
Date: May 16, 2023

Item Number: _____

Resolution Number: _____

☒ 5/5 Vote Required

Resolution Of The Board Of Directors Of The Sonoma County Agricultural Preservation and Open Space District, County of Sonoma, State Of California, Making Certain Findings In Support Of Amending the Forever Forestville Conservation Easement to Reconfigure the Building Envelope to Avoid a Jurisdictional Wetland; Making Certain Determinations Pursuant To The California Environmental Quality Act And Directing The Filing Of A Notice Of Exemption; and Authorizing the Board President to Execute the Second Amendment to Conservation Easement and Certificate of Acceptance; and Authorizing the General Manager to Take all Other Actions to Complete the Transaction.

Whereas, the Sonoma County Agricultural Preservation and Open Space District (“District”) is the owner of a Conservation Easement known as the Forever Forestville Conservation Easement recorded on November 15, 2013 as Document No. 2013110043 at the County of Sonoma Recorder’s Office, as amended by that First Amendment recorded on November 14, 2017 as Document No. 2017087597 (as amended, the “Easement”); and

Whereas, due to the unexpected discovery of a jurisdictional wetland, Forestville Planning Association (“FPA”) has submitted a request to amend the Easement by reconfiguring the Building Envelope as designated on the Baseline Site Map (“Building Envelope”) to remove an approximately 36,000 square feet portion of land from the Building Envelope in exchange for the addition of approximately 17,600 square feet of land to the Building Envelope (the “Second Amendment”); and

Whereas, the Second Amendment satisfies the requirements of the District’s Easement Amendment Policy because:

- a. The Second Amendment is clearly consistent with the conservation purpose of the Easement because the amendment maintains the scenic and open space resources, natural resources, and recreational and educational resources protected by the Easement.
- b. The Second Amendment enhances and otherwise does not impair the conservation values of the land subject to the Easement because the amendment will enhance

the natural resource values by reducing the size of the Building Envelope and excluding a wetland and approximately 15 mature oak trees from the Building Envelope; benefit the recreational and educational resource values by expanding the area available for park developments, even while reducing the net total square footage of the Building Envelope; have no impact on the location or persistence of the West County Trail; and have no net impact to the Scenic and Open Space Resources.

- c. The Second Amendment does not undermine the perpetual nature of the Easement because the amended Easement will remain perpetual.
- d. The Second Amendment is not precluded by the Easement or by state or federal law.
- e. The Second Amendment qualifies as an exchange pursuant to Public Resource Code § 5540.5 because there is no net loss of value as a result the transaction, as described in section “b” above.
- f. The Second Amendment is the minimum change necessary to satisfy the purpose of the amendment, which is to allow for the removal of the entire area of the wetland and wetland buffer (approximately 36,000 square feet) from the Building Envelope in exchange for the addition of approximately 17,600 square feet of land to the Building Envelope, to enable some park-related developments.
- g. The Second Amendment is consistent with the District’s Vital Lands Initiative and other applicable District policies because it will result in a net benefit to the conservation values of the Easement by reducing the size of the Building Envelope and excluding a wetland and numerous mature oak trees from the Building Envelope.
- h. The Second Amendment is consistent with all applicable land use and zoning regulations.
- i. The Second Amendment incorporates, to the maximum extent practical and legally permissible, the language used by the District in its current conservation easements.
- j. The Second Amendment will not result in the District paying more or receiving less than fair market value for the rights that will be acquired and conveyed via the Exchange, as determined by the Fiscal Oversight Commission in Resolution No. 2023-002, adopted on February 2, 2023.

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

1. **Truth in Recitals.** The forgoing recitations are true and correct.
2. **Consistency with Ag + Open Space Easement Amendment Policy.** The Second Amendment complies with District's Easement Amendment Policy.
3. **Consistency with State Public Resources Code.** The Second Amendment constitutes an exchange of real property interests in compliance with the requirements of Public Resources Code Sections 5540 and 5540.5.
4. **California Environmental Quality Act; Notice of Exemption.** The Second Amendment 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) and (F) and Section 15325(a), (c) and (f) of Title 14 of the California Code of Regulations, which exempt from CEQA the acquisition, sale, or other transfer of interest in land by a public agency for the preservation of natural conditions existing at the time of acquisition, the restoration of natural conditions including plant and animal habitats, and the preservation of open space or lands for park purposes. Alternatively, it is exempt pursuant to Section 15317 of Title 14 of the California Code of Regulations, because the purpose of the Second Amendment is to maintain the open space character of the area. Immediately upon adoption of this Resolution, the General Manager is directed to file with the County Clerk a Notice of Exemption, and the County Clerk is directed to post and to maintain the posting.
5. **Authority to Execute Documents.** The President is authorized and directed to execute, on behalf of the District, the amendment to the Easement entitled "SECOND AMENDMENT TO DEED AND AGREEMENT BY AND BETWEEN THE FORESTVILLE PLANNING ASSOCIATION 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.
6. **Authorization for Recordation.** The General Manager is authorized and directed to record with the Sonoma County Recorder the Second Amendment and the certificate of acceptance.
7. **Delegation of Authority.** The General Manager is authorized to take all necessary steps to effectuate the amendment of the Easement.

Resolution #

Date:

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Directors:

Gorin:

Rabbitt:

Coursey:

Hopkins:

Gore:

Ayes:

Noes:

Absent:

Abstain:

So Ordered.