



**A Proposal to Establish an**  
**AGRICULTURAL**  
**CONSERVATION EASEMENT**  
**PROGRAM**  
**in Santa Clara County**

**Final Report of the**  
**Santa Clara County Agricultural Conservation Easement Task Force**

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**April 2000**



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## INTRODUCTION

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### **The Santa Clara County Agricultural Conservation Easement (ACE) Project aims to keep agriculture a viable industry in Santa Clara County.**

Agricultural Conservation Easement programs, in a nutshell, involve the voluntary purchase or donation of development rights from willing sellers to public agencies or nonprofit organizations for lands that are to remain in agricultural use. Through easement agreements, the farmers and ranchers continue to own and use the property for agricultural purposes but are not allowed to develop the property with non-agricultural uses.

This report includes background information and recommendations regarding the development of an Agricultural Conservation Easement Program for Santa Clara County from the Santa Clara County Agricultural Conservation Easement (ACE) Project Task Force. These recommendations were developed over a series of public workshops held between January and August of 1999. The workshops were facilitated by the American Farmland Trust.

The Task Force was made up of a broad base of interests including property owners, farmers, local governments, special districts, and other community organizations. The objective of the Task Force was to develop a strategy and implementation plan for conserving agricultural land and open space in Santa Clara County through the acquisition of agricultural conservation easements. An implementation workgroup of the Task Force will continue to meet regularly over the next 18-24 months to

monitor progress on the establishment of ACE Programs in Santa Clara County.

The Santa Clara County ACE Project has been made possible by an Agricultural Land Stewardship Program Grant from the State Department of Conservation and the joint efforts of Greenbelt Alliance, the Santa Clara County Farm Bureau and the Santa Clara County Planning Office. The Santa Clara County Farm Bureau, Greenbelt Alliance, and the Santa Clara County Planning Office originally sought this grant in December of 1997 in order to expedite the implementation of "Strategies for Planned Growth and Agricultural Viability," a policy document adopted in late 1996 by the City of Gilroy, Santa Clara County and Santa Clara County Local Agency Formation Commission (LAFCO).

### **Santa Clara County agriculture needs new tools to meet new challenges.**

Agriculture in Santa Clara County faces many challenges that threaten its economic viability. The multiple benefits of agriculture will be lost forever if we, as the community of Santa Clara County, do not continue to take deliberate steps to stop the loss of agricultural lands and reverse the downsizing of the agricultural economy. Numerous local plans and studies, including the County's General Plan, have recommended the establishment of agricultural conservation easement programs as an additional tool for maintaining agriculture in the long term.





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### **Agricultural Conservation Easements can help protect Santa Clara County's remaining farmlands and ranchlands.**

A conservation easement is a deed restriction landowners voluntarily place on their property to protect resources such as agricultural land, ground and surface water, wildlife habitat, historic sites or scenic views. They are used by landowners (grantors) to authorize a qualified conservation organization or public agency (grantee) to monitor and enforce the restrictions set forth in the agreement.

Conservation easements are flexible documents tailored to each property and the needs of the individual landowners. They may cover one or more parcels or portions of a parcel. The landowner usually works with the prospective grantee to decide which activities should be limited to protect specific resources. Agricultural conservation easements (ACEs) are designed to keep land available for farming and ranching by restricting the development of non-agricultural uses.

Most ACE programs deal with easements dedicated in perpetuity. Although, there have been cases where easements have been dedicated for a specific time period. Time easements place a burden on future generations that have to find money to continue to preserve the property, once the time easement expires.

ACE acquisition programs compensate property owners for restricting the future use of their land. This compensation comes in the form of either direct

monetary compensation or tax benefits derived from the charitable contribution of these rights or a combination of the two, referred to as a "bargain sale". ACE acquisition programs are based on the concept that property owners have a bundle of different rights subject to reasonable local land use regulations, including the rights to:

- use the land,
- lease, sell and bequeath it,
- borrow money using it as security,
- construct buildings on it,
- extract mineral resources
- protect it from development.

After selling a conservation easement, the landowner retains all of these rights of ownership, that are not specifically restricted by the easement. Typical restrictions include the right to subdivide or develop the property for non-agriculture purposes.

Landowners voluntarily sell or donate agricultural conservation easements to a government agency or private conservation organization such as the local land trust. In cases where the agricultural conservation easement is purchased, the agency or organization usually pays the landowner the difference between the value of the land for agricultural use and the value of the land for its "fair market value" (generally considered to be residential or commercial development).



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Easement prices are established by an appraiser, or a local easement valuation point system. Typically ACE acquisition programs consider soil quality, threat of development and future agricultural viability when selecting farms and ranches for protection.

Agricultural conservation easements give grantees the right to prohibit land use activities that could interfere with present or future agricultural uses. Terms may permit the construction of new farm buildings and housing for farm workers and family members. Easements run with the land, binding all future owners unless the document establishing the easement provides that the covenant may be terminated for cause or at the end of a specified period of time.



### **Agricultural Conservation Easements benefit property owners and the community.**

The benefits to the property owner of these types of programs include:

- Lower estate tax liability and easier intergenerational transfer of property,
- Access to a fair percentage of the equity in their land, and
- Alternative management options for farmers, ranchers and property owners through increased access to capital.

ACE Programs benefits the community by:

- Improving the ability of local governments to direct growth,
- Providing greater predictability about the direction of growth which facilitates long term agricultural planning,
- Insulating urban residences from incompatible farm activities,
- Maintaining private land ownership and management
- Protecting open space as well as agricultural lands, and
- Stimulating local agricultural related industries through the reinvestment of ACE acquisition funds.



## ELEMENTS OF A SUCCESSFUL ACE PROGRAM FOR SANTA CLARA COUNTY

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The following section outlines ten important elements of an Agricultural Conservation Easement Program for Santa Clara County including:

- Implementing Agencies / Organizations
- Program Goals
- Funding
- Stakeholder Involvement
- Acquisition Priorities and Criteria
- Administrative Procedures
- Outreach to Landowners
- Supportive Local Land Use Policies
- Monitoring Program
- Pilot Project(s)

These recommendations are based on what the Task Force has learned by examining existing ACE programs and consulting with experts in the field. It is expected that the implementing organizations will adapt these recommendations to their own programs, funding sources and capabilities. It is also expected and recommended that the program be field tested by the implementing organizations and modified to adapt to unforeseen situations and individual needs. These recommendations are general and attempt to address the typical situations that may be encountered by program administrators. Any program should include flexibility however, in order to take advantage of unique opportunities to protect important lands and to respond to the specific financial situations of individual farmers and ranchers.

The test of success in the short run will be whether or not the program attracts interested farmers and ranchers. Long term success of this and related programs will be measured by the quantity of agricultural land saved and ultimately the continued prosperity of the agricultural economy in Santa Clara County.



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## **Implementing Agencies and Organizations**

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### **Background:**

There are potentially a number of government and non-profit agencies which could develop and implement an agricultural conservation easement program.

The Santa Clara County Open Space Authority seems to be the most appropriate agency to take a lead role in the implementation of this program. The Open Space Authority is in the best position to pursue an ACE Program at this time, as it has an existing, reliable funding source. The Land Trust for Santa Clara County is also expected to be a valuable partner of the Open Space Authority and play an integral role in the implementation of ACE programs in Santa Clara County. In addition, other public and private organizations such as the Santa Clara County Parks Department, as part of its charter, or the Santa Clara Valley Water District may want to consider participating in an agricultural easement programs that are managed by a lead agency.

### **Recommendations:**

- Action 1. Establish a formal agricultural conservation easement program with annual funding in Santa Clara County.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, ACE Implementation Committee, Land Trust for Santa Clara County and other ACE Implementers.*

- Action 2. Investigate acquisition/participation in conservation easements that can also help meet wastewater disposal, watershed protection and/or flood protection objectives.**

*Recommended Potential Implementers: Santa Clara County Water District, South County Regional Wastewater Authority*

- Action 3. Investigate acquisition/participation in conservation easements that can also meet parkland view-shed protection goals.**

*Recommended Potential Implementers: Santa Clara County Parks Department, State Parks Department*



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- Action 4. Coordinate agricultural conservation easement activities to simplify participation for property owners, avoid duplication of efforts, and make the most effective use of available resources.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County and other ACE implementers*

- Action 5. If necessary modify and update ACE programs after field-testing.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*



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## **Program Goals**

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### **Background:**

The most effective Agricultural Conservation Easement Programs are guided by specific, focused and clear goals. The supply of agricultural lands in Santa Clara County is dwindling every year, making it more and more difficult to achieve the critical mass of land necessary to support the agriculture industry in this county. Therefore the goals of ACE Programs in Santa Clara County must focus on protecting a critical mass of lands that are most able to sustain agriculture in the long term.

The program should focus on lands that are strategic in that they will help to protect adjacent farms and ranches from development to make the best use of limited funds. Furthermore, the program should focus on lands that are the most imminently threatened by development so that valuable agricultural resources are not lost before we have a chance to do something about it.

### **Recommendations:**

- Action 6. Establish clear, specific and focused ACE program goals that will help further the ultimate goals of preserving the county's supply of agricultural lands.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, other ACE implementers*

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## Funding

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### Background:

A reliable funding source is perhaps the most important element of a successful ACE Program. The Task Force has identified existing and potential funding sources available for ACE Programs in Santa Clara County. Different monies are available from private and public sources, for irrigated farmland and ranchlands:

#### Public Sources:

- Santa Clara County Open Space Authority
- State of California Agricultural Land Stewardship Program
- The Federal Farmland Protection Program
- Bay Area Conservancy

#### Private Sources:

- Land Trust for Santa Clara County
- Packard Foundation
- Nature Conservancy
- California Rangeland Trust

The funding level available will depend upon the ability to receive one-time grants from funding organizations and an annual commitment of the Open Space Authority. The Task Force recommends that ACE Program administrators vigorously pursue existing funding sources through grant applications.

Existing funding sources are modest considering the size of the County and the urgent need to help farmers and ranchers today. Therefore the ACE Project Task Force recommends that the program implementers seriously consider pursuing additional, permanent sources of funding and other methods of easement acquisition. A description of funding sources used by other established ACE programs and some new funding ideas is included in an appendix to this report. The Task Force is in no way assessing the appropriateness of nor advocating any particular funding source. This appendix is intended as a starting point for further discussions on this topic.

It should be noted that voluntary easement donations by property owners and farmers have been an extremely successful source of easement acquisitions in other Bay Area counties.

### Recommendations:

**Action 7. Provide funding for ACE program opportunities as part of the Santa Clara County Open Space Authority budget.**

*Recommended Potential Implementer: Santa Clara County Open Space Authority*





- Action 8. Seek additional supplemental funding sources for agricultural conservation easement acquisitions and program administration such as grants from local, state and federal agencies, private foundations, and other nonprofit organizations.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

- Action 9. If readily available funds prove insufficient investigate feasibility of establishing additional predictable funding sources for ACE acquisitions.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

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## **Stakeholder Involvement**

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### **Background:**

Agricultural easements directly impact the long term use of land around us and can help determine whether or not the agricultural industry is to remain an element of our local economy and lifestyle. Thus the community (farmers, urban and rural property owners and residents, industry, and government) needs to be involved in any ACE program developed for Santa Clara County. In addition an ACE program will be most successful if it has the political and financial support of the entire community. Therefore additional planning efforts must include a broad cross-section of major stakeholders to help make decisions and implement the programs.

### **Recommendations:**

- Action 10. Involve major stakeholder groups and agencies, as well as groups and organization that may be identified later, in the development and administration of agricultural conservation easement programs (including establishment of priorities, development of evaluation criteria, ranking of agricultural conservation easement applications etc.)**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

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## Acquisition Priorities and Criteria

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### Background:

**Priority Acquisition Area:** Priority acquisition areas were identified that contained high concentrations of agriculture uses, were zoned for continued agriculture, and were generally threatened by development, and did not conflict with the cities' long term growth plans. These are areas which can sustain agriculture over the long-term and whose preservation is expected to contribute to the long-term viability of agriculture. Other properties may be considered for evaluation when funding is available. A map is provided later in this document to orient readers to the important agricultural areas of the County.

**General Eligibility Criteria:** General Criteria were recommended by the Task Force to insure that easements do not conflict with the Cities' ability to plan for responsible growth. It is important to emphasize that participation in the program would be strictly voluntary.

**Project Ranking and Evaluation Criteria:** More specific evaluation criteria will be necessary to review proposals from property owners. Once outreach and education efforts are well underway it is expected that property owner interest in the programs will grow. It is expected that eventually interest in the programs will outweigh the ability of program administrators to fund and manage new easements. It will also be necessary to insure that easements are located in such a way to create a critical mass of agriculture and that easements are located on

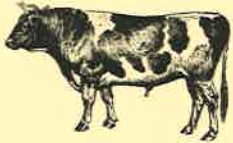
properties that can sustain agriculture in the long term. Criteria would help make sure that limited funds are spent in the most effective way and allow for strategic acquisition of the best lands. Furthermore many outside funding sources will look at how a particular piece of land rates, based on criteria, to determine if their goals would be met by a particular easement and if the easement is worth funding.

Sample evaluation worksheets for irrigated farmlands (i.e. flat lands generally located on the valley floor) and ranchlands (i.e. hillsides and lands generally used for grazing), with explanations of ranking categories are included as appendices to this report. These are presented for consideration by implementing agencies and organizations. Properties would be assigned points based on whether or not they meet certain criteria. Criteria would be weighted based on their relative significance. Key factors to be considered are:

#### Irrigated Farmlands:

- Quality of Farmland
- Farm Size
- Surrounding Land Use
- Economic Viability of Parcel(s)
- Property Location
- Local Commitment of Farmers to Remain in Agriculture
- Consistency with Public Policy
- Conservation Benefits





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#### Ranchlands:

- Land Quality
- Ranch Size
- Surrounding Land Use
- Agricultural Use of Property
- Economic Viability of Ranch
- Parcel Location
- Commitment of Local Land Owners to Remain in Agriculture
- Consistency with Public Policy
- Conservation Benefits
- Public Access Potential

It should be noted that additional criteria may be imposed by outside funding sources. It may be necessary to further refine the ranking criteria to help screen properties once the program is established if there are significant numbers of interested property owners relative to program funding and management capabilities.

#### Recommendations:

##### Action 11. Establish priority acquisition areas for agricultural conservation easements as follows:

Irrigated Farmlands (i.e. flat lands, generally located on the valley floor)

- The Gilroy Agricultural Preserve east of the Urban Service Area boundary and the 20-year growth boundary from Masten south to the county line (excepting the wastewater treatment pond area south of Gilroy).
- Vineyard production and other agricultural land along Hecker Pass.
- Agricultural land in the Morgan Hill area east of 101 between Cochrane and Maple.
- Agricultural land within the Coyote Valley Greenbelt between Morgan Hill and San Jose.

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*



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**Action 12. Establish priority acquisition areas for agricultural conservation easements as follows:**

Ranchlands (i.e. hillsides and lands generally used for grazing)

- Lands within the Diablo and Santa Cruz Mountain Ranges that are consistent with the rangeland eligibility criteria established by the individual ACE implementers.

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

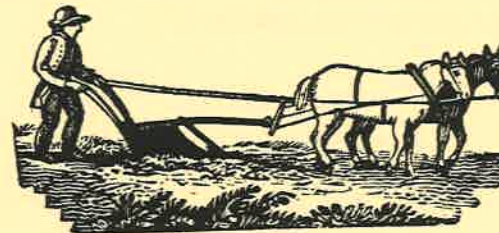
**Action 13. Establish ACE Program eligibility criteria as follows:**

- Easements should only be acquired from willing sellers/donors.
- Properties within a City's Urban Growth Boundary or Urban Service Area generally should not be considered for inclusion in the ACE Program.

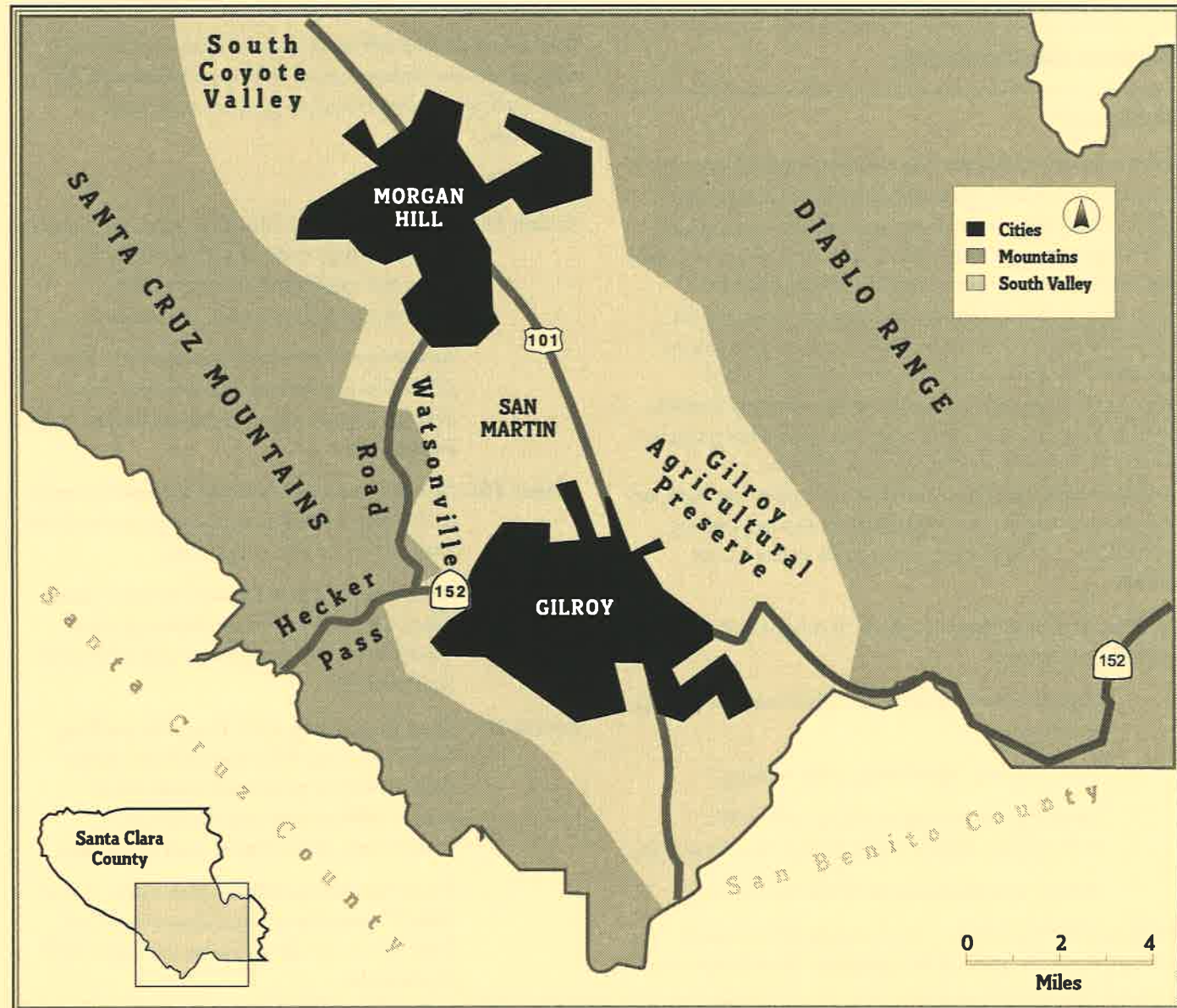
*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

**Action 14. Establish evaluation criteria to guide agricultural conservation easement purchases and donations based on the attached property evaluation worksheets (See appendices)**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*



## SIGNIFICANT AGRICULTURAL AND OPEN SPACE AREAS IN SOUTHERN SANTA CLARA COUNTY



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## Program Administration

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### Background:

**Administrative Policies.** The County's Agriculture Conservation Easement programs will require formal administrative procedures and policies for making and reviewing easement proposals, appraising properties, and negotiating with property owners. While structure is important to assure fairness and provide certainty for interested property owners, administrative procedures should be flexible enough to cater to the financial situation and operational needs of the property owners. To help keep the application process simple for property owners it is recommended that the different implementing agencies coordinate to develop uniform or coordinated applications, application and negotiating procedures, and application schedules to the extent feasible.

**Staffing.** Staff functions of any ACE program can be expected to include:

- organization management, office administration, accounting,
- legal advising, appraising, grant writing,
- lobbying, overseeing publicity and public information, advisory committee, board support,
- project management, and field monitoring.

Staffing needs are expected to fluctuate substantially through the early years of the program. Shared personnel

from other county offices or organizations, consultants, contractors and volunteers, as well as part time and full time staff can all be utilized to perform these staff functions.

### Recommendations:

**Action 15. Establish formal administrative procedures for soliciting, evaluating and ranking potential agriculture conservation easement purchases and donations.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

**Action 16. Coordinate with other ACE implementers to develop uniform application procedures and materials where possible.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*

**Action 17. Meet fluctuating ACE Program staffing needs by using full time and part time staff as well as personnel from other county offices and organizations, contractors, consultants, and volunteers.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and other ACE implementers*



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## Outreach to Landowners

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### Background:

Outreach to landowners will be a critical part of ACE programs, specifically in the early years. Landowners can be informed of the potential benefits of the process through pilot projects, educational seminars, newsletters etc.

Landowners are concerned that restrictions to their properties will impact their ability to effectively manage their property or that because the appraisal process is full of uncertainty and assumptions that they may not be getting fair compensation for their properties' development potential. They are concerned that they may not be able to continue to farm or to sell the property with an attached easement in the future, among other things. In addition the application process can be confusing, especially since it is expected that there will be multiple implementing agencies. Approaching the various implementing agencies and eventually entering into permanent easement contracts can be a daunting proposition. A well-planned and on-going outreach program can substantially alleviate these concerns.



### Recommendations:

**Action 18. Develop and conduct a coordinated, active Outreach and Education Program to inform local landowners about opportunities for participating in an Agricultural Conservation Easement Program.**

*Recommended Potential Implementers: Cattlemen's Association, Farm Bureau, Santa Clara County Open Space Authority, Land Trust for Santa Clara County, UC Cooperative Extension*

**Action 19. If more than one local agricultural conservation easement program is created, establish procedures for assuring that with landowner consent applications to participate in agricultural conservation easement programs are made available to all other potential implementers.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, and ACE Implementation Committee.*



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## Supportive Local Land Use Policies

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### Background:

An ACE Program is only one small element of a successful local farmland protection program. Local agriculture needs additional protections in order to meet the challenges facing it. Many of the following action items have been previously proposed in several other policy documents prepared and adopted by local agencies and some are currently being implemented. These action items are seen as essential elements of ongoing efforts to maintain the long-term viability of Agriculture in Santa Clara County and should be implemented (or continue to be implemented) for an ACE Program to be effective.

### Recommendations:

**Action 20. Identify areas within the cities' Spheres of Influence that can remain in agricultural uses in perpetuity without interfering with the cities' long term growth objectives.**

*Recommended Potential Implementers: City of Gilroy, City of Morgan Hill, City of San Jose*

**Action 21. Continue enrollment of Santa Clara County in the States' farmland protection programs (Williamson Act)**

*Recommended Potential Implementer: Santa Clara County*

**Action 22. Consider initiating participation in Super Williamson Act (an enhanced Williamson Act like process, established in August of 1998, that offers landowners 20-year "rolling contracts" restricting the use of prime agricultural land in exchange for reduced property and parcel taxes, as well as additional protections against local government annexation).**

*Recommended Potential Implementer: Santa Clara County*

**Action 23. Maintain zoning regulations that encourage agriculture and discourage parcelization of agricultural properties.**

*Recommended Potential Implementer: Santa Clara County*

**Action 24. Continue to adopt reasonable urban growth boundaries that encourage compact growth development and direct growth away from prime agricultural land.**

*Recommended Potential Implementers: City of Gilroy, City of Morgan Hill, City of Milpitas, City of San Jose, Santa Clara County*







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**Action 25. Develop countywide policies that create economic opportunities for Santa Clara County farmers, ranchers, and residents including but not limited to:**

- Allow vertical integration of agricultural operations when they are consistent with agricultural zoning,
- Promoting agri-tourism (festivals, trails, etc.),
- Labeling (Branding) of local county products, and
- Direct marketing of local products.

*Recommended Potential Implementers: Santa Clara County Farm Bureau, Santa Clara County Cattlemen and Cattlewomen's Association, Santa Clara County and others*

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**Action 26. Continue to adopt and implement specific and general plans that contain a general vision that agriculture is a permanent part of the Santa Clara County landscape and economy, and direct future growth in Santa Clara County to those lands deemed appropriate for urban development.**

*Recommended Potential Implementers: City of Gilroy, City of Morgan Hill, City of San Jose, City of Milpitas, and Santa Clara County*



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## Monitoring Program

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### Background:

Easements can be held by the original easement purchasers or transferred/sold to a land holding agency or organization. Easement holders are responsible for insuring that the terms of easements, specifically use restrictions, are upheld by the property owners. Easement properties will need to be monitored to insure that the intent and contractual obligations of the easement are being met. Monitoring programs should focus on overall goals of the program to preserve agriculture and agricultural lands. On-site vertical integration pursuits may not be discouraged unless specifically prohibited by the easement contract. An independent advisory committee should be established to mediate disputes between monitoring entities and property owners.

### Recommendations:

**Action 27. Develop an easement monitoring program that establishes a positive relationship with landowners and does not interfere in the day to day operation of the farm/ranch.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County, Santa Clara Valley Water District, and other ACE Implementers*

**Action 28. Establish procedures to mediate disputes regarding interpretation of agriculture conservation easement contracts.**

*Recommended Potential Implementers: Santa Clara County Open Space Authority, Land Trust for Santa Clara County and other ACE Implementers*



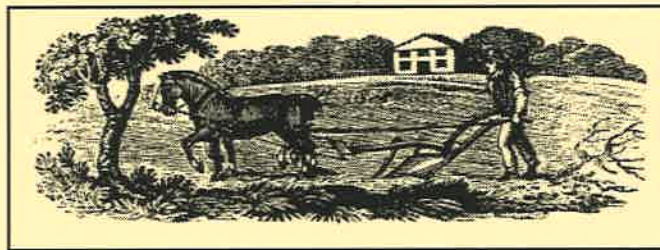
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## Pilot Projects

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### Background:

Pilot Projects can demonstrate the concept of agriculture easements to potentially interested property owners, attract additional funding sources for future acquisitions, and garner political support from the public for the program by demonstrating the benefits of the program. A pilot project will allow interested property owners to see how the easement works first hand and talk directly to the farmer/rancher involved. The pilot projects can also help implementing agencies to formulate and/or improve upon administrative procedures and evaluation criteria. The Task Force recommends that a minimum of two pilot projects (one on irrigated farmlands and one on ranchlands) be pursued as soon as possible. The pilot projects should be integrated into a coordinated outreach program discussed above.



### Recommendations:

**Action 29. In the early stages of ACE program implementation, identify properties and pursue funding for one or more irrigated farmland and ranchlands pilot easement acquisition projects that are:**

- Highly visible properties within the primary target areas,
- Owned by a willing and motivated property owner,
- Have the potential to attract additional funding for future projects, and
- Will demonstrate potential benefits of such projects to landowners and to the public.

*Recommended Potential Implementers: Santa Clara County Open Space Authority, American Farmland Trust, Farm Bureau, Cattleman's Association, Greenbelt Alliance, Santa Clara County, Potential Cities, and ACE Implementation Committee.*

## **FIRST STEPS – SHORT TERM IMPLEMENTATION STRATEGIES**

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As mentioned previously the Santa Clara County Open Space Authority (OSA) is currently in the best position to act quickly to establish an Agricultural Conservation Easement Program for Santa Clara County. These “First Steps” are thus directed primarily at the Open Space District. It is expected that other groups and the Task Force Subcommittee will help shepherd these and other efforts along in the near future.

### **Establish formal ACE Program.**

ACE implementers must begin steps to establish a formal ACE program. It is hoped that the Open Space Authority board will start discussions within the next three months.

### **Resolve Agency/Organization Roles.**

Various ACE implementers including the Santa Clara County Open Space Authority and the Land Trust for Santa Clara County should meet to discuss a coordinated approach to establish ACE programs. It is hoped that this meeting would occur within six months.

### **Make Funding Commitments.**

The Task Force recommends that the Santa Clara County Open Space Authority designate a portion of their annual revenue to an ACE program. It is hoped that the OSA commits to such a program within the next budgetary cycle.



## **APPENDIX A: State of Agriculture in Santa Clara County**

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### **Irrigated Agriculture in Santa Clara County**

The Santa Clara Valley area has historically grown a variety of fruit, row, field, floral, and nursery crops. Overall, agricultural crop acreage during the last 20 years have generally declined with the exception of peppers, Chinese vegetables, mushrooms, corn, broccoli, head lettuce, flowers, and nursery crops. While the total gross value (see footnote about figures not being adjusted for inflation) of agricultural crops has increased over that same period due to the intensification of agriculture.

The total gross value of Santa Clara County's agricultural production for 1998 was \$159,769,360, an increase of \$7,072,630 from the 1997 figure of \$152,696,730 and an increase of \$17,294,340 from the 1988 figure of \$142,475,020. Over the last ten years, mushrooms, nursery crops, and cut flowers have remained the County's highest valued crops. In 1998, these three crops had a total gross value of nearly \$69,000,000.

### **Irrigated Agriculture Faces Many Challenges**

Santa Clara County farmers face competition from the Central Valley and abroad. New national legislation, such as The North American Free Trade Agreement, has made it more difficult for California farmers to remain competitive. A shrinking farm-labor pool, high land costs, and the loss of agricultural support facilities have also made it difficult for Santa Clara County farmers to be able to compete with Central Valley farmers. Additionally, the agricultural areas of the County are under pressure from

urban and non-urban uses. As a result, there are now very few large pieces of land available for large-scale farming.

### **Trends and Future of Irrigated Agriculture**

The trend is now toward agriculture operations occurring on small parcels. However, many farmers are leasing several small parcels for their operation. It is not surprising that Santa Clara County's local crop production has changed over the last twenty years from orchards to specialized small-acreage crops such as mushrooms, cut flowers, and nursery crops. Many farmers in the County are trying to increase the amount of vertical integration present in their operations, in order to increase the efficiency of their operations. The future of farming in Santa Clara County lies in new entrepreneurial thinking on the part of farmers in regards to the types of crops to grow and produce, as well, as new ways to market them.

### **Grazing in Santa Clara County**

From the time of the Spanish missionaries until after the California Gold Rush, cattle grazing in Santa Clara County occurred primarily on the valley floor. But beginning in approximately 1860, the growing of grain began to displace grazing as the predominant agricultural activity on the valley floor and cattle grazing was driven into the Diablo Range and the central and southern foothills of the Santa Cruz Mountains.

### **Decline in Private Ranching Activity**

Although the number of cows grazed in Santa Clara County remained relatively constant at approximately



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26,000 cows from 1992 to 1997, over the past 50 years, the number of privately owned ranches in Santa Clara County has been declining. This decline has been the result of a variety of factors, including declining profitability, subdivision of ranches and conversion to other uses, and purchases of large ranches by public agencies. One of the most significant trends affecting grazing in Santa Clara County during this period has been the increasing purchase of large ranches by public parks and open space agencies, and more recently, also by private nonprofit land conservation organizations.

### **The Future of Ranching**

Ranching, as a business and a way of life, continues to face a difficult and uncertain future. Ranching, like all other businesses, is dependent upon specialized local businesses providing supporting services in order to remain in existence and to remain competitive. If the level of ranching activity in this area declines below a point where it is no longer profitable for these supporting services to remain in this area, they may go out of business and may force ranchers to look for alternative uses for their lands, including subdivision and development.

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### **Approaches To Preserving Agricultural Lands**

It is important to have local government policies that support agriculture. Additionally, permitting processes should be streamlined to minimize the cost and time involved in obtaining agricultural related permits. Programs such as the voluntary purchase of agricultural conservation easements from ranchers and farmers also support the preservation of agricultural lands. These programs are one way to provide agriculturalists with additional capital for improving their operations or other purposes, while at the same time preventing the future subdivision and development of agricultural lands.



## **APPENDIX B: Examples and Ideas for Funding Agricultural Conservation Easements**

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The Santa Clara County Agricultural Conservation Easement Task Force does not, as a group, support any of these specific fundraising methods. The Task Force realizes that many of these ideas are politically challenging or may have negative impacts on other community goals. The list is intended to show what other communities are doing to fund agricultural land preservation and possibly to encourage additional dialogue, evaluation and eventual action.

### **Sonoma County General Obligation Bond - Sales Tax**

Sonoma County's 1990 Measure C called for a 1/4 cent sales tax and the creation of the Sonoma County Agricultural Land Conservation District. The proceeds of this tax are spent by the district to purchase agricultural land (both fee simple acquisitions and agricultural conservation easements). The Sonoma County program has been extremely successful, protecting more than 28,000 acres since 1990. It should be noted that any sales tax would have to be approved by a two-thirds vote of the county electorate..

### **City of Carlsbad, San Diego County: Farmland Loss Mitigation Fees/or In Kind Dedications**

In Carlsbad, developers paid \$5000 per acre, as a development mitigation fee on 312 acres of coastal agricultural land that was converted to commercial and residential uses. These fees were used to fund erosion improvements, purchase easements, and other projects to enhance the productivity of the remaining 670 acres of farmland adjacent to Carlsbad. Alternately, in other communities

developers have been required to dedicate portions of properties developed as permanent agricultural easements or purchase easements on other equivalent properties instead of paying the fee.

### **City of Fairfield, Solano County: Mello-Roos Community Service Act**

Under the Mello-Roos Act local governments are empowered to collect a special tax from designated community districts. To establish a CFD and levy a Mello-Roos Tax, the county must follow a precise and detailed approval procedure of hearings and resolutions. The formation of the district must be approved by a two-thirds vote of the residents within the area. Mello-Roos Districts can also be authorized to produce revenue through the sale of municipal bonds. These bonds allow a local government to make land conservation expenditures while the special tax provides an annual revenue stream to retire the outstanding debt. As part of an annexation proceeding in 1986, the City of Fairfield and Solano County formed a Community Facilities District on three ranches adjoining the Suisun Valley. Prior to development of these properties an annual tax ranging from \$16 to \$33 per unit is being levied. After the homes are built and sold the tax increases to a flat rate of \$80 per unit per year. It should be noted that traditional

Mello-Roos Districts have resulted in small conservation benefits relative to the impacts of the typically large developments they are associated with.

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## **ADDITIONAL FUNDING IDEAS**

### **Contributions from Public Agencies**

Acquisition/participation by other land owning agencies, including the Santa Clara Regional Water Authority, Santa Clara County, City of San Jose, City of Morgan Hill and City of Gilroy could provide additional sources of funds. This program could focus on acquisition of easements that would meet the agencies' goals of watershed, habitat, open-space, or view-shed protection or meet some other objective such as trail access.

### **Community Fundraising**

Individual fundraising efforts could contribute to the purchase of agricultural easements. Examples include: adding a surcharge on Garlic Festival, Mushroom Mardi Gras, or County Fair tickets or sponsoring additional fundraising events or programs.

### **Seek Corporate/Foundation Sponsorship**

A corporation or foundation could be approached to sponsor specific pilot agricultural easement acquisition projects or to develop a demonstration farm for agriculture education.

### **Facilitate Development Transfer to Properties within City Limits**

Transfer of Development Rights (TDR) is a planning and zoning device which allows the development rights on one property (the donor or sending property) to be transferred to another (receiver) property. The purpose is to relocate

potential development away from prime agricultural lands to areas within Cities. This would require coordination with the receiving city in finding an appropriate receiving area that can accommodate higher densities without unacceptable political, social or environmental problems. Since the existing development potential, under current zoning, is already low only a small number of development credits could be acquired from relatively large tracts of land.



## APPENDIX C: Agricultural Conservation Easement Program Resources

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### **Publications on Agricultural Conservation Easement Programs**

**Farmland Forever (Video),**  
American Farmland Trust, 1991.

**Forging New Protections: Purchasing Development Rights to Save Farmland,**  
American Farmland Trust, 1996.

**Investing in the Future of Agriculture: The Massachusetts Farmland Protection Program and the Permanence Syndrome,**  
American Farmland Trust, 1997.

**National Agricultural Lands Study: The Protection of Farmland- A Reference Guidebook for State and Local Governments,**  
by Robert E. Coughlin and John C. Keene.

**Project Binder for Santa Clara County Agricultural Conservation Easement (ACE) Project,**  
Santa Clara County Planning Office, December 1998.

**Protecting Farmland Through Purchase of Development Rights: The Farmer's Perspective,**  
American Farmland Trust, 1993

**Purchase of Agricultural Conservation Easements: What Works (Technical Report Series),**  
American Farmland Trust, 1997.

**Saving American Farmland: What Works,**  
American Farmland Trust, 1997.

**Saving The Farm: A Handbook for Conserving Agricultural Land,**  
American Farmland Trust, 1990.

**The Bay Area's Farmlands,**  
Greenbelt Alliance, 1991.

**Your Land is Your Legacy: Guide to Planning for the Future of Your Farm,**  
American Farmland Trust, 1997.

### **Web Site Directory of Local Land Trusts/Preservation Organizations Involved in Agricultural Conservation Easement Programs**

**Marin Agricultural Land Trust**  
[www.malt.org](http://www.malt.org)

**Midpeninsula Regional Open Space District**  
[www.openspace.org/](http://www.openspace.org/)

**Napa County Land Trust**  
<http://napalandtrust.org>

**The Nature Conservancy**  
[www.tnc.org](http://www.tnc.org)

**Peninsula Open Space Trust (POST)**  
[www.openspacetrust.org](http://www.openspacetrust.org)

**Sonoma County Agricultural Preservation and Open Space District**  
[www.sonoma-county.org](http://www.sonoma-county.org)

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### **Agricultural Resources Web Site Directory**

**Santa Clara County Agricultural Department**

<http://claraweb.co.santa-clara.ca.us>

**American Farmland Trust**

[www.farmland.org](http://www.farmland.org)

**Farmland Information Library**

[www.farmlandinfo.org](http://www.farmlandinfo.org)

**California Department of Conservation: Farmland**

**Mapping and Monitoring Program**

[www.consrv.ca.gov/dlrp/fmmp](http://www.consrv.ca.gov/dlrp/fmmp)

**California Farm Bureau Federation**

[www.fb.com/cafb](http://www.fb.com/cafb)

**California Government Home Page**

[www.ca.gov](http://www.ca.gov)

**CERES: California Resources Agency: Environmental  
Resources Evaluation System**

<http://ceres.ca.gov>

**WSARE: USDA Western Region Sustainable Ag.  
Research and Education Program**

<http://ext.usu.edu/wsare>

**UC SAREP: UC Davis Sustainable Ag. Research &  
Education Program**

<http://www.sarep.ucdavis.edu>



## APPENDIX D1: Worksheet for Evaluating Irrigated Farmland Parcels

*The worksheet below presents an example of a rating system that could be used by public agencies or private non-profit organizations to evaluate and establish priorities among private open space lands whose owners offer to sell them agricultural easements for their lands. The evaluation criteria and weightings it contains were developed by the Santa Clara County Agricultural Conservation Easement (ACE) Task Force. Individual agencies or non-profit organizations who establish agricultural easement programs may wish to use this as a starting point for developing evaluation systems that reflect their particular priorities and circumstances.*

Date: \_\_\_\_\_

Parcel APN: \_\_\_\_\_

Parcel Location: \_\_\_\_\_

The following criteria evaluate the physical characteristics, geographic relationship to non-farm uses, public investment in services and infra-structure, public land use policies affecting the parcel, and other non-cost factors that may affect the property.

### PARCEL CHARACTERISTICS

*(Criteria 1-4. Items 1-4 have a maximum total of 18 points. The parcel must rate at least 9 points to qualify.)*

Assign only one score per category.

#### 1. Land Quality

(Maximum total: 6 points)

(Based on criteria of Department of Conservation Farmland Mapping and Monitoring Program.)

- a) Prime Farmland or Farmland of Statewide Importance ..... (6 Points) \_\_\_\_\_

- b) Unique Farmland ..... (3 Points) \_\_\_\_\_

- c) Farmland of Local Importance or  
Grazing Land ..... (0 Points) \_\_\_\_\_

#### 2. Size of Farmable Parcel(s)

(Maximum total: 5 points)

Parcel(s) must be contiguous and under one ownership; the parcel(s) must have been farmed historically as one unit to qualify as one application.

- a) More than 40 acres ..... (5 Points) \_\_\_\_\_

- b) 20.1 to 40 acres ..... (4 Points) \_\_\_\_\_

- c) 10.1 to 20 acres ..... (2 Points) \_\_\_\_\_

- d) less than 10 acres ..... (0 Points) \_\_\_\_\_

#### 3. Surrounding Land Use

(Maximum total: 4 points)

- a) < 15% of land within 1/4 mile  
devoted to non-ag uses ..... (4 Points) \_\_\_\_\_

- b) < 25% of land within 1/4 mile devoted to non-ag uses ..... (3 Points) \_\_\_\_\_
- c) < 35% of land within 1/4 mile devoted to non-ag uses ..... (2 Points) \_\_\_\_\_
- d) < 50% of land within 1/4 mile devoted to non-ag uses ..... (0 Points) \_\_\_\_\_

**4. Economic Viability of Parcel(s)**

(Maximum total: 3 points)

- a) Currently in agricultural production, including necessary agricultural services and infrastructure (e.g. irrigation systems and facilities for harvesting and storing crops) .. (3 Points) \_\_\_\_\_
- b) In agricultural production within the past five years ..... (1 Point) \_\_\_\_\_

**Parcel Characteristics Subtotal** \_\_\_\_\_

(Applicant parcels must score at least 9 points on Items 1-4 to continue)

**THREAT POTENTIAL AND PUBLIC BENEFITS CHARACTERISTICS**

**5. Jeopardy**

(Maximum total: 15 points)

Proximity of the parcel's boundary that is nearest to existing urban development (defined as city limit line or urban growth boundary, which-ever is closer).

- a) 0 to 1/4 mile ..... (15 Points) \_\_\_\_\_
- b) 1/4 to 1/2 mile ..... (10 Points) \_\_\_\_\_
- c) 1/2 mile to 1 mile ..... (5 Points) \_\_\_\_\_
- d) 1 to 2 miles ..... (2 Points) \_\_\_\_\_
- e) greater than 2 miles ..... (0 Points) \_\_\_\_\_

**6. Local Commitment of Landowners**

(Maximum total: 4 points)

- a) >65% of land within 1/4 mile of perimeter in a Williamson Act Agricultural Preserve or Farmland Security Zone ..... (4 Points) \_\_\_\_\_
- b) >50% of land within 1/4 mile of perimeter in a Williamson Act Agricultural Preserve or Farmland Security Zone ..... (3 Points) \_\_\_\_\_

- 
- 
- c) >35% of land within 1/4 mile of perimeter in a Williamson Act Agricultural Preserve or Farmland Security Zone ..... (2 Points) \_\_\_\_\_
- d) >20% of land within 1/4 mile of perimeter in a Williamson Act Agricultural Preserve or Farmland Security Zone ..... (1 Point) \_\_\_\_\_
- e) <20% of land within 1/4 mile of perimeter in a Williamson Act Agricultural Preserve or Farmland Security Zone ..... (0 Points) \_\_\_\_\_
- b) Protects a cultural resource ..... (4 Points) \_\_\_\_\_
- c) Protects 100 year floodplains from urban encroachment ..... (4 Points) \_\_\_\_\_
- d) Protects land conducive to groundwater recharge ..... (2 Points) \_\_\_\_\_
- \* "Sensitive" habitat includes riparian corridors, lakes, ponds, wetland, grassland, and stands of trees.
- Threats and Benefits Subtotal** \_\_\_\_\_
- 7. Consistency with Public Policy**  
(Maximum total: 4 points)
- a) Agricultural zoning ..... (4 Points) \_\_\_\_\_
- b) Urban or rural-residential zoning by a city or Santa Clara County (0 Points) \_\_\_\_\_
- 8. Indirect Conservation Benefits**  
(Maximum total: 14 points)
- Other indirect conservation benefits accrued as a result of the conservation of this parcel (environmentally sensitive habitat, etc.).
- a) Protects "rare, endangered, or unique" plant life or biotic community, "sensitive habitat", or "threatened" wildlife ..... (4 Points) \_\_\_\_\_
- TOTAL SCORE (All Factors)** \_\_\_\_\_
- 
-

## APPENDIX D2: Worksheet for Evaluating Ranchland Parcels

*The worksheet below presents an example of a rating system that could be used by public agencies or private non-profit organizations to evaluate and establish priorities among private open space lands whose owners offer to sell them agricultural easements for their lands. The evaluation criteria and weightings it contains were developed by the Santa Clara County Agricultural Conservation Easement (ACE) Task Force. Individual agencies or non-profit organizations who establish agricultural easement programs may wish to use this as a starting point for developing evaluation systems that reflect their particular priorities and circumstances.*

Date: \_\_\_\_\_

Parcel APN: \_\_\_\_\_

Parcel Location: \_\_\_\_\_

The following criteria evaluate the physical characteristics, geographic relationship to non-farm uses, public investment in services and infra-structure, public land use policies affecting the parcel, and other non-cost factors that may affect the property.

### PARCEL CHARACTERISTICS

*(Criteria items 1-5 have a maximum total of 27 points. The ranch must rate at least 18 points to qualify.)*

1. Land Quality *(Pick one from each category.)*  
(Maximum total: 9 points)

#### Grazing Land

- a) 50% or more of the ranch is rated  
as good to excellent grazing land (3 Points) \_\_\_\_\_

- b) 25% or more of the ranch is rated  
as good to excellent grazing land (2 Points) \_\_\_\_\_

- c) 10% or more of the ranch is rated  
as good to excellent grazing land (1 Point) \_\_\_\_\_

#### Water Availability

- d) Ranch has three or more year  
round sources of water ..... (3 Points) \_\_\_\_\_

- e) Ranch has two year round  
sources of water ..... (2 Points) \_\_\_\_\_

- f) Ranch has one year round  
source of water. .... (1 Point) \_\_\_\_\_

#### Weed Control

- g) Less than 25% of Ranch has  
noxious weeds ..... (3 Points) \_\_\_\_\_

- h) Less than 50% of Ranch has  
noxious weeds ..... (2 Points) \_\_\_\_\_

- i) Less than 75% of Ranch has  
noxious weeds ..... (1 Point) \_\_\_\_\_

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**2. Size of Ranch**

(Maximum total: 6 points)

*(Ranch may be comprised of multiple parcels if they are contiguous and under a single ownership.)*

- a) Greater than 1,000 acres ..... (6 Points) \_\_\_\_\_
- b) 500 to 999 acres..... (5 Points) \_\_\_\_\_
- c) 200 to 499 acres..... (4 Points) \_\_\_\_\_
- d) 100 to 199 acres..... (3 Points) \_\_\_\_\_
- e) 41 to 99 acres..... (2 Points) \_\_\_\_\_
- f) 0 to 40 acres..... (1 Point) \_\_\_\_\_

**3. Surrounding Land Use**

(Maximum total: 4 points)

- a) Less than 15% of land within 2 miles of ranch devoted to non-ag uses (4 Points) \_\_\_\_\_
- b) Less than 25% of land within 2 miles of ranch devoted to non-ag uses (3 Points) \_\_\_\_\_
- c) Less than 30% of land within 2 miles of ranch devoted to non-ag uses (2 Points) \_\_\_\_\_
- d) Less than 50% of land within 2 miles of ranch devoted to non-ag uses (1 Point) \_\_\_\_\_

**4. Agricultural Use of Property**

(Maximum total: 3 points)

- a) Currently in agricultural production, including necessary agricultural services and infrastructure (e.g., water, fencing, or feedbarn) ..... (3 Points) \_\_\_\_\_
- b) In agricultural production within the past five years ..... (1 Point) \_\_\_\_\_

**5. Economic Viability of Ranch (year round capacity)**  
(Maximum total: 5 points)

- a) Ranch can sustain 5 head of grazing cattle for every 40 acres of land (5 Points) \_\_\_\_\_
- b) Ranch can sustain 4 head of grazing cattle for every 40 acres of land (4 Points) \_\_\_\_\_
- c) Ranch can sustain 3 head of grazing cattle for every 40 acres of land (3 Points) \_\_\_\_\_
- d) Ranch can sustain 2 head of grazing cattle for every 40 acres of land (2 Points) \_\_\_\_\_
- e) Ranch can sustain 1 head of grazing cattle for every 40 acres of land . (1 Point) \_\_\_\_\_

**Parcel Characteristics Subtotal** \_\_\_\_\_

Applicant must score at least 18 points to continue



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**THREAT POTENTIAL AND PUBLIC BENEFITS  
CHARACTERISTICS**

**6. Jeopardy**

(Maximum total: 15 points)

*(Proximity of the parcel's boundary that is nearest to existing urban development, defined as municipal boundary lines – SOI, USA, Incorporation Limits, etc. – or residential subdivision projects larger than 10 residential dwelling units)*

- a) 0 to 1/4 mile ..... (15 Points) \_\_\_\_
- b) 1/4 mile to 1/2 mile ..... (10 Points) \_\_\_\_
- c) 1/2 mile to 1 mile ..... (5 Points) \_\_\_\_
- d) 1 mile to 2 miles ..... (2 Points) \_\_\_\_
- e) Greater than 2 miles ..... (0 Point) \_\_\_\_

**7. Commitment of Local Landowners**

(Maximum total: 5 points)

- a) 75% of lands that are within 1/2 mile of subject property are enrolled in the Williamson Act ..... (5 Points) \_\_\_\_
- b) 50% of land that are within 1 mile of subject property are enrolled in the Williamson Act ..... (3 Points) \_\_\_\_

- c) 25% of land that are within 2 miles of subject property are enrolled in the Williamson Act ..... (1 Point) \_\_\_\_

**8. Consistency with Public Policy**

(Maximum total: 5 points)

- a) Zoned for ranchlands ..... (5 Points) \_\_\_\_
- b) Zoned for hillside development (3 Points) \_\_\_\_
- c) Zoned for rural residential development ..... (2 Points) \_\_\_\_

**9. Indirect Conservation Benefits**

(Maximum total: 16 points)

*(Pick all applicable resources)*

- a) Viewshed potential ..... (2 Points) \_\_\_\_
- b) Wildlife habitat potential ..... (2 Points) \_\_\_\_
- c) Watershed protection potential (2 Points) \_\_\_\_
- d) Protects "rare, endangered, or unique" plant life or biotic community ..... (2 Points) \_\_\_\_
- e) Protects Federal or state listed wildlife ..... (2 Points) \_\_\_\_
- f) Riparian corridor protection potential ..... (2 Points) \_\_\_\_
- g) Protects historical assets ..... (2 Points) \_\_\_\_
- h) Protects cultural assets ..... (2 Points) \_\_\_\_

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**10. Public Access Potential**

(Maximum total: 15 points)

*(Select all applicable items)*

- a) The property listed as a component  
of a local or regional trail project(5 Points) \_\_\_\_\_
- b) The landowner is interested in  
allowing public access on a portion  
of the property ..... (10 Points) \_\_\_\_\_

**Threats and Benefits Subtotal** \_\_\_\_\_

**TOTAL SCORE (All Factors)**\_\_\_\_\_

## ACKNOWLEDGMENTS

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