



## **CITY OF HUGHSON FARMLAND PRESERVATION PROGRAM**

### **Purpose and Intent:**

The purposes of the Farmland Preservation Program (FPP) is to aid in slowing the loss of farmland resulting from urban development; and at the same time, require the permanent protection of farmland based on a 2:1 ratio to the amount of farmland converted from an agricultural use to a residential use. The FPP is designed to utilize agricultural conservation easements or other means granted in perpetuity as a means of minimizing the loss of farmland.

This program establishes standards for the acquisition and long-term oversight of agricultural conservation easements purchased in accordance with the FPP. It is purposely patterned after the Farmland Mitigation Program adopted by Stanislaus County for ease of future coordination between jurisdictions.

### **Applicability:**

These guidelines shall apply to development projects which will convert agricultural land over 1 acre in size to a residential land use. The acreage requiring preservation shall be the overall size of the legal parcel underlying a change in use from agricultural to a residential use.

### **Definitions:**

#### **Agricultural Preservation Land:**

Agricultural land encumbered by an agricultural conservation easement or other conservation mechanism acceptable to the City Council. "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 City Council.

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 Farmland Preservation:** Farmland preservation at a 2:1 ratio shall be satisfied by using one or more of the following techniques:

- 1) Where the total land area subject to an application which would result in the conversion of agricultural land to a residential use, and is less than 20-acres in size, farmland preservation 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 City Council 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 City Council 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 an application which would result in the conversion of agricultural land to a residential use, and is 20-acres or more in size, farmland preservation 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 interest's sole responsibility to obtain the required easement.
- 3) Alternative Farmland Preservation Methods - Alternative methods may be authorized by the City Council provided the land will remain in agricultural use consistent with this program. Any request for consideration of an alternative Farmland Preservation Method shall be reviewed by the Planning Commission for consistency with this program prior to a decision by the City Council.

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

- 1) The City Council may approve the acquisition of any agricultural conservation easement intended to satisfy the requirements of these guidelines.
- 2) The location and characteristics of the agricultural preservation 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 City Council.
- 4) The Planning Commission shall review each agricultural conservation easement for consistency with these guidelines prior to approval by the City Council. The Commission shall make a formal recommendation to the City Council 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 and approved by the City Council. 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 City Council 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 this program prior to approval by the City Council. The Commission shall make a formal recommendation to the City Council for consideration.
  - 4) The City Council shall approve the final amount and other terms of the in-lieu fee.
  - 5) Projects that qualify to pay the in-lieu fee shall be subject to a 2.5% administration 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 preservation purposes and managing the land trust. The location and characteristics of agricultural preservation land shall comply with the provisions of these guidelines.

- **Agricultural Preservation Land Credit Banking:** preservation land credits may be banked and utilized in accordance with the following provisions:
  - 1) **Purpose** - The purpose of establishing a method of banking preservation land 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 2:1 ratio.
  - 2) **Process** - Any project requiring the acquisition of an agricultural conservation easement in accordance with this program may be approved by the City Council to bank conservation credits on the acreage in excess of the acreage required for the original project. The conservation credits shall be held by the individual/entity purchasing the agricultural conservation easement.
  - 3) **Credit Value** - Each acre in excess of the required acreage for farmland preservation may be utilized at a 2:1 ratio to satisfy the conservation requirements of another development.
  - 4) **Negotiations** - Negotiations to purchase agricultural preservation land credits shall not involve the City and shall be subject to free market values. The City 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 City Council shall accept purchased credits upon

receipt of a sales agreement, provided the credits have been banked within Stanislaus County.

- 6) **Records** - The City shall maintain a record of banked credits and purchased credits to insure the Farmland Preservation Program is maintained whole.

**Agricultural Preservation Lands - Locations and Characteristics:**

- 1) **Location** - Agricultural preservation 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 at least one-half mile 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 Stanislaus County's 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 preservation 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 preservation 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 preservation land shall have an adequate water supply sufficient to support the current agricultural use of the land. The water rights on the agricultural preservation 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 preservation land.

**Final Approval:**

Final approval of any project subject to this program shall be contingent upon the execution of any necessary legal instrument and/or payment of fees as specified by this program. Final approval shall be obtained prior to whichever of the following shall occur first: (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 Preservation Land:**

**Requirement** - To qualify as an instrument encumbering the land for agricultural preservation: 1) all owners of the agricultural preservation land shall execute the

instrument; 2) the instrument shall be in recordable form and contain an accurate legal description of the agricultural preservation land; 3) the instrument shall prohibit any activity which impairs or diminishes the agricultural productivity of the agricultural preservation land; 4) the instrument shall protect the existing water rights and retain them with the agricultural preservation land; 5) the interest in the agricultural preservation land shall be held in trust by the Land Trust in perpetuity; 6) the Land Trust shall not sell, lease, or convey any interest in the agricultural preservation 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 City of Hughson 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 preservation instruments.
- 2) **Reporting by the Land Trust** - Annually, beginning one year after the adoption of this program, the Land Trust shall provide to the Hughson City Manager an annual report delineating the activities undertaken pursuant to the requirements of this program and assessment of these activities. The report(s) shall describe the status of all lands and easements acquired in accordance with this program, 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 City Council provided the habitat needs of the species addressed by the conservation easement shall not restrict the active agricultural use of the land.

- The Planning Commission 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 Planning Commission shall be considered by the City Council.