Attachment E

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

Resolution No. 03-383:
Amend Resolution No. 01-485, Amending Procedure for Agricultural Preserves, to include the word "usually" into item no. 1 of "the list of compatible uses within Agricultural Preserves," to read as follows: "The drying, packing or other processing of an agricultural commodity usually performed on the premises where it is produced."

WHEREAS, the Board of Supervisors recognizes a clerical error that inadvertently omitted the word "usually" in item no. 1 of the County's list of compatible uses within Agricultural Preserves found in Resolution No. 01-485 approved by the Board on December 11, 2001, and

WHEREAS, the Board of Supervisors recognizes that by re-inserting the word, the list of Board-approved Agricultural Preserve compatible uses will be consistent with the Farmland Security Zone compatible uses found in Resolution No. 01-486 that was also approved by the Board on December 11, 2001.

NOW, THEREFORE, BE IT RESOLVED THAT the Board of Supervisors amends Resolution No. 01-485, Amending Procedure for Agricultural Preserves, to include the word "usually" into item no. 1 of "the list of compatible uses within Agricultural Preserves," to read as follows:

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

PASSED AND ADOPTED on this 25th day of November, 2003, by the following vote, to-wit:

AYES: SUPERVISORS CALCAGNO, LINDLEY, JOHNSEN, POTTER and ARMENTA

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 X of Minute Book 71, on November 25, 2003.

Dated: 11/25/03

Sally R. Reed, Clerk of the Board of Supervisors, County of Monterey, State of California.

By Barbara S. Grant
Deputy Barbara S. Grant

cc: Planning and Building/E. Nordgreen; County Counsel/M. Perry

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

Resolution No. 01-485 --)
Amending Procedure for)
Agricultural Preserves . . . . .)

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 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 Board of Supervisors of Monterey County finds that it can assist in maintaining the agricultural economy of California by establishing agricultural preserves and entering into land conservation contracts as authorized by said Act.

NOW, THEREFORE, BE IT RESOLVED that the following procedures shall be used in the County of Monterey for initiating, filing and processing requests to establish agricultural preserves:

1. Applications, an original and four copies, to establish agricultural preserves, shall be filed with the Clerk of the Board of Supervisors on forms provided by said Clerk. Said application and copies shall be filed on or before **September 15th** of each year. The application shall set forth the identity of the owners of the property located within the proposed preserve, a legal description of the property together with Assessor's parcel number or numbers, the size or acreage of the property, and 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 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 shall further state that the applicant and the owners request that appropriate steps be taken to reclassify said property into an appropriate agricultural zoning district and that the applicant and the owners desire to enter into a Land Conservation Contract with the County which qualifies as an "enforceable restriction" as that term is used in Revenue and Taxation Code Section 422.

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 (10) days of filing, the Clerk shall forward a copy of the application, together with a transmittal memo indicating the date filed, and whether the application was timely filed, to the Assessor, to the Director of Planning and Building Inspection, 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 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 by resolution. Said resolution shall contain a finding of authorized uses which are compatible with the agricultural uses within the preserve and shall also contain any uniform rules to be adopted for the administering of the preserve.

6. Upon filing the application, the owners of land within the proposed agricultural preserve shall file a request with the Clerk of the Board of Supervisors to enter into a land conservation contract with the County.

7. The Board by resolution shall authorize and direct the Chair of the Board of Supervisors to sign land conservation contracts with the owners of any land within the agricultural preserve.

8. It shall be the policy of the County to establish preserves 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 contracts (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 (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 Sections 51283 and 51283.1 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 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 applications 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.

b. Land Use. To be considered for inclusion in an agricultural preserve, 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 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 of less than 100 acres, but of 40 or more acres if it finds that smaller preserves are necessary due to the unique characteristics of the agricultural enterprises in the area and that the establishment of preserves of less than 100 acres is consistent with the general plan of the County.

d. Compatible Uses. Compatible uses permitted on lands within an established "agricultural preserve":

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

3. Shall be reviewed by the Agricultural Preserve Committee for each proposed contract and said Committee shall recommend appropriate adjustments.

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, Johnsen and Potter.

NOES: None.

ABSENT: Supervisor Pennycook.

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 REQUIREMENTS

(Excerpts from Government Code Sections 51230, 51233, 51234, 51243 (a, b) 51243.5, 51244, 51244.5, Resolution No. 80-529; Resolution No. 99-454).

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 entering into land conservation contracts 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:

Establishment of Agricultural Preserve Contract

I. Application

A. Original and three copies of application

B. Filed on or before **September 15th**

C. Name and address of each property owner

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.)

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)

Procedure to make New Contracts

The owner of land applies to the Board of Supervisors on or before **September 15** of each year. The application identifies the owners of the property and, besides a legal description, sets forth a 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 request that property be rezoned into an appropriate district. (Resolution No. 80-529, para 1.)

The application is submitted together with a nonrefundable $200.00 fee plus $50.00 for each additional parcel over one under separate ownership (Resolution No. 80-529, para 2.). Within ten (10) days of filing, the Board Clerk forwards the application, together with a

transmittal memo indicating the date received, and whether the application was 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 thirty (30) 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 is to restrict land by contract within an agricultural preserve. The agricultural preserve may include several ownerships. To be considered for inclusion in an agricultural preserve, 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 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 of less than one hundred (100) but more than forty (40) acres if it finds that smaller preserves 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 establishment of an agricultural preserve and at the same time files an application to enter into an agricultural land conservation contract. This may be in a new agricultural preserve or in the enlargement of an existing preserve.

The Board, by resolution, establishes agricultural preserves and authorizes the Chair of the board to sign all contracts within the preserve. (Resolution No. 80-529; paragraphs 5, 6, 7.) The Board also establishes compatible uses permitted on lands within an established "agricultural preserve" and this list is appended to each contract. (Resolution No. 80-529, paragraph 11 (d).)

What compatible uses are permitted for an Agricultural Preserve 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 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 within Agricultural Preserves approved by the Board follow:

1. The drying, packing or other processing of an agricultural commodity 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 the 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."

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