



Farmland Preservation Best Practices & Established Programs Summary

AGRICULTURAL MITIGATION PROGRAM & FEASIBILITY STUDY

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INTRODUCTION AND PURPOSE

This report summarizes research on best practices for farmland preservation, discusses the potential for impacts on home prices, and identifies examples of existing programs within the state, with a focus on established programs within the San Joaquin Valley. The information and observations contained in this report will inform the analysis and recommendations provided in the Feasibility Study, including potential key program features for consideration should the City of Visalia elect to move forward with the establishment of an agricultural mitigation program in Phase II: Implementation.

The Feasibility Study will be prepared as a stand-alone document prior to initiating establishment of an Agricultural Mitigation Program. It will determine the feasibility and necessity of an Agricultural Mitigation Plan and identify potential alternatives for City Council consideration.

APPROACH AND ORGANIZATION

This report first summarizes elements of best practice for farmland preservation programs in California. This section draws on arguments and concepts promoted by the American Farmland Trust and the California Council of Land Trusts. A section specific to the relationship between agricultural conservation easements and their impact on home prices is included and summarizes home pricing and cost burden factors. The discussion then turns to case studies that illustrate certain aspects of actual practice by cities and counties seeking to preserve farmland. The case studies were selected from throughout northern and central California, with an emphasis on relevance to the San Joaquin Valley. The order of presentation is based on geography, i.e., distance from the City of Visalia, with the most proximate cases (the City of Tulare and the County of Tulare) presented last.

FARMLAND PRESERVATION BEST PRACTICES

The best practices compiled here represent past practices for establishing agricultural mitigation programs, also referred to as farmland preservation programs. However, recent case law, in particular the King & Gardner Farms, LLC v. County of Kern case from 2020 will influence how agricultural mitigation programs are structured and implemented moving forward. This summary does not attempt to predict how programs will change to reflect this new precedent, but rather reports what previous practice relative to agricultural conservation has been. A more detailed discussion of the impacts of recent case law can be found in the Regulatory Framework.

Successful farmland preservation programs in California are based on assumptions that:

- Farmland is irreplaceable.
- The loss of farmland to development is irreparable.
- Agriculture is an important component to the local, regional, and statewide economy.

- The loss of agricultural land is consistently a significant impact under the California Environmental Quality Act in development projects.
- Most urban uses adjacent to farmland can affect how an agricultural use can be operated, which can lead to conflict and ultimate conversion of agricultural land to urban uses.
- Every effort should be made to guide development away from agricultural lands and encourage efficient development of existing vacant lands and infill properties within an agency’s boundaries prior to conversion of additional agricultural lands.

Multiple mechanisms are used to protect farmland, in addition to the establishment of farmland preservation programs. Many jurisdictions also employ “Right to Farm Ordinances” that protect agriculture from “nuisance suits” by nearby residents. Robust farmland protection policies for cities, counties, and Local Agency Formation Commissions (LAFCo) that are supported by all agencies also promote farmland preservation. Finally, the California Land Conservation Act of 1965, known as the Williamson Act Program, has helped slow the conversion of farmland in California for more than 50 years¹ by reducing the tax liability of farmland.

A primary distinction between farmland preservation programs and other mechanisms is the establishment of a permanent conservation easement to protect farmland. While policies, ordinances, and tax incentives serve to protect or delay farmland conversion for a period, they are not permanent protections.

GOALS, OBJECTIVES, AND ELEMENTS OF FARMLAND PRESERVATION PROGRAMS

Goals

The goals of a farmland preservation program are threefold: to *avoid* impacts of urban development on farmland; to *minimize* urban development impacts; and to *mitigate* the impacts.

- **Avoidance** consists of anticipating and acting to avoid creating adverse impacts to agricultural lands from the outset, such as steering development away from agricultural lands to prevent their conversion to other uses. This most efficiently occurs at the time a city or county is updating its general plan and the issue can be viewed at a regional level, rather than based on an individual proposal.
- **Minimization** consists of measures to reduce the duration, intensity, and significance of the conversion and/or the extent of adverse impacts to agricultural lands (including direct, indirect and cumulative impacts) that cannot be completely avoided.
- **Mitigation** consists of measurable preservation outcomes, resulting from actions applied to geographic areas typically not impacted by the proposed project, that compensate for a project’s impacts to agricultural lands that cannot be avoided and/or minimized. Permanent preservation of farmland of



¹ Williamson Act Program Summary, Department of Conservation website, https://www.conservation.ca.gov/dlrp/wa/Pages/wa_overview.aspx, Accessed October 8, 2020.

equal or greater quality based on one acre preserved for each acre developed is a typical form of mitigation.²

Objectives

- Avoid the premature conversion of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.
- Minimize the potential detrimental effects caused by urban development.
- Provide mechanisms for mitigation of farmland conversion.
- Integrate the farmland preservation program into the development entitlement process.
- Efficiently enforce the farmland preservation program using existing law, regulations, and institutions.

Elements

When a landowner wishes to develop an agricultural parcel to serve residential or other nonagricultural uses, a farmland preservation program is intended to offset this loss. Typically, these programs have required the loss of farmland to be offset by acquiring the development potential of another agricultural parcel that is equivalent in size, soil quality, and access to water through a conservation easement. These programs, in effect, make the conversion of farmland more expensive than developing vacant urban land or redeveloping occupied parcels. The acquisition of potential development rights from the preserved farmland protects that land from development and compensates the owner for the loss of development rights. There are certain key elements that are present in most farmland preservation programs, including:

- **Equivalency criteria.** Parcel size, soil quality, access to water, and similar features of both the converted and preserved land is considered in determining the amount of land required for preservation and if conserved land is permissible under the program.
- **Use restrictions.** Farmland preservation programs restrict the use of conserved land, usually through the establishment of conservation easements.
- **Mitigation triggers.** Each program determines triggers for mitigation requirements. Triggers may include the requirement of a zone change or discretionary permit, the amount of land being proposed for conversion, the project or land use type proposed on the agricultural land, or other similar project features.
- **Conservation ratio.** Farmland preservation programs establish a ratio for the required amount of land conserved to the amount of land converted. While a 1:1 mitigation ratio is the minimum, some programs require higher ratios depending on project location, the quality of converted land, and the proposed use.
- **Mitigation methods.** While easements are the primary mitigation method of most case study programs, alternative in-lieu fees may also be appropriate for inclusion in a farmland preservation program. Some programs only allow the payment of in-lieu fees for part of a project's mitigation measures or only in certain situations (i.e., when specific circumstances make conservation easements infeasible).

² Conservation easements placed on existing agricultural land have been held to no longer be effective mitigation to reduce impacts on farmland conversion under the California Environmental Quality Act (CEQA). See the **Regulatory Framework** for a more detailed discussion on recent case law influencing the use of agricultural conservation easements as mitigation under CEQA.

- **Program administration and implementation.** An entity that has the legal and technical ability should hold and administer the agricultural conservation easements and in-lieu fees. This is typically a local land trust.

OBSERVATIONS

- Prioritizing avoidance of farmland conversion and minimizing the effective loss of farmland are best practice strategies to consider, where feasible, prior to mitigating for the loss of agricultural land.
- While other mechanisms are available to protect or delay farmland conversion for a period, they do not offer the same permanency that establishment of an agricultural conservation easement offers.
- Best practices implemented in the past may not be fully applicable moving forward for those programs established with the express purpose of mitigating the loss of farmland under the California Environmental Quality Act (CEQA). *See the [Regulatory Framework for a more detailed discussion on recent case law influencing the use of agricultural conservation easements as mitigation under CEQA](#).*
- The proximity of conserved land to converted land raises the possibility for a farmland preservation program that does more than just preserve an equivalent amount of farmland. If conserved land is required to be in proximity, it would be possible for a city to develop a partial greenbelt (or farm-belt).
- An entity that has the legal and technical ability to acquire and manage conservation easements should be identified prior to establishing a farmland preservation program. Such trusts complete the legal work of creating and recording the easements. They also have knowledge of property owners willing to sell development rights. The city or county may merely act as broker to the landowner wishing to convert farmland.

FARMLAND PRESERVATION AND HOUSING COSTS

By requiring the acquisition of conservation easements on other agricultural land, additional costs will be incurred by the developers proposing conversion of farmland. It is reasonable to expect that some or all of these costs will be passed on to homebuyers. Understanding these additional costs will provide greater insight into the feasibility of an agricultural mitigation program.

HOME PRICING FACTORS

With limited data available for locationally specific home price information, it is difficult to evaluate what direct impact, if any, establishment of an agricultural mitigation program has on home prices. As part of our due diligence effort to research available data, Multiple Listing Service (MLS) data on median existing home sales prices were obtained for unincorporated Tulare County for two years prior to the adoption of the County's Agricultural Easement Program (ACEP), i.e., 2014 and 2015. Data were also obtained for the year the ACEP was adopted and the following year, i.e. 2016 and 2017. Results are shown in **Table 1**. While

the MLS does not contain home price information on new home sales, there could be some residual effect on existing home prices.

Table 1. Median Existing Home Prices Unincorporated Tulare County

Year	Median Price ³
2014	\$ 170,000
2015	\$ 165,000
2016	\$ 200,000
2017	\$ 177,500

While it is striking that home prices increased by a substantial 18 percent in 2016, the year the ACEP was adopted, this almost certainly had little to do with the ACEP. 2016 saw more sales of larger, higher-priced houses than in prior years. The median price per square foot increased by only 6 percent, indicating that most of the increase was due to the size of homes sold. The following year's (2017) median price of \$177,500 is just 4.4 percent above the 2014 median price of \$170,000, which suggests that 2016 was an unusual year.

Home prices are influenced by many factors: the overall economy, interest rates, the amount of new and existing housing on the market, etc. Examining home prices at any given point in time does not isolate the effect of an agricultural preservation program on the price of homes. Considering the ACEP program has been used only a few times (two projects have used ACEP to date, with a third project in process), the expected impact on overall home prices is minor.

A better approach would be to calculate the cost per acre of obtaining an agricultural conservation easement and dividing this cost by the units per acre proposed for development, to obtain the net additional cost per housing unit. However, these factors will fluctuate for each project at any given time as the number of acres of farmland being converted is locationally specific, the cost per acre of agricultural land at the time of acquisition is market specific, and the number of units proposed is project specific. The relationship of how the various factors relate to one another and would generally impact the per unit cost burden for a specific project indicates that those project with more farmland converted, the higher the price of agricultural land, and the lower number of dwelling units to spread cost over, the higher the cost burden is anticipated to be on a per unit basis (see figure below).



³ Data provided by Gene Vang MLS Operations Director - Tulare County MLS, Tulare County Association of Realtors.

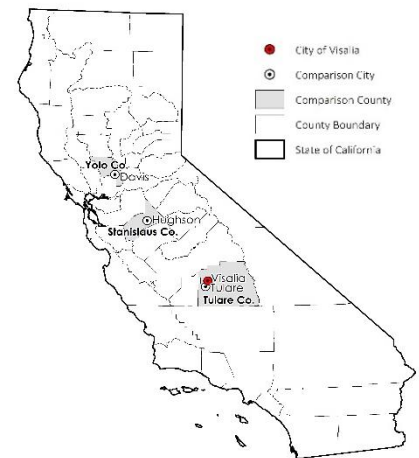
OBSERVATIONS

- The number of factors that influence housing prices, limited use of the established farmland preservation programs, and the limited availability of project specific data relative to home prices don't allow for a detailed understanding of the impact such programs have on housing prices. Anecdotally, establishment of a requirement for agricultural conservation easements, whether through direct purchase or payment of an in-lieu fee, will increase housing costs; however, the specific impact cannot be calculated except on a project-by-project basis.
- Based on the relationship of factors noted above, including number of acres converted, the cost of agricultural land at the time of acquisition, and the number of housing units within a project, it is reasonable to infer that projects located in areas within the Prime and Farmland of Statewide Importance categories and those proposed at lower densities will experience a greater cost burden should a requirement for agricultural easements be established.

ESTABLISHED FARMLAND PRESERVATION PROGRAMS

This section summarizes six established farmland preservation programs in California (see inset for locations). The summaries of each are organized based on geography, i.e., distance from the City of Visalia, with the most proximate cases (the City of Tulare and the County of Tulare) presented last.

In addition to the individual program summaries, a direct comparison of key program features is shown in **Table 3** at the end of this section. Also included are key observations based on the information collected about the farmland preservation programs.



CALIFORNIA FARMLAND PRESERVATION PROGRAMS

Yolo County

Key Program Facts

- **Date of program establishment.** 2008; strengthened in 2016.
- **Ratio of acres conserved versus converted.** Generally, 3:1.
- **Program management and administration.** County Department of Building and Planning; Yolo County Land Trust.
- **Area of applicability.** Unincorporated Yolo County.
- **Amount of in-lieu fee established.** \$10,100 per acre protected.

Program Summary

Agricultural mitigation in Yolo County is required for land changed from an agricultural use to a predominantly non-agricultural use. There is no minimum parcel size. Mitigation is required concurrent

with approval of a zoning change from agricultural to urban zoning, permit, or other discretionary or ministerial approval by the County. With few exceptions (e.g. affordable housing projects) projects that convert prime farmland must preserve a minimum of three (3) acres of agricultural land for each agricultural acre converted, with locations specified by the County. Thus, the County maintains a 3:1 preservation ratio when prime farmland is being converted. For projects that convert non-prime farmland, a minimum of two (2) acres of agricultural land must be preserved, resulting in a 2:1 ratio. Projects that convert a mix of prime and non-prime lands must mitigate at a blended ratio that reflects the percentage mix of converted prime and non-prime lands within project site boundaries.

There are also provisions for reduced ratios for preservation of land in close proximity to a City Sphere of Influence (SOI) or the Urban Growth Boundary (UGB) of the lone unincorporated community, Esparto. A 2:1 ratio is acceptable when all or part of the preserved land is within tow 2 miles of a SOI/UGB; within 0.25 miles a 1:1 ratio is sufficient.

Projects of under 20 acres may pay in-lieu fees per **Table 2**.

Table 2: Yolo County In-lieu Fee (2020)

Cost Component	Per Acre Fee
Easement Acquisition Cost	\$8,400
Transaction Cost	\$420
Monitoring Endowment	\$880
Administrative Costs	\$280
Contingency	\$115
Total (rounded)	\$10,100

Source: Table 7, Yolo County Agricultural Mitigation Fee Analysis, Economic and Planning Systems, August 7, 2007

City of Davis

Key Program Facts

- **Date of program establishment.** 1995; strengthened in 2007.
- **Ratio of acres conserved versus converted.** Generally, 2:1.
- **Program management and administration.** Department of Community Development and Sustainability. Yolo County Land Trust.
- **Area of applicability.** Davis Planning Area.
- **Amount of in-lieu fee established.** Case-by-case based on the appraised value of agricultural land near the city limits.

Program Summary

In 1995, the City of Davis in Yolo County approved the Right to Farm and Farmland Preservation Ordinance (Ordinance 1823). The first municipal ordinance of its kind, it has spawned similar farmland protection efforts in California and in other states. The main goals of the ordinance are to:

- Preserve and encourage agricultural land use and operations within the Davis Planning Area.
- Reduce the occurrence of conflicts between agricultural and non-agricultural land uses.

- Reduce the loss of agricultural resources by limiting the circumstances under which agricultural operations may be deemed a nuisance.

The Farmland Preservation Ordinance mitigation program requires applicants to provide agricultural mitigation for any action that results in the conversion of agricultural land to a nonagricultural use. To achieve the ordinance's objectives, the City Council included two key requirements for developers that are proposing to convert land from agricultural uses to non-agricultural uses if their project is adjacent to agricultural land. These requirements, which were updated by the City Council in 2007, are:

- Required Agricultural Buffer. The developer must provide an agricultural buffer (i.e., an agricultural transition area, greenbelt, or habitat area) that is at least 150 feet wide between their project and the adjacent agricultural uses.
- Required Agricultural Mitigation. Developers must also secure (through fee title or easement) at least two acres of agricultural land elsewhere within the Davis Planning Area to “mitigate” for every acre of agricultural land lost due to their project (excluding the required agricultural buffer mentioned above). Mitigation lands are first directed to the newly created agricultural edge of the development project (i.e., the non-urbanized edge) to create a permanent edge of the City. This non-urbanized edge conservation area must be of a size that is economically viable as farmland (a minimum 1/4 mile in width). If additional mitigation acreage is required after the non-urbanized edge is secured, the developer is incentivized to secure lands that have been prioritized by the City for permanent protection. For example, if a project results in the permanent loss of 100 acres of agricultural land and the establishment of the non-urbanized edge requires 75 acres, the developer has the option to locate the remaining mitigation acreage anywhere in the Davis Planning Area, with credit determined by where the remainder acreage is located. If the remainder acreage is located in a priority acquisition area, less acreage is required; if the remainder acreage is located in a non-priority area, more acreage is required.

The developer is not required to mitigate for the agricultural buffer mentioned above. However, the developer cannot count the agricultural buffer toward the acreage the developer is required to mitigate.

- In-lieu fees: Mitigation can be accomplished by granting a conservation easement to the City on the 2:1 basis described above, or by payment of a fee to the City for the purchase of a conservation easement, also on a 2:1 basis. A developer may satisfy up to 50% of the non-adjacent agricultural land mitigation requirement by paying an in-lieu fee based on the appraised value of agricultural land near the city limits. The in-lieu fee has not been used to date because the only two projects since 2007 subject to mitigation used conservation easements to entirely satisfy their mitigation requirements.

In a case where in-lieu fees were to be used, the City would implement the mitigation measure at the time of development approval. The Yolo County Land Trust would acquire and hold the easements and the City would act as the mitigation bank for in-lieu fees.

Stanislaus County

Key Program Facts

- **Date of program establishment.** 2007.
- **Ratio of acres conserved versus converted.** 1:1.
- **Program management and administration.** Community Development Department; Stanislaus County Land Trust or other Qualified Land Trust.
- **Area of applicability.** Unincorporated Stanislaus County.
- **Amount of in-lieu fee established.** Not established.

Program Summary

In 2007 Stanislaus County updated its Agricultural Element that had been in place since 1992. The new element included a Farmland Mitigation Program (FMP) requiring developers to mitigate the loss of farmland by acquiring agricultural easements of one acre per every acre converted by the project or by paying fees to enable land trusts to do so. For development proposals converting 20 or fewer acres, the mitigation program allows for either direct acquisition of a conservation easement on comparable lands, or the purchase of banked credits. If a developer of a parcel of fewer than 20 acres can demonstrate that no comparable land was available for conservation easement and no credits were available, a fee in lieu of purchase can be paid. For parcels of greater than 20 acres, purchase of a conservation easement on comparable lands is required. The developer is solely responsible for negotiating and settling the easement purchase.

In 2010, the Building Industry Association (BIA) challenged Stanislaus County's mitigation policy. The trial court sided with the BIA, but the Fifth District Court of Appeal ultimately upheld the policy. The California Farm Bureau Federation and others were interveners in support of the County. [See the Regulatory Framework for a more detailed discussion of this case.](#)

The County's Local Agency Formation Commission (LAFCo) has also incorporated mitigation into a new policy. The LAFCo policy, adopted in 2012, requires cities to prepare a Plan for Agricultural Preservation before they annex more land or expand their spheres of influence. To get LAFCo approval, plans may propose actions such as reducing the size of spheres, farmland mitigation, and urban growth boundaries. Additionally, cities must demonstrate that they have not allocated more farmland to development than is necessary for the amount and type that is likely to occur. Though similar policies have been adopted in Napa, San Luis Obispo, Santa Clara, Ventura, and Yolo, this is first such LAFCo policy in the San Joaquin Valley.

An in-lieu fee has not been established and the program does not appear to have been used to date. The FMP specifies that an in-lieu fee should be no less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County.

City of Hughson

Key Program Facts

- **Date of project establishment.** 2013.
- **Ratio of acres conserved versus converted.** 2:1.

- **Program management and administration.** Community Development Department; Qualified Land Trusts.
- **Area of applicability.** City's Sphere of Influence.
- **Amount of in-lieu fee established.** Not established.

Program Summary

In 2013 the City of Hughson's City Council passed a farmland mitigation program requiring permanent preservation of two acres of farmland for every one acre of land converted for residential use. Conversions of land for commercial or industrial development do not have the same requirement as those for residential use.

The express purpose of the FPP is to slow the loss of farmland resulting from urban development and to require the permanent protection of farmland at a 2:1 ratio of agricultural to residential uses. The FPP is designed to utilize agricultural conservation easements or other means granted in perpetuity as a means of minimizing the loss of farmland.

This program establishes standards for the acquisition and long-term oversight of agricultural conservation easements purchased in accordance with the FPP. The preferred location for agricultural easements is within Stanislaus County, one-half mile outside any Sphere of Influence. It is purposely patterned after the Farmland Mitigation Program adopted by Stanislaus County for ease of future coordination between jurisdictions. As of September 2020, Hughson's FPP has not been used.

An in-lieu fee has not been established since the program does not appear to have been used to date. Like Stanislaus County, the FPP specifies that an in-lieu fee should be no less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County.

City of Tulare

Key Program Facts

- **Date of program establishment.** 2020.
- **Ratio of acres conserved versus converted.** 1:1 minimum.
- **Program management and administration.** Community Development Department.
- **Area of applicability.** Within the city's urban development boundary (UDB) and outside the city limits.
- **Amount of in-lieu fee established.** Not established.

Program Summary

In February 2020, the City of Tulare adopted a Farmland Mitigation Ordinance (FMO). The stated objectives of this ordinance are to:

- (A) Protect agriculture as a crucial component of Tulare's economy and cultural heritage.
- (B) Protect and preserve agricultural lands from the effects of urban encroachment.
- (C) Balance the need for agricultural land conservation with other public goals in Tulare, including the need for housing, commercial, industrial, and infrastructure development.

- (D) Foster coordination and cooperation by the City of Tulare with the County of Tulare, Local Agency Formation Commission, and neighboring cities, including the City of Visalia, to facilitate an integrated and comprehensive regional approach to agricultural land conservation.⁴

The FMO applies to most development of one acre or greater; however, public parks or public recreational facilities, permanent natural open space, and trails and developed open space that are open to the public are exempt. The mitigation land must be located in the San Joaquin Valley, outside of any city's limits or sphere of influence, with preference given to mitigation land within ten miles of the City of Tulare limits.

In-lieu Fees

In-lieu fees are allowed only for conversions of under 20 acres, and then only if the applicant has met with all qualified entities and all such entities have certified in writing to the City of Tulare that they are unable or unwilling to assist with the acquisition of an agricultural conservation easement. The in-lieu fee is not set but, per the ordinance, it must cover all reasonable costs of acquiring a conservation easement and monitoring its implementation. More specifically the ordinance states:⁵

Any in-lieu fee shall include each of the following components:

- (1) The purchase price of an agricultural conservation easement in mitigation land that complies with all the requirements in §10.222.070 "Requirements for mitigation land and agricultural conservation easements". This component shall be adjusted for inflation based on estimate of the time required to acquire mitigation land following payment of the fee.
- (2) All transaction costs associated with acquisition of the agricultural conservation easement.
- (3) An amount sufficient to endow the cost of monitoring, administering, and enforcing the agricultural conservation easement in perpetuity.
- (4) The applicant's pro rata share of the qualified entity's administrative costs in implementing the in-lieu fee program.
- (5) A reasonable amount to cover additional contingencies.

Mitigation Land

The agricultural conservation easement prohibits the landowner from entering into any additional easement, servitude, or other encumbrance that could prevent or impair the potential agricultural use of the mitigation land. It is not clear if a one-year agreement to keep land fallow would represent such an encumbrance.

Projects Using the FMO

City of Tulare staff report that as of October 2020, two annexation projects subject to the FMO are under way:

Fernjo Estates Project: This project involves the development of 80 single-family residential units on approximately 18-20 acres. Since this was an annexation proposing the conversion of Prime Farmland to

⁴ §10.222.030, Farmland Mitigation Ordinance

⁵ §10.222.060, Optional mitigation alternatives.

non-agricultural use, this project was approved with the condition of mitigating the acreage on a 1:1 basis through establishment of an agricultural conservation easement on equivalent land.

The project proponent is a farming family and has chosen to establish an agricultural conservation easement on another property it owns in the area. It has been working with Sequoia Riverlands Trust (SRT), the local land trust, to establish this conservation easement. The SRT acknowledges that when an applicant has other farmland it already owns, it simplifies and reduces the time and cost of processing. One of the family members is a knowledgeable real estate broker and that too is facilitating the conservation easement.

Cartmill Crossings Project: This is a multi-use/mixed-use project made up of commercial development and a mix of residential uses (single-family and multi-family) on approximately 120 acres. Compared to the Fernjo Estates Project, which is much more defined and included a tentative map for a single-family subdivision, this project is less defined and is more of a conceptual long-term development plan.

This project would also be subject to farmland mitigation on a 1:1 ratio for the conversion of farmland. The project proponent has made initial inquiries into SRT.

Tulare County

Key Program Facts

- **Date of program establishment.** 2016.
- **Ratio of acres conserved versus converted.** Generally, 1:1 for similar soil quality.
- **Program management and administration.** Tulare County Resource Management Agency.
- **Area of applicability.** Unincorporated Tulare County, parcels of 5 acres or more of prime or unique farmland, or farmland of statewide importance.
- **Amount of in-lieu fee established.** Not established. In-lieu fees have been discussed in relation to two projects, but no negotiated amounts have determined.

Program Summary

Tulare County established its Agricultural Conservation Easements Program (ACEP) in May 2016 by resolution of the Board of Supervisors. The ACEP was prompted by a lawsuit by the Sierra Club over the 2012 County General Plan. The program requires conservation easements as mitigation for land converted to non-agricultural use. It applied to parcels of five (5) acres or more in the unincorporated areas of the County. Protected land includes Prime Farmland, Unique Farmland, or Farmland of Statewide Importance as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency.

Generally, a 1:1 ratio of conserved land to converted land is used. Adjusted ratios are possible when there are differences in soil quality between the converted and conserved land.

Preferably the easement will be located in Tulare County, but other suitable land may be preserved subject to approval by the Board of Supervisors. The easement may include Prime Farmland, Unique Farmland, or Farmland of Statewide Importance.

The County ACEP has been used three times to date, with one project currently under way. Two other projects have initiated negotiation of in-lieu fees but have not completed the process. The establishing

resolution states that in-lieu fees should be sufficient to purchase a farmland conservation easement, farmland deed restriction, or other farmland conservation mechanism as a condition of approval for conversion of important agricultural land to non-agricultural use

OBSERVATIONS

- Three of the six case study programs require mitigation ratios of 2:1 or higher.
- Most of the case study programs require mitigation for projects of one acre or more, with Tulare County being the exception and requiring mitigation for projects of five acres or more.
- Some of the programs identify exemptions from mitigation requirements based on project type (e.g., affordable housing) or amount of farmland being converted (i.e., project is converting less than five acres of farmland). Other programs identify reduced mitigation requirements for certain project types (e.g., commercial or industrial).
- Most of the case study jurisdictions either require or prefer mitigation land to be acquired in the same county.
- In-lieu fees are currently in the range of one-third to one-half the value of the land. Yolo County's per acre fee of \$10,100 per acre is the only published in-lieu fee that could be identified.
- All programs make use of a qualified entity, generally a non-profit land trust, to play the lead role in creating agricultural conservation easements. The land trust is also responsible for monitoring and enforcing the easements.
- There are a number of land trusts dedicated to acquiring and holding conservation easements on agricultural land.

Table 3: Comparison of Farmland Preservation Programs

Program Attributes	Yolo County	City of Davis	Stanislaus County	City of Hughson	City of Tulare	Tulare County
1 Date Program Established	2008; 2015	1995; 2007	2007	2013	2020	2016
2 Area of Applicability	Unincorporated County Outside City SOI	Urban/Rural Edge	Stanislaus County	Within City's SOI with Annexation	Within the city's urban development boundary (UDB) and outside the city limits	Unincorporated County
3 Program Management and Administration	Department of Community Services	Department of Community Development and Sustainability	Planning and Community Development Department	Planning Department and Planning Commission	Community Development Department	Resource Management Agency (RMA)
4 Qualifying Entity Holding Easements	Yolo Land Trust	Yolo Land Trust; Solano Farm and Open Space Trust. Others subject to City Council approve	Stanislaus County Land Trust	A qualified Land Trust	An entity qualified and approved to hold agricultural conservation easements	A Qualifying Entity
5 Soil Quality	All Farmland	All Farmland	Prime Farmland, Farmland of Statewide Importance, or Unique Farmland	Equal to or better than the farmland proposed for conversion	Equal to that of the critical farmland proposed for conversion	Prime Farmland, Farmland of Statewide Importance, or Unique Farmland
6 Minimum Parcel Size	No minimum	No minimum	No minimum	One acre or greater converted to residential use	One acre or greater	5 acres
7 Implementation Measures	Department of Community Services administers; Monitoring, enforcing, and reporting by the Yolo Land Trust	Since 2007 Projects converting agricultural land must be approved by Davis voters (ballot measure)	Monitoring, enforcing, and reporting by the Land Trust	Monitoring, enforcing, and reporting by the Land Trust	Monitoring, enforcing, and reporting by the Qualified Entity	Annually the Tulare County Resource Management Agency shall review the reports submitted to it by the Qualifying Entity as well as any other relevant material. The RMA shall prepare an Annual Report that provides an independent assessment of the effectiveness of the ACEP relative to its purpose
8 Farmland Mitigation Ratios: Preserved Land: Converted Land	3:1 prime /2:1 nonprime; preferred locations credited at ratios of 2:1 or 1:1	2:1 generally; depending on location can be from 1:1 to 5:1	1:1	2:1	1:1	1:1
9 Methods of Conservation/Mitigation	Direct Conservation Easement Acquisition (In-Kind Acquisition). Can pay In-Lieu Fees if less than 20 acres	Direct Conservation Easement Acquisition. Projects over 40 acres must do mitigation on adjacent property; in lieu fees can apply to 50% of remainder of mitigation obligation.	Less than 20 acres by direct acquisition of an agricultural conservation easement or purchase of banked mitigation credits. 20 acres or more in size, farmland preservation shall be satisfied by direct acquisition of a farmland conservation easement.	Less than 20 acres by direct acquisition of an agricultural conservation easement or purchase of banked mitigation credits. 20 acres or more in size, farmland preservation shall be satisfied by direct acquisition of a farmland conservation easement.	Direct Conservation Easement Acquisition (In-Kind Acquisition) and In-Lieu Fees if less than 20 acres	The applicant shall pay directly to the Qualifying Entity reasonable administrative fee equal to cover the reasonable real estate transaction costs and costs of administering, monitoring, and enforcing the farmland conservation easement
10 Amount of In-lieu Fee Established / Process for establishing In-lieu Fee	\$10,100 / acre; \$30,300 for triple mitigation	Would be based on ag land at city limit; \$23,000 recent price/acre. Easements valued at \$7,000 to \$10,000 per acre. In-lieu fees not used to date	No less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County	No less than 35% of the average per acre price for five (5) comparable land sales in Stanislaus County	Shall be sufficient to cover the cost of acquiring, managing, and administering an equivalent easement	The in-lieu fee or other conservation mechanism shall recognize the importance of land value and shall require equivalent mitigation

Program Attributes		Yolo County	City of Davis	Stanislaus County	City of Hughson	City of Tulare	Tulare County
11	Location of Agricultural Preservation Lands	Within two miles of a City SOI/Esparto Urban Growth Boundary	Davis Planning Area	Stanislaus County	Stanislaus County	The mitigation land is located in the San Joaquin Valley, outside of any city's limits or sphere of influence, with preference given to mitigation land within ten miles of the City of Tulare limits	Tulare County is the preferred location of mitigation land; land outside Tulare County may be allowed subject to approval by the Board of Supervisors
12	Legal Instruments for Encumbering Agricultural Preservation Land	Held in trust by the Land Trust in perpetuity	Held in trust by the Land Trust in perpetuity	Held in trust by the Land Trust in perpetuity	Held in trust by the Land Trust in perpetuity	Agricultural conservation easements in mitigation land shall be held in perpetuity by a qualified entity	Agricultural conservation easements in mitigation land shall be held in perpetuity by a qualifying entity
13	Monitoring, Enforcing, and Reporting	The Yolo Land Trust shall monitor all lands and easements acquired. Community Services Department makes an annual report delineating the activities undertaken in previous fiscal year	The Yolo Land Trust shall monitor all lands and easements acquired. City will from time to time report delineating activities undertaken	The Land Trust shall monitor all lands and easements acquired, with an annual report delineating the activities undertaken	The Land Trust shall monitor all lands and easements acquired, with an annual report delineating the activities undertaken	The qualified entity shall monitor the use of all mitigation land subject to agricultural conservation easements held by the entity and enforce compliance with the terms of those agricultural conservation easements	The qualifying entity shall monitor the use of all mitigation land subject to agricultural conservation easements held by the entity. It shall also enforce compliance with the terms of the conservation easements or other agricultural mitigation instruments
14	Stacking of Conservation Easements	Not allowed except for certain habitat easements on no more than 5% of agricultural easement	Not allowed except for certain habitat easements on no more than 5% of agricultural easement	Allowed - Ensure the stacking will not be incompatible with the maintenance and preservation of economically sound and viable agricultural activities and operations	May be allowed if approved by the City Council, provided the habitat needs of the species addressed by the conservation easement shall not restrict the active agricultural use of the land	Stacking of easements not mentioned in Ordinance	Stacking of easements not mentioned in Resolution
15	Properties Eligible for Protection	Within two miles of a City SOI/Esparto Urban Growth Boundary; closer-in credited at 1:2 or 1:1	Davis Planning Area; adjacent to property if 40 acres or more land converted. Land remote from City limit credited at 5:1	Land shall be: (1) located in Stanislaus County; (2) designated agriculture by the land use element of the Stanislaus County general plan; (3) zoned A-2 (general agriculture); and (4) located outside a local agency formation commission (LAFCO) adopted sphere of influence of a city	Land shall be: (1) located in Stanislaus County; (2) designated agriculture by the land use element of the Stanislaus County general plan; (3) zoned A-2 (general agriculture); and (4) located outside a local agency formation commission (LAFCO) adopted sphere of influence of a city	in the San Joaquin Valley, outside of any city's limits or sphere of influence, with preference given to mitigation land within ten miles of the City of Tulare limits	In Tulare County preferred. Board of Supervisors may approve easement on land outside of County