Attachment F

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Before the Board of Supervisors in and for the County of Monterey, State of California

Resolution No. 01-486 --)
Amending Procedure for the Creation of)
Farmland Security Zones and Contracts.)

WHEREAS, the Land Conservation Act of 1965, as amended, (Government Code, title 5, Division 1, Part 1, Chapter 7), authorizes counties to establish agricultural preserves; and

WHEREAS, urgency legislation (SB 1182, Statutes of 1998, Chapter 353, Chaptered 8/24/98) amended the Land Conservation Act of 1965, commonly known as the Williamson Act, to authorize the creation of Farmland Security Zones;

WHEREAS the purpose of this Act is to maintain the agricultural economy of California by providing an incentive to continue the agricultural use of land; and

WHEREAS, the legislature of the State of California finds and declares that it is desirable to expand options available to landowners for the preservation of agricultural land, and has enacted urgency legislation for the establishment of farmland security zones (Government Code Section 51296);

WHEREAS, the Board of Supervisors of Monterey County finds that it can assist in maintaining the agricultural economy of California by creating farmland security zones and entering into farmland security zone contracts as authorized by said Act.

WHEREAS, the Board of Supervisors has considered the Environmental Review through the Initial Study process and determined that the amendment of the procedures would have no potential for significant impact upon the environment.

NOW, THEREFORE, BE IT RESOLVED that the following procedures shall be used in the County of Monterey for initiating, filing and processing requests to create farmland security zones:

1. Applications, an original and four copies, to create farmland security zones for existing agricultural preserves, shall be filed with the Clerk of the Board of Supervisors on forms provided by said Clerk. For new Farmland Security Zones, said Applications shall be accompanied by Applications, an original and four copies, to establish agricultural preserves, which shall also be filed with the Clerk of the Board of Supervisors on forms provided by said Clerk. Said application or applications and copies shall be filed on or before **September 15th** of each year. The application(s) shall set forth the identity of each and every owner of the

property located within the proposed preserve and/or farmland security zone, a legal description of the property together with Assessor's parcel number or numbers, the size or acreage of the property. The application(s) shall have attached thereto a Title Company Lot Book Report which said report shall contain a plat or map of the property accurately showing the exterior boundaries thereof. The application(s) shall also show that the property is being used for commercial agricultural purposes and uses compatible therewith and shall show the rental history or income and expense history for the past three years. The application(s) shall further state that the applicant and each of the owner(s) expressly request(s) that appropriate steps be taken to reclassify said property into an appropriate agricultural zoning district and that a Farmland Security Zone be created, that the applicant and the owners desire to rescind an existing Land Conservation Contract or enter into a Land Conservation Contract and rescind said Land Conservation Contract, in order to simultaneously rescind the Land Conservation Contract, create a Farmland Security Zone and enter into a Farmland Security Zone Contract which qualifies for property tax valuation pursuant to Section 423.4 of the Revenue and Taxation Code and Government Code Section 51296.2, as may be amended from time to time.

2. The application shall be accompanied by non-refundable fee of $200.00 provided, however, where the application or applications are to place more than one parcel of property under separate ownerships into one preserve the fee shall by $200.00 plus $50.00 for each additional parcel over one under separate ownership.

3. When filed, within ten days of filing, the Clerk shall forward a copy of the application(s), together with a transmittal memo indicating the date filed, and whether the application(s) are timely filed, to the Assessor, to the Director of Planning, to the County Counsel, and to the Agricultural Commissioner and/or their designees for their recommendations. The Director of Planning shall submit a report as required by Section 51234 of the Government Code.

4. The Clerk of the Board of Supervisors shall place the matter upon the agenda of the Board of Supervisors. If the Board determines that said application(s) should be granted, the Clerk shall give notice in accordance with the provisions of California Government Code Sections 51230 and 51233.

5. The Board will establish agricultural preserves, and/or Farmland Security Zones, by resolution. Said resolution shall contain a finding of authorized uses which are compatible with the agricultural uses within the preserve or Farmland Security Zone and shall also contain any uniform rules to be adopted for the administering of the preserve and/or Farmland Security Zone.

6. Upon filing the application, the owners of land within the proposed agricultural preserve and/or Farmland Security Zone, shall file a request with the Clerk of the Board of Supervisors to enter into a land conservation contract and/or Farmland Security Zone Contract, as applicable, with the County.

7. The Board by resolution shall authorize and direct the Chair of the Board of Supervisors to sign land conservation contracts and/or Farmland Security Zone contracts with the owners of any land within the agricultural preserve and/or Farmland Security Zone, as applicable.

8. It shall be the policy of the County to establish preserves and/or Farmland Security Zones, where qualifications have been met and there is reasonable certainty that contracts will be concluded within a reasonable length of time.

9. It shall also be the policy of this Board to enter into Land Conservation, and/or Farmland Security Zone contracts, as applicable, (a) which provide for a minimum effective period of 20 years; (b) which restrict the use of land to commercial agricultural uses and to uses compatible therewith stated in the agreement; (c) which provide that such contract may not be canceled prior to the date of expiration by their own terms except as provided in said Land Conservation Act and/or Farmland Security Zone, and (d) which also provide for the payment of deferred taxes to the County, unless waived by the Board of Supervisors with the approval of the Secretary of the Resources Agency after the Board's determination that continuation of the contract conditions would seriously jeopardize public health or safety, and upon such cancellation the payment of the same amount and in the same manner as provided by Section 51283 of the Government Code.

10. It is further the policy of this Board to provide in such contracts that they shall be effective on the last day of December, prior to the lien date of January first, of the succeeding year, that each shall provide for automatic annual renewal for a period of one year unless notice of non-renewal is given as provided by Section 51245 of the Government Code. All land conservation and/or Farmland Security Zone contracts and notices of non-renewal thereof shall be recorded by the County. Such contracts shall be binding upon all subsequent transferees of any interest in the real property subject thereto.

11. It is further the policy of this Board to approve only agricultural preserves and land conservation contract and/or Farmland Security Zone applications and contracts meeting the following conditions:

    a. If located within one mile of a city, said city neither protests the establishing of the preserve nor the execution of the contract. If located within a sphere of influence of a city, the creation of the Farmland Security Zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere.

    b. Land Use. To be considered for inclusion in an agricultural preserve and or Farmland Security Zone, land must have a recent history of use primarily for the production of food and fibre products for commercial purposes. Use for

the production of such products for three out of the last five years shall be required, unless a bona fide commitment to such use is clearly evidenced by shorter use after a material change of circumstances, such as in the case of substantial capital investment to improve previously unimproved property for agricultural purposes or recent availability of agricultural water. "Commercial purposes" shall be interpreted to require that most products produced thereon are sold in normal marketing channels.

c. Minimum size and gross income. Applications for establishment of an agricultural preserve, and/or Farmland Security Zone as applicable, will not be considered unless the parcel or group of contiguous parcels to be included in the preserve contains 100 or more acres and shall have had an annual gross income during three of the last five years from the production of animals and/or unprocessed agricultural plant products of not less than $8,000.00, or in the case of recently improved lands, have a potential during the next succeeding year of producing a gross income of $8,000.00 from the production of animals and/or unprocessed agricultural plant products, provided, however, the Board of Supervisors will consider establishing agricultural preserves and/or creating Farmland Security Zones as applicable, of less than 100 acres, but of 40 or more acres if it finds that smaller preserves and/or Farmland Security Zones as applicable, are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves and/or Farmland Security Zones of less than 100 acres is consistent with the general plan of the County.

d. Compatible Uses. Compatible uses permitted on lands within an established "agricultural preserve" and/or "Farmland Security Zone":

1. Shall not be in conflict or inconsistent with or in violation of the basic underlying zoning applicable to the property;
2. Shall be particularly specified and included in the resolution establishing any preserve and/or Farmland Security Zone;
3. Shall be reviewed by the Agricultural Preserve Committee for each proposed contract and said Committee shall recommend appropriate adjustments.
4. Shall not be based on the compatible use provisions contained in Government Code Section 51238.1(c). (Government Code Section 51296.7).

e. Prime Agricultural Land. Applications for Farmland Security Zones shall not be considered unless the property is predominantly prime agricultural land as defined in Government Code Section 51201(c), or designated on the Important Farmland Series Maps, prepared pursuant to Government Code Section 65570 as predominantly one or more of the following: (1) prime

farmland; (2) farmland of statewide significance; (3) unique farmland; (4) farmland of local importance.

f. The property is not enforceably restricted pursuant to the Open-Space Easement Act of 1974 (commencing with Government Code Section 51070).

PASSED AND ADOPTED this 11th day of December, 2001, upon motion of Supervisor Calcagno, seconded by Supervisor Potter, and carried by the following vote, to-wit:

AYES: Supervisors Armenta, Calcagno, J ohnsen and Potter.

NOES: None.

ABSENT: None.

I, SALLY R. REED, Clerk of the Board of Supervisors of the County of Monterey, State of California, hereby certify that the foregoing is a true copy of an original order of said Board of Supervisors duly made and entered in the minutes thereof at page -- of Minute Book 70, on December 4, 2001.

DATED: December 4, 2001

SALLY R. REED, Clerk of the Board
of Supervisors, County of Monterey, State of California

By: Nancy Lukenbill
Deputy

ATTACHMENT A

SUMMARY OF AGRICULTURAL PRESERVE CONTRACT AND FARMLAND SECURITY ZONE CONTRACT REQUIREMENTS

(Excerpts from Government Code Sections 51230, 51233, 51234, 51243 (a,b), 51243.5, 51244, 51244.5, 51296 et. Seq., Resolution No. 80-529 and Resolution No. 99-455)

The Land Conservation Act of 1965, as amended, (Government Code, title 5, Division 1, Part 1, Chapter 7), authorizes counties to establish agricultural preserves; and

The purpose of this Act is to maintain the agricultural economy of California by providing an incentive to continue the agricultural use of land; and

The Board of Supervisors of Monterey County finds that it can assist in maintaining the agricultural economy of California by establishing agricultural preserves and/or creating Farmland Security Zones, and entering into land conservation and/or Farmland Security Zone contracts as applicable, as authorized by said Act.

The Agricultural Preservation Review Committee consisting of representatives from the Assessor's Office, County Counsel Office, Agricultural Commissioner, Planning & Building Inspection Department shall be responsible for reviewing the following in order to consider the establishment of an Agricultural Preserve Contract and/or creation of a Farmland Security Zone.

Establishment of Agricultural Preserve and/or Farmland Security Zone Contract

I. Application

A. Original and three copies of application

B. Filed on or before September 15th

C. Name and address of property owner(s)

D. Legal description of the property

E. Size (area) of property

F. Assessor Parcel Numbers

G. Title report containing plot or map

H. Indicate current commercial agricultural use and all other uses

I. Reclassification request, if required

J. History of Income & Expense

II. Qualifications

A. Areas of 100 acres or more, or group of contiguous parcels (Gov't. Code Sec. 51230) and

B. Annual gross income during three of the last five years from production of animals and/or unprocessed agricultural plant products of not less than $8,000.00 (Res. 80-529, Para 11 (c)).

C. Areas of less than 100 acres, but of 40 or more acres if necessary to preserve the unique characteristics of the agricultural enterprise, (Gov't Cod'e Sec. 51230, Res. 80-529. Para 11 (c) and

D.. Is consistent with the County General Plan. (Gov't Code Section 51234.)

E. Land has been used for production of food and fibre products for three of last five years. (Res. 80-529, Para 11 (c).)

F. Recently improved lands shall have the potential of a gross $8,000.00 income the next succeeding year. (Res. 80-529, Para 11 (c).)

G. If within one mile of a city, that city has not or will not protest the preserve or contract. (Gov't Code Sections 51233, 51243.5.). If located within a sphere of influence of a city, the creation of the Farmland Security Zone within the sphere of influence has been expressly approved by resolution by the city with jurisdiction within the sphere.

H. The property is zoned an appropriate agricultural designation, or that the proper reclassification be requested at the time the contract is applied for. (Res. 80-529, para 1)

I. Compatible Uses. Compatible uses permitted on lands within an established "agricultural preserve" and/or "Farmland Security Zone": (1) Shall not be in conflict or inconsistent with or in violation of the basic underlying zoning applicable to the property; (2) Shall be particularly specified and included in the resolution establishing any preserve and/or Farmland Security Zone; (3) Shall be reviewed by the Agricultural Preserve Committee for each proposed contract

and said Committee shall recommend appropriate adjustments. (4) Shall not be based on the compatible use provisions contained in Government Code Section 51238.1(c). (Government Code Section 51296.7).

J. Prime Agricultural Land. Applications for Farmland Security Zones shall not be considered unless the property is predominantly prime agricultural land as defined in Government Code Section 51201(c), or designated on the Important Farmland Series Maps, prepared pursuant to Government Code Section 65570 as predominantly one or more of the following: (1) prime farmland; (2) farmland of statewide significance; (3) unique farmland; (4) farmland of local importance.

K. The property is not enforceably restricted pursuant to the Open-Space Easement Act of 1974(commencing with Government Code Section 51070.

Procedure to make New Contracts

The owner of land applies to the Board of Supervisors on or before September 15th of each year. The application identifies each of the owners of the property and, in addition to a legal description, sets forth the size or acreage of the property. A map accurately showing the exterior boundaries of the property also accompanies the application.

The application should show the rental history or income and expense history of the land for commercial agricultural purposes for the last three (3) years. The owners must also expressly request that the property be rezoned into an appropriate district and that a Farmland Security Zone be created.

The application is submitted together with a nonrefundable $200.00 fee plus $50.00 for each additional parcel over one under separate ownership. The Board Clerk forwards the application (together with a transmittal memo indicating the date the application(s) is/are received, and whether the application(s) is/are timely filed), to the Agricultural Preservation Review Committee, consisting of representatives from the Assessor's Office, County Counsel Office, Agricultural Commissioner, and Planning and Building Inspection Department within ten (10) days. The Committee reports on whether the agricultural preserve is consistent with the general plan. (Government Code Section 51234, Resolution No. 80-529, para 3.)

The application(s) is/are to restrict land by contract within an agricultural preserve and/or Farmland Security Zone as applicable. The agricultural preserve may include several ownerships. To be considered for inclusion in an agricultural preserve and/or Farmland Security Zone as applicable, land must have recent history of use primarily for

the production of food and fiber for commercial purposes. An application for the establishment of an agricultural preserve, and/or creation of a Farmland Security Zone as applicable, will not be considered unless the parcel or group of contiguous parcels to be included in the preserve contains one hundred (100) or more acres (Government Code Section 51230) and shall have had an annual gross income during three (3) of the last five (5) years of not less than eight thousand dollars ($8,000). (Resolution No. 80-529, paragraph 11 (c).)

The Board of Supervisors will consider establishing agricultural preserves and/or creating Farmland Security Zones as applicable, of less than one hundred (100) but more than forty (40) acres if it finds that smaller preserves, and/or Farmland Security Zones as applicable, are necessary due to the unique characteristics of the agricultural enterprise. (Resolution No. 80-529, paragraph 11 (c).) For example, specialty crops.

The owner of the land files an application for the creation of a Farmland Security Zone and at the same time files an application to enter into a Farmland Security Zone contract. This may be in a new Farmland Security Zone or in the enlargement of an existing preserve and/or Farmland Security Zone as applicable.

The Board, by resolution, establishes Farmland Security Zones and authorizes the Chair of the Board to sign the contracts within the Farmland Security Zones as applicable. The Board also establishes compatible uses permitted on lands within the "Farmland Security Zones" and the applicable list is appended to each contract.

What compatible uses are permitted for a Farmland Security Zone Contract

"Compatible use" is defined in the statute, Section 51201 (e) as follows:

"(e) 'Compatible use' is any use determined by the County or City administering the preserve pursuant to Section 51231 or Section 51238 or Section 51238.1 or by this act to be compatible with the agricultural, recreational, or open-space use of land within the preserve and subject to contract. 'Compatible use' includes agricultural use, recreational use or open-space use unless the Board or Council finds after notice and hearing that such use is not compatible with the agricultural, recreational or open space use to which the land is restricted by contract pursuant to this chapter."

The list of compatible uses approved by the Board within Farmland Security Zones follow:

1. The drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced.

2. Structures necessary and incidental to the agricultural use of the land.

3. Single family dwellings incidental to the agricultural use of the land for the residence of the owner, and the family of the owner. Single family dwellings

incidental to the agricultural use of the land for the residence of the lessee of the land and the family of the lessee.

4. Dwellings for persons employed by owner or lessee and the family of employee or lessee incidental to the agricultural use of the land.

5. An aircraft landing strip incidental to the agricultural use of the land.

6. The erection, construction, alteration or maintenance of gas, electric, water or communication utility facilities.

7. The erection, construction, alteration or maintenance of radio, television or microwave antennas, transmitters and related facilities.

8. Public or private hunting of wildlife or fishing.

9. Public or private hunting clubs and accessory structures.

10. Public or private rifle and pistol practice range, trap or skeet field, archery range or other similar use.

11. Public or private riding or hiking trails.

12. Removal of natural materials.

13. Disposal site for oil field wastes, provided that any such use shall be made only in accordance with the use permit and other permits issued by the County of Monterey and the California Regional Water Quality Board and such other governmental authority as may have jurisdiction over this use.

    "Wastes received (discharged) at the site have been, and will continue to be, limited to petroleum and oil field wastes, such as muds, oily water, tank bottom wastes, and brine waters."

14. Shall not be based on the compatible use provisions contained in Government Code Section 51238.1(c). (Government Code Section 51296.7).