall be responsible for the City's reasonable attorneys' fees and costs of such contest or defense.

29 7.6 Indemnity and Hold Harmless. Developer shall indemnify and hold City and its elected and  
30 appointed officers, agents, employees, and representatives harmless from and against any and all  
31 claims, costs, liabilities and damages (including attorneys' fees and costs), including without  
32 limitation bodily injury, death, or property damage, resulting directly or indirectly from the approval  
33 or implementation of this Agreement, the development and construction of the Corona Project or the  
34 Downtown Project by or on behalf of Developer, or from any operations performed under this  
35 Agreement, whether such operations were performed by Developer or any of Developer's  
36 contractors, subcontractors, agents, employees, except to the extent such claims, costs and liabilities  
37 arise from the active negligence or willful misconduct of City, its elected and appointed officers,  
38 agents, employees, representatives, contactors or subcontractors.

## 39 **8. DEFAULT AND REMEDIES.**

40 8.1 Breach. Subject to extensions of time under this Agreement or by mutual consent in writing, the  
41 failure or delay by either Party to perform any term or provision of this Agreement shall constitute a

1 breach of this Agreement. In the event of alleged breach of any terms or conditions of this  
2 Agreement, the Party alleging such breach shall give the other Party notice in writing specifying the  
3 nature of the breach and the manner in which said breach or default may be satisfactorily cured, and  
4 the Party in breach shall have thirty (30) days following such notice (“**Cure Period**”) to cure such  
5 breach, except that in the event of a breach of an obligation to make a payment, the Party in breach  
6 shall have ten (10) days to cure the breach. If the breach is of a type that cannot be cured within  
7 thirty (30) days, the breaching Party shall, within a thirty (30) day period following notice to the  
8 non-breaching Party, notify the non-breaching Party of the time it will take to cure such breach  
9 which shall be a reasonable period under the circumstances (“**Extended Cure Period**”); commence  
10 to cure such breach; and be proceeding diligently to cure such breach. During the Cure Period or  
11 Extended Cure Period, the Party charged shall not be considered in default for purposes of  
12 termination or institution of legal proceedings, but the City's right to refuse to issue a permit or  
13 Subsequent Project Approval under Section 8.3, shall not be limited by this provision. The failure of  
14 any Party to give notice of any breach shall not be deemed to be a waiver of that Party's right to  
15 allege any other breach at any other time.

16 8.2 Default. If the breaching Party has not cured such breach within the Cure Period or the Extended  
17 Cure Period, if any, such Party shall be in default (“**Default**”), and the non-breaching Party, at its  
18 option, may terminate the Agreement, institute legal proceedings pursuant to this Agreement and  
19 shall have such remedies as are set forth in Section 8.4 below.

20 8.3 Withholding of Permits. In the event of a Default by Developer, City shall have the right to  
21 refuse to issue any permits or other approvals to which Developer would otherwise have been  
22 entitled pursuant to this Agreement. This provision is in addition to and shall not limit any actions  
23 that City may take to enforce the conditions of the Project Approvals.

24 8.4 Remedies.

25 (a) In the event of a Default by City or Developer, the non-defaulting Party shall have the right to  
26 terminate this Agreement upon giving notice of intent to terminate pursuant to Government Code  
27 Section 65868 and regulations of City implementing such section. Following notice of intent to  
28 terminate, the matter shall be scheduled for consideration and review in the manner set forth in  
29 Government Code Section 65867 and City regulations implementing said section. Following  
30 consideration of the evidence presented in said review before the City Council, either Party alleging  
31 Default by the other Party may give written notice of termination of this Agreement to the other  
32 Party. Termination of this Agreement shall be subject to the provisions of Section 8.8 below.

33 (b) City and Developer agree that in the event of Default by City, the Parties intend that the only  
34 remedy shall be termination of this Agreement, declaratory relief or specific performance of this  
35 Agreement. The Parties further agree that in the event of Default by Developer, the City's primary  
36 remedy would be specific performance of the terms and provisions of this Agreement or termination  
37 or expiration of this Agreement. In no event shall either Party be entitled to any actual,  
38 consequential, punitive, or special damages. If City issues an Approval pursuant to this Agreement  
39 in reliance upon a specified condition being satisfied by Developer in the future, and if Developer  
40 then fails to satisfy such condition, City shall be entitled to specific performance for the purpose of  
41 causing Developer or any successor to satisfy such condition or to revoke or repeal or otherwise  
42 rescind such approval, or to terminate this Agreement, in the City's sole discretion and in accordance  
43 with applicable law.

1 (c) In addition to any other rights or remedies, either Party may institute legal or equitable action to  
2 cure, correct or remedy any Default, to enforce any covenants or agreements herein, to enjoin any  
3 threatened or attempted violation hereof, or to obtain any other remedies consistent with the purpose  
4 of this Agreement except as limited by Section 8.4(b) above. Any such legal action shall be brought  
5 in the Superior Court for Sonoma County, California.

6 8.5 Periodic Review.

7 (a) The annual review date for this Agreement shall be the month and day of the Effective Date. No  
8 later than 60 calendar days prior to the annual review date, Developer shall submit to the City an  
9 accounting of the fees due and paid to the City, any assignments or transfers of the Corona Property  
10 and all construction of public improvements under this Agreement or the Downtown Property.  
11 Developer shall initiate the annual review by submitting a written request to the Planning Manager.  
12 Developer shall submit an application and pay all legally required fees as required by the City and  
13 provide evidence as determined necessary by the Planning Manager to demonstrate good faith  
14 compliance with the provisions of this Agreement. However, failure to initiate the annual review  
15 within 30 days of receipt of written notice to do so from City shall not constitute a Default by  
16 Developer under this Agreement, unless City has provided actual notice and opportunity to cure and  
17 Developer has failed to so cure.

18 (b) Failure of City to conduct an annual review shall not constitute a waiver by the City of its rights  
19 to otherwise enforce the provisions of this Agreement nor shall Developer have or assert any defense  
20 to such enforcement by reason of any such failure to conduct an annual review.

21 8.6 Enforced Delay; Extension of Time of Performance. Subject to the limitations set forth below,  
22 performance by either party hereunder shall not be deemed to be in default, and all performance and  
23 other dates specified in this Agreement shall be extended, where delays are due to: war; insurrection;  
24 strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy;  
25 epidemics; quarantine restrictions; freight embargoes; governmental restrictions or priority;  
26 litigation; unusually severe weather; acts or omissions of the other Party; or acts or failures to act of  
27 any other public or governmental agency or entity (other than the acts or failures to act of City which  
28 shall not excuse performance by City). An extension of time for any such cause shall be for the  
29 period of the enforced delay and shall commence to run from the time of the commencement of the  
30 cause but in any event shall not exceed a cumulative total of two (2) years. Developer acknowledges  
31 that adverse changes in economic conditions, either of Developer specifically or the economy  
32 generally, changes in market conditions or demand, and/or inability to obtain financing or other lack  
33 of funding to complete the work of on-site and off-site improvements shall not constitute grounds of  
34 enforced delay pursuant to this Section. Developer expressly assumes the risk of such adverse  
35 economic or market changes and/or financial inability, whether or not foreseeable as of the Effective  
36 Date.

37 8.7 Resolution of Disputes. With regard to any dispute involving the Project, the resolution of which  
38 is not provided for by this Agreement, or Applicable Law, Developer shall, at City's request, meet  
39 with City. The parties to any such meetings shall attempt in good faith to resolve any such disputes.  
40 Nothing in this Section shall in any way be interpreted as requiring that Developer and City reach  
41 agreement with regard to those matters being addressed, nor shall the outcome of these meetings be  
42 binding in any way on City or Developer unless expressly agreed to by the parties to such meetings.



1 8.8 Termination. This Agreement shall terminate upon the earlier of (i) expiration of the Term, or (ii)  
2 after all appeals have been exhausted before a final court of judgment, or issuance of a final court  
3 order directed to the City to set aside, withdraw, or abrogate the City’s approval of this Agreement  
4 or any material part thereof. Upon termination of this Agreement as to the Corona Property or the  
5 Downtown SMART Property, at the request of Developer, the City shall record a Notice of  
6 Termination for each affected parcel in a form satisfactory to the City Attorney in the Office of the  
7 Sonoma County Recorder. In the event this Agreement is terminated, neither party shall have any  
8 further rights or obligations hereunder, except for those obligations of Developer set forth in  
9 Sections 4.2 (Prevailing Wage), 7.5 (Cooperation in the Event of Legal Challenge), and 7.6  
10 (Indemnity and Hold Harmless), which sections shall survive the termination of this Agreement.

11 **9. MORTGAGEE PROTECTION; CERTAIN RIGHTS OF CURE.**

12 9.1 Mortgagee Protection. This Agreement shall be superior and senior to all liens placed upon the  
13 Property or any portion thereof after the date on which this Agreement or a memorandum thereof is  
14 recorded, including the lien of any deed of trust or mortgage (“**Mortgage**”). Notwithstanding the  
15 foregoing, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage  
16 made in good faith and for value, but all of the terms and conditions contained in this Agreement  
17 shall be binding upon and effective against all persons and entities, including all deed of trust  
18 beneficiaries or mortgagees (“**Mortgagees**”) who acquire title to the Property or any portion thereof  
19 by foreclosure, trustee’s sale, deed in-lieu-of foreclosure, voluntary transfer or otherwise.

20 9.2 Mortgagee Obligations. City, upon receipt of a written request from a foreclosing Mortgagee,  
21 shall permit the Mortgagee to succeed to the rights and obligations of Developer under this  
22 Agreement, provided that all defaults by Developer hereunder that are reasonably susceptible of  
23 being cured are cured by the Mortgagee as soon as reasonably possible, provided, however, that in  
24 no event shall such Mortgagee personally be liable for any defaults or monetary obligations of  
25 Developer arising prior to acquisition of possession of such property by such Mortgagee. The  
26 foreclosing Mortgagee shall have the right to find a substitute developer to assume the obligations of  
27 Developer, which substitute shall be considered for approval by the City pursuant this Agreement. In  
28 any event, a Mortgagee shall not be entitled to devote the Property to any use except in full  
29 compliance with the Project Approvals nor to construct any improvements thereon or institute any  
30 uses other than those uses or improvements provided for or authorized by the Agreement or the  
31 Project Approvals.

32 9.3 Notice of Default to Mortgagee. If City receives notice from a Mortgagee requesting a copy of  
33 any notice of default given to Developer and specifying the address for service thereof, City shall  
34 endeavor to deliver to the Mortgagee, concurrently with service thereof to Developer, all notices  
35 given to Developer describing all claims by the City that Developer has defaulted hereunder. If City  
36 determines that Developer is not in compliance with this Agreement, City also shall endeavor to  
37 serve notice of noncompliance on the Mortgagee concurrently with service on Developer. Each  
38 Mortgagee shall have the right, but not the obligation, during the same period available to Developer  
39 to cure or remedy, or to commence to cure or remedy, the condition of default claimed or the areas  
40 of noncompliance set forth in City’s notice.

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1 **10. ASSIGNABILITY.**

2 10.1 Assignment by Developer. Developer may not convey, assign or transfer (“**Transfer**”) any of  
3 its interests, rights or obligations under this Agreement without the prior written consent of City  
4 prior to satisfaction of the City Benefit Conditions, which consent shall not be unreasonably  
5 withheld or delayed. Any Transfer after the satisfaction of the City Benefit Conditions shall not  
6 require the consent of the City. Any Transfer of all or a portion of this Agreement shall be  
7 documented by an Assignment and Assumption Agreement in a form reasonably acceptable to the  
8 City. In no event shall the obligations conferred upon Developer under this Agreement be transferred  
9 except through a transfer of all or a portion of the Corona Property and/or the Downtown Property.  
10 During the Term, Developer shall provide City with written notice of a Transfer of any interest in  
11 this Agreement forty-five (45) days prior to any such Transfer, and if such Transfer requires the City  
12 consent, the notice of Transfer shall be accompanied by quantitative and qualitative information that  
13 substantiates, to the City's satisfaction, that the proposed transferee has the capability to fulfill the  
14 rights and obligations of this Agreement. Within thirty (30) days of such a request and delivery of  
15 information, the City Manager shall approve or disapprove any Transfer requiring City approval.  
16 Each successor in interest to Developer shall be bound by all of the terms and provisions applicable  
17 to the portion of the Property acquired. This Agreement shall be binding upon and inure to the  
18 benefit of the Parties’ successors, assigns and legal representatives. This Agreement shall be  
19 recorded by the City in the Sonoma County Recorder’s Office promptly upon execution by each of  
20 the Parties.

21 10.2 Covenants Run With The Land. All of the provisions, agreements, rights, powers, standards,  
22 terms, covenants and obligations contained in this Agreement shall run with the land and shall be  
23 binding upon the Parties and their respective heirs, successors (by merger, consolidation or  
24 otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or  
25 entities acquiring the Property, any lot, parcel or any portion thereof and any interest therein,  
26 whether by sale, operation of law or other manner, and shall inure to the benefit of the Parties and  
27 their respective successors.

28 10.4 Non-Assuming Transferees. Except as otherwise required by a transferor, the burdens,  
29 obligations and duties of such transferor under this Agreement shall not apply to any purchaser of  
30 any individual house offered for sale. The transferee in a transaction described above and the  
31 successors and assigns of such a transferee shall be deemed to have no obligations under this  
32 Agreement but shall continue to benefit from the vested rights provided by this Agreement for the  
33 duration of the Term hereof. Nothing in this Section shall exempt any property transferred to a non-  
34 assuming transferee from payment of applicable fees, taxes and assessments or compliance with  
35 applicable conditions of approval.

36 10.5 Foreclosure. Nothing contained in this Section shall prevent a transfer of the Corona Property,  
37 or any portion thereof, to a lender as a result of a foreclosure or deed in lieu of foreclosure, and any  
38 lender acquiring the Corona Property, or any portion thereof, as a result of foreclosure or a deed in  
39 lieu of foreclosure shall take such Corona Property subject to the rights and obligations of Developer  
40 under this Agreement; provided, however, in no event shall such lender be liable for any defaults or  
41 monetary obligations of Developer arising prior to acquisition of title to the Corona Property by such  
42 lender, and provided further, in no event shall any such lender or its successors or assigns be entitled  
43 to a Building Permit or occupancy certificate until all fees due under this Agreement (relating to the  
44 portion of the Corona Property acquired by such lender) have been paid to City.

1 **11. GENERAL.**

2 11.1 Controlling Law. This Agreement shall be governed by the laws of the State of California,  
3 without reference to choice of laws principles.

4 11.2 Construction of Agreement. The language in this Agreement in all cases shall be construed as a  
5 whole and in accordance with its fair meaning. Each reference in this Agreement to this Agreement  
6 or any of the Corona Project Approvals or Subsequent Ministerial or Discretionary Approvals shall  
7 be deemed to refer to the Agreement, Corona Project Approval or Subsequent Ministerial or  
8 Discretionary Approval as it may be amended from time to time, whether or not the particular  
9 reference refers to such possible amendment. Section headings in this Agreement are for  
10 convenience only and are not intended to be used in interpreting or construing the terms, covenants  
11 or conditions of this Agreement. This Agreement has been reviewed and revised by legal counsel for  
12 both City and Developer, and no presumption or rule that ambiguities shall be construed against the  
13 drafting party shall apply to the interpretation or enforcement of this Agreement. Unless the context  
14 clearly requires otherwise, (i) the plural and singular numbers shall each be deemed to include the  
15 other; (ii) the masculine, feminine, and neuter genders shall each be deemed to include the others;  
16 (iii) "shall," "will," or "agrees" are mandatory, and "may" is permissive; (iv) "or" is not exclusive;  
17 (v) "include," "includes" and "including" are not limiting and shall be construed as if followed by  
18 the words "without limitation," and (vi) "days" means calendar days unless specifically provided  
19 otherwise.

20 11.3 No Waiver. No delay or omission by the City or Developer in exercising any right or power  
21 accruing upon the other Party's noncompliance or failure to perform under the provisions of this  
22 Agreement shall impair or be construed to waive any right or power. A waiver by City or Developer  
23 of any of the covenants or conditions to be performed by the other Party shall not be construed as a  
24 waiver of any succeeding breach of the same or other covenants and conditions.

25 11.4 Agreement is Entire Agreement. This Agreement and all exhibits attached hereto or documents  
26 incorporated herein by reference, are the sole and entire agreement between the Parties concerning  
27 the Property. The Parties acknowledge and agree that they have not made any representation with  
28 respect to the subject matter of this Agreement or any representations inducing the execution and  
29 delivery, except representations set forth herein, and each Party acknowledges that it has relied on its  
30 own judgment in entering this Agreement. The Parties further acknowledge that all statements or  
31 representations that heretofore may have been made by either of them to the other are void and of no  
32 effect, and that neither of them has relied thereon in its dealings with the other.

33 11.5 Estoppel Certificate. City or Developer from time to time may deliver written notice to the  
34 other Party requesting written certification that, to the knowledge of the certifying Party, (i) this  
35 Agreement is in full force and effect and constitutes a binding obligation of the Parties, (ii) this  
36 Agreement has not been amended or modified either orally or in writing, or, if it has been amended  
37 or modified, specifying the nature of the amendments or modifications, and, (iii) the requesting Party  
38 does not have knowledge of default in the performance of its obligations under this Agreement, or if  
39 in known default, describing therein the nature and monetary amount, if any, of the default.

40 11.6 Further Documents. Each Party shall execute and deliver to the other all other instruments and  
41 documents as may be reasonably necessary to carry out this Agreement.

1 11.7 Time of Essence. Time is of the essence in the performance of each and every covenant and  
2 obligation to be performed by the Parties hereunder.

3 11.8 Construction. This Agreement has been reviewed and revised by legal counsel for both the City  
4 and Developer and no presumption or rule that ambiguities shall be construed against the drafting  
5 Party shall apply to the interpretation or enforcement of this Agreement.

6 11.9 Notices. Except as otherwise expressly provided herein, all notices and demands pursuant to  
7 this Agreement shall be in writing and delivered in person, by commercial courier or by first-class  
8 certified mail, postage prepaid. Except as otherwise expressly provided herein, notices shall be  
9 considered delivered when personally served, upon delivery if delivered by commercial courier, or  
10 two (2) days after mailing if sent by mail. Notices shall be sent to the addresses below for the  
11 respective Parties; provided, however, that any Party may change its address for purposes of this  
12 Section by giving written notice to the other Parties. These addresses may be used for service of  
13 process:

14 City:

15 Peggy Flynn

16 City of Petaluma  
17 11 English Street  
18 Petaluma, California 94952

19 with copy to:

20 Claire Cooper

21 City Clerk  
22 City of Petaluma  
23 11 English Street  
24 Petaluma, California 94952

25 Developer:

26 Todd Kurtin

27 with copy to:

28 The provisions of this Section shall be deemed directive only and shall not detract from the validity  
29 of any notice given in a manner that would be legally effective in the absence of this Section.

30 11.10 Developer is an Independent Contractor. Developer is not an agent or employee of City, but is  
31 an independent contractor with full rights to manage its employees subject to the requirements of the  
32 law. All persons employed or utilized by Developer in connection with this Agreement are  
33 employees or contractors of Developer and shall not be considered employees of City in any respect.

1 11.11 No Joint Venture. It is specifically understood and agreed that the Project is a private  
2 development. No partnership, joint venture or other association of any kind between City and  
3 Developer is formed by this Agreement.

4 11.12 Nondiscrimination. Developer shall not discriminate, in any way, against any person on the  
5 basis of race, color, national origin, gender, marital status, sexual orientation, age, creed, religion or  
6 disability in connection with or related to the performance of this Agreement.

7 11.13 No Third Party Beneficiary. This Agreement shall not be construed or deemed to be an  
8 Agreement for the benefit of any third party or parties, and no third party or parties shall have any  
9 claim or right of action hereunder for any cause whatsoever.

10 *[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]*

11 IN WITNESS WHEREOF, this Agreement has been entered into by and between the Parties as of  
12 the Effective Date.

13 **CITY:**  
14 **City of Petaluma**, a California municipal corporation and charter city

15 By:  
16 Peggy Flynn, City Manager

17 APPROVED AS TO FORM:

18 By:  
19 Eric W. Danly, City Attorney

20 ATTEST:

21 By:  
22 Claire Cooper, City Clerk

23 **DEVELOPER:**  
24 **Corona Station, LLC**, a California limited liability company

25 By:  
26 Todd Kurtin

27 **Lomas SMART, LLC**, a California limited liability company  
28 By:  
29 Todd Kurtin,

1 EXHIBIT A

2 **PROPERTY LEGAL DESCRIPTION**

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1 EXHIBIT B

2 **DEPICTION OF IMPROVEMENTS**

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1 EXHIBIT C

2 RECORDING REQUESTED BY AND WHEN RECORDED MAIL TO:

3 **PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT**

4 \_\_\_\_\_

5 Attention:

6 \_\_\_\_\_

7 (Space Above For Recorder's Use)

8 **PARTIAL ASSIGNMENT AND ASSUMPTION**  
9 **OF DEVELOPMENT AGREEMENT AND CONSENT OF CITY**

10 THIS PARTIAL ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT AND  
11 CONSENT OF CITY (this "**Assignment**") is made effective as of \_\_\_\_\_, 20\_\_ (the  
12 "**Effective Date**"), by and between Lomas SMART, LLC, a California limited liability company  
13 ("**Assignor**") and \_\_\_\_\_, a  
14 \_\_\_\_\_ ("**Assignee**"), with reference to the following:

15 **RECITALS**

16 A. That certain real property described in Exhibit A, attached hereto and incorporated  
17 herein by reference, (the "**Property**"), is subject to that certain development agreement entered by  
18 and between the City and Assignor, which was approved pursuant to Ordinance No.  
19 "**Agreement**").

20 B. Assignor has now entered into an with Assignee, dated as of \_\_\_\_\_(the "**Purchase**  
21 **Agreement**"), pursuant to which, among other things, Assignor has agreed to transfer and convey to  
22 Assignee all of Assignor's rights in and to the portion of the Property described in Exhibit B  
23 attached hereto (the "**Assigned Property**"), and cause Assignor to assign to Assignee certain rights,  
24 title and interest in and to the Development Agreement to the extent relating to the Property in  
25 accordance with the Development Agreement and entitlements referred to therein is referred to  
26 herein as the "Project." That portion of the Property that is not the Assigned Property or has been  
27 otherwise assigned by Assignor in accordance with the Development Agreement is referred to herein  
28 as the "**Remaining Property**."

29 NOW, THEREFORE, Assignor and Assignee agree as follows:

30 1. Assignment. For and in consideration of the mutual covenants and agreements contained in this  
31 Assignment, and other good and valuable consideration, the receipt and adequacy of which is  
32 acknowledged, Assignor assigns to Assignee only the following rights and obligations (referred to  
33 herein as the "**Assigned Rights and Obligations**") as these pertain to the Assigned Property:



- 1 1. (a) [insert applicable sections of the DA]; and
- 2 2. (b) [insert applicable sections of the DA], as to the Assigned Property .

3 Assignee hereby acknowledges that the Assigned Rights and Obligations are subject to the  
4 timing and phasing of the development of the Property as set forth in the Development Agreement.

5 2. Remaining Obligations. Assignor acknowledges and agrees that it remains subject to all rights and  
6 obligations set forth in the Development Agreement, except the Assigned Rights and Obligations  
7 expressly set forth in Section 1 above (the “**Remaining Rights and Obligations**”). The Remaining  
8 Rights and Obligations include without limitation the following:

- 9 1. (a) Sections [insert applicable sections of the DA]; and
- 10 2. (b) Sections [insert applicable sections of the DA], as to the Remaining  
11 Property.

12 3. Acceptance and Assumption. Assignee hereby accepts the assignment of the Assigned Rights and  
13 Obligations from Assignor, and assumes and agrees to perform all of the Assigned Rights and  
14 Obligations.

15 4. Further Assurances. Assignor hereby covenants that it will, at any time and from time to time  
16 upon written request therefor, execute and deliver to Assignee, its nominees, successors and/or  
17 assigns, any new or confirmatory instruments and do and perform any other acts which Assignee or  
18 its nominees, successors and/or assigns may request in order to fully transfer possession and control  
19 of, and protect the rights of Assignee and its successors and/or assigns in, all the rights, benefits and  
20 privileges intended to be transferred and assigned hereby. Assignee hereby covenants that it will, at  
21 any time and from time to time upon written request therefor, execute and deliver to Assignor, its  
22 nominees, successors and/or assigns, any new or confirmatory instruments and do and perform any  
23 other acts which Assignor or its nominees, successors and/or assigns may request in order to fully  
24 confirm and vest in Assignor and its successors and/or assigns in, all the obligations, rights, benefits  
25 and privileges intended to be transferred by the acceptance and assumption herein.

26 5. Successors. This Assignment shall be binding upon and inure to the benefit of the parties hereto  
27 and their respective successors and assigns.

28 6. Counterparts. This Assignment may be executed in counterparts, each of which shall be deemed  
29 an original, but all of which, taken together, shall constitute one and the same instrument.

30 7. Amendment. This Assignment may only be amended or modified by a written instrument  
31 executed by all of the parties hereto with the prior written consent of the City of Rohnert Park.

32 8. Governing Law. The validity, interpretation and performance of this Assignment shall be  
33 controlled by and construed under the laws of the State of California.

34 9. Attorneys’ Fees. Should any dispute arise between the parties hereto or their legal representatives,  
35 successors or assigns concerning any provision of this Assignment or the rights and duties of any  
36 person in relation thereto, the party prevailing in such dispute shall be entitled, in addition to such

1 other relief that may be granted, to receive from the other party all costs and expenses, including  
2 reasonable attorneys' fees, incurred by the prevailing party in connection with such dispute.

3 10. Entire Agreement. This Assignment, together with the Purchase Agreement, constitutes the  
4 entire agreement among the parties hereto with respect to the subject matter hereof, and supersedes  
5 all prior understandings or agreements. In the event of any conflict between this Assignment and the  
6 Purchase Agreement, the terms of the Purchase Agreement shall govern and control.

7 11. Severability. If any term, covenant, condition or provision of this Assignment, or the application  
8 thereof to any person or circumstance, shall to any extent be held by a court of competent  
9 jurisdiction or otherwise by law rendered invalid, void or unenforceable, the remainder of the terms,  
10 covenants, conditions or provisions of this Assignment, or the application thereof to any person or  
11 circumstance, shall remain in full force and effect and shall in no way be affected, impaired or  
12 invalidated thereby.

13 12. Notices. All notices shall be in writing and shall be given in the manner prescribed by Section  
14 11.9 of the Development Agreement. Pursuant to Section 11.9 of the Development Agreement, the  
15 address for Assignee is:

16 14. Authority. Each individual executing this Assignment on behalf of a corporation or other legal  
17 entity represents and warrants that: (a) he or she is duly authorized to execute and deliver this  
18 Assignment on behalf of said corporation or other legal entity in accordance with and without  
19 violating the provisions of its governing documents, and (b) this Assignment is binding upon and  
20 enforceable against said corporation or other legal entity in accordance with its terms. Any entity  
21 signing this Assignment on behalf of a corporation or other legal entity hereby represents and  
22 warrants in its own capacity that it has full authority to do so on behalf of the corporation or other  
23 legal entity.

24 IN WITNESS WHEREOF, the parties have entered into this Assignment as of the Effective Date.

25

26 **ASSIGNOR:**

27 Lomas SMART, LLC,  
28 a California limited liability company

29 By:  
30 Name: Tod Kurtin

31 \_\_\_\_\_, a \_\_\_\_\_

32 By: Name: Its:

33 **CONSENT OF CITY**

34 **ASSIGNEE:**

1 The City hereby consents to the foregoing Partial Assignment and Assumption of Development  
2 Agreement, pursuant to Section 10.1 of the Development Agreement.

3 CITY:

4 City of Petaluma, a California municipal corporation and charter city

5 By:

6 Peggy Flynn, City Manager

7 Approved as to Form:

8 By:

9 Eric Danly, City Attorney

10 Attest:

11 By:

12 Claire Cooper City Clerk

13 [The applicable Exhibit A and B will be inserted into execution version]

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Resolution No. 2020-031 N.C.S.  
of the City of Petaluma, California

**RESOLUTION OF THE PETALUMA CITY COUNCIL  
APPROVING A VESTING TENTATIVE SUBDIVISION MAP  
FOR CORONA STATION RESIDENTIAL PROJECT  
LOCATED AT 890 NORTH MCDOWELL BOULEVARD**

APN 137-061-019

File No.: PLMA – 18-0006

**WHEREAS**, Todd Kurtin with Lomas Corona Station LLC submitted an application for the Corona Station Residential Project, including a Zoning Text Amendment, Development Agreement, Density Bonus and Development Concession/Incentive, Tentative Subdivision Map, Conditional Use Permit and Site Plan and Architectural Review for a 110 unit residential project within the MU1B zone with Flood Plain-Combining (FP-C) Overlay, located on a 6.5-acre site at 890 North McDowell Boulevard (APN 137-061-019) (the “Project”); and

**WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the Project, on November 12, 2019, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, at said hearing, the Planning Commission considered the staff report dated November 12, 2019, including the Mitigated Negative Declaration and continued the item to a date certain of November 19, 2019; and

**WHEREAS**, the Planning Commission found the overall project inconsistent with key policies in the General Plan and Station Area Master Plan calling for a mixed use transit oriented development to enhance and facilitate the second SMART station and therefore approved Resolution No. 2019-20 recommending denial of the tentative subdivision map; and

**WHEREAS**, the Corona Station Residential Tentative Subdivision Map is subject to Title 20 (Subdivisions) of the Municipal Code (Subdivision Ordinance) and the State Subdivision Map Act, which regulate the design and improvement of the proposed subdivision; and

**WHEREAS**, as described in the staff report, the Corona Station Residential vesting tentative subdivision map proposes to subdivide the project site into 110 single family lots, two common interest parcels, and one remainder parcel; and

**WHEREAS**, the proposed tentative map illustrates the overall site layout, proposed roadway improvements, utility plans (water, sewer, and wastewater), grading plans, and stormwater treatment plans, among other improvements; and

**WHEREAS**, the City Council held duly noticed public hearings to consider the project on January 27, 2019 and February 24, 2020, at which time they considered the Planning Commission’s recommendation and all interested parties had the opportunity to be heard; and

**WHEREAS**, as discussed in the November 12, 2019 Planning Commission staff report, the proposed tentative subdivision map is consistent with the Petaluma General Plan 2025, the Station Area Master Plan, and applicable provisions in the Implementing Zoning Ordinance.

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

1. An Initial Study was prepared in compliance with the California Environmental Quality Act for the proposed project, inclusive of the proposed zoning text amendments. It was determined that the proposed project could result in potentially significant impacts related to Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards, Hydrology, Noise, and Utilities. However, the Initial Study found that project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. The City Council approved Resolution No. 2020-029 N.C.S. on February 24, 2020 approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.

2. The City Council hereby approves the Vesting Tentative Subdivision Map for the Project based on the findings made below and subject to the conditions of approval attached as Exhibit 1 hereto and incorporated herein by reference:

A. The proposed Subdivision Map, as conditioned, is consistent with the General Plan in that it is on property designated for Mixed use on the General Plan Land Use Map with a density range up to 30 units per net acre.

B. The proposed tentative map as designed and conditioned, together with provisions for its design and improvements, is consistent with the General Plan and the Station Area Master Plan in that the project has a density of 26 dwelling units per net acre and creates a 1.27-acre remainder parcel for dedication to SMART and to facilitate construction of the Corona Road SMART station. The map will not be detrimental to the public health, safety, or welfare in that adequate public facilities exist or will be installed, including roads, sidewalks, water, sewer, storm drains, and other infrastructure.

C. The site is physically suitable for the density and the type of development proposed in that it a relatively flat, undeveloped lot within the Urban Growth Boundary with direct access to North McDowell Boulevard and Corona Road and adjacent to the future Corona Road SMART station that will serve to use land efficiently and promote infill at a residential density consistent with the vision of the General Plan. Proposed residential density is 26 units per net acre, consistent with the Mixed Use land use designation.

D. The design of the subdivision and the proposed improvements will not cause substantial environmental damage or substantially and avoidably injure fish and wildlife or their habitat in that the Mitigated Negative Declaration provided mitigation measures to reduce identified potential impacts on environmental resources to less than significant levels. All identified mitigation measures are included as conditions of approval to ensure implementation through the project.

E. The design of the subdivision and the types of improvements are not likely to cause serious public health problems in that the project proposes a residential development on approximately 5.2 gross acres and reservation of a 1.27-acre remainder parcel for parking associated with the future SMART station, and incorporation of circulation improvements to increase connectivity for vehicles, pedestrians, and bicycles.

F. The design of the subdivision and the residential improvements in the subdivision are not likely to cause serious public health problems in that the project will be not expose inhabitants of the homes to any known hazards.

G. The design of the subdivision and the type of improvements will not conflict with easements, acquired by the public at large, for access through or use of, property within the proposed subdivision in that the project is proposing a network of private streets that will connect to the City's existing street network, including provisions for emergency vehicle access. Existing easements will be preserved or realigned to mesh with the subdivision design.

H. The proposed Corona Station Residential Project vesting tentative subdivision map complies with the requirements of Chapter 20.16, Tentative Subdivision Map, of the Subdivision Ordinance and with the Subdivision Map Act as further described in the staff report.

3. Approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road shall be a condition precedent to this resolution taking effect. Absent such approval by the SMART Board and the City Council, this resolution shall be of no force or effect. In addition, this resolution will be of no force and effect unless and until the Ordinance Upholding the Appeal Filed by Lomas-Corona LLC, Overturning the Planning Commission's Denial, and Amending the Text of the Implementing Zoning Ordinance, Ordinance 2300 N.C.S., Table 4.3, Ordinance 2721 N.C.S. takes effect. Upon approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road, and upon Ordinance 2721 N.C.S taking effect, this resolution will take effect, without further action of the City Council.

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 24<sup>th</sup> day of February 2020, by the following vote:

Approved as to  
form:

City Attorney

**AYES:**

Mayor Barrett; Vice Mayor Fischer; Healy; Kearney; King; McDonnell; Miller

**NOES:**

None

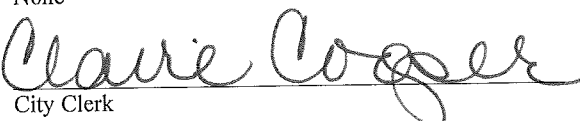
**ABSENT:**

None

**ABSTAIN:**

None

**ATTEST:**

  
City Clerk

  
Mayor

**CONDITIONS OF APPROVAL**  
**Corona Station Residential Project**  
Project File No. PLMA 18-0006  
February 24, 2020

**PLANNING DIVISION**

1. Approval of the Vesting Tentative Subdivision Map is contingent upon the City Council's approval of the associated Zoning Text Amendment, Development Agreement, and Density Bonus for the Project and subsequent Planning Commission approval of the associated Conditional Use Permit and Site Plan and Architectural Review.
2. The Conditions of Approval and Mitigation Measures shall be listed on the first sheet of the office and job site copies for all building permit plans prior to issuance.
3. The plans submitted for final map review shall be in substantial compliance with the plans date stamped December 4, 2019, except as modified by these Conditions of Approval.
4. The applicant shall pay the Notice of Determination ("NOD") Clerk's fee to the Planning Division. The applicant shall provide a **\$50.00** check made payable to the Sonoma County Clerk. Planning staff will file the Notice of Determination with the County Clerk's office. The applicant shall also provide a check for the State Department of Fish and Wildlife environmental filing fee (as required under Fish and Wildlife Code Section 711.4d) to the Sonoma County Clerk on or before the filing of the Notice of Determination (as of January 1, 2020, the fee is **\$2,406.75**; contact the Clerk's office at (707) 944-5500 to confirm).
5. No building permits shall be issued for any buildings on the site until a Final Map has been approved and recorded and a Conditional Use Permit and Site Plan and Architectural Review is approved by the Planning Commission.
6. The applicant shall defend, indemnify and hold harmless the City and its officials, boards, commissions, agents, officers and employees ("Indemnitees") from any claim, action or proceeding against Indemnitees to attack, set aside, void or annul any of the approvals of the project to the maximum extent permitted by Government Code section 66477.9. To the extent permitted by Government Code section 66477.9, the applicant's duty to defend, indemnify and hold harmless in accordance with this condition shall apply to any and all claims, actions or proceedings brought concerning the project, not just such claims, actions or proceedings brought within the time period provided for in applicable State and/or local statutes. The City shall promptly notify the subdivider of any such claim, action or proceeding concerning the subdivision. The City shall cooperate fully in the defense. Nothing contained in this condition shall prohibit the City from participating in the defense of any claim, action, or proceeding, and if the City chooses to do so, applicant shall reimburse City for attorneys' fees and costs incurred by the City to the maximum extent permitted by Government Code section 66477.9.
7. The applicant shall be subject to any applicable fees in affect at time of building permit issuance. Said fees are due at time of certificate of occupancy, other pertinent fees that are applicable to the proposed project will be required.

8. All standpipes, check valves and other utilities shall be placed underground or fully screened from view by decorative screening structures or landscaping to be reviewed and approved by the Planning Manager.
9. All earthwork, grading, trenching, backfilling, and compaction operations shall be conducted in accordance with the City of Petaluma's Subdivision Ordinance (#1046, Title 20, Chapter 20.04 of the Petaluma Municipal Code). An erosion and sediment control plan will be required for the subdivision grading plans. The proposed subdivision grading and subsequent development phases that are over one acre in size will be required to prepare a SWPPP in accordance with City and State regulations, and all future development will be subject to City grading and erosion control regulations.
10. Consistent with IZO Section 3.040, Program 4.3 of the 2015-2023 Housing Element, and provisions of the approved Development Agreement for the project, the applicant shall develop no less than 17 on-site dwelling units affordable for at least 99 years to low- and moderate-income households. The affordable units shall be constructed concurrently with the market-rate units and shall be consistent with the terms of the Density Bonus Agreement as approved by the City Council.
11. Consistent with the approved Development Agreement, the project shall be built as an all electric project without any new gas infrastructure. Each residential unit shall be built with photovoltaic and electrical vehicle charging stations.
12. In the event that human remains are uncovered during earthmoving activities, all construction excavation activities shall be suspended, and the following measures shall be undertaken:
  - a. The Sonoma County Coroner shall be contacted.
  - b. If the coroner determines the remains to be Native American, the coroner shall contact the Native American Heritage Commission within 24 hours.
  - c. The project sponsor shall retain a City-approved qualified archaeologist to provide adequate inspection, recommendations and retrieval, if appropriate.
  - d. The Native American Heritage Commission shall identify the person or persons it believes to be the most likely descended from the deceased Native American and shall contact such descendant in accordance with state law.
  - e. The project sponsor shall be responsible for ensuring that human remains and associated grave goods are reburied with appropriate dignity at a place and process suitable to the most likely descendent.

### **Mitigation Measures**

13. **AQ-1:** The applicant shall incorporate the Best Management Practices (BMPs) for construction into the construction and improvement plans and clearly indicate these provisions in the specifications. In addition, an erosion control program shall be prepared and submitted to the City of Petaluma prior to any construction activity. BMPs shall include but not be limited to the BAAQMD Basic Construction Mitigation Measures as modified below:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day.
  - All haul trucks transporting soil, sand, or other loose material shall be covered.
  - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.



- All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
- Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
- All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
- Construction equipment staging shall occur as far as possible from existing sensitive receptors.
- The Developer shall designate a person with authority to require increased watering to monitor the dust and erosion control program and provide name and phone number to the City prior to issuance of grading permits. Post a publicly visible sign with the telephone number of designated person and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.

14. **AQ-2:** To reduce potential impacts to air quality during construction, the project shall develop and implement a plan demonstrating that off-road equipment used on-site to construct the project would achieve a fleet-wide average 45 percent reduction, or more, in diesel particulate matter exhaust emissions. Examples of how to achieve this reduction may include but is not limited to a combination of the following:

- Diesel-powered off-road equipment larger than 25 horsepower operating on-site for more than two days continuously shall at a minimum meet U.S. EPA particulate matter emissions standards for Tier 2 engines that include CARB-certified Level 3 Diesel Particulate Filters or equivalent.<sup>1</sup> Equipment that meets U.S. EPA Tier 3 standards with DPF 3 filters for particulate matter or engines meeting Tier 4 particulate matter standards would meet this requirement.
- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 2 engines.
- Line power would be provided to limit the use of any portable diesel-powered equipment to 20 hours (e.g., generators, compressors, welders, etc.).
- Use of construction equipment that is alternatively-fueled (non-diesel).
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- Minimize the idling time of diesel powered construction equipment to two minutes.
- All construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- Require all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.

<sup>1</sup> <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

15. **BIO-1:** In order to avoid impacts to special-status avian species and other birds protected under the Migratory Bird Treaty Act, site preparation activities, including the removal of trees and building demolition, should occur outside of the bird-nesting season between September 1<sup>st</sup> and January 31<sup>st</sup>. If vegetation removal or construction begins between February 1<sup>st</sup> and August 31<sup>st</sup>, preconstruction surveys including call sounds shall be conducted by a qualified biologist within 7 days and up to 14 days prior to such activities to determine absence or the presence and location of nesting bird species. The nesting survey shall include the examination of all trees within 200 feet of the project site, or as otherwise determined by a qualified ornithologist, including those not identified for removal. If active nests are present, temporary protective breeding season buffers shall be established by a qualified biologist in order to avoid direct or indirect mortality or disruption of these birds, nests or young. The appropriate buffer distance is dependent on the species, surrounding vegetation and topography and will be determined by a qualified biologist to prevent nest abandonment and direct mortality during construction. Buffers may be larger for special-status species. Work may proceed if no active nests are found during surveys or when the young have fledged a nest or the nest is determined to be no longer active.
16. **CUL-1:** If during the course of ground disturbing activities, including, but not limited to excavation, grading and construction, a potentially significant prehistoric or historic resource is encountered, all work within a 100-foot radius of the find shall be suspended for a time deemed sufficient for a qualified and city-approved cultural resource specialist to adequately evaluate and determine significance of the discovered resource and provide treatment recommendations. Should a significant archeological resource be identified a qualified archaeologist shall prepare a resource mitigation plan and monitoring program to be carried out during all construction activities. Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber; and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).
17. **GEO-1:** As determined by the City Engineer and/or Chief Building Official, all recommendations outlined in the Geotechnical Investigation dated August 28, 2018, prepared by Stevens, Ferrone & Bailey, Engineering Company, Inc., including but not limited to, site preparation and grading, excavation, seismic design, foundation design, and sound wall design are herein incorporated by reference and shall be adhered to in order to ensure that appropriate construction measures are incorporated into the design of the project. Nothing in this mitigation measure shall preclude the City Engineer and/or Chief Building Official from requiring additional information to determine compliance with applicable standards. The geotechnical engineer shall inspect the construction work and shall certify to the City, prior to issuance of a certificate of occupancy that the improvements have been constructed in accordance with the geotechnical specifications.
18. **GEO-2:** Prior to issuance of a grading permit, an erosion control plan along with grading and drainage plans shall be submitted to the City Engineer for review. All earthwork, grading, trenching, backfilling, and compaction operations shall be conducted in accordance with the City of Petaluma's Grading and Erosion Control Ordinance #1576, Title 17, Chapter 17.31 of the Petaluma Municipal Code. These plans shall detail erosion control measures such as site watering, sediment capture, equipment staging and laydown pad, and other erosion control measures to be implemented during construction activity on the project site.

19. **GHG-1:** A GHG reduction plan shall be developed and demonstrate that GHG emission from the operation of the project would be reduced, such that the project would have GHG emissions not exceeding 660 MT of CO<sub>2</sub>e/ year or 2.8 MT/capita/year in 2030. Elements of this plan may include the following:

- Installation of solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;
- Provide infrastructure for electric vehicle charging in residential units (i.e., provide 220 VAC power)
- Develop and implement a transportation demand management (TDM) program to reduce mobile GHG emissions;
- Incorporate pedestrian and bicycle circulation features;
- Increase water conservation above State average conditions for residential uses;
- Construct onsite or fund off-site carbon sequestration projects such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted. If the project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise approved by the BAAQMD in order to be used to offset Project emissions;
- Purchase of carbon credits to offset Project annual emissions. Carbon offset credits must be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by the California Air Resources Board or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the County.

20. **HAZ-1:** Prepare and implement a Risk Management Plan and Health and Safety Plan that protects construction workers and provides the procedures to properly manage contaminated soil and groundwater that may be encountered during construction activities. The Plan shall address procedures for discovery of any known or unknown features or environmental conditions that may be encountered during construction activities and proper disposal methods for contaminated materials. The Plan shall include, but not be limited to the following components:

- **Verification of Compliance:** Prior to issuance of a grading permit, the applicant shall submit for review and approval by the City of Petaluma, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the Sonoma County Department of Health Services, have granted all required clearances and confirmed that all applicable standards, regulations and conditions for all previous contamination at the project site.
- **Soil management:** Provide guidelines for identification and analysis of known (per Phase I ESA and Phase II ESA prepared by Pinnacle Environmental, Inc.) and unknown environmental conditions and define responsibilities for management of discovery of known and unknown features or site conditions.
- **Groundwater management:** Groundwater encountered during construction shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Petaluma, the RWQCB and/or Sonoma County Department of Health Services. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into buildings. Prohibit use of groundwater encountered

during construction activities for dust control and allow discharge of groundwater to surface waters only pursuant to a permit issued from applicable regulatory agencies. All permit conditions must be satisfied prior to discharge.

- **Health and Safety plan:** Preparation and implementation of a site-specific Environmental Health and Safety Plan by the general contractor to ensure that appropriate worker health and safety measures are in place during construction activities. Elements of the plan must include all practices and procedures necessary to comply with all new and existing Federal, California, and local statutes, ordinances, or regulations regarding health and safety. Specific components of the Plan must include the following:
  - Identification of site hazards potential hazardous substances/materials that could be encountered, including potential odors associated with hazardous substances/materials;
  - Assignment of specific health and safety responsibilities for site work;
  - Establishment of appropriate general work practices;
  - Establishment of control zones and decontamination procedures;
  - Job hazard analysis / hazard mitigation procedures;
  - Required personal protective and related safety equipment; and
  - Contingency and emergency information.
- **Proper Removal of Buried Equipment:** Any buried holding tanks including septic systems shall be properly decommissioned in accordance with applicable regulations established by the County of Sonoma. Removal of underground tanks shall be immediately followed by backfill in accordance with Engineering recommendations. Materials shall be properly disposed of at permitted facilities.

21. **HYDRO-1:** Following construction of the residential buildings within the FP-C (Flood Plain – Combining District), and prior to occupancy, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator. As determined to be appropriate by the Floodplain Administered, the following standards may also be required:

- All new improvements shall be anchored to prevent flotation, collapse, or lateral movement.
- All new improvements shall be constructed with materials and utility equipment resistant to flood damage and using methods and practices to minimize flood damage.
- All electrical, heating, air conditioning, ventilation, and plumbing shall be designed and located to prevent water from entering or accumulating within components during flooding.
- All new construction and improvements shall insure that fully enclosed areas below the lowest floor that are subject to flooding be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. A minimum of two opening not less than one square inch for every square foot of enclosed area shall be provided.

22. **NOI-1:** The following Best Construction Management Practices shall be implemented to reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance:

- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturday, Sunday and State, Federal and Local Holidays.

- Delivery of materials and equipment to the site and truck traffic coming to and from the site is restricted to the same construction hours specified above.
  - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - Unnecessary idling of internal combustion engines shall be strictly prohibited.
  - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
  - Acoustically shield stationary equipment located near residential receivers with temporary noise barriers.
  - Utilize “quiet” air compressors and other stationary noise sources where technology exists.
  - Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities.
  - Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from existing residences.
  - Control noise from construction workers’ radios to a point where they are not audible at existing residences bordering the project site.
  - The contractor shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
  - Notify all adjacent residences (within 500 feet of the project site) of the construction schedule, in writing, and provide a written schedule of “noisy” construction activities to the adjacent land uses.
  - Designate a “disturbance coordinator” who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.
23. **NOI-2:** To reduce noise levels in the side yards of the eight Type II Zero Lot Line homes facing North McDowell Blvd to a CNEL of 60 dBA, a barrier with a minimum top of wall elevation of seven (7) feet above yard grade level on the side yard of the Zero Lot Line homes along North McDowell Blvd shall be incorporated into the project design. To ensure effectiveness, the noise barrier walls shall be built without cracks or gaps in the face, and shall not have large or continuous gaps at the base, or where they adjoin the homes or each other. The walls should also have a minimum surface weight of 3.0 lbs. per square foot. Small, dispersed, gaps in the base of the walls for landscape irrigation or drainage which do not compose more than 0.5% of the wall area are acceptable.
24. **NOI-3:** In order to comply with noise compatibility standards, the project shall incorporate the following:

- Provide forced air mechanical ventilation, satisfactory to the local building official, in all residences with partial or full line of sight to North McDowell Blvd. traffic.
  - To maintain interior noise levels at or below 45 dBA CNEL, provide sound-rated windows and doors at Type I and Type II residences facing or perpendicular to North McDowell Boulevard. The degree of sound mitigation needed to achieve an interior CNEL of 45 dBA or less would vary depending on the final design of the building (relative window area to wall area) and the design of the exterior wall assemblies. However, based on the future exterior noise levels and typical residential construction, it is anticipated that windows and doors facing or with a view of North McDowell Boulevard may require STC ratings of between 28 and 30.
  - The specific determination of exterior wall assemblies and window/door STC ratings should be conducted on a unit-by-unit basis during the project design. The results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.
25. **NOI-4:** Install windows with STC ratings of between 28 and 32 for residences adjacent to the rail line to reduce interior maximum levels resulting from train engine noise to the recommended 55 dBA Lmax30 interior levels.
26. **TRAF-1:** Existing landscaping on the median island within the North McDowell Boulevard and within the line sight of the eastern driveway, shall be modified to achieve adequate sight lines where left-turn egress would be allowed. Landscaping modification would include removal of bushes and shrubs between the trees as well as a reduction in the height of the berm on the median. Additionally, new landscaping and signage introduced by the project shall be installed in locations and maintained in a manner that does not further introduce sight line conflicts at project driveways.
27. **UTIL-1:** Prior to issuance of a grading permit, a Final Hydrology and Hydraulic Study shall be prepared to confirm that the proposed combination of site grading, routing of onsite storm water pipe facilities and storm water treatment systems continue to mitigate increases in calculated peak flows to the individual points of concentration around the site, to at or below pre-project conditions.

## **PUBLIC WORKS AND UTILITIES**

### **Frontage Improvements**

28. Construct frontage improvements along N. McDowell Boulevard and Corona Road as shown on the draft final map submitted by the applicant and as required or modified by these conditions of approval.
29. Construct a new concrete pavement transit stop/pullout on northbound N. McDowell Blvd. in the general location shown on the tentative map. The dimensions of the turnout shall be designed to accommodate a 45' regional coach bus entering/exiting the pullout. Transit will provide bus specifications as needed. Bus turning movements shall be shown on drawings.
30. Provide a concrete pad and bus shelter adjacent to the turnout with location and size to be approved by Transit Manager and City Engineer. Install a signpost to be installed near north end of bus stop area, for a bus stop sign and no parking sign. Bus shelter to be Tolar Mfg. – city standard shelter, with two shelter benches two full-size Tolar refuse cans (one recycle, one trash), and two inverted-U bike racks (galvanized and powder coated steel). All items are to be placed on concrete passenger wait pad adjacent to the bus pull-out. Hardwired electrical facilities shall be installed for the stop.

31. At end of subdivision construction, minimum pavement restoration of a ½ half street 2-inch pavement grind and overlay shall be constructed on N. McDowell Blvd along the project frontage, from the south project limits to the intersection of Corona. Additional restoration work may be required on Corona depending on extent of disturbance and damage to surface from construction activities. Improvement plans to include all median repairs, tree removal, and median restoration.
32. Prior to the issuance of the first building permit for a residential structure, the applicant shall pay a fair share contribution to the City towards pedestrian crossing improvements at the Corona Road railroad grade crossing. The city shall coordinate design requirements with Sonoma Marin Area Rail Transit and provide a preliminary cost estimate of the improvements. The fair share shall be based on the number of residential units within the project area and within a ½ mile radius of the future train station site, east of the railroad tracks.
33. Prior to the issuance of the first building permit for a residential structure, the applicant shall pay a fair share contribution to the City towards of the cost of SMART railroad pre-emption. Preliminary estimate for applicant's proportional share is 4.7% as put forth in the Traffic Impact Study. The prorata estimate calculation is to be approved by the City Engineer.
34. Reconfiguration of the westbound approach to left turn lane queue on Corona approaching PBN will be required to reduce queue to an acceptable length. The reconfiguration shall be designed with a shared left-turn/through lane consistent with Traffic Impact Study recommendation subject to approval by Sonoma County Public Works (this portion of road is outside of the city limits).
35. The existing sidewalk along the Corona frontage shall be extended to and aligned with the existing sidewalk on the eastern side of the railroad tracks. The City is to coordinate with SMART and the applicant to assure accommodations for SMART & CPUC grade crossing safety standards and compliance.
36. All portions of existing broken, displaced, cracked and/or settled City sidewalk, curb and gutter along the Corona Road frontage shall be removed and replaced with City standard sidewalk, curb and gutter.
37. Frontage improvements shall include new sidewalk and new ADA ramps to Corona Road on all four points of the intersection. All pedestrian ramps shall meet current City requirements and accessibility standards.
38. Per City of Petaluma Public Works & Utilities Street Standard Guidelines (201.1): Arterial street sidewalks shall be a minimum of 6 feet in width (N. McDowell) and minimum 5 feet width for all residential.
39. Striping and signage shall be required per City specifications. Thermoplastic striping shall be required for all street striping.

### **Grading**

40. Grading shall conform to the project geotechnical investigation report submitted with the tentative map application and the geotechnical report prepared as part of the construction documents.
41. Any existing structures above or below ground shall be removed if not a part of the new subdivision. Structures shall include, but shall not be limited to buildings, concrete pads, fences, retaining walls, pipes, debris, etc.

## **Streets**

42. All streets within the subdivision shall be privately owned and maintained with public access and public utility easements as shown on the tentative map, dedicated to the City of Petaluma.
43. The private streets shall generally be constructed as shown on the draft final map, including conforms to N. McDowell Boulevard; 20-foot wide with two 10-foot travel lanes, as well as 5 ft sidewalks on both sides of the street, and 8 ft. parallel parking spaces where shown.
44. Surface drainage shall not be allowed to flow across the public sidewalk and shall be collected and directed to a storm drain system.
45. A minimum 2-inch grind and AC overlay will be required on all utility cuts along the length of the trench, for a minimum of ½ the street width within N. McDowell Blvd, Corona Road or other existing affected City streets.
46. All private interior street improvements shall be designed and constructed to City standards with a minimum pavement section of 4-inches of asphalt concrete over 12-inches of class 2 aggregate base. The minimum longitudinal gutter slope is 0.5% per City standards. All other street related improvements such as sidewalk, curb, gutter, signage, striping, etc. shall be designed and constructed to City standards.
47. Street lights in the interior streets shall be publicly owned and operated, and installed per City standards. LED streetlight fixtures shall be installed. The City will provide the developer the LED specification prior to submittal of the final map and improvement plans. Final street light locations shall be determined at the time of improvement plan review and approval. Pull boxes and electrical conduits shall be installed per City requirements.
48. “No parking” signs and red curbs shall be installed on curved sections of interior streets and on all curb returns.
49. Crosswalks shall be installed between all pedestrian ramps. A stop sign and legend shall be installed at all interior street intersections per City requirements.
50. All improvement work shall be completed prior to issuance of a final inspection/certificate of occupancy for the last 20% percent of units.
51. Traffic control plans are required for all stages of construction and shall be per latest Manual on Uniform Traffic Control Devices (MUTCD) standards.
52. To achieve adequate sight lines where left-turn egress would be allowed, landscaping modification and maintenance at the median is necessary. Bushes and shrubs shall be removed between the trees and the height of the berm on the median shall be reduced. New Signing and landscaping should be placed and maintained in a way to avoid reducing sight lines from the driveways.
53. The existing N McDowell median island and center striping should be modified as necessary to provide a left-turn pocket with at least 50 feet of stacking space for access to the project’s southernmost driveway.

## **Miscellaneous Bicycle and Pedestrian**

54. Add bicycle path connection access point at Michael Drive (northside) for a total of five.
55. Assure all driveway crossings and ADA ramps are compliant with the Bicycle & Pedestrian Plan. (reference pg. 57)
56. Provide wayfinding signage on North McDowell Boulevard to direct to multiuse path access points.



57. Provide an elevated or multi-use bike/ped path to provide buffer from N. McDowell vehicle traffic. One acceptable option is to provide a wider sidewalk that could be used as a multi-use pathway for both two-way bike travel and pedestrian (min 10 ft width), with path separated from traffic lane.
58. Provide benches along Corona Creek. Bench specification to be approved by planning staff.
59. Extend multi-use trail/sidewalk along N. McDowell to the south adjacent to city property and ending at SMART crossing.
60. Bike racks shall be provided in common areas. Bike rack quantity and design to be reviewed and approved by planning staff.

### **Water, Sanitary Sewer and Storm Drain Systems**

61. Show all existing utility mains on frontage streets on Existing conditions map and Utility Plans.
62. All utilities to be constructed with city Standard Details current/published at time of construction.
63. Bioretention or private storm water treatment facilities shall be outside of the public right of way and outside the exclusive public watermain easement.
64. The storm drain system shall generally be constructed as shown on the tentative map. All proposed storm drain lines located on private property shall be privately owned and maintained. The storm drain system design shall be reviewed and approved by the Sonoma County Water Agency prior to approval of the final map and subdivision improvement plans. Submit final construction level hydrology calculations with the final map and the subdivision improvement plan application.
65. Prior to issuance of a building permit, an operations and maintenance manual is required for the proposed storm water treatment systems, and shall be submitted with the final map and improvement plan application for review and approval by the City Engineer. The manual shall include annual inspection, by a Civil Engineer registered in the State of California, to ensure the detention and treatment systems are operating as designed and constructed as well as provisions to make any necessary repairs to the system. A signed and sealed copy of the report shall be provided annually to the Office of the City Engineer.
66. Prior to acceptance of the public improvements, the developer shall enter into a Storm Water Quality Treatment Facility Access and Maintenance Agreement/Declaration with the City of Petaluma, subject to City approval. The agreement shall include language that the subsequent entity responsible for maintenance shall comply with terms of the agreement in perpetuity. The agreement shall be recorded.
67. Erosion control and water quality control measures shall be employed throughout the construction life of the project. The necessary documentation including Notice of Intent, Storm Water Pollution Prevention Plan (SWPPP) and Notice of Termination shall be filed as required by the responsible agencies. The project shall comply with the City of Petaluma Phase II Storm Water Management Plan including attachment four post construction requirements.
68. No lot-to-lot drainage is allowed without drainage easements, subject to the approval of the City Engineer.
69. The water main system shall generally be constructed as shown on the tentative map and be capable of delivering a continuous fire flow as required by the Fire Marshal. Provide final, construction level water system flow and pressure calculations with the subdivision improvement plan and final map submittal. All new water service lines and meters shall be

sized and installed in accordance with Petaluma Public Works Water Standards. Water meters shall be located within public easements and shall be placed outside of vehicle paved area wherever possible. No meters permitted in driveways. Cluster meters shall use Std Detail #888.00. Show all double check locations on improvement plans. Water mains will not extend down Courts A, B, And C. Meter clusters shall be at Accessway J.

70. Survey datum for public water main improvements shall be NAVD 88. At time of final map, the Public Water Main plan and profile shall be submitted for approval separate from the building permit plans per current City Standards.
71. All water main valves shall be located at curb extensions.
72. Landscaping in public utility easements shall be limited to ground cover and shallow rooted, low lying shrubs. Trees are not allowed.
73. Provide landscape meter locations and size. Backflows per City Standards
74. All existing water and sewer connections shall be abandoned per City Standards. All existing water laterals shall have full circle clamps at main.
75. End of line water mains shall have hydrants and not blow-offs.
76. Draft joint trench plans are required with the public improvement plan submittal. PG&E approval of the joint trench plans is required prior to the start of any construction.
77. The sanitary sewer and storm drain system shall generally be constructed as shown on the tentative map. Label all onsite sewer and storm as private and privately maintained. The only public utility onsite shall be the water main. Minimum water main size is 8 inches. Provide exclusive 15-foot public water main easement for on-site water. The exclusive public water line easement shall include fire hydrants and meter sets. No trees shall be planted in easement.
78. Show the Sonoma County Water Agency (Sonoma Water) sewer force main in the profile view on sheets C3.3 and Sheet C3.4. Sonoma Water shall approve all crossing of the sewer force main or improvements within 10 feet of the force main. The Public water main crossing the force main shall have two feet vertical clearance and be encased in a 20-foot encasement pipe centered on the force main. Fire hydrants installed on N McDowell are too close to the sewer force main and shall have a 10-foot separation to force main and 5-foot separation to the storm drain.
79. Plug to existing 8-inch sewer lateral shown on C3.3 not intended to be used. Abandon the existing lateral per City Standards.

### **Flood Management**

80. Prior to approval of the Public Improvement Plans, a Final hydrology report shall be submitted to demonstrate that proposed grading, drainage, retention and storm facilities are in compliance with the City of Petaluma Floodplain Regulations in the Flood Ordinance (Chapter 6) of the City of Petaluma Implementing Zoning Ordinance. Development measures for the construction, location, conversion, or alteration of any land contained within FEMA designated flood hazard zones must adhere to the standards for fill placement and construction elevation set forth in the ordinance and assure that it will not increase the rate or amount of surface runoff in a manner which would result in flooding on or offsite.
81. The project shall comply with the Sonoma County Water Agency (SCWA) Flood Control Design Criteria for the design and construction of drainage structures and facilities within the City. Proposed projects are subject to review by the SCWA and City.

## **Right of Way and Easements**

82. All necessary right of ways and easements shall be dedicated on the final map corresponding to the architectural site and access plans, subject to City approval.
83. Public access easements for the proposed bicycle and pedestrian pathways shall be dedicated on the final map, corresponding to the architectural site and access plans, subject to City approval.
84. Public utility easements (PUE) shall be provided adjacent to and parallel to both sides of new streets and within the public right-of-way. Any proposed PUE's less than 10 feet wide shall be approved by the responsible public utility agencies. Additional PUE's may be required in shared driveways.

## **Miscellaneous**

85. Any existing overhead distribution utilities (electrical and communication) along the project frontages and traversing the site shall be placed underground.
86. Maintenance agreements shall be required for any shared utilities or facilities within common areas and shall be recorded with the final map. Agreements shall identify the utility or facility to be maintained, the parties responsible for maintenance and the funding mechanism for maintenance, replacement and repair. All agreements shall be reviewed and approved prior to recordation.
87. Prepare final map and improvement plans per the latest City policies, standards, codes, resolutions and ordinances. Final map fees and technical review deposits shall be required at the time of the application submittal. Public improvements shall be designed and constructed in accordance with City of Petaluma Standards, Caltrans and Manual of Uniform Traffic Control (MUTCD).
88. Prior to issuance of any permits and prior to public improvement plan approval, a subdivision agreement shall be executed including City standard surety bonds and insurance, as required for the subdivision improvements.

## **Water Conservation**

89. Prior to the issuance of a building permit, the applicant shall submit the following in accordance with PMC Section 15.17.050:
  - A. PMC Section 15.17.050(C)(1)(j): Applicant signature and date with statement, "I agree to comply with the requirements of the Landscape Water Use Efficiency Standards and submit a complete Landscape Documentation Package."
  - B. PMC Section 15.17.050(C)(4)(c)(3): A minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contradicted.
  - C. PMC Section 15.17.050(C)(4)(d)(1,6,11,17,18): The landscape design plan at a minimum, shall include:
    - Delineate and label each hydrozone by number, letter, or other method.
    - Identify type of mulch and application depth.
    - Identify plant quantities.
    - Contain the following statement : "I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan"; and
    - The signature of a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape.

- D. PMC Section 15.17.050(C)(5)(a,b,c): A complete irrigation design plan that meets all the design criteria shall be submitted as a part of the landscape documentation package.
  - E. PMC Section 15.17.050(C)(5)(c)(9,10): In addition the irrigation design plan shall also contain:
    - The following statement: “I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan”; and
    - The signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system.
90. Prior to final inspection, the applicant shall submit the following in accordance with PMC Section 15.17.050. Please refer to the following sections of the PMC for detailed requirements of each item:
- A. PMC Section 15.17.050 (C)(3): Soil Management Report.
  - B. PMC Section 15.17.050 (D)(1-3): Certificate of Completion to include the following attachments:
    - Certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved landscape water use efficiency standards.
    - Irrigation Schedule – shall be regulated by automatic irrigation controllers, applied water should be the ETWU.
    - Landscape and Irrigation Maintenance Schedule - including routine inspection, adjustment and repair of irrigation system, fertilizing, pruning, weeding, etc.
    - Landscape Irrigation Audit conducted by a certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape. Audit reports shall meet the criteria listed in Section 15.70.050 (D)(2)(c).

## **FIRE PREVENTION BUREAU**

- 91. Where fire apparatus access roads or a water supply for fire protection are required to be installed, such protection shall be installed and made serviceable prior to and during the time of construction except when approved alternative methods of protection are provided. Temporary street signs shall be installed at each street intersection where construction of new roadways allows passage by vehicles in accordance with Section 505.2. CFC 501.4
- 92. Pursuant to California Fire Code Appendix D105.3, plans submitted for purposes of construction shall relocate streetlights and obstructive landscaping adjacent to aerial apparatus access areas identified on the proposed plans, subject to Fire Marshal review and approval.
- 93. Where a fire hydrant is located on a fire apparatus access road, the minimum road width shall be 26 feet (7925 mm), exclusive of shoulders. Any request for alternative compliance must be presented by the applicant and approval is at the discretion of the Fire Marshal. CFC D103.1
- 94. Approved fire apparatus access roads shall be provided for every facility, building or portion of a building hereafter constructed or moved into or within the jurisdiction. The fire apparatus access road shall comply with the requirements of this section and shall extend to within 150 feet (45 720 mm) of all portions of the facility and all portions of the exterior walls of the first story of the building as measured by an approved route around the exterior of the building or facility. CFC 503.1.1 Plans submitted for approval appear to meet this requirement without further modification.

95. Developments of one- and two-family dwellings where the number of dwelling units where the number of dwelling units exceeds thirty (30) shall be provided with two (2) separate and approved fire apparatus access roads. CFC D107.1 Plans submitted for approval appear to meet this requirement without further modification.
96. Turning radius. The required turning radius of a fire apparatus access road shall be determined by the fire code official. CFC 503.2.4
97. Where the vertical distance between the grade plane and the highest roof surface exceeds 30 feet (9144 mm), approved aerial fire apparatus access roads shall be provided. For purposes of this section, the highest roof surface shall be determined by measurement to the eave of a pitched roof, the intersection of the roof to the exterior wall, or the top of parapet walls, whichever is greater. Any request for alternative compliance must be presented by the applicant and approval is at the discretion of the Fire Marshal. CFC D105.1
98. Aerial fire apparatus access roads shall have a minimum unobstructed width of 26 feet (7925 mm), exclusive of shoulders, in the immediate vicinity of the building or portion thereof. Any request for alternative compliance must be presented by the applicant and approval is at the discretion of the Fire Marshal. CFC D105.2
99. Where required by the fire code official, approved signs or other approved notices or markings that include the words NO PARKING – FIRE LANE in accordance with the California Vehicle Code, shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. The means by which fire lanes are designated shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility. PMC 17.20 503.3
100. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.20. Approved automatic sprinkler systems in existing buildings and structures shall be provided in locations described in Section 903.6. PMC 17.20 903.2
101. An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be permitted in Group R-3 occupancies and shall be provided throughout all one- and two-family dwellings regardless of square footage in accordance with the California Residential Code. An automatic sprinkler system shall be installed in all mobile homes, manufactured homes and multi-family manufactured homes with two or more dwelling units in accordance with Title 25 of the California Code of Regulations. PMC 17.20 903.2.8.1
  - The fire sprinkler system requires approved plans and permit from the Fire Prevention Bureau prior to work commencing. The owner/contractor shall submit a permit application with three (3) sets of plans, cuts sheets and calculations. This system shall comply with NFPA-13D (single family dwellings).
102. New and existing buildings shall be provided with approved illuminated or other approved means of address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numerals or alphabetic letters. Numbers shall not be spelled out. Character size and stroke shall be in accordance with Section 505.1.1 through 505.1.2. Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response in accordance with this code and Section 505.1.3. Where access is by means of a private road and the building cannot be viewed from the public way or when determined by the fire code official, a monument, pole, or other approved sign or means shall be used to identify the structure. Address identification shall be maintained PMC 17.20 505.1

103. Numbers for one and two-family dwellings shall be not less than four inches (4") (101.6 mm) high with a minimum stroke width of 0.5 inches (12.7 mm).PMC 17.20 505.1.1

**RESOLUTION 2020-05****CITY OF PETALUMA PLANNING COMMISSION****APPROVING SITE PLAN AND ARCHITECTURAL REVIEW  
FOR THE CORONA STATION RESIDENTIAL PROJECT  
LOCATED AT 890 NORTH MCDOWELL BOULEVARD  
APN 137-061-019  
File No.: PLMA – 18-0006**

**WHEREAS**, Todd Kurtin with Lomas Corona Station LLC submitted an application for the Corona Station Residential Project, including a Zoning Text Amendment, Development Agreement, Density Bonus and Development Concession/Incentive, Tentative Subdivision Map, Conditional Use Permit and Site Plan and Architectural Review for a 110 unit residential project within the MU1B zone with Flood Plain-Combining (FP-C) Overlay, located on a 6.5-acre site at 890 North McDowell Boulevard (APN 137-061-019) (the "Project"); and

**WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the Project, on November 12, 2019, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, at said hearing, the Planning Commission considered the staff report dated November 12, 2019, including the Mitigated Negative Declaration and continued the item to a date certain of November 19, 2019 directing staff to return with resolutions for denial; and

**WHEREAS**, on November 19, 2019 the Planning Commission approved Resolution No. 2019-17 recommending the City Council adopt the MND and while the Planning Commission was not supportive of the overall project for the reasons expressed at the November 12, 2019 Planning Commission and summarized in Resolution No. 2019-18, Resolution No. 2019-19, and Resolution No. 2019-20, the Planning Commission found the environmental analysis contained in the project-specific Mitigated Negative Declaration to be adequate to disclose potential environmental impacts of the project; and

**WHEREAS**, the Planning Commission found the overall project inconsistent with key policies in the General Plan and Station Area Master Plan calling for a mixed use transit oriented development to enhance and facilitate the second SMART station and therefore approved Resolutions No. 2019-18, 2019-019, and 2019-020 recommending denial of the Development Agreement, Density Bonus, and Tentative Map; and

**WHEREAS**, at a duly noticed public hearing on January 14, 2020 the Planning Commission considered a Zoning Text Amendment to conditionally permit single family use in the MU1B zoning district and approved Resolution No. 2020-01 denying the Zoning Text Amendment; and

**WHEREAS**, on January 15, 2020 the applicant submitted an appeal of the Planning Commission's denial of the Zoning Text Amendment; and

**WHEREAS**, the City Council held duly noticed public hearings to consider the project on January 27, 2019 and February 24, 2020, at which time they considered the Planning Commission's recommendation and all interested parties had the opportunity to be heard; and

**WHEREAS**, on February 24, 2020 the City Council approved Resolution No. 2020-029 N.C.S. approving the Mitigated Negative Declaration and Mitigated Negative Declaration for the project; and

**WHEREAS**, also on February 24, 2020 the City Council introduced Ordinance No. 2720 N.C.S. to uphold the applicant's appeal, overturn the Planning Commission's denial, and modify the implementing

Zoning Ordinance Table 3.1 to allow single family use as conditionally permitted in the MU1B zoning district when adjacent to an existing or planned SMART station and with a minimum density of 26 units per acre; and

**WHEREAS**, also on February 24, 2020 the City Council introduced Ordinance No. 2721 N.C.S. to approve a Development Agreement between the City and the applicant and including provisions related to inclusionary housing and sustainability requirements that impact the future development of the Corona Station Residential Project; and

**WHEREAS**, approval of both ordinances referenced above are scheduled for consideration by the City Council on March 16, 2020; and

**WHEREAS**, on February 24, 2020 the City Council approved Resolution No. 2020-030 N.C.S. approving a Density Bonus and development concession for the Project and including an increased height above the 30 foot maximum allowed in the MU1B zoning district and a reduced parking requirement; and

**WHEREAS**, also on February 24, 2020 the City Council approved Resolution No. 2020-031 N.C.S. approving a Vesting Tentative Subdivision Map for the project which approves the overall layout and configuration of the project and with conditions applicable to the implementation of the subsequent Conditional Use Permit and Site Plan and Architectural Review for the Project; and

**WHEREAS**, public notice of the March 10, 2020 Planning Commission hearing was published in the Argus Courier on February 27, 2020 and sent to all property owners and residents within a 1,000 foot radius of the project site; and

**WHEREAS**, the Planning Commission held a duly noticed public hearing to consider the Project, on March 10, 2020, at which time all interested parties had the opportunity to be heard; and

**WHEREAS**, at said hearing, the Planning Commission considered the staff report dated March 10, 2020, and including the associated entitlements approved by the City Council on February 24, 2020; and

**NOW THEREFORE, BE IT RESOLVED** by the Planning Commission of the City of Petaluma as follows:

1. An Initial Study was prepared in compliance with the California Environmental Quality Act for the proposed project, inclusive of the proposed zoning text amendments. It was determined that the proposed project could result in potentially significant impacts related to Air Quality, Biological Resources, Cultural Resources, Geology/Soils, Greenhouse Gas Emissions, Hazards, Hydrology, Noise, and Utilities. However, the Initial Study found that project impacts would be mitigated to a less-than-significant level through implementation of recommended mitigation measures or through compliance with existing Municipal Code requirements or City standards. The City Council approved Resolution No. ~~XX~~ on February 24, 2020 approving the Mitigated Negative Declaration and Mitigation Monitoring and Reporting Program for the project.
2. The Planning Commission hereby approves Site Plan and Architectural Review for the Corona Station Residential Project implementing the approved Vesting Tentative Map approved by the City Council, incorporating appropriate provisions of the approved Development Agreement and Density Bonus Housing Agreement, and based on the findings made below and subject to the conditions of approval attached as Exhibit 1 hereto and incorporated herein by reference.
3. The project is consistent with Implementing Zoning Ordinance (IZO) §24.010 – Site Plan and Architectural Review, in that all required findings found in §24.010(G) can be made as follows:



- A. The appropriate use of quality materials and harmony and proportion of the overall design.

*The project incorporates a variety of exterior materials to differentiate the four architectural styles used throughout the 110 residential units. Materials include cementitious lap and shingle siding, board and batten siding, and cement plaster as the base exterior materials with stone and brick veneer used as accents. Decorative shutters, planter boxes and corbels create architectural detailing and each unit has a defined entry at the ground level. Vinyl windows are proposed with simulated divided lights including grids on both the interior and exterior of the glass. Trim detailing includes both foam and wood trim. The materials proposed are consistent with those typically found in a larger non-custom home development and represent cost effective low maintenance materials.*

- B. The architectural style which should be appropriate for the project in question, and compatible with the overall character of the neighborhood.

*The project site is separated from immediately adjoining parcels by major arterials and the SMART rail. Neighboring residential uses include the two mobile home parks on the opposite side of North McDowell and the nearly completed Brody Ranch project on the opposite side of the rail. The Project is differentiated in residential type and layout from both of these neighbors and at a higher density than the Brody Ranch development. However, the architectural style is not inappropriate in context with these existing residential neighbors. The surrounding area has a mix of uses, and several nearby parcels that are likely to redevelop in the coming years, particularly with the creation of the SMART station.*

- C. The siting of the structure on the property, as compared to the siting of other structures in the immediate neighborhood.

*The project site is a triangular parcel bounded by the SMART rail, Corona Road, North McDowell Boulevard, and Corona Creek. Therefore, the project site is not immediately adjacent to any adjoining buildings. The layout of the approved Vesting Tentative Subdivision Map provides a layout that fronts units on North McDowell to the extent possible to create a developed edge along the arterial. The project incorporates 110 residential units at an overall density of 26 units per net acre, consistent with the underlying General Plan land use designation for the site that allows a maximum of 30 units per net acre. The site is adequately sized to accommodate the residential use at the proposed residential use at the proposed density and has been designed to connect the new land use to the surrounding neighborhood through bicycle and pedestrian connection and safe vehicular access.*

- D. The size, location, design, color, number, lighting, and materials of all signs and outdoor advertising structures.

*No signs are proposed as part of the residential project. Any future signage associated with home occupations that may utilize the residential units and/or the ground floor flex space designed into many of the units, will be required to meet all criteria as outlined in IZO Section 7.XXX to ensure compatibility with the overall residential character of the neighborhood.*

- E. The bulk, height, and color of the proposed structure as compared to the bulk, height, and color of other structures in the immediate neighborhood.

*As previously mentioned, the project site does not have any immediate neighbors due to the site configuration as a triangular property bounded by the SMART rail line, Corona Road, North McDowell Boulevard and Corona Creek. The most immediate residential neighbors are Youngstown and Petaluma Estates Mobile Home Parks on the opposite side of North McDowell and Brody Ranch on the opposite side of the SMART right of way. The project includes relatively modest sized units in three story attached and detach products. The attached units are grouped*

as four-plex and six-plex. An increased height concession to exceed the 30 foot maximum for the MUIB zoning district was approved as part of the Density Bonus for the project. The bulk and height of the project is less than the multi family buildings approved with the Brody Ranch project but considerable larger than the individual units in the mobile home park. Overall the project creates a continuum with the surrounding residential developments and is duly buffered from any immediate neighbors due to the site's configuration.

The color palette proposed is generally muted with accent colors and is appropriate to the type of development and surrounding neighborhood.

- F. Landscaping to approved City standards shall be required on the site and shall be in keeping with the character or design of the site. Existing trees shall be preserved wherever possible.

The proposed landscape palette introduces a variety of trees, shrubs, and ground cover to create a coordinated but diverse character. Larger trees are proposed along North McDowell to create a buffer to those units fronting on the busy arterial and to provide calming separation for the Class I pathway. Similarly, a larger tree species is used along the northern property line adjacent to the SMART rail to create buffer for the common area. Enhanced planting along Corona Creek provides native species more suitable to the creek while smaller ornamental trees are used along the internal pedestrian spine and courtyard. The project has been conditioned to meet all criteria of the City's water efficiency ordinance.

- G. Ingress, egress, internal circulation for bicycles and automobiles, off-street automobiles and bicycle parking facilities and pedestrian ways shall be so designed as to promote safety and convenience and shall conform to approved City standards.

The overall ingress, egress, and internal circulation for bicycles and vehicles was thoroughly considered as part of the Vesting Tentative Map and the Mitigated Negative Declaration which was approved by the City Council on February 24<sup>th</sup>. The Pedestrian and Bicycle Advisory Committee reviewed the project in September of 2019 and their recommendations were incorporated into the conditions of the VTM and are further referenced in Exhibit 1 to this resolution.

Vehicular parking is provided for each unit in attached two car garages. The overall parking ratio is consistent with the reduced requirement approved with the Density Bonus for the project. Bicycle hooks are provided and conditioned in each garage. Additionally, there are several exterior bike racks provided within the project.

4. Approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road shall be a condition precedent to this resolution taking effect. Absent such approval by the SMART Board and the City Council, this resolution shall be of no force or effect. In addition, this resolution will be of no force and effect unless and until the Ordinance Upholding the Appeal Filed By Lomas-Corona LLC, Overturning the Planning Commission's Denial, and Amending the Text of the Implementing Zoning Ordinance, Ordinance 2300 N.C.S., Table 4.3, Ordinance 2720 N.C.S. takes effect. Upon approval by the SMART Board and the City Council of an agreement between SMART and the City obligating SMART to design and build a second Petaluma SMART station at the corner of McDowell Boulevard and Corona Road, and upon Ordinance 2720 N.C.S taking effect, this resolution will take effect, without further action of the Planning Commission.

ADOPTED this 10<sup>th</sup> day of March, 2020, by the following vote:

Commission Member	Aye	No	Absent	Abstain
Councilmember McDonnell	X			
Chair Alonso	X			
Vice Chair Bauer	X			
Gomez	X			
Marzo	X			
Potter			X	
Streeter	X			

  
\_\_\_\_\_  
Scott Alonso, Chair

ATTEST:

  
\_\_\_\_\_  
Heather Hines, Commission Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Eric Danly, City Attorney

**SITE PLAN AND ARCHITECTURAL REVIEW**  
**CONDITIONS OF APPROVAL**  
**Corona Station Residential Project**  
Project File No. PLMA 18-0006  
March 10, 2020

**PLANNING DIVISION**

1. Plans submitted to the City of Petaluma for purposes of construction shall be in substantial conformance with plans on file with the Planning Division and date stamped October 25, 2019 and revised site plan date stamped March 4, 2020, except as modified by these conditions of approval. A determination of substantial conformance shall be made by the Planning Manager during the plan check review process. Nothing shall preclude the Planning Manager from referring a substantial conformance determination to the Planning Commission for review at a publicly noticed meeting.
2. Approval of the Site Plan and Architectural Review is contingent upon the City Council's approval of the associated Zoning Text Amendment, compliance with all applicable terms of an approved Development Agreement, and approval of an agreement between the City and Sonoma Marin Area Rail Transit (SMART).
3. All mitigation measures applicable to the project and as adopted pursuant to City Council Resolution No. 2020-029 N.C.S. are included by reference and shall be satisfied consistent with the approved Mitigation Monitoring and Reporting Program.
4. The Conditions of Approval and Mitigation Measures shall be listed on the first sheet of the office and job site copies for all building permit plans prior to issuance.
5. The applicant shall pay the Notice of Determination ("NOD") Clerk's fee to the Planning Division. The applicant shall provide a **\$50.00** check made payable to the Sonoma County Clerk. Planning staff will file the Notice of Determination with the County Clerk's office.
6. No building permits shall be issued for any buildings on the site until a Final Map has been approved and recorded.
7. The applicant shall defend, indemnify and hold harmless the City and its officials, boards, commissions, agents, officers and employees ("Indemnitees") from any claim, action or proceeding against Indemnitees to attack, set aside, void or annul any of the approvals of the project to the maximum extent permitted by Government Code section 66477.9. To the extent permitted by Government Code section 66477.9, the applicant's duty to defend, indemnify and hold harmless in accordance with this condition shall apply to any and all claims, actions or proceedings brought concerning the project, not just such claims, actions or proceedings brought within the time period provided for in applicable State and/or local statutes. The City shall promptly notify the subdivider of any such claim, action or proceeding concerning the subdivision. The City shall cooperate fully in the defense. Nothing contained in this condition shall prohibit the City from participating in the defense of any claim, action, or proceeding, and if the City chooses to do so, applicant shall reimburse City for attorneys' fees and costs incurred by the City to the maximum extent permitted by Government Code section 66477.9.
8. The applicant shall be subject to all applicable development impact fees in affect at time of building permit issuance. Said fees are due prior to final inspection or certificate of occupancy.
9. This approval is granted for and contingent upon construction of the project as a whole, in a single phase, with the construction and/or installation of all features approved and required herein. Modifications to the project, including but not limited to a major change in construction phasing, may

require an amendment to this condition by the Planning Commission through the Site Plan and Architectural Review provided at IZO §24.010.

10. This approval is, as provided for at IZO §24.010(I), effective for a twelve (12) month period unless the permit has been exercised or unless an extension of time is approved in compliance with IZO §24.010(J).
11. The colors, materials, and light fixtures shall be in substantial conformance with those noted on the plan set and the color board in the plan set.
12. All standpipes, check valves and other utilities shall be placed underground or fully screened from view by decorative screening structures or landscaping to be reviewed and approved by the Planning Manager.
13. The site shall be kept cleared of garbage and debris at all time.
14. Except as modified by the conditions herein, construction activities shall comply with performance standards specified in IZO Chapter 21.
15. All plantings shall be maintained in good growing condition. Such maintenance shall include, where appropriate, pruning, mowing, weeding, cleaning of debris and trash, fertilizing and regular watering. Whenever necessary, planting shall be replaced with other plant materials to ensure continued compliance with applicable landscaping requirements. Required irrigation systems shall be fully maintained in sound operating condition with heads periodically cleaned and replaced when missing to ensure continued regular watering of landscape areas, and health and vitality of landscape materials.
16. Herbicides/pesticides shall not be applied in areas used by pedestrians/bicyclists within the project without first providing appropriate signs warning of the use of chemicals. The project shall utilize Best Management Practices (BMPs) regarding pesticide/herbicide use and as well as Integrated Pest Management techniques for the protection of bicyclists and pedestrians.
17. All tree stakes and ties shall be removed within one year following installation or as soon as trees are able to stand erect without support.
18. No signage is approved by this permit. Separate sign permits in compliance with IZO Section 7.050 shall be obtained for any home occupation.
19. Prior to commencing construction activities, a sign shall be posted on the site regarding the allowable hours of construction and contact information for complaints. Proof of sign installation shall be provided to the Planning Manager prior to construction commencing.
20. Consistent with IZO Section 3.040, Program 4.3 of the 2015-2023 Housing Element, and provisions of the approved Development Agreement for the project, the applicant shall develop no less than 17 on-site dwelling units affordable for at least 99 years to low- and moderate-income households. The affordable units shall be constructed concurrently with the market-rate units and shall be consistent with the terms of the Density Bonus Agreement as approved by the City Council.
21. Consistent with the approved Development Agreement, the project shall be built as an all electric project without any new gas infrastructure. Each residential unit shall be built with photovoltaic and electrical vehicle charging stations.
22. Prior to building permit and Public Improvement Plan approval, locate gas meter assemblies on plans in manner least visually obstructing, location and screening subject to review and approval of the Planning Manager, City Engineer, and PG&E.

23. Within the interior garages of each unit a bicycle hook and electrical vehicle charger shall be installed.
24. Prior to issuance of building permit the applicant shall submit appropriate documentation demonstrating that the photovoltaic array has been maximized on each unit. The documentation shall be prepared by a qualified professional and shall be subject to review and approval by the Planning Manager and Chief Building Official.
25. All simulated divided light windows shall have interior and exterior divides.
26. Improvement plans shall incorporate interior street lights to match the SAMP design standards. Light poles shall not exceed 16 feet in height.
27. Wall mounted lights on garages shall be hard wired to be activated at dusk and dawn to ensure consistency and visibility in the courts and alleys absent pole lighting.

#### **MITIGATION MEASURES**

28. **AQ-1:** The applicant shall incorporate the Best Management Practices (BMPs) for construction into the construction and improvement plans and clearly indicate these provisions in the specifications. In addition, an erosion control program shall be prepared and submitted to the City of Petaluma prior to any construction activity. BMPs shall include but not be limited to the BAAQMD Basic Construction Mitigation Measures as modified below:
  - All exposed surfaces (e.g., parking areas, staging areas, soil piles, graded areas, and unpaved access roads) shall be watered three times per day.
  - All haul trucks transporting soil, sand, or other loose material shall be covered.
  - All visible mud or dirt track-out onto adjacent public roads shall be removed using wet power vacuum street sweepers at least once per day. The use of dry power sweeping is prohibited.
  - All vehicle speeds on unpaved roads shall be limited to 15 mph.
  - All roadways, driveways, and sidewalks to be paved shall be completed as soon as possible. Building pads shall be laid as soon as possible after grading unless seeding or soil binders are used.
  - Idling times shall be minimized either by shutting equipment off when not in use or reducing the maximum idling time to 5 minutes (as required by the California airborne toxics control measure Title 13, Section 2485 of California Code of Regulations [CCR]). Clear signage shall be provided for construction workers at all access points.
  - All construction equipment shall be maintained and properly tuned in accordance with manufacturer's specifications. All equipment shall be checked by a certified mechanic and determined to be running in proper condition prior to operation.
  - Construction equipment staging shall occur as far as possible from existing sensitive receptors.
  - The Developer shall designate a person with authority to require increased watering to monitor the dust and erosion control program and provide name and phone number to the City prior to issuance of grading permits. Post a publicly visible sign with the telephone number of designated person and person to contact at the Lead Agency regarding dust complaints. This person shall respond and take corrective action within 48 hours. The Air District's phone number shall also be visible to ensure compliance with applicable regulations.
29. **AQ-2:** To reduce potential impacts to air quality during construction, the project shall develop and implement a plan demonstrating that off-road equipment used on-site to construct the project would achieve a fleet-wide average 45 percent reduction, or more, in diesel particulate matter exhaust

emissions. Examples of how to achieve this reduction may include but is not limited to a combination of the following:

- Diesel-powered off-road equipment larger than 25 horsepower operating on-site for more than two days continuously shall at a minimum meet U.S. EPA particulate matter emissions standards for Tier 2 engines that include CARB-certified Level 3 Diesel Particulate Filters or equivalent.<sup>1</sup> Equipment that meets U.S. EPA Tier 3 standards with DPF 3 filters for particulate matter or engines meeting Tier 4 particulate matter standards would meet this requirement.
- All diesel-powered off-road equipment, larger than 25 horsepower, operating on the site for more than two days continuously shall, at a minimum, meet U.S. EPA particulate matter emissions standards for Tier 2 engines.
- Line power would be provided to limit the use of any portable diesel-powered equipment to 20 hours (e.g., generators, compressors, welders, etc.).
- Use of construction equipment that is alternatively-fueled (non-diesel).
- The simultaneous occurrence of excavation, grading, and ground-disturbing construction activities on the same area at any one time shall be limited. Activities shall be phased to reduce the amount of disturbed surfaces at any one time.
- Minimize the idling time of diesel powered construction equipment to two minutes.
- All construction equipment, diesel trucks, and generators be equipped with Best Available Control Technology for emission reductions of NOx and PM.
- Require all contractors use equipment that meets CARB's most recent certification standard for off-road heavy duty diesel engines.

30. **BIO-1:** In order to avoid impacts to special-status avian species and other birds protected under the Migratory Bird Treaty Act, site preparation activities, including the removal of trees and building demolition, should occur outside of the bird-nesting season between September 1<sup>st</sup> and January 31<sup>st</sup>. If vegetation removal or construction begins between February 1<sup>st</sup> and August 31<sup>st</sup>, preconstruction surveys including call sounds shall be conducted by a qualified biologist within 7 days and up to 14 days prior to such activities to determine absence or the presence and location of nesting bird species. The nesting survey shall include the examination of all trees within 200 feet of the project site, or as otherwise determined by a qualified ornithologist, including those not identified for removal. If active nests are present, temporary protective breeding season buffers shall be established by a qualified biologist in order to avoid direct or indirect mortality or disruption of these birds, nests or young. The appropriate buffer distance is dependent on the species, surrounding vegetation and topography and will be determined by a qualified biologist to prevent nest abandonment and direct mortality during construction. Buffers may be larger for special-status species. Work may proceed if no active nests are found during surveys or when the young have fledged a nest or the nest is determined to be no longer active.

31. **CUL-1:** If during the course of ground disturbing activities, including, but not limited to excavation, grading and construction, a potentially significant prehistoric or historic resource is encountered, all work within a 100-foot radius of the find shall be suspended for a time deemed sufficient for a qualified and city-approved cultural resource specialist to adequately evaluate and determine significance of the discovered resource and provide treatment recommendations. Should a significant archeological resource be identified a qualified archaeologist shall prepare a resource mitigation plan and monitoring program to be carried out during all construction activities. Prehistoric archaeological site indicators include: obsidian and chert flakes and chipped stone tools; grinding and mashing implements (e.g., slabs and handstones, and mortars and pestles); bedrock outcrops and boulders with mortar cups; and locally darkened midden soils. Midden soils may contain a combination of any of the previously listed items with the possible addition of bone and shell remains, and fire affected stones. Historic period site indicators generally include: fragments of glass, ceramic, and metal objects; milled and split lumber;

<sup>1</sup> <http://www.arb.ca.gov/diesel/verdev/vt/cvt.htm>

and structure and feature remains such as building foundations and discrete trash deposits (e.g., wells, privy pits, dumps).

32. **GEO-1:** As determined by the City Engineer and/or Chief Building Official, all recommendations outlined in the Geotechnical Investigation dated August 28, 2018, prepared by Stevens, Ferrone & Bailey, Engineering Company, Inc., including but not limited to, site preparation and grading, excavation, seismic design, foundation design, and sound wall design are herein incorporated by reference and shall be adhered to in order to ensure that appropriate construction measures are incorporated into the design of the project. Nothing in this mitigation measure shall preclude the City Engineer and/or Chief Building Official from requiring additional information to determine compliance with applicable standards. The geotechnical engineer shall inspect the construction work and shall certify to the City, prior to issuance of a certificate of occupancy that the improvements have been constructed in accordance with the geotechnical specifications.
33. **GEO-2:** Prior to issuance of a grading permit, an erosion control plan along with grading and drainage plans shall be submitted to the City Engineer for review. All earthwork, grading, trenching, backfilling, and compaction operations shall be conducted in accordance with the City of Petaluma's Grading and Erosion Control Ordinance #1576, Title 17, Chapter 17.31 of the Petaluma Municipal Code. These plans shall detail erosion control measures such as site watering, sediment capture, equipment staging and laydown pad, and other erosion control measures to be implemented during construction activity on the project site.
34. **GHG-1:** A GHG reduction plan shall be developed and demonstrate that GHG emission from the operation of the project would be reduced, such that the project would have GHG emissions not exceeding 660 MT of CO<sub>2</sub>e/ year or 2.8 MT/capita/year in 2030. Elements of this plan may include the following:
  - Installation of solar power systems or other renewable electric generating systems that provide electricity to power on-site equipment and possibly provide excess electric power;
  - Provide infrastructure for electric vehicle charging in residential units (i.e., provide 220 VAC power)
  - Develop and implement a transportation demand management (TDM) program to reduce mobile GHG emissions;
  - Incorporate pedestrian and bicycle circulation features;
  - Increase water conservation above State average conditions for residential uses;
  - Construct onsite or fund off-site carbon sequestration projects such as a forestry or wetlands projects for which inventory and reporting protocols have been adopted. If the project develops an off-site project, it must be registered with the Climate Action Reserve or otherwise approved by the BAAQMD in order to be used to offset Project emissions;
  - Purchase of carbon credits to offset Project annual emissions. Carbon offset credits must be verified and registered with The Climate Registry, the Climate Action Reserve, or another source approved by the California Air Resources Board or BAAQMD. The preference for offset carbon credit purchases include those that can be achieved as follows: 1) within the City; 2) within the San Francisco Bay Area Air Basin; 3) within the State of California; then 4) elsewhere in the United States. Provisions of evidence of payments, and funding of an escrow-type account or endowment fund would be overseen by the County.
35. **HAZ-1:** Prepare and implement a Risk Management Plan and Health and Safety Plan that protects construction workers and provides the procedures to properly manage contaminated soil and groundwater that may be encountered during construction activities. The Plan shall address procedures for discovery of any known or unknown features or environmental conditions that may be encountered during construction activities and proper disposal methods for contaminated materials. The Plan shall include, but not be limited to the following components:
  - **Verification of Compliance:** Prior to issuance of a grading permit, the applicant shall submit for review



and approval by the City of Petaluma, written verification that the appropriate federal, state or county oversight authorities, including but not limited to the RWQCB and/or the Sonoma County Department of Health Services, have granted all required clearances and confirmed that all applicable standards, regulations and conditions for all previous contamination at the project site.

- **Soil management:** Provide guidelines for identification and analysis of known (per Phase I ESA and Phase II ESA prepared by Pinnacle Environmental, Inc.) and unknown environmental conditions and define responsibilities for management of discovery of known and unknown features or site conditions.
- **Groundwater management:** Groundwater encountered during construction shall be contained onsite in a secure and safe manner, prior to treatment and disposal, to ensure environmental and health issues are resolved pursuant to applicable laws and policies of the City of Petaluma, the RWQCB and/or Sonoma County Department of Health Services. Engineering controls shall be utilized, which include impermeable barriers to prohibit groundwater and vapor intrusion into buildings. Prohibit use of groundwater encountered during construction activities for dust control and allow discharge of groundwater to surface waters only pursuant to a permit issued from applicable regulatory agencies. All permit conditions must be satisfied prior to discharge.
- **Health and Safety plan:** Preparation and implementation of a site-specific Environmental Health and Safety Plan by the general contractor to ensure that appropriate worker health and safety measures are in place during construction activities. Elements of the plan must include all practices and procedures necessary to comply with all new and existing Federal, California, and local statutes, ordinances, or regulations regarding health and safety. Specific components of the Plan must include the following:
  - Identification of site hazards potential hazardous substances/materials that could be encountered, including potential odors associated with hazardous substances/materials;
  - Assignment of specific health and safety responsibilities for site work;
  - Establishment of appropriate general work practices;
  - Establishment of control zones and decontamination procedures;
  - Job hazard analysis / hazard mitigation procedures;
  - Required personal protective and related safety equipment; and
  - Contingency and emergency information.
- **Proper Removal of Buried Equipment:** Any buried holding tanks including septic systems shall be properly decommissioned in accordance with applicable regulations established by the County of Sonoma. Removal of underground tanks shall be immediately followed by backfill in accordance with Engineering recommendations. Materials shall be properly disposed of at permitted facilities.

36. **HYDRO-1:** Following construction of the residential buildings within the FP-C (Flood Plain – Combining District), and prior to occupancy, the elevation of the lowest floor, including basement, shall be certified by a registered professional engineer or surveyor, to be properly elevated. Such certification or verification shall be provided to the Floodplain Administrator. As determined to be appropriate by the Floodplain Administrator, the following standards may also be required:

- All new improvements shall be anchored to prevent flotation, collapse, or lateral movement.
- All new improvements shall be constructed with materials and utility equipment resistant to flood damage and using methods and practices to minimize flood damage.
- All electrical, heating, air conditioning, ventilation, and plumbing shall be designed and located to prevent water from entering or accumulating within components during flooding.
- All new construction and improvements shall insure that fully enclosed areas below the lowest floor that are subject to flooding be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. A minimum of two opening not less

than one square inch for every square foot of enclosed area shall be provided.

37. **NOI-1:** The following Best Construction Management Practices shall be implemented to reduce construction noise levels emanating from the site, limit construction hours, and minimize disruption and annoyance:
- Limit construction hours to between 7:00 a.m. and 7:00 p.m., Monday through Friday and between 9:00 a.m. and 7:00 p.m. on Saturday, Sunday and State, Federal and Local Holidays.
  - Delivery of materials and equipment to the site and truck traffic coming to and from the site is restricted to the same construction hours specified above.
  - Equip all internal combustion engine-driven equipment with intake and exhaust mufflers that are in good condition and appropriate for the equipment.
  - Unnecessary idling of internal combustion engines shall be strictly prohibited.
  - Locate stationary noise-generating equipment such as air compressors or portable power generators as far as possible from sensitive receptors. If they must be located near receptors, adequate muffling (with enclosures where feasible and appropriate) shall be used to reduce noise levels at the adjacent sensitive receptors. Any enclosure openings or venting shall face away from sensitive receptors.
  - Acoustically shield stationary equipment located near residential receivers with temporary noise barriers.
  - Utilize "quiet" air compressors and other stationary noise sources where technology exists.
  - Construction staging areas shall be established at locations that will create the greatest distance between the construction-related noise sources and noise-sensitive receptors nearest the project site during all project construction activities.
  - Locate material stockpiles, as well as maintenance/equipment staging and parking areas, as far as feasible from existing residences.
  - Control noise from construction workers' radios to a point where they are not audible at existing residences bordering the project site.
  - The contractor shall prepare a detailed construction schedule for major noise-generating construction activities. The construction plan shall identify a procedure for coordination with adjacent residential land uses so that construction activities can be scheduled to minimize noise disturbance.
  - Notify all adjacent residences (within 500 feet of the project site) of the construction schedule, in writing, and provide a written schedule of "noisy" construction activities to the adjacent land uses.
  - Designate a "disturbance coordinator" who would be responsible for responding to any complaints about construction noise. The disturbance coordinator will determine the cause of the noise complaint (e.g., bad muffler, etc.) and will require that reasonable measures be implemented to correct the problem. Conspicuously post a telephone number for the disturbance coordinator at the construction site and include in it the notice sent to neighbors regarding the construction schedule.
38. **NOI-2:** To reduce noise levels in the side yards of the eight Type II Zero Lot Line homes facing North McDowell Blvd to a CNEL of 60 dBA, a barrier with a minimum top of wall elevation of seven (7) feet above yard grade level on the side yard of the Zero Lot Line homes along North McDowell Blvd shall be incorporated into the project design. To ensure effectiveness, the noise barrier walls shall be built without cracks or gaps in the face, and shall not have large or continuous gaps at the base, or where they adjoin the homes or each other. The walls should also have a minimum surface weight of 3.0 lbs. per square foot. Small, dispersed, gaps in the base of the walls for landscape irrigation or drainage which do not compose more than 0.5% of the wall area are acceptable.

39. **NOI-3:** In order to comply with noise compatibility standards, the project shall incorporate the following:
- Provide forced air mechanical ventilation, satisfactory to the local building official, in all residences with partial or full line of sight to North McDowell Blvd. traffic.
  - To maintain interior noise levels at or below 45 dBA CNEL, provide sound-rated windows and doors at Type I and Type II residences facing or perpendicular to North McDowell Boulevard. The degree of sound mitigation needed to achieve an interior CNEL of 45 dBA or less would vary depending on the final design of the building (relative window area to wall area) and the design of the exterior wall assemblies. However, based on the future exterior noise levels and typical residential construction, it is anticipated that windows and doors facing or with a view of North McDowell Boulevard may require STC ratings of between 28 and 30.
  - The specific determination of exterior wall assemblies and window/door STC ratings should be conducted on a unit-by-unit basis during the project design. The results of the analysis, including the description of the necessary noise control treatments, shall be submitted to the City along with the building plans and approved prior to issuance of a building permit.
40. **NOI-4:** Install windows with STC ratings of between 28 and 32 for residences adjacent to the rail line to reduce interior maximum levels resulting from train engine noise to the recommended 55 dBA Lmax30 interior levels.
41. **TRAF-1:** Existing landscaping on the median island within the North McDowell Boulevard and within the line sight of the eastern driveway, shall be modified to achieve adequate sight lines where left-turn egress would be allowed. Landscaping modification would include removal of bushes and shrubs between the trees as well as a reduction in the height of the berm on the median. Additionally, new landscaping and signage introduced by the project shall be installed in locations and maintained in a manner that does not further introduce sight line conflicts at project driveways.
42. **UTIL-1:** Prior to issuance of a grading permit, a Final Hydrology and Hydraulic Study shall be prepared to confirm that the proposed combination of site grading, routing of onsite storm water pipe facilities and storm water treatment systems continue to mitigate increases in calculated peak flows to the individual points of concentration around the site, to at or below pre-project conditions.

#### **PUBLIC WORKS AND UTILITIES**

43. All conditions of Resolution No. 2020-031 N.C.S. shall be satisfied.
44. Provide a concrete pad and bus shelter adjacent to the turnout with location and size to be approved by Transit Manager and City Engineer. Install a signpost to be installed near north end of bus stop area, for a bus stop sign and no parking sign. Bus shelter to be Tolar Mfg. – city standard shelter, with two shelter benches two full-size Tolar refuse cans (one recycle, one trash), and two inverted-U bike racks (galvanized and powder coated steel). All items are to be placed on concrete passenger wait pad adjacent to the bus pull-out. Hardwired electrical facilities shall be installed for the stop.
45. Prior to the issuance of the first building permit for a residential structure, the applicant shall pay a fair share contribution to the City towards pedestrian crossing improvements at the Corona Road railroad grade crossing. The city shall coordinate design requirements with Sonoma Marin Area Rail Transit and provide a preliminary cost estimate of the improvements. The fair share shall be based on the number of residential units within the project area and within a ½ mile radius of the future train station site, east of the railroad tracks.
46. Prior to the issuance of the first building permit for a residential structure, the applicant shall pay a fair share contribution to the City towards of the cost of SMART railroad pre-emption. Preliminary estimate for applicant's proportional share is 4.7% as put forth in the Traffic Impact Study. The prorata estimate calculation is to be approved by the City Engineer.
47. The existing sidewalk along the Corona frontage shall be extended to and aligned with the existing sidewalk on the eastern side of the railroad tracks. The City is to coordinate with SMART and the

applicant to assure accommodations for SMART & CPUC grade crossing safety standards and compliance.

48. All portions of existing broken, displaced, cracked and/or settled City sidewalk, curb and gutter along the Corona Road frontage shall be removed and replaced with City standard sidewalk, curb and gutter.
49. Per City of Petaluma Public Works & Utilities Street Standard Guidelines (201.1): Arterial street sidewalks shall be a minimum of 6 feet in width (N. McDowell) and minimum 5 feet width for all residential.
50. Grading shall conform to the project geotechnical investigation report submitted with the tentative map application and the geotechnical report prepared as part of the construction documents.
51. Surface drainage shall not be allowed to flow across the public sidewalk and shall be collected and directed to a storm drain system.
52. Street lights in the interior streets shall be publicly owned and operated, and installed per City standards. LED streetlight fixtures shall be installed. The City will provide the developer the LED specification prior to submittal of the final map and improvement plans. Final street light locations shall be determined at the time of improvement plan review and approval. Pull boxes and electrical conduits shall be installed per City requirements.
53. All improvement work shall be completed prior to issuance of a final inspection/certificate of occupancy for the last 20% percent of units.
54. Traffic control plans are required for all stages of construction and shall be per latest Manual on Uniform Traffic Control Devices (MUTCD) standards.
55. Add bicycle path connection access point at Michael Drive (northside) for a total of five.
56. Provide wayfinding signage on North McDowell Boulevard to direct to multiuse path access points.
57. Provide benches along Corona Creek. Bench specification to be approved by planning staff.
58. Bike racks shall be provided in common areas. Bike rack quantity and design to be reviewed and approved by planning staff.
59. Bioretention or private storm water treatment facilities shall be outside of the public right of way and outside the exclusive public watermain easement.
60. Erosion control and water quality control measures shall be employed throughout the construction life of the project. The necessary documentation including Notice of Intent, Storm Water Pollution Prevention Plan (SWPPP) and Notice of Termination shall be filed as required by the responsible agencies. The project shall comply with the City of Petaluma Phase II Storm Water Management Plan including attachment four post construction requirements.
61. No lot-to-lot drainage is allowed without drainage easements, subject to the approval of the City Engineer.
62. Landscaping in public utility easements shall be limited to ground cover and shallow rooted, low lying shrubs. Trees are not allowed.
63. Provide landscape meter locations and size. Backflows per City Standards
64. Prior to the issuance of a building permit, the applicant shall submit The applicant shall submit the following in accordance with PMC Section 15.17.050:
  - A. PMC Section 15.17.050(C)(1)(j): Applicant signature and date with statement, "I agree to comply with the requirements of the Landscape Water Use Efficiency Standards and submit a complete Landscape Documentation Package."
  - B. PMC Section 15.17.050(C)(4)(c)(3): A minimum three-inch layer of mulch shall be applied on all exposed soil surfaces of planting areas except in turf areas, creeping or rooting groundcovers, or direct seeding applications where mulch is contradicted.

- C. PMC Section 15.17.050(C)(4)(d)(1,6,11,17,18):The landscape design plan at a minimum, shall include:
    - Delineate and label each hydrozone by number, letter, or other method.
    - Identify type of mulch and application depth.
    - Identify plant quantities.
    - Contain the following statement : "I have complied with the criteria of the ordinance and applied them for the efficient use of water in the landscape design plan"; and
    - The signature of a licensed landscape architect, licensed landscape contractor, or any other person authorized to design a landscape.
  - D. PMC Section 15.17.050(C)(5)(a,b,c): A complete irrigation design plan that meets all the design criteria shall be submitted as a part of the landscape documentation package.
  - E. PMC Section 15.17.050(C)(5)(c)(9,10): In addition the irrigation design plan shall also contain:
    - The following statement: "I have complied with the criteria of the ordinance and applied them accordingly for the efficient use of water in the irrigation design plan"; and
    - The signature of a licensed landscape architect, certified irrigation designer, licensed landscape contractor, or any other person authorized to design an irrigation system.
65. Prior to final inspection, the applicant shall submit the following in accordance with PMC Section 15.17.050. Please refer to the following sections of the PMC for detailed requirements of each item:
- A. PMC Section 15.17.050 (C)(3): Soil Management Report.
  - B. PMC Section 15.17.050 (D)(1-3): Certificate of Completion to include the following attachments:
    - Certification by either the signer of the landscape design plan, the signer of the irrigation design plan, or the licensed landscape contractor that the landscape project has been installed per the approved landscape water use efficiency standards.
    - Irrigation Schedule – shall be regulated by automatic irrigation controllers, applied water should be the ETWU.
    - Landscape and Irrigation Maintenance Schedule - including routine inspection, adjustment and repair of irrigation system, fertilizing, pruning, weeding, etc.
    - Landscape Irrigation Audit conducted by a certified landscape irrigation auditor. Landscape audits shall not be conducted by the person who designed the landscape or installed the landscape. Audit reports shall meet the criteria listed in Section 15.70.050 (D)(2)(c).

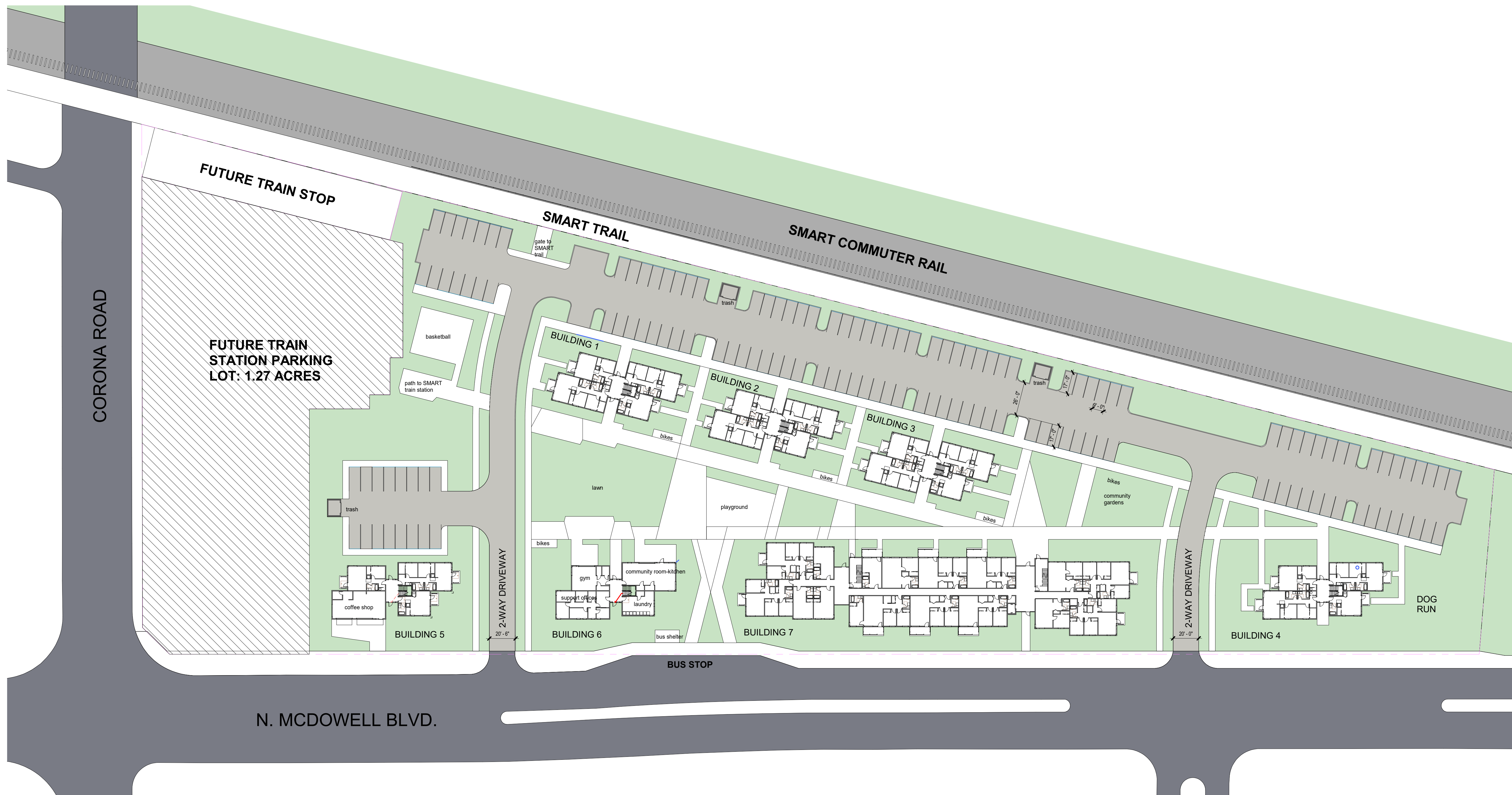
## **FIRE PREVENTION**

66. Approved automatic sprinkler systems in new buildings and structures shall be provided in the locations described in Sections 903.2.1 through 903.2.20. Approved automatic sprinkler systems in existing buildings and structures shall be provided in locations described in Section 903.6. PMC 17.20 903.2
67. An automatic sprinkler system installed in accordance with Section 903.3.1.3 shall be permitted in Group R-3 occupancies and shall be provided throughout all one- and two-family dwellings regardless of square footage in accordance with the California Residential Code. An automatic sprinkler system shall be installed in all mobile homes, manufactured homes and multi-family manufactured homes with two or more dwelling units in accordance with Title 25 of the California Code of Regulations. PMC 17.20 903.2.8.1
- The fire sprinkler system requires approved plans and permit from the Fire Prevention Bureau prior to work commencing. The owner/contractor shall submit a permit application with three (3) sets of plans, cuts sheets and calculations. This system shall comply with NFPA-13D (single family dwellings).
68. New and existing buildings shall be provided with approved illuminated or other approved means of address identification. The address identification shall be legible and placed in a position that is visible from the street or road fronting the property. Address identification characters shall contrast with their background. Address numbers shall be Arabic numerals or alphabetic letters. Numbers shall not be spelled out. Character size and stroke shall be in accordance with Section 505.1.1 through 505.1.2.

Where required by the fire code official, address identification shall be provided in additional approved locations to facilitate emergency response in accordance with this code and Section 505.1.3. Where access is by means of a private road and the building cannot be viewed from the public way or when determined by the fire code official, a monument, pole, or other approved sign or means shall be used to identify the structure. Address identification shall be maintained PMC 17.20 505.1

69. Numbers for one and two-family dwellings shall be not less than four inches (4") (101.6 mm) high with a minimum stroke width of 0.5 inches (12.7 mm).PMC 17.20 505.1.1





**1** SITE PLAN-FULL  
1" = 40'-0"

### PROJECT UNIT DATA

UNIT INFORMATION	UNIT MIX TYPES	UNIT MIX QUANTITY	PARKING
BUILDING 1: 12 UNITS (UNIT MIX A)	MIX TYPE A	STUDIOS: 33 UNITS	<b>140 SPACES TOTAL</b> (140/98 UNITS = 1.4 SPACES/UNIT)
BUILDING 2: 12 UNITS (UNIT MIX A)	STUDIOS: 3 UNITS	1-BEDROOM: 29 UNITS	
BUILDING 3: 12 UNITS (UNIT MIX A)	1-BEDROOM: 3 UNITS	2-BEDROOM: 36 UNITS	
BUILDING 4: 12 UNITS (UNIT MIX A)	2-BEDROOM: 4 UNITS	3-BEDROOM: 33 UNITS	NOTE: 33 SUPPORTIVE HOUSING UNITS ARE EXEMPT FROM PARKING REQUIREMENTS.
BUILDING 5: 11 UNITS (UNIT MIX B)	3-BEDROOM: 2 UNITS	<b>TOTAL UNITS: 131</b>	
BUILDING 6: 8 UNITS (UNIT MIX C)	MIX TYPE B:	<b>TOTAL BEDS: 233</b>	<b>NON-RESIDENTIAL SPACES:</b>
BUILDING 7: 64 UNITS (UNIT MIX D)	STUDIOS: 3 UNITS	COFFEE SHOP: 890 SF	
<b>TOTAL UNITS: 131 UNITS</b>	1-BEDROOM: 3 UNITS	SUPPORTIVE SERVICES	
	2-BEDROOM: 3 UNITS	OFFICES: 890 SF	COMMUNITY ROOM: 835 SF
	3-BEDROOM: 2 UNITS	GYM/MEETING ROOM: 415	LAUNDRY ROOM: 550 SF
	MIX TYPE C:		
	STUDIOS: 2 UNITS		
	1-BEDROOM: 2 UNITS		
	2-BEDROOM: 1 UNITS		
	3-BEDROOM: 3 UNITS		
	MIX TYPE D:		
	STUDIOS: 16 UNITS		
	1-BEDROOM: 12 UNITS		
	2-BEDROOM: 20 UNITS		
	3-BEDROOM: 16 UNITS		