

RESOLUTION NO. _____

RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA ROSA APPROVING MODIFICATION OF THE NEW RAILROAD SQUARE APPLICATION AND AWARD FOR THE PROPOSITION 1C GRANT FROM A MULTIPLE-PHASE, MIXED-USE DEVELOPMENT IN RAILROAD SQUARE TO A STAND-ALONE SENIOR AFFORDABLE HOUSING DEVELOPMENT AT 3 WEST THIRD STREET

WHEREAS, in 2009, Railroad Square Associates, LLC (RSA) and the City were successful co-applicants for an \$11.3 million State Proposition 1C Infill Infrastructure Grant Program (Prop 1C Grant) for New Railroad Square, based on a proposed master development consisting of 68 units of senior affordable housing, 211 units of market-rate condominiums, and approximately 84,000 square feet of office and retail uses on four parcels totaling approximately 7.4 acres (Master Development). The Prop 1C Grant program is administered by the State Department of Housing and Community Development (HCD); and

WHEREAS, despite financial support for the Master Development from the City, Housing Authority, former Redevelopment Agency, HCD, and the US Department of Housing and Urban Development, the weak economy and other challenges have decreased the likelihood that the Master Development will be built within the current time frames of the Prop 1C Grant program for several reasons:

- a. The ability to secure financing for new commercial and new market rate residential construction as well as locating future commercial tenants continue to be difficult;
- b. The State's dissolution of Redevelopment has resulted in a potential loss of local funding for the project and, as a result, potential loss of state and federal funding, too;
- c. The developer's options with SMART to purchase and be the master developer of the SMART parcels have expired; and

WHEREAS, many Prop 1C Grant projects statewide are in a similar position and, as a result, HCD has amended the Grant program guidelines to allow grantees to modify their projects from a multiple phase development to a single development with a commensurate reduction in the grant amount; and

WHEREAS, the proposed application would modify the New Railroad Square Prop 1C Grant application from a mixed-use, transit-oriented master development to 93 senior affordable rental units as a stand-alone project on one parcel of approximately 1.3 acres at the Cannery Site, 3 West Third Street and would reduce the Prop 1C Grant award from approximately \$11.3 million to approximately \$4.3 million with approval by HCD; and

WHEREAS, HCD has requested applications for modified projects demonstrating project feasibility be submitted by April 2013. For the purposes of Prop 1C modifications, feasibility is

demonstrated by a plan, and does not require funding or a performance commitment at this point in time; and

WHEREAS, approval of the modified Prop 1C application by the Council does not guarantee approval of any of the components of the feasibility plan, or the ultimate completion of the project; and

WHEREAS, there is no financial liability to the City if a modified application is submitted. Demonstrating development feasibility is the responsibility of the developer. In addition, all project financing commitments and other development approvals must occur prior to the disbursement of any funding, including Prop 1C grant funds; and

WHEREAS, if the Council wishes to submit the modified Prop 1C application to HCD, it would be subject to the following conditions regarding project feasibility:

- a. Evaluation by the Housing Authority. The Housing Authority must review an updated funding application for the project that requests up to \$5.5 million of local subsidy to compete for 9% tax credits. The Housing Authority's action is subject to the success of pending litigation for return of at least \$4 million to the Housing Authority, along with a complete subsidy analysis of the proposed project and 9% tax credit application, as well as a commitment of up to an additional \$1.5 Million in funds held by the Housing Authority;
- b. Project Entitlement. The project must be fully entitled. Environmental clearances and land use entitlements for a 93 unit residential project at the Cannery Site were granted in 2008 and remain valid to November 2015. Design Review approval is pending. To the extent that the proposed senior affordable project differs from the prior approvals, new applications and an environmental review may be applicable and further subject to the City's review;
- c. Tax Credits Equity Financing. The developer must be successful in competing for 9% tax credit equity; and

WHEREAS, prior to execution of the Prop 1C Standard Agreement and Disbursement Agreement, the City would require assurance from SMART that the revised project for 93 senior affordable units will satisfy the affordable housing requirement for future development of the SMART site; and

WHEREAS, prior to execution of the Standard Agreement and the Disbursement Agreement for the Prop 1C Grant, the City would require that an agreement between the City and the developer be executed to address (i) any redistribution of Prop 1C Grant funds received by the City to the co-grant recipient (i.e. the developer) in the form of a loan which is necessary to increase competitiveness for 9% tax credits, and (ii) Developer's assumption of all requirements set forth in the State's Prop 1C Grant Guidelines as well as the Standard Agreement and Disbursement Agreement and indemnification of the City, as well as any other appropriate guarantees for the developer's performance under the Standard Agreement and the

Disbursement Agreement, including but not limited to completion of the senior affordable units within the time requirements therein contained.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Santa Rosa hereby finds and determines:

Section 1. Recitals. The Recitals set forth above are true and correct and are incorporated into this Resolution by this reference.

Section 2. Entitlements and CEQA Compliance. Modification of the project description and application for receipt of Prop 1C Grant funds is not anticipated to have an environmental impact. To the extent there might be an environmental impact, the general scope of the revised project description has already been evaluated under the California Environmental Quality Act (CEQA) in association with entitlements and discretionary approvals granted in November 2008. In particular, the Planning Commission adopted Resolution No. 11401 on November 20, 2008, approving a mitigated negative declaration for 93 residential units at the Cannery site. To the extent that there are further discretionary approvals associated with the revised project description for the Prop 1C Grant, either 1) a finding needs to be made that that the Prop 1C project is consistent with the 2008 project and mitigated negative declaration, or 2) any change will result further review under CEQA.

Section 3. Severability. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are severable. The Council hereby declares that it would have adopted this Resolution irrespective of the invalidity of any particular portion thereof.

BE IT FURTHER RESOLVED that the Council hereby approves submission of a modified application to HCD with a revised project description for the Prop 1C Grant from the Master Development to a stand-alone 93 unit senior affordable housing project on one parcel at 3 West Third Street (which had been originally approved by Council by adoption of Resolution No. 27324 on March 24, 2009) and would, if approved by HCD, reduce the Prop 1C Grant award from approximately \$11.3 million to approximately \$4.3 million.

BE IT FURTHER RESOLVED that the Council hereby directs that continued pursuit of the modified project shall be subject to the following conditions and requirements:

- a. Approval of the Housing Authority of an updated funding application for the project of up to \$5.5 million of local subsidy, which will be subject to the success of pending litigation and the return of at least \$4 million to the Housing Authority, along with a complete subsidy analysis of the proposed project and tax credit application;
- b. Full and complete entitlement of the project as revised for a 93 unit senior affordable residential project at the Cannery Site consistent with applicable City requirements and CEQA review;

- c. The developer must be successful in competing for 9% tax credit equity;
- d. Prior to execution of the Prop 1C Standard Agreement and Disbursement Agreement, assurance, in a form acceptable to the City, from SMART that the revised project for 93 senior affordable units will satisfy the affordable housing requirement for future development of the SMART site; and
- e. Prior to execution of the Standard Agreement and the Disbursement Agreement for the Prop 1C Grant, an agreement between the City and the developer, in a form acceptable to the City, be executed to address (i) any redistribution of Prop 1C Grant funds received by the City to the co-grant recipient (i.e. the developer) in the form of a loan which is necessary to increase competitiveness for 9% tax credits, and (ii) Developer's assumption of all requirements set forth in the State's Prop 1C Guidelines as well as the Standard Agreement and Disbursement Agreement and indemnification of the City, as well as any other appropriate guarantees for the developer's performance under the Standard Agreement and the Disbursement Agreement, including but not limited to completion of the senior affordable units within the time requirements therein contained.

BE IT FURTHER RESOLVED that the Council authorizes and directs the City Manager or her designee to undertake such further actions as are necessary to submit the modified application to HCD for the Prop 1C Grant award on behalf of the City, and if the modified application is accepted by HCD, directs the City Manager to return to the Council with (i) assurance from SMART as to satisfaction of the affordable housing requirements for future development on the SMART site, and (ii) a proposed agreement between the City and developer to address the issues identified in the staff report above, prior to execution of the Prop 1C Standard Agreement or Disbursement Agreement.

IN COUNCIL DULY PASSED this ____ day of _____, 2013.

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST: _____
City Clerk

APPROVED: _____
Mayor

APPROVED AS TO FORM:

City Attorney