



Agenda Date: 4/19/2005  
Agenda Placement: 9B

## NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

---

**TO:** Board of Supervisors  
**FROM:** Susan Ingalls for Robert Westmeyer - County Counsel  
County Counsel  
**REPORT BY:** Susan Ingalls, Paralegal , 259-8152  
**SUBJECT:** Resolution Amending the Type H, Type E and Type A Agricultural (Williamson Act) Preserve Contracts

---

### **RECOMMENDATION**

County Counsel requests adoption of a resolution amending the contract forms for Type H, Type E and Type A Agricultural (Williamson Act) Preserve Contracts.

### **EXECUTIVE SUMMARY**

Pursuant to statutory amendments governing Agricultural Preserve Contracts, the County must amend its contract forms for Type H, Type E and Type A Agricultural (Williamson Act) Preserve Contracts to reflect a new provision regarding material breach of the contract.

### **FISCAL IMPACT**

Is there a Fiscal Impact?                      No

### **ENVIRONMENTAL IMPACT**

ENVIRONMENTAL DETERMINATION: It has been determined that this type of project does not have a significant effect on the environment and is exempt from the California Environmental Quality Act. [See Class 17 ("Open Space Contracts or Easements") which may be found in the guidelines for the implementation of the California Environmental Quality Act at 14 CCR §15317.]

### **BACKGROUND AND DISCUSSION**

California Government Code section 51250 (all statutory references are to the Government Code unless indicated otherwise) was amended on January 1, 2004 to identify certain structures that constitute material breaches of contract and to provide an alternate remedy to a contract cancellation petition by the landowner.

Section 51250 states that any commercial, industrial, or residential building constructed that exceeds 2,500 square feet, that is not allowed under the Williamson Act, local uniform rules or ordinances consistent with the provisions of the Williamson Act, and that is not related to an agricultural use or compatible use, will be considered to be a material breach of the contract pursuant to Section 51250. The County shall notify the Owner of the breach. The Owner will have sixty (60) days from the time of delivery of the notice, if delivered in person, sixty-five (65) days from the date of mailing if the notice is mailed to the Owner at an address within the State of California, or seventy (70) days from the date of mailing if the notice is mailed to the Owner at an address outside the State of California to eliminate the condition that caused the breach. If the breach is not eliminated within the specified timeframe, the Board of Supervisors ("Board") shall hold a noticed public hearing pursuant to Section 51250 to hear evidence regarding the alleged breach and if the Board determines at the conclusion of the hearing that a material breach continues to exist as described in this section, the Board may order the Owner to eliminate the condition that caused the breach or assess a monetary penalty and record a certificate of contract termination.

If the landowner is ordered to eliminate the conditions that resulted in the material breach but the landowner fails to do so within the time specified by the county, the county may abate the material breach as a public nuisance pursuant to Section 25845 and Napa County Code Chapter 1.20. If the Board chooses to assess a monetary penalty, the assessment shall be secured by a lien payable to the county treasurer in the amount assessed pursuant to Section 51250(j) or 51250(k). Once properly recorded and indexed, the lien shall have the force, effect, and priority of a judgment lien. The county may deduct from any funds received pursuant to Section 51250 the amount of the actual costs of administering this section and shall transmit the balance of the funds by the county treasurer to the Controller for deposit in the Soil Conservation Fund. If the Owner disagrees with the determination of the Board, he or she may pursue any other legal remedy that is available.

### **SUPPORTING DOCUMENTS**

A . Resolution Amending Williamson Act Contracts

CEO Recommendation: Approve

Reviewed By: Lorenzo Zíalcita