

GRATON COMMUNITY SERVICES DISTRICT

250 ROSS LANE • MAIL: PO BOX 534, GRATON, CALIFORNIA 95444 • 707/823-1542 • FAX 707/823-3713



05/16/22

RESOLUTION NO. 220516B

RESOLUTION OF THE BOARD OF DIRECTORS MAKING FINDINGS PURSUANT TO GOVERNMENT CODE SECTION 4217.10 ET SEQ. AND APPROVING A PROPOSED SOLAR PANEL PROJECT AND AUTHORIZING THE GENERAL MANAGER TO FINALIZE AND EXECUTE RELATED PROJECT CONSTRUCTION AND FINANCING AGREEMENTS

WHEREAS, the Graton Community Services District (“District”) requires electricity to operate its facilities, and desires to optimize electrical utility use and ensure its facilities can continue to operate during events that result in the loss of electrical power; and

WHEREAS, the District proposes to install a solar photovoltaic power system, charge during non-peak, non-emergency hours, and offload power during high demand hours or emergency situations (“solar panel project”); and

WHEREAS, Section 4217.10 of the Government Code authorizes District to enter into contract related to energy equipment and services on terms that the Board of Directors determines are in the best interests of the District where a public hearing is held and certain findings are made; and

WHEREAS, Section 4217.13 of the Government Code authorizes the District to enter into a facility financing contract and/or a facility ground lease on terms that the Board of Directors determines are in the best interest of the District where a public hearing is held and certain findings are made; and

WHEREAS, Section 4217.16 of the Government Code authorizes District to award such contract related to energy equipment and services after requesting proposals from qualified persons and evaluating such proposals based on experience of the contractor, type of technology employed by the contractor, cost to the District, and any other relevant considerations; and

WHEREAS, Section 4217.18 of the Government Code construes the aforementioned provisions to provide the greatest flexibility to the District in structuring agreements to maximize the economic benefits of, and minimize financing and other costs associated with, the design and construction of alternate energy projects; and

WHEREAS, pursuant to relevant decisional authority, including *Graydon v. Pasadena Redevelopment Agency*, (1980) 104 Cal.App.3d 631, District has legal authority to award such energy

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services contract and related facility ground lease to without requesting bids or proposals where the nature of the subject of the contract is such that competitive bids or proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bids or proposals would thus be undesirable, impractical, or impossible; and

WHEREAS, the District has evaluated proposals for the solar panel project and has been negotiating with North Coast Solar and Mission Capital Solar Municipal Financing a proposal to install and finance the proposed solar panel project, with the form agreements attached hereto and incorporated herein as Exhibits A and B; and

WHEREAS, the proposed solar panel project qualifies as an “energy conservation facility” under Government Code Section 4217.10 et seq., as it is alternate energy equipment, cogeneration equipment, or conservation measures located on District facilities and constitutes equipment, maintenance, load management techniques and equipment, or other measures to reduce energy use or make for a more efficient use of energy; and

WHEREAS, entering into financing and construction agreements for the solar panel project is beneficial to the District at this time is beneficial to the District as such actions secures a contractor with the expertise to provide energy conservation services the District seeks through the solar panels and secures favorable financing and interest rates for the project, such that competitive bids or proposals would not produce an advantage and competitive advertisements would be impractical and undesirable; and

WHEREAS, on May 16, 2022, the Board of Directors conducted a duly noticed public hearing where it heard testimony and accepted a report from District staff providing a description of the construction and financing of the project and establishing information that: (1) the anticipated cost to the District for the installation of a solar photovoltaic power system under proposed contract with North Coast Solar will be less than the anticipated marginal cost to the District of high demand charges and additional electricity consumption resulting from the use of existing facilities that District would have otherwise sustained in the absence of the proposed solar photovoltaic power system; and (2) the funds for the repayment of the financing or the cost of design, construction, and operation of the solar panel project are projected to be available from revenues resulting from sales of electricity or thermal energy from the facility or from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the public agency in the absence of the energy conservation facility, or both.

WHEREAS, based on the report and testimony provided at the public and in the record, the proposed solar panel project is exempt from the requirements of the California Environmental Quality

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Act (CEQA) pursuant to Section 15301 of the CEQA Guidelines as work or minor alterations done upon existing facilities; and Section 15303, as new construction of small equipment.

WHEREAS, the District Board of Directors now desires to make the findings described below and approve the solar panel project, and authorize the District's General Manager to negotiate and enter into related agreements.

NOW, THEREFORE BE IT RESOLVED by the Graton Community Services District Board of Directors, as follows:

SECTION 1. The above recitals are true and correct and are incorporated herein as if stated in full.

SECTION 2. The Board of Directors finds as follows pursuant to Government Code section 4217.10 et seq.:

- A. It is in the best interest of the District to approve the solar panel project and to enter into construction and financing agreements, in the form of agreements attached hereto and incorporated herein as **Exhibits A and B**, for the solar panel project to facilitate the continuation of District services in the event of a power outage and optimize District's electrical utility use.
- B. In accordance with Government Code section 4217.10 et seq., the anticipated cost to the District for the installation of solar panels under contract with North Coast Star will be less than the anticipated marginal cost to the District of high demand charges and additional electricity consumption resulting from the use of existing facilities during day-to-day consumption of electricity and special events such as power outages that the District would have otherwise sustained in the absence of the proposed solar panel project; and
- C. The funds for the repayment of the financing or the cost of design, construction, and operation of the solar panels as required by the contract, are projected to be available from funding that otherwise would have been used for purchase of electrical, thermal, or other energy required by the District in the absence of the proposed solar panels.
- D. Based on the report and testimony provided at the public and in the record, the proposed solar panel project is exempt from the requirements of the California Environmental Quality Act (CEQA) pursuant to Section 15301 of the CEQA

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Guidelines as work or minor alterations done upon existing facilities; and Section 15303, as new construction of small equipment.

- E. The approval of solar panel project is exempt from formal or informal bid or proposal procedures because the nature of the subject of the proposed project is such that competitive bids or proposals would be unavailing or would not produce an advantage, and the advertisement for competitive bids or proposals would thus be undesirable, impractical, or impossible.

SECTION 3. The General Manager is hereby authorized and directed to finalize and execute construction and financing agreements in substantially the same form and subject to the same pricing and term as those attached hereto as Exhibits A and B, subject to approval as to form by the District's legal counsel, and to take all necessary actions to effect its purpose or to carry out the project consistent with the intent of this resolution.

DIRECTORS:

___ UPCHURCH, ___ BUTLER, ___ WILMARTH, ___ BENFELL ___ (VACANT).

AYES ___; NOES ___; ABSTAIN ___; ABSENT ___.

WHEREUPON, the President declared the above and foregoing Resolution duly adopted and SO ORDERED.

Approved:

David Upchurch
President, Board of Directors
Graton Community Services District

Attest:

Jennifer Butler
Secretary, Board of Directors
Graton Community Services District