
Date: December 12, 2023

Item Number: _____

Resolution Number: _____

4/5 Vote Required

Concurrent Resolution Of The Board Of Directors Of The Sonoma County Agricultural Preservation And Open Space District and the Board of Directors of the Sonoma County Water Agency Making Certain Findings and Authorizing the Purchase and Conservation of Property Commonly Known as the Mark West Wikiup Open Space Preserve

Whereas, WBR, LLC is the fee title owner of an approximately 30.29-acre property located at 5001 Carriage Lane in the Larkfield-Wikiup neighborhood of unincorporated Santa Rosa, Sonoma County, California (“Mark West Wikiup Open Space Preserve”); and

Whereas, the General Manager of the Sonoma County Agricultural Preservation and Open Space District (District) has negotiated and is recommending the funding of the Sonoma County Water Agency’s (Sonoma Water) purchase of fee interest in the Mark West Wikiup Open Space Preserve and the District’s acquisition of an approximately 30-acre conservation easement and recreation covenant interests therein;

Whereas, the conservation easement fulfills policies in the District’s Vital Lands Initiative, including policies to preserve Community Identity, Healthy Communities, Water, and is appropriate for Sonoma Water purposes; and

Whereas, by its Resolution No. 2023-006, dated June 1, 2023, the Sonoma County Agricultural Preservation and Open Space Fiscal Oversight Commission determined that proposed purchase price for the fee interest, which is equal to or less than the value set forth in the appraisal, does not exceed the fair market value; and

Now, Therefore, Be It Resolved that these Boards of Directors hereby find, determine, declare and order as follows:

1. *Truth of Recitals.* That the foregoing recitations are true and correct.

2. *General Plan Consistency.* That the acquisition of the Mark West Wikiup Open Space Preserve by Sonoma Water and acquisition of a Conservation Easement and Recreation Covenant by the District (“the Project”) further implements the 2020 Sonoma County General Plan. The Project supports goals and policies in Land Use, Open Space and Resource Conservation, in water, scenic resources, natural resources and recreational and educational resources.

3. *Agency Act Consistency.* That the acquisition of Mark West Wikiup Open Space Preserve by Sonoma Water is consistent with Section 3.8 of Sonoma Water’s enabling legislation, which allows for it to provide recreation only in connection with flood control or water supply facilities. Sonoma Water is able to provide recreation opportunities on the Property because it owns a flood control easement on the Property.

4. *Expenditure Plan Consistency.* That the Project is consistent with the Expenditure Plan approved by the voters of Sonoma County in 2006 via Measure F, because it will protect the highest priority lands using a conservation easement as the primary tool for protection, and specifically preserves scenic landscape, biotic habitat areas along Mark West Creek, publicly accessed open space with recreational and educational opportunities.

5. *California Environmental Quality Act; Notices of Exemption.* That the Project authorized by this resolution is exempt from the requirements of the California Environmental Quality Act (Public Resources Code Sections 21000 and following) pursuant to Public Resources Code Section 21080.28(a)(1)(A), (B) & (F) and Cal. Code of Regs. Tit. 14, § 15325(a), (c) & (f)), which exempts from CEQA the acquisition, sale, or other transfer of interest in land by a public agency for the preservation of the natural condition of the property including plant and animal habitats; restoration of natural conditions including plant and animal habitats; and preservation of open space or lands for park purposes. It is also exempt pursuant to Sections 15316 and 15317 of Title 14 of the California Code of Regulations, because the purpose of the acquisition is establish a park and to maintain the open space character of the area. Immediately upon adoption of this resolution, the General Manager of the District is directed to file with the County Clerk and the Office of Planning and Research, and the County Clerk is directed to post and to maintain the posting of a notice of exemption pursuant to Public Resources Code Section 21152. Pursuant to existing authority, the General Manager for Sonoma Water shall file with the County Clerk and the Office of Planning and Research, and the County Clerk is directed to post and to maintain the posting of a notice of exemption pursuant to Public Resources Code Section 21152.

6. *District Board President Authority to Sign Contracts.* That the District Board President is authorized and directed to execute, on behalf of the District that certain agreement entitled “Deed and Agreement By and Between Sonoma Water and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights” together with the certificate of acceptance required by Government Code Section 27281, as well as the “Recreation Conservation Covenant” together with

the associated certificate of acceptance required by Government Code Section 27281.

7. *Sonoma Water General Manager Authority to Sign Contracts.* That Sonoma Water's General Manager is authorized and directed to execute, on behalf of Sonoma Water that certain agreement entitled "Deed and Agreement By and Between Sonoma Water and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement and Assigning Development Rights," as well as the "Recreation Conservation Covenant," together with the associated Irrevocable Offer to Dedicate the fee interest in the preserve.

8. *Closing Documents.* That County Counsel is hereby authorized and directed to prepare and deliver appropriate escrow instructions and other necessary documents to First American Title Company to complete the transaction as described. The General Managers for Sonoma Water and District are authorized to make any technical, non-substantive changes in the Purchase and Sale Agreement, the Conservation Easement and other closing documents, respectively, prior to recordation with the prior approval of County Counsel. With approval of County Counsel and the District's surveyor, the General Manager for District is further authorized to make minor changes to the Project Structure Map that do not change the total acreage protected, in order to make the map conform to features that may be surveyed. The respective Board President of District and General Manager of Sonoma Water are further authorized and directed to execute any other documents necessary to complete this transaction as described.

9. *Payment of Purchase Price and Costs of Escrow.* That, at the request of District's General Manager, the County Auditor is authorized and directed to draw a warrant or warrants against available funds in the County's Open Space Special Tax Account for the proposed acquisition in an amount not to exceed \$5,100,000 payable to First American Title Company, and in such other amounts necessary for associated transactional costs requested.

10. *Authorization for Recordation.* That the District General Manager is authorized and directed to record with the Sonoma County Recorder the Conservation Easement and Certificate of Acceptance, and the Recreation Covenant and associated Certificate of Acceptance, and to deliver conformed copies of these documents, bearing evidence of recording, to the Clerk of the Board of Directors.

11. *Irrevocable Offer of Dedication.* Pursuant to Public Resources Code 5565.5, the District Board of Directors consents to the recordation by Sonoma Water of a certain Irrevocable Offer to Dedicate the fee interest in the preserve to the District, as contemplated by the Recreation Covenant authorized hereunder.

12. *Dedication.* That the Conservation Easement to be acquired by the District is hereby dedicated to open space purposes pursuant to Public Resources Code Section 5540.

Directors:

Gorin:

Rabbitt:

Gore:

Hopkins:

Coursey:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.