



## Legislation Text

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**File #:** 2023-0185, **Version:** 1

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**To:** Board of Directors of the Sonoma County Agricultural Preservation and Open Space District  
**Department or Agency Name(s):** Sonoma County Agricultural Preservation and Open Space District  
**Staff Name and Phone Number:** Sheri Emerson, Stewardship Manager, 565-7358; Kelsey Setliff, Stewardship Specialist, 565-7354  
**Vote Requirement:** Unanimous  
**Supervisory District(s):** Fifth

**Title:**

Forever Forestville Conservation Easement Second Amendment

**Recommended Action:**

Adopt a resolution:

- A) Making certain findings in support of amending the Forever Forestville Conservation Easement to allow the reconfiguration of the Building Envelope to avoid a jurisdictional wetland in accordance with Public Resources Code section 5540.5 and the District's Easement Amendment Policy.
- B) Authorizing the Board President to execute the Second Amendment to the Forever Forestville Conservation Easement and the Certificate of Acceptance.
- C) Make certain determinations pursuant to the California Environmental Quality Act and direct the filing of a notice of exemption.
- D) Delegating authority to the District's General Manager to take all necessary steps to effectuate the amendment of the Conservation Easement.

(Unanimous Vote) (Fifth District)

**Executive Summary:**

The Sonoma County Agricultural Preservation and Open Space District ("Ag + Open Space") holds a Conservation Easement over a 4.23-acre property in downtown Forestville acquired by the Forestville Planning Association through Ag + Open Space's Matching Grant Program. Forestville Planning Association plans to develop the Building Envelope into a community park and gathering space to implement the Matching Grant project. Forestville Planning Association submitted a request to amend the Conservation Easement to reconfigure the Building Envelope due to its discovery of jurisdictional wetlands within the Building Envelope. The proposed amendment would result in a net benefit to the Conservation Easement's conservation values by reducing the size of the Building Envelope, excluding a wetland area and numerous mature oak trees from the Building Envelope, and retaining the terms and conditions of the Conservation Easement as to the West County Trail extension. Therefore, Ag + Open Space is requesting Board approval to amend the Conservation Easement to reconfigure the Building Envelope.

**Discussion:**

Background

Ag + Open Space acquired the Forever Forestville Conservation Easement ("Conservation Easement") in 2013, through the Matching Grant Program, to preserve the Property's Scenic and Open Space Resources, Natural

Resources, and Recreational and Educational Resources. In 2013, following recordation of the Conservation Easement, FPA granted the County of Sonoma an Irrevocable Offer of Dedication for a Trail Easement, to extend the West County Trail across the Property. In 2017, the Board of Directors approved the First Amendment to the Conservation Easement to correct an error that prohibited installation of certain public utilities.

The Property, owned by Forestville Planning Association (“FPA”), is located in downtown Forestville and consists of undeveloped oak woodland, grassland, and riparian woodland, with a gravel parking lot at the north end and the current northern terminus of Sonoma County Regional Parks’ West County Trail. The Conservation Easement restricts certain structures, improvements, and uses to a 1.95-acre Building Envelope in the northeastern portion of the Property, as designated on the Baseline Site Map approved by the parties at the time of execution of the Conservation Easement. The remainder of the Property must remain undeveloped except for certain uses and improvements, as described in the Conservation Easement.

Ag + Open Space designed the Building Envelope with the expectation that FPA would develop the Building Envelope into a community park and gathering space to implement the Matching Grant project. Ag + Open Space approved FPA’s Park Plan in 2017, including features such as a kiosk, assembly structure, restroom, stage, storage shed, and gazebo; recreational amenities including a trailhead, trail and pathways, bike staging, gathering spot with water feature, picnic tables, deck, outdoor seating area, and a natural amphitheater; and other features including a parking lot, bus stop, signage, lighting, landscaping, and bioswale.

While working to obtain a use permit from Permit Sonoma for the Park Plan, FPA discovered that a significant amount of the designated Building Envelope is off-limits from development due to the unanticipated presence of jurisdictional wetlands. Specifically, the 2017 Park Plan identified a parking lot, assembly structure, and restroom structure in the area now delineated as jurisdictional wetland. FPA has revised its Park Plan to avoid the wetland with a 40-foot setback. The revised Plan still includes many key features of the 2017 plan, including trails and pathways, a gathering space, a stage, an amphitheater, a restroom, a storage structure, a picnic area, bike racks at the now-completed trailhead, and a parking lot (formalizing the existing gravel lot instead of relocating it per the 2017 Plan). In January 2023, Ag + Open Space approved the revised Park Plan, contingent on Board approval of the proposed amendment to reconfigure the Building Envelope.

#### Proposed Amendment

On March 18, 2020, FPA submitted a request to amend the Conservation Easement to reconfigure the Building Envelope due to its discovery of jurisdictional wetlands within the Building Envelope. To address this issue, FPA proposes to reconfigure the Building Envelope as follows:

1. Remove the entire area of the wetlands and wetland buffer (approximately 37,000 square feet) from the original Building Envelope; and
2. Extend the Building Envelope approximately 15,600 square feet further to the west and south, where a portion of the West County Trail is located.

The proposed change is a net reduction in the total square footage of the Building Envelope and would result in the removal of a wetland and approximately 15 additional mature oak trees from Building Envelope. FPA is not requesting revisions to any Conservation Easement language or removal of any land from the Conservation Easement. The proposed amendment will not impact the location or persistence of the West

County Trail.

#### Ag + Open Space Fiscal Oversight Commission Review

On January 5, 2023, staff presented the proposed amendment to Ag + Open Space's Fiscal Oversight Commission ("Commission"). The Commission requested additional information about the West County Trail extension. On February 2, 2023, staff provided additional background and information about the West County Trail and the Commission determined that the proposed amendment to allow for a reconfiguration of the Building Envelope to avoid jurisdictional wetland will not result in Ag + Open Space paying more or receiving less than fair market value (Reso. No 2023-002).

#### Ag + Open Space Easement Amendment Policy

Ag + Open Space's Easement Amendment Policy 5 (contained within Ag + Open Space's Stewardship Policy, on file with the Clerk) requires that the Board approve easement amendments only after making all of the required findings as set forth in the attached Resolution.

Ag + Open Space's General Manager recommends that the Board conclude that the proposed amendment (Attachment 1) is consistent with the Easement Amendment Policy because, among other reasons, it is consistent with law and the conservation purpose of the Easement, and the proposed amendment would result in a net conservation benefit by excluding a wetland area and approximately 15 mature oak trees from the Building Envelope, reducing the size of the Building Envelope while still enabling park-related developments, and retaining the terms and conditions of the Easement as to the West County Trail extension.

#### Exchange of Property Interests under Public Resources Code section 5540.5

The proposed amendment reconfiguring the Building Envelope within the Conservation Easement boundaries constitutes an exchange of real property interests dedicated for open space purposes under Public Resources Code section 5540.5. Accordingly, the Board of Directors must determine by unanimous vote that the real property interests acquired by Ag + Open Space through the reconfiguration of the Building Envelope are of equal or greater value than the real property interests conveyed. The proposed amendment satisfies this test because it would result in a net conservation benefit by excluding a wetland area and approximately 15 mature oak trees from the Building Envelope, reducing the size of the Building Envelope while still enabling park-related developments, and retaining the terms and conditions of the Easement as to the West County Trail extension.

#### CEQA

Pursuant to Public Resources Code Section 21080.28(a)(1)(A), (B) and (F) and Section 15325(a), (c) & (f) of Title 14 of the California Code of Regulations, this exchange of real property interests is exempt from CEQA because its purpose is to preserve the natural condition of the Property, including plant and animal habitats; the restoration of natural conditions including plant and animal habitats; and the preservation of open space or lands for park purposes. This exchange of real property interests is also exempt from CEQA pursuant to Section 15317 of Title 14 of the California Code of Regulations, because its purpose is to maintain the open space character of the area. The attached resolution directs the filing of a notice of determination in accordance with CEQA.

#### **Strategic Plan:**

N/A

**Prior Board Actions:**

October 22, 2013: Board of Directors approved a \$400,500 grant to Forestville Planning Association, determined consistency with General Plan and Expenditure Plan, and authorized execution of Matching Grant Agreement, Conservation Easement, and Recreation Conservation Covenant. (Resolution No. 13-0425)

November 7, 2017: Board of Directors authorized the Board President to execute the First Amendment to Conservation Easement Agreement. (Resolution No. 17-0430)

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 22-23 Adopted</b>	<b>FY23-24 Projected</b>	<b>FY 24-25 Projected</b>
Budgeted Expenses	\$23,781		
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>\$23,781</b>		
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other	\$23,781		
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>\$23,781</b>		

**Narrative Explanation of Fiscal Impacts:**

Costs include staff time and County Counsel time spent developing amendment language, coordinating with Forestville Planning Association, preparing Fiscal Oversight Commission reports and presentations, and preparing Board of Directors Agenda Item. Adequate appropriations exist in the FY 22-23 budget to cover any associated costs of the Forever Forestville Conservation Easement Second Amendment.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

1. Forever Forestville Conservation Easement Second Amendment
2. Resolution

**Related Items “On File” with the Clerk of the Board:**

1. Forever Forestville Conservation Easement Baseline Documentation (including executed Matching Grant Agreement and recorded Conservation Easement as attachments)
2. First Amendment to the Forever Forestville Conservation Easement
3. Ag + Open Space Stewardship Policy
4. Resolution of Ag + Open Space’s Fiscal Oversight Commission