



# County of Sonoma

## State of California

Date: February 26, 2019

Item Number: \_\_\_\_\_

Resolution Number: \_\_\_\_\_

AGP18-0031 Hannah Spencer



4/5 Vote Required

**Resolution Of The Board Of Supervisors Of The County Of Sonoma, State Of California, Approving The Request By Collier Falls Vineyard, LLC To Rescind An Existing Prime (Type I) Land Conservation Act Contract And Replace It With A Hybrid Land Conservation Act Contract And Authorize The Chair Of The Board To Execute The New Land Conservation Act Contract And Land Conservation Plan, For The Combination Of Agricultural and Open Space Land Located At 9931 West Dry Creek Rd., Healdsburg; APN 139-120-004.**

**Whereas**, a request has been made by the property owner to authorize the Chair of the Board to rescind an existing Prime (Type I) Land Conservation Act Contract and replace it with a hybrid Land Conservation Act contract for the combination of agricultural and open space uses for property located at 9931 West Dry Creek Rd., Healdsburg; APN 139-120-004; Supervisorial District No. 4; and,

**Whereas**, in 1990, the subject property of 97.82 acres was entered into a Prime (Type I) Land Conservation Act contract for vineyard land (contract #90-18952); and,

**Whereas**, in 1990 the subject property contained a 10-acre vineyard. The contract was approved with the understanding that the former landowner would continue expanding the vineyard to cover at least 50-percent of the parcel in order to qualify for the Prime contract; and,

**Whereas**, due to site constraints including soils, topography, and access, the vineyard was only expanded to cover 22-percent of the parcel. The majority of the parcel, approximately 64-percent, has since been maintained in qualifying open space uses; and,

**Whereas**, Collier Falls Vineyard, LLC filed for a replacement contract to reflect the current combination of agricultural and open space uses of the site and to bring the parcel in conformance with the Uniform Rules; and,

**Whereas**, on December 13, 2011, the Board of Supervisors adopted the updated *Sonoma County Uniform Rules for Agricultural Preserves and Farmland Security Zones (Uniform Rules)* (Resolution No. 11-0678); and,

**Whereas**, consistent with the *Uniform Rules*, County Counsel has revised the Land Conservation Act Contract form, which now incorporates a Land Conservation Plan identifying the agricultural and/or open space uses of the contracted land. Future changes to identified land uses require amendment of the Land Conservation Plan. The Board, pursuant to Resolution No. 11-0678, has authorized the Director of Permit Sonoma to approve amendments to executed Land Conservation Plans; and,

**Whereas**, Sonoma County's Land Conservation Act program has four contract-types available: a) Prime contracts for crop agriculture with a 10 acre minimum parcel size requirement; b) Non-Prime contracts for grazing with a 40 acre minimum; c) Open Space contracts with a 40- acre minimum, and d) Hybrid contracts with a mix of agricultural and open space also with a 40-acre minimum. This action is to replace a Prime Land Conservation Contract with a hybrid contract to correspond with the parcel's combination of agricultural and open space uses; and,

**Whereas**, the Board of Supervisors finds that the 97.82 acre parcel will meet the requirements for a replacement hybrid Land Conservation Act Contract for the combination of agricultural and open space uses.

**Now, Therefore, Be It Resolved**, that the Board of Supervisors makes the following specific findings concerning the requirements for a new hybrid Land Conservation Act Contract ("Contract"):

1. Land is within an Agricultural Preserve: The 97.82 acre parcel is located within established Agricultural Preserve Area Number 1-312.
2. Minimum Parcel Size: The land must be at least 40 acres in size for a hybrid Land Conservation Act Contract. The 97.82 acre parcel exceeds the minimum parcel size requirement.
3. Agricultural Use Requirement: A minimum of 50 percent of the land is required to be continuously used or maintained for agricultural uses, open space uses, or a combination of agricultural and open space uses. Here, the parcel is 97.82 acres, with 22 acres planted in permanent crop (vineyard) and 63 acres in qualifying open space, as described for fully below. As a result, 85 acres, which is 86% of the parcel, is devoted to a combination of agricultural and open space uses, which exceeds the 50% threshold.

A wildlife habitat area is defined at Uniform Rule 2.0 as "land or water area designated by the Board of Supervisors, after consulting with and considering the recommendation of the California Department of Fish and Game, as an area of importance for the protection or enhancement of the wildlife resources of the state.

Wildlife habitat includes any land area designated in the General Plan as a biotic habitat area or riparian corridor.”

In October 2018, an *Open Space and Wildlife Habitat Assessment* was conducted on the site by Kjeldsen Biological Consulting. The purpose of the Wildlife Habitat Assessment was to evaluate the project site for its qualification as an Open Space Land Conservation Act contract. The Wildlife Habitat Study concludes the property presents the open space qualities and wildlife resources consistent with an Open Space contract. Specifically, Kjeldsen Biological Consulting found the 63 acres of open space land is undisturbed natural habitat and that protection of this habitat area provides a variety of ecosystem services, including:

- Corridors for biological access to diverse essential ecosystem resources allowing seasonal movement and gene flow;
- Breeding and foraging habitat for local and migratory wildlife and avifauna;
- Preservation of diverse plant alliances and natural biota;
- Preservation of biological diversity;
- Protection of and preservation of portions of the Fall Creek, Dry Creek and Russian River watersheds;
- Carbon sequestration and improve air quality;
- Natural areas for nutrient recycling (decomposition) by bacteria and fungi that will support terrestrial and aquatic resources on site and off site;
- Soil development and retention;
- Ground water recharge of aquifers; and
- Retention of viewshed.

The attached Land Conservation Plan requires the landowner to implement management practices that will enhance and maintain the wildlife habitat values identified by Kjeldsen Biological Consulting.

The biological report was provided to the California Department of Fish and Wildlife (formerly Department of Fish and Game) along with a request for consultation and recommendation, but no response has been forthcoming. However, based on the biological resource survey, staff recommends that the Board find sufficient evidence to support an open space designation for the subject parcel by approving the new contract based on the parcel’s 60+ acres of open space uses.

4. Single Legal Parcel Requirement: The subject parcel proposed for the replacement contract is comprised of a single legal parcel with the following Assessor’s Parcel Number: APN 139-120-004.
5. Minimum Income Requirement: For Prime contracts, the minimum gross annual income requirement is \$1,000.00 per planted acre of permanent crop. For the past five years, the vineyard has generated an average income of \$65,886.00 per year

which results in an average of \$2,994.00 per acre per year thus exceeding the required minimum income.

6. Compatible Uses for Open Space Land: Compatible uses of the land must be listed in the Uniform Rules as compatible uses and collectively, cannot occupy more than 15 percent or 5 acres of the total parcel size, whichever is less, excluding public roads, private access roads, and driveways. For this parcel, the 5 acre threshold would apply. The parcel contains a primary residence, a patio, landscaping, a barn, and a water tank. The total compatible use area consists of approximately 1.28 acres and therefore does not exceed the compatible use threshold under the contract.

**Be It Further Resolved,** that the Board of Supervisors hereby grants the request by Collier Falls Vineyard, LLC to mutually rescind and replace a Prime (Type I) Land Conservation Act contract with hybrid Land Conservation Act contract for the combination of agricultural and open space uses on 97.82 acres within an existing Agricultural Preserve (1-312), and authorize the Chair of the Board to sign the new hybrid Land Conservation Act Contract for APN 139-120-004.

**Be It Further Resolved,** that the Clerk of the Board of Supervisors is hereby instructed to record within 20 days and no later than December 31, 2019 (1) this Resolution and Attachment A (the Agricultural Preserve Map) and (2) the associate Land Conservation Act Contract and attached Land Conservation Plan with the Office of the Sonoma County Recorder.

**Be It Further Resolved,** that the Board of Supervisors finds that the project described in this Resolution is exempt from the requirements of the California Environmental Quality Act by virtue of Section 15317 Class 17 of Title 14 of the California Code of Regulations (CEQA Guidelines) in that the project is within an established Agricultural Preserve and is a replacement of a Land Conservation Act Contract.

**Be It Further Resolved,** that the Board of Supervisors designates the Clerk of the Board as the custodian of the documents and other material which constitute the record of proceedings upon which the decision herein is based, including the original executed Contract and Land Conservation Plan. These documents may be found at the office of the Clerk of the Board, 575 Administration Drive, Room 100-A, Santa Rosa, California 95403.

**Supervisors:**

Gorin:	Zane:	Gore:	Hopkins:	Rabbitt:
Ayes:	Noes:	Absent:	Abstain:	

**So Ordered.**