

Resolution No. _____

Dated: _____

RESOLUTION OF THE BOARD OF DIRECTORS OF THE SONOMA COUNTY AGRICULTURAL PRESERVATION AND OPEN SPACE DISTRICT, COUNTY OF SONOMA, STATE OF CALIFORNIA, APPROVING \$140,000 GRANT TO THE FRIENDS OF VILLA GRANDE FOR THE PATTERSON POINT PROJECT; DETERMINING THAT THE PROJECT IS CONSISTENT WITH THE 2020 SONOMA COUNTY GENERAL PLAN; ACCEPTING A CONSERVATION EASEMENT AND RECREATION CONSERVATION COVENANT OVER THE PROPERTY; AUTHORIZING THE PRESIDENT TO EXECUTE A MATCHING GRANT AGREEMENT WITH THE FRIENDS OF VILLA GRANDE; AUTHORIZING THE EXECUTION OF CERTIFICATES OF ACCEPTANCE; AND DIRECTING THE PREPARATION OF ESCROW INSTRUCTIONS AND THE DRAWING OF NECESSARY WARRANTS

WHEREAS, in accordance with the Authority’s voter-approved Expenditure Plan, the District has established a Competitive Matching Grant Program (“the Program”) for projects which provide open space, community recreation, or public access opportunities; and

WHEREAS, the Board of Directors of the Friends of Villa Grande submitted an application under the Program for funding to assist with the acquisition, habitat restoration and public access improvements on the 1.8-acre Patterson Point property located at Third Street in Villa Grande, APN 095-051-009, (“the Property”) for purpose of habitat preservation, on-going recreational use, enjoyment and public access of the Property (“the Project”); and

WHEREAS, the Program requires applicants to provide a matching contribution for the Project; and

WHEREAS, Friends of Villa Grande, as its contribution under the Program, has committed matching funds toward purchase of the property, toward development of a restoration and land management plan and is committed to providing in-kind support and services for improving, maintaining and operating the property for low-intensity public outdoor recreation, open space, and habitat restoration (“the contribution”); and

WHEREAS, the Expenditure Plan identifies acquisition of urban open space, and habitat restoration and public recreational improvements associated with the Project as an authorized expenditure of sales tax revenue; and

WHEREAS, Friends of Villa Grande has submitted, as part of its application, a budget for the expenditure of District funds for the Project; and

WHEREAS, on June 18, 2009 by Resolution No. 2009-009, the Board of Directors of the Open Space Authority determined that funding for the proposed acquisition of the Property and habitat restoration and public access improvements under the Program is consistent with the Expenditure Plan; and

WHEREAS, the Project fulfills policies of the Recreation and Education category of the District’s acquisition plan, *Connecting Communities and the Land*, including working with non-profit organizations to establish parks and preserves that protect Sonoma County’s unique natural habitats, scenic areas, and other open space values of regional importance and which promote access in proximity to urban communities.

NOW, THEREFORE BE IT RESOLVED, that this Board of Directors hereby finds, determines, declares and orders as follows:

1. *Truth of Recitals.* The foregoing recitations are true and correct.
2. *General Plan Consistency.* The Project is consistent with the 2020 Sonoma County General Plan, specifically the Open Space and Resource Conservation Element, in that it promotes biotic enhancement of a portion of the Russian River Riparian Corridor and enhances access to the Russian River.
3. *Expenditure Plan Consistency.* By its Resolution No. 2009-009, dated June 18, 2009, the Sonoma County Open Space Authority determined that the Project was consistent with the Authority's Expenditure Plan.
4. *Fair Market Value.* By its Resolution No. 2009-009, dated June 18, 2009, the Sonoma County Open Space Authority determined that the District's contribution toward the acquisition does not exceed the market value of the open space interest being acquired.
5. *Authority to Sign Conservation Easement.* The President is authorized and directed to execute, on behalf of the District, that certain agreement entitled "Deed and Agreement by and between the Friends of Villa Grande and the Sonoma County Agricultural Preservation and Open Space District Conveying a Conservation Easement" together with the certificate of acceptance required by Government Code 27281.
6. *Authority to Sign Recreation Conservation Covenant.* The President is authorized and directed to execute, on behalf of the District, that certain agreement entitled "Recreation Conservation Covenant," together with the certificate of acceptance required by Government Code 27281.
7. *Authority to Sign Matching Grant Agreement.* The President is authorized and directed to execute, on behalf of the District, that certain agreement entitled "Matching Grant Agreement between the Sonoma County Agricultural Preservation and Open Space District and the Friends of Villa Grande – Patterson Point."
8. *Escrow Instructions; Necessary Documents.* The District's Counsel is directed to prepare and deliver appropriate escrow instructions and other necessary documents to Stewart Title Company to complete the transaction as described. The Interim General Manager is authorized to sign all closing documents and to execute any other documents necessary to complete this transaction as described, including, without limitation, making any technical, non-substantive changes in closing documents with the prior approval of the District's Counsel.
9. *Payment of Purchase Price and Costs of Escrow / Matching Grant Funds.* At the request of the Interim General Manager, the County Auditor is directed to draw a warrant or warrants against available funds in the County's Open Space Special Tax Account in amounts not to exceed \$100,000 payable to Stewart Title Company (Escrow No. 153625) and in such other amounts necessary to close escrow. The District is authorized to expend not more than \$40,000 for acquisition related costs, habitat restoration and public access improvements for the Patterson Point Project. Such expenditures shall further be subject to the following:

The District's Interim General Manager is hereby authorized to approve and pay claims associated with such restoration and public access improvements that are submitted and reviewed in accordance with this Resolution, and that he finds to be reasonable and necessary. All such expenditures identified in this Paragraph 9 shall further be subject to the following:

- a. The prior execution of the matching grant agreement between the District and Friends of Villa

Grande and the conveyance of a recreation conservation covenant to the District by the Friends of Villa Grande obligating the Friends of Villa Grande to improve, maintain and operate the Project for public outdoor low-intensity recreation and habitat restoration; and

b. The conveyance of a conservation easement to the District over the Property.

10. *Dedication.* That in order to preserve the District's remedy to purchase and sell the Property in the event of a default, neither the conservation easement nor the recreation conservation covenant is presently being dedicated to open space pursuant to the provisions of Public Resources Code Section 5540.

11. *California Environmental Quality Act (CEQA).* 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) because the acquisition is not a project as that word is defined in Section 15378 of Title 14 of the California Code of Regulations; alternatively the project is exempt pursuant to Section 15313 of Title 14 of the California Code of Regulations because the purpose of the acquisition is to preserve fish and wildlife habitat; alternatively the project is exempt pursuant to Section 15317 of Title 14 of the California Code of Regulations because the purpose of the acquisition is to maintain the open space character of the area; alternatively the project is exempt pursuant to Section 15316(a) of Title 14 of the California Code of Regulations because the purpose of the acquisition is to establish a park on land that is in its natural condition and a park management plan has not been prepared; and alternatively the project is exempt pursuant to Section 15325(a), (c) and (f) of Title 14 of the California Code of Regulations because the purpose of the acquisition is to preserve the existing natural conditions, to allow for restoration of natural conditions, and to preserve open space or lands for park purpose, respectively. The District's Interim General Manager is directed to only approve the Restoration and Land Management Plan required by the Recreation Conservation Covenant if it will preserve the land in its natural condition and for that reason the Board also claims the exemption of Section 15316(b) of Title 14 of the California Code of Regulations.

12. *Validation.* The agreements authorized by this resolution are contracts within the definition of Government Code Section 53511 and as such, any action challenging the validity of the contract including the source of funding for the consideration to be paid by this District must be commenced within sixty (60) days of the adoption of this resolution pursuant to section 863 of the Code of Civil Procedure.

DIRECTORS:

BROWN

KERNS

ZANE

CARRILLO

KELLEY

AYES

NOES

ABSENT

ABSTAIN

SO ORDERED.