

STEWARDSHIP POLICY



**AG +
OPEN
SPACE**
SONOMA COUNTY
LAND FOR LIFE

LAND FOR LIFE

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I. INTRODUCTION

In 1990, the voters of Sonoma County created the Sonoma County Agricultural Preservation and Open Space District (“Ag + Open Space”) to permanently protect the diverse agricultural, natural resource, and scenic open space lands of Sonoma County for future generations. Ag + Open Space is funded through 2031 by a voter-approved sales tax, which was reauthorized by the voters in 2006 through approval of Measure F, known as the *Sonoma County Open Space, Clean Water and Farmland Protection Measure*. The 2006 Expenditure Plan (Appendix A) describes how the sales tax revenue may be spent. To date, Ag + Open Space has protected over 122,000 acres of land (Figure 1).

Ag + Open Space protects land primarily through acquisition and stewardship of conservation easements. These easements entail the acquisition and stewardship of a partial, non-possessory interest in a property. This typically includes extinguishing certain development rights and imposing land-use restrictions designed to preserve the identified conservation values. Conservation easements are perpetual agreements that “run with the land,” and remain in effect regardless of who owns the remaining property interests. With conservation easements, Ag + Open Space can protect more land at a lower cost than it could if it purchased the land itself, thus, allowing Ag + Open Space to leverage its limited sales tax dollars for maximum conservation impact.

In exceptional circumstances, Ag + Open Space purchases the land outright (called the “fee” title.) Owning land comes with significant land management obligations that require substantial staff resources. These obligations can be costly and consequently reduce the funds available for conservation of additional land. As such, Ag + Open Space only purchases land in fee with the express intent to eventually transfer it to an appropriate public or private conservation partner who will use the property for park or open space purposes. Most of the properties that Ag + Open Space owns are unique and special wild places that it intends to transfer to a recreational entity to operate as a public park and preserve. A few properties were purchased to ensure their availability for agricultural use or to preserve exceptional natural resources, or both, and are also intended for eventual transfer or sale to a conservation partner.

Under state law, any property interests Ag + Open Space owns (easement or fee) must be held in trust for park and/or open space purposes (Public Resources Code § 5565). Once land has been dedicated to and used for park and/or open space purposes, Ag + Open Space can only convey that land either (1) to a public agency that undertakes in a recorded written agreement to continue to use the land for park and/or open space purposes and not to convey the land without the consent of a majority of the Sonoma County voters or (2) to a private entity with the consent of a majority of Sonoma County voters.





Finally, Ag + Open Space is charged with stewarding these interests for as long as it owns them. Under state law, conservation easements are perpetual and, because Ag + Open Space dedicates its easements to open space under the Public Resources Code, transfers to third parties are strictly limited. (Civil Code § 815.2). Therefore, Ag + Open Space is prepared to manage its portfolio on a long-term basis for the benefit of many generations to come.

This Stewardship Policy (“Policy”) is an update to the Stewardship Manual approved by the Ag + Open Space Board of Directors in 2005. As a land conservation organization, Ag + Open Space generally follows the Land Trust Alliance (“LTA”) Standards and Practices. The LTA is a nationally recognized authority on the acquisition and stewardship of conservation easements and protected fee lands. As such, this Policy is designed to reflect LTA Standards 11 (Conservation Easement Stewardship) and 12 (Fee Land Stewardship) wherever possible.

II. CONSERVATION EASEMENTS

Easements are only effective in protecting land if they are consistently stewarded. Ongoing easement stewardship involves developing baselines, monitoring easements, and undertaking enforcement actions when necessary, as well as processing permitted use and amendment requests. Staff provide technical assistance and resources as appropriate to help landowners in accomplishing their goals for a property, while at the same time ensuring that the landowner’s uses and activities are conducted in compliance with the easement. Ag + Open Space may take legal action to address an easement violation, though such action is rarely necessary.

Over the years, Ag + Open Space has also accepted regulatory conservation easements (“open space easements”) granted as conditions of approval through the County permitting process. This Policy applies the same standards to open space easements as it does to conservation easements.

Baseline Documentation

Baseline documentation (the “Baseline Report”) describes and illustrates the physical condition, features, land uses, and improvements on protected land at the time that Ag + Open Space acquires a conservation easement. Staff uses this information gathered in the Baseline Report to compare past conditions with future changes to the land and provides a critical foundation for all future monitoring activities.

Additionally, the Baseline Report is an Internal Revenue Service requirement for landowners seeking a tax benefit for a donation of all or a portion of the conservation easement value, and often is a requirement of grant funding when other funding agencies contribute to an acquisition.

Objective:

Provide objective, accurate documentation of the condition and use of the land, as well as its natural features and improvements at the time the conservation easement is executed and conveyed to Ag + Open Space.



Policies:

1. Ag + Open Space shall endeavor to complete Baseline Reports for all new conservation easements prior to close of escrow.
2. Baseline Reports shall contain objective and accurate descriptions and data regarding the land uses, features, and condition of the property at the time of the conservation easement acquisition, including:
 - a. The physical condition and features of the land as they relate to the stated purpose of the conservation easement;
 - b. Descriptions of all structures, improvements, land uses, rights of way, and activities;
 - c. Photographs documenting property conditions for reference in future easement monitoring; and
 - d. A series of maps showing the locations and extents of the easement, any easement designation areas (e.g. building envelopes, natural areas, or agricultural areas), photograph locations, land ownership, latest available aerial imagery, and other relevant information.

Monitoring

Conservation easement monitoring consists of regular on-site inspections of each property protected by a conservation easement. Monitoring is regularly done as a means to avoid or document easement violations, and to ensure the protection of the conservation values specified in each easement. In addition, regular visits to an easement property facilitate positive relationships with landowners. Each monitoring visit is documented with standardized reports and record-keeping procedures that help record the history of the uses, improvements, and condition of the land for informational, compliance, and enforcement purposes.

Objectives:

1. Adequately monitor each conservation easement to ensure compliance with its provisions and to detect and prevent violations.
2. Create and maintain a written record of property conditions and any structures, improvements, land uses, or activities on a property, as well as any correspondence or remedial actions required by Ag + Open Space following monitoring visits.

Policies:

1. Ag + Open Space shall endeavor to monitor its conservation easements every 12 to 18 months, or in accordance with industry standards, which may allow for less frequent on-the-ground monitoring with use of aerial photographs or other remote sensing data.
2. Ag + Open Space shall tailor its monitoring efforts to each conservation easement and shall perform monitoring in a manner appropriate to the size, land uses, and conservation values set forth in each conservation easement.
3. Ag + Open Space shall monitor for compliance with the specific terms and conditions of each easement to ensure protection of the conservation purposes.
4. Ag + Open Space shall endeavor to incorporate appropriate and cost-effective technologies in its monitoring program.
5. Staff shall respect the privacy of residents and landowners to the greatest extent feasible while ensuring that they monitor the property with diligence.

Enforcement

To ensure the preservation of conservation values and safeguard the public investments in these projects, Ag + Open Space must diligently and consistently enforce its conservation easements. By promptly addressing all potential easement violations in accordance with this policy, applicable laws, and the terms and conditions of each easement, Ag + Open Space ensures the success of its conservation program.

When a potential violation is discovered, staff contact the landowner and work collaboratively to resolve the enforcement issue. Through working in close partnership with landowners, Ag + Open Space achieves the greatest level of compliance with the easement terms. However, Ag + Open Space will take formal legal action if necessary to address easement violations.

Objectives:

1. Ensure that structures, improvements, land uses, conditions, or activities on a protected property are consistent with the applicable conservation easement.



2. Carry out the Ag + Open Space enforcement program in a fair and even-handed manner and uphold those protections embodied within a property’s conservation easement.
3. Maintain records that accurately reflect existing easement violations, Ag + Open Space actions to enforce those violations, and the reasoning for those actions.

Policies:

1. Ag + Open Space shall actively steward easements and effectively communicate and work collaboratively with the original grantor and any successor landowners.
2. Ag + Open Space shall endeavor to quickly and effectively take such measures as necessary to resolve easement violations.
3. Ag + Open Space shall initially work cooperatively with landowners to cure easement violations.
4. When appropriate, Ag + Open Space may initiate legal action to enforce a conservation easement when cooperative efforts have failed or when substantial or irreparable harm has or may occur to conservation values.
5. When appropriate, Ag + Open Space may coordinate its enforcement efforts with other public agencies.

Permitted Use Notices and Permitted Use Requests

Conservation easements allow certain uses and limit or prohibit other uses on a protected property. Allowed uses are sometimes called “Permitted Uses.” Some Permitted Uses require advance written approval by Ag + Open Space, some require only advance notice to Ag + Open Space, while others require neither notice to, nor approval by, Ag + Open Space. When a landowner provides notice to Ag + Open Space of a particular use on the property, the notice is referred to as a “Permitted Use Notice.” When a landowner requests approval for a particular use on the property, that request is referred to as a “Permitted Use Request.” Typically, easements provide a timeframe of 45 days for Ag + Open Space to respond to a notice or request.

Objectives:

1. Ensure that structures, requested improvements, land uses, and activities on a protected property are consistent with the applicable conservation easement.
2. Maintain records that accurately reflect all processed permitted uses on Ag + Open Space easements, and the reasoning for approving or denying a request.

Policies:

1. Ag + Open Space shall require that Permitted Use Notices and Permitted Use Requests provide all the information necessary for Ag + Open Space to make an informed decision.
2. Ag + Open Space shall endeavor to consider and act upon all Permitted Use Notices and Permitted Use Requests in a timely and efficient manner.

Easement Amendments

The success of the Ag + Open Space program is built upon a foundation of trust, that the public is confident that Ag + Open Space will meet its obligations to enforce its easements as they are written. Nevertheless, occasionally situations arise where amending a conservation easement is appropriate to further the conservation values or to resolve unforeseen circumstances. In very limited circumstances, Ag + Open Space will pursue an amendment to a conservation easement to clarify language, make a correction, or realize a benefit to the conservation values in accordance with industry standards. This process requires approval from the Board of Directors.





State law significantly limits the ability of Ag + Open Space to amend its easements. Conservation easements in the State of California are authorized under California Civil Code section 815, which declares that “the preservation of land in its natural, scenic, agricultural, historical, forested, or open-space condition is among the most important environmental assets of California.” Consistent with this policy, in describing the legal effect of a conservation easement, Civil Code section 815.2(b) provides that “a conservation easement shall be perpetual in duration.” Thus, by design, Ag + Open Space conservation easements may be amended only as needed to satisfy their intended purposes. Open space easements held by Ag + Open Space are also perpetual under their terms, so Ag + Open Space administers them with similar deference.

Ag + Open Space’s discretion to amend its easements is also limited by Public Resources Code section 5540, which establishes additional safeguards with respect to any real property interest that has been dedicated to open space by Ag + Open Space.

Objective:

1. Strictly limit the circumstances under which amendments to conservation easements may be considered so as to ensure compliance with State law, and to maintain status as a qualified organization under IRS rules in cases of charitable contributions, to meet specific requirements of outside funders, support

Ag+ Open Space’s conservation goals, protect taxpayer investments, and maintain public confidence.

2. Maintain records that accurately reflect existing and pending easements amendments, and the reasoning for executing or denying any easement amendment.

Policies:

1. Ag + Open Space may amend easements only where there is a clear benefit to Ag + Open Space , which may include correction of a technical error.
2. Ag + Open Space may amend easements only where the amendment is consistent with law, adopted Ag + Open Space policies, and the conservation purpose of the easement.
3. Ag + Open Space may amend easements to provide for additional protection, provided that such additional protection does not diminish or otherwise impair the conservation values of the land.
4. Only the Ag + Open Space Board of Directors may amend an easement.
5. The Board may approve an amendment (whether initiated by a landowner or Ag + Open Space) only if it makes all of the following findings:
 - a. The amendment is clearly consistent with the conservation purpose of the conservation easement.
 - b. The amendment enhances and otherwise does not impair the conservation values of the land subject to the conservation easement.



- c. The amendment does not undermine the perpetual nature of the conservation easement.
- d. The amendment is not precluded by the conservation easement or by state or federal law.
- e. The amendment does not relinquish to the landowner any interest in land that has been expressly extinguished by the conservation easement, unless the amendment is accomplished as an exchange pursuant to Public Resource Code § 5540.5 so that there is no net loss of conservation value via the transaction.
- f. The amendment is the minimum change necessary to satisfy the purpose of the amendment.
- g. The amendment is consistent with the Ag + Open Space Vital Lands Initiative and other applicable Ag + Open Space policies in effect at the time of the proposed amendment.
- h. The amendment is consistent with all applicable land use and zoning regulations.
- i. The amendment incorporates, to the maximum extent practical and legally permissible, the language used by Ag + Open Space in most current conservation easement form.
- j. The amendment increases or has no effect on the appraised value of the conservation easement.

In its consideration of an amendment, the Board of Directors must also determine whether the proposed amendment will require approval of the County voters or the California legislature pursuant to Public Resources Code Section 5540.

In the event of condemnation or a bona fide threat of condemnation of a conservation easement or a portion thereof, the Board may direct staff to enter into settlement negotiations with the condemning authority and the landowner, as appropriate under the circumstances, to seek settlement in lieu of a judicial order. Because such amendments are involuntary in nature, the procedures described above do not apply.



III. FEE LANDS

For those properties it owns in fee, Ag + Open Space shall endeavor to provide for an appropriate level of natural resource management and infrastructure maintenance sufficient to ensure the protection of its investment and of each property’s unique conservation values.

The intent is not to hold but to transfer or sell its fee lands to other qualified management entities. In each case, Ag + Open Space retains a conservation easement to ensure the protection of its voter-approved sales tax investments.

Property Management

Ag + Open Space manages its fee properties until such time that it transfers or sells the land to a private landowner or recreational entity. This management includes the maintenance and repair of property infrastructure, protection of natural and cultural resources, provisions for agricultural use, and addressing trespassing and other illegal activities.

Objective:

1. Provide an adequate level of management to ensure fee properties are maintained consistent with the conservation purpose for which they were acquired.





Policies:

1. At the time of a property's acquisition, Ag + Open Space shall endeavor to complete an inventory of existing conditions.
2. Ag + Open Space shall endeavor to address, to the extent practical, any existing safety issues including trespassing and illicit use or dumping.
3. Ag + Open Space shall endeavor to address trespass or other adverse conditions in a timely manner, with assistance from law enforcement as necessary.
4. Ag + Open Space shall endeavor to regularly inspect its fee properties and maintain a written record of property conditions.
5. Ag + Open Space shall endeavor to manage natural resources on its fee lands, including management of invasive species, reduction in fire fuel loads, and the restoration of habitats where appropriate, in consultation with technical experts.
6. For each of its fee properties, Ag + Open Space shall determine the allowable uses and activities, including agricultural uses and any access for research purposes or public recreation uses. Land uses and activities must be compatible with and support both the intent of the acquisition and the conservation values identified at the time of acquisition.

Property Disposition

All of the properties that Ag + Open Space holds in fee are intended to be transferred or sold to new owners who can use the properties for parks or open space. Ag + Open Space

will own a property only as long as necessary for a suitable public or private conservation partner to be identified and an appropriate conservation easement developed.

Objective:

1. Dispose of fee interest in all of the Ag + Open Space fee lands.
2. Retain conservation easements with appropriate protections for conservation values and parks and/or open space uses for which the property was acquired.

Policies:

1. When appropriate, Ag + Open Space may transfer its fee lands to other governmental entities, such as cities, the Sonoma County Regional Parks Department, the California Department of Parks and Recreation, and other special districts, for recreation or other open space uses, with the District retaining a conservation easement. Ag + Open Space may also require an affirmative easement or covenant where appropriate.
2. When appropriate, Ag + Open Space will sell the land to a private party or other public entity for agricultural use, natural resource protection, recreation, or other open space purpose, in compliance with state law, and with the District retaining a conservation easement. Ag + Open Space may also require an affirmative easement or covenant where appropriate.
3. For those limited fee properties that have not been dedicated to open space, Ag + Open Space may dispose of such property in an open bid sale following Board approval.





Appendix A. Agricultural Preservation and Open Space District

2006 EXPENDITURE PLAN

The purpose of this expenditure plan is to implement the Sonoma County General Plan and the general plans of the County's incorporated cities by preserving agricultural land use and open space. This purpose will be accomplished primarily through the purchase of development rights from willing sellers in areas of the County which are designated in the County and cities' General Plan open space elements and may include the purchase of fee interests for outdoor public recreation where the public use would not be inconsistent with the open space designations listed below.

The open space designations eligible for protection under this expenditure plan include community separators, greenbelts, scenic landscape units, scenic corridors, agriculturally productive lands, biotic habitat areas, riparian corridors and other areas of biotic significance, and other open space projects.

1. **Community separators and greenbelts** are lands that function as open space to separate cities and other communities and protect city and community identity by providing visual relief from continuous urbanization. These lands are frequently subject to development pressures, and therefore, have been identified as priority sites for acquisition to prevent urban sprawl, to retain the rural and open character of the county and to preserve agricultural uses.
2. **Scenic landscape units and scenic corridors** are areas of high scenic quality including natural landscapes and backdrops that provide visual relief from urban densities and maintain the open nature of the County.
3. **Agriculturally productive lands** include working farms and ranches and other lands used for the production of food, fiber, and plant materials and the raising and maintaining of livestock and farm animals.
4. **Biotic habitat areas, riparian corridors, and other areas of biotic significance** include freshwater and tidal marshes, wetlands, special status species locations, woodlands and forests, wildlife habitat corridors and lands along creeks and streams critical to protecting fisheries and water quality. These sensitive



natural areas require protection, restoration, and resource management, and include the Petaluma River, Laguna de Santa Rosa, Russian River, Sonoma Creek and San Pablo Baylands.

5. **Other open space projects** include, but are not limited to, urban open space and recreation projects within and near incorporated areas and other urbanized areas of Sonoma County. Funds for these projects shall be available to cities, the County and other entities through a matching grant program, with preference given to acquisition and development projects that link communities. Examples of these projects include creek restoration and enhancement, such as along the Petaluma River, Santa Rosa Creek, and Laguna de Santa Rosa, trails, athletic fields, and urban greenspace.
6. **Operation and maintenance of land** includes limited funding for initial public access, operation and maintenance of recreational lands purchased in accordance with this Plan. No more than 10 percent of total revenues generated over the life of the Measure shall be made available for operation and maintenance purposes.

Mission:

The Sonoma County Agricultural Preservation and Open Space District permanently protects the diverse agricultural, natural resource, and scenic open space lands of Sonoma County for future generations.



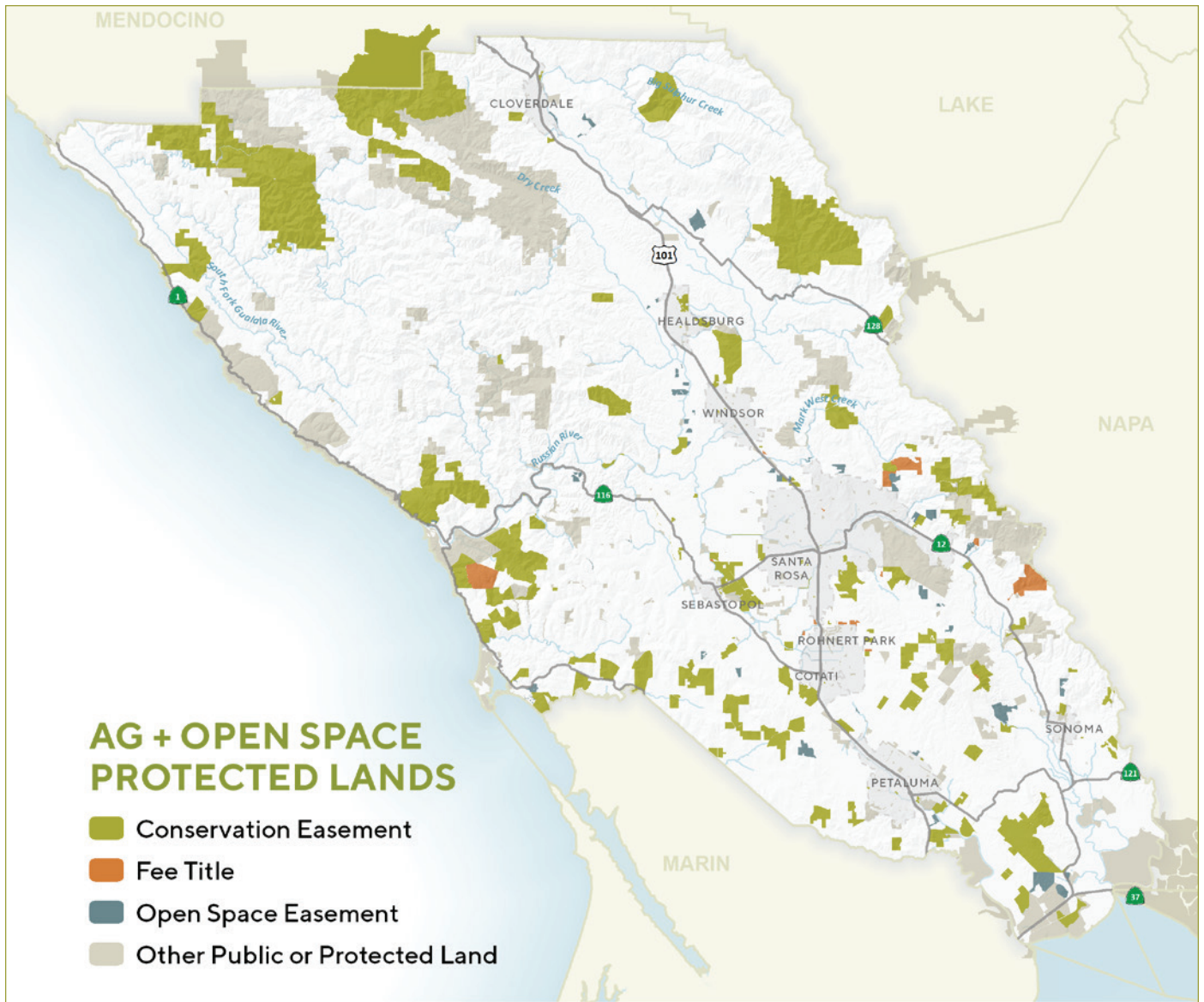


Figure 1

