



**CITY OF HUGHSON**  
**PLANNING COMMISSION MEETING**  
 City Hall Council Chambers  
 7018 Pine Street, Hughson, CA

**AGENDA**  
**TUESDAY, OCTOBER 16, 2012 – 6:00 P.M.**

**CALL TO ORDER:** Chair Jared Costa

**ROLL CALL:** Chair Jared Costa  
 Vice Chair Julie Ann Strain  
 Commissioner Karen Minyard  
 Commissioner Harold Hill  
 Commissioner Kyle Little

**FLAG SALUTE:** Chair Jared Costa

**INVOCATION:**

**1. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken):**

Members of the Audience may address the Planning Commission on any item of interest to the public pertaining to the City and may step to the podium, State their name and City of Residence for the record (requirement of Name and City of Residence is optional) and make their presentation. Please limit presentations to five minutes. Since the Planning Commission cannot take action on matters not on the Agenda, unless the action is authorized by Section 54954.2 of the Government Code, items of concern, which are not urgent in nature can be resolved more expeditiously by completing and submitting to the City Clerk a "Citizen Request Form" which may be obtained from the City Clerk.

**2. PRESENTATIONS:** None.

**3. PUBLIC HEARING TO CONSIDER THE FOLLOWING:** None.

**4. NEW BUSINESS:**

**4.1:** Approve the Minutes of the regular meeting of September 18, 2012.

**4.2:** Review and Discuss Farmland Preservation Programs – Study Session.

**5. CORRESPONDENCE:** None.

**6. COMMENTS:**

**6.1:** Staff Reports and Comments: (Information Only – No Action)

**Community Development Director:**

**City Clerk:**

**City Attorney:**

**6.2:** Commissioner Comments: (Information Only – No Action)

**ADJOURNMENT:**

**WAIVER WARNING**

If you challenge a decision/direction of the Planning Commission in court, you may be limited to raising only those issues you or someone else raised at a public hearing(s) described in this Agenda, or in written correspondence delivered to the City of Hughson at or prior to, the public hearing(s).

**UPCOMING EVENTS:**

<b>October 22</b>	▪ <b>City Council Meeting, Council Chambers, 7:00pm</b>
<b>November 12</b>	▪ <b><i>Veterans Day- City Hall will be closed.</i></b>
<b>November 13</b>	▪ <b>City Council Meeting, Council Chambers, 7:00pm (Tuesday)</b>
<b>November 14</b>	▪ <b>Parks &amp; Recreation Meeting, Council Chambers 6:00p.m. (Wednesday)</b>
<b>November 20</b>	▪ <b>Planning Commission Meeting, Council Chambers, 6:00pm</b>
<b>November 26</b>	▪ <b>City Council Meeting, Council Chambers, 7:00pm (Tuesday)</b>
<b>December 10</b>	▪ <b>City Council Meeting, Council Chambers, 7:00pm</b>
<b>December 11</b>	▪ <b>Parks &amp; Recreation Meeting, Council Chambers 6:00p.m.</b>
<b>December 18</b>	▪ <b>Planning Commission Meeting, Council Chambers, 6:00pm</b>

**RULES FOR ADDRESSING PLANNING COMMISSION**

Members of the audience who wish to address the Planning Commission are requested to complete one of the forms located on the table at the entrance of the Council Chambers and submit it to the City Clerk. **Filling out the card is voluntary.**

**AMERICANS WITH DISABILITIES ACT/CALIFORNIA BROWN ACT  
NOTIFICATION FOR THE CITY OF HUGHSON**

This Agenda shall be made available upon request in alternative formats to persons with a disability; as required by the Americans with Disabilities Act of 1990 (42 U.S.C. Section 12132) and the Ralph M. Brown Act (California Government Code Section 54954.2).

**Disabled or Special needs Accommodation:** In compliance with the Americans with Disabilities Act, persons requesting a disability related modification or accommodation in order to participate in the meeting and/or if you need assistance to attend or participate in a Planning Commission meeting, please contact the City Clerk's office at (209) 883-4054. Notification at least 48-hours prior to the meeting will assist the City Clerk in assuring that reasonable accommodations are made to provide accessibility to the meeting.

**AFFIDAVIT OF POSTING**

**DATE:** October 12, 2012                      **TIME:** 3:00pm  
**NAME:** Dominique Spinale                      **TITLE:** Deputy City Clerk

**Notice Regarding Non-English Speakers:**

Pursuant to California Constitution Article III, Section IV, establishing English as the official language for the State of California, and in accordance with California Code of Civil Procedures Section 185, which requires proceedings before any State Court to be in English, notice is hereby given that all proceedings before the City of Hughson Planning Commission shall be in English and anyone wishing to address the Council is required to have a translator present who will take an oath to make an accurate translation from any language not English into the English language.

**General Information:** The Hughson Planning Commission meets in the Council Chambers on the fourth Tuesday of each month at 6:00 p.m., unless otherwise noticed.

**PC Agendas:** The Planning Commission Agenda is now available for public review at the City's website at [www.hughson.org](http://www.hughson.org) and City Clerk's Office, 7018 Pine Street, Hughson, California on the Friday, prior to the scheduled meeting. Copies and/or subscriptions can be purchased for a nominal fee through the City Clerk's Office.

**Questions:** Contact the Deputy City Clerk at (209) 883-4054





CITY OF HUGHSON  
**PLANNING COMMISSION MEETING**  
 City Hall Council Chambers  
 7018 Pine Street, Hughson, CA

**MINUTES**  
**TUESDAY, SEPTEMBER 18, 2012 – 6:00 P.M.**

**CALL TO ORDER:** Vice Chair Julie Ann Strain

**ROLL CALL:**

Present: Vice Chair Julie Ann Strain  
 Commissioner Jared Costa  
 Commissioner Karen Minyard  
 Commissioner Harold Hill

Absent: Commissioner Kyle Little

**FLAG SALUTE:** Vice Chair Julie Ann Strain

**1. PUBLIC BUSINESS FROM THE FLOOR (No Action Can Be Taken):**

No Public Comments.

**2. PRESENTATIONS:** None.

**3. PUBLIC HEARING TO CONSIDER THE FOLLOWING:** None.

**4. NEW BUSINESS:**

4.1: Conduct Nominations for Chair and Vice Chair.

**Director Clark explained the nominations process to the Commission. Vice Chair Strain then opened nominations for Chair.**

**Commissioner Costa expressed an interest in the position of Chair. No other nominations were made. Nominations for Chair were closed.**

**Costa/Minyard 4-0-0-1 (Little-Absent) motion passes to appoint Commissioner Costa as Chair of the Planning Commission.**

**Chair Costa conducted the remainder of the meeting by opening nominations for Vice Chair.**

**Chair Costa nominated Commissioner Strain, who currently serves as Vice Chair. No other nominations were made. Nominations for Vice Chair were closed.**

**Costa/Strain 4-0-0-1 (Little-Absent) motion passes to appoint Commissioner Strain as Vice Chair of the Hughson Planning Commission.**

**4.2:** Approve the Minutes of the regular meeting of August 21, 2012.

**Strain/Costa 4-0-0-1 (Little-Absent) motion passes to approve the Minutes of the regular meeting of August 21, 2012.**

**4.3:** Consideration of a Recommendation to the City Council to Adopt the City of Hughson Design Manual for Living Streets.

**Director Clark discussed the importance of this item with the Planning Commission. He reviewed the Acknowledgements pages with the Commission, discussing who some of the people listed are. He then began reviewing the document with the Commission. The document is over 300 pages long, so he advised that the Commission did not have to adopt it today.**

**The Commission reviewed the Introduction and Sections 1-5 of the document. Director Clark then continued the review of this item to a future meeting of the Planning Commission.**

**5. CORRESPONDENCE: None.**

**6. COMMENTS:**

**6.1:** Staff Reports and Comments: (Information Only – No Action)

**Community Development Director:** Director Clark updated the Commission on status of the LAFCO Agricultural Preservation Policy.

**City Clerk:**

**City Attorney:**

**6.2:** Commissioner Comments: (Information Only – No Action)

**ADJOURNMENT:** Chair Costa adjourned this meeting at 8:14 p.m.

JARED COSTA, Chair

DOMINIQUE SPINALE, Deputy City Clerk



## PLANNING COMMISSION AGENDA

### ITEM NO. 4.2

### SECTION 4: NEW BUSINESS

**Presented By:** Thom Clark, Community Development Director  
**Meeting Date:** September 18, 2012  
**Subject:** Farmland Preservation Programs – Study Session  
**Enclosures:** Yes  
**Desired Action:** None. Review and Discussion Only

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#### **BACKGROUND AND OVERVIEW:**

The Stanislaus Local Agency Formation Commission (LAFCO) recently adopted a policy that requires local cities to address the loss of farmland due to urbanization and provide proof that farmland is being preserved in some manner upon application for annexation of land into a city.

This issue has been discussed at many levels in Stanislaus County over the past few years, including an effort by the mayors in the County to adopt urban growth boundaries. Hughson adopted our Sphere of Influence as our urban limit line through 2050 by resolution.

Note on growth: The General Plan, adopted in 2005, anticipated build-out to the Sphere of Influence by 2025. Growth would need to be a consistent 7.7% per year for that to happen. Instead, actual growth has been 1.1% yearly. Projecting growth at 1.1% per year gives us a build-out date of 2048 so the 2050 urban limit line is a logical limit.

The Hughson Planning Commission has requested staff to put together a Farmland Preservation Program with an easement ratio requirement greater than 1:1. Staff has developed a program using the Stanislaus County program as a template, since it has already been adjudicated. The Hughson program is currently being reviewed by the City Attorney's office.

#### **RECOMMENDATION:**

The attachments to this report are intended to give an overview of programs to preserve agriculture – mostly in northern California. I recommend you don't spend a lot of time on the land trust programs under the heading Farmland Easement Programs in Six Northern California Counties. The information here is mostly statistical. The following preservation programs in four Valley cities are fairly mundane as well. Please note that other than Davis, the cities collect money for farmland preservation at building permit issuance, not at annexation. Davis actually

makes developers provide farmland easements on land abutting new annexations. To accomplish this, they have expanded their Sphere of Influence and included agricultural zoning designations inside the Sphere which can be used as receiving areas for agricultural easements.

Most of the funding used by land trusts to purchase farmland easements comes from the Department of Conservation's Farmland Conservancy Program. I have included information on where these funds have been used to purchase easements since its inception in 1997.

The next heading contains both the Stanislaus County program and the LAFCO policy. I encourage you to spend some time reading and understanding both of these documents since the Hughson programs uses the former as a template and must comply with the latter.

Finally, there is an interesting white paper authored by the American Farmland Trust. Unlike the Central Valley Farmland Trust, who administer easement programs, the American Farmland Trust is a farmland preservation advocacy agency. I find the concept raised in the white paper intriguing although it has not passed any nexus test and is included here as a different approach to stimulate discussion. Some members of the Planning Commission have already seen this paper since farmland preservation has been a topic of conversation at the Planning Commission level for the last five years.

Staff is hopeful this information gives the Commission an understanding of how farmland conservation easements work and how they are being used in northern California. Staff is also hopeful that the legal review of Hughson's program will be completed soon and we can proceed to public hearing in November.

The Planning Directors within the County and the Mayors are in the process of putting together a half- day farmland preservation training session in January as well.

# DRAFT

## Agriculture Preservation/Urban Growth Strategy 2050

**NOTES:**

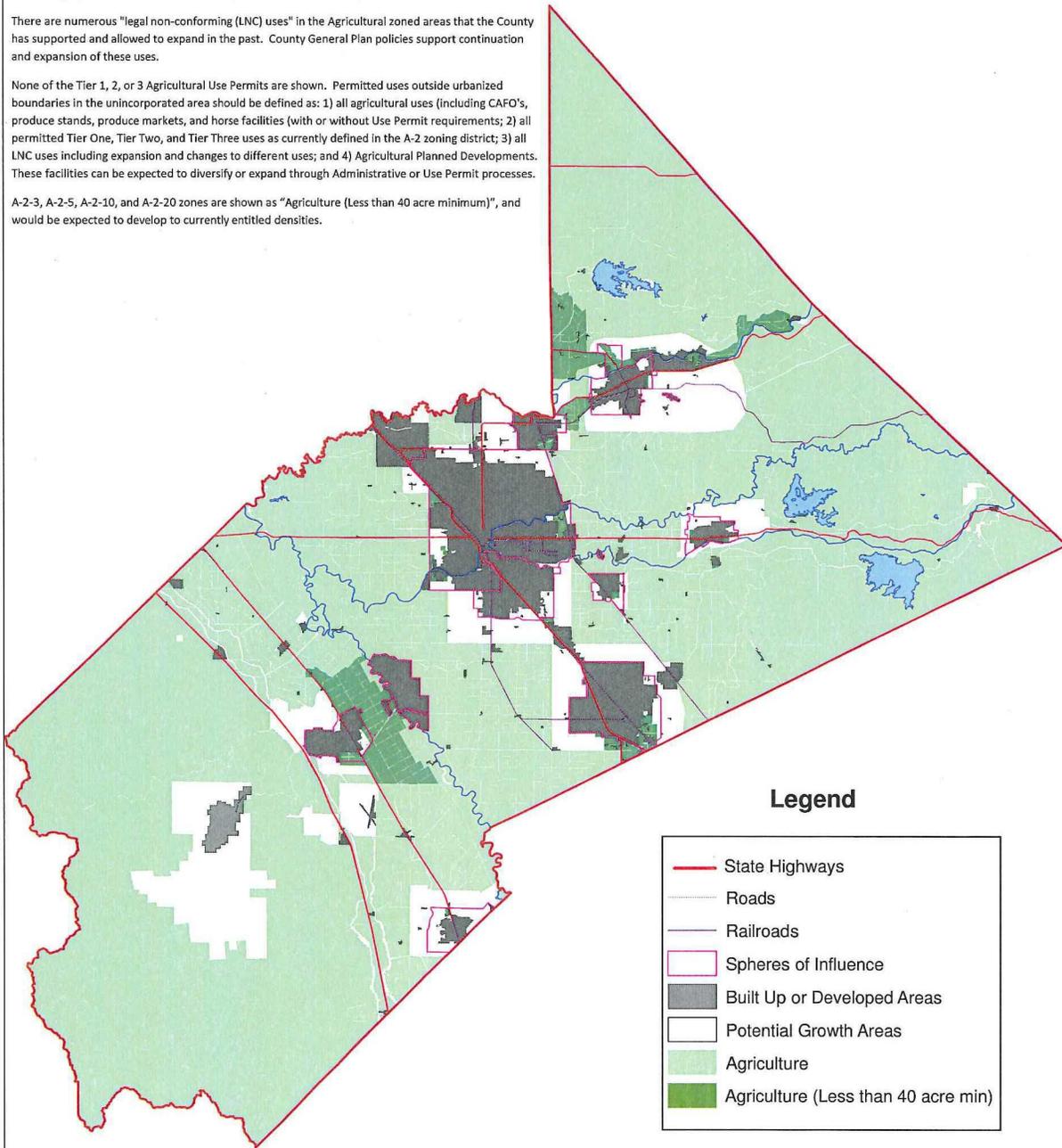
Unincorporated County Communities are shown, as well as isolated areas currently zoned for commercial and/or industrial development.

Non-residential development can be expected to be proposed (and perhaps approved) at many interchanges and major intersections along major transportation corridors (State Highways, Railroads, North and South County Corridors and Major Expressways) regardless of whether these interchanges/intersections are within Incorporated Cities or unincorporated areas.

There are numerous "legal non-conforming (LNC) uses" in the Agricultural zoned areas that the County has supported and allowed to expand in the past. County General Plan policies support continuation and expansion of these uses.

None of the Tier 1, 2, or 3 Agricultural Use Permits are shown. Permitted uses outside urbanized boundaries in the unincorporated area should be defined as: 1) all agricultural uses (including CAFO's, produce stands, produce markets, and horse facilities (with or without Use Permit requirements); 2) all permitted Tier One, Tier Two, and Tier Three uses as currently defined in the A-2 zoning district; 3) all LNC uses including expansion and changes to different uses; and 4) Agricultural Planned Developments. These facilities can be expected to diversify or expand through Administrative or Use Permit processes.

A-2-3, A-2-5, A-2-10, and A-2-20 zones are shown as "Agriculture (Less than 40 acre minimum)", and would be expected to develop to currently entitled densities.



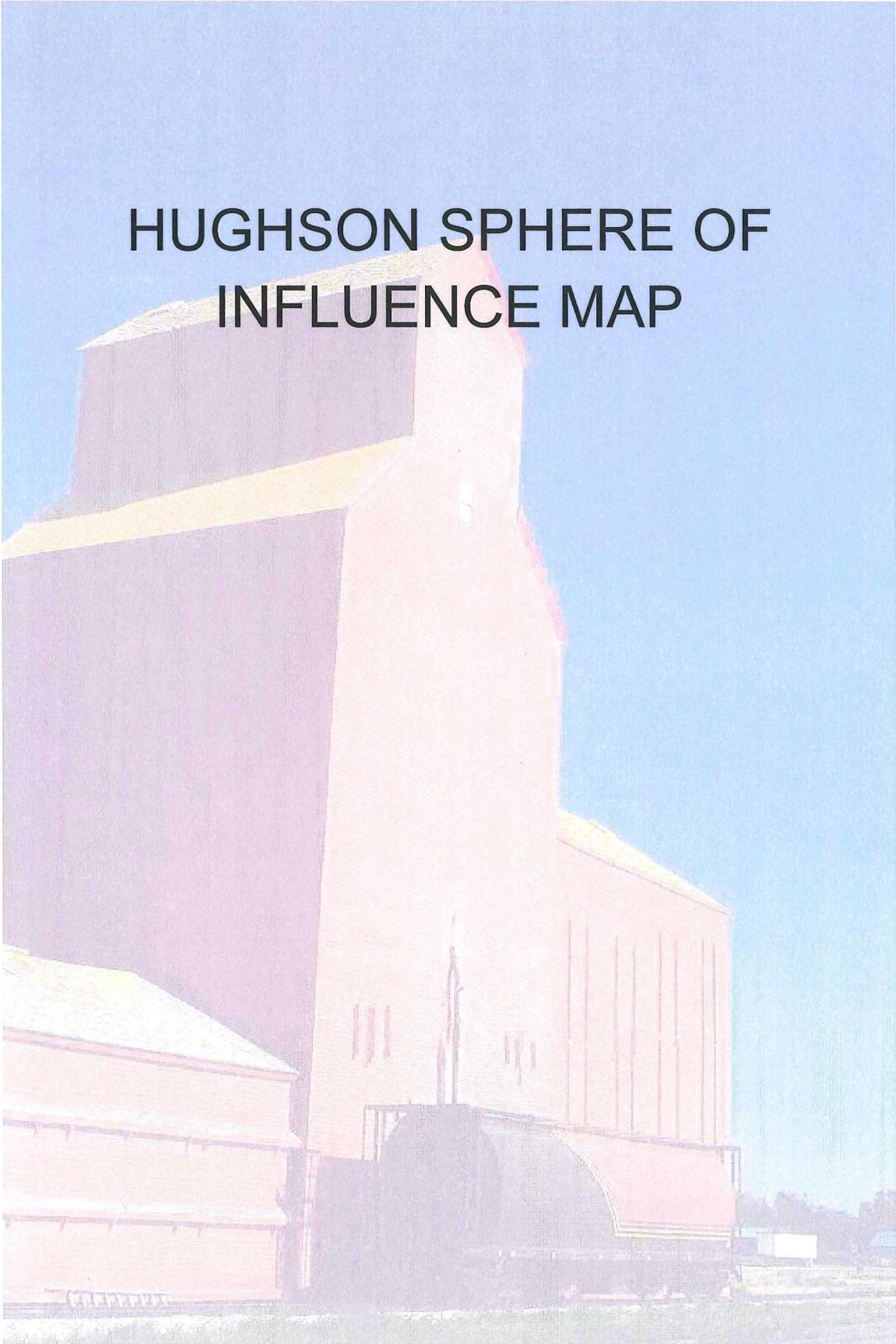
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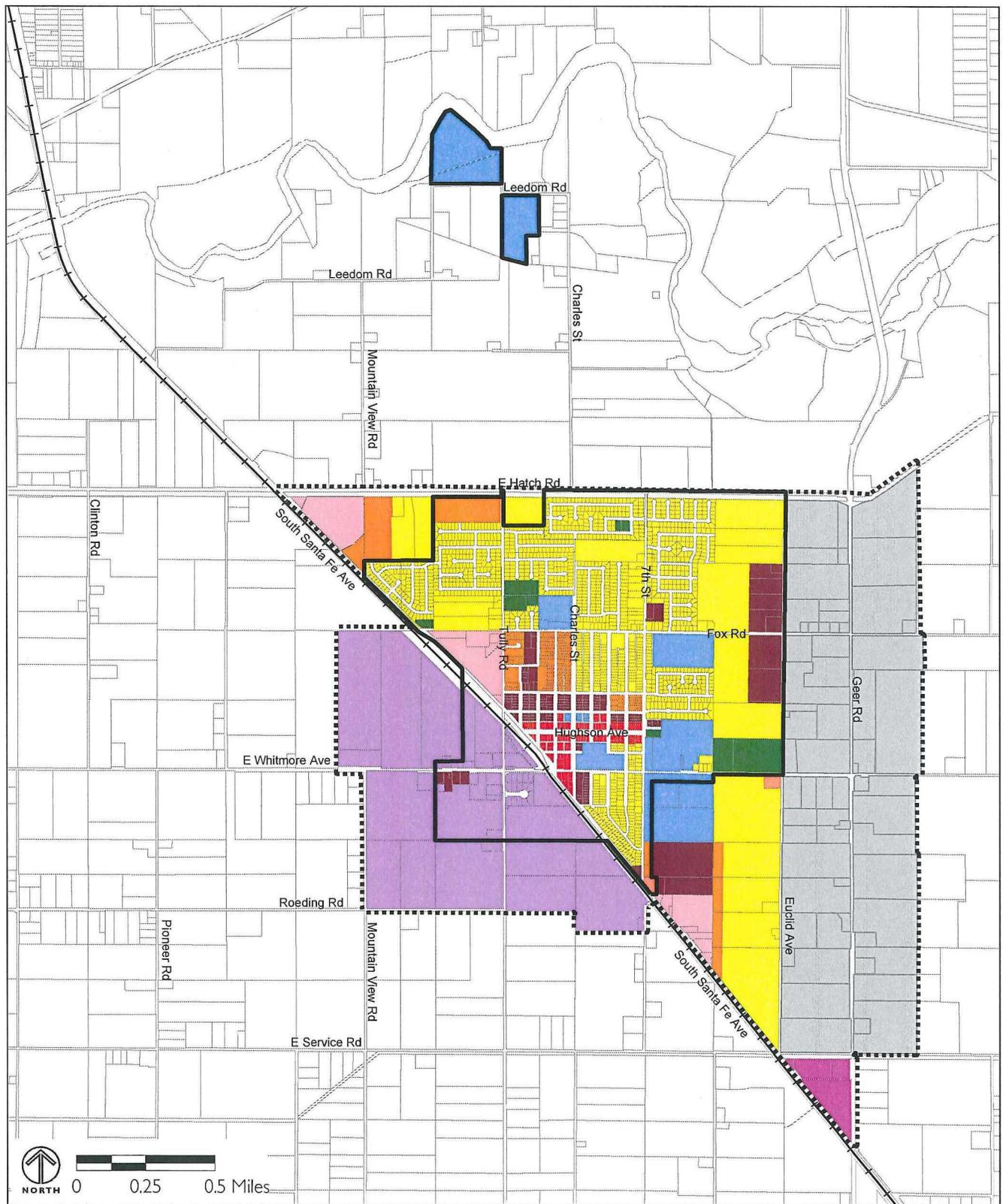
	State Highways
	Roads
	Railroads
	Spheres of Influence
	Built Up or Developed Areas
	Potential Growth Areas
	Agriculture
	Agriculture (Less than 40 acre min)

0 2 4 8 12 16 20 Miles



# HUGHSON SPHERE OF INFLUENCE MAP





Data Source: Stanislaus County GIS; City of Hughson

FIGURE LU-4

**Residential Designations**

- Low Density Residential
- Medium Density Residential
- High Density Residential
- Urban Reserve

**Commercial Designations**

- Downtown Commercial
- Neighborhood Commercial
- General Commercial
- Service Commercial

**Industrial Designations**

- Industrial

**Public/Quasi-Public Designations**

- Park/Open Space
- Public Facility



Sphere of Influence



City Limits

**LAND USE DESIGNATIONS**

**CITY OF HUGHSON**  
GENERAL PLAN



[Home](#)

## Farmland Mitigation Takes Root

By William Fulton on 29 May 2007 - 11:47am

[San Joaquin County](#) | [Central Valley](#) | [Featured Articles](#) | [Paul Shigley](#) | [Vol. 22 No. 06 Jun 2007](#)

Local governments in the Central Valley are starting to adopt policies that require developers to mitigate the conversion of farmland to urban uses, primarily by acquiring agricultural easements or paying in-lieu fees. San Joaquin County has become a hotbed for the new policies, and farmland advocates are hoping to export those policies to other places.

The City of Stockton — which has plans to expand into more than 5,000 acres of outlying cropland and pastureland — adopted one of the most aggressive mitigation ordinances in the state in February. The new ordinance requires developers of projects of at least 40 acres (which is nearly all projects in Stockton) to offset their impacts by acquiring agricultural easements elsewhere in San Joaquin County. Developers must purchase one acre of easement for every acre of farmland they develop, and the protected land must have comparable soil quality to the land being developed. Developers of smaller projects may pay a mitigation fee of \$9,600 per acre. For the program's first year, developers of larger projects may also pay the fee; after that, they must locate and buy easements themselves.

Stockton adopted its agricultural land mitigation program only three months after San Joaquin County adopted a similar one. Other cities in the county — including Tracy, Lathrop and Manteca — recently started charging mitigation fees for development of farmland.

"It's undisputed in my mind that farmland protection policy has picked up serious profile," said Bill Martin, executive director of the Central Valley Farmland Trust, which is administering Stockton's new program.

For differing reasons, local government officials, farm advocates and developers are closely studying the new city and county policies in San Joaquin County. The policy discussion definitely has reached beyond San Joaquin County:

- Stanislaus County planners are working on an update of the general plan's agricultural element, and they see the San Joaquin County program as sort of a model, said Ron Freitas, Stanislaus County planning director.
- In Fresno County, the Fresno Council of Governments has received a \$200,000 grant from the California Partnership for the San Joaquin Valley to create and implement a model farmland conservation program.
- In Merced County, the local farm bureau and others are pressing for inclusion of agricultural mitigation policies in a general plan update.
- Gov. Schwarzenegger's proposed budget contains \$10 million from Proposition 84 for the creation and implementation of mitigation programs, according to the Department of Conservation.

Under an agricultural conservation easement, which can last anywhere from 20 years to perpetuity, a landowner essentially sells his right to develop, typically for one-third to two-thirds of the existing value of the land. For years, environmental impact reports have specified the loss of farmland as a significant impact of a development or plan. However, unlike mitigation for impacts to animal and plant habitat, mitigation for agricultural impacts has been ad-hoc at best. A few jurisdictions have required developers to buy agricultural easements or set aside farmland, but most mitigation is not based on any definitive policy.

A 2003 court ruling threw into doubt whether the California Environmental Quality Act (CEQA) can be used to require mitigation. In *Friends of the Kangaroo Rat v. California Dept. of Corrections*, No. F040956, the Fifth District Court of Appeal ruled that it was not possible to mitigate the conversion of farmland with an agricultural

easement (see *CP&DR Legal Digest*, January 2004). The state Supreme Court depublished the decision so it did not establish a precedent, but the ruling still stands.

However, other legal activity is at the root of the policy shift in San Joaquin County. The local chapter of the Sierra Club filed and settled three lawsuits — one over Lathrop's approval of the 11,000-unit River Islands project in Lathrop, one over the South San Joaquin Irrigation District's extension of new water service to Tracy, Lathrop and Manteca, and one over Stockton's adoption of a larger sphere of influence.

"The ball really started rolling on farmland mitigation when the Sierra Club started suing local governments in the San Joaquin Valley," observed Ed Thompson, California director of the American Farmland Trust.

The Sierra Club settled the River Islands lawsuit during late 2003 when developer Cambay Group agreed to provide \$200,000 to help establish a farmland trust and pay \$2,200 an acre (adjusted for inflation) for every acre it develops in the 4,800-acre project. That deal provided the template for the environmental group's settlement with the irrigation district in which the three cities involved agreed to establish a farmland mitigation program and charge \$2,000-per-acre development fees. In 2005, the club dropped its suit against Stockton when the city agreed to adopt a mitigation program.

Erik Parfrey, a leader of the Sierra Club's Mother Lode chapter who helped spearhead the lawsuits, gives a great deal of credit to Cambay Group and the local governments for agreeing to fund and implement "real programs." Stockton originally agreed to a mitigation fee of only \$3,200 an acre, Parfrey said. However, a study prepared last year by Economic & Planning Systems and ESA Associates found that a fee of \$9,000 an acre was needed to acquire easements. Although developers and the local chapter of the Building Industry Association protested, the City Council accepted the study and eventually voted 6-0 to charge a \$9,600-per-acre fee.

"The legal authority is there, it just takes the political will of these city councils and boards of supervisors to do the right thing," Parfrey said.

None of these ideas is new. Since 1995, the City of Davis has had a farmland preservation policy. In 2001, Davis strengthened the policy and now requires developers to preserve in perpetuity two acres of farmland for every acre developed. In addition, the preserved land must be adjacent to the development site. Since 1995, Davis has secured agricultural conservation easements on more than 2,000 acres surrounding the town.

But Davis's anti-growth politics are the antithesis of attitudes in most of the Central Valley, where property rights have stood supreme. Attitudes may be changing at least a bit, partly because some well-known property rights defenders — including local farm bureaus — have become advocates for farmland mitigation and partly because recent trends in farmland conversion have people worried about the future of the Valley's \$25 billion-a-year agricultural industry.

Merced County may have more acreage (nearly 10,000 acres) covered by agricultural easements than any county in the state because of the establishment of a farmland trust in 1991. The trust has since merged with others into the professionally staffed Central Valley Farmland Trust. Local politics in Merced County, however, have been staunchly pro-growth, and the county did not sign up for the Williamson Act (see sidebar) until 2000, said Diana Westmoreland Pedrozo, executive director of the Merced County Farm Bureau. The farm bureau regularly requests four-to-one mitigation of urban development, she said. Most development has been approved with no mitigation at all for the loss of farmland, although the county did require one-to-one mitigation for the new University of California campus and a few other projects.

"Mitigation is a way to keep track of our land," Westmoreland Pedrozo said. "It's really hard for the people in ag to compete with the speculative development. What we've become here in the north San Joaquin Valley is the housing market for the Bay Area."

Indeed, development — much of it low-density housing tracts — has been swallowing up about 20,000 to 25,000 acres of Central Valley farmland every year since at least 1990. The rate at which landowners are canceling Williamson Act contracts, a precursor to development, has never been higher, according to Brian Leahy, head of the Department of Conservation's Division of Land Resource Protection. And at the current rate and density of development, the Valley will lose about one-seventh of its irrigated farmland by 2040. Organizations such as the Great Valley Center have been shouting about these conversion numbers for years,

and it appears that people are starting to listen. During recent public workshops for the San Joaquin Valley Blueprint Process (see *CP&DR Insight*, May 2007), preservation of farmland often emerged as the top priority.

"There is an undercurrent," said Stanislaus County's Freitas, "that we have a finite resource here, and we have a strong agricultural base."

Whether the policies being adopted are adequate is a question still being debated. One-to-one mitigation still means that 50% of the farmland is lost to development, Westmoreland Pedrozo pointed out. Martin, of the Central Valley Farmland Trust, called the \$2,000-an-acre fee imposed by some cities "woefully low" because agricultural easements often run \$5,000 to \$10,000 an acre. Thompson, of the American Farmland Trust, argues that mitigation should reflect the use of the converted land. Low-density development, especially the 1.5- to 20-acre ranchettes that sprawl across the Valley, waste land and should provide substantially more mitigation acre-per-acre than a dense subdivision, he said. Parfrey, of the Sierra Club, raised the issue of CEQA and suggested the law be amended to specify that acquisition of an agricultural easement is acceptable mitigation for the conversion of farmland.

Those questions aside, the nature of the conversation appears to be changing as farmland mitigation policies start to take root.

#### Contacts:

Bill Martin, Central Valley Farmland Trust, (916) 687-3178.

Ed Thompson, American Farmland Trust, (530) 753-1073.

Ron Freitas, Stanislaus County, (209) 525-6330.

Diana Westmoreland Pedrozo, Merced County Farm Bureau, (209) 723-3001.

City of Stockton agricultural land mitigation program: [www.ci.stockton.ca.us/CD/PlanningDivision.cfm](http://www.ci.stockton.ca.us/CD/PlanningDivision.cfm)

Department of Conservation Williamson Act status report 2006:

[www.consrv.ca.gov/DLRP/lca/stats\\_reports/2006%20Williamson%20Act%20Status%20Report.htm](http://www.consrv.ca.gov/DLRP/lca/stats_reports/2006%20Williamson%20Act%20Status%20Report.htm)

### **Agricultural Land Protection Grows**

Although some local governments are adopting policies intended to protect farmland, Gov. Schwarzenegger's revised budget proposal released in May eliminates state funding for the Williamson Act, the state's largest farmland preservation program.

Under the Williamson Act, landowners who agree not to develop their property for 10 years receive property tax reductions of 20% to 75%. About 16.6 million acres of farmland and ranchland — roughly one-third of all privately owned land in California — are protected by the Williamson Act, according to a Department of Conservation's status report released in May. About 820,000 acres were enrolled in the Farmland Security Zone (or "Super Williamson Act"), which provides even greater tax breaks for 20 years of protection from development.

The state backfills property tax revenue lost by counties because of the Williamson Act. However, Gov. Schwarzenegger has proposed eliminating the subvention, saving the state about \$39 million during the 2007-08 fiscal year. Gray Davis proposed a similar cut when he introduced the 2002-03 and 2003-04 budgets, but both times he added the money back. Schwarzenegger waited for the "May revise" to cut the Williamson Act subvention. Because Schwarzenegger proposed the cut later in the process, many people are taking it very seriously.

During a news conference, the governor said of the cut: "We thought we can use that money for better use."

The *Sacramento Bee*, which opposes the cut, blamed Susan Kennedy, who was Davis's cabinet secretary and is now Schwarzenegger's chief of staff. Others noted that the governor's office released the May revise shortly after Assembly Minority Leader Mike Villines (R-Clovis) had called Schwarzenegger a RINO — Republican in name only. Villines represents Fresno County, which is the largest recipient of Williamson Act subventions.

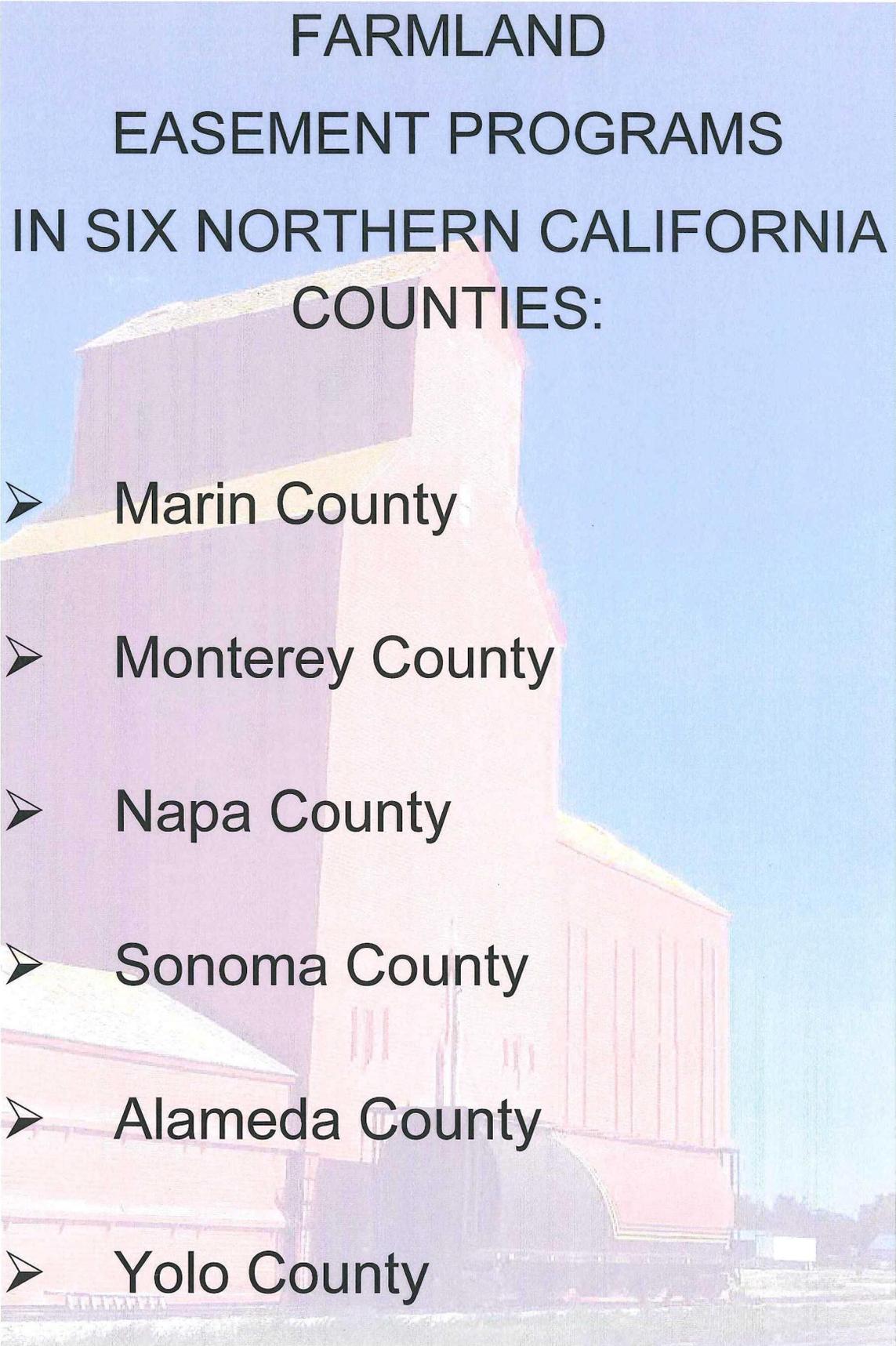
Assemblyman Tom Berryhill (R-Modesto), whose district includes all or portions of six Central Valley and Sierra counties, announced he is "adamantly opposed to his [Schwarzenegger's] attempt to balance a budget on the backs of rural counties I represent."

Local government officials say they may drop out of the Williamson Act program without the subventions. The California Association of Counties, the Regional Council of Rural Counties, the League of California Cities and the California Chapter of the American Planning Association have submitted a joint letter opposing the governor's proposal. "Eliminating the subvention payments is the first step towards a total unraveling of the broadest based agricultural program in the state," the letter states.

Top 5 recipients of Williamson Act subventions in 2005:

- Fresno County, \$5.6 million
- Kern County, \$4.8 million
- Tulare County, \$3.5 million
- Kings County, \$2.7 million
- San Joaquin County, \$1.9 million

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**FARMLAND  
EASEMENT PROGRAMS  
IN SIX NORTHERN CALIFORNIA  
COUNTIES:**

- **Marin County**
- **Monterey County**
- **Napa County**
- **Sonoma County**
- **Alameda County**
- **Yolo County**

## **California – MARIN AGRICULTURAL LAND TRUST**

Countywide program – Formed in 1980 – researched by Al Sokolow

**OVERVIEW** – The Marin Agricultural Land Trust (MALT) was the first nonprofit land trust in the nation organized for the express purpose of protecting farmland. In 2003 it ranked in the top 12 local agricultural easement programs nationwide in number of acres protected and first in California, just ahead of the Sonoma County Agricultural and Open Space District. Unlike the cropland emphasis of other leading programs, MALT's easement holdings are primarily dairy and pastureland. The land trust concentrates its acquisitions in the inland rural area where most of the county's dairy farms and ranches are located. Lacking a steady revenue stream from local taxes, MALT has relied on state funds, private foundation support and local fundraising to support its acquisitions. As an affluent county immediately north of the Golden Gate and San Francisco, with a Pacific coastline largely in federal ownership including the Point Reyes National Seashore, Marin ordinarily would experience high rates of urbanization. However, strong county land use policies that confine new development to the cities in the eastern urbanized area, and a limited domestic water supply, have kept population increases low in recent decades.

**EASEMENT ACTIVITY** – 32,000 agricultural acres in 47 properties: grazing, pasture, dairies, no cropland.

**Goals:** \$20 million to \$40 million in capital needs for the next 10 years. Easements acquired so far are more than a quarter of the total of 120,000 agricultural acres in the target area.

**Other Easement Programs:** The Marin County Open Space District is a public agency governed by the Board of Supervisors that provides greenbelts and recreational land between cities. It holds 2,500 easement acres of generally nonagricultural land and owns 14,000 acres in fee.

### **FUNDING**

**Acquisition Spending to Date:** \$25 million on agricultural easements.

**Revenues:** State funds (1988 state bond act, Coastal Conservancy, Farmland Conservancy Program), local fundraising, foundation support.

**GOVERNANCE** – MALT is governed by a board of 17 members who serve three-year terms. Two members are appointed by the Marin County Board of Supervisors; one board member is the incumbent supervisor from the western part of the county where most agriculture is located. Many board members are ranchers.

**STAFF AND OPERATING BUDGET** – The executive director heads a staff of six full-time and four part-time persons. Individual staff assignments include easement acquisitions, stewardship-monitoring, education, fundraising, membership and communication. The annual operating budget is about \$780,000.

**ORIGINS** – The nation's first land trust devoted specifically to farmland protection, MALT was organized in 1980 by a coalition of local ranchers and environmentalists. They were assisted by the Trust for Public Lands (TPL) in the technical details of forming a land trust. The formation coincided with countywide concerns about the impact of rapid growth on a diminishing farm sector and the shift to stronger growth management policies by county government. The county initially supported the new land trust with an allocation of one-tenth of the property taxes collected by the Marin County Open Space District.

**ACQUISITION PROCESS AND STRATEGY** – The MALT board makes final decisions after staff recommendations. Geographical targeting is employed—easements are mostly confined to the region that county planning designates for agricultural protection, the inland rural corridor of about 120,000 acres where most dairies and other farms are located.

**Rating of Parcels:** Quantitative, but used only in the initial evaluation of properties, not in determining the final selection of acquisitions. Top quantitative measures are agricultural quality, farm management, strategic location and urgency.

**Other Criteria:** Conversion threat and potential influence in obtaining other easements.

**CONNECTIONS TO LOCAL PLANNING AND LAND USE POLICIES** – MALT's acquisition patterns closely relate to the county's general plan which since the late 1970s has (1) specified the concentration of urban growth along the transportation corridor in the eastern area where the cities are located; and (2) identified the agricultural inland rural corridor as an area closed to urban development. Public infrastructure is not available to areas outside of the transportation corridor. In addition, the county now requires proposals to construct individual residences on farm parcels to include management plans for continued farming. Although an independent nonprofit, MALT is seen almost as an arm of county government in doing the work of farmland preservation.

**Zoning:** Agricultural zoning, which applies to most of the inland rural corridor, is one unit to 60 acres.

**DEMOGRAPHICS****2000 Population:** 250,100**1990–2000 Population Change:** +20,200 residents; + 8 percent**AGRICULTURAL LAND****150,000 acres:** 82 percent pasture–dairies and grazing**Conversion to Urban Use:** 629 total agricultural acres in 1990–2000 (0.3 percent of 1990 base), including 447 cropland or important farmland acres (0.6 percent of base). (State conversion data)**OTHER AGRICULTURAL CHARACTERISTICS****1997 Market Value:** \$53 million **Number of Farms:** 680**Principal Commodities:** Dairy products, cattle, poultry**MAP NARRATIVE – EASEMENT GEOGRAPHY** \_\_\_\_\_

Easements are located primarily in the inland rural corridor of the county—the major agricultural area. The 32,000 easement acres acquired so far by MALT in this limited area of 120,000 acres form several contiguous blocks of protected land. Urban development is confined to the cities located in the eastern third of the county. The cities are along Highway 101, the freeway that links Marin with San Francisco and is California's principal coastal highway. The Point Reyes National Seashore and other federal land dominate the western, coastal third of the county.

# MARIN COUNTY AGRICULTURAL LANDS

**LEGEND:**

- MALT AND COUNTY AGRICULTURAL EASEMENTS
  - OTHER AGRICULTURAL LANDS
  - PUBLIC LANDS
  - NON-AGRICULTURALLY ZONED LAND
- INCORPORATED CITIES IDENTIFIED IN CAPITAL LETTERS



COMMUNITY DEVELOPMENT AGENCY MAPPING & GRAPHICS  
COUNTY OF MARIN

JUNE 14, 2002 FILE# BALT-RANDOLPH, PLT, JPB  
THIS MAP IS REPRESENTATIONAL ONLY. DATE AND NOT SURVEY ACCURATE.

## **California – MONTEREY COUNTY AGRICULTURAL AND HISTORICAL LAND CONSERVANCY**

Countywide program – Formed in 1985 – researched by Al Sokolow

**OVERVIEW** – Monterey County has a long Pacific coastline and is well-known as a tourist destination. Its major agricultural asset is the Salinas Valley, a 50-mile long inland region that grows much of the nation's fresh vegetables and accounts for the major part of the county's

\$2.9 billion in annual farm market receipts—the fourth highest in the nation. Here is where the Monterey County Agricultural and Historical Land Conservancy, a nonprofit land trust, concentrates its easement work. A number of the easements acquired by the Conservancy are strategically located on the western edges of several Valley cities, forcing the redirection of their expansion away from the best agricultural soils on the Valley floor to less productive hillsides to the east. The Conservancy maintains its active acquisition record with only one staff person and a small operating budget.

**EASEMENT ACTIVITY** – 7,748 agricultural acres in 20 properties: 82 percent cropland (mainly vegetables and grapes) and 18 percent grazing. The Conservancy also owns in fee two coastal farms totaling 317 acres, that grow high value crops (artichokes and strawberries) and generate income for operating and acquisition purposes. Three non-agricultural easements totaling 135 acres are also held by the Conservancy, including 10 acres in a city preserve and 125 acres devoted to wetlands and habitat protection.

**Goals:** No specific program goals.

**Other Easement Programs:** No other local programs.

### **FUNDING**

**Acquisition Spending to Date:** About \$12 million for agricultural easements.

**Revenues:** State funds (1988 state bond act, Coastal Conservancy, Farmland Conservancy Program), local fundraising, foundation support and federal funds. The Monterey Conservancy was the first California program to receive funds from the Federal Farmland Protection Program.

**GOVERNANCE** – The organization is a nonprofit land trust governed by a seven-member board of directors. Most board members have agricultural and local government connections. Unlike many nonprofit land trusts, the Conservancy is not a general membership organization.

**STAFF AND OPERATING BUDGET** – The only staff person is the managing director, employed under a management services contract. He is a former board member and founder of the Conservancy. The annual operating budget is about \$90,000.

**ORIGINS** – The Conservancy was formed by a small number of residents—mostly associated with local agriculture—and includes leaders in county and state government. Their efforts were in part stimulated by the Marin Agricultural Land Trust (MALT), the nation's first specifically agricultural land trust. The Conservancy's formation was assisted by advice and training provided by the Trust for Public Lands (TPL) and American Farmland Trust (AFT). The first easement was acquired in 1985.

**ACQUISITION PROCESS AND STRATEGY** – The Conservancy board makes all decisions. Not employing a rating system or a formal application process, the board and the managing director exercise considerable discretion in seeking easement candidates in selective locations. The major emphasis is to target properties around cities in the vegetable-growing Salinas Valley. Much attention is given to establishing and maintaining rapport with select farmland owners.

**Rating of Parcels:** Not quantitative, see below.

**Other Criteria:** A 1985 operating plan identifies as prime acquisition factors: the quality of the agricultural, natural and historical resources; the magnitude of threat; location; and probability of funding. The use of a "clear-cut formula" is expressly denied and emphasis is given to the "exercise of careful judgment."

**CONNECTIONS TO LOCAL PLANNING AND LAND USE POLICIES** – The Conservancy's easement activities complement county planning and vice versa—although the two organizations are not formally linked. County planning and land use policies generally support the protection of prime cropland in the Salinas Valley and the direction of urban development to the cities away from agricultural areas. This is also the policy of the Monterey Local Agency Formation Commission (LAFCO), the state-mandated boundary control body that reviews and approves proposals for city expansion. Proposals were under consideration in 2002—in the update of the county's General Plan—to cite the easement technique as a means of maintaining urban-rural delineations and to create a program for mitigating farmland loss by placing easements on other farmland. There are some tensions, however,

between the Conservancy and cities in the Salinas Valley, where easements have blocked city expansion to the west and redirected it to the east. While this moves development to less productive agricultural soils on sloping land, it also imposes higher costs for the extension of municipal sewer and water systems.

**Zoning:** Agricultural zoning allows one unit to 40 acres (1:40) residential density in most agricultural areas including the Salinas Valley and 1:150 in grazing areas, generally in the southeastern part of the county.

#### **DEMOGRAPHICS**

**2000 Population:** 401,762

**1990–2000 Population Change:** +46,100 residents; + 12 percent

#### **AGRICULTURAL LAND**

**1.5 million acres:** 25.1 percent cropland (including 174,000 prime acres mainly in the Salinas Valley) and the rest in grazing.

**Conversion to Urban Use:** 8,960 total agricultural acres in 1990–2000 (0.6 percent of 1990 base), including 4,732 cropland or important farmland acres (2.0 percent of base) and 3,898 prime acres (2.2 percent). (State conversion data)

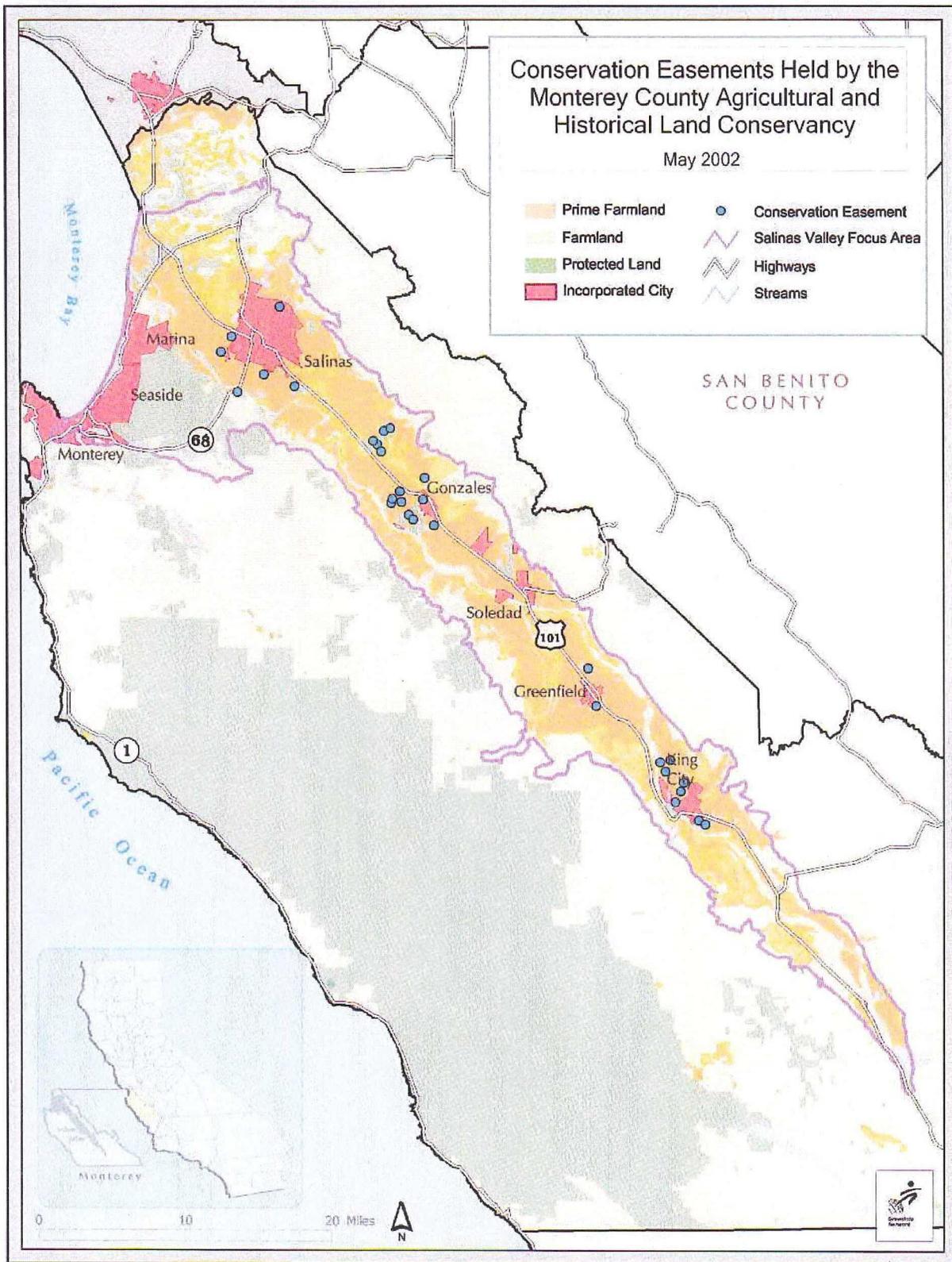
#### **OTHER AGRICULTURAL CHARACTERISTICS**

**2000 Market Value:** \$2.9 billion Number of Farms: 1,209

**Principal Commodities:** Vegetables, fruits, nuts, grapes, nursery

#### **MAP NARRATIVE – EASEMENT GEOGRAPH**\_\_\_\_\_

Easements held by the Conservancy stretch almost the entire 100-mile south–north length of the county, with a couple in the coastal area near the mouth of the Salinas River and several in the grazing canyons of south county. Most are located in the 50-mile long Salinas Valley—the narrow and long inland fertile valley that is the county's principal crop growing region. While seemingly scattered throughout the valley, the majority are situated adjacent or close to city borders. As shown in the inset maps of the King City and Gonzales areas, easements in strategic locations generally block city expansion onto the most productive agricultural lands to the west.



Data are for 2002 unless otherwise indicated.

## **California – NAPA COUNTY LAND TRUST**

Countywide program – Formed in 1976 – researched by Al Sokolow

**OVERVIEW** – The Napa County Land Trust (NCLT) has multiple preservation objectives. Initially focused on natural resources, wildlife and historic sites, in the 1990s the trust turned its attention to agricultural lands as a result of a program review by the board of directors. Most of the land trust's easements, whether on agricultural or natural resource lands, are located on hillsides overlooking the famed Napa Valley, the most renowned wine growing region of the United States. Easements are acquired only through landowner donations—limiting the program's appeal to farmland owners—although NCLT taps several revenue sources for its operating budget. Battles between pro-growth and preservationist forces over urban growth and landscape preservation have dominated Napa County politics for more than 30 years. Preservationists generally have won these battles, producing policies through voter initiatives and county legislation that limit building permits and changes to agricultural zoning. Development pressures on the county's farmland currently arise from the attractiveness of vineyard areas as estate homesites for wealthy persons.

**EASEMENT ACTIVITY** – 5,900 agricultural acres in 19 properties, mostly large cattle ranches. Only 968 cropland acres—including vineyards—are under easement. 6,500 acres are in non-agricultural, natural resource easements. Total of 12,400 easement acres. The land trust also has 2,500 acres in fee ownership, including a botanical preserve, wildlife sanctuary and redwood forest preserve.

**Goals:** 30,000 acres of protected lands by 2004, including easements and fee purchase acres and both agricultural and natural resource lands. Expected to be revised to 50,000 acres by 2010.

**Other Easement Programs:** No other local programs, although some easements originally acquired by NCLT were later transferred to state government agencies.

### **FUNDING**

**Acquisition Spending to Date:** \$0—all easements are acquired through landowner donation.

**Revenues:** Member dues, donations and foundation grants support the operational budget.

**GOVERNANCE** – The land trust board has 15 members serving up to two consecutive three-year terms. Board members are generally recruited from the ranks of volunteer workers. NCLT has about 1,300 dues-paying members.

**STAFF AND OPERATING BUDGET** – Seven primarily full-time staff have administrative, transactions and monitoring tasks, and several others manage the fee purchased preserves. Volunteers assist in monitoring. The annual operating budget is about \$700,000.

**ORIGINS** – The NCLT was one of several local conservation groups in the San Francisco Bay Area formed in the late 1970s with assistance from the Trust for Public Lands (TPL). In part the formation was a reaction by local environmentalists to the then pro-growth policies of the Napa Board of Supervisors.

**ACQUISITION PROCESS AND STRATEGY** – The NCLT board makes final decisions after staff recommendations. Acquisition criteria are broad and multiple, extending to wildlife, agricultural, visual, watershed, etc. values. Since about 1998, the trust has sought easements in the flat part of the Napa Valley dominated by vineyards.

**Rating of Parcels:** Not quantitative, see below.

**Other Criteria:** The Policy Manual lists 11 factors, one referring to active viticulture or ranching use and the others dealing with such open space features as rare species, visibility, riparian or marsh area, etc. Also included are factors that would disqualify a parcel—small size, absence of adjacent protected parcels, difficulty of easement enforcement, etc.

**CONNECTIONS TO LOCAL PLANNING AND LAND USE POLICIES** – Although county land use policies generally complement the easement program, the connections are not formal and the land trust is careful to maintain its independent status by distancing itself from county policymaking. This includes remaining neutral on specific land use proposals. Beyond agricultural zoning, Napa County has some of California's strongest policies for preserving farmland—the result of both voter initiatives and legislative actions by local governments. These policies include: (1) The designation in 1968 of virtually all of the unincorporated part of the Napa Valley floor as an Agricultural Preserve; (2) Voter passage in 1990 of a measure preventing the rezoning of agricultural properties for development without further voter approval; (3) Voter approval in 1980 of a cap on building permits in unincorporated areas to allow only a 1 percent annual population increase; and (4) Adoption of a Rural Urban Limit Line by the city of Napa in 1975.

**Zoning:** Agricultural zoning provides for one unit to 40 acres residential density in the county's agricultural reserve

zone on the Valley floor, and 40 to 160 acre minimums in the agricultural watershed and open space zone covering the hillsides.

#### **DEMOGRAPHICS**

**2000 Population:** 124,100

**1990–2000 Population Change:** +13,500 residents; +12 percent

#### **AGRICULTURAL LAND**

212,000 acres: one-third cropland—mostly vineyards.

**Conversion to Urban Use:** : 1,473 total agricultural acres in 1990–2000 (.5 percent of 1990 base), including 1,183 cropland or important farmland acres (1.6 percent of base). (State conversion data)

#### **OTHER AGRICULTURAL CHARACTERISTICS**

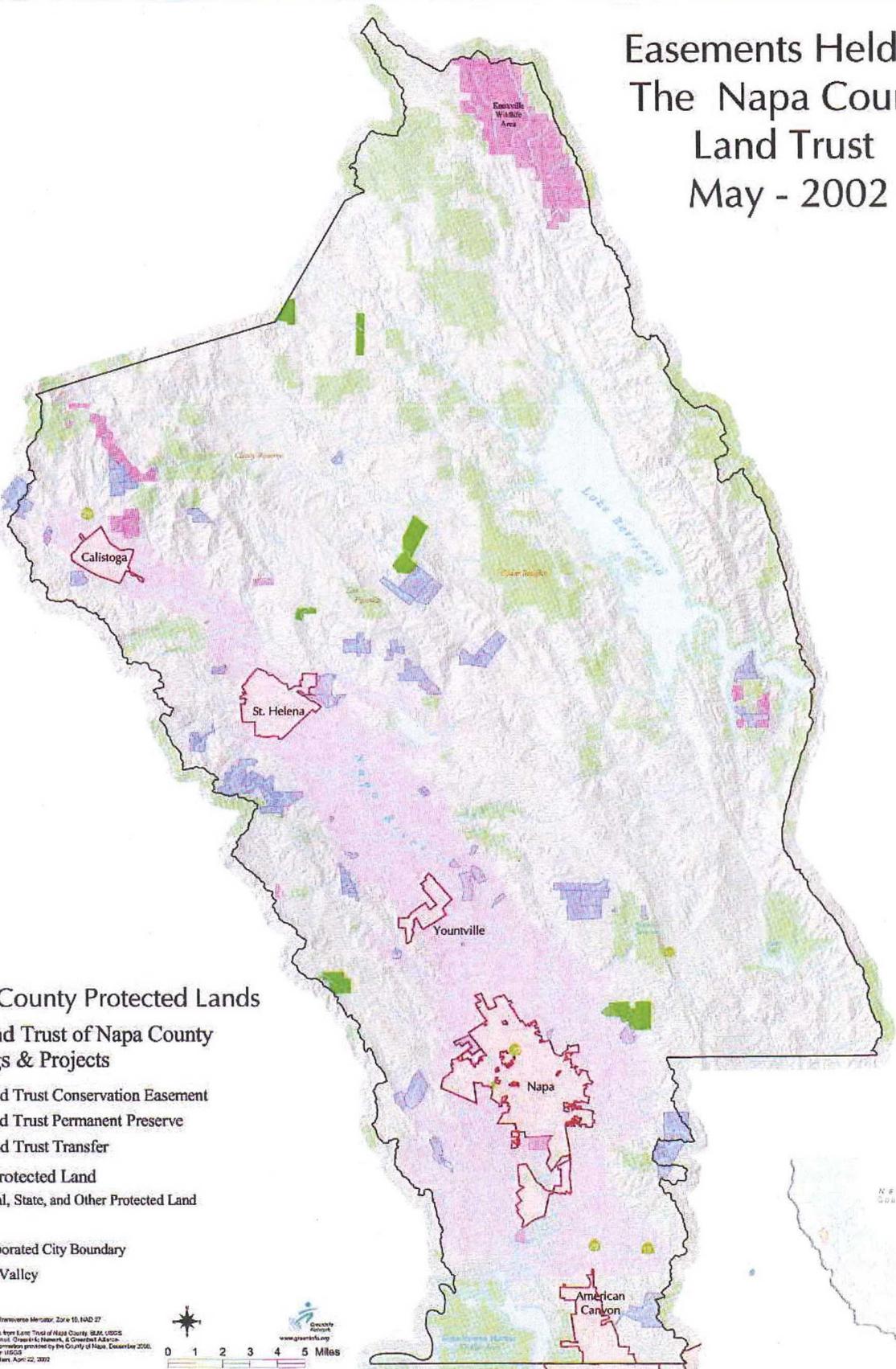
**1997 Market Value:** \$238 million Number of Farms: 1,318

**Principal Commodities:** Wine grapes (98 percent of total farm value)

#### **MAP NARRATIVE – EASEMENT GEOGRAPHY** \_\_\_\_\_

Easements are located on the eastern and western hillsides overlooking the Napa Valley, with few on the vineyard land or near the cities on the Valley floor. Easements are dispersed along a 30-mile, north-south stretch of the county on both sides of the Valley. There are few clusters.

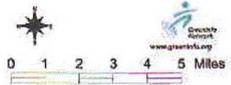
# Easements Held by The Napa County Land Trust May - 2002



## Napa County Protected Lands The Land Trust of Napa County Holdings & Projects

- Land Trust Conservation Easement
  - Land Trust Permanent Preserve
  - Land Trust Transfer
- Public / Protected Land**
- Federal, State, and Other Protected Land
- Incorporated City Boundary
- Napa Valley

Map Projection: Universal Transverse Mercator, Zone 10, NAD 83  
 Protected and Public Lands from Esri's Top of Napa County DEM, USGS  
 Bay Area Open Space Council, Open to Nature, & Greenbelt Alliance  
 Updated with the parcel information provided by the County of Napa, December 2000.  
 Digital Elevation Model from USGS  
 GISCartography, Brent Collins April 22, 2002



NEVER  
COUNTY

## **California – SONOMA COUNTY AGRICULTURAL AND OPEN SPACE DISTRICT**

Countywide program – Formed in 1980 – researched by Al Sokolow

**OVERVIEW** – This California local government is the only special district among leading agricultural easement programs in the nation. Easement acquisitions just in the past 10 years place the district among the top 12 programs in the nation in acres accumulated. The district funds its easement purchases entirely through a local sales tax approved by voters, and has not used any state, federal or other outside funds. While farmland protection—primarily in the form of greenbelts between growing cities—was the top original priority, the district now allocates its acquisition funds equally among several different purposes including natural resource lands and recreational areas. Urban pressures are intense in Sonoma County, located 50 miles north of the Golden Gate and San Francisco. Most development is concentrated in the Highway 101 corridor, California's major north–south coastal highway.

**EASEMENT ACTIVITY** – 31,082 agricultural acres in 63 properties. Mostly ranchland, with only 13 percent in cropland (vineyards, vegetables, orchards) and poultry farms. The district also holds about 21,000 acres in nonagricultural easements, for a total of more than 52,000 easement acres. It also owns in fee a smaller number of acres, some open to recreational use. In 2002 it began leasing parcels of fee owned land in urban fringe areas to agricultural operators under a Small Farms Initiative.

**Goals:** About 54,000 acres for all types of easements by 2005 (goal set in 2000), nearly reached by 2002.

**Other Easement Programs:** The nonprofit Sonoma Land Trust, established in 1975, holds about 10,000 easement acres—mostly in habitat and open space, but also including 3,815 agricultural acres.

Total Agricultural Easements in County: Approximately 34,900 acres.

### **FUNDING**

**Acquisition Spending to Date:** \$36 million on agricultural easements, \$79 million total for all land transactions (all forms of easements and fee ownership).

**Revenues:** Exclusively a quarter–cent sales tax that now generates about \$17 million annually.

**GOVERNANCE** – As a "dependent" district under California law, SCAOPD is controlled ultimately by the Sonoma County Board of Supervisors. Two citizen boards appointed by the supervisors are more directly involved in governance details: (1) The six–member Open Space Authority that formally collects the sales tax and ensures that acquisitions comply with the original plan; and (2) The 17–member Advisory Committee that recommends acquisitions.

**STAFF AND OPERATING BUDGET** – The Executive Director heads a 14–person staff, including persons with planning, acquisition, stewardship, land management and administrative assignments. The annual operating budget is about \$2.7 million.

**ORIGINS** – Voters approved two separate measures in 1990, district formation and the quarter–cent sales tax increase that runs for 20 years until 2010. Both were placed on the ballot by the Board of Supervisors to implement the provisions in the county's 1989 general plan update calling for a easement program for farmland and open space preservation. The first easements were acquired in 1992.

**ACQUISITION PROCESS AND STRATEGY** – The Board of Supervisors makes final decisions after recommendations by staff and review by the Open Space Authority and Advisory Committee. Staff review includes the use of Geographic Information Systems maps and site visits.

**Rating of Parcels:** Not quantitative, see below.

**Other Criteria:** Under the current acquisition plan adopted in 2000, acquisition funds are spent equally over a three–year period on four preservation objectives: (1) agricultural greenbelts between cities; (2) other agricultural land, mostly coastal dairy and pasture properties; (3) natural resource lands, with priority given to oak woodlands, coastal forests, riparian areas and wetlands; and (4) recreational properties. This results in distributing purchases around the county. The discretionary process for selecting parcels for agricultural protection emphasizes parcel size, location in relation to other protected land, agricultural viability, development potential, cost, ease of monitoring and absence of legal issues. Prior to 2000, the original acquisition plan gave priority to agricultural Community Separators (greenbelts), but also referred to parcels with scenic qualities and natural resource lands that could be protected in cooperation with other agencies.

**CONNECTIONS TO LOCAL PLANNING AND LAND USE POLICIES** – The district's acquisitions directly carry out the agricultural and open space sections of the 1989 county general plan. That plan identifies eight Community Separators for protection.

**Zoning:** In agricultural zones, residential densities range from one unit to 10 acres (1:10) to 1:320, depending on whether farms are land intensive or extensive. Crops with high production per acre are generally zoned at 20 to 100 acre minimums. Rural residential zoning allows 1:2–10.

#### **DEMOGRAPHICS**

**2000 Population:** 464,000

**1990–2000 Population Change:** + 80,100 residents; +20.8 percent

#### **AGRICULTURAL LAND**

570,000 acres: 70 percent grazing land; 21 percent of 173,000 cropland acres are prime.

**Conversion to Urban Use:** 8,192 total agricultural acres in 1990–2000 (1.4 percent of 1990 base); 6,536 cropland acres (3.0 percent of base). (State conversion data)

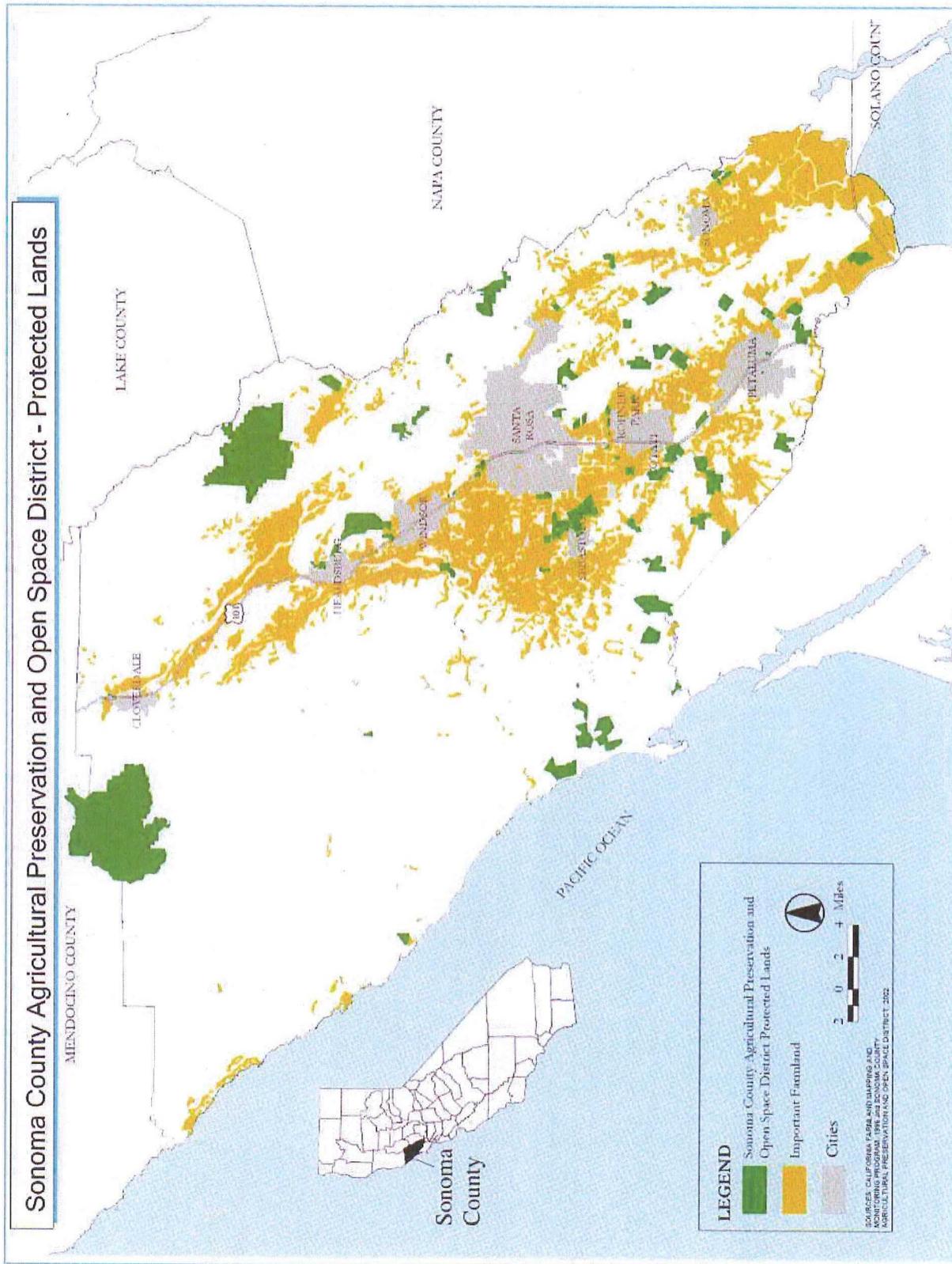
#### **OTHER AGRICULTURAL CHARACTERISTICS**

**1997 Market Value:** \$463 million Number of Farms: 2,745

**Principal Commodities:** Wine grapes, fruit, dairy, nursery

#### **MAP NARRATIVE – EASEMENT GEOGRAPHY**

Easements are scattered throughout the county, reflecting the multiple preservation (greenbelt, agricultural, natural resource, recreational) objectives of the program. The largest easement parcels and connected blocks of easements are located in areas remote from the Highway 101 urban corridor. They are composed of large ranches, some no longer operating as commercial producers but now valued as open space. Smaller cropland easements (difficult to detect on the map) are scattered close to the cities; landowner prospects of development profits limits the acquisition potential in these intended community separator areas. A significant number of easements are located in the southwestern corner of the county, an area of dairies and livestock.



**California – TRI-VALLEY CONSERVANCY (formerly South Livermore Valley Agricultural Land Trust)**  
Serves eastern Alameda County – Formed in 1994 – researched by Al Sokolow

**OVERVIEW** – This nonprofit changed its name and expanded considerably its territory in May, 2003, to seek new land conservation opportunities. As the South Livermore Valley Agricultural Land Trust (SLVALT), it was formed to protect farmland in that small valley of about 14,000 acres, an area of premium vineyards and wineries. Unusual among independent land trusts, its formation in 1994 was a direct result of local government policy actions. SLVALT was created to carry out parts of a joint city–county land use plan, and its board up to now has included city, county, and wine industry representatives. Its acquisitions have been funded primarily by an unusual revenue source—development fees placed on new homes in the area as mitigation for farmland conversion. Anticipating a successful conclusion of easement acquisitions in its small operating area in the near future, but wanting to maintain an active land transactions program as well as stewardship activities, the land trust board changed both its name and territorial reach with support from the newly absorbed areas. As the Tri-Valley Conservancy, the nonprofit now covers most of the eastern and relatively rural portion of Alameda County, a part of the San Francisco Bay region. Most of the county's 1.4 million residents are concentrated in Oakland, Berkeley and other cities in the western section.

**EASEMENT ACTIVITY** – 3,059 agricultural acres in 30 properties. Mostly vineyards and olive groves; 280 acres in grazing. One non-agricultural easement of 371 acres covers a park area.

**Goals:** 5,000 acres in the Valley.

**Other Easement Programs:** No other local agricultural easement programs in Alameda County.

#### **FUNDING**

**Acquisition Spending to Date:** \$4.4 million

**Revenues:** The \$4.4 million represents direct spending by SLVALT largely from state funds and as local match. The full value of easements acquired is about \$45 million, accounting for the development mitigation fees paid for new homes in the cities of Livermore and Pleasanton. With its territory greatly expanded to include communities without mitigation programs, the renamed conservancy expects to diversify its revenue sources and engage in forms of fundraising common to other land trusts.

**GOVERNANCE** – The nine-member land trust board oversees the program. Four members are at-large and one each is appointed by Livermore city, Pleasanton city, Alameda County, the local wine growers association and an environmental organization—the Friends of the Vineyards. The Conservancy expects to add board members from communities outside of the original territory.

**STAFF AND OPERATING BUDGET** – There is the Executive Director and one other staff member. The annual operating budget is about \$212,000. Forty volunteer "stewards" assist in easement monitoring.

**ORIGINS** – The SLVALT was formed to help implement a part of the South Livermore Valley Area Plan, a land use plan for the preservation of the 14,000 acre valley that confines urban growth to the adjacent cities. The plan was adopted jointly by Alameda County and the cities of Livermore and Pleasanton in 1993, following a five-year period of study and public workshops. As well as providing detailed land use standards, the plan called for an agricultural easement program to be managed by a land trust and financed in large part by mitigation fees on residential development in the two cities. The first acquisition was in 1995; four other easements acquired earlier by other agencies were accepted at that time.

**ACQUISITION PROCESS AND STRATEGY** – The board applies, in a discretionary fashion, several general criteria, most originally established in the 1993 county–city land use plan for the South Livermore Valley.

**Rating of Parcels:** Not quantitative, see below.

**Other Criteria:** As well as location in the Valley, emphasis is given to creating a critical mass of protected agricultural land, parcels threatened by development, preservation of contiguous blocks large enough to maintain commercial agriculture, limiting conflicts with non-agricultural uses, creating a permanent urban boundary and protecting critical habitat areas.

**CONNECTIONS TO LOCAL PLANNING AND LAND USE POLICIES** – As a creation of the county–city Land Use Plan for the South Livermore Valley, the work of the land trust has been directly related to local government planning. Although most of the Valley is unincorporated territory and thus under the jurisdiction of county government, the 1993 plan recognizes the role of the two cities in influencing the land use patterns of the area. Easement acquisitions have been guided and protected by the plan's detailed land use policies and standards which

generally direct urban growth in the area to the two cities and prohibit it on the Valley floor and its hillsides. The pattern of easements serves to bolster the voter-approved urban limit line on the south edge of the city of Livermore. Easement program—local planning connections also are affirmed by frequent consultations between the Conservancy and city and county planners and representation of the cities and the county on the land trust board.

**Zoning:** Alameda County's agricultural zoning in the Valley provides for one unit to 100 acres.

#### **DEMOGRAPHICS**

**2000 Population:** Approximately 150,000 in the original area, primarily in the cities of Livermore and Pleasanton. Alameda County population is 1.4 million.

**1990–2000 Population Change:** + 29,700 residents in cities of Livermore and Pleasanton; +27 percent. Alameda County: +164,000 residents; +13 percent

#### **AGRICULTURAL LAND**

Approximately 6,000 acres in the 14,000 acre South Livermore Valley, including both cropland—mainly vineyards and some orchards—and grazing land. Alameda County overall has 258,000 agricultural acres—mostly grazing land.

**Conversion to Urban Use:** Insignificant in the Valley since the early 1990s. As a result of local planning and easement programs, cultivated acres in the Valley increased from 2,100 in 1993 to more than 5,000 in 2002, largely as the result of new vineyard and orchard plantings. Alameda County: 6,589 agricultural acres in 1990–2000 (2.4 percent of 1990 base), including 1,345 cropland or important farmland acres (11.5 percent of base). (State conversion data)

#### **OTHER AGRICULTURAL CHARACTERISTICS**

**1997 Market Value:** \$41.9 million for Alameda County Number of Farms: 458

**Principal Commodities:** Nursery products, wine grapes, cattle

#### **MAP NARRATIVE – EASEMENT GEOGRAPHY ([Map available on website: aftresearch.org](http://aftresearch.org))**

All easements are located on the floor and lower hillsides of the 14,000 acre Valley. Most easement acres are clustered in several large blocks, forming a partially connected belt around the southern boundary of the city of Livermore and generally coinciding with that city's urban limit line.

## **California – YOLO LAND TRUST**

Countywide program – Formed in 1988 – researched by Al Sokolow

**OVERVIEW** – Yolo Land Trust (YLT) is the most active of the few agricultural land trusts in California's Central Valley, the state's premier farming region. Lacking a steady revenue stream and with only one staff member but an active board, the trust has been entrepreneurial in putting together funds from multiple sources to build a portfolio of almost 5,000 easement acres in only seven years. Most of its initial acquisitions were the result of a development mitigation ordinance enacted by the city of Davis in 1995, that requires developers to purchase easements on a like amount of agricultural acres elsewhere in the area to match farmland converted to urban uses in the city. The first such local law implemented in the nation, this is a version of the TDR (Transfer of Development Rights) process. Yolo County is in the middle of a rapidly growing region; it is located just west of the capital city of Sacramento and in the Interstate 80 corridor, a major commuter link to the San Francisco Bay area. Yet growth rates have been lower here than in Sacramento's eastern suburbs and to the west because of local land use policies that emphasize the preservation of farmland and the direction of growth for cities.

**EASEMENT ACTIVITY** – 4,629 agricultural acres in 19 properties. All irrigated cropland—tomatoes, alfalfa, grain, wine grapes. This includes about 1,250 acres in four properties turned over to the trust through the city of Davis mitigation program.

**Goals:** No specific program goals.

**Other Easement Programs:** Davis city voters in 2000 approved a small parcel tax for a new municipal program to acquire easements with resource values on the city's borders. No easements have yet been acquired under this program.

### **FUNDING**

**Acquisition Spending to Date:** \$25 million—does not include the value of mitigated—acquired easements and landowner donations.

**Revenues:** State funds (Farmland Conservancy Program), federal funds, local fundraising and foundation support. With development in the city of Davis and hence mitigations slowing down in recent years, state and federal funds are the principal means of acquiring easements.

**GOVERNANCE** – Overseeing the program, the 13—member land trust board serves unrestricted three—year terms. Most board members have agricultural connections. With a staff of only one, board members do much of the detailed work of easement transactions—including landowner negotiations and easement monitoring.

**STAFF AND OPERATING BUDGET** – The Executive Director, the only paid staff person, was hired as the land trust's first employee in 1998 with the help of planning grants from outside organizations. Legal services are donated. The annual operating budget is about \$70,000.

**ORIGINS** – YLT was organized by a group of leading farmers and others who were concerned about protecting the county's farmland from anticipated urban development. Although established in 1988, not until 1995 did the land trust acquire its first easements as a result of the city of Davis mitigation program.

**ACQUISITION PROCESS AND STRATEGY** – The YLT board makes final decisions. Board members as well as their executive director are directly involved in working with landowners in all stages of a transaction, including the initial contacts. The land trust seeks easements on prime irrigated farmland and engages in some geographical targeting, as noted below. Availability of funds and timeliness are considerations.

**Rating of Parcels:** Not quantitative, see below.

**Other Criteria:** Qualitative criteria adopted by the land trust at the time of its organization focus on parcels that are capable of producing an economic return, size and soil quality, zoned for agriculture and located so as to enhance the protection of other agricultural land. While the YLT has acquired easements throughout the county's prime farmland area of a quarter million acres, it tries to target strategic locations. Preferred are easements in "second tier" rings, located not in immediate proximity to city boundaries, but a few miles out to have a future impact on urban expansion. The most obvious manifestation of this strategy is the effort to form with easements a community separator or protected greenbelt between the county's largest cities of Davis and Woodland, seven miles apart but gradually growing toward each other.

**CONNECTIONS TO LOCAL PLANNING AND LAND USE POLICIES** – YLT's easement activities are complemented by Yolo County planning, which for several decades has given top priority to directing development away from prime farmland and to existing urban centers, mainly the four incorporated cities. As well as protecting

agriculture and open space, this is intended to avoid the public costs of dispersed development. Specific county policies that express this objective include: (1) Agricultural zoning with high minimum lot sizes (see below); (2) An agricultural element recently added to the county General Plan; (3) County agreements with the cities concerning planning and finances; (4) A county ordinance adopted in 2000 providing for the mitigation of development on farmland; and (5) A 2002 agreement with Davis and Woodland concerning the community separator between the two cities. Although an independent nonprofit, the land trust works closely with county government on planning matters. **Zoning:** Exclusive agricultural zoning for 80 percent of the farmland, with a residential density of one unit to 80 acres (1:80) for irrigated cropland, 1:160 acres for other cropland and 1:320 acres for grazing land.

#### **DEMOGRAPHICS**

**2000 Population:** 168,000

**1990–2000 Population Change:** +27,200 residents; + 19 percent

#### **AGRICULTURAL LAND**

536,000 acres: 70 percent prime cropland

**Conversion to Urban Use:** 3,655 total agricultural acres in 1990–2000 (0.6 percent of 1990 base), including 3,532 cropland or important farmland acres (0.8 percent of base). (State conversion data)

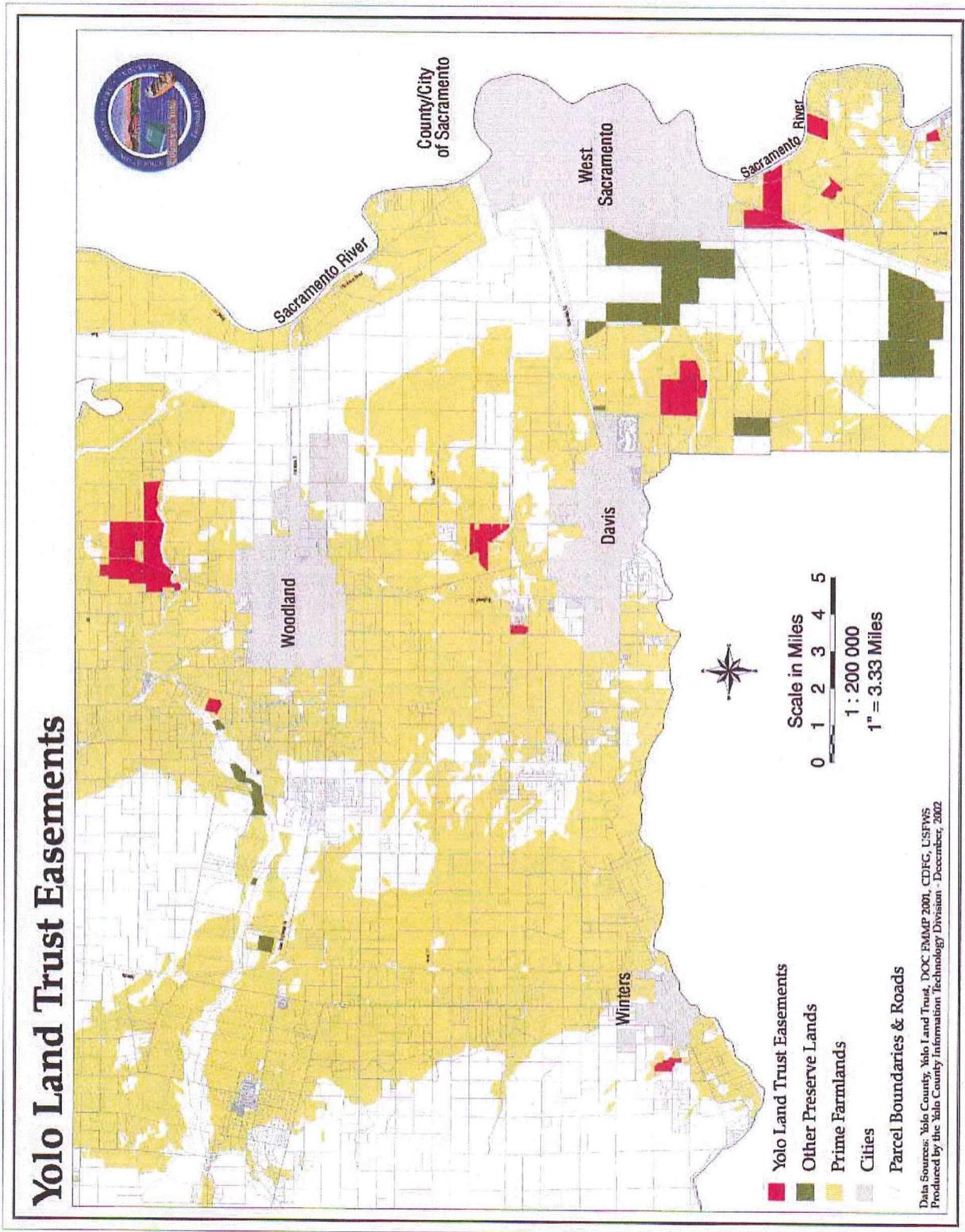
#### **OTHER AGRICULTURAL CHARACTERISTICS**

**1997 Market Value:** \$302 million Number of Farms: 923

**Principal Commodities:** Processing tomatoes, wine grapes, rice, hay

#### **MAP NARRATIVE – EASEMENT GEOGRAPHY**

YLT easements are distributed across a broad swatch of the south central and southeastern parts of Yolo County where the flat terrain holds prime soils that grow a variety of crops. A few easement clusters are near the growing cities: (1) About 724 acres in six parcels in one block, forming the beginning of a community separator between Davis and Woodland; (2) Close to 2,000 acres in nine parcels northwest of Woodland; and (3) A cluster of seven parcels totaling 1,117 acres just south of West Sacramento.



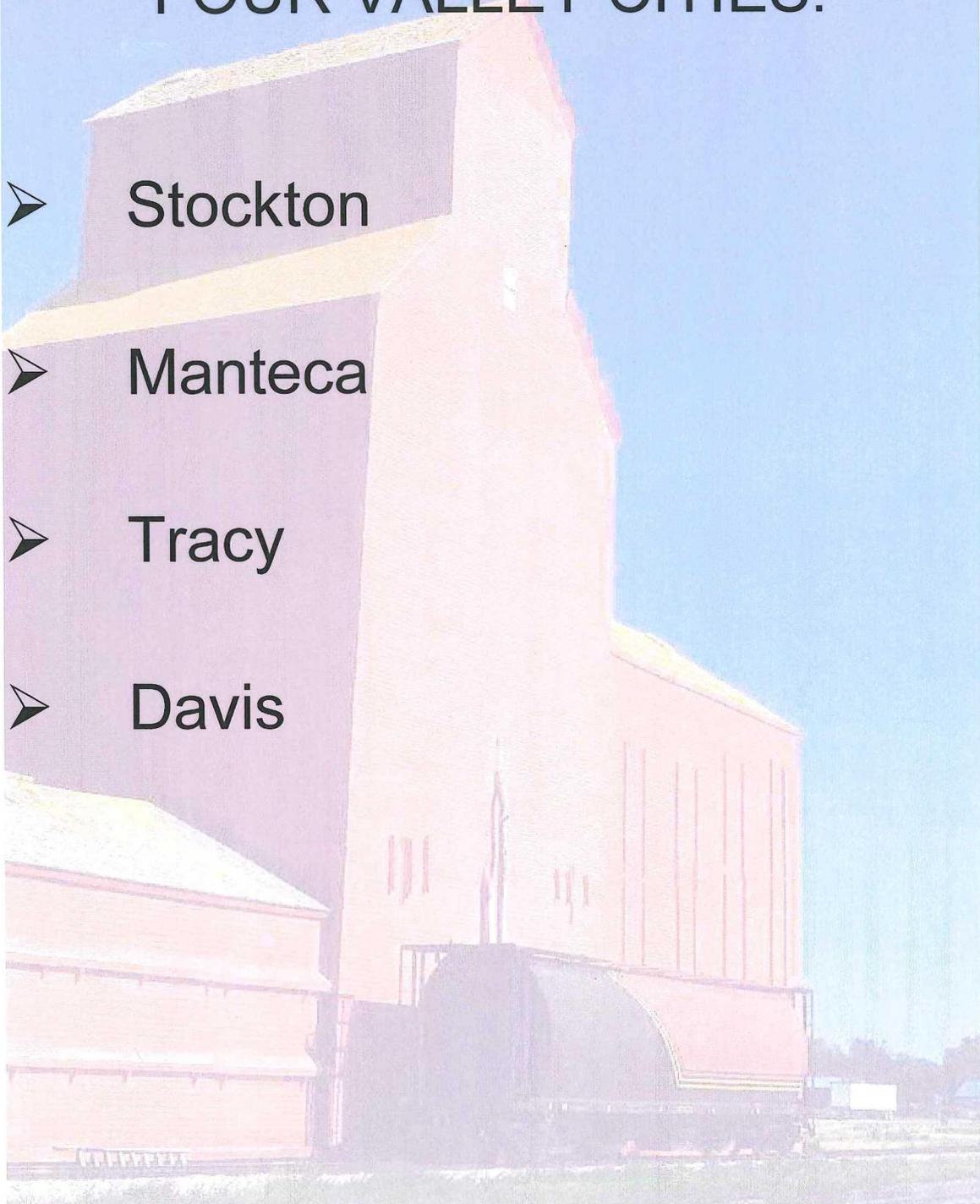
# FARMLAND PRESERVATION PROGRAMS FOUR VALLEY CITIES:

➤ Stockton

➤ Manteca

➤ Tracy

➤ Davis



Resolution No. \_\_\_\_\_

## STOCKTON CITY COUNCIL

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**RESOLUTION AMENDING THE PUBLIC FACILITIES FEE PROGRAM ADMINISTRATIVE GUIDELINES BY ADDING PROVISIONS REGARDING AN AGRICULTURAL LAND MITIGATION PROGRAM, INCLUDING AN IN-KIND ACQUISITION AND IN-LIEU FEE**

WHEREAS, the Public Facilities Fee Program Administrative Guidelines were adopted on February 12, 1991, by Council Resolution No. 91-0119 and subsequently amended; and

WHEREAS, it is necessary to amend the Administrative Guidelines regarding the Agricultural Land Mitigation Program; now, therefore,

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

The Public Facilities Fee Program Administrative Guidelines, as amended, are hereby approved and adopted; a copy of which is attached as Exhibit "A" and incorporated by this reference.

PASSED, APPROVED, AND ADOPTED \_\_\_\_\_.

\_\_\_\_\_  
EDWARD J. CHAVEZ, Mayor  
of the City of Stockton

ATTEST:

\_\_\_\_\_  
KATHERINE GONG MEISSNER  
City Clerk of the City of Stockton

**Exhibit A**  
**Public Facilities Fee Program**  
**Administrative Guidelines**

Section I.A.6 is added to the Administrative Guidelines, as follows:

**6. Agricultural Land Mitigation Program (in-lieu fee and in-kind acquisition)**

a. The purpose of the Agricultural Land Mitigation Program is to mitigate for the loss of agricultural land in the City of Stockton through conversion to private urban uses, including residential, commercial and industrial development.

b. The following words or phrases, when used in these Guidelines, shall have the following meanings:

(1) "Agricultural land or farmland" for the purposes of these Guidelines means important farmland, as defined by the California Department of Conservation's Farmland Monitoring and Mapping Program (FMMP) and as shown on the most recent available FMMP map of San Joaquin County. Important farmland includes prime farmland, farmland of statewide significance, and unique farmland. This definition is consistent with the purpose of the Fee, and with the definition of "agricultural land" found in the California Environmental Quality Act (Public Resources Code Section 21060.1).

(2) "Agricultural mitigation land" means agricultural land encumbered by an agricultural conservation easement or such other conservation mechanism acceptable to the City.

(3) "Agricultural conservation easement" means an easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements should be permanent.

(4) "Nexus Study" means the City of Stockton Agricultural Mitigation Fee Nexus Study, prepared June 21, 2006, as may be amended from time to time.

(5) "Qualifying entity" means a nonprofit public benefit 501(c)3 corporation operating in San Joaquin County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. A qualifying entity shall have suitable accounting and reporting procedures to assist the City in preparing the annual report described in section g, below.

c. The Agricultural Land Mitigation Program shall apply to all projects under the jurisdiction of the City of Stockton that would result in the conversion of agricultural land, as defined in this section, to a non-agricultural use, including residential, commercial, and industrial development. The Agricultural Mitigation Program shall apply (whether through an in-lieu fee or in-kind direct purchase) to the acquisition of agricultural mitigation lands (of equal or better quality to the land that is being converted) within the "Central Zone" of San Joaquin County [as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and excluding the Primary Zone of the Delta]. The Agricultural Mitigation Program shall not apply to

agricultural activities and facilities as defined by the Development Code or projects within the SJMSCP "No Pay Zone" (see h.).

d. For projects of forty (40) acres or more, the in-kind direct purchase/acquisition of an agricultural mitigation easement at a 1:1 ratio and dedication to a qualifying entity shall be required. The Owner/Developer/Successor shall pay the associated administrative, monitoring, and contingency costs identified in the fee study, subject to any inflationary adjustments.

For projects of less than forty (40) acres, the Owner/Developer/Successor shall have the option to pay an in-lieu agricultural mitigation fee. The fee shall be determined by the fee schedule in effect on the date the final subdivision map is filed, the vesting tentative map application is deemed complete, or the date a building permit is issued, as applicable.

e. Dedication of agricultural mitigation land, or payment of in-lieu fees, shall be made prior to the recordation of a final subdivision map, except where a final map is processed to create parcels that are forty (40) acres or more in size for purposes of resale and not intended for development. Where a subdivision map is not required, the dedication shall occur or the fee shall be collected before the issuance of building permits. The filing of a parcel map, which does not result in the conversion of agricultural lands, does not require dedication or payment of in-lieu fees. However, it is the intent of this section that the division of property into parcels of less than forty (acres) shall not be used to avoid dedication of mitigation lands that would otherwise be required. Therefore, projects larger than forty (acres) that are subsequently divided into parcels less than forty (40) acres are not eligible to pay in-lieu fees.

f. Agricultural mitigation shall be at a ratio of 1:1 (1 acre of mitigation land per acre of agricultural land converted to any other land use). The size of the dedication or the amount of the in-lieu fee shall be calculated based on the acres within the subdivision classified as agricultural land. Where a subdivision map is not required, the fee shall be calculated based on the acres classified as agricultural land within the parcel for which the building permit is issued.

g. Agricultural mitigation fees shall be placed in a separate Agricultural Mitigation Fee account to avoid commingling of the fees with the other funds of the City of Stockton. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those uses described in the Nexus Study which shall include the following:

- (1) To pay for acquisition of agricultural mitigation lands (of equal or better quality to the land that is being converted) within the "Central Zone" of San Joaquin County [as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and excluding the Primary Zone of the Delta].
- (2) To pay for transaction costs related to the acquisition of agricultural mitigation lands.
- (3) To pay for ongoing monitoring and administrative costs related to the ongoing stewardship of agricultural mitigation lands.

- (4) To provide a contingency for unexpected transaction costs or future legal costs required to maintain the terms of an agricultural conservation easement.

Agricultural conservation fees may be expended by the City of Stockton or transferred to the Central Valley Farmland Trust, or other qualifying entity as determined by City Council, for the purpose of acquiring agricultural mitigation land. For funds transferred to the Central Valley Farmland Trust, or a qualifying entity, the City shall transfer such funds quarterly, provided funds are available in the Agricultural Mitigation Fee Account. It is permissible to use agricultural mitigation fees in order to obtain agricultural mitigation lands in fee simple, provided the purpose is to place an agricultural conservation easement on such lands, and make the lands available by sale for agricultural use.

h. The Agricultural Mitigation Program shall not apply to projects located in the "No Pay Zone" as established in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) compensation zone maps.

i. Residential projects that provide affordable housing and comply with the following (see Development Code Section 16-315 for specific development requirements) shall be exempt from the Agricultural Land Mitigation Program:

Consist of five or more dwelling units;

Be available so that at least:

1. Twenty percent of the total number of proposed dwelling units are for lower-income households, as defined in Health and Safety Code Section 50079.5; and/or
2. Ten percent of the total number of proposed dwelling units are for very low-income households, as defined in Health and Safety Code Section 50105.

j. Stacking of habitat easements on top of existing agricultural easements is allowable with concurrence from San Joaquin Council of Governments and the qualifying entity administering the agricultural easement.

k. Agricultural easements shall be established in perpetuity.

l. Projects that qualify to pay the in-lieu fee shall be subject to a 2.5% administration fee. In addition, agricultural mitigation fees shall not be eligible for the "Deferred Payment" option set forth in Section C.

m. The City shall report to the City Council once each fiscal year concerning the fees and accounts, including any portions of fees remaining unexpended or uncommitted five (5) or more years after deposit. The City Council shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to identify the purpose to which the fee is put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.

A refund of unexpended or uncommitted fee revenue for which a need cannot be demonstrated, along with accrued interest may be made to the current owner(s) of the development project(s) by the City on a prorated basis. The City may refund unexpended and uncommitted fee revenue that has been found by the City Council to be no longer needed, by direct payment or by off-setting other obligations owed to the City by the current owner(s) of the development projects(s).

If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this program exceed the amount to be refunded, City, after a public hearing, for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fee is collected subject to this Chapter that serves the project on which the fee was originally imposed.

**Manteca Municipal Code**[Up](#)[Previous](#)[Next](#)[Main](#)[Collapse](#)[Search](#)[Print](#)[No Frames](#)[Title 13 PUBLIC SERVICES](#)**Chapter 13.42 AGRICULTURAL MITIGATION FEE**

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**13.42.010 Definition of "Agricultural Mitigation Fee."**

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The definition of "Agricultural Mitigation Fee" includes all development impact fees collected to offset the costs associated with the loss of agricultural lands in new development as defined in this chapter. (Ord. 1304 § 1(part), 2005)

**13.42.020 Purpose, findings and declaration of intent.**

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A. In order to implement the goals and objectives of the city's general plan and to mitigate impacts caused by new development within the city, an agricultural mitigation fee is necessary. This includes mitigating the loss of productive agricultural lands converted for urban uses within the city by permanently protecting agricultural lands planned for agricultural use and by working with farmers who voluntarily wish to place conservation easements on their land with fair compensation for such easements. The city council finds this chapter is necessary for the following reasons: (1) to benefit the local economy and provide jobs; (2) San Joaquin County farmland is of highly productive quality; (3) the city is surrounded by productive farmland on all sides; (4) the continuation of agricultural operations preserves the existing landscape, environmental and aesthetic resources of the area; (5) the Manteca general plan sets forth policies to preserve productive farmland, including the development of a program to secure permanent agriculture on lands designated for agriculture in the city and/or county general plan; (6) California is losing farmland at a rapid rate; (7) loss of agricultural land is consistently determined to be a significant impact under the California Environmental Quality Act (CEQA) in development projects; (8) loss of farmland to development is irreparable and agriculture is an important component of the regions economy and rural community character; and (9) losing agricultural land will have a cumulatively negative impact on air quality, traffic, noise, public services demands, and aesthetics in the city and in the county of San Joaquin. It is the policy of the city to work cooperatively with San Joaquin County and its neighboring cities to preserve agricultural land within or adjacent to the Manteca planning area and its adopted sphere of influence, beyond that land deemed necessary for development. It is further the policy of the city to protect and conserve agricultural land in its vicinity.

B. Title 7, Division 1, Chapter 5, Section 66000 et seq., of the California Government Code provides that capital facilities fees may be enacted and imposed on development projects. The city council finds and determines that:

1. New development projects cause the loss of or conversion of agricultural lands within or adjacent to the city of Manteca.
2. The health, safety, peace, morals, convenience, comfort, prosperity, and general welfare of the residents and businesses within the city will be enhanced by the adoption of an agricultural mitigation fee to preserve, enhance, and mitigate for the conversion of productive agricultural lands to urban and municipal uses.

(Ord. 1304 § 1(part), 2005)

**13.42.030 Collection of agricultural mitigation fee.**

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The agricultural mitigation fee enacted pursuant to this chapter is to be collected by the city before the issuance of building permits, or at approval of any discretionary permit if no building permit is required. (Ord. 1304 § 1 (part), 2005)

#### **13.42.040 Authority for adoption.**

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This chapter is adopted under the authority of the Mitigation Fee Act, Title 7, Division 1, Chapter 5 of the California Government Code, Sections 66000 et seq. (Ord. 1304 § 1(part), 2005)

#### **13.42.050 Definitions.**

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The following words or phrases, when used in this chapter and in resolutions adopted pursuant thereto, shall have the following meanings:

“Agricultural land or farmland” for the purposes of this chapter means those land areas upon which agricultural activities, uses, operations or facilities exist or could exist at the time of adoption of the ordinance codified in this chapter that contain Class I, II, III or IV soils as defined by the United States Department of Agriculture Natural Resource Conservation Service.

“Agricultural mitigation land” means agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or such other conservation mechanism acceptable to the city.

“Agricultural operation” means normal and customary farming and agricultural activities which may occur during any twenty-four-hour period of the day. Normal and customary farming and agricultural activities include, but are not limited to, the cultivation and tillage of the soil, the productions irrigation, cultivation, growing, harvesting, and processing of any agricultural commodity for wholesale or retail markets, including viticulture, horticulture, the keeping and raising of livestock, fur bearing animals, fish or poultry, and any commercial agricultural practices performed as incident to or in conjunction with such activities including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

“Farmland conservation easement” means an easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to a farmland conservation easement is an interest in land which is less than fee simple. Farmland conservation easements should be permanent. However, mitigation funds should be available to fund term easements at minimum lengths to be determined by a new local land trust subject to the approval of the city.

“Farmland deed restriction” means a recorded deed restriction, covenant or condition which precludes the use of the agricultural land subject to the restriction for any nonagricultural purposes use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land unless specified as a term easement as mentioned in this section.

“Nexus report” means the agricultural mitigation fee report, as prepared in conformity with the Mitigation Fee Act, as may be amended from time-to-time.

“Qualifying entity” means a nonprofit public benefit 501(c)3 corporation operating in San Joaquin County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. The following entities currently are qualifying entities: Central Valley Farmland Trust. Other entities may be approved by the city council from time-to-time. (Ord. 1304 § 1(part), 2005)

#### **13.42.060 Calculation of fee by implementing resolution.**

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A. The adoption of the agricultural mitigation fee is a legislative act and shall be enacted by resolution

after a noticed public hearing before the city council. Pursuant to the Mitigation Fee Act, the city shall calculate the amount of the fee in an implementing resolution. The implementing resolution shall identify the findings required by the Mitigation Fee Act, including:

1. The purpose and use of the fee, including a description of the specified public facilities to be provided.
  2. The geographical area of the development projects subject to the fee.
  3. The type of development project to be developed within the identified geographical area.
  4. The estimated reasonable cost of providing the specified farmland conservation easement or farmland deed restriction for which the fee is imposed.
  5. The reasonable relationship between the fee's use and the type of development project on which the fee is imposed.
  6. The reasonable relationship between the need for the specified farmland conservation easement or farmland deed restriction and the type of development project within the specified geographical area.
  7. The reasonable relationship between the amount of the fee and the cost of the specified farmland conservation easement or farmland deed restriction attributable to the development project on which the fee is imposed as documented in the nexus report.
- B. Upon receipt of funds from the city derived through this chapter, the city shall deposit, invest, account for, and expend the funds pursuant to California Government Code Section 66006. (Ord. 1304 § 1(part), 2005)

#### **13.42.070 Annual report—Fee refunds by county.**

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- A. The city shall report to the city council once each fiscal year concerning the fees and accounts, including any portions of fees remaining unexpended or uncommitted five or more years after deposit. The city council shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five or more years after deposit of the fee, to identify the purpose to which the fee is put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged.
- B. A refund of unexpended or uncommitted fee revenue for which a need cannot be demonstrated, along with accrued interest may be made to the current owner(s) of the development project(s) by the city on a prorated basis. The city may refund unexpended and uncommitted fee revenue that has been found by the city council to be no longer needed, by direct payment or by offsetting other obligations owed to the city by the current owner(s) of the development projects(s).
- C. If the administrative costs of refunding unexpended and uncommitted revenues collected pursuant to this chapter exceed the amount to be refunded, city, after a public hearing, for which notice has been published pursuant to Government Code Section 6061 and posted in three prominent places within the area of the development project, may determine that the revenues shall be allocated for some other purpose for which the fee is collected subject to this chapter that serves the project on which the fee was originally imposed. (Ord. 1304 § 1(part), 2005)

#### **13.42.080 Fee payment.**

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- A. Prior to the issuance of any building permit, the applicant shall pay to the city the fee as established by resolution of the city council.

- B. The fee shall be determined by the fee schedule in effect on the date the vesting tentative map or vesting parcel map application is deemed complete, or the date a permit is issued.
- C. If a development contains multiple types of uses, the fee will be collected proportionately on each use.
- D. When application is made for a new building permit following the expiration of a previously issued building permit for which the fee was paid, the fee payment shall not be required, unless the fee schedule has been amended during the interim, and in this event the appropriate increase or decrease shall be imposed.
- E. In the event that subsequent development occurs with respect to property for which the fee has been paid, an additional fee shall be required only for additional square footage of development that was not included in computing the prior fee.
- F. When a fee is paid for a development project and that project is subsequently reduced so that it is entitled to a lower fee, the city shall issue a partial refund of the fee.
- G. When a fee is paid for a development project and the project is subsequently abandoned without any further action beyond the obtaining of a building permit the payor shall be entitled to a refund from the city of the fee paid, less the administrative portion of the fee.
- H. If, following payment of the fee, a development is converted to a more intense use; a fee shall be required which shall be the difference between the fee paid and the current fee for the more intense use. (Ord. 1304 § 1(part), 2005)

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**13.42.090 Agricultural mitigation fee accounts.**

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- A. The city shall hold fee revenues collected under this ordinance in a separate account.
- B. The city shall account for all fee revenues, including interest accrued, and allocate them for the purposes for which the original fee was imposed. (Ord. 1304 § 1(part), 2005)

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**13.42.100 Natural disaster fee exemption.**

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No fee may be applied to building permits obtained solely for purposes of reconstruction of any residential, commercial or industrial structure that is damaged or destroyed as a result of a natural disaster as declared by the governor. (Ord. 1304 § 1(part), 2005)

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**13.42.110 Annual fee updates—Review.**

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- A. The agricultural mitigation fee schedule established by resolution of the city council shall annually be automatically adjusted by an amount determined by the increase in the Engineering Construction Cost Index for the previous year, as published by the engineering news record.
- B. The agricultural mitigation fee schedule adopted by the city council shall be annually reviewed by the city for consistency with the nexus report, as it may be updated from time-to-time. (Ord. 1304 § 1(part), 2005)

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**13.42.120 Construction.**

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This chapter and any subsequent amendment to the agricultural mitigation fee shall be read together. With respect to any agricultural mitigation fee enacted by resolution under this chapter, any provision of such fee that is in conflict with this chapter shall be void. (Ord. 1304 § 1(part), 2005)

**13.42.130 Fee adjustments.**

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A developer of any project subject to the fee described in this chapter may apply to the city council for adjustment to that fee, based upon the absence of any reasonable relationship or nexus between the impacts of the development and either the amount of the fee charged or the type of facilities to be financed. The application shall be made in writing and filed with the city clerk either (1) ten days prior to the public hearing on the development permit application for the project, or (2) if no development permit is required, at the time of the filing of the request for a building permit. The application shall state in detail the factual basis for the claim for adjustment. The city council shall consider the application at a public hearing held within sixty days after the filing of the fee adjustment application. The decision of the city council shall be final. If an adjustment is granted, any change in the proposed use of the applicable development project prior to issuance of a certificate of occupancy shall invalidate the adjustment of the fee and payment of the fee shall be made prior to issuance of certificate of occupancy. (Ord. 1304 § 1(part), 2005)



Tracy, California, Code of Ordinances >> Title 13 - DEVELOPMENT IMPACT FEES >> Chapter 13.28 - AGRICULTURAL MITIGATION FEE >>

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## Chapter 13.28 - AGRICULTURAL MITIGATION FEE

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### Sections:

13.28.010 - Authority.

13.28.020 - Purpose and findings.

13.28.030 - Definitions.

13.28.040 - Fee imposed.

13.28.050 - Uses of the fee.

13.28.060 - Deposit and accounting.

### 13.28.010 - Authority.

- (a) This chapter is adopted under the authority of the Mitigation Fee Act, California Government Code sections 66000 et seq.
- (b) Unless otherwise specifically described in this chapter, all provisions of chapter 13.04 of this title (General Provisions and Definitions) shall apply to the agricultural mitigation fee.

*(Ord. 1125 § 1 (part), 2008)*

### 13.28.020 - Purpose and findings.

- (a) In order to implement the goals and objectives of the City's General Plan and to mitigate impacts caused by new development within the City, an agricultural mitigation fee is necessary. The purpose of the agricultural mitigation fee is to mitigate the loss of productive agricultural lands converted for urban uses within the City by permanently protecting agricultural lands planned for agricultural use and by working with farmers who voluntarily wish to sell or restrict their land in exchange for fair compensation.

The City Council finds that this chapter is necessary for the following reasons:

- (1) To benefit the local economy and provide jobs;
- (2) San Joaquin County farmland is of highly productive quality;
- (3) The City is surrounded by productive farmland on all sides;
- (4) The continuation of agricultural operations preserves the existing landscape, and environmental and aesthetic resources of the area;
- (5) The Tracy General Plan sets forth policies to preserve productive farmland, including the development of a program to secure permanent agriculture on lands designated for agriculture in the City and/or County General Plan;
- (6) California is losing farmland at a rapid rate;
- (7) Loss of agricultural land is consistently determined to be a significant impact under the California Environmental Quality Act (CEQA) in development projects;
- (8) Loss of farmland to development is irreparable and agriculture is an important component of the region's economy and rural community character; and
- (9)

Losing agricultural land will have a cumulatively negative impact on air quality, traffic, noise, public services demands, and aesthetics in the City and in the County of San Joaquin.

It is the policy of the City to work cooperatively with neighboring cities and San Joaquin County to preserve agricultural land within or adjacent to the Tracy planning area and its adopted sphere of influence, beyond that land deemed necessary for development. It is further the policy of the City to protect and conserve agricultural land in its vicinity.

- (b) California Government Code sections 66000 et seq., provides that development impact fees may be enacted and imposed on development projects. The City Council finds and determines that:
- (1) New development projects cause the loss of, or conversion of, agricultural lands within or adjacent to the City of Tracy;
  - (2) The health, safety, peace, morals, convenience, comfort, prosperity, and general welfare of the residents and businesses within the City will be enhanced by the adoption of an agricultural mitigation fee to preserve, enhance, and mitigate for the conversion of productive agricultural lands to urban and municipal uses.

*(Ord. 1125 § 1 (part), 2008)*

### **13.28.030 - Definitions.**

In this chapter:

"Agricultural land" or "farmland," means any land identified by the California Department of Conservation's Farmland Mapping and Monitoring Program and the Tracy General Plan Environmental Impact Report as Prime Farmland, Farmland of Statewide Importance, or Unique Farmland.

"Agricultural mitigation fee" means and includes all development impact fees collected to offset the costs associated with the loss of agricultural lands in new development, whether collected under this chapter or a separate condition of approval.

"Agricultural mitigation land" means agricultural land encumbered by a farmland deed restriction, a farmland conservation easement or another conservation mechanism acceptable to the City, including acquisition of fee title by the City or a qualified entity as defined below.

"Agricultural operation" means normal and customary farming and agricultural activities which may occur during any twenty-four (24) hour period of the day. Normal and customary farming and agricultural activities include, but are not limited to, the cultivation and tillage of the soil, the irrigation, cultivation, growing, harvesting, and processing of any agricultural commodity for wholesale or retail markets, including viticulture, horticulture, the keeping and raising of livestock, fur-bearing animals, fish or poultry, and any commercial agricultural practices performed as incident to or in conjunction with such activities including preparation for market, delivery to storage or to market, or to carriers for transportation to market.

"Farmland conservation easement" means an easement over agricultural land for the purpose of restricting its use to agriculture.

"Farmland deed restriction" means a recorded deed restriction, covenant or condition which precludes the use of the agricultural land subject to the restriction for any nonagricultural purpose,

use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain an agricultural land unless specified as a term easement.

"Nexus Study" means the South San Joaquin County Farmland Conversion Fee Nexus Study, dated July 18, 2005 and prepared by ESA, including amendments which may be made from time to time.

"Qualified entity," such as a land trust, which is a nonprofit public benefit 501(c)3 corporation operating in San Joaquin County for the purpose of conserving and protecting land in its natural, rural or agricultural condition.

"Settlement Agreement" means the Settlement Agreement and Release of Claims entered into on August 16, 2001 between Sierra Club, Delta Keeper and California Sport Fishing Protection Alliance (collectively "Organizations"), the cities of Manteca, Tracy, Lathrop and Escalon, and the South San Joaquin Irrigation District (SSJID), in settlement of a writ of mandate filed in San Joaquin County Superior Court on June 30, 2000, Case No. CV 011090.

*(Ord. 1125 § 1 (part), 2008)*

### **13.28.040 - Fee imposed.**

- (a) Fee imposed. The owner of farmland to be developed for private urban uses (including but not limited to residential, commercial or industrial) shall pay an agricultural mitigation fee for each acre of farmland to be developed. However, those developments set forth in subsection (d) of this section are exempt from this requirement.
- (b) Time of payment. The owner shall pay the fee at the time of building permit issuance unless the Mitigation Fee Act requires later payment. The fee is that fee amount in effect at the time of payment.
- (c) Amount of fee. The amount of the fee shall be established by City Council resolution, based upon the Nexus Study. The fee resolution shall set forth the findings required by the Mitigation Fee Act, at Government Code section 66001: (1) identify the purpose of the fee; (2) identify the use to which the fee is to be put; (3) determine how there is a reasonable relationship between the fee's use and the type of development project on which the fee is imposed; (4) determine how there is a reasonable relationship between the need for the agricultural mitigation and the type of development project; and (5) determine how there is a reasonable relationship between the amount of the fee and the cost of the mitigation attributable to the development.

Once established, the fee shall be automatically increased each year by the increase in the Consumer Price Index (CPI) for "All Urban Consumers, San Francisco, Oakland, San Jose area. All Items, as published by the United States Department of Labor, Bureau of Labor Statistics.

- (d) Exemptions. Pursuant to the settlement agreement, the following specific projects are excluded from the requirements of this chapter as of 2005:
  - (1) The Tracy Gateway project, which has already agreed to an agricultural mitigation program (unless it receives any SSJID water, in which case the project's current agricultural mitigation fee will be increased from Seven Hundred Fifty and no/100ths (\$750.00) Dollars per acre to Two Thousand and no/100ths (\$2,000.00) Dollars per acre).
  - (2) The Tracy Hills project (unless it receives any SSJID water, in which case the project would be subject to the agricultural mitigation fee of Two Thousand and no/100ths

(\$2,000.00) Dollars per acre for every acre of prime farmland in that project converted).

- (3) Projects with signed development agreements as of 2005, such as Presidio and Bank of America.
- (4) Any development application that has an Equivalent Consumer Unit ("ECU") or Residential Growth Allotment ("RGA") on or before August 16, 2004, unless the ECU or RGA has expired, after which the project is subject to this chapter. (This includes Plan C, South MacArthur, ISP, NEI and I-205 projects.)
- (5) Any infill project. An infill project is defined as: (1) development of unused or underutilized land within the urban limits of the City, the land being adjacent to existing development on three (3) sides as of 2005; or (2) any development within an "infill zone" as defined by the municipal code.
- (6) Any project that has been conditioned on the payment of a fee for agricultural land mitigation or any other exaction imposed to mitigate for loss of agricultural land on or before August 16, 2004 (the effective date of the Settlement Agreement). (This includes the Tracy Gateway project.)
- (7) The portion of a project which is restricted by deed for farm-like uses (e.g., community garden, orchard, vineyard), when approved by the City Council as part of the project approval.

*(Ord. 1125 § 1 (part), 2008)*

### **13.28.050 - Uses of the fee.**

- (a) Use. The fee shall be used for the preservation of farmland or open space within or adjacent to the Tracy planning area or its adopted sphere of influence (beyond the land deemed necessary for development), to establish an urban boundary or open space buffer zone, or within San Joaquin County. The use of the fee may include outreach, the purchase of land or easements, transaction costs, easement monitoring and enforcement of regulations on the land, and reasonable general administrative costs. Farmland conservation easements should be permanent and the fees may not be used to purchase land or easements already subject to another conservation easement.
- (b) Conveyance to qualified entity. By separate agreement with each entity approved by the City Council, the City may convey a portion or all of the fees collected to a qualified entity.

If the fees are conveyed to a qualified entity, that entity shall use the fees only for the purposes authorized in this chapter and shall comply with the reporting and accounting requirements established by the City.

*(Ord. 1125 § 1 (part), 2008)*

### **13.28.060 - Deposit and accounting.**

- (a) Upon receipt of funds from the City derived through this chapter, the City shall deposit, invest, account for, and expend the funds pursuant to California Government Code section 66006.
- (b) The City staff or qualified entity, or both, shall report to the City Council once each fiscal year concerning the fees and accounts, including any portions of fees remaining unexpended or uncommitted five (5) or more years after deposit. The City Council shall make findings once each fiscal year with respect to any portion of the fee remaining unexpended or uncommitted in its account five (5) or more years after deposit of the fee, to identify the purpose to which

the fee is put, and to demonstrate a reasonable relationship between the fee and the purpose for which it was charged. (Gov't. Code Sections 66001(d) and 66006.)

*(Ord. 1125 § 1 (part), 2008)*



## CITY OF DAVIS MUNICIPAL CODE EXCERPT

### 40A.03.010 Purpose and findings.

- (a) The purpose of this chapter and this article is to implement the agricultural land conservation policies contained in the Davis general plan with a program designed to permanently protect agricultural land located within the Davis planning area for agricultural uses.
- (b) Since 1995 the city has required agricultural mitigation for development projects that would change the general plan designation or zoning from agricultural land to nonagricultural land and for discretionary land use approvals that would change an agricultural use to a nonagricultural use, and the city council finds that this chapter and this article are necessary for the following reasons: California is losing farmland at a rapid rate; Yolo and Solano County farmland is of exceptional productive quality; loss of agricultural land is consistently a significant impact under CEQA in development projects; the Davis general plan has policies to preserve farmland; the city is surrounded by farmland; the Yolo and Solano County general plans clearly include policies to preserve farmland; the continuation of agricultural operations preserves the landscape and environmental resources; loss of farmland to development is irreparable and agriculture is an important component of the city's economy; and losing agricultural land will have a cumulatively negative impact on the economy of the city and the counties of Yolo and Solano.
- (c) It is the policy of the city to work cooperatively with Yolo and Solano counties to preserve agricultural land within the Davis planning area, as shown in the "planning area" map found in the Davis general plan, beyond that deemed necessary for development. It is further the policy of the city to protect and conserve agricultural land, especially in areas presently farmed or having Class 1, 2, 3, or 4 soils.
- (d) The city council finds that some urban uses when contiguous to farmland can affect how an agricultural use can be operated, which can lead to the conversion of agricultural land to urban use.
- (e) The city council further finds that by requiring adjacent mitigation for land being converted from an agricultural use and by requiring a one hundred fifty foot buffer, the city shall be helping to ensure prime farmland remains in agricultural use. (Ord. 2300 § 1, 2007)

### 40A.03.020 Definitions.

- (a) **Adjacent mitigation.** Agricultural mitigation land that is required to be located at the non-urbanized perimeter of a project.
- (b) **Advisory committee.** The City of Davis open space and habitat commission shall serve as the advisory committee.
- (c) **Agricultural land or farmland.** Those land areas of the county and/or city specifically designated and zoned as agricultural preserve (A-P), agricultural exclusive (A-E), or agricultural general (A-I), as those zones are defined in the Yolo County zoning ordinance; those land areas designated and zoned exclusive agriculture (A-40), as defined in the Solano County zoning ordinance; those lands in agricultural use; those lands designated in the city's general plan as agricultural (A); and those land areas of the City of Davis specifically designated and zoned as

agricultural (A), agricultural planned development, or urban reserve where the soil of the land contains Class 1, 2, 3, or 4 soils, as defined by the Soil Conservation Service.

(d) **Agricultural mitigation land.** Agricultural land encumbered by a farmland deed restriction, a farmland conservation easement, or such other farmland conservation mechanism acceptable to the city.

(e) **Agricultural use.** Use of land for the purpose of producing food, fiber, or livestock for commercial purposes.

(f) **Easement stacking.** Placing a conservation easement on land previously encumbered by a conservation easement of any nature or kind.

(g) **Farmland conservation easement.** The granting of an easement over agricultural land for the purpose of restricting its use to agricultural land. The interest granted pursuant to a farmland conservation easement is an interest in land which is less than fee simple.

(h) **Farmland deed restriction.** The creation of a deed restriction, covenant or condition which precludes the use of the agricultural land subject to the restriction for any nonagricultural purposes, use, operation or activity. The deed restriction shall provide that the land subject to the restriction will permanently remain agricultural land.

(i) **Non-urbanized perimeter.** The agricultural land that borders the edge(s) of land that is, or is proposed to be, designated or zoned as non-agricultural land.

(j) **Priority open space acquisition areas.** Areas designated by the city council by resolution as priorities for acquisition as open space.

(k) **Qualified conservation easement appraiser.** A state certified appraiser who: (1) has conducted and prepared written appraisals on at least three agricultural conservation easement projects in the Central Valley in the past five years following the Uniform Standards of Professional Appraisal Practice and (2) has completed at least one course on the appraisal of conservation easements offered by a member organization of the appraisal foundation.

(l) **Qualifying entity.** A nonprofit public benefit 501(c)(3) corporation operating in Yolo County or Solano County for the purpose of conserving and protecting land in its natural, rural, or agricultural condition. The following entities are qualifying entities: Yolo Land Conservation Trust and Solano Farm and Open Space Trust. Other entities may be approved by the city council from time to time.

(m) **Remainder mitigation.** Required agricultural mitigation land that is not required to be located at the non-urbanized perimeter of a project.

(n) **Small project.** A development project that is less than forty acres in size. A small project does not include one phase or portion of a larger project greater than forty acres that is subject to a master, specific, or overall development plan. (Ord. 2300 § 1, 2007)

#### **40A.03.025 Agricultural land mitigation requirements.**

(a) The city shall require agricultural mitigation as a condition of approval for any development project that would change the general plan designation or zoning from agricultural land to nonagricultural land and for discretionary land use approvals that would change an agricultural use to a nonagricultural use.

(b) The city has determined that effectively locating mitigation lands provides increased protection of agricultural lands threatened with conversion to non-agricultural uses. Requirements and incentives are established in this article to direct mitigation to areas that are under threat of

conversion. In recognizing the importance of the location of mitigation, the city has identified two general categories of agricultural mitigation: (1) adjacent mitigation; and (2) remainder mitigation. For every applicable development project, the determination as to whether a combination of adjacent and remainder mitigation shall be required or whether only remainder mitigation shall be required shall be based on site specific factors, as specified in this article. Adjacent mitigation is addressed in Section 40A.03.030; remainder mitigation is addressed in Section 40A.03.035.

(c) Total mitigation for a development project shall not be less than a ratio of two acres of protected agricultural land for each acre converted from agricultural land to nonagricultural land. Location based factors (credits) for remainder mitigation contained in Section 40A.03.035 may result in ratios greater than 2:1. (Ord. 2300 § 1, 2007)

**40A.03.030 Requirements for adjacent land mitigation.**

(a) **Mitigation along the non-urbanized perimeter.** All new development projects adjacent to agricultural land that are subject to mitigation under this article shall be required to provide agricultural mitigation along the entire non-urbanized perimeter of the project. The required adjacent mitigation land shall be a minimum of one-quarter mile in width, as measured from the outer edge of the agricultural buffer required in Section 40A.01.050. Certain land uses listed in Section 40A.03.030(e) are exempt from the adjacency requirement.

(b) **Satisfaction of adjacent agricultural mitigation.** Adjacent agricultural mitigation shall be satisfied by:

(1) Granting a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism to or for the benefit of the city and/or a qualifying entity approved by the city. Mitigation shall only be required for that portion of the land which no longer will be designated agricultural land, including any portion of the land used for park and recreation purposes.

(2) Mitigation credit for required adjacent mitigation is shown in the table below.

**Required Adjacent Mitigation**

Location of mitigation land	Credit factor
Required minimum adjacent mitigation	1 times the number of acres protected

(3) If more than the required 2:1 mitigation acreage is required to create the adjacent mitigation land, no more than twice the project acreage shall be required to satisfy the mitigation requirements of this chapter. If more than twice the project acreage is required to satisfy the minimum one-quarter mile requirement, the configuration of the mitigation land shall be determined by the city council. In determining the configuration of the mitigation land, the city council shall consider factors such as, but not limited to, the following: (A) the shape of the mitigation land; (B) the quality of the soil in the mitigation land; (C) contamination of the mitigation land; (D) whether the mitigation land is in common ownership or owned by multiple owners; (E) fragmentation from other agricultural lands or connectivity to agricultural land; and (F) the existing use of the mitigation land.

(4) The Davis planning area includes clusters of rural residential parcels that, due to their size and spacing, preclude commercial farming operations. For purposes of this article, a “cluster of rural residential parcels” shall mean a group of parcels where the majority of

parcels have an existing residential structure and an average size of less than ten acres. If the required adjacent mitigation land includes a cluster of existing rural residential parcels, the city council may treat the cluster of rural residential parcels as part of the development project and allow the required adjacent mitigation land to be located on the outside edge of the cluster of rural residential parcels. If the city council chooses to do so, that decision shall not increase the total amount of adjacent mitigation required by the development project.

(c) **Exclusion of agricultural buffer from adjacent mitigation.** The land included within the agricultural buffer required by Section 40A.01.050(c) shall not be included in the calculation for the purposes of determining the amount of land that is required for mitigation.

(d) **Alternative mitigation proposals.** The city council may approve mitigation that does not meet the adjacency requirement if an alternative mitigation proposal meets the intent of this chapter and would have extraordinary community benefits. Alternative mitigation proposals may be approved if the following three factors are present, and the city council makes appropriate findings:

(1) The alternative mitigation is threatened by demonstrated growth pressure equal to or greater than that faced by areas adjacent to the project site. Demonstrated growth pressure shall be established by a comparison of current land value of the alternative site and the adjacent site. Valuation analysis shall be prepared by an independent certified appraiser; and

(2) The alternative mitigation is strategically located and provides one or more of the following: (A) protects a locally unique resource, (B) provides connectivity between existing protected or agricultural lands, (C) due to its location provides protection of other lands and resources in the Davis planning area and/or (D) located within a city-identified priority open space acquisition area; and

(3) The alternative mitigation is of a size that facilitates protection of the targeted resource and its long term management.

(e) **Exemptions.** The following land uses are exempt from the adjacent mitigation requirements of this article, but not the remaining provisions:

(1) The following projects, so long as they are not a part of a larger development project: permanently affordable housing, public schools, and public parks.

(2) That portion of a development project abutting land already protected by permanent conservation easements or by some other form of public ownership that guarantees adjacent lands will not be developed for urban uses.

(3) That portion of a development project abutting a limited access public road such as Interstate 80 or State Highway 113.

(4) Small projects, as defined in Section 40A.03.020.

(Ord. 2300 § 1, 2007)

#### **40A.03.035 Requirements for remainder land mitigation.**

(a) **General.** Remainder mitigation is mitigation land that is not required to be located at the non-urbanized perimeter of a project. Remainder mitigation may be located anywhere within the Davis planning area, subject to approval by the city council, in accordance with Section 40A.03.050.

Incentives shall be provided for locating the remainder mitigation in areas targeted for protection by the city as shown in the table below.

(b) **Satisfaction of remainder mitigation.** Remainder mitigation shall be satisfied by:

(1) Granting a farmland conservation easement, a farmland deed restriction, or other farmland conservation mechanism to or for the benefit of the city and/or a qualifying entity approved by the city. Mitigation shall only be required for that portion of the land which no longer will be designated agricultural land, including any portion of the land used for park and recreation purposes.

(2) The following credits shall be applied to remainder mitigation land:

<b>Remainder Mitigation</b>	
<b>Location of mitigation land</b>	<b>Credit factors</b>
Adjacent to city limits and within ¼ mile of the city limits, excluding any land required as adjacent mitigation land.	2 times the number of acres protected
Adjacent to the required minimum adjacent mitigation land, if applicable	1 times the number of acres protected
Within city designated priority open space acquisition areas.	1 times the number of acres protected
Elsewhere in the Davis planning area	0.2 times the number of acres protected
<b>Total</b>	Mitigation acreage, as adjusted by the credit factors for adjacent mitigation (see Section 40a.03.030) and remainder mitigation (above), must total two times the acreage changed to nonagricultural. If the calculation of credit factors results in actual mitigation that is less than 2:1, additional acreage within the Davis planning area shall be secured to satisfy the total mitigation ratio requirement.

Location and configuration of the mitigation land must be approved by the city council, in accordance with the factors specified in Section 40A.03.035(a).

(3) In lieu of conserving land as provided above, up to fifty percent of the remainder mitigation requirement may be satisfied by the payment of a fee based upon the fair market value of acquiring a farmland conservation easement or farmland deed restriction located adjacent to the city limits, subject to the following:

(A) For the purpose of establishing the in lieu fee, a qualified conservation easement appraiser shall establish the fair market value by conducting an appraisal of the required minimum adjacent mitigation land for the project. If no adjacent mitigation land is required for a project, the in-lieu fee shall be based on recent land transactions for properties located on and/or near the city limits. Appraisal costs shall be paid for by the developer or project applicant, and the qualified conservation easement appraiser shall be under contract with the city.

(B) The in lieu fee shall include a ten percent administrative fee to cover the city's costs to implement mitigation.

(C) The in lieu fee shall include an inflator that takes into account the inflation of property values and shall include a standard assumption for the time it takes the city to acquire property for agricultural mitigation. The inflator shall be calculated based on a three-year average of the House Price Index (HPI) for the Sacramento Metropolitan Statistical Area compiled by the Office of Federal Housing Enterprise Oversight. The inflator shall be based on the three most recent years for which HPI data are available and shall be based on an assumption that the city will spend the in lieu fee within three years from the payment date.

(D) The in lieu fee option must be approved by the city council.

(E) The in lieu fee, paid to the city, shall be used for farmland mitigation purposes, with priority given to strategically located lands with prime agricultural soils and high habitat value.

(c) **Exclusion of agricultural buffer from mitigation land.** The land included within the agricultural buffer required by Section 40A.01.050(c) shall not be included in the calculation for the purposes of determining the amount of land that is required for mitigation.

(d) It is the intent of this article that the city shall work in a coordinated fashion with the habitat conservation objectives of the Yolo County Natural Heritage (NCCP/HCP) program. It is the intent of this article to not allow stacking of easements, except easements covering riparian corridors that may be subject to agricultural and habitat easements and that do not generally exceed five percent of the total area on any particular easement of agricultural mitigation land shall be permitted. (Ord. 2300 § 1, 2007)

#### **40A.03.040 Comparable soils and water supply.**

(a) The remainder agricultural mitigation land shall be comparable in soil quality with the agricultural land whose use is being changed to nonagricultural use.

(b) The agricultural mitigation land shall have adequate water supply to support the historic agricultural use on the land to be converted to nonagricultural use and the water supply on the agricultural mitigation land shall be protected in the farmland conservation easement, the farmland deed restriction or other document evidencing the agricultural mitigation. (Ord. 2300 § 1, 2007)

#### **40A.03.045 Home sites.**

Agricultural mitigation lands shall not be permitted to have a new home site. (Ord. 2300 § 1, 2007)

#### **40A.03.050 Lands eligible for remainder mitigation.**

This section shall only apply to remainder mitigation.

(a) The agricultural mitigation land shall be located within the Davis planning area as shown in the Davis general plan. In making their determination to accept or reject proposed mitigation land, the following factors shall be considered by the city council:

- (1) The lands shall be compatible with the Davis general plan and the general plans of Yolo and Solano counties.
  - (2) The lands shall include agricultural land similar to the acreage, soil capability and water use sought to be changed to nonagricultural use.
  - (3) The lands shall include comparable soil types to that most likely to be lost due to proposed development.
  - (4) The property is not subject to any easements, contamination, or physical conditions that would legally or practicably preclude modification of the property's land use to a nonagricultural use.
  - (5) The easement configuration(s) would be grossly irregular such that it precludes efficient agricultural operation or bisects existing farm irrigation systems and does not protect other natural resources, such as stream corridors.
- (b) The advisory committee shall recommend to the city council acceptance of agricultural mitigation land of twenty acres or more by a qualifying entity and/or the city, except that it may consider accepting smaller parcels if the entire mitigation required for a project is less, or when the agricultural mitigation land is adjacent to larger parcels of agricultural mitigation land already protected. Contiguous parcels shall be preferred.
- (c) Land previously encumbered by a conservation easement of any nature or kind is not eligible to qualify as agricultural mitigation land. (Ord. 2300 § 1, 2007)

**40A.03.060 Requirements of instruments—Duration.**

- (a) To qualify as an instrument encumbering agricultural mitigation land, all owners of the agricultural mitigation land shall execute the instrument.
- (b) The instrument shall be in recordable form and contain an accurate legal description setting forth the description of the agricultural mitigation land.
- (c) The instrument shall prohibit any activity which substantially impairs or diminishes the agricultural productivity of the land, as determined by the advisory committee.
- (d) The instrument shall protect the existing water rights and retain them with the agricultural mitigation land.
- (e) The applicant shall pay an agricultural mitigation fee equal to cover the costs of administering, monitoring and enforcing (including legal defense costs) the instrument in an amount determined by city council. The fee shall include development of a property baseline report and monitoring plan.
- (f) The city shall be named a beneficiary under any instrument conveying the interest in the agricultural mitigation land to a qualifying entity.
- (g) Interests in agricultural mitigation land shall be held in trust by a qualifying entity and/or the city in perpetuity. Except as provided in subsection (h) of this section, the qualifying entity or the city shall not sell, lease, or convey any interest in agricultural mitigation land which it shall acquire.
- (h) If judicial proceedings find that the public interests described in Section 40A.03.010 of this chapter can no longer reasonably be fulfilled as to an interest acquired, the interest in the agricultural mitigation land may be extinguished through sale and the proceeds shall be used to

acquire interests in other agricultural mitigation land in Yolo and Solano counties, as approved by the city and provided in this chapter.

(i) If any qualifying entity owning an interest in agricultural mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to the city.

(j) The instrument conveying the interest in the agricultural mitigation land shall be recorded at the same time as any final map for the development project is recorded or at such other time as required as a condition of approval. (Ord. 2300 § 1, 2007)

**40A.03.070 City of Davis farmland conservation program advisory committee.**

(a) The Davis open space and habitat commission shall serve as the Davis farmland conservation advisory committee.

(b) It shall be the duty and responsibility of the open space and habitat commission to exercise the following powers:

- (1) To recommend the areas where mitigation zones would be preferred in the Davis planning area;
- (2) To promote conservation of agricultural land in Yolo and Solano counties by offering information and assistance to landowners and others;
- (3) To recommend tentative approval of mitigation proposals to city council;
- (4) To certify that the agricultural mitigation land meets the requirements of this chapter;
- (5) Any denial from the advisory committee may be appealed to city council.

(c) The open space and habitat commission shall ensure all lands and easements acquired under this article are properly monitored and shall review and monitor the implementation of management and maintenance plans for these lands and easement areas.

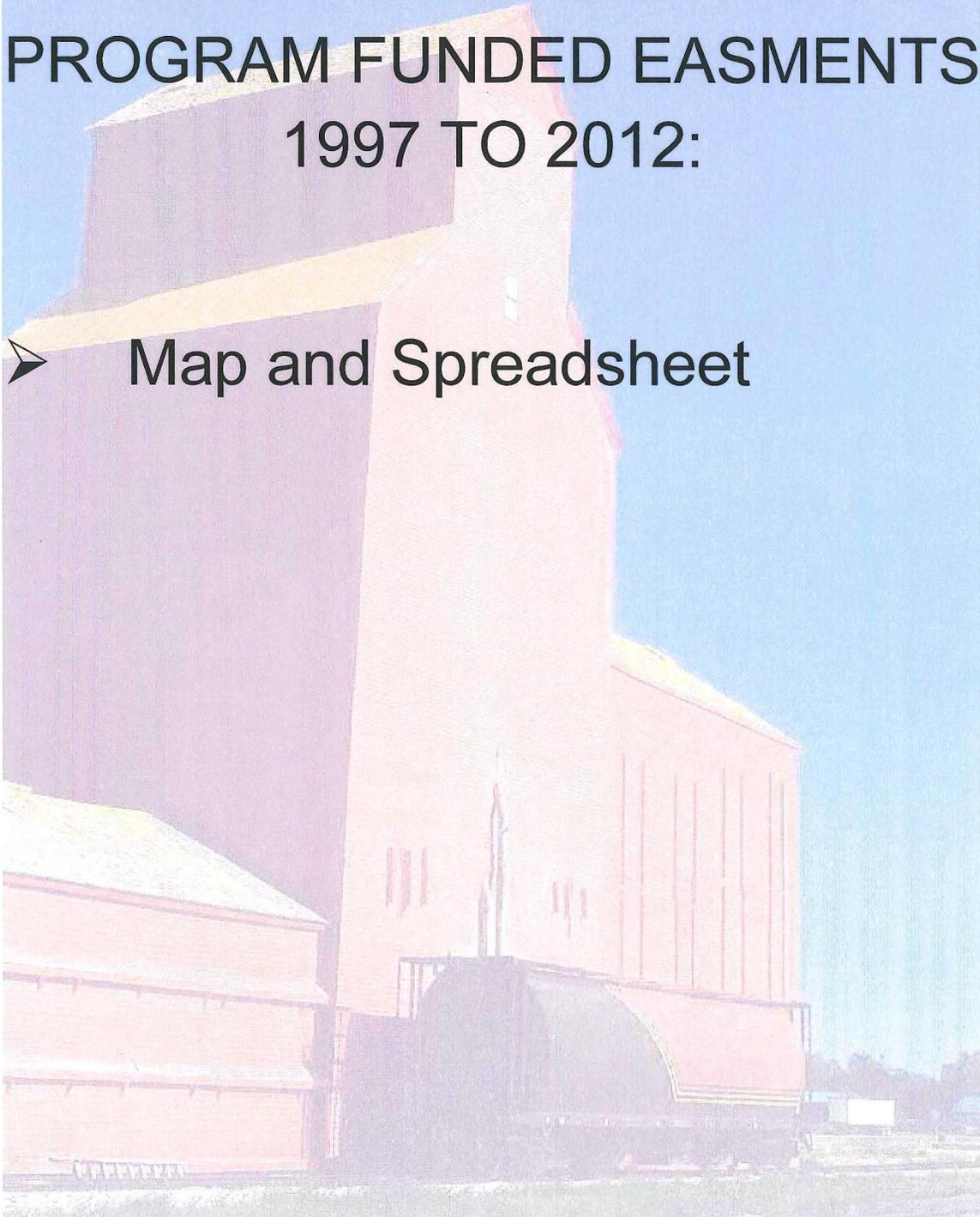
(d) All actions of the open space and habitat commission shall be subject to the approval of the Davis city council. (Ord. 2300 § 1, 2007)

**40A.03.080 Reporting.**

Periodically, community services department staff shall provide to the advisory committee reports delineating the activities undertaken pursuant to the requirements of this chapter and an assessment of these activities. The report shall list and report on the status of all lands and easements acquired under this chapter. (Ord. 2300 § 1, 2007; Ord. 2390 § 3, 2012)

CALIFORNIA DEPARTMENT OF  
CONSERVATION  
FARMLAND CONSERVANCY  
PROGRAM FUNDED EASMENTS  
1997 TO 2012:

➤ Map and Spreadsheet



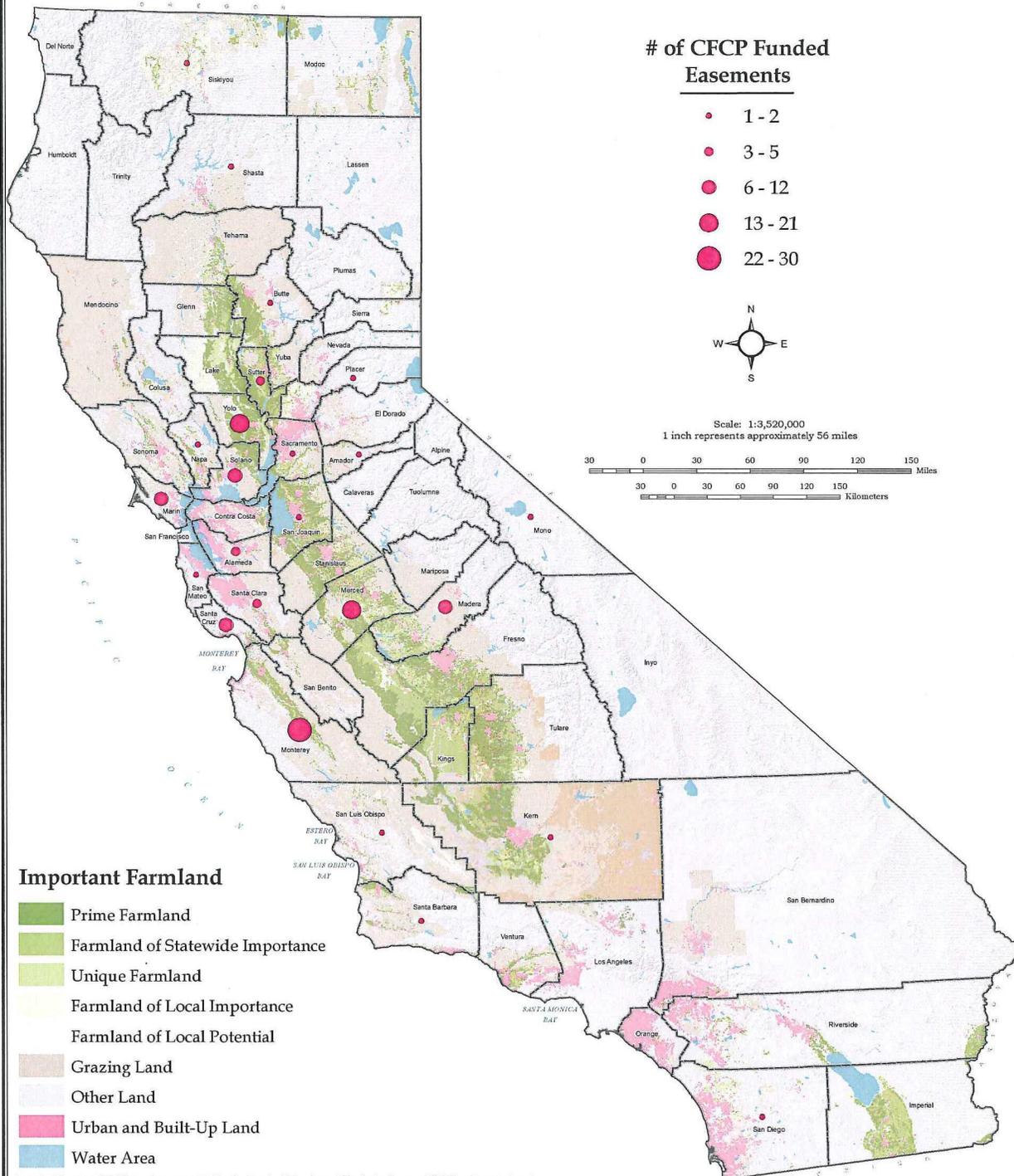


STATE OF CALIFORNIA  
 EDMUND G. BROWN JR. Governor  
 THE NATURAL RESOURCES AGENCY  
 JOHN LAIRD, Secretary  
 DEPARTMENT OF CONSERVATION  
 DEREK CHERNOW, Acting Director

CALIFORNIA DEPARTMENT OF CONSERVATION  
 DIVISION OF LAND RESOURCE PROTECTION



# Number of Completed Easements By County 1996-2010



Important Farmland (IFL) Categories are provided by the Farmland Mapping and Monitoring Program (FMMP), and can be found on the FMMP website.

This map should be used within the limits of its purpose - as a current inventory of agricultural resources. This map does not necessarily reflect general plan or zoning designations, city limit lines, changing economic or market conditions, or other factors which may be taken into consideration when land use policies are determined. This map is not designed to be used for parcel-specific planning purposes due to its scale.

The Department of Conservation makes no warranties as to the suitability of this product for any particular purpose.

Map Contact: [www.conservation.ca.gov/dlrp/](http://www.conservation.ca.gov/dlrp/)  
 801 K Street, MS 18-01,  
 Sacramento, CA 95814  
 Phone: (916) 324-0859  
 e-mail: [dlrp@conservation.ca.gov](mailto:dlrp@conservation.ca.gov)



**California Farmland Conservancy Program Funded Easements, 1997 to 2012\***

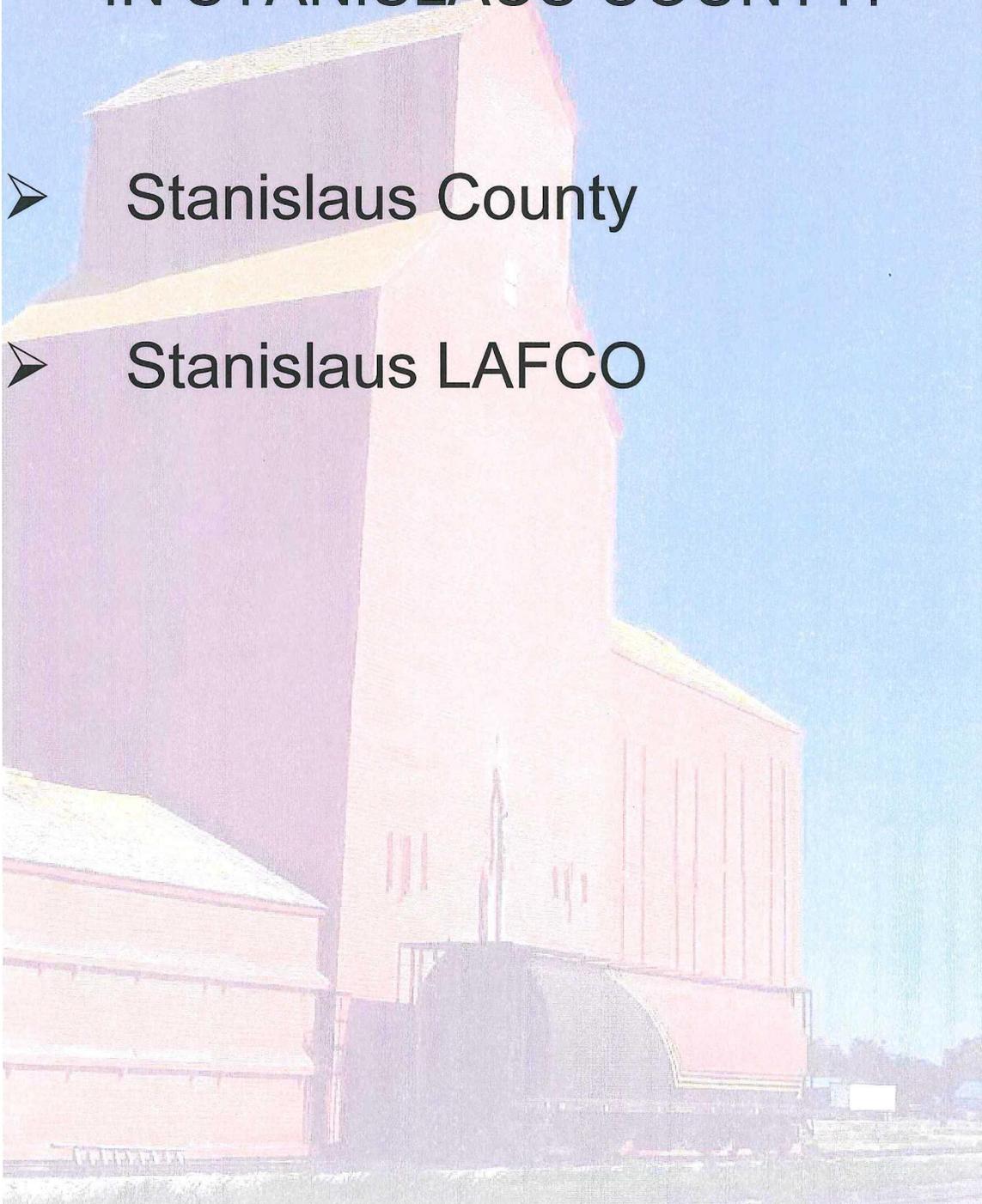
Grantee Recipient	County	Easement Recordation Year	Agricultural Use	Acres	CFCP Easement Grant	Easement Match Amount (Federal + Other)	Federal FRPP Amount	Other Easement Funding Amount	Per Acre Cost
Yolo Land Trust	Yolo	1997	Row Crops	216	\$120,000	\$150,000	\$0	\$150,000	\$1,250.00
Monterey County Agricultural & Historical Land Conservanc	Monterey	1998	Row Crops	586	\$75,000	\$375,000	\$225,000	\$150,000	\$767.92
Solano Land Trust	Solano	1998	Orchard	52	\$0	\$0	\$0	\$0	\$0.00
Yolo Land Trust	Yolo	1998	Row Crops	780	\$400,000	\$380,000	\$0	\$380,000	\$1,000.00
American Farmland Trust	Fresno	1999	Orchard	93	\$700,000	\$150,000	\$0	\$150,000	\$9,139.78
American Farmland Trust	Merced	1999	Orchard	74	\$184,000	\$184,000	\$184,000	\$0	\$4,972.97
Monterey County Agricultural & Historical Land Conservanc	Monterey	1999	Row Crops	152	\$460,000	\$0	\$0	\$0	\$3,026.32
The Nature Conservancy	Merced	2000	field/row crops	616	\$479,554	\$11,000	\$0	\$11,000	\$796.35
Monterey County Agricultural & Historical Land Conservanc	Monterey	2000	Row Crops	700	\$1,400,000	\$600,000	\$0	\$600,000	\$2,857.14
Monterey County Agricultural & Historical Land Conservanc	Monterey	2000	Row Crops	256	\$275,000	\$275,000	\$0	\$275,000	\$2,148.44
The Nature Conservancy	Sacramento	2000	Field Crops	607	\$638,753	\$70,972	\$0	\$70,972	\$1,169.23
Santa Barbara Land Trust	Santa Barbara	2000	Grazing Land	660	\$275,000	\$715,000	\$0	\$715,000	\$1,500.00
Solano County Farmland & Open Space Foundation	Solano	2000	Orchard	97	\$265,000	\$0	\$0	\$0	\$2,731.96
Yolo Land Trust	Yolo	2000	Orchard	113	\$75,000	\$75,000	\$75,000	\$0	\$1,327.43
Yolo Land Trust	Yolo	2000	Row Crops	70	\$54,358	\$0	\$0	\$0	\$776.54
Yolo Land Trust	Yolo	2000	Row Crops	1,925	\$1,443,750	\$0	\$0	\$0	\$750.00
South Livermore Valley Agricultural Land Trust	Alameda	2001	Vineyard	140	\$733,333	\$733,334	\$0	\$733,334	\$10,476.19
American Farmland Trust	San Luis Obispo	2001	Row Crops	38	\$360,000	\$190,000	\$190,000	\$0	\$14,473.68
American Farmland Trust	Madera	2001	Row Crops	117	\$380,000	\$380,000	\$380,000	\$0	\$6,495.73
Monterey County Agricultural & Historical Land Conservanc	Monterey	2001	Row Crops	180	\$597,500	\$597,500	\$0	\$597,500	\$6,638.89
Solano County Farmland & Open Space Foundation	Solano	2001	Vineyard	66	\$225,000	\$0	\$0	\$0	\$3,409.09
American Farmland Trust	Madera	2002	Vineyards/Field Crop	328	\$2,161,068	\$1,179,737	\$1,115,100	\$64,637	\$10,185.38
Merced County Farmlands & Open Space Trust	Merced	2002	Row Crops	102	\$331,750	\$163,250	\$0	\$163,250	\$4,852.94
Monterey County Agricultural & Historical Land Conservanc	Monterey	2002	Row Crops	298	\$995,000	\$505,000	\$0	\$505,000	\$5,033.56
Monterey County Agricultural & Historical Land Conservanc	Monterey	2002	Row Crops	218	\$365,000	\$185,000	\$0	\$185,000	\$2,522.94
City of Escalon	San Joaquin	2002	Orchard	62	\$204,000	\$204,000	\$204,000	\$0	\$6,580.65
Solano Land Trust	Solano	2002	Grazing Land	3,800	\$1,200,000	\$0	\$0	\$0	\$315.79
Ducks Unlimited, Inc.	Sutter	2002	Rice	983	\$982,898	\$639,102	\$0	\$639,102	\$1,650.05
Yolo Land Trust	Yolo	2002	Row Crops	76	\$77,000	\$0	\$0	\$0	\$1,013.16
Marin Agricultural Land Trust	Marin	2003	Grazing Land	308	\$327,000	\$350,000	\$0	\$350,000	\$2,198.05
Monterey County Agricultural & Historical Land Conservanc	Monterey	2003	Row Crops	946	\$650,000	\$350,000	\$0	\$350,000	\$1,057.08
Monterey County Agricultural & Historical Land Conservanc	Monterey	2003	Row Crops	256	\$525,000	\$373,000	\$0	\$373,000	\$3,507.81
Monterey County Agricultural & Historical Land Conservanc	Monterey	2003	Field Crops	226	\$1,800,000	\$1,600,000	\$1,500,000	\$100,000	\$15,044.25
Monterey County Agricultural & Historical Land Conservanc	Monterey County	2003	Row Crops	620	\$846,000	\$404,000	\$0	\$404,000	\$2,016.13
The Nature Conservancy	Sacramento	2003	Vineyard	221	\$459,000	\$0	\$0	\$0	\$2,076.92
Tri-Valley Conservancy	Alameda	2004	Vineyard	100	\$750,000	\$1,750,000	\$0	\$1,750,000	\$25,000.00
Marin Agricultural Land Trust	Marin	2004	Grazing Land	870	\$700,000	\$1,170,000	\$0	\$1,170,000	\$2,149.43
Marin Agricultural Land Trust	Marin	2004	Grazing Land	1,006	\$1,000,000	\$710,000	\$0	\$710,000	\$1,699.80
Monterey County Agricultural & Historical Land Conservanc	Monterey	2004	Row Crops	259	\$535,000	\$0	\$0	\$0	\$2,065.64
Monterey County Agricultural & Historical Land Conservanc	Monterey	2004	Row Crops	206	\$30,000	\$150,000	\$0	\$150,000	\$873.79
Monterey County Agricultural & Historical Land Conservanc	Monterey	2004	Row Crops	205	\$410,000	\$0	\$0	\$0	\$2,000.00
Santa Clara County Land Trust	Santa Clara	2004	Row Crops	175	\$846,900	\$10,000	\$0	\$10,000	\$4,896.57
Yolo Land Trust	Yolo	2004	Row Crops	77	\$292,500	\$32,500	\$0	\$32,500	\$4,220.78
Marin Agricultural Land Trust	Marin	2005	Grazing Land	981	\$1,100,000	\$1,100,000	\$0	\$1,100,000	\$2,140.67
Central Valley Farmland Trust	Merced	2005	Orchard	40	\$162,800	\$77,200	\$0	\$77,200	\$6,000.00
Central Valley Farmland Trust	Merced	2005	Orchard	263	\$695,400	\$364,600	\$0	\$364,600	\$4,030.42
Eastern Sierra Land Trust	Mono	2005	Field Crops	818	\$500,000	\$570,000	\$500,000	\$70,000	\$1,308.07
Monterey County Agricultural & Historical Land Conservanc	Monterey	2005	Row Crops	234	\$680,000	\$0	\$0	\$0	\$2,905.98
Tierra Miguel Foundation	San Diego	2005	Row Crops	85	\$242,250	\$232,750	\$232,750	\$0	\$5,588.24
American Farmland Trust	Santa Clara	2005	Row Crops	282	\$994,700	\$426,300	\$426,300	\$0	\$5,039.01
Agri-Culture	Santa Cruz	2005	Row Crops	64	\$2,000,000	\$2,000,000	\$0	\$2,000,000	\$62,500.00
Shasta Land Trust	Shasta	2005	Grazing Land	1,467	\$973,500	\$1,123,500	\$970,500	\$153,000	\$1,429.45
Solano Land Trust	Solano	2005	Orchard	283	\$425,000	\$425,000	\$425,000	\$0	\$3,003.53
Dixon, Davis & UC Davis	Solano	2005	Row Crops	299	\$2,216,250	\$1,408,750	\$720,000	\$688,750	\$12,123.75
Solano Land Trust	Solano	2005	Grazing Land	535	\$480,000	\$1,008,000	\$0	\$1,008,000	\$2,781.31
Ducks Unlimited, Inc.	Sutter	2005	Rice	723	\$622,100	\$270,000	\$270,000	\$0	\$1,233.89
Northern California Regional Land Trust	Butte	2006	Orchard	4,235	\$1,930,000	\$4,570,000	\$0	\$4,570,000	\$1,534.83
Central Valley Farmland Trust	Merced	2006	Field Crops	472	\$1,212,675	\$404,225	\$0	\$404,225	\$3,425.64
Monterey County Agricultural & Historical Land Conservanc	Monterey	2006	Row Crops	483	\$1,500,000	\$0	\$0	\$0	\$3,105.59
Silicon Valley Land Conservancy	Santa Clara	2006	Row Crops	510	\$820,000	\$1,320,000	\$0	\$1,320,000	\$4,196.08

Solano Land Trust	Solano	2006	Row Crops	146	\$930,000	\$945,000	\$0	\$945,000	\$12,842.47
Solano Land Trust	Solano	2006	Row Crops	235	\$462,500	\$462,500	\$462,500	\$0	\$3,936.17
California Rangeland Trust/Trust for Public Land	Stanislaus	2006	Grazing Land	2,583	\$1,705,000	\$1,009,883	\$1,009,883	\$0	\$1,051.06
Ducks Unlimited, Inc.	Sutter	2006	Rice	316	\$427,250	\$100,000	\$100,000	\$0	\$1,668.51
Yolo Land Trust	Yolo	2006	Row Crops	151	\$454,462	\$80,538	\$0	\$80,538	\$3,543.05
Yolo Land Trust	Yolo	2006	Row Crops	135	\$321,000	\$107,000	\$0	\$107,000	\$3,170.37
San Joaquin River Parkway & Conservation Trust	Madera	2007	Orchard	216	\$585,000	\$0	\$0	\$0	\$2,708.33
Marin Agricultural Land Trust	Marin	2007	Grazing Land	291	\$800,000	\$220,000	\$0	\$220,000	\$3,505.15
Central Valley Farmland Trust	Merced	2007	Orchard	78	\$382,500	\$127,500	\$0	\$127,500	\$6,538.46
Central Valley Farmland Trust	Merced	2007	Orchard	77	\$388,125	\$129,375	\$0	\$129,375	\$6,720.78
Monterey County Agricultural & Historical Land Conservanc	Monterey	2007	Row Crops	55	\$327,250	\$0	\$0	\$0	\$5,950.00
Monterey County Agricultural & Historical Land Conservanc	San Mateo	2007	Row Crops	106	\$690,000	\$580,000	\$580,000	\$0	\$11,981.13
Ducks Unlimited, Inc.	Sutter	2007	Rice	748	\$1,496,667	\$748,333	\$0	\$748,333	\$3,001.34
Sacramento Valley Conservancy	Amador	2008	Grazing Land	175	\$670,625	\$0	\$0	\$0	\$3,832.14
Marin Agricultural Land Trust	Marin	2008	Grazing Land	810	\$750,000	\$410,000	\$0	\$410,000	\$1,432.10
Central Valley Farmland Trust	Merced	2008	Field Crops	289	\$1,105,850	\$194,150	\$0	\$194,150	\$4,498.27
Central Valley Farmland Trust	Merced	2008	Orchard	39	\$136,500	\$136,500	\$136,500	\$0	\$7,000.00
Central Valley Farmland Trust	Merced	2008	Orchard	62	\$349,540	\$87,460	\$0	\$87,460	\$7,048.39
Central Valley Farmland Trust	Merced	2008	Orchard	79	\$463,450	\$121,550	\$0	\$121,550	\$7,405.06
The Trust for Public Land	San Joaquin	2008	Grazing Land	2,235	\$1,700,000	\$1,300,700	\$1,300,700	\$0	\$1,342.60
The Land Trust of Santa Cruz County	Santa Cruz and Monterey	2008	Row Crops	534	\$2,750,000	\$640,000	\$640,000	\$0	\$6,348.31
Yolo Land Trust	Yolo	2008	Field Crops	350	\$675,500	\$0	\$0	\$0	\$1,930.00
Yolo Land Trust	Yolo	2008	Orchard	300	\$790,609	\$559,391	\$559,391	\$0	\$4,500.00
Sequoia Riverlands Trust	Kern	2009	Orchard	472	\$2,842,500	\$947,500	\$0	\$947,500	\$8,029.66
Marin Agricultural Land Trust	Marin	2009	Grazing Land & Dairy	772	\$831,666	\$1,663,334	\$831,666	\$831,666	\$3,231.87
Monterey County Agriculture Land Trust	Monterey	2009	Row Crops	325	\$1,057,000	\$60,000	\$60,000	\$60,000	\$3,436.92
The Land Trust of Santa Cruz County	Monterey and Santa Cruz	2009	field/row crops	364	\$1,301,150	\$389,500	\$389,500	\$0	\$4,644.64
Solano Land Trust	Solano	2009	Row Crops	292	\$250,000	\$2,400,000	\$1,325,000	\$1,075,000	\$9,075.34
Solano Land Trust	Solano	2009	Row Crops	197	\$322,500	\$1,352,500	\$837,500	\$515,000	\$8,502.54
Central Valley Farmland Trust	Stanislaus	2009	Orchard	155	\$920,845	\$230,211	\$0	\$230,211	\$7,426.17
California Rangeland Trust	Napa	2010	Grazing Land	1,275	\$450,000	\$450,000	\$450,000	\$0	\$705.88
Placer County Planning Department	Placer County	2010	Row Crops	40	\$332,500	\$332,500	\$0	\$332,500	\$16,625.00
Siskiyou Land Trust	Siskiyou	2010	Field Crops	4,463	\$1,898,800	\$2,097,914	\$0	\$2,097,914	\$895.52
Ducks Unlimited, Inc.	Sutter	2010	Rice	299	\$389,004	\$280,996	\$280,996	\$0	\$2,240.80
Yolo Land Trust	Yolo	2010	Field Crops	140	\$275,000	\$550,000	\$550,000	\$0	\$5,892.86
Northern California Regional Land Trust	Butte	2011	Orchard	146	\$255,000	\$275,000	\$275,000	\$0	\$3,630.14
Brentwood Agricultural Land Trust	Contra Costa	2011	Orchard	132	\$1,010,000	\$1,000,000	\$0	\$1,000,000	\$15,227.27
Sequoia Riverlands Trust	Kings	2011	Orchard	153	\$420,500	\$420,500	\$420,500	\$0	\$5,496.73
Marin Agricultural Land Trust	Marin	2011	Grazing Land	1,013	\$480,000	\$1,849,500	\$810,000	\$1,039,500	\$2,299.61
Central Valley Farmland Trust	Merced	2011	Row Crops	212	\$538,125	\$538,125	\$538,125	\$0	\$5,076.65
Central Valley Farmland Trust	Merced	2011	Orchard	244	\$504,975	\$609,975	\$609,975	\$0	\$4,569.47
Eastern Sierra Land Trust	Mono	2011	Grazing Land	718	\$350,000	\$850,000	\$350,000	\$500,000	\$1,671.31
Central Valley Farmland Trust	San Joaquin	2011	Orchard	174	\$397,022	\$1,191,064	\$794,043	\$397,021	\$9,126.93
Santa Barbara Land Trust	Santa Barbara	2011	Row Crops	394	\$1,166,625	\$1,391,250	\$1,253,750	\$137,500	\$6,492.07
Central Valley Farmland Trust	Stanislaus	2011	Orchard	151	\$352,500	\$352,500	\$352,500	\$0	\$4,668.87
Northern California Regional Land Trust	Tehama	2011	Field Crops	520	\$514,200	\$395,800	\$395,800	\$0	\$1,750.00
American Farmland Trust/ Sequoia Riverlands Trust	Tulare and Fresno County	2011	Orchard	88	\$268,545	\$268,545	\$268,545	\$0	\$6,103.30
Central Valley Farmland Trust	San Joaquin	2012	Orchard	253	\$319,268	\$955,732	\$636,463	\$319,269	\$5,039.53
Solano Land Trust	Solano County	2012	Field Crops	593	\$1,127,500	\$1,127,500	\$1,127,500	\$0	\$3,802.70
<b>Totals</b>				<b>54,249</b>	<b>\$78,021,092</b>	<b>\$59,902,546</b>	<b>\$24,703,487</b>	<b>\$35,199,059</b>	
<b>Per Acre Amounts</b>					<b>\$1,438</b>	<b>\$1,104</b>	<b>\$455</b>	<b>\$649</b>	

\* Projects which have closed escrow but have associated costs yet to be paid are not listed.

# FARMLAND PRESERVATION PROGRAMS IN STANISLAUS COUNTY:

- Stanislaus County
- Stanislaus LAFCO



**APPENDIX "B"**  
**STANISLAUS COUNTY**  
**FARMLAND MITIGATION PROGRAM GUIDELINES**

**Stanislaus County**  
**Farmland Mitigation Program Guidelines**

**Purpose and Intent:**

The purpose of the Farmland Mitigation Program (FMP) is to aid in mitigating the loss of farmland resulting from residential development in the unincorporated areas of Stanislaus County by requiring the permanent protection of farmland based on a 1:1 ratio to the amount of farmland converted. The FMP is designed to utilize agricultural conservation easements granted in perpetuity as a means of minimizing the loss of farmland.

The intent of these guidelines is to establish standards for the acquisition and long-term oversight of agricultural conservation easements purchased in accordance with the FMP.

**Applicability:**

These guidelines shall apply to any development project requiring a General Plan or Community Plan amendment from 'Agriculture' to a residential land use designation of the Stanislaus County General Plan. The acreage requiring mitigation shall be equal to the overall size of the legal parcel subject to the land use designation amendment and not the portion of parcel actually being developed.

**Definitions:**

**Agricultural Mitigation Land:**

Agricultural land encumbered by an agricultural conservation easement or other conservation mechanism acceptable to the County. "Agricultural land" is used synonymously with "farmland" in these guidelines.

**Agriculture Conservation Easement:**

An easement over agricultural land for the purpose of restricting its use to agriculture consistent with these guidelines. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements acquired in accordance with these guidelines shall be established in perpetuity (or shall be permanently protected from future development via enforceable deed restriction).

**Building Envelope:**

An area delineated by the agricultural conservation easement within which existing structures may remain or future structures may be permitted to be built.

**Development Interest:**

The property owner, developer, proponent, and/or sponsor of a discretionary development project subject to these guidelines.

**Land Trust:**

A nonprofit public benefit 501(c)(3) corporation or other appropriate legal entity operating

in Stanislaus County for the purpose of conserving and protecting land in agriculture, and approved for this purpose by the Board of Supervisors. The County may be designated as a Land Trust.

Legal Parcel:

A portion of land separated from another parcel or portion of land in accordance with the Subdivision Map Act. A separate Assessor's Parcel Number alone shall not constitute a legal parcel.

**Methods of Mitigation:** Farmland mitigation at a 1:1 ratio shall be satisfied by using one of the following techniques:

- 1) Where the total land area subject to a General Plan or Community Plan Amendment is less than 20-acres in size, farmland mitigation shall be satisfied by direct acquisition of an agricultural conservation easement or purchase of banked mitigation credits as set forth in these guidelines. Payment of an in-lieu mitigation fee may be authorized by the Board of Supervisors only when the development interest can show a diligent effort to obtain an agricultural conservation easement or banked mitigation credits have been made without success. Facts the Board may consider in making a decision regarding a request for payment of an in-lieu fee include, but are not limited to, a showing of multiple good faith offers to purchase an easement or banked mitigation credits having been declined by the seller(s).
- 2) Where the total land area subject to the General Plan or Community Plan Amendment is 20-acres or more in size, farmland mitigation shall be satisfied by direct acquisition of a farmland conservation easement as allowed by these guidelines and the Land Trust's program. It shall be the development interests sole responsibility to obtain the required easement.
- 3) Alternative Farmland Conservation Methods - Alternative methods may be authorized by the Board of Supervisors provided the land will remain in agricultural use consistent with these guidelines. Any request for consideration of an alternative Farmland Conservation Method shall be reviewed by the Planning Commission for consistency with these guidelines prior to a decision by the Board of Supervisors.

• **Direct Acquisition (In-Kind Acquisition):**

- 1) The Board of Supervisors shall approve the acquisition of any agricultural conservation easement intended to satisfy the requirements of these guidelines.
- 2) The location and characteristics of the agricultural mitigation land shall comply with the provisions of these guidelines.
- 3) The development interest shall pay an administrative fee equal to cover the costs of administering, monitoring and enforcing the farmland conservation easement. The fee amount shall be determined by the Land Trust and approved by the Board of Supervisors.
- 4) The Planning Commission shall review each agricultural conservation easement for consistency with these guidelines prior to approval by the Board of Supervisors. The Commission shall make a formal recommendation to the Board for consideration.

• **In - Lieu Fees:** The payment of an in-lieu fee shall be subject to the following provisions:

- 1) The in-lieu fee shall be determined case-by-case in consultation with the Land Trust approved by the County Board of Supervisors. In no case shall the in-lieu

- fee be less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County.
- 2) The in-lieu fee shall include the costs of managing the easement, including the cost of administering, monitoring and enforcing the farmland conservation easement, and a five percent (5%) endowment of the cost of the easement, and the payment of the estimated transaction costs associated with acquiring the easement. The costs shall be approved by the Board of Supervisors based on information relating to the costs provided by the Land Trust.
  - 3) The Planning Commission shall review the final in-lieu fee proposal for consistency with these guidelines prior to approval by the Board of Supervisors. The Commission shall make a formal recommendation to the Board for consideration.
  - 4) The Board of Supervisors shall approve the final amount and other terms of the in-lieu fee.

**Use of In-lieu Fees** - In-lieu fees shall be administered by the Land Trust in fulfillment of its programmatic responsibilities. These responsibilities cover, without exception, acquiring interests in land and administering, monitoring and enforcing the agricultural conservation easement or other instrument designed to conserve the agricultural value of the land for farmland mitigation purposes and managing the land trust. The location and characteristics of agricultural mitigation land shall comply with the provisions of these guidelines.

- **Mitigation Credit Banking:** Mitigation credits may be banked and utilized in accordance with the following provisions:
  - 1) **Purpose** - The purpose of establishing a method of banking mitigation credits is to equalize the imbalance between the acreage size of farmland suitable, and available, for purchase of farmland conservation easements and the amount of acreage required to meet a 1:1 ratio.
  - 2) **Process** - Any project requiring the acquisition of an agricultural conservation easement in accordance with these guidelines may be approved by the Board of Supervisors to bank mitigation credits on the acreage in excess of the 1:1 ratio required for mitigation of the original project. The mitigation credits shall be held by the individual/entity purchasing the agricultural conservation easement.
  - 3) **Credit Value** - Each acre in excess of the required 1:1 ratio for mitigation may be utilized at a 1:1 ratio to satisfy the mitigation requirements of another development.
  - 4) **Negotiations** - Negotiations to purchase mitigation credits shall not involve the County and shall be subject to free market values. The County shall make available a contact list of individuals/entities with banked credits on record. The sale of banked credits shall not alter the terms of the original farmland conservation easement which generated the credits.
  - 5) **Authorization** - The Board of Supervisors shall accept purchased credits upon receipt of a sales agreement.
  - 6) **Records** - The County shall maintain a record of banked credits and purchased credits to insure the Farmland Mitigation Program is maintained whole.

## **Agricultural Mitigation Lands - Locations and characteristics:**

- 1) **Location** - Agricultural mitigation land shall be: A) located in Stanislaus County; B) designated Agriculture by the Land Use Element of the Stanislaus County General Plan; C) zoned A-2 (General Agriculture); and D) located outside a Local Agency Formation Commission (LAFCO) adopted Sphere of Influence of a city.
- 2) **Allowable Uses** - Agricultural Mitigation land shall be in conformance with the A-2 zoning district. Any legal nonconforming use of the property shall be abandoned prior to execution of the agricultural conservation easement and shall not be allowed to reestablish except as authorized within a building envelope. The type of agricultural related activity allowed on mitigation land shall be specified as part of the agricultural conservation easement and shall not be less restrictive than the A-2 zoning district.
- 3) **Parcel Size** - Agricultural mitigation land shall consist of legal parcel(s) of twenty (20) net acres or more in size. Parcels less than twenty (20) net acres in size shall only be considered if merged to meet the minimum size requirement prior to execution of the farmland conservation easement. Any building envelope allowed by the Land Trust shall not be counted towards the required parcel size.
- 4) **Soil Quality** - The agricultural mitigation land shall be of equal or better soil quality than the agricultural land whose use is being changed to nonagricultural uses. Priority shall be given to lands designated as 'prime farmland', 'farmland of statewide importance' and 'unique farmland' by the California Department of Conservation's Farmland Mapping and Monitoring Program.
- 5) **Water Supply** - The agricultural mitigation land shall have an adequate water supply to support the agricultural use of the land. The water rights on the agricultural mitigation land shall be protected in the farmland conservation easement.
- 6) **Previous Encumbrances** - Land already effectively encumbered by a conservation easement of any nature is not eligible to qualify as agricultural mitigation land.

### **Final Approval:**

Final approval of any project subject to these guidelines shall be contingent upon the execution of any necessary legal instrument and/or payment of fees as specified by these guidelines. Final approval shall be obtained prior to any of the following: 1) the issuance of any building, grading or encroachment permit(s) required for development, 2) recording of any parcel or final subdivision map, or 3) operation of the approved use.

### **Legal Instruments for Encumbering Agricultural Mitigation Land:**

**Requirement** - To qualify as an instrument encumbering the land for agricultural mitigation: 1) all owners of the agricultural mitigation land shall execute the instrument; 2) the instrument shall be in recordable form and contain an accurate legal description of the agricultural mitigation land; 3) the instrument shall prohibit any activity which impairs or diminishes the agricultural productivity of the agricultural mitigation land; 4) the instrument shall protect the existing water rights and retain them with the agricultural mitigation land; 5) the interest in the agricultural mitigation land shall be held in trust by the Land Trust and/or the County in perpetuity; 6) the Land Trust or County shall not sell, lease, or convey any interest in the agricultural mitigation land except for fully compatible agricultural uses; and 7) if the Land Trust ceases to exist, the duty to hold, administer,

monitor, and enforce the interest shall pass to the County to be retained until a qualified entity to serve as the Land Trust is located.

**Monitoring, Enforcing, and Reporting:**

- 1) **Monitoring and Enforcing** - The Land Trust shall monitor all lands and easements acquired in accordance with these guidelines and shall review and monitor the implementation of all management and maintenance plans for these lands and easement areas. It shall also enforce compliance with the terms of the conservation easement or agricultural mitigation instruments.
  
- 2) **Reporting by the Land Trust** - Annually, beginning one year after the adoption of this chapter, the Land Trust shall provide to the County Planning Director an annual report delineating the activities undertaken pursuant to the requirements of these guidelines and assessment of these activities. The report(s) shall describe the status of all lands and easements acquired in accordance with these guidelines, including a summary of all enforcement actions.

**Stacking of Conservation Easements:**

Stacking of easements for both habitat conservation easements on top of an existing agricultural easement granted in accordance with these guidelines may be allowed if approved by the Board of Supervisors provided the habitat needs of the species addressed by the conservation easement shall not restrict the active agricultural use of the land.

- The Commission, with input from the County Agricultural Advisory Board, shall review all stacking proposals to insure the stacking will not be incompatible with the maintenance and preservation of economically sound and viable agricultural activities and operations. The recommendation of the Commission shall be considered by the Board of Supervisors.

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*Stanislaus LAFCO*  
**AGRICULTURAL PRESERVATION POLICY**

Agriculture is a vital and essential part of the Stanislaus County economy and environment. Accordingly, boundary changes for urban development should only be proposed, evaluated, and approved in a manner which, to the fullest extent feasible, is consistent with the continuing growth and vitality of agriculture within the County.

LAFCO's mission is to discourage urban sprawl, preserve open space and prime agricultural lands, promote the efficient provision of government services and encourage the orderly formation of local agencies. Additionally, Government Code Section 56668(e) requires LAFCO to consider "the effect of the proposal on maintaining the physical and economic integrity of agricultural lands."

Consistent with the legislative intent of LAFCO, the goals of this policy are as follows:

- Guide development away from agricultural lands where possible and encourage efficient development of existing vacant lands and infill properties within an agency's boundaries prior to conversion of additional agricultural lands.
- Fully consider the impacts a proposal will have on existing agricultural lands.
- Minimize the conversion of agricultural land to other uses.
- Promote preservation of agricultural lands for continued agricultural uses while balancing the need for planned, orderly development and the efficient provision of services.

The Commission encourages local agencies to identify the loss of agricultural land as early in their processes as possible, and to work with applicants to initiate and execute plans to minimize that loss, as soon as feasible. Agencies may also adopt their own agricultural preservation policies, consistent with this Policy, in order to better meet their own local circumstances and processes.

The Commission shall consider this Agricultural Preservation Policy, in addition to its existing goals and policies, as an evaluation standard for review of those proposals that could reasonably be expected to induce, facilitate, or lead to the conversion of agricultural land.

A. Plan for Agricultural Preservation Requirement

Upon application for a sphere of influence expansion or annexation to a city or special district ("agency") providing one or more urban services (i.e. potable water, sewer services) that includes agricultural lands, a Plan for Agricultural Preservation must be provided with the application to LAFCO. The purpose of a Plan for Agricultural Preservation is to assist the Commission in determining how a proposal meets the stated goals of this Policy.

The Plan for Agricultural Preservation shall include: a detailed analysis of direct and indirect impacts to agricultural resources on the site and surrounding area, including a detailed description of the agricultural resources affected and information regarding Williamson Act Lands; a vacant land inventory and absorption study evaluating lands within the existing boundaries of the jurisdiction that could be developed for the same or similar uses; existing and proposed densities (persons per acre); relevant County and City General Plan policies and specific plans; consistency with regional planning efforts

(e.g. the San Joaquin Valley Blueprint and the Sustainable Communities Strategy); and an analysis of mitigation measures that could offset impacts to agricultural resources. The Plan for Agricultural Preservation should be consistent with documentation prepared by the Lead Agency in accordance with the California Environmental Quality Act (CEQA).

The Plan for Agricultural Preservation shall specify the method or strategy proposed to minimize the loss of agricultural lands. The Commission encourages the use of one or more of the following strategies:

1. Removal of agricultural lands from the existing sphere of influence in order to offset, in whole or in part, a proposed sphere of influence expansion or redirection.
2. An adopted policy or condition requiring agricultural mitigation at a ratio of at least 1:1. This can be achieved by acquisition and dedication of agricultural land, development rights and/or conservation easements to permanently protect agricultural land, or payment of in-lieu fees to an established, qualified, mitigation program to fully fund the acquisition and maintenance of such agricultural land, development rights or easements.
  - a. In recognition of existing County policies applicable to agricultural land conversions in the unincorporated areas, as well as the goals of individual agencies to promote employment growth to meet the stated needs of their communities, an agency may select to utilize a minimum of 1:1 mitigation for conversions to residential uses.
3. A voter-approved urban growth boundary designed to limit the extent to which urban development can occur during a specified time period.
4. Other adopted local policies that encourage efficient urban development accompanied by information demonstrating the proposal's reduced impact to agricultural lands.

**B. Commission Evaluation of a Plan for Agricultural Preservation**

1. The Commission may consider approval of a proposal that contains agricultural land when it determines that there is sufficient evidence within the Plan for Agricultural Preservation that demonstrates all of the following:
  - a. Insufficient alternative land is available within the existing sphere of influence or boundaries of the agency and, where possible, growth has been directed away from prime agricultural lands towards soils of lesser quality.
  - b. For sphere of influence proposals, that the additional territory will not exceed the twenty year period for probable growth and development (or ten years within a proposed primary area of influence). For annexation proposals, that the development is imminent for all or a substantial portion of the proposal area.
  - c. The loss of agricultural lands has been minimized based on the selected agricultural preservation strategy. For the purposes of making the determination in this section, the term "minimize" shall mean to allocate no more agricultural land to non-agricultural uses than what is reasonably needed to accommodate the amount and types of development anticipated to occur.

- d. The proposal will result in planned, orderly, and efficient use of land and services. This can be demonstrated through mechanisms such as:
  - i. Use of compact urban growth patterns and the efficient use of land that result in a reduced impact to agricultural lands measured by an increase over the current average density within the agency's boundaries (e.g. persons per acre) by the proposed average density of the proposal area.
  - ii. Use of adopted general plan policies, specific or master plans and project phasing that promote planned, orderly, and efficient development.
2. For those proposals utilizing agricultural mitigation lands or in-lieu fees, the Commission may approve a proposal only if it also determines all of the following:
  - a. The mitigation lands are of equal or better soil quality, have a dependable and sustainable supply of irrigation water, and are located within Stanislaus County.
  - b. An adopted ordinance or resolution has been submitted by the agency confirming that mitigation has occurred, or requires the applicant to have the mitigation measure in place before the issuance of a grading permit, building permit, or final map approval for the site, whichever comes first.
  - c. The agricultural conservation entity is a city or a public or non-profit agency that: has the legal and technical ability to hold and administer agricultural preservation easements and in-lieu fees for the purposes of conserving and maintaining lands in agricultural production; and has adopted written standards, policies and practices (such as the Land Trust Alliance's "Standards and Practices") and is operating in compliance with those standards.
  - d. The agricultural mitigation land is not already effectively encumbered by a conservation easement of any nature.

C. Exceptions

The following applications are considered exempt from the requirement for a Plan for Agricultural Preservation and its implementation, unless determined otherwise by the Commission:

1. Proposals consisting solely of the inclusion of lands owned by a city or special district and currently used by that agency for public uses.
2. Proposals which have been shown to have no significant impact to agricultural lands, including, but not limited to:
  - a. Proposals consisting solely of lands which are substantially developed with urban uses.
  - b. Proposals brought forth for the purpose of providing irrigation water to agricultural lands.

## **DEFINITIONS**

**Agricultural Conservation Easement:** An easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements acquired shall be established in perpetuity (or shall be permanently protected from future development via enforceable deed restriction).

**Agricultural Lands:** Land currently used for the purpose of producing an agricultural commodity for commercial purposes, land left fallow under crop rotational program, or land enrolled in an agricultural subsidy or set-aside program (Government Code Section 56016). As used in this section, "agricultural lands" also includes those lands defined in Government Code Section 56064 as "prime agricultural land" and those lands identified as "prime farmland", "farmland of statewide importance", and "unique farmland" as part of the California Department of Conservation's Farmland Mapping and Monitoring Program.

**Agricultural Mitigation Land:** Agricultural land encumbered by an agricultural conservation easement or other conservation mechanism acceptable to LAFCO.

**Primary Area of Influence:** The area around a local agency within which territory is eligible for annexation and the extension of urban services within a ten year period.

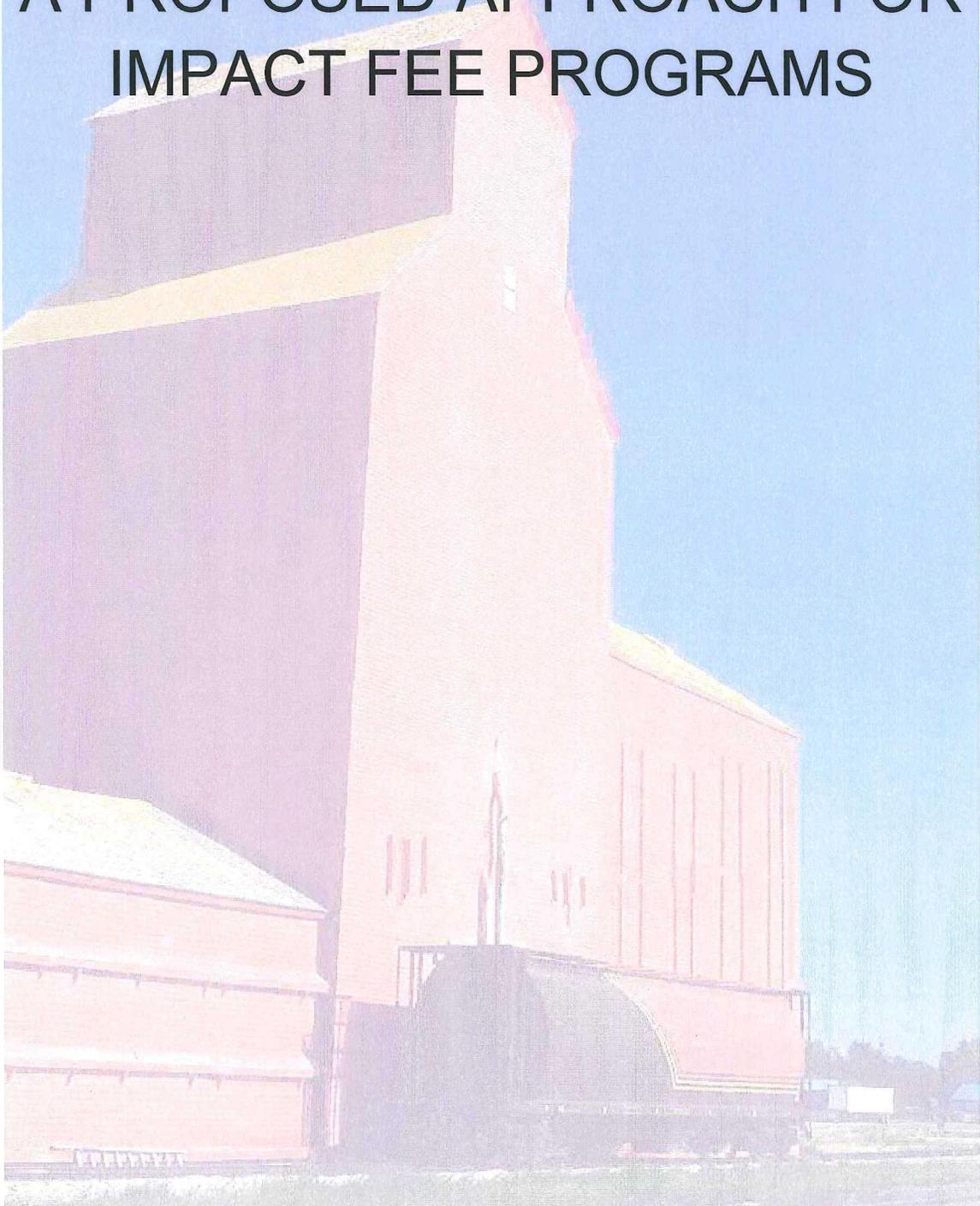
**Prime Agricultural Land:** An area of land, whether a single parcel or contiguous parcels, that has not been developed for a use other than an agricultural use and that meets any of the following qualifications:

- (a) Land that qualifies, if irrigated, for rating as class I or class II in the USDA Natural Resources Conservation Service land use capability classification, whether or not the land is actually irrigated, provided that irrigation is feasible.
- (b) Land that qualifies for rating 80 through 100 Storie Index Rating.
- (c) Land that supports livestock used for the production of food and fiber and that has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture in the National Range and Pasture Handbook, Revision 1, December 2003.
- (d) Land planted with fruit or nut-bearing trees, vines, bushes, or crops that have a nonbearing period of less than five years and that will return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than four hundred dollars (\$400) per acre.
- (e) Land that has returned from the production of unprocessed agricultural plant products an annual gross value of not less than four hundred dollars (\$400) per acre for three of the previous five calendar years (Government Code Section 56064).

**Sphere of Influence:** A plan for the probable physical boundaries and service area of a local agency, as determined by the commission (Government Code Section 56076). The area around a local agency within which territory is eligible for annexation and the extension of urban services within a twenty year period.

AMERICAN FARMLAND TRUST

A PROPOSED APPROACH FOR  
IMPACT FEE PROGRAMS



## Full Mitigation of Farmland Development: A Proposed Approach

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Given the inexorable growth in California's population, the main challenge facing farmland preservation is how to encourage land development that is more efficient – consuming less land per person – for all uses, residential, commercial and civic. In the Central Valley, for example, for every acre developed, only 8 new residents are being accommodated – an astonishing waste of what is arguably the best farmland on Earth. A mechanism must be found to significantly increase development efficiency, while accommodating the expected population in affordable housing. Graduated mitigation fees that reflect the full opportunity cost of farmland consumption offer one such approach.

The full impact of farmland development is not being mitigated by the current approach of requiring the preservation of an amount of land equal to (or in some cases twice) the acreage being developed. There should also be mitigation for the opportunity cost of developing at low density, as measured by the amount of additional farmland that will have to be developed to accommodate the same population growth because of the waste of land on low density. Properly structured, mitigation fees or an *in lieu* mitigation requirement would not just fully compensate for the farmland actually consumed by development, but also encourage more efficient development that is, in effect, “self-mitigating.”

The chart below illustrates how mitigation fees or *in lieu* preservation of comparable value could be structured to reflect the additional farmland that would have to be developed – the opportunity cost – based on the quality of the land and the intensity of development on the subject parcel.

	Example 1	Example 2	Example 3	Example 4
Acreage of Subject Parcel	200	200	200	200
Benchmark Density (DU/Ac)	10	10	10	10
Actual Build-Out (DU/Ac)	4	8	16	4
Dwellings Built	800	1,600	3,200	800
Dwellings Foregone	1,200	400	(1,200)	1,200
Additional Farmland Needed	300	50	(120)	300
Per Acre Value of Farmland	\$ 8,000	\$ 8,000	\$ 8,000	\$ 12,000
Opportunity Mitigation Fee	\$ 2,400,000	\$ 400,000	\$ (960,000)	\$ 3,600,000
Base Mitigation Fee	\$ 1,600,000	\$ 1,600,000	\$ 1,600,000	\$ 2,400,000
Total Mitigation Fee	\$ 4,000,000	\$ 2,000,000	\$ 640,000	\$ 6,000,000
Per Dwelling	\$ 5,000	\$ 1,250	\$ 200	\$ 7,500
Per Acre Developed	\$ 20,000	\$ 10,000	\$ 3,200	\$ 30,000

The amount of mitigation is based on a “benchmark” density. This represents a community-wide average that would achieve the goal of preserving a specific amount of farmland over a given period of time – that’s the ultimate objective. For instance, if a community expects to grow by 200,000 people over a given period of time, a communitywide increase in development efficiency from 8 people per acre to 30 people per acre (about 10 dwellings per acre) would reduce farmland conversion from 25,000 to about 6,700 acres, saving 18,300 acres. Each community would establish its own benchmark or, ideally, benchmarks, based on different types of land uses and markets. Alternatively, an intergovernmental compact based on a “blueprint,” such as is now being designed in the San Joaquin Valley, could establish regional benchmarks that would drive local mitigation programs. Local governments would still have the choice of how to structure development, but if it doesn’t on the whole contribute its fair share to the regional goal, fees would be higher and *vice versa*.

The above chart illustrates the mechanism for establishing fees or *in lieu* requirements. It establishes a benchmark of 10 dwellings per acre, which represents a significant improvement over current residential densities in the Valley. Similar benchmarks could be established for commercial, industrial and civic development based on floor-to-area and/or jobs-to-area ratios, but is not included in this illustration.

The number of dwellings foregone – that would have to be built elsewhere – is calculated by subtracting the actual number of dwellings to be built per acre from the benchmark density, then multiplied by the acreage of the subject parcel. In Example 1:  $(10 - 4) \times 200 = 1,200$  dwellings foregone.

Additional farmland needed is calculated by dividing the number of dwellings foregone by the build-out density of the development on the subject parcel. The benchmark density is not used for this purpose, based on the principle that one who builds at low density should not benefit from the assumption that others will develop at higher densities. In Example 1:  $1,200 \div 4 = 300$  additional acres needed.

The fee (or *in lieu* requirement) itself is calculated by multiplying the additional acres needed by the average local price of an acre of farmland of comparable agricultural productivity to the land being developed. The assumption is that, since it is difficult to purchase conservation easements in areas where land speculation is widespread – as is the case in much of the Valley – only the purchase of a fee interest in farmland offers an effective mitigation strategy. In Example 1:  $300 \times \$8,000 = \$2,400,000$ . (Comparing this with Example 4 shows how the development of higher productivity farmland would increase the fee accordingly.)

The opportunity mitigation fee would be in addition to the base mitigation fee levied on the development of the subject parcel itself. In Example 1:  $\$2.4M + \$1.6M = \$4M$  which translates to \$20,000 per acre or \$5,000 per dwelling. This is higher than any farmland mitigation fee now charged by jurisdictions in the San Joaquin Valley. But considering the current price – and profit potential – of housing in California, a fee of this magnitude seems entirely reasonable. The legality of such a fee structure will depend on the reasonableness of the relationship of the fee to the harm being mitigated. Since the fee is directly proportional to the actual amount of farmland that will be converted as a result of the efficiency or inefficiency of development, it ought to pass this nexus test with flying colors. (AFT has commissioned a legal analysis of this issue and will release it when completed.)

Once the level of compensatory mitigation has been set, developers should be given the opportunity to reduce the fee or meet the *in lieu* requirement in any number of innovative ways, among them:

- Purchase conservation easements over a comparable amount of farmland (where possible)
- Dedication of a conservation easement over a portion of the property being developed or adjacent property
- Purchase a comparable amount of like-quality farmland at less than the average price used to calculate the fee
- Resell farmland purchased in fee for mitigation subject to a conservation easement
- Purchase options to buy farmland for mitigation or conservation easements at a future date with the exercise of the options guaranteed by zero coupon bonds financed with Mello-Roos type annual fees
- Purchase and extinguish (or possibly transfer) development credits from multiple 10-20 acre “ranchette” parcels rather than a single larger agricultural parcel
- Any other transaction that would result in permanent preservation of farmland of value equal to the mitigation fee or otherwise meeting the mitigation requirement.

Experience with mitigation seems to teach that requiring developers themselves to purchase farmland for mitigation is preferable to charging them fees and having nonprofit land trusts use the fees to purchase conservation easements. Developers are typically far more experienced at land acquisition and, because they are more highly motivated when it is up to them, actual on-the-ground mitigation seems to happen more quickly in this way. If fees are the alternative of choice, they would go into a mitigation bank to be used by local land trusts to finance a variety of conservation transactions, including those listed above. The

list is intended only as a start. Given the present limitations of conservation easements, noted above, it is important to devise new ways of mitigating farmland loss.

Of course, the preferred alternative for reducing fees or *in lieu* requirements would be to develop at greater efficiency. Example 2 shows how increasing the number of dwellings per acre would reduce the per acre mitigation fee. Note that the *per dwelling* fee would decline even more than the *per acre* fee because there would be more dwellings over which to spread the cost. This has an important positive implication for keeping housing affordable.

Finally, if development occurs at a density greater than the benchmark, the opportunity mitigation fee would actually be transformed into a credit applied against the base mitigation fee. The rationale is that this developer is doing more than the community expects to reduce farmland loss and should be rewarded. Example 3 shows how a very significant increase in density would greatly reduce the overall mitigation fee and make the *per dwelling* fee only nominal. (In this example, the fee would actually reach zero at 20 units per acre.)

### Conclusions

A mitigation fee that captures the opportunity cost of developing farmland at low-density, could result in more farmland preservation, particularly if used to fund innovative alternatives to conservation easements. It would also send a powerful market signal to promote more efficient development and thereby minimize the loss of farmland in the first place. And it would appear to be even more legally justifiable than one-to-one mitigation, since the fee or *in lieu* requirement is directly proportional to the true cost of inefficient farmland conversion. Ultimately, we need to mitigate for the waste of farmland – its unnecessary conversion – rather than merely the simple fact of conversion. The latter may be inevitable; the former definitely is not.

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