

**Marin County Agricultural Land Conservation Program
March 1, 2014**

I. Purpose of this Document

This document describes the Marin County Agricultural Land Conservation Program (County Program). The Marin County Board of Supervisors (Board) authorized the addition of Agricultural Land Conservation Program policy AG-5 and authorized the Director of Marin County Parks (Parks) to proceed with the development of said Program on January 31, 2012. This document contains guiding information for the purpose of implementing the County Program. Additional guidance for seeking matching grant funds through the Measure A Program (see Section V. below) is available in the Measure A Program Grant Application.

II. Marin County Policies and Plans in Support of Agricultural Preservation

See Attachment A.

III. Effective Date of Program

The effective date of the Program is January 31, 2012.

IV. Program Goal

The County Program goal is to protect and permanently preserve Marin County farms and ranches for agricultural use through the acquisition of perpetual agricultural conservation easements in voluntary transactions with landowners, and to support and facilitate the acquisition of perpetual agricultural conservation easements in voluntary transactions with landowners by qualified nonprofit organizations.

V. Administration and Oversight

The County Program shall be administered within Marin County Parks, a department of the County of Marin (County). It shall be the responsibility of the Director of Marin County Parks (Director) to administer and implement the County Program, subject to the availability of funding, pursuant to direction provided by the Board. Responsibilities include, but are not limited to:

1. Formulate policies and practices to achieve program goals.
2. Develop and recommend annual work plans and budgets.
3. Identify and secure additional funding sources.
4. Determine program staffing and assign work.
5. Maintain records.
6. Engage stakeholders.
7. Communicate program objectives, opportunities and outcomes.
8. Account for expenditure of program funds
9. Assess program success.

Marin County Parks' staff has additional responsibilities related to the implementation of the Measure A-funded Farmland Preservation Program (Measure A Program), funded pursuant to Marin County Measure A Ordinance 3586 adopted by the Board on August 7, 2012 and made effective by voter approval at the November 6, 2012 election. Responsibilities include, but are not limited to:

1. Develop and maintain a grant program that provides matching funds for agricultural land preservation.
2. Process grant applications by guiding applicants through the application process.
3. Recommend successful applicants and funding amounts to the Board for final approval.

VI. County Program Funding

A. Source

The Measure A Program funded pursuant to Marin County Measure A Ordinance 3586 adopted by the Board on August 7, 2012 and made effective by voter approval at the November 6, 2012 election will continue for 9 years.

The County Program may be supported through additional sources of funds as opportunities arise.

B. Use and Disbursement of Measure A Funds

Measure A Program revenues shall be placed in an account established and managed by the Marin County Department of Finance to support purposes of County Program. Use of funds shall be consistent with the Measure A Program, this document and all related matching grant application materials. Should a conflict arise between the Measure A Program and this document, the Measure A Program shall prevail unless amended. The Board of Supervisors shall approve grants pursuant to this County Program and Measure A Program at a regularly scheduled public meeting. The Board may consider use of Measure A Program funds for the following purposes:

1. Purchase perpetual agricultural conservation easements and, on land already encumbered by agricultural conservation easements, purchase additional real property interests, to protect and permanently preserve Marin County farms and ranches for productive agricultural use through voluntary transactions with landowners.
2. Provide matching grants to qualified organizations to support and facilitate the purchase of perpetual agricultural conservation easements and, on land already encumbered by agricultural conservation easements, the purchase of additional real property interests, through voluntary transactions with landowners. Grants for this purpose shall not exceed 50% of the total easement purchase price.
3. Provide matching grants to the Marin Resource Conservation District for the purpose of assisting ranchers and farmers in enhancing the agricultural and natural resource values on easement-protected properties. Grants for this purpose shall not exceed five percent (5%) of the Measure A Program's annual amount.
4. Provide matching grants to the entities holding easements acquired with program funds, for the purpose of monitoring and enforcing such easements. Grants for this purpose shall not exceed five percent (5%) of the Measure A Program's annual amount.

Items 2, 3, and 4 have corresponding grant application, grant agreement, work planning, reporting requirements to facilitate the disbursement of funds to qualified funding recipients.

VII. Procedures and Requirements

A. Project Requirements

Agricultural conservation easements or other real property interests may be acquired by County, or a qualified organization. For purposes of this County Program, a qualified organization is defined as:

An organization qualified under Internal Revenue Code Sections 501(c)(3) and 170(h) whose primary purpose is the preservation and protection of agricultural land and its associated open space, natural resource and scenic values; has a commitment to protect the conservation values of the property to be protected; has the demonstrated ability to monitor and enforce the

easement in accordance with Land Trust Alliance Standards and Practices; and is accredited by the Land Trust Alliance Accreditation Commission.

B. Project Selection

County shall consider the following general information when reviewing potential easement acquisitions and matching grant opportunities. In cases where matching grant funds are requested, this information will be entered into the grant application by the grant applicant:

1. Present and potential agricultural use of a property given its soils, topography, water resources, size, and other factors;
2. Agricultural improvements and facilities on a property;
3. Size and location of property;
4. Effect of conversion of a property to non-agricultural use(s) on adjacent or nearby properties, and on the local agricultural economy;
5. Any evidence that the land proposed for protection is likely to be converted to non-agricultural use in the foreseeable future;
6. Maps and photos of the site;
7. Project budget including all costs associated with the easement purchase;
8. Project timeline;
9. Letters of support and a letter confirming a willing seller;
10. Information on the property including size, irrigation, zoning and structures as outlined in the Easement Acquisition Summary Sheet;
11. Agricultural capacity and intended future use of the property;
12. Natural resource considerations;
13. Project consistency with relevant regional planning;
14. Protection under Williamson Act or Farmland Security zoning;
15. Fiscal and technical capacity of any grant applicant to carry out the proposed project;
16. Title report;
17. Appraisal;
18. Easement Monitoring and Reporting Plan;
19. Baseline Conditions Report;
20. Escrow instructions and all closing documentation;
21. And, a copy of nonprofit IRS 501(c)3 or 170(h) status and articles of incorporation when matching grant funds are requested.

C. General Requirements

General requirements for the acquisition and management of easements are as follows:

1. The purchase price of any interest in land purchased under this County Program may not exceed fair market value as established by an appraisal prepared by an MAI (Member, Appraisal Institute) appraiser and reviewed and approved by the Marin County Department of Public Works – Real Estate Section.
2. Easements and other real property interests shall be acquired only from willing sellers.
3. Easements shall include, if appropriate, provisions limiting uses and practices that may degrade water quality, soil and bank stability, and riparian vegetation with regard to a creek or stream on the property.
4. When additional real property interests are being purchased to further restrict the use of lands encumbered by an easement those interests may limit uses and practices that could degrade water quality, soil and bank stability, and riparian vegetation with regard to a creek or stream on the property.

5. Easements shall include a provision specifying continued productive agricultural uses on the property. This provision shall also be required, where appropriate, when additional real property interests are being purchased to further restrict the use of lands encumbered by an easement that predates the effective date of the County Program.
6. Easements held by an entity other than the County of Marin (County) shall name the County, the Marin County Open Space District, or a public entity approved by the County, as a back-up owner in the event the original owner ceases to exist, or to be a qualified organization under Section 170(h) of the Internal Revenue Code, as amended, or ceases to be authorized to hold conservation easements under California law.
7. The Marin County Board of Supervisors (Board) shall empower the Director to approve any form of easements acquired pursuant to this County Program by an entity other than the County. The Agricultural Conservation Easement template adopted by the County on May 12, 2009 shall serve as a model for an appropriate easement, and may be modified as necessary. The final easement terms and conditions are subject to input, review, and approval by Marin County Parks and the Board.
8. The holder of easements and other real property interests acquired pursuant to this County Program shall monitor and enforce the easements and other real property interests in accordance with the Land Trust Alliance Land Standards and Practices, and as such standards and practices may be amended from time to time.
9. Grantee is responsible for complying with all County appraisal requirements. Please see Item VII.D. in the County Program for detailed information on appraisal requirements (see Marin County Agricultural Lands Conservation Program in the Web References section below).
10. Measure A Program funds must be matched at a minimum ratio of 1:1. In-kind donations do not qualify for matching purposes.
11. The applicant and the Marin County Board of Supervisors must enter into a grant agreement before the County disburses funding from this Measure A Program.
12. Applicant or the proposed easement holder must complete a baseline conditions report prior to close of escrow. Please see Item 4 of the County of Marin Agricultural Conservation Easement template (see Web References section below), for information on the content of this report.
13. The easement holder shall develop and submit to Marin County Parks prior to close of escrow a baseline report and an Easement Monitoring and Reporting Plan that, at minimum, describes annual monitoring and reporting protocol.
14. The use of public funds to acquire an agricultural conservation easement is a project within meaning of the California Environmental Quality Act and is subject to the requirements of Division 13 of the California Public Resources Code. California Code of Regulations, Title 14, Section 15317 provides for a categorical exclusion for open space contracts or easements, including the establishment of agricultural preserves.
15. The applicant must meet the requirements of a qualified applicant under VII of the Marin County Agricultural Lands Conservation Program: Procedures and Requirements in the County Program.
16. Confirm property is zoned for agricultural use, its preservation is consistent with the Marin Countywide Plan.

D. Appraisal Requirements

1. Appraisals shall be required for the purchase of, or grants to facilitate the purchase of, agricultural conservation easements.
2. Appraisals may be required for the purchase of, or grants to facilitate the acquisition of additional real property interests if feasible and appropriate.
3. Easement appraisals shall be completed by an independent appraiser in conformity with the Uniform Standards for Professional Appraisal Practice (USPAP) and in conformity with the Code of Professional Ethics and Standards of Professional Appraisal Practice of the Appraisal Institute.
4. Purchase agreements must be executed within 12 months of the date of value established by the appraisal or an update to the appraisal may be required.
5. The purchase price cannot exceed fair market value as established by the easement appraisal.

E. Easement Monitoring and Reporting Requirements

Each of the following elements shall be described in detail in separate sections of an Easement Monitoring and Reporting Plan:

1. Frequency: Reporting frequency and timing, along with frequency of updating aerial photography for site review.
2. Landowner Contact: The method of contacting the landowner to set a date for monitoring.
3. Monitoring:

Reviewing Historic Documents- Strategy for review of historic property information, including the easement monitoring report from the previous year, along with schedule of updates to site photos.

Recording Data- Clear direction on appropriate and inappropriate types of site information to be collected, along with an easement monitoring report form outlining all data to be collected in the monitoring process. Data may include updated information on new buildings, changes to existing buildings, new roads or changes in road conditions, expansion of (or erosion from) quarries, tree cutting, or other change in infrastructure, land use, or resource conditions, erosion, weed, or potential water quality problems. Use of photographs and maps shall also be described in this section.

4. Final Report, Assessment, and Landowner Communication: Strategy to organize and transcribe field report information into a complete final annual report, contacting the landowner and other parties if a potential violation has occurred, and for how all reporting will be transferred to Marin County Parks staff if completed on an easement purchased by a matching grant.

F. Baseline Conditions Reporting Requirements

1. Landowner Contact: Description of landowner engagement in the property review and baseline conditions reporting process including details about timing, method of contact, and level of participation.

2. Improvements: Descriptions and geographic locations of all structures, roads, fences, water sources, fuel storage tanks or other construction, including their utility and condition.
3. Easement-Proscribed Activities: Descriptions and geographic locations of commercial or recreational uses, dumpsites, tree cutting, surface alterations, and other activities specifically limited or prohibited by the easement.
4. Vegetation Descriptions: Qualitative and quantitative descriptions and geographic portrayal of vegetation capturing the character and notable features of the property.
5. Erosion: Qualitative and quantitative descriptions and geographic portrayal of site erosion.
6. Water Pollution: Descriptions and geographic locations of any activities and uses that could impact water quality including obvious nonpoint pollution sources (such as routine flooding of confinement lots, livestock loafing in waterways, open manure stockpiles adjacent to waterways), any disposal of toxic materials, or significant erosion sites that may be contributing to stream sedimentation.
7. Photographic Documentation: Photographs showing property condition and character over time including descriptions and geographic locations.
8. Landowner Involvement: Strategy for review and approval of draft annual report findings with the landowner and Marin County Parks.