

# Exhibit B

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## **MONTEREY COUNTY POLICY BACKGROUND**

The County of Monterey (County) elected to include an Agriculture Element as part of the 2010 General Plan, which governs the inland unincorporated County because agriculture is the largest industry in the County, contributing significantly to the County's economy. The agricultural industry of Monterey County is a significant contributor of diverse agricultural products, which allows Monterey County to provide a relative abundance of nutrition for export and Monterey County residents. Agricultural land provides important climate and environmental benefits and facilitates groundwater recharge and water quality improvement projects.

Goal AG-1 of the 2010 General Plan Agricultural Element is to preserve, protect, and enhance farmland to maintain the productivity and viability of the County's agricultural industry. Loss of farmland to development is irreparable and can negatively impact the region's economy. Population growth in Monterey County is predicted to continue, and Monterey County has a severe housing shortage, especially affordable housing units. While additional housing and commercial developments will be required to support the increased population, there is time to facilitate both growth and the continued success of the agricultural industry, which will likely continue to provide income for a significant part of Monterey County's population.

Agricultural Element Policy AG-1.12 specifically requires that the County prepare, adopt, and implement a policy that requires that projects involving a change of land use designation resulting in the loss of Important Farmland<sup>1</sup> mitigate the loss of acreage. AG-1.12 will be implemented as part of an Agricultural Conservation Mitigation Program (Program) being developed by the County. AG-1.12 further states:

*"The program may include ratios, payment of fees, or some other mechanisms. Mitigation mechanisms established through this program shall be based upon a graduated value of the Important Farmland, with mitigation for loss of prime land having the highest agricultural value. The County shall support private, non-profit land trusts and conservation organizations to promote the policies of this General Plan, facilitate the implementation of the program, and to receive, by voluntary donation or purchase, development rights on any lands to be preserved as part of this program's implementation strategy."*

*"The acreage within a project...that is to be utilized for inclusionary housing shall not be subject to this mitigation policy."*

## **MAPPING TOOL AND SALC GRANT**

As a part of Program development, staff created a mapping tool that details existing agricultural conservation easements and Williamson Act parcels in the County. The completed mapping tool also shows State of CA Department of Conservation Important Farmland categories and jurisdiction boundaries in the County. The completed mapping tool allows staff and the public to see where agricultural land may be threatened by development and ensures that staff and the public are aware of parcels that may be eligible for future agricultural conservation easements.

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<sup>1</sup> Important Farmland as mapped by the California Department of Conservation Farmland Mapping and Monitoring Program. Important Farmland categories include Prime Farmland; Farmland of Statewide Importance; Unique Farmland; and Farmland of Local Importance.

The mapping application will help inform future policy development discussions and give the public and staff a sense of where future development pressures may occur and where effective mitigation opportunities may be available. The mapping tool will also be used in the implementation phase to identify priority areas for mitigation receiving sites and identify sites that are potential candidates for groundwater quantity and water quality improvement projects that may be eligible for reduced mitigation ratios. The mapping tool can be found online using this link:

<https://maps.co.monterey.ca.us/portal/apps/webappviewer/index.html?id=2210e74f59684b7db87cf19293707956>.

This mapping tool was developed with the financial and technical assistance the Sustainable Agricultural Lands Conservation Program (SALC) provided. The County was awarded a State of California Department of Conservation SALC Program grant to fund the development of the Program. This grant provided the County with funding for staff time when the grant agreement was approved in 2020. The grant also provided the County access to the Department of Conservation's technical assistance and knowledge of agriculture and the agricultural industry in the State of California. The grant expired in June 2023, but the Department of Conservation has continued providing technical support as the Program progresses.

## **OUTREACH**

Staff began the public outreach process in May 2022 by conducting a series of public and targeted-stakeholder outreach meetings and summarizes outreach efforts below. Staff considered all feedback received throughout the public/stakeholder outreach process. However, not all feedback received to date has risen to a level for inclusion in the draft ordinance.

### Public Meetings

Staff conducted three public meetings in July 2022 focused on engaging agricultural landowners, leaseholders, and the public. Staff conducted one meeting in North County, one meeting in South County, and one hybrid meeting in Salinas. Staff conducted these meetings to inform the public and agricultural interests in the County of the development of the Program and to receive feedback from agricultural interests and the public. Two of the meetings (South County and Salinas) offered Spanish translation to ensure broad participation.

### Jurisdiction and Agency

Staff conducted and continues to meet with local jurisdictions within Monterey County and public agencies. Staff has held multiple meetings with the Cities of Greenfield, Gonzales, King City, Salinas, and Soledad to discuss the status of the County's draft agricultural mitigation ordinance and coordination for a potential Salinas Valley-wide agricultural mitigation program.

Staff met individually with the Local Agency Formation Commission (LAFCO) to understand the annexation process and LAFCO policies and practices regarding agricultural mitigation for annexations. LAFCO also participated in the meetings with the Salinas Valley cities.

Staff and the Salinas Valley cities continue to meet regularly, with LAFCO's participation, to continue the dialogue around the development of agricultural mitigation regulations and best practices that could be applied across each jurisdiction in the Salinas Valley to provide clear and

consistent standards. These discussions are occurring parallel to the County's draft ordinance as the annexation and sphere of influence amendment process are separate legal processes regulated by the Cortese–Knox–Hertzberg Local Government Reorganization Act of 2000.

Staff met with representatives of the United States Department of Agriculture (USDA) and the Natural Resources Conservation Service (NRCS), California Department of Conservation, California Department of Food and Agriculture, and the Resource Conservation District of Monterey County for their subject matter expertise to inform the development of the draft ordinance.

#### Organizations

Staff held multiple meetings with agriculture industry associations, including the Grower-Shipper Association and the Monterey County Farm Bureau. Staff held outreach meetings with the four conservation land trusts known to be operating in Monterey County: Ag Land Trust, Big Sur Land Trust, Elkhorn Slough Foundation, and the Land Trust of Santa Cruz County. Local conservation land trusts assisted the County by providing their existing agricultural conservation easements for inclusion in the mapping tool and for their subject matter expertise to inform the development of the draft ordinance. The Ag Land Trust additionally participated as a member of the Subcommittee.

Staff met with the Building Industry Association of the Bay Area and local builders in Monterey County to understand how the agricultural mitigation ordinance could protect farmland from development while limiting the impact on housing and affordable housing construction in and near already developed areas of the unincorporated County.

Staff met with the Monterey County Center for Community Advocacy and Communities Organized for Relational Power in Action to inform them of the development of the agricultural mitigation policy and understand if their organizations would be interested in following the policy's development. Neither organization identified a strong nexus between their organization's goals and mission and the agricultural mitigation policy being developed.

Staff met with the various water quality/quantity organizations in Monterey County, including Salinas Valley Basin Groundwater Sustainability Agency, Central Coast Water Quality Preservation, Inc., Greater Monterey Regional Water Management Group, and Central Coast Wetlands Group to better understand local groundwater concerns and water quality and quantity improvement projects. Staff specifically met with the Central Coast Regional Water Quality Control Board to understand the Irrigated Lands Program and its relationship to water quality improvement projects.

#### Committees and Commissions

Staff presented to the Agricultural Advisory Committee (AAC), Ad Hoc Subcommittee of the Agricultural Advisory Committee (Subcommittee), and the Planning Commission (Commission).

May 25, 2022 – AAC – Staff conducted a workshop and presented the draft ordinance.

July 28, 2022 – AAC – Staff conducted a workshop and presented the draft ordinance.

August 25, 2022 – AAC – Staff conducted a workshop and presented the draft ordinance.

October 26, 2022 – Commission – Staff conducted a workshop and presented the draft ordinance.

January 26, 2023 – AAC – Staff presented the Commission’s recommendations and presented the draft ordinance.

February 13, 2023 – Subcommittee – Staff conducted a workshop and presented the draft ordinance to the Subcommittee.

March 27, 2023 – Subcommittee – Staff presented and presented the draft ordinance to the Subcommittee.

April 10, 2023 – Subcommittee – Staff presented and presented the draft ordinance to the Subcommittee.

April 24, 2023 – Subcommittee – Staff presented and presented the draft ordinance to the Subcommittee.

May 8, 2023 – Subcommittee – Staff presented and presented the draft ordinance to the Subcommittee.

June 12, 2023 – Subcommittee – Staff presented and presented the draft ordinance to the Subcommittee.

August 14, 2023 – Subcommittee – Staff presented the draft ordinance to the Subcommittee.

September 28, 2023 – AAC – Staff presented the draft ordinance to the AAC, and the AAC recommended that Staff bring forward a revised draft ordinance to the Commission for consideration.

November 16, 2023 – AAC – Staff will return to the AAC to provide an informational update on the suggested revisions made by the AAC on September 28, 2023.

## **POLICY DISCUSSION**

The draft ordinances establish the mitigation requirements for converting agricultural land (Farmland, Permanent Grazing, and Rural Grazing) to non-agricultural use for two types of activities: 1) the redesignation of land from an agricultural designation to any other designation; and 2) projects requiring use or administrative permits where agricultural land is converted to non-agricultural use, and projects that require a variance where the maximum building site coverage is exceeded. Throughout the outreach process, staff heard that there are situations

where exemptions for specific types of development may be appropriate. The 2010 General Plan required that staff exempt Inclusionary (Chapter 18.40) and Affordable Housing (Section 21.06.005) from the mitigation requirements in the draft ordinance. Other exemptions added during the outreach and Subcommittee process were exemptions for Agricultural Employee Housing (Section 21.06.014), Agricultural Processing Plant (Section 21.06.020), Agricultural Support Service (Section 21.06.030), and groundwater quantity and water quality improvement projects.

The draft ordinance establishes mitigation ratios that are tiered based on the type of farmland being converted. The type of farmland categories are based on the State of California Department of Conservation Farmland Mapping and Monitoring Program Important Farmland categories. Other models were considered, and it was determined that the comprehensiveness and consistency of this model afforded staff the ability to utilize a state-maintained system widely utilized throughout the State for agricultural mitigation ordinances. The State’s Farmland Mapping and Monitoring Program has four categories of farmland: Prime Farmland, Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance (Monterey County currently does not have any Farmland of Local Importance). The draft ordinance combined these four categories into two categories: Prime Farmland, which encompasses Prime Farmland, and Statewide, Unique, and Local Farmland, which encompasses Farmland of Statewide Importance, Unique Farmland, and Farmland of Local Importance. Some concerns were expressed during the outreach process and by some members of the Subcommittee that Farmland of Statewide Importance was similar enough to Prime Farmland that it should be in the same category as Prime Farmland. The Subcommittee, at its August 14<sup>th</sup> meeting, voted 5-1 to recommend that Farmland of Statewide Importance not be in the same category as Prime Farmland. The AAC unanimously supported the draft ordinance with Farmland of Statewide Importance in a different category from Prime Farmland.

The draft ordinance’s mitigation ratios discussion and concern at the subcommittee regarding the mitigation ratios as they were presented in the draft ordinance, with two Subcommittee members advocating for higher base mitigation ratios. The Subcommittee had significant discussions around the mitigation ratios, and on August 14<sup>th</sup>, the Subcommittee voted 4-2 to accept the mitigation ratios as presented in the draft ordinance (see above). The AAC unanimously supported the draft ordinance with the proposed base mitigation ratios.

Table 1 illustrates the base mitigation ratio depending on the location and the farmland classification category of the farmland being converted.

Table 1

<b>Location:</b>	<b>Farmland Category:</b>	<b>Base Mitigation Ratio:</b>
Outside of Community Areas, Rural Centers, and Affordable Housing Overlays	Prime	2:1
	Statewide, Unique, Local	1.75:1

Inside of Community Areas, Rural Centers, and Affordable Housing Overlays	Prime	1.5:1
	Statewide, Unique, Local	1.25:1

The draft ordinance establishes minimum requirements for land being protected as mitigation for development (mitigation land), including that it be located within the County, be designated as substantially equivalent farmland classification category or better, and be in an agricultural zone. Additional requirements are that the land must have a water supply (Section 21.92.030.Y of the draft ordinance) and that it be of adequate size, configuration, and location to be viable for continued agricultural production. Staff heard throughout the outreach process that ensuring that the parcel has a water supply for the agricultural operation is critical for all conservation easements and deed restrictions. Staff heard from some individuals during the outreach process that the mitigation land have a sustainable water supply to support the agricultural operation in perpetuity. Staff explored this concept and does not recommend inclusion of language requiring evidence of sustainable (or long-term) water supply for proposed mitigation lands at this time. Instead, staff included a definition of water supply in the draft regulations to ensure language is included in the conservation easement or deed restriction that protects the existing water supply on the property. This requirement similar to other jurisdictions with agricultural conservation mitigation regulations.

The draft ordinance prioritizes mitigation land that is protected in strategic locations to prevent hopscotch development and sprawl as well as on high-value multi-benefit sites in which development could be particularly detrimental to groundwater recharge and water quality. The draft ordinance allows applicants to reduce their required base mitigation ratio if they obtain a conservation easement or deed restriction on mitigation land in an area identified as a priority area for mitigation. There were four specific priority areas identified: high potential groundwater recharge areas, water quality improvement projects, along the exterior boundary of CARCAHOs, and the exterior boundary of permeant growth boundaries and permeant agricultural edges as identified in Board of Supervisors approved City and County Memorandum of Agreements and Memorandum of Understandings. The maximum reduction to applicants' mitigation ratio for each category is up to a maximum of 0.125 off of their base mitigation ratio.

Protecting farmland with a conservation easement or deed restriction is recognized as a best practice, so the draft ordinance requires that applicants make two good faith efforts to protect land with one of these options. The draft ordinance recognizes that, in some cases, it may not be feasible to protect farmland with a conservation easement or deed restriction. To ensure flexibility, after two good faith efforts, applicants can pay in-lieu fees based on the full appraised fair market value to satisfy their mitigation requirements. In addition, applicants are allowed to use alternative mitigation to satisfy some of their mitigation requirements. The draft ordinance requires the AAC to review and recommend the proposed mitigation to ensure that all in-lieu fees and alternative mitigation are evaluated.



The draft ordinance includes minimum requirements for all three categories of mitigation that are allowable: easement or deed restriction, in-lieu fees, and alternative and complementary mitigation. Easements or deed restrictions have requirements for minimum terms that must be in the easement or deed restriction, minimum requirements for the land being protected with the easement or deed restriction, and a requirement that the Qualifying Conservation Entity hold the easement or deed restriction.

The draft ordinance requires that the Qualifying Conservation Entity be a non-profit that is operating locally, their primary purpose is conserving and maintaining agricultural land in production, and that they have an annual monitoring and reporting program. The draft ordinance also requires that applicants pay in-lieu fees to the Qualifying Conservation Entity, which enables the Qualifying Conservation Entity to locate and protect agricultural land with a conservation easement or deed restriction.

Staff heard concerns during public outreach and from members of the AAC that if any Qualifying Conservation Entity is unwilling to hold a conservation easement or deed restriction, the County of Monterey should be willing to hold the conservation easement or deed restriction as a last resort. Staff discussed this option internally and when meeting with other jurisdictions. For a jurisdiction to successfully hold the conservation easement and deed restriction, there needs to be a plan in place for the jurisdiction to monitor and ensure compliance with the conservation easements or deed restriction requirements. Other jurisdictions that hold agricultural conservation easements/deed restrictions found this very challenging. In Monterey County there are multiple land trusts working actively to protect agricultural lands and open space that are well qualified to hold conservation easements or deed restrictions. Staff does not recommend the County hold agricultural conservation easements or deed restrictions as County staff do not have the requisite knowledge, time and resources to establish a successful monitoring and compliance program of this nature.

The draft ordinance requires that for applicants paying in-lieu fees, the development rights of the land being converted must be appraised at fair market value within 90 days of the payment of the fees, that the fee is paid to the Qualifying Conservation Entity, and that the AAC must review and recommend all in-lieu fees. There was significant discussion about the importance of ensuring the appraisal was appropriate and accurate. Therefore, staff added language to the draft regulations to ensure that the AAC reviews all appraisals that are a part of proposed in-lieu fees or alternative and complementary mitigation and can recommend that the applicant obtain another appraisal if the original appraisal seems inappropriate. The draft ordinance allows alternative and complementary mitigation up to 5% of the applicant's required mitigation amount; if higher than 5%, the applicant must provide additional proof to the AAC that the alternative and complementary mitigation is equally as protective as a conservation easements or deed restriction. The AAC must review and recommend all alternative and complementary mitigation.

The draft ordinance requires that for projects that change land use designation, the mitigation must occur within twenty-four months of approval of the zoning change or before the commencement of use, whichever occurs first. For projects that are required to mitigate because of an administrative permit, use permit, and/or variance, the mitigation must occur prior to or concurrent with the recordation of a parcel map or prior to the issuance of the first construction permit, whichever occurs first. If a project requires both a land use designation change and must obtain an administrative permit, use permit, and/or variance, the applicant must comply with the mitigation requirement that occurs first.

The draft ordinance establishes a Farmland Mitigation Plan, which states the minimum requirements that applicants must provide to the County upon application submittal and before the application is entitled. This Farmland Mitigation Plan (Section 21.92.100) was developed to ensure that applicants know what is required of them to meet their mitigation requirements and that County staff have sufficient information from the applicant to ensure that all requirements of the draft ordinance are satisfied.

### **REVISIONS TO THE DRAFT ORDINANCE REFLECTING AAC'S RECOMMENDATIONS AND SUBSEQUENT INTERNAL/LEGAL REVIEW**

This section details changes made to the draft ordinance considered at the Agricultural Advisory Committee meeting on September 28, 2023, reflecting changes recommended by the AAC and additional minor modifications deemed necessary upon staff and County Counsel subsequent review.

- Section 21.92.020.B.2 – This section was clarified based on an internal review to clearly state that activities requiring variances for maximum building site coverage are also subject to mitigation requirements.
- Section 21.92.020.C.2 – This section was clarified based on an internal review to state the specific types of permits exempt from mitigation requirements in the draft ordinance.
- Section 21.92.020.C.10 – This section was added after an internal review and upon recommendation from the Agricultural Advisory Committee for consistency with Chapter 9.J (Agricultural and Winery Corridor) of the 2010 General Plan.
- Section 21.92.030.J – This section was clarified based on an internal review to clearly state the California Department of Conservation's non-regulatory program's name.
- Section 21.92.030.N – This section was revised based on an internal review to clearly state that applicants are not required to work with a Qualifying Conservation Entity to find the mitigation land, pursuant to the Mitigation Process section of the draft ordinance (Section 21.92.060), applicants are only required to have the Qualifying Conservation Entity hold the mitigation land.
- Section 21.92.040.B – This section was revised after an internal review to clarify when the Important Farmland classification is used to determine the applicant's mitigation tier.
- Section 21.92.050.A.4 – This section was revised after an internal review to give applicants slightly more flexibility with the Important Farmland category of their mitigation land.

- Section 21.92.050.A.7 – This section was revised after an internal review to describe lands under Williamson Act contracts more accurately.
- Section 21.92.060.C – This was moved to clarify that applicants can propose Alternative and Complementary mitigation at any stage of the mitigation process.
- Section 21.92.070.B.2 – This section was revised after feedback from the Agricultural Advisory Committee to clearly state the requirements for appraisals and require that the AAC review appraisals.
- Section 21.92.070.C.2 - This section was revised after feedback from the Agricultural Advisory Committee to clearly state the requirements for appraisals and require that the AAC review appraisals.
- Section 21.92.080 – This section had minor revisions to the language after an internal review to clarify the specific mitigation timing requirements and ensure the requirements mirror current County processes and practices.
- Section 21.92.100 – This section had minor revisions to the language after an internal review to clarify what materials are required of applicants at what stage of the application and entitlement process.

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