

El Dorado County Agricultural Conservation Easement Program

Program Guidelines

Purpose.

The purpose of the Agricultural Conservation Easement Program (ACEP) is to implement the agricultural land conservation policies contained in the County of El Dorado General Plan related to Agricultural Land Conservation. The ACEP will aid in mitigating the loss of agricultural land resulting from residential development in the unincorporated areas of the county. The ACEP is designed to utilize agricultural conservation easements granted in perpetuity as a means of minimizing the loss of agricultural land.

Applicability.

These guidelines shall be applied by the County of El Dorado Agricultural Commission to review agricultural lands for consistency with the County's Agricultural Conservation Easement Program.

Definitions.

- (a) Agricultural land.** Those land areas of unincorporated County of El Dorado, regardless of current zoning, that are either currently used for agricultural purposes or that are substantially undeveloped and capable of agricultural use.
- (b) Agricultural use.** The use of land for agricultural purposes, including farming, dairying, pasturage agriculture, horticulture, floriculture, viticulture, and animal and poultry husbandry; and related accessory uses for packing, treating, or storing of produce or animal products that are secondary to normal agricultural activities.
- (c) Agricultural mitigation land.** Agricultural land encumbered by an agricultural conservation easement or other agricultural conservation mechanism acceptable to the County.
- (d) Agricultural Conservation Easement.** An easement over agricultural land for the purpose of restricting its use to agriculture consistent with these guidelines. Agricultural conservation easements acquired in accordance with these guidelines shall be established in perpetuity.
- (e) Qualifying Entity.** A nonprofit public benefit 501(c)(3) corporation or other appropriate legal entity operating in the County of El Dorado for the primary purpose of preserving, protecting, or enhancing land for agricultural use.

Eligible Lands.

Land shall meet all of the following criteria in sections (a) through (f), below to qualify as agricultural mitigation lands:

- (a)** Agricultural conservation easements resulting from this program shall be acquired from willing sellers only
- (b) Parcel size.** The parcel is of adequate size, configuration and location to be viable for continued agricultural use. 20 acres minimum size for horticultural crops *or* 50 acres minimum size for grazing land *or* any parcel that meets the high intensive or low intensive farming operation criteria for county Williamson Act Contracts. Multiple parcels less than the minimum net acres listed above, that are adjacent to each other, can be merged to meet the minimum size requirement.
- (c) Soil Quality.** The agricultural mitigation land shall be of comparable or better soil quality than the agricultural land whose use is being converted to non-agricultural use. Priority for horticultural crops will be given to lands with soils of unique and local importance or better in quality.
- (d) Water Supply.** The agricultural mitigation land shall have an adequate water supply to support the agricultural use of the land. *The water rights on the agricultural mitigation land shall be protected in the farmland conservation easement.*
- (e) Long term agricultural viability.** Other criteria that could affect the long term viability of the agricultural land. This could include such items as proximity to schools, proximity to residential uses, annual crop production, percent of parcel being utilized for agriculture, etc.
- (f) Location.** The agricultural mitigation land shall be located in the unincorporated areas of the County of El Dorado.

Ineligible Lands.

The property is ineligible to serve as agricultural mitigation land if any of the circumstances below apply:

- (a)** The property is currently under public ownership and will remain so in the future.
- (b)** The property is subject to physical conditions that legally or practicably prevent converting the property to a non-agricultural use.
- (c)** The property could not be developed for agricultural purposes due to other land development restrictions, such as wetland restrictions, endangered species, etc.

Minimum Conservation Requirements

The following minimum requirements shall be incorporated into all conservation easements or other instruments recorded to satisfy the requirements of this mitigation program. Nothing in this section is intended to prevent the inclusion of requirements that require a higher level of performance from the parties to a conservation easement or other instrument to ensure that the goals of this mitigation program are achieved.

- (a)** All Agricultural Conservation Easements or other agricultural conservation mechanisms shall be implemented through a legal instrument acceptable to County Counsel and the qualifying entity that will receive the easement, and signed by all owners with an interest in the mitigation land.
- (b)** The instrument shall prohibit any uses or activities which substantially impair or diminish the agricultural productivity of the mitigation land, or that are otherwise inconsistent with the conservation purposes of this mitigation program. The existing water rights shall be protected and be retained with the agricultural mitigation land.
- (c)** The instrument shall prohibit new residential and /or commercial development on the agricultural mitigation land that is not directly needed for agricultural production, regardless of existing zoning.
- (d)** Interests in agricultural mitigation land shall be held in trust by a qualifying entity and/or the County in perpetuity. Instruments held by a qualifying entity shall name the County as a third party beneficiary with full enforcement rights.
- (e)** The conservation easement, or other conservation mechanism recorded pursuant to this program, can only be terminated by judicial proceedings. Termination shall not be effective until the proceeds from the sale of the public's interest in the agricultural mitigation land is received and used or otherwise dedicated to acquire interests in other agricultural mitigation land in the County of El Dorado.
- (f)** If any qualifying entity owning an interest in agricultural mitigation land ceases to exist, the duty to hold, administer, monitor and enforce the interest shall pass to another qualifying entity.
- (g)** The qualifying entity and/or the County shall monitor all lands and easements acquired in accordance with these guidelines and shall review and monitor the implementation of all management and maintenance plans for these lands and easement areas. It shall also enforce compliance with the terms of the conservation easement.