



County of San Mateo - Planning and Building Department

ATTACHMENT A

WILLIAMSON ACT

Agricultural Preserves 1995

Environmental Services Agency

Planning and Building Division ▪ San Mateo County ▪ California

**PROVISIONS RELATING TO THE CALIFORNIA LAND CONSERVATION ACT
OF 1965 (THE WILLIAMSON ACT)
As Amended, January 1, 1995**

The attached document contains the California State Government Code Provisions relating to the California Land Conservation Act of 1965 (or otherwise known as the Williamson Act).

Because staff is occasionally involved with the creation or cancellation of agricultural preserves, it was considered necessary that staff have readily available a copy of the State laws regarding them.

The document provided here is up-to-date through January 1, 1995 and represents the most current law to date. As changes come out, every attempt will be made to provide staff with the necessary changes.

Since 1992, the following changes have been made to the Williamson Act Code:

SECTION	CHANGE	EFFECTIVE DATE
1.51201(e)	Amendment	January 1, 1995
2.51231	Amendment	January 1, 1995
3.51238	Amendment	January 1, 1995
4.51238.1	Addition	January 1, 1995
5.51238.2	Addition	January 1, 1995
6.51238.3	Addition	January 1, 1995
7.51245	Amendment	January 1, 1995
8.51284	Amendment	January 1, 1995

TABLE OF CONTENTS

<u>ARTICLE</u>	<u>TITLE</u>	<u>SECTIONS</u>	<u>PAGE</u>
1.	General Provision	51201-51239	1
3.	Contracts	51240-51255	12
5.	Cancellation	51280-51287	16
6.	Eminent Domain or Other Acquisition	51290-51295	22

SUBDIVISION MAP ACT

Subdivision Requirements on Land Subject to Williamson Act Contract	66474.4	28
--	---------	----

**PROVISIONS RELATING TO THE CALIFORNIA LAND CONSERVATION ACT
OF 1965 (THE WILLIAMSON ACT)
As Amended, January 1, 1995¹**

California State Government Code Provisions

<u>ARTICLE</u>	<u>SECTION</u>
1. General Provision	51201
3. Contracts	51240
5. Cancellation	51280
6. Eminent Domain or Other Acquisition	51290

51200. CITATION OF CHAPTER. This chapter shall be known as the California Land Conservation Act of 1965 or as the Williamson Act.

ARTICLE 1. GENERAL PROVISION.

51201. DEFINITIONS. As used in this chapter, unless otherwise apparent from the context:

- (a) "Agricultural commodity" means any and all plant and animal products produced in this state for commercial purposes.
- (b) "Agricultural use" means use of land for the purpose of producing an agricultural commodity for commercial purposes.
- (c) "Prime agricultural land" means any of the following:
 - (1) All land which qualifies for rating as Class I or Class II in the Soil Conservation Service land use capability classifications.
 - (2) Land which qualifies for rating 80 through 100 in the Storie Index Rating.
 - (3) Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.

¹Stats. of 1994, Ch. 1251 (AB 2663); Approved by Governor September 30, 1994. Filed with Secretary of State September 30, 1994. Amended Sections 16144, 51201, 51231, and 51238 of, and to add Sections 51238.1, 51238.2, and 51238.3 to, the Government Code, relating to compatible uses of enrolled lands.

Stats. of 1994, Ch. 1158 (SB 1534); Approved by Governor September 29, 1994. Filed with Secretary of State September 30, 1994, and amended Sections 51291, 51292, 51293, and 51295 of, and to add Section 51290.5 to, the Government Code, relating to eminent domain acquisition.

- (4) Land planted with fruit- or nut-bearing trees, vines, bushes or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
- (5) Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.
- (d) "Agricultural preserve" means an area devoted to either agricultural use, as defined in subdivision (b), recreational use as defined in subdivision (n), or open space use as defined in subdivision (o), or any combination of those uses and which is established in accordance with the provisions of this chapter.
- (e) "Compatible use" is any use determined by the county or city administering the preserve pursuant to Section 51231, 51238, or 51238.1 or by this act to be compatible with the agricultural, recreational, or open space use of land within the preserve and subject to contract. "Compatible use" includes agricultural use, recreational use or open space use unless the board or council finds after notice and hearing that the use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this chapter.
- (f) "Board" means the board of supervisors of a county which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.
- (g) "Council" means the city council of a city which establishes or proposes to establish an agricultural preserve or which enters or proposes to enter into a contract on land within an agricultural preserve pursuant to this chapter.
- (h) Except where it is otherwise apparent from the context, "county" or "city" means the county or city having jurisdiction over the land.
- (i) A "scenic highway corridor" is an area adjacent to, and within view of, the right-of-way of:
 - (1) An existing or proposed state scenic highway in the state scenic highway system established by the Legislature pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code and which has been officially designated by the Department of Transportation as an official state scenic highway; or
 - (2) A county scenic highway established pursuant to Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code, if each of the following conditions have been met:

- (A) The scenic highway is included in an adopted general plan of the county or city; and
 - (B) The scenic highway corridor is included in an adopted specific plan of the county or city; and
 - (C) Specific proposals for implementing the plan, including regulation of land use, have been approved by the Advisory Committee on a Master Plan for Scenic Highways, and the county or city highway has been officially designated by the Department of Transportation as an official county scenic highway.
- (j) A “wildlife habitat area” is a land or water area designated by a board or council, after consulting with and considering the recommendation of the Department of Fish and Game, as an area of great importance for the protection or enhancement of the wildlife resources of the state.
 - (k) A “saltpond” is an area which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, has been used for the solar evaporation of seawater in the course of salt production for commercial purposes.
 - (l) A “managed wetland area” is an area, which may be an area diked off from the ocean or any bay, river or stream to which water is occasionally admitted, and which, for at least three consecutive years immediately prior to being placed within an agricultural preserve pursuant to this chapter, was used and maintained as a waterfowl hunting preserve or game refuge or for agricultural purposes.
 - (m) A “submerged area” is any land determined by the board or council to be submerged or subject to tidal action and found by the board or council to be of great value to the state as open space.
 - (n) “Recreational use” is the use of land by the public, with or without charge, for any of the following: walking, hiking, picnicking, camping, swimming, boating, fishing, hunting, or other outdoor games or sports for which facilities are provided for public participation. Any fee charged for the recreational use of land as defined in this subdivision shall be in a reasonable amount and shall not have the effect of unduly limiting its use by the public.
 - (o) “Open space use” is the use or maintenance of land in a manner that preserves its natural characteristics, beauty, or openness for the benefit and enjoyment of the public, to provide essential habitat for wildlife, or for the solar evaporation of seawater in the course of salt production for commercial purposes, if the land is within:
 - (1) A scenic highway corridor, as defined in subdivision (i).
 - (2) A wildlife habitat area, as defined in subdivision (j).

- (3) A saltpond, as defined in subdivision (k).
- (4) A managed wetland area, as defined in subdivision (l).
- (5) A submerged area, as defined in subdivision (m).

51202. USE OF COUNTY-ASSESSED VALUES. [Repealed by Stats. 1990, Ch. 841 in effect January 1, 1991.]

51203. CURRENT FAIR MARKET VALUATIONS SUBJECT TO EQUALIZATION. The current fair market valuations referred to in Section 51283, upon the request of either of the parties to the contract, shall be subject to appeal to the county board pursuant to Section 1604 of the Revenue and Taxation Code.

51205. INCLUSION WITHIN AGRICULTURAL PRESERVE; "AGRICULTURAL LAND."

Notwithstanding any provisions of this chapter to the contrary, land devoted to recreational use or land within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area may be included within an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated may contract with the owner for the purpose of restricting the land to recreational or open space use and uses compatible therewith in the same manner as provided in this chapter for land devoted to agricultural use. For purposes of this section, where the term "agricultural land" is used in this chapter, it shall be deemed to include land devoted to recreational use and land within a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, or a submerged area, and where the term "agricultural use" is used in this chapter, it shall be deemed to include recreational and open space use.

51205.1. SCENIC HIGHWAY CORRIDOR. Notwithstanding any provisions of this chapter to the contrary, land within a scenic highway corridor, as defined in subdivision (i) of Section 51201, shall, upon the request of the owner, be included in an agricultural preserve pursuant to this chapter. When such land is included within an agricultural preserve, the city or county within which it is situated shall contract with the owner for the purpose of restricting the land to agricultural use as defined in subdivision (b), recreational use as defined in subdivision (n), open space use as defined in subdivision (o), compatible use as defined in subdivision (e), or any combination of such uses.

51206. INTERPRETATION OF CHAPTER DEPARTMENT OF CONSERVATION. The Department of Conservation may meet with and assist local, regional, state, and federal agencies, organizations, landowners, or any other person or entity in the interpretation of this chapter. The Department may research, publish, and disseminate information regarding the policies, purposes, procedures, administration, and implementation of this chapter. This section shall be liberally construed to permit the department to advise any interested person or entity regarding this chapter.

51207. REPORT TO THE LEGISLATURE.

- (a) On or before May 1 of each year, the Department of Conservation shall report to the Legislature regarding the implementation of this chapter by cities and counties.
- (b) The report shall contain, but not be limited to, the number of acres of land under contract in each category and the number of acres of land which were removed from contract through cancellation, eminent domain, annexation, or non-renewal.
- (c) The report shall also contain the following specific information relating to not less than one-third of all cities and counties participating in the Williamson Act program:
 - (1) The number of contract cancellation requests for which notices of hearings were mailed to the Director of Conservation pursuant to Section 51284 which were approved by boards or councils during the prior year or for which approval is still pending by boards or councils.
 - (2) The amount of cancellation fees payable to the county treasurer as deferred taxes and which are required to be transmitted to the controller pursuant to subdivision (d) of Section 51283 which have not been collected or which remain unpaid.
 - (3) The total number of acres covered by certificates of cancellation of contracts during the previous year.
 - (4) The number of non-renewal and withdrawal of renewal notices received pursuant to Section 51245 and the number of expiration notices received pursuant to Section 51246 during the previous year.
 - (5) The number of acres covered by non-renewal notices that were not withdrawn and expiration notices during the previous year.
- (d) The Department may recommend changes to this chapter which would further promote its purposes.
- (e) The Legislature may, upon request of the Department, appropriate funds from the deferred taxes deposited in the General Fund pursuant to subdivision (d) of Section 51283 in an amount sufficient to prepare the report required by this section.

51220. LEGISLATIVE FINDINGS. The legislature finds:

- (a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

- (b) That the agricultural work force is vital to sustaining agricultural productivity; that this work force has the lowest average income of any occupational group in this state; that there exists a need to house this work force of crisis proportions which requires, including among agricultural uses, the housing of agricultural laborers; and that such use of agricultural land is in the public interest and in conformity with the state's Farmworker Housing Assistance Plan.
- (c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest and will be of benefit to urban dwellers themselves in that it will discourage discontinuous urban development patterns which unnecessarily increase the costs of community services to community residents.
- (d) That in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands, the use of which may be limited under the provisions of this chapter, constitutes an important physical, social, aesthetic and economic asset to existing or pending urban or metropolitan developments.
- (e) That land within a scenic highway corridor or wildlife habitat area as defined in this chapter has a value to the state because of its scenic beauty and its location adjacent to or within view of a state scenic highway or because it is of great importance as habitat for wildlife and contributes to the preservation or enhancement thereof.
- (f) For these reasons, this chapter is necessary for the promotion of the general welfare and the protection of the public interest in agricultural land.

51220.5. LEGISLATIVE FINDING; "COMPATIBLE USES." The Legislature finds and declares that agricultural operations are often hindered or impaired by uses which increase the density of the permanent or temporary human population of the agricultural area. For this reason, cities and counties shall determine the types of uses to be deemed "compatible uses" in a manner which recognizes that a permanent or temporary population increase often hinders or impairs agricultural operations.

51221. DECLARATION AS TO EXPENDITURE OF PUBLIC FUNDS; PURPOSE AND NECESSITY. The Legislature further declares that the expenditure of public funds under the provisions of this chapter is in the public interest and is necessary to the accomplishment of the purposes herein set forth.

51222. RETAINING OF AGRICULTURAL LANDS BY LOCAL OFFICIALS AND LAND-OWNERS. The Legislature further declares that it is in the public interest for local officials and landowners to retain agricultural lands which are subject to contracts entered into pursuant to this act in parcels large enough to sustain agricultural uses permitted under the contracts. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is:

- (a) At least 10 acres in size in the case of prime agricultural land, or

- (b) At least 40 acres in size in the case of land which is not prime agricultural land.

51230. ESTABLISHMENT OF PRESERVES; NOTICE AND HEARING; PROCEDURE.

Beginning January 1, 1971, any county or city having a general plan, and until December 31, 1970, any county or city, by resolution, and after a public hearing may establish an agricultural preserve. Notice of the hearing shall be published pursuant to Section 6061, and shall include a legal description, or the assessor's parcel number, of the land which is proposed to be included within the preserve. The preserves shall be established for the purpose of defining the boundaries of those areas within which the city or county will be willing to enter into contracts pursuant to this act. An agricultural preserve shall consist of no less than 100 acres; provided, that in order to meet this requirement two or more parcels may be combined if they are contiguous or if they are in common ownership; and further provided, that in order to meet this requirement land zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.

A county or city may establish agricultural preserves of less than 100 acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the county or city.

An agricultural preserve may contain land other than agricultural land, but the use of any land within the preserve and not under contract shall within two years of the effective date of any contract on land within the preserve be restricted by zoning or other suitable means in such a way as not to be incompatible with the agricultural use of the land, the use of which is limited by contract in accordance with this chapter.

Failure on the part of the board or council to restrict the use of land within the preserve but not subject to contract shall not be sufficient reason to cancel or otherwise invalidate a contract.

51230.1. TRANSFER OF OWNERSHIP TO AN IMMEDIATE FAMILY MEMBER.

- (a) Nothing contained in this chapter shall prevent the transfer of ownership from one immediate family member to another of a portion of land which is currently designated as an agricultural preserve in accordance with the provisions of this chapter, if all of the following conditions are satisfied:
 - (1) The parcel to be transferred is at least 10 acres in size in the case of prime agricultural land or at least 40 acres in size in the case of land which is not prime agricultural land, and otherwise meets the requirements of Section 51222.
 - (2) The parcel to be transferred conforms to the applicable local zoning and land division ordinances and any applicable local coastal program certified pursuant to Chapter 6 (commencing with Section 30500) of Division 20 of the Public Resources Code.
 - (3) The parcel to be transferred complies with all applicable requirements relating to agricultural income and permanent agricultural improvements which are

imposed by the county or city as a condition of a contract executed pursuant to Article 3 (commencing with Section 51240) covering the land of which the parcel to be transferred is a portion. For purposes of this paragraph, if the contracted land already complies with these requirements, the portion of that land to be transferred shall be deemed to comply with these requirements.

- (4) There exists a written agreement between the immediate family members who are parties to the proposed transfer that the land which is subject to a contract executed pursuant to Article 3 (commencing with Section 51240) and the portion of that land which is to be transferred will be operated under the joint management of the parties subject to the terms and conditions and for the duration of the contract executed pursuant to Article 3 (commencing with Section 51240).
- (b) A transfer of ownership described in subdivision (a) shall have no effect on any contract executed pursuant to Article 3 (commencing with Section 51240) covering the land of which a portion was the subject of that transfer. The portion so transferred shall remain subject to that contract.
- (c) For purposes of this section, "immediate family" means the spouse of the landowner, the natural or adopted children of the landowner, the parents of the landowner, or the siblings of the landowner.

51231. RULES GOVERNING ADMINISTRATION AND ESTABLISHMENT OF PRESERVES.

For the purposes of this chapter, the board or council, by resolution, shall adopt rules governing the administration of agricultural preserves, including procedures for initiating, filing, and processing requests to establish agricultural preserves. Rules related to compatible uses shall be consistent with the principles set forth in Section 51238.1. Those rules shall be applied uniformly throughout the preserve. The board or council may require the payment of a reasonable application fee. The same procedure that is required to establish an agricultural preserve shall be used to disestablish or to enlarge or diminish the size of an agricultural preserve. In adopting rules related to compatible uses, the board or council may enumerate those uses, including agricultural laborer housing which are to be considered to be compatible uses on contracted lands separately from those uses which are to be considered to be compatible uses on lands not under contract within the agricultural preserve.

51232. NOTICE TO OWNERS OF PROPOSAL TO DISESTABLISH OR ALTER BOUNDARIES.

In the event any proposal to disestablish or to alter the boundary of an agricultural preserve will remove land under contract from such a preserve, notice of the proposed alteration or disestablishment and the date of the hearing shall be furnished by the board or council to the owner of the land by certified mail directed to him at his latest address known to the board or council. Such notice shall also be published pursuant to Section 6061 and shall be furnished by first-class mail to each owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land to be removed from the preserve.

51233. NOTICE OF PROPOSED ESTABLISHMENT. When a county proposes to establish, disestablish, or alter the boundary of an agricultural preserve, it shall give written notice at least two weeks before the hearing to the local agency formation commission and to every city within the county within one mile of the exterior boundaries of the preserve.

51234. SUBMISSION OF PROPOSAL. Any proposal to establish an agriculture preserve shall be submitted to the planning department of the county or city having jurisdiction over the land. If the county or city has no planning department, a proposal to establish an agricultural preserve shall be submitted to the planning commission. Within 30 days after receiving such a proposal, the planning department or planning commission shall submit a report thereon to the board or council; provided, however, that the board or council may extend the time allowed for an additional period not to exceed 30 days.

The report shall include a statement that the preserve is consistent, or inconsistent, with the general plan, and the board or council shall make a finding to such effect. Final action upon the establishment of an agricultural preserve may not be taken by the board or council until the report required by this section is received from the planning department or planning commission, or until the required 30 days have elapsed and any extension thereof granted by the board or council has elapsed.

51235. ANNEXATION, DETACHMENT, INCORPORATION OR DISINCORPORATION OF LAND WITHIN PRESERVE. An agricultural preserve shall continue in full effect following annexation, detachment, incorporation or disincorporation of land within the preserve.

Any city or county acquiring jurisdiction over land in a preserve by annexation, detachment, incorporation or disincorporation shall have all the rights and responsibilities specified in this act for cities or counties including the right to enlarge, diminish or disestablish an agricultural preserve within its jurisdiction.

51236. REMOVAL OF LAND FROM PRESERVE AS EQUIVALENT TO NOTICE OF NON-RENEWAL. The effect of removal of land under contract from an agricultural preserve shall be the equivalent of notice of non-renewal by the city or county removing the land from the agricultural preserve and such city or county shall, at least 60 days prior to the next renewal date following the removal, serve a notice of non-renewal as provided in Section 51245. Such notice of non-renewal shall be recorded as provided in Section 51248.

51237. FILING OF MAP AND RESOLUTION. When an agricultural preserve is established and so long as it shall be in effect, a map of such agricultural preserve and the resolution under which the preserve was established shall be filed and kept current by the city or county with the county recorder.

51237.5. FILING OF MAP WITH DIRECTOR OF CONSERVATION. On or before the first day of September of each year, each city or county in which any agricultural preserve is located shall file with the Director of Conservation a map of each city or county and designate thereon all agricultural preserves in existence at the end of the preceding fiscal year.

51238. FACILITIES AS COMPATIBLE USES. Notwithstanding any determination of compatible uses by the county or city pursuant to this article, unless the board or council after notice and hearing makes a finding to the contrary, the erection, construction, alteration, or maintenance of gas, electric, water, communication, or agricultural laborer housing facilities are hereby determined to be compatible uses within any agricultural preserve. No land occupied by gas, electric, water, communication, or agricultural laborer housing facilities shall be excluded from an agricultural preserve by reason of that use. The board of supervisors may impose conditions on lands or land uses to be placed within preserves to permit and encourage compatible uses in conformity with Section 51238.1, particularly public outdoor recreational uses.

51238.1. PRINCIPLES OF COMPATIBILITY.

- (a) Uses approved on contracted lands shall be consistent with all of the following principles of compatibility:²
 - (1) The use will not significantly compromise the long-term productive agricultural capability of the subject contracted parcel or parcels or on other contracted lands in agricultural preserves.
 - (2) The use will not significantly displace or impair current or reasonably foreseeable agricultural operations on the subject contracted parcel or parcels or on other contracted lands in agricultural preserves. Uses that significantly displace agricultural operations on the subject contracted parcel or parcels may be deemed compatible if they relate directly to the production of commercial agricultural products on the subject contracted parcel or parcels or neighboring lands, including activities such as harvesting, processing, or shipping.
 - (3) The use will not result in the significant removal of adjacent contracted land from agricultural or open space use.

In evaluating compatibility, a board or council shall consider the impacts on non-contracted lands in the agricultural preserve or preserves.

- (b) A board or council may include in its compatible use rules or ordinance conditional uses which, without conditions or mitigations, would not be in compliance with this section. These conditional uses shall conform to the principles of compatibility set forth in subdivision (a) or, for non-prime lands only, satisfy the requirements of subdivision (c).

²Uncodified language in AB 2663 provides as follows:

Section 8. The Legislature finds and declares that for the purposes of subdivision (c) of Section 51238.1 of the Government Code, the goal of preserving the maximum amount of non-prime agricultural land can be met by allowing other compatible uses, in compliance with subdivision (c) of Section 51238.1 of the Government Code, that sustain the economic viability of those lands while maintaining their open-space quality.

- (c) In applying the criteria pursuant to subdivision (a), the board or council may approve a use on non-prime land which, because of on-site or off-site impacts, would not be in compliance with paragraphs (1) and (2) of subdivision (a), provided the use is approved pursuant to a conditional use permit that shall set forth findings, based on substantial evidence in the record, demonstrating the following:
- (1) Conditions have been required for, or incorporated into, the use that mitigate or avoid those on-site and off-site impacts so as to make the use consistent with the principles set forth in paragraphs (1) and (2) of subdivision (a) to the greatest extent possible while maintaining the purpose of the use.
 - (2) The productive capability of the subject land has been considered as well as the extent to which the use may displace or impair agricultural operations.
 - (3) The use is consistent with the purposes of this chapter to preserve agricultural and open space land or supports the continuation of agricultural uses, as defined in Section 51205, or the use or conservation of natural resources, on the subject parcel or on other parcels in the agricultural preserve. The use of mineral resources shall comply with Section 51238.2.
 - (4) The use does not include a residential subdivision. For the purposes of this section, a board or council may define non-prime land as land not defined as “prime agricultural land” pursuant to subdivision (c) of Section 51201 or as land not classified as “agricultural land” pursuant to subdivision (a) of Section 21060.1 of the Public Resources Code. Nothing in this section shall be construed to overrule, rescind, or modify the requirements contained in Sections 51230 and 51238 related to non-contracted lands within agricultural preserves.

51238.2. Mineral extraction that is unable to meet the principles of Section 51238.1 may nevertheless be approved as compatible use if the board or council is able to document that (a) the underlying contractual commitment to preserve prime land as defined in subdivision (c) of Section 51201, or (b) the underlying contractual commitment to preserve non-prime land for open space use as defined in subdivision (c) of Section 51201, will not be significantly impaired.

Conditions imposed on mineral extraction as a compatible use of contracted land shall include compliance with the reclamation standards adopted by the Mining and Geology Board pursuant to Section 2773 of the Public Resources Code, including the applicable performance standards for prime agricultural land and other agricultural land, and no exception to these standards may be permitted. For purposes of this section, “contracted land” means all land under a single contract for which an applicant seeks a compatible use permit.

51238.3.

- (a) The requirements of Sections 51238.1 and 51238.2 shall not apply to compatible uses for which an application was submitted to the city or county prior to June 7, 1994, provided that the use constituted a “compatible use” as that term was defined by this chapter either at the time the application was submitted, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.
- (b) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to land uses of contracted lands in place prior to June 7, 1994, that constituted a “compatible use” as the term “compatible use” was defined by this chapter either at the time the use was initiated, or at the time the Williamson Act contract was signed with respect to the subject contract lands, whichever is later.
- (c) Neither shall the requirements of Sections 51238.1 and 51238.2 apply to uses that are expressly specified within the contract itself prior to June 7, 1994, and that constituted a “compatible use” as the term “compatible use” was defined by this chapter at the time that Williamson Act contract was signed with respect to the subject contract lands, or at the time the contract was amended to include the uses, whichever is later. For purposes of this subdivision, the requirements of Sections 51238.1 and 51238.2, effective January 1, 1995, shall apply to contracts for which contract non-renewal was initiated and was withdrawn after January 1, 1995.

51238.5. OWNER’S AGREEMENT PERMITTING USE OF LAND FOR FREE PUBLIC RECREATION: INDEMNIFICATION AGAINST CLAIMS; ABSENCE OF IMPLIED DEDICATION. If an owner of land agrees to permit the use of his land for free public recreation, the board or council may agree to indemnify such owner against all claims arising from such public use. The owner’s agreement that his land be used for free, public recreation shall not be construed as an implied dedication to such use.

51239. ADVISORY BOARD. The board or council may appoint an advisory board, the members of which shall serve at the pleasure of the board or council and may be paid their expenses. They shall advise the board or council on the administration of the agricultural preserves in the county or city and on any matters relating to contracts entered into pursuant to this chapter.

ARTICLE 3. CONTRACTS.

51240. AUTHORITY OF CITY OR COUNTY TO CONTRACT. Any city or county may by contract limit the use of agricultural land for the purposes of preserving such land pursuant and subject to the conditions set forth in the contract and in this chapter. A contract may provide for restrictions, terms and conditions, including payments and fees, more restrictive than or in addition to those required by this chapter.

51241. OTHER OWNERS OF PRIME AGRICULTURAL LAND TO WHOM CONTRACT MAY BE OFFERED. If such a contract is made with any landowner, the city or county shall offer such a contract under similar terms to every other owner of agricultural land within the agricultural preserve in question. However, except as required by other provisions of this chapter, the provisions of this section shall not be construed as requiring

that all contracts affecting land with a preserve be identical, so long as such differences as exist are related to differences in location and characteristics of the land and are pursuant to uniform rules adopted by the county or city.

51242. LANDS AS TO WHICH CITY OR COUNTY MAY CONTRACT. No city or county may contract with respect to any land pursuant to this chapter unless the land:

- (a) Is devoted to agricultural use.
- (b) Is located within an area designated by a city or county as an agricultural preserve.

51243. CONTRACT PROVISIONS. Every contract shall:

- (a) Provide for the exclusion of uses other than agricultural, and other than those compatible with agricultural uses, for the duration of the contract.
- (b) Shall be binding upon, and inure to the benefit of, all successors in interest of the owner. Whenever land under a contract is divided, the owner of any parcel may exercise, independent of any other owner of a portion of the divided land, any of the rights of the owner in the original contract, including the right to give notice of non-renewal and to petition for cancellation. The effect of any such action by the owner of a parcel created by the division of land under contract shall not be imputed to the owners of the remaining parcels and shall have no effect on the contract as it applies to the remaining parcels of the divided land. On the annexation by a city of any land under contract with a county, the city shall succeed to all rights, duties and powers of the county under the contract. The amendments made to this section by Assembly Bill No. 2764 of the 1989-90 Regular Session shall not apply to any executed contract for which a valid protest was filed in accordance with applicable requirements prior to January 1, 1991.

51243.5. NOTICE TO CITY OF INTENTION TO CONSIDER CONTRACT. [Repealed by Stats. 1990, Ch. 841, in effect January 1, 1991.]

51243.5. PROTEST: RECORD OF FILING. For property which was within one mile of a city boundary when a contract was executed pursuant to this article and for which the contract was executed prior to January 1, 1991, it shall be conclusively presumed that no protest was filed by the city unless there is a record of the filing of the protest and the protest identifies the affected contract and the subject parcel. It shall be conclusively presumed that required notice was given before the execution of the contract.

51244. TERM OF CONTRACT. Each contract shall be for an initial term of no less than 10 years. Each contract shall provide that on the anniversary date of the contract or such other annual date as specified by the contract a year shall be added automatically to the initial term unless notice of non-renewal is given as provided in Section 51245.

51244.5. TERM OF 10 YEARS OR MORE; AUTOMATIC RENEWAL. Notwithstanding the provisions of Section 51244, if the initial term of the contract is for 10 years or more, the contract may provide that on the anniversary date of the contract or such other annual date,

as specified by the contract beginning with the anniversary date on which the contract will have an unexpired term of nine years, a year shall be added automatically to the initial term unless notice of non-renewal is given as provided in Section 51245.

51245. NOTICE OF NON-RENEWAL. If either the landowner or the city or county desires in any year not to renew the contract, that party shall serve written notice of non-renewal of the contract upon the other party in advance of the annual renewal date of the contract. Unless such written notice is served by the landowner at least 90 days prior to the renewal date or by the city or county at least 60 days prior to the renewal date, the contract shall be considered renewed as provided in Section 51244 or Section 51244.5.

Upon receipt by the owner of a notice from the county or city of non-renewal, the owner may make a written protest of the notice of non-renewal. The county or city may, at any time prior to the renewal date, withdraw the notice of non-renewal. Upon request by the owner, the board or council may authorize the owner to serve a notice of non-renewal on a portion of the land under a contract.

Within 30 days of the receipt of a notice of non-renewal from a landowner, the service of a notice of non-renewal upon a landowner, or the withdrawal of a notice of non-renewal, the city or county shall deliver a copy of the notice or a notice of withdrawal of non-renewal to the Director of Conservation.

No later than 20 days after a city or county receives a notice of non-renewal from a landowner, serves a notice of non-renewal upon a landowner, or withdrawals a notice of non-renewal, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the notice of non-renewal or notice of withdrawal of the non-renewal.

51246. TERMINATION OF CONTRACT.

- (a) If the county or city or the landowner serves notice of intent in any year not to renew the contract, the existing contract shall remain in effect for the balance of the period remaining since the original execution or the last renewal of the contract, as the case may be. Within 30 days of the expiration of the contract, the county or city shall deliver a notice of expiration to the Director of Conservation.
- (b) No city or county shall enter into a new contract or shall renew an existing contract on or after February 28, 1977, with respect to timberland zoned as timberland production. The city or county shall service notice of its intent not to renew the contract as provided in this section.
- (c) In order to meet the minimum acreage requirement of an agricultural preserve pursuant to Section 51230, land formerly within the agricultural preserve which is zoned as timberland production pursuant to Chapter 6.7 (commencing with Section 51100) may be taken into account.
- (d) Notwithstanding any other provision of law, commencing with the lien date for the 1977-78 fiscal year, all timberland within an existing contract which has been

non-renewed as mandated by this section shall be valued according to Section 423.5 of the Revenue and Taxation Code, succeeding to and including the lien date for the 1981-82 fiscal year. Commencing with the lien date for the 1982-83 fiscal year and on each lien date thereafter, such timberland shall be valued according to Section 423.5 of the Revenue and Taxation Code.

51247. INFORMATION TO CITY OR COUNTY BY LANDOWNER. The landowner shall furnish the city or county with such information as the city or county shall require to enable it to determine the eligibility of the land involved.

51248. RECORDING WITH COUNTY RECORDER. No later than 20 days after a city or county enters into a contract with a landowner pursuant to this chapter, the clerk of the board or council, as the case may be, shall record with the county recorder a copy of the contract, which shall describe the land subject thereto, together with a reference to the map showing the location of the agricultural preserve in which the property lies. From and after the time of such recordation such contract shall impart such notice thereof to all persons as is afforded by the recording laws of this state.

51249. FILING SAMPLE COPY OF CONTRACT WITH DIRECTOR OF CONSERVATION. Within 30 days after a form of contract is first used, the clerk of the board or council shall file with the Director of Conservation a sample copy of each form of contract and any land use restrictions.

51251. AUTHORITY OF STATE TO BRING COURT ENFORCEMENT ACTION. The county, city or landowner may bring any action in court necessary to enforce any contract including, but not limited to, an action to enforce the contract by specific performance or injunction. An owner of land may bring any action in court to enforce a contract on land whose exterior boundary is within one mile of his land. An owner of land under contract may bring any action in court to enforce a contract on land located within the same county or city.

51252. ASSESSMENT AS OPEN SPACE LAND. Open space land under a contract entered into pursuant to this chapter shall be enforceably restricted within the meaning and for the purposes of Section 8 of Article XIII of the State Constitution and shall be enforced and administered by the city or county in such a manner as to accomplish the purposes of that article and of this chapter.

51253. AMENDMENT OF PRIOR CONTRACTS TO CONFORM TO AMENDED CHAPTER. Any contract or agreement entered into pursuant to this chapter prior to the 61st day following final adjournment of the 1969 Regular Session of the Legislature may be amended to conform with the provisions of this act as amended at that session upon the mutual agreement of all parties. Approval of these amendments to a contract by the Director of Conservation shall not be required.

51254. RESCISSION AND ENTRY INTO NEW CONTRACT. Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into a new contract pursuant to this chapter, which new contract would enforceably restrict the same property for an initial term at least as long as

the unexpired term of the contract being so rescinded but not less than 10 years. Such action may be taken notwithstanding the prior serving of a notice of non-renewal relative to the former contract.

51255. RECESSION AND ENTRY INTO EASEMENT AGREEMENT. Notwithstanding any other provision of this chapter, the parties may upon their mutual agreement rescind a contract in order simultaneously to enter into an open space easement agreement pursuant to the Open Space Easement Act of 1974, commencing with Section 51070, which easement would enforceably restrict the same property for an initial term of not less than 10 years. Such action may be taken notwithstanding the prior serving of a notice of non-renewal.

51256. RESCISSION AND ENTRY INTO NEW CONTRACT ON UNCONTRACTED LAND. [Repealed by Stats. 1983, Ch. 880, in effect January 1, 1984.]

51257. BOUNDARY ADJUSTMENTS. [Repealed by Stats. 1985, Ch. 1405, in effect January 1, 1986.]

ARTICLE 5. CANCELLATION.

51280. PURPOSE OF CANCELLATION PROVISION. It is hereby declared that the purpose of this article is to provide relief from the provisions of contracts entered into pursuant to this chapter under the circumstances and conditions provided herein.

51280.1. CANCELLATION; ALTERNATIVE USE. As used in this chapter, the finding of a board or council that "cancellation and alternative use will not result in discontinuous patterns of urban development" authorizes, but does not require, the board or council to cancel a contract if it finds that the alternative use will be rural in character and that the alternative use will result within the foreseeable future in a contiguous pattern of development within the relevant subregion. The board or council is not required to find that the alternative use will be immediately contiguous to like development. In rendering its finding, the board or council acts in its own discretion to evaluate the proposed alternative use according to existing and projected conditions within its local jurisdiction.

The provisions of this section shall apply only to those proceedings for the cancellation of contracts which were initiated pursuant to Section 51282.1, and, consistent with the provisions of Section 9 of Chapter 1095 of the Statutes of 1981, shall apply to the same extent as the provisions of Section 51282.1, notwithstanding their repeal.

51281. REQUEST BY LANDOWNER. A contract may not be canceled except pursuant to a request by the landowner, and as provided in this article.

51281.1. PAYMENT OF APPLICATION FEE. The board or council may require the payment of a reasonable application fee to be made at the time a petition for cancellation is filed.

51282. CANCELLATION AS TO ALL OR PART OF LAND; CONDITIONS FOR APPROVAL.

- (a) The landowner may petition the board or council for cancellation of any contract as to all or any part of the subject land. The board or council may grant tentative approval for cancellation of a contract only if it makes one of the following findings:

- (1) That the cancellation is consistent with the purposes of this chapter; or
 - (2) That cancellation is in the public interest.
- (b) For purposes of paragraph (1) of subdivision (a), cancellation of a contract shall be consistent with the purposes of this chapter only if the board or council makes all of the following findings:
- (1) That the cancellation is for land on which a notice of non-renewal has been served pursuant to Section 51245.
 - (2) That cancellation is not likely to result in the removal of adjacent lands from agricultural use.
 - (3) That cancellation is for an alternative use which is consistent with the applicable provision of the city or county general plan.
 - (4) That cancellation will not result in discontinuous patterns of urban development.
 - (5) That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land. As used in this subdivision “proximate non-contracted land” means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land. As used in this subdivision “suitable” for the proposed use means that the salient features of the proposed use can be served by land not restricted by contract pursuant to this chapter. Such non-restricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.
- (c) For purposes of paragraph (2) of subdivision (a) cancellation of a contract shall be in the public interest only if the council or board makes the following findings:
- (1) That other public concerns substantially outweigh the objectives of this chapter; and
 - (2) That there is no proximate non-contracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or that development of the contracted land would provide more contiguous patterns of urban development than development of proximate non-contracted land.

As used in this subdivision “proximate non-contracted land” means land not restricted by contract pursuant to this chapter, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land. As used in this subdivision “suitable” for the proposed use means that the salient features of the proposed use can

be served by land not restricted by contract pursuant to this chapter. Such non-restricted land may be a single parcel or may be a combination of contiguous or discontiguous parcels.

- (d) For purposes of subdivision (a), the uneconomic character of the existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.
- (e) The landowner's petition shall be accompanied by a proposal for a specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of Section 51283.4 shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required.
- (f) In approving a cancellation pursuant to this section, the board or council shall not be required to make any findings other than or in addition to those expressly set forth in this section, and, where applicable, in Section 21081 of the Public Resources Code.

51282.1. CANCELLATION; ALTERNATIVE PROVISIONS. [Repealed by Stats. 1981, Ch. 1095, in effect January 1, 1983.]

51282.2. EXCEPTION; PARCEL OF 300 ACRES OR LESS.

- (a) In the event that a city has within its boundaries on the effective date of this section 300 acres or less of land which are under contract, or an application for annexation to a city has been filed with that city and a petition for cancellation has been filed with the county within the time period set forth in subdivision (c) of Section 51282.1, which application, if approved, will result in the city having within its boundaries 300 acres or less of land which are under contract, the provisions and requirements of subdivisions (e), (f), (g) and (h) of Section 51282.1 shall not apply within that city and a petition for cancellation of a contract shall be approved as otherwise provided in Section 51282.1. If the annexation, if approved, will result in the city having more than 300 acres of land under contract, the provisions and requirements of subdivisions (e), (f), (g), and (h) of Section 51282.1 shall apply.
- (b) The provisions of this section shall not apply to any contract which is applicable to land located within the Coastal Zone as described and delineated in Division 20 (commencing with Section 30000) of the Public Resources Code.

51282.3. CANCELLATION; LAND USED FOR AGRICULTURAL LABORER HOUSING. [Repealed by Stats. 1987, Ch. 56, in effect January 1, 1988.]

51282.5. CANCELLATION; LAND ZONED AS TIMBERLAND PRESERVE. The owner of any land which has been zoned as a timberland production pursuant to Section 51112 or 51113, and that zoning has been recorded as provided in Section 51117, may petition the

board or council for cancellation of any contract as to all or part of the land. Upon petition, the board or council shall approve the cancellation of the contract.

The provisions of Section 51283 shall not apply to any cancellation under this section, and no cancellation fee shall be imposed.

51283. CANCELLATION FEE; AMOUNT; WAIVER OR EXTENSION OF TIME.

- (a) Prior to any action by the board or council giving tentative approval to the cancellation of any contract, the county assessor of the county in which the land is located shall determine the current fair market value of the land as though it were free of the contractual restriction. The assessor shall certify to the board or council the cancellation valuation of the land for the purpose of determining the cancellation fee.
- (b) Prior to giving tentative approval to the cancellation of any contract, the board or council shall determine and certify to the county auditor the amount of the cancellation fee which the landowner shall pay the county treasurer as deferred taxes upon cancellation. That fee shall be an amount equal to 12.5 percent of the cancellation valuation of the property.
- (c) If it finds that it is in the public interest to do so, the board or council may waive any payment or any portion of a payment by the landowner, or may extend the time for making the payment or a portion of the payment contingent upon the future use made of the land and its economic return to the landowner for a period of time not to exceed the unexpired period of the contract, had it not been canceled, if all of the following occur:
 - (1) The cancellation is caused by an involuntary transfer or change in the use which may be made of the land and the land is not immediately suitable, nor will be immediately used, for a purpose which produces a greater economic return to the owner.
 - (2) The board or council has determined that it is in the best interests of the program to conserve agricultural land use that the payment be either deferred or is not required.
 - (3) The waiver or extension of time is approved by the Secretary of the Resources Agency. The secretary shall approve a waiver or extension of time if the secretary finds that the granting of the waiver or extension of time by the board or council is consistent with the policies of this chapter and that the board or council complied with this article. In evaluating a request for a waiver or extension of time, the secretary shall review the findings of the board or council, the evidence in the record of the board or council, and any other evidence the secretary may receive concerning the cancellation, waiver, or extension of time.
- (d) The first nine hundred eighty five thousand dollars (\$985,000) of revenue paid to the controller pursuant to subdivision (e) in the 1992-93 fiscal year, and any other amount as approved in the final Budget Act for each fiscal year thereafter, shall be deposited

in the Soil Conservation Fund, which is continued in existence. The money in the fund is available, when appropriated by the Legislature, for the support of both of the following:

- (1) The total cost of the farmlands mapping and monitoring program of the Department of Conservation pursuant to Section 66570.
 - (2) The soil conservation program identified in Section 614 of the Public Resources Code.
- (e) When deferred taxes required by this section are collected, they shall be transmitted by the county treasurer to the controller and deposited in the General Fund, except as provided in subdivision (d). The funds collected by the county treasurer with respect to each cancellation of a contract shall be transmitted to the controller within 30 days of the execution of a certificate of cancellation of contract by the board or council, as specified in subdivision (b) of Section 51283.4.
- (f) This section shall become operative on July 1, 1993.

51283.1. PAYMENT OF DEFERRED TAXES. [Repealed by Stats. 1986, Ch. 607, in effect January 1, 1987.]

51283.3. ACTION UPON CANCELLATION. [Repealed by Stats. 1988, Ch. 579, in effect January 1, 1989.]

51283.4. CERTIFICATE OF TENTATIVE CANCELLATION FEES.

- (a) Upon tentative approval of a petition accompanied by a proposal for a specified alternative use of the land, the clerk of the board or council shall record in the office of the county recorder of the county in which is located the land as to which the contract is applicable a certificate of tentative cancellation, which shall set forth the name of the landowner requesting the cancellation, the fact that a certificate of cancellation of contract will be issued and recorded at such time as specified conditions and contingencies are satisfied, a description of the conditions and contingencies which must be satisfied, and a legal description of the property. Conditions to be satisfied shall include payment in full of the amount of the fee computed under the provisions of Sections 51283 and 51283.1, together with a statement that unless the fee is paid, or a certificate of cancellation of contract is issued within one year from the date of the recording of the certificate of tentative cancellation, such fee shall be recomputed as of the date of notice described in subdivision (b). Any provisions related to the waiver of such fee or portion thereof shall be treated in the manner provided for the certificate of tentative cancellation. Contingencies to be satisfied shall include a requirement that the landowner obtain all permits necessary to commence the project. The board or council may, at the request of the landowner, amend a tentatively approved specified alternative use if it finds that such amendment is consistent with the findings made pursuant to subdivision (f) of Section 51282.1 or subdivision (a) of Section 51282, whichever is applicable.

- (b) The landowner shall notify the board or council when he has satisfied the conditions and contingencies enumerated in the certificate of tentative cancellation. Within 30 days of receipt of such notice, and upon a determination that the conditions and contingencies have been satisfied, the board or council shall execute a certificate of cancellation of contract and cause the same to be recorded.
- (c) If the landowner has been unable to satisfy the conditions and contingencies enumerated in the certificate of tentative cancellation, the landowner shall notify the board or council of the particular conditions or contingencies he is unable to satisfy. Within 30 days of receipt of such notice, and upon a determination that the landowner is unable to satisfy the conditions and contingencies listed, the board or council shall execute a certificate of withdrawal of tentative approval of a cancellation of contract and cause the same to be recorded. However, the landowner shall not be entitled to the refund of any cancellation fee paid.

51283.5. REPORTS BY DEPARTMENT OF CONSERVATION. [Repealed by Stats. 1989, Ch. 943, in effect January 1, 1990.]

51284. PUBLIC HEARING; NOTICE AND PUBLICATION. No contract may be canceled until after the city or county has given notice of, and has held, a public hearing on the matter. Notice of the hearing shall be published pursuant to Section 6061 and shall be mailed to every owner of land under contract, any portion of which is situated within one mile of the exterior boundary of the land upon which the contract is proposed to be canceled. In addition, at least 10 working days prior to the hearing, a notice of the hearing and a copy of the landowner's petition shall be mailed to the Director of Conservation. Within 30 days of the tentative cancellation of the contract, the city or county shall publish a notice of its decision, including the date, time and place of the public hearing, a general explanation of the decision, the findings made pursuant to Section 51282, and a general description, in text or by diagram, of the land under contract, as a display advertisement of at least one-eighth page in at least one newspaper of general circulation within the city or county. In addition, within 30 days of the tentative cancellation of the contract, the city or county shall deliver a copy of the published notice of the decision as described above, to the Director of Conservation. The publication shall be for informational purposes only, and shall create no right, standing, or duty that would otherwise not exist with regard to the cancellation proceedings.

51285. SAME: PROTEST BY OTHER OWNERS WITHIN PRESERVE. The owner of any property located in the county or city in which the agricultural preserve is situated may protest such cancellation to the city or county conducting the hearing.

51286. MANDAMUS ACTION OR PROCEEDING. Any action or proceeding which, on the grounds of alleged non-compliance with the requirements of this chapter, seeks to attack, review, set aside, void, or annul a decision of a board of supervisors or a city council to cancel a contract shall be brought pursuant to Section 1094.5 of the Code of Civil Procedure.

The action or proceeding shall be commenced within 180 days from the council or board order acting on a petition for cancellation filed under this chapter.

51287. FEE TO RECOVER COST OF SERVICES. The city or county may impose a fee pursuant to Chapter 13 (commencing with Section 54990) of Part 1 of Division 2 for recovery of costs under this article. The fee shall not exceed an amount necessary to recover the reasonable cost of services provided by the city or county under this article.

ARTICLE 6. EMINENT DOMAIN OR OTHER ACQUISITION.

51290. STATE OR LOCAL PUBLIC IMPROVEMENTS WITH PRESERVE.

- (a) It is the policy of the state to avoid, whenever practicable, the location of any state or local public improvements and any improvements of public utilities, and the acquisition of land therefor, in agricultural preserves.
- (b) It is further the policy of the state that whenever it is necessary to locate such improvement within an agricultural preserve, such improvement shall, whenever practicable, be located upon land other than land under a contract pursuant to this chapter.
- (c) It is further the policy of the state that any agency or entity proposing to locate such an improvement shall, in considering the relative costs of parcels of land and development of improvements, give consideration to the value to the public, as indicated in Article 2 (commencing with Section 51220), of land (and particularly prime agricultural land) within an agricultural preserve.

51290.5. PUBLIC IMPROVEMENT DEFINED. As used in this chapter, “public improvement” means facilities or interests in real property owned by a public agency or person as defined in subdivision (a) of Section 51291.

51291. “PUBLIC AGENCY.”

- (a) As used in this section, Section 51292 and Section 51295, “public agency” means the state, or any department or agency thereof, and any county, city, school district, or other local public district, agency, or entity; and “person” means any person authorized to acquire property by eminent domain.
- (b) Whenever it appears that land within an agricultural preserve may be required by a public agency or person for a public use, the public agency or person shall advise the Director of Conservation and the local governing body responsible for the administration of the preserve of the intention to consider the location of a public improvement within the preserve. In accordance with Section 51290, the notice shall include an explanation of the preliminary consideration of Section 51292, and give a general description, in text or by diagram, of the agricultural preserve land proposed for acquisition, and a copy of any applicable contract created under this chapter. The Director of Conservation shall forward to the Director of Food and Agriculture a copy of any material received from the public agency or person relating to the proposed acquisition.

Within 30 days thereafter, the Director of Conservation and the local governing body shall forward to the public agency or person concerned their comments with respect to the effect of the location of the public improvement on the land within the agricultural preserve and those comments shall be considered by the public agency or person. In preparing those comments, the Director of Conservation shall consider issues related to agricultural land use, including, but not limited to, matters related to the effects of the proposal on the conversion of adjacent or nearby agricultural land to non-agricultural uses, and shall consult with, and incorporate the comments of, the Director of Food and Agriculture on any other matters related to agricultural operations. Failure of any public agency or person to comply with the requirements of this section shall not invalidate any action by the agency or person to locate a public improvement within an agricultural preserve. However, the failure by any person or any public agency other than a state agency to comply with the requirements of this section shall be admissible in evidence in any litigation for the acquisition of that land or involving the allocation of funds or the construction of the public improvement. This subdivision does not apply to the erection, construction, alteration, or maintenance of gas, electric, water, or communication utility facilities within an agricultural preserve if that preserve was established after submission of the location of those facilities to the city or county for review or approval.

- (c) When land in an agricultural preserve is acquired by a public entity, within 10 working days the public entity shall notify the Director of Conservation. The notice shall include a general explanation of the decision, and the findings made pursuant to Section 51292. If different from that previously provided pursuant to subdivision (b), the notice shall also include a general description, in text or by diagram, of the agricultural preserve land acquired, and a copy of any applicable contract created under this chapter.
- (d) If, after giving the notice required under subdivisions (b) and (c) and before the project is completed within an agricultural preserve, the public agency or person proposes any significant change in the public improvement, it shall give notice of the changes to the Director of Conservation and the local governing body responsible for the administration of the preserve. Within 30 days thereafter, the Director of Conservation and the local governing body may forward to the public agency or person their comments with respect to the effect of the change to the public improvement on the land within the preserve and the compliance of the changed public improvements with this article. Those comments shall be considered by the public agency or person, if available within the time limits set by this subdivision.
- (e) If the notices and findings required by this section and Section 51292 are given and contained within documents prepared pursuant to the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code), those documents may be used to meet the notification and findings requirements of this section and Section 51292, as long as they are provided no later than the times set forth in this section.

Any action or proceeding regarding notices or findings required by this article filed by the Director of Conservation or the local governing body administering the agricultural preserve shall be governed by Section 51294.

51292. CONDITIONS UNDER WHICH PUBLIC IMPROVEMENT MAY NOT BE LOCATED WITHIN PRESERVE. No public agency or person shall locate a public improvement within an agricultural preserve unless the following findings are made:

- (a) The location is not based primarily on a consideration of the lower cost of acquiring land in an agricultural preserve.
- (b) If the land is prime agricultural land covered under a contract pursuant to this chapter for any public improvement, that there is no other land within or outside the preserve on which it is reasonably feasible to locate the public improvement.

51293. SAME; SPECIAL EXCEPTIONS. Section 51292 shall not apply to:

- (a) The location or construction of improvements where the board or council administering the agricultural preserve approves or agrees to the location thereof, except when the acquiring agency and administering agency are the same entity.
- (b) The acquisition of easements within a preserve by the board or council administering the preserve.
- (c) The location or construction of any public utility improvement which has been approved by the Public Utilities Commission.
- (d) The acquisition of either (1) temporary construction easements for public utility improvements, or (2) an interest in real property for underground public utility improvements. This subdivision shall apply only where the surface of the land subject to the acquisition is returned to the condition and use that immediately predated the construction of the public improvement, and when the construction of the public utility improvement will not significantly impair agricultural use of the affected contracted parcel or parcels.
- (e) The location or construction of the following types of improvements, which are hereby determined to be compatible with or to enhance land within an agricultural preserve:
 - (1) Flood control works, including channel rectification and alteration.
 - (2) Public works required for fish and wildlife enhancement and preservation.
 - (3) Improvements for the primary benefit of the lands within the preserve.
- (f) Improvements for which the site or route has been specified by the Legislature in a manner that makes it impossible to avoid the acquisition of land under contract.

- (g) All state highways or routes as described in Sections 301 to 622, inclusive, of the Streets and Highways Code, as those sections read on October 1, 1965.
- (h) All facilities which are part of the State Water Facilities as described in subdivision (d) of Section 12934 of the Water Code, except facilities under paragraph (6) of subdivision (d) of that section.
- (i) Land upon which condemnation proceedings have been commenced prior to October 1, 1965.
- (j) The acquisition of a fee interest or conservation easement for a term of at least 10 years, in order to restrict the land to agricultural or open space uses as defined by subdivisions (b) and (o) of Section 51201.

51293.1. ESTABLISHMENT OF PRESERVE PRIOR TO LOCATION OF PUBLIC UTILITY IMPROVEMENT.

Any public agency or person requiring land in an agricultural preserve for a use which had been determined by a city or county to be a "compatible use" pursuant to subdivision (e) of Section 51201 in that agricultural preserve shall not be excused from the provisions of subdivision (b) of Section 51291 if the agricultural preserve was established before the location of the improvement of a public utility was submitted to the city, county, or Public Utilities Commission for agreement or approval and that compatible use shall not come within the provisions of Section 51293 unless the location of the improvement is approved or agreed to pursuant to subdivision (a) of Section 51293 or the compatible use is listed in Section 51293.

51294. ENFORCEMENT. Section 51292 shall be enforceable only by mandamus proceedings by the local governing body administering the agricultural preserve or the Director of Conservation. However, as applied to condemners whose determination of necessity is not conclusive by statute, evidence as to the compliance of the condemnor with Section 51292 shall be admissible on motion of any of the parties in any action otherwise authorized to be brought by the landowner or in any action against the landowner.

51294.1. WATER TRANSMISSION FACILITIES WITHIN PRESERVE; LOCAL AGENCY'S APPROVAL.

After 30 days have elapsed following its action, pursuant to subdivision (b) of Section 51291, advising the Director of Conservation and the local governing body of a county or city administering an agricultural preserve of its intention to consider the location of a public improvement within such agricultural preserve, a public agency proposing to acquire land within an agricultural preserve for water transmission facilities which will extend into more than one county, may file the proposed route of the facilities with each county or city administering an agricultural preserve into which the facilities will extend and request such county or city to approve or agree to the location of the facilities or the acquisition of the land therefor. Upon approval or agreement, the provisions of Section 51292 shall not apply to the location of the proposed water transmission facility or the acquisition of land therefor in any county or city which has approved or agreed to the location or acquisition.

51294.2. SAME; VALIDATION PROCEEDINGS. If any local governing body administering an agricultural preserve within 90 days after receiving a request pursuant to

Section 51294.1 has not approved or agreed to the location of water transmission facilities as provided in Section 51294.1 or in subdivision (a) of Section 51293, the public agency making such request may file an action against such local governing body in the superior court of one of the counties within which any such body has failed to approve the location of facilities or the acquisition of land therefor, to determine whether the public agency proposing the location or acquisition has complied with the requirements of Section 51292. If the court should be so determine, the provisions of Section 51292 shall not apply to the location of water transmission facilities, nor the acquisition of land therefor, in any of the counties into which they shall extend, and no writ of mandamus shall be issued in relation thereto pursuant to Section 51294. For the purposes of this section, the county selected for commencing such action is the proper county for the trial of such proceedings. In determining whether the public agency has complied with the requirements of Section 51292, the court shall consider the alignment, functioning and operation of the entire transmission facility.

Courts shall give any action brought under the provisions of this section preference over all other civil actions therein, to the end that such actions shall be quickly heard and determined.

51295. CONTRACT AUTOMATICALLY VOID BY CONDEMNATION. When any action in eminent domain for the condemnation of the fee title of an entire parcel of land subject to a contract is filed or when that land is acquired in lieu of eminent domain for a public improvement by a public agency or person or whenever there is any action or acquisition by the federal government or any person, instrumentality or agency acting under authority or power of the federal government, the contract shall be deemed null and void as to the land actually being condemned or so acquired as of the date the action is filed and for the purposes of establishing the value of the land, the contract shall be deemed never to have existed.

Upon the termination of the proceeding, the contract shall be null and void for all land actually taken or acquired.

When an action to condemn or acquire less than all of a parcel of land subject to a contract is commenced, the contract shall be deemed null and void as to the land actually condemned or acquired and shall be disregarded in the valuation process only as to the land actually being taken, unless the remaining land subject to contract will be adversely affected by the condemnation, in which case the value of that damage shall be computed without regard to the contract.

When an action to condemn or acquire an interest which is less than the fee title of an entire parcel or any portion thereof, of land subject to a contract is commenced, the contract shall be deemed null and void as to that interest and for the purpose of establishing the value of that interest only shall be deemed never to have existed, unless the remaining interests in any of the land subject to the contract will be adversely affected, in which case the value of that damage shall be computed without regard to the contract. The land actually taken shall be removed from the contract. Under no circumstances shall land be removed that is not actually taken for a public improvement, except that when only a portion of the land or less than a fee interest in the land is taken or acquired, the contract may be

canceled with respect to the remaining portion or interest upon petition of either party and pursuant to the provisions of Article 5 (commencing with Section 51280).

For the purposes of this section, a finding by the board or council that no authorized use may be made of the land if the contract is continued on the remaining portion or interest in the land may satisfy the requirements of subdivision (a) of Section 51282.

If, after acquisition, the acquiring public agency determines that it will not for any reason actually locate on that land or any part thereof, the public improvement for which the land was acquired, before returning the land to private ownership, the public agency shall give written notice to the Director of Conservation and the local governing body responsible for the administration of the preserve and the land shall be re-enrolled in a contract, or encumbered by an enforceable deed restriction with terms at least as restrictive as those provided by this chapter. The duration of the restriction shall be determined by subtracting the length of time the land was held by the acquiring public agency or person from the number of years that remained on the original contract at the time of acquisition.

**THE SUBDIVISION MAP ACT
(California Government Code)**

Division 2, Subdivisions; Chapter 4, Requirements

66474.4. LAND SUBJECT TO WILLIAMSON ACT CONTRACT.

- (a) The legislative body of a city or county shall deny approval of a tentative map, or a parcel map for which a tentative map was not required, if it finds that the land is subject to a contract entered into pursuant to the California Land Conservation Act of 1965 (Chapter 7 (commencing with Section 51200) of Division 1 of Title 5) and that the resulting parcels following a subdivision of that land would be too small to sustain their agricultural use. For purposes of this section, land shall be presumed to be in parcels too small to sustain their agricultural use if the land is (1) less than 10 acres in size in the case of prime agricultural land, or (2) less than 40 acres in size in the case of land which is not prime agricultural land. For purposes of this section, agricultural land shall be presumed to be in parcels large enough to sustain their agricultural use if the land is (1) at least 10 acres in size in the case of prime agricultural land, or (2) at least 40 acres in size in the case of land which is not prime agricultural land.
- (b) A legislative body may approve a subdivision with parcels smaller than those specified in this section if the legislative body makes either of the following findings:
 - (1) The parcels can nevertheless sustain an agricultural use permitted under the contract, or are subject to a written agreement for joint management pursuant to Section 51230.1, provided that the parcels which are jointly managed total at least 10 acres in size in the case of prime agricultural or 40 acres in size in the case of land which is not prime agricultural land.
 - (2) One of the parcels contains a residence and is subject to Section 428 or the Revenue and Taxation Code; the residence has existed on the property for at least five years; the landowner has owned the parcels for at least 10 years; and the remaining parcels shown on the map are at least 10 acres in size if the land is prime agricultural land, or at least 40 acres in size if the land is not prime agricultural land.
- (c) No other homesite parcels as described in paragraph (2) of subdivision (b) may be created on any remaining parcels under contract for at least 10 years following the creation of a homesite parcel pursuant to this section.
- (d) This section shall not apply to land which is subject to a contract when any of the following has occurred:
 - (1) A local agency formation commission has approved the annexation of the land to a city and the city will not succeed to the contract as provided in Sections 51243 and 51243.5.

- (2) Written notice of non-renewal of the contract has been served prior to March 7, 1985, as provided in Section 51245.
 - (3) Written notice of non-renewal of the contract has been served on or after March 7, 1985, as provided in Section 51245, and, as a result of that notice, there are no more than three years remaining in the term of the contract.
 - (4) The board or council has granted tentative approval for cancellation of the contract as provided in Section 51282.
- (e) This section shall not be construed as limiting the power of legislative bodies to establish minimum parcel sizes larger than those specified in subdivision (a).

RG:SH:fc - RXGF1310.AFR
(9/22/95)



County of San Mateo - Planning and Building Department

ATTACHMENT B

San Mateo County Land Conservation (Williamson) Act

DRAFT

COUNTY GOVERNMENT CENTER
455 COUNTY CENTER, SECOND FLOOR
REDWOOD CITY, CALIFORNIA 94063
TEL: (650) 363-4161
FAX: (650) 363-4849

SAN MATEO COUNTY LAND CONSERVATION (WILLIAMSON) ACT

Uniform Rules and Procedures

PURPOSE.....	1
DEFINITIONS	2
GENERAL POLICIES AND ADMINISTRATION.....	6
A. Conformance with State Law and County Ordinances and Resolutions	6
B. Consistency of Entitlements with State Law and LCA Uniform Rules and Procedures.....	6
C. Contracts which Become Inconsistent with State Law and LCA Uniform Rules and Procedures	7
D. Property Tax Reduction	7
E. Acquisition of Land in AGP or FSZA for Public Improvement.....	7
F. Annexation of Land Subject to FSZA and FSZA/LCA Contracts	8
G. Application Requirements	8
H. Interpretation of Guidelines	9
I. Reports	9
J. Public Education	9
K. Parcel Audit	10
L. Permission to Enter and Inspect Property	10
M. Enforcement	10
UNIFORM RULE 1: AGRICULTURAL ENTERPRISE AREA AND AGRICULTURAL PRESERVES	11
UNIFORM RULE 2: TYPES of CONTRACTS	14
A. Eligibility Requirements for A/LCA and FSZA/LCA Contracts	14
1. Land Designation	14
2. Zoning	14
3. Lot Size and Contracted Area.....	14
4. Contiguous/Non-Contiguous Parcels.....	15
5. Land Uses	15
6. Income Requirements for Crops and Timber Harvesting	18
7. Land Utilization for Grazing.....	19
B. Farmland Security Zone Area (FSZA/LCA) Contracts – Additional Requirements	19
UNIFORM RULE 3: APPLICATION PROCEDURE.....	21
A. Application Requirements	21
1. Application Form	21
2. Supporting Documents	21
3. Agricultural Preserve/Farmland Security Zone Area	22
4. Ownership Report	23
5. Signature of Owners	23
6. Fees	23
B. Processing Applications	23
1. Filing Deadline	23
2. Review and Approval Process.....	24
3. Completion of Contracts	24

UNIFORM RULE 4: RESCISSION/REENTRY, NON-RENEWAL AND CANCELLATION REQUESTS	26
A. Rescission/Reentry	26
1. Applicability	26
2. Lot Line Adjustments	26
3. Filing Deadline	27
B. Non-Renewal	27
C. Cancellation	28
UNIFORM RULE 5: GUIDELINE FOR EXCHANGE OF AN EXISTING WILLIAMSON ACT CONTRACT FOR AN OPEN SPACE EASEMENT AGREEMENT	30
A. Definition	30
B. Requirements	30
C. Limitation of Uses	32
D. Limitation of Development	33
E. Site Location Criteria for Development of Limited Uses	34

SAN MATEO COUNTY LAND CONSERVATION ACT UNIFORM RULES AND PROCEDURES

PURPOSE

The San Mateo County Land Conservation Act Uniform Rules and Procedures (Rules) are intended to implement the California Land Conservation Act (LCA) (Government Code Section ~~45234~~ 51231), also known as the Williamson Act (Act). The Act provides tax incentives to protect agricultural and open space uses defined in the Act (Government Code Section 51201). The Rules summarize the provisions of the State LCA that are most relevant to the County LCA program, and set forth the County's procedures for implementing the Act (see Government Code Section 51200, et seq.).

San Mateo County contains thousands of acres of agricultural land, characterized by an optimal combination of soils, climate, water, topography, lot sizes for viable production, and geographic configuration. The County has a long history of General Plan and Local Coastal Program policies and regulations designed to protect this irreplaceable resource. The LCA program is another valuable tool to protect this critical resource.

In addition to preserving agricultural land, the LCA program also assists local governments in protecting non-agricultural open space, when the affected property qualifies as a scenic highway corridor, a wildlife habitat area, a saltpond, a managed wetland area, a submerged area; or qualifies as a recreational use as defined by the Act or is enrolled in the USDA's CREP or CRP programs (see Government Code Sections 51201(i)-(n) for definitions of these areas).

The purpose and intent of the San Mateo County LCA program is to:

1. Help preserve the limited and diminishing supply of agricultural land in the County through agricultural LCA Contracts.
2. Encourage production of food, fiber, and ornamental crops and commodities for local, regional, State, national and international markets.
3. Discourage premature conversion of agricultural land to non-agricultural land uses.
4. Help sustain and promote the County's commercial agricultural industry and the direct, indirect, and imputed effect on the Countywide and State economy.
5. Allow compatible uses within agricultural contracts that do not hinder or compromise the existing or potential agricultural productivity of agricultural land.

As statutes and ordinance provisions are amended from time to time, those amendments are incorporated herein.

DEFINITIONS

The definitions below are provided to assist the reader. Many are a summary of State law. For completeness and accuracy, the specific statutes should be consulted (Government Code Section 51201).

Agricultural Enterprise Area (AEA) – A non-regulatory non-obligatory area established by the Board to identify privately owned lands that meet zoning designation and general land use criteria for eligibility under the Williamson Act as a guide for landowners considering entering into an Agricultural Preserve and contract.

Agricultural Preserve (AGP) – Agricultural Preserves define the region(s) within which the County ~~may~~ will enter into contracts with landowners. The Board establishes Agricultural Preserves. Only land located within an Agricultural Preserve is eligible for a contract. As defined in Government Code Section 51201(d), land within a region designated as an Agricultural Preserve can be devoted to either agricultural, recreational, or open space use, or any combination of these. An Agricultural Preserve must consist of no less than 100 acres except as described in Uniform Rule 1: Agricultural Enterprise Area and Agricultural Preserves (Government Code Section 51230).

Agricultural Commodities – Agricultural commodities shall mean any and all plant and animal products produced in this State for commercial purposes (Government Code Section 51201(a)). Agricultural commodities shall include fruits, nuts and vegetables; grains, such as wheat, barley, oats and corn; mushrooms; legumes, such as field beans and peas; animal feed and forage crops, such as grain, hay and alfalfa; seed crops; fiber, bio-fuel and oilseed crops, such as safflower and sunflower; nursery stock, such as Christmas trees, ornamentals and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock, such as cattle, sheep, alpacas, llamas and swine; poultry, such as chickens, ostriches and emus. Other agricultural commodities may be accepted by the Board based on a recommendation of the Agricultural Commissioner.

Agricultural Use – The use of land including, but not limited to, greenhouses for the purpose of producing agricultural commodities for commercial purposes (i.e., for sale in wholesale or direct market channels) (Government Code Section 51201(b)). The keeping of horses does not constitute an agricultural use.

Agricultural Use Contract (A/LCA Contract) – A contract between a private landowner and the County that enforceably restricts land to agricultural and compatible uses. The minimum initial term is 10 years. LCA Contracts automatically self-renew annually unless either party files a Notice of Non-Renewal. In return, restricted parcels are assessed for property tax purposes in accordance with Revenue and Taxation Code Section 421, et seq.

Board – The Board of Supervisors for San Mateo County.

Breach of Contract – Non-compliance with the terms of a contract that may result in non-renewal of a contract and other enforcement actions.

Cancellation – The immediate termination of a contract. See “Uniform Rule 4: Rescission/Reentry, Non-Renewal and Cancellation Requests” and Government Code Sections 51280-51287.

Compatible Use(s) – A use that, as determined by the County, will not diminish or interfere with existing or potential agricultural productivity, and can be accommodated without adverse impact to the agricultural, open space, and recreational resources of the site or surrounding area (Government Code Section 51201(e)).

Contract – As used in these Rules, the term contract means an A/LCA Contract or an FSZA/LCA Contract, collectively (Government Code Section 51240).

Contract Area – The acreage or property which is under a single contract. For A/LCA Contracts and FSZA/LCA Contracts, the boundaries of the Contract Area shall be coterminous with parcel boundaries.

Farmland Security Zone Area (FSZA) – A Farmland Security Zone is an area created within an Agricultural Preserve by the Board, upon the request of a landowner or group of landowners. Once the designation has been made, the property owner may enter into an FSZA/LCA Contract (Government Code Section 51296, et seq.).

Farmland Security Zone Area Contract (FSZA/LCA Contract) – A contract between a private landowner and the County that enforceably restricts land to agricultural or open space uses. The minimum initial term is 20 years (Government Code Section 51296.1(d)). FSZA/LCA Contracts automatically self-renew annually unless either party files a Notice of Non-Renewal. In return, restricted parcels are assessed for property tax purposes in accordance with Revenue and Taxation Code Section 421, et seq.

Grazing – Commercial pasturing of livestock such as cattle, sheep, alpacas, and llamas.

Land Conservation Act (LCA) – The California Land Conservation Act, also known as the Williamson Act (Government Code Section 51200, et seq.), allows private landowners to contract with counties and cities to voluntarily restrict their land to agricultural, open space and recreational uses, or a combination thereof, and compatible uses which are compatible with and ancillary to the primary use(s) of the land in exchange for potential property tax benefits.

Land Conservation Act Contract (LCA Contract) – A contract between a private landowner and the County that enforceably restricts land to agricultural and compatible uses. LCAs can take the form of an A/LCA or FCZA/LCA, and have a minimum initial term of 10 years (Government Code Section 51244). LCA Contracts automatically self-renew annually unless either party files a Notice of Non-Renewal. In return, restricted

parcels are assessed for property tax purposes in accordance with Revenue and Taxation Code Section 421, et seq.

Legal Lot – A lot that met all local Subdivision Ordinance and Subdivision Map Act requirements when it was created, and still exists, and can lawfully be conveyed in fee as a discrete unit separate from any contiguous lot. “Legal Lot” also means a lot for which a Certificate of Compliance or Conditional Certificate of Compliance has been issued under the State Subdivision Map Act and the San Mateo County Subdivision Ordinance and the boundaries of which have not been subsequently altered by merger or further subdivision. For the purposes of these Rules, the word “parcel” shall have the same meaning as the word “lot.”

Lien Date – Date upon which a contract becomes effective. The lien date is always January 1 of the year following recordation of the contract. It is also the date upon which the Assessor determines the value of property for property tax purposes each year.

Material Breach of Contract – A breach is material if, on a parcel under contract, both of the following conditions are met: (1) a commercial, industrial or residential building is constructed after January 1, 2004, that is not allowed by the Act or these Rules, and is not related to an agricultural use or compatible use; and (2) the total area of all of the building or buildings likely causing the breach exceeds 2,500 square feet (Government Code Section 51250).

Non-Prime Agricultural Land – Land that is not “prime agricultural land” as defined below. This may include but is not limited to land used for grazing or dry farming.

Non-Renewal – Withdrawal of land under contract whereby the contract stops self-renewing each year, but all terms and conditions of the contract/Act remain in effect for the remainder of the term (i.e., nine years for an LCA Contract, 19 years for an FSZA Contract) (Government Code Section 51246).

Open Space Easement Agreement (Agreement) – An enforceable agreement between the County and a landowner consistent with the Open Space Easement Act of 1974 (Chapter 6.6 commencing with Section 51070). Holder of the land must effectively preserve for public use or enjoyment the natural scenic character of such open space land (Government Code Section 51075(d)) and shall not carry out any activity, use or action which would impair the open space character of the land. If prescribed findings can be made by the Board, the County and contract holder may rescind a contract in order to simultaneously enter into an agreement provided that the easement is consistent with the Williamson Act for the duration of the term of the original Williamson Act Contract; and the initial term of the easement is for at least 10 years. Land subject to agreement shall be assessed pursuant to Section 423 of the Revenue and Taxation Code (Government Code Section 51255). See Uniform Rule 5.

Prime Agricultural Land – Means any of the following (Government Code Section 51201(c)):

1. All land that qualifies for rating as Class I or Class II in the Natural Resource Conservation Service (NRCS) Land Use Capability Classifications; or land that qualifies as Class III in the NRCS Land Use Capacity Classifications if producing no less than two hundred dollars (\$200) per acre annual gross income for three of the past five years.
2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.
3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
4. Land planted with fruit or nut-bearing trees, vines, bushes or crops which have a non-bearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
5. Land which has returned from production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre annual gross income for three of the past five years.
6. In all cases, prime land shall have a secure water source adequate to support the agriculture on the premises.

Public Improvement – Facilities or interests in real property, including easements, rights-of-way, and interests in fee title, owned by a public agency or person (Government Code Sections 51290.5 and 51291).

Rescission/Reentry – The process of simultaneously voiding an existing contract(s) and entering into new contract(s) where there is no reduction in the amount of land under contract. See Uniform Rule 5.

Scenic Highway Corridor – A State-designated corridor, which as of December 2008, includes: all lands adjacent to and visible from: Interstate 280 from the San Mateo County line to San Bruno City limit; State Highway 1 from the Santa Cruz County line to Half Moon Bay City limit; and State Highway 35 from the Santa Cruz County line to State Route 92 (Government Code Section 51201(i)).

Subject Property – The property for which an application for a contract has been filed.

Timber Harvest – The harvesting of timber or other forest products under an active Non-Industrial Timber Management Plan. Timber harvesting under an active Timber Harvest Plan, or a Timber Harvest Plan that was filed and, which timber was harvested within the last 15 years, or parcels zoned Timber Protections Zone (TPZ) are not eligible for LCA Contracts.

GENERAL POLICIES AND ADMINISTRATION

There are a number of policies and requirements established in State law, local ordinance and these Rules which direct the County's implementation of the California Land Conservation Act.

A. Conformance with State Law and County Ordinances and Resolutions

All applications for: (1) the establishment or termination of AGPs, FSZAs, and Contracts; (2) zone changes associated with entering into a contract; and (3) entitlements on contracted land shall be made and decided in accordance with the requirements of the Land Conservation Act, applicable County plans, ordinances and resolutions, and these Rules as amended.

These Rules shall be interpreted in a manner consistent with the overall intent expressed above. If any provision of the Rules is found to be invalid, it shall not invalidate the remaining provisions.

B. Consistency of Entitlements with State Law and LCA Rules and Procedures

Where a property proposed for a contract has an existing discretionary permit, the permit must be reviewed to determine consistency with the proposed contract.

Whenever a land use entitlement including, but not limited to, zone changes, subdivisions, development permits, and conditional use permits is requested for land subject to a contract, or about to enter into a contract, the entitlement shall not be approved unless it is consistent with the provisions of State law and these Rules. Entitlement requests that are inconsistent with these Rules may be considered and acted upon only after the contract has expired or is terminated.

No entitlement, subdivision of land, or rescission/reentry shall be approved which would result in contracts or lots under contracts which do not meet the standards and requirements of these Rules and State law.

C. Contracts which Become Inconsistent with State Law and LCA Rules and Procedures

When changes in existing uses on contracted land result in agricultural or compatible uses which are inconsistent with State law or these Rules, including annual gross income requirements, making the land ineligible for the type of Contract that is in effect, the landowner or the County may record a Notice of Non-Renewal for that contract (Government Code Section 51245). Further, if a Material Breach of Contract is determined to exist, the County shall either (1) order the property owner to eliminate the conditions that created the Material Breach of Contract within 60 days; or (2) assess a monetary penalty and terminate the contract on that property (Government Code Section 51250(i)).

D. Property Tax Reduction

In exchange for agreeing to restrict the use of property by entering into a contract, special rules are applied by the Assessor in determining the assessed value of the contracted property (see California Revenue and Taxation Code Sections 421-430.5 referred to as the "LCA Tax Provisions"). The LCA Tax Provisions are complex and should be consulted. These Rules are only intended to provide an overview.

Generally speaking, the Assessor applies the LCA Tax Provisions to determine the property's assessed value as of the Lien Date (January 1) of each year (the "LCA Value"). The LCA Value may be different than it would have been had the property not been subject to a contract. For 10-year LCA Contracts, the factored Proposition 13 base year value is compared to the LCA Value. The lower of those values is enrolled. For 20-year FSZA Contracts, a percentage reduction is applied to both the factored Proposition 13 base year value and the LCA Value and the lower of those values is enrolled. The percentage reduction is never applied to the prior year's value to derive the present year's value.

The LCA provisions do not apply to the assessed value of the residence or residential site on the subject property, nor is the reduction applied to the structures and improvements such as farm labor housing, pipelines, pumps, wind machines, buildings and the like.

The amount of the assessed value reduction depends on several factors, including the length and type of contract (e.g., LCA (10-year) or FSZA/LCA (20-year)), the type of land (e.g., prime agricultural or non-prime), the use of land (e.g., crop production or grazing) and the location of the land.

Due to the numerous factors discussed above and the rules involved in assessing property subject to a contract, it is not possible to state in advance what, if any, tax benefit would inure to the property owner.

E. Acquisition of Land in AGP or FSZA for Public Improvement

Prior to the County acquiring land in an AGP or FSZA for a public improvement, the County shall comply with the noticing procedures and make the findings required by Government Code Sections 51290 through 51295. Acquisition of land under a contract by eminent domain or in lieu of eminent domain for a public improvement shall cause the contract to be deemed null and void as to the land actually condemned or acquired (Government Code Section 51295).

F. Annexation of Land Subject to FSZA and FSZA/LCA Contracts

Pursuant to Government Code Sections 51296.3 and 51297.3, notwithstanding any provision of Government Code Section 56000, et seq., the San Mateo County Local Agency Formation Commission (LAFCo) is prohibited from annexing land within a designated FSZA to a city, except under any of the following circumstances:

1. If the FSZA is located within a designated and delineated area that has been approved by the voters as a limit for existing and future urban facilities, utilities, and services (e.g., within a designated Urban Area).
2. If annexation of a parcel or a portion of a parcel is necessary for the location of a public improvement except as provided in Government Code Section 51296.5 or 51296.6 as follows:
 - a. A school district shall not render inapplicable the County Coastal or Non-Coastal Zoning Ordinances to the use of land by the school district if the land is within a designated FSZA; or
 - b. A school district shall not acquire any land that is within a designated FSZA.
3. If the landowner consents to the annexation.
4. During the three-year period preceding the termination of an FSZA/LCA Contract.

Also, pursuant to Government Code Sections 51296.4 and 51297.3, LAFCo is prohibited from annexing land within a designated FSZA to a special district that provides sewers, non-agricultural water, or streets and roads, unless the facilities or services provided by the special district benefit land uses that are allowed under the contract and the landowner consents to the annexation. However, this provision shall not apply during the three-year period preceding the termination of FSZA/LCA Contracts.

G. Application Requirements

Requests to include property within an agricultural preserve, establish an LCA Contract, non-renew or cancel an existing LCA Contract, rescind and reenter into an LCA Contract, or exchange an LCA Contract for an OSE Agreement must be made by submitting a completed application form(s) available at the Planning and Building Department, along with the applicable application fees and any additional information that the Planning and Building Department determines is needed to evaluate compliance with these Rules.

H. Interpretation of guidelines

1. Requests for interpretation of guidelines governing the administration of the Williamson Act Contract and Open Space Easement Agreement programs may be filed by the contract/agreement holder in order to address unusual circumstances and geographic conditions. Contract/agreement holder shall bear burden of proving case facts.
2. Guideline Interpretation and Appeal Process.
 - a. First Level of Review: Review committee is comprised of the Deputy Agricultural Commissioner, the Planning and Building Department's Long Range Planning Services Manager, and the Planning and Building Department's designated Williamson Act/Open Space Easement Program Coordinator. Committee decision may be appealed by filing the applicable appeal form and filing fee with the Planning and Building Department within 10 working days of the decision.
 - b. Second Level of Review: Review committee is comprised of Agricultural Commissioner, the Community Development Director, and Deputy County Counsel. The second level committee decision may be appealed to the Board of Supervisors by filing the applicable appeal form and filing fee with the Planning and Building Department within 10 working days of the committee's decision.

I. Reports

A report containing general Williamson Act Contract and Open Space Easement Agreement program information, statistics and any/all interpretation and implementation decisions shall be prepared and forwarded to the Board of Supervisors twice in the first twelve months following program revision, and once a year thereafter.

J. Public Education

The County shall prepare a pamphlet directed toward informing prospective buyers of contracted properties of Williamson Act Contract and Open Space Easement Agreement requirements. The pamphlet shall be made available through realtors, realty associations in San Mateo County, at public counters at the County Government Center and on the County website.

K. Parcel Audit

The County shall actively review all restricted lands on a regular basis (at least once every five years) to ensure contract compliance. Review could consist of an analysis of GIS aerial photographs, annual questionnaires, site visits, and submitted federal tax schedules. Parcels are reviewed to determine if land uses comply with restrictions.

L. Permission to Enter and Inspect Property

As a condition of the LCA Contract, owners shall grant County and County's officers, employees, contractors and agents permission to enter and inspect the subject property during normal business hours (Monday through Friday, 8:00 a.m. to 5:00 p.m.) to monitor compliance. Prior to seeking entry, the County shall give the owner at least a 48-hour written notice of the inspection date, who is coming and reason for site visit. The County will make a reasonable attempt to accommodate the schedule of the landowner.

M. Enforcement

Non-compliance with the terms of an LCA Contract may result in the initiation of non-renewal procedures by the County, as well as any other action needed to enforce these Rules and cover associated administrative costs.

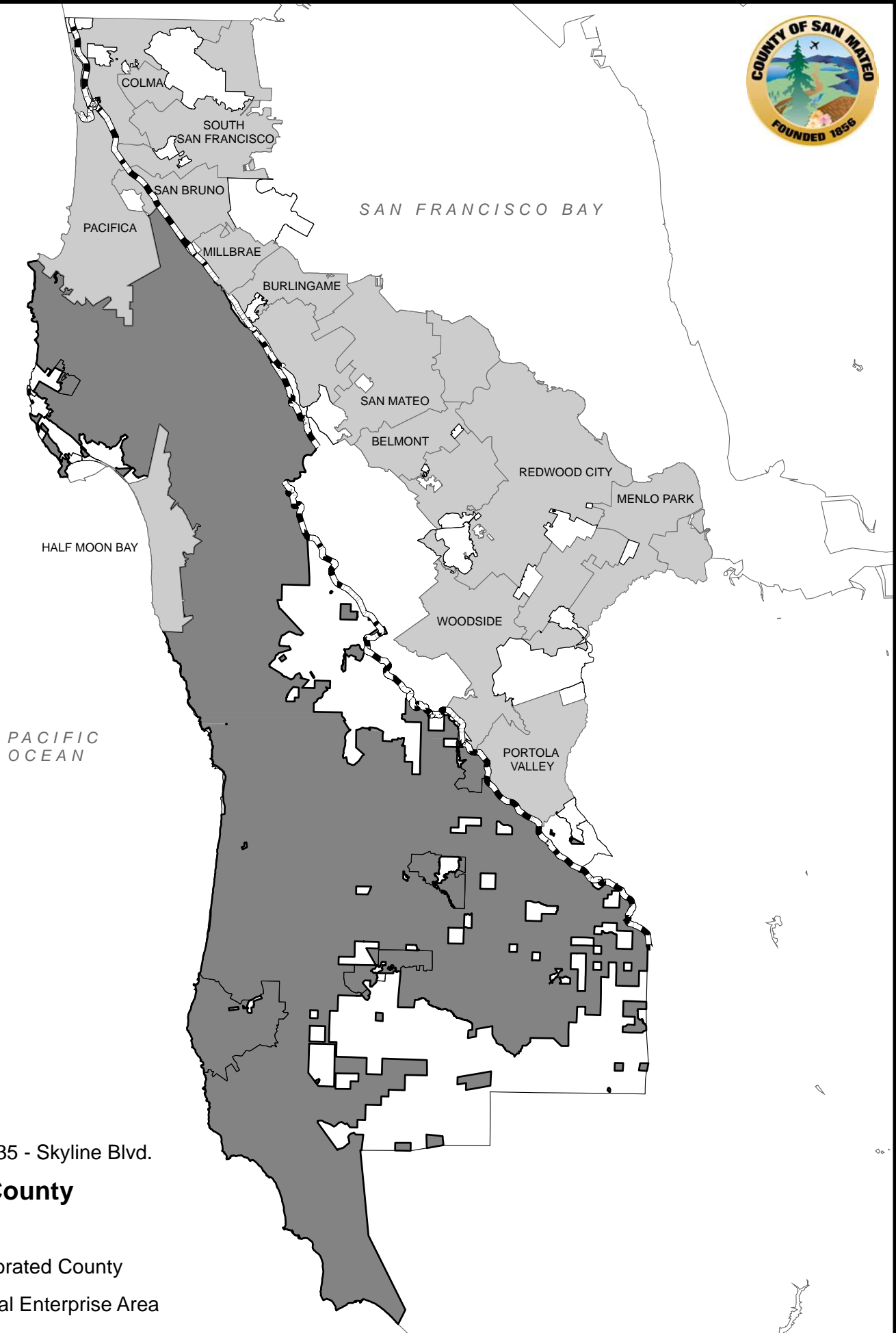
UNIFORM RULE 1: AGRICULTURAL ENTERPRISE AREA AND AGRICULTURAL PRESERVES

A. AGRICULTURAL ENTERPRISE AREA (AEA)

In San Mateo County, there is a region where the County intends to preserve the agricultural character and use of the land. The Board of Supervisors has adopted an Agricultural Enterprise Area (AEA) identifying privately owned lands that meet zoning designation and general land use criteria for eligibility under the Williamson Act as a guide for landowners considering entering into an Agricultural Preserve and contract, mapped below.

The defined area is non-regulatory and non-obligatory; lands placed within the AEA boundaries are not subject to additional regulations or tax assessments beyond those applicable to the land. Landowners are under no obligation to apply or enter into an AGP or contract nor is placement within the AEA a guarantee of AGP or contract approval. Land use designations and tax assessments of lands placed within the AEA boundary are unaffected and unchanged as a result of AEA adoption.




Proposed Agricultural Enterprise Area



Legend

— Highway 35 - Skyline Blvd.

San Mateo County

-  Cities
-  Unincorporated County
-  Agricultural Enterprise Area

B. AGRICULTURAL PRESERVES (AGP)

Consistent with the provisions of Government Code Section 51230 and if a property owner wishes to enter into a contract, the property in question must be located in an AGP. An AGP may be expanded or reduced by an action of the Board and shall not consist of less than 100 acres, unless the Board determines that an Agricultural Preserve of less than 100 acres is necessary due to the unique characteristics of the agricultural enterprises in the area, and that the establishment of preserves of less than 100 acres is consistent with the General Plan.

If a property owner wishes to enter into a contract and the property is not within the boundaries of the established AGP, the owner must request the Board Planning Department to expand the AGP or establish a new AGP simultaneously with the approval of the contract. Property located in an AGP must be designated "Agricultural" or "Open Space" under the County General Plan and zoned RM (Resource Management District), RM-CZ (Resource Management-Coastal Zone), or PAD (Planned Agricultural District). Land that is located within a Scenic Corridor, as defined by these Rules, may be included within an AGP upon request of the landowner irrespective of its land use designation and zoning.

If a landowner whose property is included in an AGP wishes to have that property excluded from the AGP, he/she may apply to disestablish or alter the boundaries of the preserve. However, no AGP may be disestablished or altered to remove land from the preserve if removal would cause or contribute to the premature or unnecessary conversion of agricultural land to urban uses or to significant encroachment of incompatible land uses into the immediate vicinity of contracted lands.

A property owner shall submit an application for establishment, disestablishment or alteration of an AGP to the San Mateo County Planning and Building Department on a form supplied by the Department, along with the applicable application fee and any other information determined by the Department to be necessary to evaluate the proposal's compliance with these Rules.

Within 60 days of receiving a completed application, the Planning Commission shall hold a public hearing and submit to the Board a recommendation for approval or disapproval as to establishment, disestablishment or alteration of an AGP.

The Board shall establish, disestablish or alter an AGP after a public hearing has been held on the matter and notice thereof given as provided in Section 6061 of the Government Code.

UNIFORM RULE 2: TYPES OF CONTRACTS

There shall be two forms of Land Conservation Act Contracts (Contracts): Agricultural Land Conservation Act Contracts (A/LCA) and Farmland Security Zone Act Contracts (FSZA/LCA).

The eligibility of land for each contract type shall be determined pursuant to the requirements of the Land Conservation Act, County General Plan and Zoning Ordinances, these Uniform Rules, and the findings of the Board.

Property owners may request to enter into any of the two types of LCA Contracts by completing and submitting the appropriate application forms available at the Planning and Building Department, along with the applicable application fees and any additional information that the Planning and Building Department determines is needed to evaluate compliance with these Rules.

A. ELIGIBILITY REQUIREMENTS FOR A/LCA AND FSZA/LCA CONTRACTS

The requirements for entering into A/LCA and FSZA/LCA Contracts are as follows:

1. Land Designation

Property must be designated “Agricultural” or “Open Space” under the County General Plan and be located within an AGP.

2. Zoning

Property must be zoned RM (Resource Management District), RM-CZ (Resource Management-Coastal Zone District), or PAD (Planned Agricultural District).

If the property is not zoned appropriately at the time a request for a new contract is submitted to the County, a zone change must be processed in conjunction with the contract. In such instances, the final approval and recordation of the contract shall be contingent on the Board’s adoption of the necessary zone change.

3. Lot Size and Contracted Area

For A/LCA and FSZA/LCA Contracts, the boundaries of each contract shall be the same as the legal lot boundaries.

Parcel size requirements are as follows:

- a. Crop Production:

- (1) Parcels considered as Prime Agricultural lands shall be a minimum of 10 acres.
 - (2) Parcels considered as Non-Prime Agricultural lands shall be a minimum of 40 acres.
 - (3) Prime and Non-Prime Agricultural lands shall be a minimum of 40 acres. Smaller contiguous parcels may be combined to achieve the 40-acre minimum.
- b. Grazing: Minimum parcel size for grazing shall be 40 acres.
 - c. Timber Harvest: Minimum parcel size for timber harvesting shall be 40 acres.

Exceptions to the minimum parcel size requirements may be requested and considered by the Board only if the Agricultural Commissioner determines that the land is highly productive, and that maintaining the property in agricultural production has a significant public benefit.

4. **Contiguous/Non-Contiguous Parcels**

Contiguous parcels may be considered for a single contract provided the parcels are under common ownership and, jointly, may be reasonably used for agricultural purposes. Further, contiguous parcels under common ownership that individually do not meet minimum parcel size requirements may be considered for a single contract.

Parcels are considered contiguous, for purposes of these Rules, if they share a property line or are separated by a road, utility easement or railroad right-of-way.

Contiguous parcels under separate ownership, non-contiguous parcels under common ownership, or non-contiguous parcels under separate ownership may enter into separate contracts, if otherwise eligible under these Rules.

5. **Land Uses**

Two types of uses are permitted on contracted property: Agricultural Uses and Compatible Uses.

a. Agricultural Uses

Contracted lands must be dedicated to the commercial production of agricultural commodities, commercial grazing operation, or timber harvest, as defined, for sale in wholesale or direct marketing channels.

Agricultural commodities shall mean an unprocessed product of farms, ranches, production nurseries and forests.

Agricultural commodities shall include fruits, nuts and vegetables; grains, such as wheat, barley, oats and corn; mushrooms; legumes, such as field beans and peas; animal feed and forage crops, such as grain, hay and alfalfa; seed crops; fiber, bio-fuel and oilseed crops, such as safflower and sunflower; nursery stock, such as Christmas trees, ornamentals and cut flowers; trees grown for lumber and wood products; turf grown for sod; livestock, such as cattle, sheep, alpacas, llamas and swine; poultry, such as chickens, ostriches and emus.

Grazing may be deemed an agricultural use if the land under contract is used for the commercial purpose of pasturing livestock (e.g., cattle). The keeping of horses does not constitute an agricultural use.

Timber harvesting may be deemed an agricultural use if the timber or other forest products harvested occur under an active Non-Industrial Timber Management Plan.

Other agricultural commodities may be accepted by the Board based on a recommendation of the Agricultural Commissioner.

b. Compatible Uses

Compatible uses on contracted lands shall comply with the provisions of Government Code Sections 51238-51238.1 and the underlying land use designation and zoning of the parcel. Compatible uses shall only be allowed when they can be accommodated on a contracted parcel without significantly reducing the amount of land being used for agricultural purposes, or interfering with existing agricultural activities.

(1) Determination of Compatibility (DOC): The Agricultural Advisory Committee will review compatible uses to determine whether the use is compatible with and incidental to the agricultural use on the parcel. If the following criteria can be substantiated, a Determination of Compatibility may be issued.

- (a) The owner must demonstrate that the primary use of the parcel would continue to be existing commercial agriculture.
- (b) The proposed compatible use would not substantially interfere with the existing agricultural use on that particular parcel or any other property within the AGP.

- (c) The proposed compatible use would not hinder or impair agricultural operations in the area by significantly increasing the permanent or temporary human population of the area.
 - (d) The proposed compatible use would not significantly displace or impair current or reasonably foreseeable agricultural operations on the parcel, or any other property within the AGP.
 - (e) The remaining portion of the parcel would be able to sustain the agricultural use.
- (2) Determination of Compatibility Exceptions: A DOC is required for all compatible uses with the exception of the following, provided that the exception does not significantly reduce the amount of land being used for agricultural purposes or interfere with existing agricultural activities. Exceptions to the DOC requirement are subject to review by the Planning Department and may require submittal of a site plan and other supporting documentation.
- (a) Existing single-family residences: repairs, alterations, and additions of 500 square feet or less, or where no footprint expansion is proposed.
 - (b) New small structure construction of 500 square feet or less (e.g., detached garage).
 - (c) Farm labor housing.
 - (d) Keeping of pets in association with a single-family residence, farm labor housing, or multiple-family residence.
 - (e) Septic systems: replacement and repair of existing as required by Environmental Health.
 - (f) Agricultural and domestic wells: replacement and repair of existing as required by Environmental Health.
 - (g) Repair to existing hardscape (e.g., roads, driveways, parking areas).
 - (h) Tree removal, when not in conjunction with a Non-Industrial Timber Harvest Plan.
 - (i) Roof-mounted photovoltaic.
 - (j) Gas, electric, water or other utilities (other than ground-mounted photovoltaic) that are placed above or underground.

(k) Wireless telecommunications facilities.

(l) Fencing.

(3) Maximum Allowance of Compatible Uses

The percentage of compatible uses on contracted lands cannot exceed the percentage of agricultural uses (e.g., crop production, grazing operation, and timber harvesting) and cannot exceed 25 percent of the parcel size.

In calculating the maximum allowance of compatible uses, exclude the following: unpaved roads, farm labor housing, buildings/structures used to support the agricultural use (e.g., barns), and underground utilities.

6. **Income Requirements for Crops and Timber Harvesting**

Property owners must demonstrate that each contracted parcel has met the following minimum annual gross income requirements resulting from the commercial sale of the agricultural commodity, grazing operation or timber harvesting, based on three of the five previous consecutive years prior to entering into a contract. Income requirements must then be met for the duration of the contract.

For multiple parcels under one contract, income requirements will apply to the contracted area and not for each individual parcel.

Income from compatible uses shall not be used to achieve the minimum income requirements.

a. Parcels less than 40 acres shall have an annual gross income of \$10,000.00.

b. Parcels 40 acres and greater:

Prime Soils: Minimum annual gross income shall equal or exceed \$250.00 per acre.

Non-Prime Soils: Minimum annual gross income shall equal or exceed \$37.50 per acre.

Additional Requirement for Timber Harvesting: Timber harvesting must occur under an active Non-Industrial Timber Management Plan.

Exceptions to the income requirements may be requested and considered by the Board only if the Agricultural Commissioner determines that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

7. Land Utilization for Grazing

Property owners must demonstrate that each contracted parcel has met the following minimum requirements resulting from a viable commercial grazing operation based on the three of the five previous consecutive years prior to entering into a contract. Land utilization requirements must then be met for the duration of the contract.

For multiple parcels under one contract, land utilization for grazing requirements will apply to the contracted area and not for each individual parcel.

- a. Seventy-five percent (75%) of the parcel acreage must be used for a viable commercial grazing operation as determined by the Agricultural Advisory Committee and Agricultural Commissioner.
- b. Areas dedicated to grazing must be fenced and adequate water must be available within the fenced area. Fencing must be maintained.

Exceptions to the land utilization for grazing requirements may be requested and considered by the Board only if the Agricultural Commissioner determines that the land is highly productive, and that maintaining the land in agricultural production has a significant public benefit.

B. FARMLAND SECURITY ZONE AREA (FSZA/LCA) CONTRACTS – ADDITIONAL REQUIREMENTS

Property owners may request to enter into a 20-year Farmland Security Zone Area (FSZA/LCA) Contract (Government Code Section 51296, et seq.). Also, property owners already subject to a 10-year LCA Contract or OS/LCA Contract may petition to rescind the existing contract and enter into a new FSZA/LCA Contract. FSZA/LCA Contracts self-renew each year like other contracts. To qualify for an FSZA/LCA Contract, all of the requirements set forth in Uniform Rule 2 must be met.

In addition, the subject property must be designated by the Board as an FSZA. FSZAs shall meet all the following requirements (Government Code Sections 51296.1 and 51296.8):

1. The land must be within an AGP.

2. The land must be designated on the Important Farmland Series Map ("Map") as predominantly one of the following:
 - a. Prime Farmland.
 - b. Farmland of Statewide Significance.
 - c. Unique Farmland.
 - d. Farmland of Local Importance.

If the proposed FSZA is not designated on the Map, the land shall qualify if it is predominately prime agricultural land as defined in Government Code Section 51201(c) (Government Code Section 51296.8).

1. No land shall be included in an FSZA, unless expressly requested by the owner.
2. Any land located within a city sphere of influence shall not be included in an FSZA, unless the creation of the FSZA has been approved by resolution by the city with jurisdiction within the sphere.
3. If more than one owner of contiguous properties requests the creation of an FSZA, the County shall place those properties in the same FSZA.
4. Upon termination of an FSZA/LCA Contract, the FSZA shall simultaneously terminate.

UNIFORM RULE 3: APPLICATION PROCEDURE

In order to enter into a contract, an applicant must follow the procedures below.

A. Application Requirements

1. Application Form

There are two contract application forms: A/LCA and FSZA/LCA Contracts, and one form for OSE Agreements. An applicant must submit the appropriate completed application form and other required information prior to the deadlines set forth in Uniform Rule 3, Section B.1 (below).

2. Supporting Documents

a. All Contracts/Agreements – Required Documents

The following documents must be submitted at the time of application for all contracts or agreements. Separate applications must be submitted if the parcels are under separate ownership. For non-contiguous parcels under the same ownership, one application with separate site plans is required. An incomplete application submittal or insufficient information may cause delays in processing. In all cases, additional documentation may be required to clarify or supplement the application submittal as the contract or agreement is being processed.

- (1) Legal parcel description.
- (2) A site plan, drawn to scale and legible, of the parcel(s) for which the contract or agreement is requested. Site plans will be recorded along with the approved contract or agreement. The following must be shown on the plan(s):
 - (a) Parcel boundaries and dimensions, Assessor's Parcel Number(s), total gross acreage of the parcel(s), zoning designation, parcel address (if applicable), and owner's name and address.
 - (b) Agricultural use area(s), shown outlined and acreage noted (e.g., 10 acres of Brussels sprouts, and 5 acres of cattle grazing).
 - (c) Location, size, and use of all existing and proposed buildings and structures (e.g., residence, fences, and roads).
 - (d) Existing and proposed utilities (e.g., wells).

(e) All watercourses and water impoundments.

b. All Contracts/Agreements – Proof of Legal Parcel

In order to prove parcel legality, one of the following must be submitted for each parcel requesting a contract or agreement: (1) a recorded final or parcel map, or (2) a recorded Certificate of Compliance (Type A or Type B).

If after review of the submitted documents, the parcel is not determined to be legal, a Certificate of Compliance will be required and must be approved and recorded prior to recordation of the contract or agreement. Additional application forms, documentation and fees will be required to process the Certificate of Compliance.

c. A/LCA and FSZA/LCA – Statement of Agricultural Uses

The following must be provided on a separate sheet by the applicant for each parcel.

- (1) Total gross acreage of each parcel and aggregate acreage for multiple parcels, if applicable.
- (2) Total acreage of each parcel currently in agricultural production and acreage by each crop type, grazing operation by heads of livestock and area grazed, and timber harvest by boundaries of active Non-Industrial Timber Management Plan and board-feet harvested per plan.
- (3) Water source and irrigation method.
- (4) Calculations and supporting compliance with Uniform Rule 2, Section A.5.b.2 (*Maximum Allowance of Compatible Uses*).
- (5) Gross Agricultural Income documentation (e.g., Federal Tax Return Schedule F) substantiating compliance with Uniform Rule 2, Section A.6 (*Income Requirements for Crops and Timber Harvesting*) and Section A.7 (*Land Utilization for Grazing*).

3. **Agricultural Preserve/Farmland Security Zone Area**

Prior to entering into a 10-year LCA Contract, the subject property must be within an AGP. If the applicant, in consultation with County Planning and Building Department staff, determines that the property is not within an existing AGP, the application shall include a request to establish or expand an AGP to include the property.

Prior to entering into a 20-year FSZA/LCA Contract, the subject property must be within an AGP and a Farmland Security Zone Area (FSZA). If the applicant, in consultation with Planning and Building Department staff, determines that the property is not within an existing AGP or FSZA, the application shall include a request to establish or expand an AGP or FSZA to include the property.

4. Ownership Report

A preliminary title report prepared by a title company shall be filed with an application for a contract. The report submitted must have been issued no earlier than sixty (60) days prior to the application submittal date. If any changes in the ownership of the property occur between the date of the Ownership Report and the Planning Commission hearing, or the Board of Supervisors hearing, the applicant shall notify the Community Development Director in writing of such changes, and must provide an updated title report.

5. Signature of Owners

All persons, corporations, associations, partnerships, or other entities (except public utilities and public entities) having any right, or title or interest of any kind (except easement interest) in or affecting the surface use (extending to two hundred (200) feet below the surface) of the property proposed for a Contract, are required to sign the application as owners. Signatures must be notarized.

6. Fees

Fees, set by the Board of Supervisors, are required to be paid in full at the time of application. During the course of the contract, if approved, additional fees may be required for compliance review.

B. Processing Applications

1. Filing Deadline

Applications to establish, disestablish, alter or expand the boundary of an AGP or an FSZA, and for new contracts and agreements must be filed with the Planning and Building Department by the first Friday in June. The application must include the required fee in accordance with the most recently adopted Fee Schedule. All required information must be received, and all contract area boundaries finalized, by the first Friday in July (or the following Monday if it falls on a holiday) to allow sufficient time to review and process the contracts and agreements prior to the end of the year. Applications/information received after these deadlines may be returned to the applicant. These deadlines may be extended by the Community Development Director upon written request by the applicant showing that circumstances beyond the

applicant's control prevented submittal of the required application materials by the above deadlines.

2. Review and Approval Process

- a. *Agricultural Advisory Committee:* All applications for LCA and FSZA/LCA Contracts and associated AGP or FSZA boundary changes shall be reviewed by the Agricultural Advisory Committee (AAC) prior to the Planning Commission or Board of Supervisors hearing. Applications for OSE Agreements are not reviewed by AAC.
- b. *Planning Commission:* The Planning Commission shall hold a public hearing on these Rules and proposed AGP/FSZA boundary changes, and make a recommendation to the Board of Supervisors.
- c. *Board of Supervisors:* The Board of Supervisors shall hold a public hearing on these Rules, proposed AGP/FSZA boundary changes, contracts and agreements, and make a final decision to approve, partially approve, or deny each individual agreement or contract and associated AGP or FSZA boundary changes.
- d. *Public Notice:* The legal notice requirements for entitlements shall apply to both the Planning Commission and Board of Supervisor hearings for the processing of contracts. If the applications include a proposal to establish, disestablish, alter or expand the boundary of an AGP or FSZA, at least a two-week notice of the hearing shall be given to the Local Agency Formation Commission (LAFCo) and to every city in the County within one mile of the exterior boundaries of the preserve (Government Code Section 51233).

3. Completion of Contracts

- a. *Signature of Owners:* All persons, corporations, associations, partnerships, or other entities (except public utilities and public entities) having any right, or title or interest of any kind (except easement interest) in or affecting the surface use (extending to two hundred (200) feet below the surface) of the property proposed for a Contract, are required to sign the application as owners. Signatures must be notarized.
- b. *Recordation of Contracts and Agreements:* After the owners and the County have signed the contracts or agreements, the case planner shall cause them, as well as any resolution(s) for associated AGP or FSZA boundary changes, to be recorded in the Office of the County Recorder no later than 20 days after the owners and the County have signed the contracts or agreements.

- c. *Submission of Information on Contracted Property:* Upon the request of the County, each owner shall provide information relating to owner's obligations under the contract or agreement including, but not limited to, a description of existing and planned land uses, structures or agricultural utilization on the contracted property.
- d. *Submission of Completed Agricultural Preserve Questionnaire:* In addition to complying with the information request described in (c) above, each owner of land under contract shall complete an annual Agricultural Preserve Questionnaire and submit it to the County Assessor by the required deadline. Owners of lands under contract or agreement shall provide any/additional information requested by the County related to the assessment of the property.

UNIFORM RULE 4: RESCISSION/REENTRY, NON-RENEWAL AND CANCELLATION REQUESTS

A. Rescission/Reentry

1. Applicability

From time to time, situations will arise in which a landowner wishes to add non-contracted land to an existing contract(s), transfer contracted land from one type of contract to another, or subdivide property that is under an existing contract(s). This is accomplished by rescinding the existing contract(s) and simultaneously reentering into a new contract(s) pursuant to Government Code Section ~~51254~~ 51255, referred to colloquially as “rescission/reentry.” For example, a rescission/reentry may be used to transfer land from an agricultural LCA Contract to an Open Space Easement Agreement. Where property under an existing contract(s) is subdivided into new lots, the contract(s) must be rescinded and new contract(s) must be entered into and the boundaries of the new contract(s) coincide with the boundaries of the subdivided lots. Property may only be subdivided in accordance with Section 66474.4 of the Subdivision Map Act. New contract boundaries must be in compliance with the current Government Code provisions and these Guidelines, and shall not be for less aggregate acreage than originally contracted. All rescission/reentries must be consistent with the Government Code provisions, County General Plan and Zoning Ordinances, Subdivision Ordinance and these Uniform Rules and the findings of the Board.

2. Lot Line Adjustments

Government Code Section 51257 authorizes through January 1, ~~2009~~ 2013, unless extended, rescission/reentry as an appropriate method to facilitate a parcel map waiver/lot line adjustment (PMW/LLA), pursuant to Government Code Section 66412, involving contracted land. Such PMW/LLA requests often involve the exchange of contracted land for previously non-contracted land, or an exchange of land between contracts. In a typical case, the County and landowners mutually agree to rescind an LCA or FSZA/LCA Contract(s), and simultaneously reenter into a new contract(s) to coincide with the new legal lot boundaries.

To approve a rescission/reentry and prior to recording a PMW/LLA, and pursuant to Government Code Section 51257 and these Guidelines, the Board of Supervisors must make all of the following findings:

- a. The new contract(s) would initially restrict land within adjusted boundaries of legal lots for at least ten (10) years for LCA Contracts and at least twenty (20) years for FSZA/LCA Contracts.

- b. There is no net decrease in the amount of the aggregate acreage (total contract acreage combined between the parcels involved in the lot line adjustment) subject to the existing and proposed contract(s).
- c. At least ninety percent (90%) of the originally contracted land is included within a new contract(s).
- d. The resulting legal lot area subject to contract is large enough to sustain qualifying agricultural uses as defined by Section 51222.
- e. The lot line adjustment would not compromise the long-term agricultural production of land within the proposed legal lots or other agricultural lands subject to contract(s).
- f. The lot line adjustment is not likely to result in the removal of adjacent land from agricultural uses.
- g. The lot line adjustment does not result in a greater number of developable legal lots than existed prior to the adjustment or an adjusted lot that is inconsistent with the County General Plan.

Rescission/reentries to accommodate PMW/LLAs on contracted land are subject to Board approval and action (Government Code Section 51257).

3. **Filing Deadline**

Applications for rescission/reentries must be filed with the Planning and Building Department in accordance with Uniform Rule 3, Section B (above).

B. Non-Renewal

Because contracts automatically renew each year, if either the landowner or the County desires to not renew the contract, that party must serve on the other party a written "Notice of Non-Renewal."

If the County serves the notice, the landowner may file a written protest (Government Code Section 51245). An application for a written protest, including all required materials, and processing fees, must be filed with the Planning and Building Department. The signature requirements described in Uniform Rule 3, Section B (above) shall apply to a written protest of a Notice of Non-Renewal.

If the landowner desires to non-renew the contract, an application for a Notice of Non-Renewal, including all required materials and processing fees, must be filed with the Planning and Building Department. The signature requirements described in Uniform Rule 3, Section B (above) shall apply to a Notice of Non-Renewal.

Once a Notice of Non-Renewal is recorded, the contract shall remain in effect for the balance of the period remaining since its previous renewal (9 years – A/LCA Contract; 19 years – FSZA/LCA Contract) (Government Code Section 51246).

An application and fees for a non-renewal must be submitted by October 1 (or the following Monday, if October 1 falls on a weekend) to become effective on the contract renewal date, January 1 (Government Code Section 51245). Because no property would remain under contract, a non-renewal does not require AAC or Planning Commission review, nor does it have to be approved by the Board.

C. Cancellation

A landowner who wishes to terminate a contract without waiting for the non-renewal period to expire may petition the Board to cancel (terminate) the contract pursuant to Government Code Section 51280, et seq. Either the entire contract may be cancelled, or just a portion of the contract. Cancellation requests are often filed in conjunction with applications for land use entitlements, and can be submitted at any time. Cancellation of a contract is extremely difficult. The procedures and requirements for cancellation are briefly summarized below.

The petition for cancellation of a contract must include a proposal for a specified alternative use and the required fee. The Board reviews the petition to determine whether it can make one of the following findings necessary to tentatively approve a cancellation: (1) that the cancellation is consistent with the purposes of the Land Conservation Act, or (2) that cancellation is in the public interest. Government Code Section 51282 elaborates further on specific determinations that must be made to make either of these two overall findings. If cancellation of a portion of a contract is requested, the Board must determine that the portion of the property that would remain under contract complies with the Government Code and these Guidelines.

Upon tentative approval by the Board, a Certificate of Tentative Cancellation (CTC) is executed and recorded. The CTC shall state the conditions that must be satisfied before the contract may be cancelled. Once the conditions are met, the landowner must notify the Board. Within thirty (30) days of the notice and upon determination that the conditions stated in the CTC are satisfied, the Board shall execute and cause a Certificate of Cancellation (CC) to be recorded. The CC is then sent to the State Department of Conservation (Government Code Section 51283.4). If the Board determines the landowner did not satisfy the conditions, it shall execute and cause a Certificate of Withdrawal of Tentative Approval to be recorded. In addition to these provisions, the requirements of Government Code Section 51297 apply to cancellation of an FSZA/LCA Contract.

Cancellation of a contract also requires the property owner to pay a “cancellation fee” (Government Code Sections 51283 and 51297). The required cancellation fee for a 10-year LCA Contract is 12.5 percent of the current fair market value of the property, determined as if the property were free of the contract restriction.

The cancellation fee for a 20-year FSZA/LCA Contract is 25 percent of the current fair market value of the property. This fee is in addition to the application fee required to process the cancellation application.

DRAFT

UNIFORM RULE 5: GUIDELINE FOR EXCHANGE OF AN EXISTING WILLIAMSON ACT CONTRACT FOR AN OPEN SPACE EASEMENT AGREEMENT

Rescission and reentry of contracted lands for Open Space Easement Agreements shall adhere to the California Land Conservation Act of 1965, and subsequent revisions (Government Code Section 51200 et. seq.).

MAR:fc:jhl – MARW0174_WFR.DOCX

DRAFT



County of San Mateo - Planning and Building Department

ATTACHMENT C



DEPARTMENT OF CONSERVATION

Managing California's Working Lands

DIVISION OF LAND RESOURCE PROTECTION

801 K STREET • MS 18-01 • SACRAMENTO, CALIFORNIA 95814

PHONE 916 / 324-0850 • FAX 916 / 327-3430 • TDD 916 / 324-2555 • WEBSITE conservation.ca.gov

August 31, 2012

Ms. Melissa Ross, Planner III
Planning & Building Department
455 County Center, Second Floor
Redwood City, CA 94063

RECEIVED
2012 SEP -4 P 4:33
SAN MATEO COUNTY
PLANNING AND BUILDING
DEPARTMENT

Dear Ms. Ross:

Subject: Proposed Draft of the April 12, 2012 San Mateo County (County) Land Conservation (Williamson) Act Uniform Rules and Procedures.

The Department of Conservation (Department) received the preliminary draft of San Mateo County's Uniform Rules and Procedures for Agricultural Preserves (Rules) for review and comment on April 18, 2012. San Mateo County's Agricultural Advisory Committee (AAC) submitted the updated draft of the Williamson Act Program Uniform Rules and Procedures for Department review in advance of developing a public outreach program scheduled to go live in early Fall of 2012. The Department's Division of Land Resource Protection (Division) administers the Williamson Act and other agricultural land conservation programs. It is the Department's role to provide information and guidance in interpreting the Williamson Act statute (Government Code §51206). We offer the following comments on San Mateo County's proposed uniform rules and procedures draft.

San Mateo County's Agricultural Advisory Committee (AAC) began discussions regarding re-drafting its Land Conservation (Williamson) Act Uniform Rules and Procedures at a meeting held on December 15, 2008, in response to the Department's June 11, 2007 Audit Letter.

The Division's Williamson Act Program auditor conducted an audit of San Mateo County's (County) compliance with the Williamson Act (WA) and the Open Space Subvention Act from March 2007 through May 2007. An audit exit conference was conducted on May 17, 2007 with County personnel, after completion of the audit fieldwork. One of the findings noted in the Department's June 11, 2007 letter advised San Mateo County to update the outdated 1995 version of its Agricultural Preserve's Uniform Rules and Procedures to make them consistent with the most recent Land Conservation (Williamson) Act statute updates (Government Code §§51200 – 51297).

In light of the connection between the 2007 audit and the proposed uniform rules, Department staff Jacquelyn Ramsey telephoned Melissa Ross to request additional time for the Department to complete its review.

Page 1, paragraph 1, sentence 1 under heading Purpose, states, "The San Mateo County Land Conservation Act Uniform Rules and Procedures (Rules) are intended to implement the California Land Conservation Act (LCA) (Government Code Section 15231)..."

The Government Code section identified as "15231" in the document is incorrect. The actual citation should be indicated as Government Code Section 51231.

Page 1, paragraph 3, sentence 1, states, "... use as defined by the Act (see Government code...)." **Add** "...or is enrolled in the USDA's CREP or CRP programs ..." after Act.

Definitions - Page 2, paragraph 2, sentence 1, delete "...may..." and add "...will,"

Page 13, paragraph 1, sentence 1, states, "...the owner must request the Board..."

Government Code §51234 states, "Any proposal to establish an agricultural preserve shall be submitted to **the planning department** of the county or city having jurisdiction over the land."

Page 15, Item 3b. states, "Timber Harvest: Minimum parcel size for timber harvesting shall be 40 acres."

With respect to timberland zoned as timberland production, see Government Code §51246(b) which declares that timber production and lands devoted to timber harvest are excluded from participating under Williamson Act statutes on or after February 28, 1977.

Section 5, Land Uses, states, "Contracted lands must be dedicated to the commercial production of agricultural commodities... or timber harvests..." As stated in the paragraph, noted above, property devoted to timber harvest was excluded from existing contracts and contract renewals on or after February 28, 1977.

Page 16, paragraph 4, states, "Timber harvesting may be deemed an agricultural use...." As noted above **Delete this section to be consistent with §51246 (b)**, which states that timber production and lands devoted to timber harvest are excluded from participating under Williamson Act statutes on or after February 28, 1977.

Page 17, Section 2, Determination of Compatibility Exceptions, Item (e), which states, "Septic systems: replacement and repair of existing as required by Environmental Health" **Add**, "provided the structure is related to agricultural use of the land which includes the owner's or employees' residence."

Page 17, Section 2, item (f), states, "Agricultural and domestic wells: replacement and repair of existing as required by Environmental Health, " **Add**, "provided the structure is related to agricultural use of the land which includes the owner's or employees' residence."

Page 18, Section 6, Income Requirements for Crops, Delete, "...and Timber Harvesting in accordance with Government Code §51246(b) which, states that timber production and lands devoted to timber harvest are excluded from participating under Williamson Act statutes on or after February 28, 1977.

Page 19, Delete, "~~Additional Requirement for Timber harvesting: Timber harvesting must occur under an active Non-Industrial Timber Management Plan.~~" (Per Government Code §51246(b)).

Page 24, Section 3, Completion of Contracts, section b., which states, "Recordation of Contracts and Agreements: **Add**, "No later than 20 days after the owners and the County have signed the contracts or agreements, the Clerk of the Board of Supervisors shall..."

Page 26, Section A., Rescission/Reentry

Under Section 1, **Applicability**, paragraph 1, sentence 2, **Delete, 51254 and Add 51255**. Same section, **sentence 3, Add**, "Property may only be subdivided in accordance with §664744 of the Subdivision Map Act."

Page 26, Lot Line Adjustments, sentence 1, states, "Government Code Section 51257 authorizes through January 1, **Delete 2009, and Add 2013**"

Page 27, Continuing Lot Line Adjustment, item "d", states, "The resulting legal lot area subject to contract is large enough to sustain qualifying uses" **Add** "...as defined by §51222."

Page 31, paragraph 1, sentence 1, states, "The Board of Supervisors... **delete "may"** **Add "shall"** require the Open Space Easement Agreement be recorded as a covenant of deed restriction." (See Government Code **§51087**)

Page 32 under Section C, Limitation of Uses

Add the following language, above item 1, under the heading "Limitation of Uses":
"When a Williamson Act contract is rescinded and the property re-entered into an Open-Space Easement, the requirements of Government Code §51223 apply."

Page 32, create a paragraph at the bottom of the page and insert the following language:

"Compatible uses must comply with Government Code §§ 51238.1 or 51238.2 or consist of, cause, facilitate or benefit Open Space use of the land."

Page 33, under Section 5 Recreational Uses, items "c" and "d"

The Department has concerns about whether these uses are compatible with the intent of the Williamson Act with regard to ancillary structures associated with the recreational use as specifically defined in Government Code §51223 and §51201 (p), which stipulate that uses or development permitted on land subject to contract must satisfy the provisions of Section 51238.1 or 51238.2 for uses consistent with the continuation of the underlying agricultural use on parcels subject to Williamson Act contract. Government Code section 51220.5 requires that the negative impact of a permanent or temporary increase in human population be recognized in determining "compatible uses."

Page 33, under "D" Limitation of Development

When a Williamson Act contract is rescinded and land re-entered into an Open Space Easement; all development must comply with Government Code §51223 and §51201(p).

Page 34, Section 4, Owners of parcels may choose a "no-development" option

The Department advises the County that Government Code §51223 and §51201(p) must be considered with regard to the potential development of all hardscape including residences, accessory structures and recreation facilities. Uses or development defined as "compatible uses" must satisfy the provisions of Section 51238.1 or 51238.2.

Thank you for the opportunity to review San Mateo County's Land Conservation (Williamson) Act Uniform Rules and Procedures. We look forward to receiving a copy of the adopted Land Conservation (Williamson) Act Uniform Rules and Procedures once the process is finalized. If you have any questions regarding our comments or require additional technical assistance, please contact Jacquelyn Ramsey, Environmental Planner at 801 K Street, MS 18-01, Sacramento, California 95814; or phone (916) 323-2379.

Sincerely,



Molly A. Penberth, Manager
Division of Land Resource Protection
Conservation Program Support Unit

cc: San Mateo County Board of Supervisors
County Government Center
400 County Center
Redwood City, CA 94063

San Mateo County Farm Bureau
765 Main Street
Half Moon Bay, CA 94019