

Resolution No. **2013-05-21-1210**

## **STOCKTON CITY COUNCIL**

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### **RESOLUTION AMENDING THE PUBLIC FACILITIES FEE PROGRAM ADMINISTRATIVE GUIDELINES FOR THE AGRICULTURAL LAND MITIGATION PROGRAM**

The Public Facilities Fee Program Administrative Guidelines were adopted on February 12, 1991, by Council Resolution No. 91-0119 and subsequently amended; and

Under the current guidelines, the Agricultural Land Mitigation Program ("ALMP") requires development projects consisting of 40 or more acres to provide an agricultural mitigation easement at a 1:1 ratio and dedicate that easement to a qualified entity while projects less than 40 acres are allowed to pay an in-lieu fee as mitigation; and

A lawsuit was filed in 2007 challenging the ALMP and in lieu of costly litigation, a settlement agreement was entered into which called for an amendment to the guidelines; and

It is necessary to amend the Public Facilities Fee Program Administrative Guidelines to provide that any development project, regardless of size, has the option of providing an agricultural land mitigation easement or paying an in-lieu mitigation fee; now, therefore,

**BE IT RESOLVED BY THE COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:**

1. The Public Facilities Fee Program Administrative Guidelines, as amended, are hereby approved and adopted, a copy of which is attached hereto as "Exhibit 1" and incorporated by this reference.

2. The effective date of this Amendment to the Public Facilities Fee Program Administrative Guidelines is June 20, 2013.

3. The City Manager is authorized to take all necessary and appropriate steps to carry out the purpose and intent of this resolution.

PASSED, APPROVED, AND ADOPTED May 21, 2013.



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ANTHONY SILVA, Mayor  
of the City of Stockton

ATTEST:

  
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BONNIE PAIGE  
City Clerk of the City of Stockton



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## **Exhibit 1**

### **6. Agricultural Land Mitigation Program (in-lieu fee and in-kind acquisition)**

**a.** The purpose of the Agricultural Land Mitigation Program is to mitigate for the loss of agricultural land in the City of Stockton through conversion to private urban uses, including residential, commercial and industrial development.

**b.** The following words or phrases, when used in these Guidelines, shall have the following meanings:

(1) "Agricultural land or farmland" for the purposes of these Guidelines means important farmland, as defined by the California Department of Conservation's Farmland Monitoring and Mapping Program (FMMP) and as shown on the most recent available FMMP map of San Joaquin County. Important farmland includes prime farmland, farmland of statewide significance, and unique farmland. This definition is consistent with the purpose of the Fee, and with the definition of "agricultural land" found in the California Environmental Quality Act (Public Resources Code section 21060.1).

(2) "Agricultural mitigation land" means agricultural land encumbered by an agricultural conservation easement or such other conservation mechanism acceptable to the City.

(3) "Agricultural conservation easement" means an easement over agricultural land for the purpose of restricting its use to agriculture. The interest granted pursuant to an agricultural conservation easement is an interest in land which is less than fee simple. Agricultural conservation easements should be permanent.

(4) "Nexus Study" means the City of Stockton Agricultural Mitigation Fee Nexus Study, prepared June 21, 2006, as may be amended from time to time.

(5) "Qualifying entity" means a nonprofit public benefit 501(c)3 corporation operating in San Joaquin County for the purpose of conserving and protecting land in its natural, rural or agricultural condition. A qualifying entity shall have suitable accounting and reporting procedures to assist the City in preparing the annual report described in Section g, below.

**c.** The Agricultural Land Mitigation Program shall apply to all, projects under the jurisdiction of the City of Stockton that would result in the conversion of agricultural land, as defined in this section, to a non-agricultural use, including residential, commercial, and industrial development. The Agricultural Land Mitigation Program shall apply (whether through an in-lieu fee or in-kind direct purchase) to the acquisition of agricultural mitigation lands (of equal or better quality to the land that is being converted) within the "Central Zone" of San Joaquin County [as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and excluding the Primary Zone of the Delta]. The Agricultural Land Mitigation Program



shall not apply to agricultural activities and facilities as defined by the Development Code or projects within the SJMSCP "No Pay Zone" (see h.).

d. All projects subject to the Agricultural Land Mitigation Program shall have the option to either:

1) Dedicate to a qualifying entity an in-kind direct purchase/acquisition of an agricultural conservation easement at a 1:1 ratio or;

2) Pay an in-lieu agricultural land mitigation fee.

For projects dedicating an agricultural conservation easement the Owner/Developer/Successor shall pay the associated administrative, monitoring, and contingency costs identified in the fee study, subject to any inflationary adjustments. '

For projects paying an in-lieu agricultural mitigation fee, the fee shall be determined by the fee schedule in effect on the date the final subdivision map is filed, the vesting tentative map application is deemed complete, or the date a building permit is issued, as applicable.

e. Dedication of agricultural mitigation land, or payment of in-lieu fees, shall be made prior to the recordation of a final subdivision map, except where a final map is processed to create parcels for purposes of resale and not intended for development. Where a subdivision map is not required, the dedication shall occur or the fee shall be collected before the issuance of building permits. The filing of a parcel map, which does not result in the conversion of agricultural lands, does not require dedication or payment of in-lieu fees. .

f. Agricultural land mitigation shall be at a ratio of 1:1 (1 acre of mitigation land per acre of agricultural land converted to any other land use). The size of the dedication or the amount of the in-lieu fee shall be calculated based on the acres within the subdivision classified as agricultural land. Where a subdivision map is not required, the fee shall be calculated based on the acres classified as agricultural land within the parcel for which the building permit is issued.

g. Agricultural land mitigation fees shall be placed in a separate Agricultural Land Mitigation Fee account to avoid commingling of the fees with the other funds of the City of Stockton. The fees may be temporarily invested. Such fees, along with any interest earnings, shall be used solely to pay for those uses described in the Nexus Study which shall include the following:

(1) To pay for acquisition of agricultural mitigation lands (of equal or better quality to the land that is being converted) within the "Central Zone" of San Joaquin County [as defined in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) and excluding the Primary Zone of the Delta].

- (2) To pay for transaction costs related to the acquisition of agricultural mitigation lands.
- (3) To pay for ongoing monitoring and administrative costs related to the ongoing stewardship of agricultural mitigation lands.
- (4) To provide a contingency for unexpected transaction costs or future legal costs required to maintain the terms of an agricultural conservation easement.

Agricultural conservation fees may be expended by the City of Stockton or transferred to the Central Valley Farmland Trust, or other qualifying entity as determined by City Council, for the purpose of acquiring agricultural mitigation land. For funds transferred to the Central Valley Farmland Trust, or a qualifying entity, the City shall transfer such funds quarterly, provided funds are available in the Agricultural Land Mitigation Fee Account. It is permissible to use agricultural land mitigation fees in order to obtain agricultural mitigation lands in fee simple, provided the purpose is to place an agricultural conservation easement on such lands, and make the lands available by sale for agricultural use.

**h.** The Agricultural Land Mitigation Program shall not apply to projects located in the "No Pay Zone" as established in the San Joaquin County Multi-Species Habitat Conservation and Open Space Plan (SJMSCP) compensation zone maps.