



# Monterey County

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## Board Report

Legistar File Number: RES 18-162

December 04, 2018

**Introduced:** 11/16/2018

**Current Status:** Agenda Ready

**Version:** 1

**Matter Type:** BoS Resolution

- a. Conduct a public hearing to consider twelve (12) 2019 Williamson Act applications (REF180014); and
- b. Adopt a Resolution:
  1. Finding that Open Space Contracts or Easements qualifies as Class 17 Categorical Exemption pursuant to section 15317 of the California Environmental Quality Act (CEQA) Guidelines;
  2. Continuing four (4) applications, consisting of eight (8) parcels totaling 881.8 acres, to the 2020 round of applications;
  3. Approving a total of eight (8) contracts to establish two (2) Agricultural Preserves ("AgP") and Land Conservation Contracts and to establish six (6) Farmland Security Zone ("FSZ") and FSZ Contracts, consisting of fourteen (14) parcels totaling 2,528 acres;
  4. Authorizing the Chair to execute the recommended Agricultural Preserve Land Conservation Contracts and the Farmland Security Zone Contracts; and
  5. Directing the Clerk of the Board of Supervisors to record the Agricultural Preserve Land Conservation and Farmland Security Zone Contracts prior to the January 1, 2019 property tax lien date subject to submittal of recording fees by the property owners of record.

### RECOMMENDATION:

It is recommended that the Board of Supervisors adopt a Resolution:

- a. Finding that the project is for Open Space Contracts or Easements which qualifies as Class 17 Categorical Exemption pursuant to section 15317 of the California Environmental Quality Act (CEQA) Guidelines, and that there are no exceptions pursuant to section 15300.2;
- b. Continuing four (4) applications, consisting of eight (8) parcels totaling 881.8 acres, to the 2020 round of applications:
  1. **No. 2019-007 (FSZ)**- Lawrence Abram, Trustee of the Abram Family Trust dated February 24, 1983; Lawrence Abram, Trustee of the Abram Family Trust u/t/a dated June 28, 1993; Lawrence Abram, Trustee of the Bypass Trust Under the Abram Family Trust u/t/a dated May 7, 1982; Lori Abram, Trustee of the 2007 Lori A. Abram Irrevocable Trust dated September 2, 2007. APN 137-051-009 totaling 241.6 acres;
  2. **No. 2019-008 (FSZ)**- Clinton F. Miller, Jr. and Karen V. Miller, Trustees of the Miller Family Trust dated December 9, 1999; APNs 117-411-012 and 117-411-024 (Continued FSZ Application No. 2018-001) totaling 74.50 acres;
  3. **No. 2019-009 (FSZ)**- Linda S. De Santiago Living Trust dated December 21, 1998; APNs 165-101-006 and 165-101-008 (Continued FSZ Application No. 2018-006) totaling 170 acres; and
  4. **No. 2019-012 (AgP)**- Asellus Monterey II LLC; APNs 422-121-004; 422-121-005; and 422-121-032 totaling 395.7 acres.

- c. Approving eight (8) applications to establish two (2) Agricultural Preserves (“AgP”) and Land Conservation Contracts and to establish six (6) Farmland Security Zones (“FSZ”) and FSZ Contracts, consisting of fourteen (14) parcels totaling 2,528 acres;
  1. **No. 2019-001 (AgP)**- Sanders Family Vineyard, LLC; APN 422-081-064 totaling 160 acres;
  2. **No. 2019-002 (FSZ)**- Michael G. & Vicki L. Reed, Co-trustees of the MV Reed Revocable Living Trust dated July 14, 2015; Philip Reed, Trustee; Amelia M. Reed Irrevocable Trust; Kenneth Reed; James Reed; Kevin Reed; APNs 221-021-005 and 221-021-006 totaling 182.5 acres;
  3. **No. 2019-003 (FSZ)**- Craig D. McPherson and Jennifer L. McPherson, Trustees of the McPherson Family Trust dated July 19, 2013, as Craig McPherson’s sole and separate property; and Heather M. Washington, Trustee of the Heather M. Washington Separate Property Trust dated February 29, 2016; APNs 137-091-002; 137-091-003; and 137-091-004 totaling 323.1 acres;
  4. **No. 2019-004 (FSZ)**- Craig D. McPherson and Jennifer L. McPherson, Trustees of the McPherson Family Trust dated July 19, 2013, as Craig McPherson’s sole and separate property; and Heather M. Washington, Trustee of the Heather M. Washington Separate Property Trust dated February 29, 2016, APNs 137-051-006 and 137-081-001 totaling 300 acres;
  5. **No. 2019-005 (FSZ)**- Wilder Ranch LLC, a California limited liability company; and Wilder Sly Ranch LLC; APN 227-051-004 totaling 321.3 acres;
  6. **No. 2019-006 (FSZ)**- aka Fairview Road Ranch; Andrew P. Gilmour; Maureen G. Cook; J. Link Leavens; and Leslie A. Leavens; APN 216-022-002 totaling 112.9 acres;
  7. **No. 2019-010 (AgP)**- George R. Work as Trustee of the WORK FAMILY ESTATE TRUST dated October 30, 1971, George R. Work, Colleen M. Work, Jody L. Birks, Johnita A. Fisher Life Estate; APNs 424-161-020; 424-181-001; 424-181-002; and 424-181-022 (Continued AgP Application No. 2018-007) totaling 931.3 acres; and
  8. **No. 2019-011 (FSZ)**- Ag Land Trust Inc.; APN 253-014-003 totaling 196.9 acres.
- d. Authorizing the Chair to execute the recommended Agricultural Preserve Land Conservation Contracts and FSZ Contracts; and
- e. Directing the Clerk of the Board of Supervisors to record the Agricultural Preserve Land Conservation Contracts and FSZ Contracts prior to the January 1, 2019 property tax lien date subject to submittal of recording fees by the property owners of record.

SUMMARY:

In order to consider Agricultural Preserve Contracts (AgP) and Farmland Security Zone (FSZ) Contracts, the Board of Supervisors must take action before the end of the calendar year. Monterey County received twelve (12) applications to establish three (3) AgP Contracts and nine (9) FSZ Contracts. The twelve (12) applications under consideration for 2019 total 23 parcels and approximately 3,410 acres.

Out of these twelve (12) applications, staff is recommending approval of eight (8) applications to establish two (2) Agricultural Preserve (“AgP”) and Land Conservation Contracts and to establish six (6) Farmland Security Zones (“FSZ”) and FSZ Contracts. See Attachment A for the 2019 Application Matrix. These applications meet the qualifications for their respective programs. Approval of the recommended eight (8) applications would add approximately 1,822 acres to the approximately 786,938 acres of presently contracted Williamson Act land (FSZ + AgP) in Monterey County.

Staff recommends continuing four (4) applications to the 2020 round of Williamson Act Contract applications. Staff sets deadlines to complete the review of applications for the Agricultural Preservation Review Committee (APRC) (Staff from RMA Planning, the Agricultural Commissioner’s Office, the Assessor’s Office and the Office of the County Counsel) to make recommendations to the Agricultural Advisory Committee (AAC) and to the Board of Supervisors prior to the end of the calendar year. Four (4) applications were missing information required per Board of Supervisors Resolution No. 01-486: “Amending Procedure for the Creation of Farmland Security Zones (FSZ) and Contracts” (Attachment C) and Board of Supervisors Resolution No. 01-485 “Amending Procedure for Agricultural Preserves” as amended by Board of Supervisors Resolution No. 03-383 for the Creation of Agricultural Preserves (AgP) and Contracts (Attachment D) which establish procedures for processing applications for Williamson Act Contracts and/or were not submitted by the September 15 application deadline established per said Board Resolutions. This year, September 15 fell on a Saturday, so the deadline date was extended to 5pm on September 17. The subject four (4) applications were incomplete and/or not filed in time to meet the September 17 deadline. Therefore, staff recommends continuing these four (4) applications to the 2020 round of applications. The County can reserve the application fees of approximately \$3,400 without requiring the applicants/owners to reapply and pay additional fees.

DISCUSSION:

The California Land Conservation Act of 1965, commonly referred to as the Williamson Act, enables local governments to enter into contracts with private landowners for the purpose of restricting specific parcels of land to be utilized solely for commercial agricultural production of food or fiber and a limited number of “compatible uses”. In return, landowners receive property tax assessments which are typically lower because the tax assessments are based upon agricultural uses as opposed to full potential market value. Historically, local governments receive an annual subvention of forgone property tax revenues from the State through the Open Space Subvention Act of 1971. Unfortunately, subvention payments were suspended in Fiscal Year 2009-2010 because of the State’s fiscal constraints. The Williamson Act contracts between landowners and local governments, however, remain in force regardless of the availability of subvention funds.

The County of Monterey provides two (2) options for landowners who wish to restrict their land to commercial agricultural uses: *Agricultural Preserves (AgP)* and *Farmland Security Zones (FSZ)*. Entering into these contracts is entirely voluntary for both the landowner and the County. The minimum initial term for an agricultural preserve and farmland security zone contract in Monterey County is 20 years. Contracts renew annually on each succeeding January 1, unless either party files a “notice of nonrenewal.” If a notice of nonrenewal is filed, the property taxes begin to rise as the contract runs out during the remaining years of the term.

In Monterey County, the following Board of Supervisor's Resolutions authorize the Board of Supervisors to enter into contracts with private landowners:

- *Board of Supervisors Resolution No. 01-486*: "Amending Procedure for the Creation of Farmland Security Zones (FSZ) and Contracts"; (**Attachment C**) and
- *Board of Supervisors Resolution No. 01-485*: "Amending Procedure for Agricultural Preserves" as amended by *Board of Supervisors Resolution No. 03-383* for the Creation of Agricultural Preserves (AgP) and Contracts. (**Attachment D**)

Eight (8) applications recommended for approval all meet the requirements of the respective AgP and FSZ programs. Approval of the eight (8) recommended applications would add approximately 1,822 acres to the approximately 786,938 acres of presently contracted Williamson Act land (FSZ and AgP) in Monterey County. Approximately 706 acres being considered this year for FSZs are already currently under AgP Contracts [FSZ Application No. 2019-002 Reed; FSZ Application No. 2019-003 McPherson and Washington; and FSZ Application No. 2019-004 McPherson and Washington (one [1] of the subject APNs)]. **Attachment A** provides an *Application Matrix* with a detailed explanation of each application. **Attachment B** provides mapping for each application.

Four (4) applications recommended for continuance include:

- FSZ Application No. 2019-007 (Abram): This application was filed on September 21, 2018 after the application deadline (Monday, September 17, 2018). Besides being late, the application was deemed incomplete because it lacked the required financial information and a Title Company Lot Book Report as required per Board Resolution No. 01-486 and as indicated on the application form. Without the financial information, staff could not determine if the subject property meets the minimum income requirements to enter into an FSZ contract. A Title Lot Book Report with ownership information and corresponding legal descriptions for the property which is the subject of the application is required to prepare the new Williamson Act contracts. Staff notified the applicant of our recommendation for continuance to next year's round of applications provided that the outstanding information is submitted by next year's deadline of Monday, September 16, 2019. On November 7, 2018, the applicant for FSZ Application No. 2019-007 (Abram) requested consideration of the subject application for an FSZ and contract during the 2019 round of applications due to extenuating circumstances that delayed filing their application. The applicant submitted the required financial information on November 13, 2018, and staff finds that the application meets the minimum income requirements of the FSZ program. A Title Company Lot Book Report was submitted on November 13, 2018. Therefore, if the Board makes an exception to the application submittal deadline, the Board could consider FSZ Application No. 2019-007 (Abram) during the 2019 round of applications. However, due to the late submittal of the information required per Board Resolution No. 01-486, there would be no recommendation from either the AAC or APRC.
- FSZ Application No. 2019-008 (Miller): On October 2, 2018, County staff received a request for a continuance from the applicant's representative to continue the Miller application for an FSZ to the 2020 round of applications to allow the owner-applicants additional time for

estate planning. This application has been continued for two (2) consecutive years prior to this year's round of applications for the same reason. The applicant's representative expressed that the estate planning matters should be resolved by next year's application deadline, which is Monday, September 16, 2019. Staff notified the applicant's representative that this would be the final continuance and if updated application materials are not submitted by next year's deadline, their FSZ application shall be considered "withdrawn".

- FSZ Application No. 2019-009 (DeSantiago): This property is the subject of an application for which a tentative map for a four (4) lot minor subdivision was approved (Planning File No. PLN030214). This application has been continued since 2015 for the same reasons. Without the subdivision being recorded, the applicant would qualify for only one (1) of the subject parcels to be in an FSZ contract (APN 165-101-006), based on the FSZ criteria. The owner-applicant is working with RMA Planning staff to meet the conditions of approval for the approved tentative map. By continuing this application to next year's round of applications, the owner-applicant will have one (1) more year to record the minor subdivision map or they have the option to amend their FSZ application to only include the parcel that would meet the FSZ criteria. Therefore, it is recommended that this application for an FSZ be continued to the 2020 round of Williamson Act applications. The subject property is within an existing Agricultural Preserve pursuant to Land Conservation Contract No. 73-014. Staff notified the applicant that this would be the final continuance and if the minor subdivision map is not recorded or if updated application materials are not submitted by next year's deadline, their FSZ application shall be considered "withdrawn".
- AgP Application No. 2019-012 (Asellus Monterey): This application is incomplete as it is missing financial information and the Title Company Lot Book Report. It is also unclear what type of Williamson Act program the applicant was trying to apply for as their application was for an "Amendment of an Agricultural Preserve Contract" but in staff's research, it was determined that there is not an existing Williamson Act contract over the subject parcels. The applicant has been notified of staff's recommendation to continue the application to next year's round of applications provided that the outstanding information is submitted by next year's deadline of Monday, September 16, 2019. Otherwise their application shall be considered "withdrawn".

OTHER AGENCY INVOLVEMENT:

The Agricultural Preserve Review Committee (APRC) reviewed all twelve 2019 applications on October 2, 2018. APRC consists of staff representatives from the Agricultural Commissioner's Office, Resource Management Agency-Planning Department, County Assessor-Recorder's Office and the Office of the County Counsel. The APRC recommends approval of the following Applications: AgP No. 2019-001 (Sanders); FSZ No. 2019-002 (Reed); FSZ No. 2019-003 (McPherson and Washington); FSZ No. 2019-004 (McPherson and Washington); FSZ No. 2019-005 (Wilder); FSZ No. 2019-006 (Fairview); Ag P No. 2019-010 (Work, Birks, Bojorquez); and FSZ No. 2019-011 (Ag Land Trust). The APRC recommends continuance of the following Applications: FSZ Application No. 2019-007 (Abram); FSZ Application No. 2019-008 (Miller); FSZ Application No. 2019-009 (De Santiago); and AgP Application No. 2019-012 (Asellus Monterey) to next year's round of applications.

The Monterey County Agricultural Advisory Committee (AAC) reviewed the 2019 Applications on October 25, 2018. The AAC concurred with the APRC's recommendations.

The APRC and AAC made its recommendations using the criteria set forth in Board Resolution No. 01-485, as amended by Board Resolution No. 03-383 (Procedures for Agricultural Preserves) and Board Resolution No. 01-486 (Procedures for the Creation of FSZs).

FINANCING:

Allowing the subject properties recommended for approval to attain FSZ and AgP status will reduce the assessed valuation of each property involved. The estimated impact amounts for all twelve (12) of the applications to be considered are shown on the Financial Impact Analysis attached herein (**Attachment E**). The Assessor's Office estimates that the annual net tax loss, if the eight (8) applications recommended for approval were to be accepted, would be approximately \$186,684 with subvention payments and without subvention payments \$197,567.

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Approved by: Carl P. Holm, AICP, Director Resource Management Agency, ext. 5103



This report was prepared with the assistance by:

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The following attachments are on file with the Clerk of the Board:

Attachment A - 2019 Application Matrix

Attachment B - Maps- 2019 Williamson Act Applications (all 12 being considered)

Attachment C - Res. No. 01-486 (Procedure-Creation of Farmland Security Zones & Contracts)

Attachment D - Res. No. 01-485, as amended by Board Res. No. 03-383

Attachment E - Financial Impact Analysis

Attachment F - Draft Resolution

cc: Front Counter Copy; Board of Supervisors; Jacqueline R. Onciano, RMA-Chief of Planning; Nadia Garcia, Associate Planner; Mary Grace Perry, Deputy County Counsel, Office of the County Counsel; Brian Briggs, Deputy County Counsel, Office of the County Counsel; Gregg MacFarlane, Senior Agricultural Appraiser, Assessor-Recorder's Office; Robert A. Roach, Assistant Agricultural Commissioner, Agricultural Commissioner's Office; Applicant/Owners and/or Applicant/Owners' respective Legal Representatives/Agents; The Open Monterey Project; LandWatch; Project File REF180014.