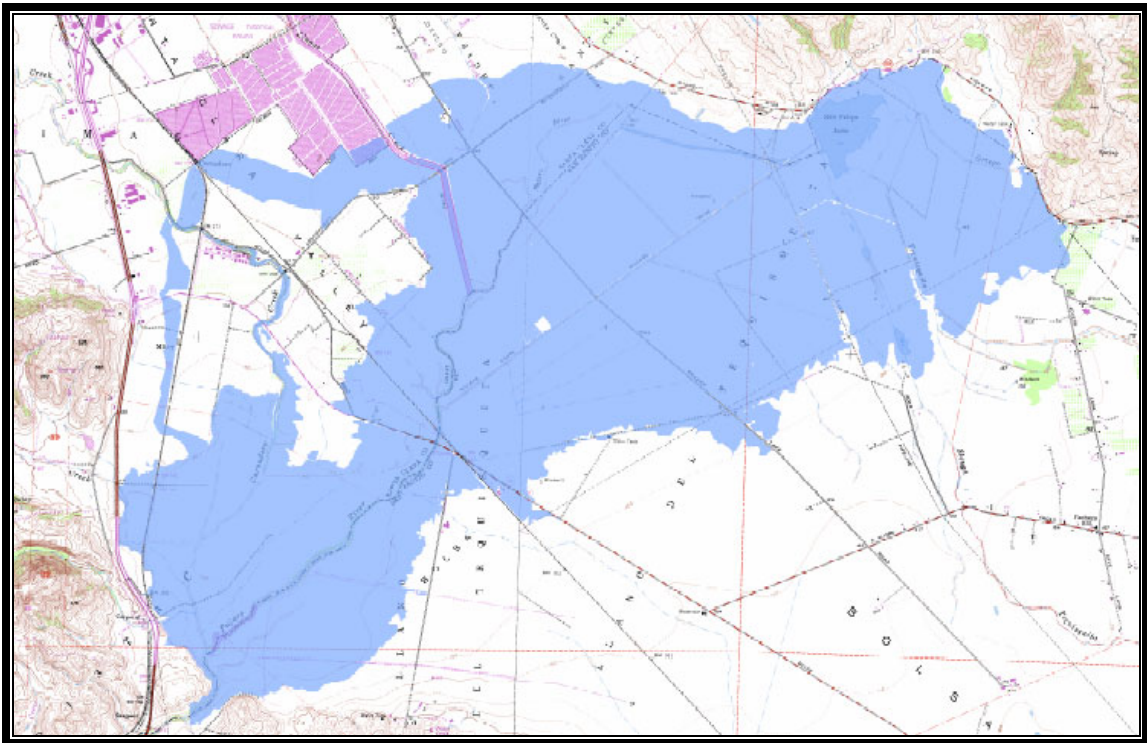




# **Soap Lake Floodplain Preservation Project**

## **Grant Guidelines**

**February 2015**



**For further information, please contact:**

**Pajaro River Watershed Flood Prevention Authority  
445 Reservation Road, Suite G  
Marina, CA 93933**

**831.883.3750  
FAX 831.883.3755**

**View the FPA website for any updates:  
[www.pajaroriverwatershed.org](http://www.pajaroriverwatershed.org)**

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State Water Resources Control Board.**

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## Chapter 1: Grant Program

### ***PROJECT UPDATE***

The Pajaro River Watershed Flood Prevention Authority (FPA) is implementing Phase 1 of the Soap Lake Floodplain Preservation Project (Soap Lake Project). The Soap Lake Project is designed to preserve the natural floodplain characteristics through the acquisition of land and flood conservation easements and, where the purchase of an easement is not feasible, the fee title purchase of the property. The FPA is encouraging the floodplain acquisitions by providing grant funds to agencies and organizations pursuing acquisitions within the Soap Lake floodplain. The funds were made available through a Proposition 50 Integrated Regional Water Management Grant from the Department of Water Resources (DWR). The total grant was for approximately \$4.1 million, of which, approximately \$3.5 million was to be used for land acquisitions. The FPA will use grant funds to support land and easement acquisitions in the Soap Lake Floodplain through the award of grants to reimburse acquisition costs incurred by the participating agencies and organizations.

The Soap Lake Floodplain Preservation Grant Guidelines (Guidelines) were originally adopted by the FPA Board of Directors in 2008. The Guidelines were written to allow for the maximum distribution of the \$3.5 million in land acquisition grant funds. It was hoped that there would be multiple applicants seeking grant funds for Soap Lake acquisitions. Thus, the Guidelines were written to include a maximum grant funding amount of \$1 million and pre-acquisition costs (ie. surveying, closing costs) were not eligible for reimbursement.

Given the limited participation in the program, the staff recommended to the FPA Board of Directors that the Guidelines be revised to encourage participation in the program. In March 2012, the Board directed staff to revise the Guidelines for Board consideration. Originally, the FPA intended to distribute the grant funds on a competitive basis through one or more proposal solicitations. The FPA developed a Request for Proposals (RFP) to initiate the first solicitation of the Soap Lake Project Grant Program in 2008. The RFP included the Grant Guidelines which established eligibility requirements, appropriate match percentage, proposal scoring process and criteria, and program timeline. The Guidelines were approved by the FPA Board of Directors and accepted by DWR. However, there was limited interest in the Program and no grant funds have been awarded. Therefore, the program and the Guidelines have been rewritten to encourage participation and allow for the maximum distribution of grant funds to eligible participants while maintaining consistency with the project objectives and DWR grant agreement. The primary changes to the Guidelines involve:

- Eliminate the \$1 million grant cap;
- Allow reimbursement of pre-acquisition costs;
- Simplify the application process; and
- Commit to early coordination with project applicants to develop easement language.

The revised guidelines were presented to and approved by the Board at the May 2012 meeting.

As of November 2014, the FPA had utilized approximately \$1.5 million to fund easement acquisitions and implement and administer the project. The DWR grant will expire in March 2016 and DWR will not allow another grant extension. If the FPA fails to utilize the \$2.6 million in remaining grant funds prior to March 2016, the grant funds will be redirected to other eligible water resource project or projects in the watershed. At the November 2014 Board meeting, the Directors were given an update regarding the funding issues and potential changes to the guidelines that would allow better utilization of the funds to meet the project objectives. The Directors were informed that the staff would return to the February 2015 Board meeting with a recommendation for Board action.

The Staff Working Group (SWG) considered opportunities for better utilization of the funds to ensure that progress towards meeting the Soap Lake Project goals and objectives are maximized. One opportunity involved removing the funding cap and allowing up to 100 percent FPA funding of both easements and fee title acquisitions in the Soap Lake Floodplain. The 2012 Guidelines, as written, limit the FPA funding to 50 percent of the appraised value of an easement. The 50 percent funding limit and limitation to easements versus fee title acquisitions were developed by the SWG and are not a limitation of the DWR grant agreement and therefore can be modified by the FPA without requiring a modification to the DWR grant agreement. Therefore, the SWG is recommended elimination of the funding cap and limitation to easement acquisitions and allowing up to 100 percent funding of both easement and fee title acquisitions, on a case by case basis.

The revised guidelines were presented to and approved by the Board at the February 2015 meeting. These revised guidelines are described in detail in the following sections.

## ***PROJECT BACKGROUND***

Flooding throughout the lower Pajaro River Watershed is a hazard to public and private property, including residences, agriculture, highways, watercourses and environmental resources. Lower Pajaro River watershed communities, such as Watsonville, Pajaro, Freedom, and surrounding areas, have experienced millions of dollars in flood damages over the years. The FPA Pajaro River Watershed Study demonstrated that the ultimate solution to flooding will require coordination of the structural downstream Pajaro River Levee Reconstruction Project and the Soap Lake Floodplain Preservation Project. The combination of these two projects will maintain current storm flow water levels downstream and is considered to be the most feasible flood protection alternative to protect the region.

The Soap Lake Floodplain lies along the Pajaro River within San Benito and Santa Clara Counties between Highway 152 and Highway 101. The main land use is agriculture, including row crops and pasture land. San Felipe Lake, a permanent body of water, is located in the upper Soap Lake area. Soap Lake is not a true lake, however, during

significant rainfall events, the low-lying areas of Soap Lake become flooded and storm flow backs up on the Pajaro River upstream of its confluence with the San Benito River. Soap Lake disappears as the floodwaters recede and low-lying areas are drained. Functioning in this manner, the Soap Lake floodplain is a natural detention basin in the upper Pajaro River watershed, storing water and reducing peak flows that would otherwise increase flooding in the lower portions of the Pajaro River watershed.

While the Soap Lake project does not decrease the magnitude of flood flows downstream, the project will preserve the floodplain to help protect against potential flow increases due to loss of flood storage. If the Soap Lake floodplain was to be developed, the existing natural flood storage characteristics would be eliminated and flood flows would increase downstream. It is estimated that the loss of the existing Soap Lake Floodplain would increase the 100-year peak flow downstream from 44,400 cubic feet per second (cfs) to 60,000 cfs. Working in conjunction with the Lower Pajaro River Levee Reconstruction Project downstream, the Soap Lake Floodplain Preservation Project would maintain 100-year flood protection.

## ***PROJECT DESCRIPTION***

The Soap Lake Project, Phase I, is the first phase of the long-term recommended non-structural, 100-year flood protection project developed by the Pajaro River Watershed FPA. The implementation of this project will protect the upper Pajaro River floodplain through land preservation.

The Soap Lake Project will preserve the current floodplain attenuation benefits provided by the Soap Lake area through the preservation of land in agricultural or open space. The Soap Lake Project will protect approximately 9,100 acres of agricultural lands in the upper Pajaro River Watershed, the approximate area inundated by the 100-year flood flows as shown in Figure 1. The project would maintain the current hydrologic and hydraulic conditions at the existing project site and adjacent properties.

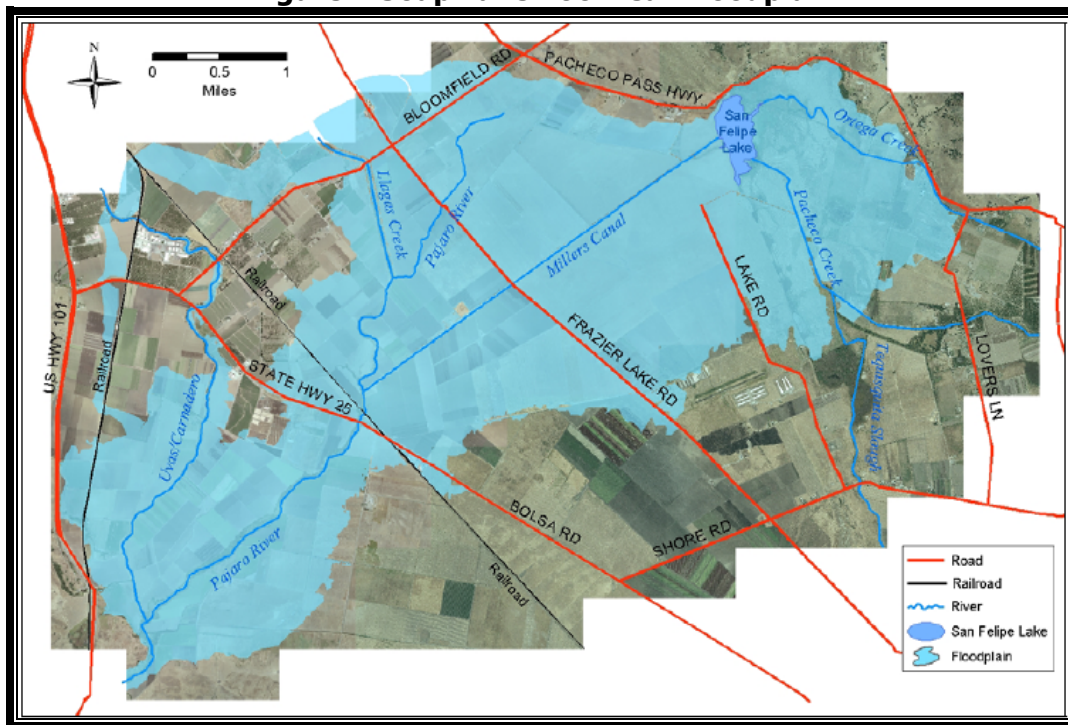
There are 2,317 acres currently under conservation easements, as shown in Figure 2. These easements have been acquired by the following land preservation organizations and public agencies, either individually or working together:

- The Nature Conservancy
- California Department of Conservation
- Silicon Valley Land Conservancy
- Santa Clara County Open Space Authority
- Santa Clara Valley Water District
- Wang Trust
- Wildlands Conservancy
- US Department of Agriculture

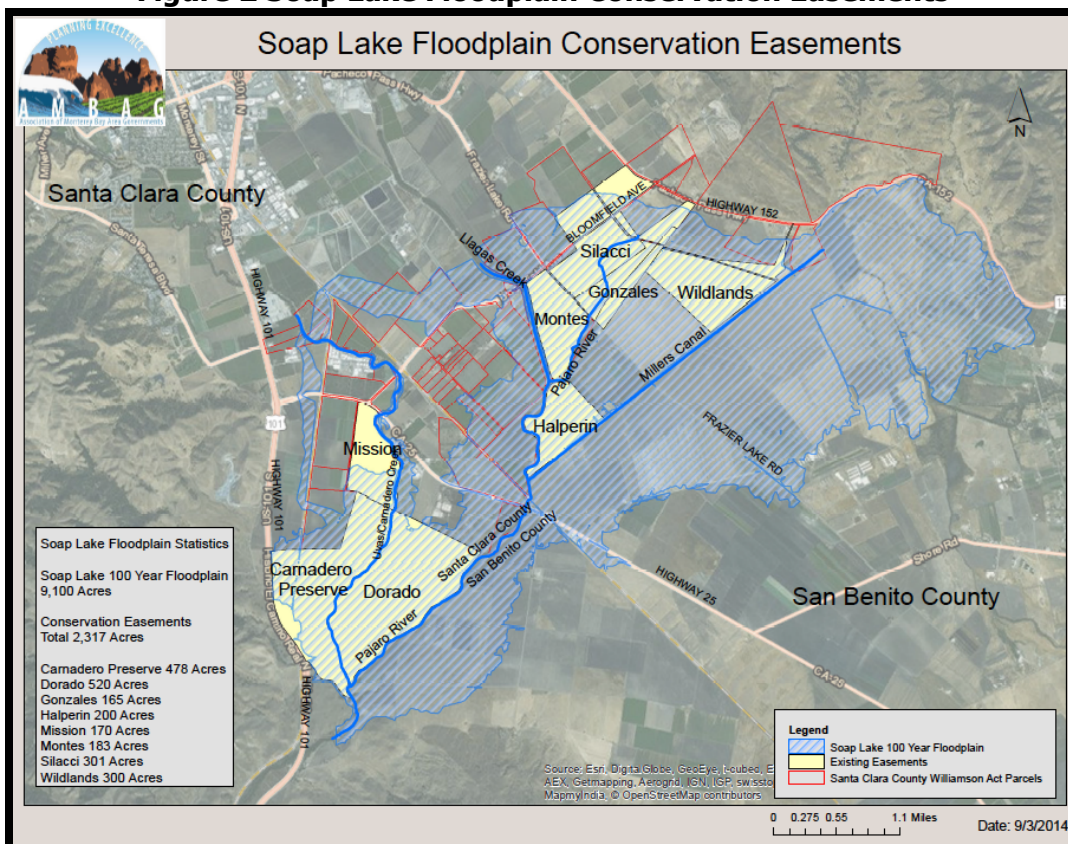
The goal of the Soap Lake Floodplain Preservation Project is to partner with these and other groups to preserve the lands within the floodplain and protect the flood benefits offered by the floodplain. The role of the FPA is to encourage the easement acquisitions through the award of grant funds to support the acquisitions.



**Figure 1 Soap Lake 100-Year Floodplain**



**Figure 2 Soap Lake Floodplain Conservation Easements**



## ***ELIGIBLE APPLICANTS***

The Soap Lake Floodplain Preservation Project is intended to be a cooperative effort between the FPA, county and city agencies, private organizations, and local landowners. Land acquisition for preservation in the Soap Lake area is a goal of many organizations and agencies. Implementation of the Project would not just add another group interested in land acquisitions to the list, but would provide an opportunity to facilitate the acquisitions and increase the likelihood of preserving the floodplain. Partnerships will be formed and assistance will be given where necessary. The FPA may award grants to local governments, private nonprofit 501(c)(3) organizations which have among their defined purposes the conservation of lands, and private landowners interested in preserving the flood characteristics of their property.

Eligible organizations include:

- Cities,
- Counties,
- Resource Conservation Districts,
- Flood Protection Districts,
- Regional Park or Open-Space Districts or Regional Park or Open-Space Authorities,
- Non-Profit Organizations, and
- Private Landowners

To be eligible to apply for FPA funds, nonprofit organizations must hold a tax exemption as defined under Section 501(c)3 of the Internal Revenue Code, and further qualify under Internal Revenue Code Sections 170(b)(1)(A)(vi) or 170(h)(3) (Public Resources Code Section 10221).

## ***ELIGIBLE PROJECTS***

All eligible project parcels shall be designed to do one or more of the following:

- Acquire property interests to protect or enhance the Soap Lake Floodplain while preserving or enhancing agricultural use.
- Acquire property interests to protect or enhance the Soap Lake Floodplain while preserving or enhancing ecological and wildlife value.

The FPA offers grants for the three types of eligible projects described below. Before proceeding with the application process, prospective applicants are encouraged to contact the FPA staff to discuss the preliminary details of the proposal.

Many methods for preserving the Soap Lake Floodplain were examined with a focus on preservation of agricultural land. Land and easement acquisition was the preferred method. Land acquisition or control can occur through two approaches, the purchase of physical property or the purchase of the right to use a given property. The purchase of property would result in land ownership in fee title, with control over land access. The purchase of the right to use the land for flooding is known as a flood easement.



Eligible grant projects preserve the floodplain through acquisition of flood easements, temporary fee title, or permanent fee title when easements or temporary fee title are not feasible, as described below.

### **Flood Easement Acquisition Projects**

Flood easement projects are eligible to be considered for grant funding if the following eligibility criteria are met:

- The parcel is located within the Soap Lake 100-year floodplain. Please consult the FPA staff to verify floodplain designation.
- The parcel is being acquired from a willing seller.
- The parcel is expected to continue to function for floodplain preservation.

### **Temporary Fee Title Acquisition Project**

Temporary fee title acquisition projects are eligible to be considered for grant funding if the following eligibility criteria are met:

- Eligibility criteria for Flood Easement Acquisition Projects, as described above.
- A grant recipient must agree, upon acquisition of the property, to treat the property as encumbered with a flood easement.
- The grant recipient must sell the fee title subject to flood easement to a private landowner within three years of the acquisition of the fee title.

The term "temporary fee title" refers to the fact that the grant recipient would only "temporarily" hold title to the land.

### **Permanent Fee Title Acquisition Project**

Permanent fee title acquisition projects are eligible to be considered for grant funding if the following eligibility criteria are met:

- Flood easement or temporary fee title acquisition is not a feasible alternative for the project parcel.
- Eligibility criteria for Flood Easement Acquisition Projects, as described above.
- A grant recipient must agree, upon acquisition of the property, to treat the property as encumbered with a flood easement.
- The applicant certifies and financially demonstrates that it can maintain the project.

### ***INELIGIBLE PROJECTS***

Projects are considered ineligible if they fail to meet any of the eligibility criteria described in the appropriate category of Eligible Projects, or if any of the following apply:

- The local government applicant has acquired, or proposes to acquire, the agricultural conservation easement through the use of eminent domain, unless requested by the owner of the land.
- The applicant and seller of the agricultural conservation easement or fee title do not agree to restrict the use of the land in perpetuity.
- The proposed easement is part of a local government's condition placed upon the issuance of an entitlement for use of a specific property.
- Clear title to the easement cannot be conveyed.
- The total purchase price of the easement or, in the case of a fee title acquisition, the total price of the property, exceeds the appraised fair market value.

## **Chapter 2: Applying for Grants**

### ***GENERAL INFORMATION***

#### **Grant Award Levels**

There are no minimum or maximum levels of funding for individual grants. However, prior to applying for grant funding, applicants are strongly encouraged to contact FPA staff to schedule a site review of the property and gain feedback on the appropriateness of the proposal and grant request amount.

#### **Matching Contributions**

There are no minimum or maximum levels of matching contributions for individual grants. However, prior to applying for grant funding, applicants are strongly encouraged to contact FPA staff to verify available funds. FPA grant awards are limited to the fair market appraised value of the easement or fee title acquisition plus eligible pre-acquisition costs, as described in the Project Budget section of these guidelines. Any costs above the fair market appraised value must be provided as matching funds by the applicant, or from other funding sources (e.g., other grant funds, local government contributions, or donations of easement value by the landowner of the subject property).

### ***APPLICATION REQUIREMENTS***

Applicants for grant funding under the program shall file a complete grant application with the FPA. A complete application shall contain the following elements:

1. Grant Application Component Checklist
2. Grant Application Cover Sheet
3. Executive Summary
4. Acquisition Project Summary
5. Project Specification
6. Project Work Plan and Timeline
7. Project Implementation Schedule
8. Project Budget
9. Project Monitoring Plan
10. Project location maps (Sphere of Influence, regional and site specific)
11. Letter of interest from landowner and any completed purchase-sale agreement
12. CEQA Documentation, if applicable
13. Appraisal
14. Use-Based IRS Deductions
15. Preliminary Title Report
16. Mortgage and Lien Subordination

Each of these application elements are discussed in greater detail in the following sections.

In addition to the basic application documents, eligible nonprofit organization applicants will be required to provide the following with any application:

- Copy of the organization's 501(c)3 nonprofit status from the IRS,
- Copy of the organization's Articles of Incorporation and By Laws which include among the principal charitable or public purposes of the nonprofit organization:
  - a clear statement describing the organization's goals and purposes including the public interests to be served,
  - the beneficiaries of its programs, and
  - a statement describing the organization's capacity for conservation of land resources.
- Statement from the organization's Board of Directors that certifies funding from the FPA Program for the proposed project will not present a conflict of interest for the Board or any of its members.

## **FPA Grant Application Checklist**

A completed grant application checklist shall be included in the grant application. The grant application checklist is included as Exhibit A of the grant guidelines.

## **Grant Application Cover Sheet**

A completed grant application cover sheet shall be included in the grant application. The grant application cover sheet is included as Exhibit B of the grant guidelines.

## **Executive Summary**

This section should provide a brief but thorough description of:

- The proposed project and its scope (including the specific location, number of acres involved, and type of land use (e.g., irrigated row crops, dry land grazing, etc.); and
- Whether the landowner must meet any critical deadlines for concluding the transaction.

The Executive Summary should not exceed **one page** in length.

## **Acquisition Project Summary**

A completed acquisition project summary shall be included in the grant application. The acquisition project summary is included as Exhibit C of the grant guidelines. In addition

to the summary, if the application is for acquisition of fee interest in property (temporary or permanent), the application shall include the following additional information:

- Reason for the fee title acquisition.
- Alternatives considered to fee title acquisition for each property.
- Proposed final disposition of the property.

## Project Specification

This section should be used to explain attributes of the proposed project, the applicant's capabilities, and local government policies and actions that are relevant to the goals of the FPA. This section shall not exceed **seven pages**. Please answer the following questions, maintaining the numbering format below.

1. Describe the parcel, including existing property characteristics and land practices, proximity to Pajaro River, number and size of structures on property, and any other relevant features that could affect floodplain characteristics.
2. Is the parcel proposed for conservation expected to continue to be used for, and is it large enough to sustain, commercial agricultural production? Describe permanent crops, agricultural employee housing, other housing, agricultural buildings and facilities.
3. Are there natural resource considerations associated with this proposal, including such issues as open space preservation, wetland protection, or wildlife habitat conservation? Describe existing and proposed habitat type and acreage.
4. Is there coordination among affected landowners, local governments, and non-profit organizations concerning this proposed project? Describe the coordination.
5. If fee title acquisition, what are the maintenance plans for the project?
6. Is the proposed project currently subject to a Land Conservation Contract (Williamson Act) or in a Farmland Security Zone? If so, describe the current status of the contract. How does the status impact the timeframe for future conversion from agricultural use?
7. Describe the organization's proposed management strategy for the project property.

## Project Work Plan and Timeline

This section shall include a task breakdown for the project and a timeline for completing the tasks, including:

1. **Qualified Appraisal.** A "qualified appraisal" includes: a description of the property, information on the appraiser's qualifications, the valuation method used to determine fair market value, and a description of the fee arrangement between the appraiser and the donor.
2. **Funding.** The applicant will be responsible for securing funding for transactions where they will hold the title or easement. The FPA grant will reimburse the acquisition costs after transfer of title. The FPA anticipates that reimbursements will

be made within a year of title transfer, however, due to the State reimbursement and budgeting process, the applicant should secure appropriate funding to accommodate a delayed reimbursement.

3. **Sales Agreement.** Between the time the parties come to an agreement and the time they are ready to acquire the easement or title, a title search must be completed, an environmental assessment may be ordered, and the grantee may need time to raise funds for the purchase. To document the parties' commitment during this period, which often can take several months, it is wise to have a written agreement prepared and signed by the parties. This agreement can take the form of a standard real estate sales contract, in which the easement buyer makes a deposit towards the purchase price. In other instances, the preferred agreement would be a letter contract requiring the landowner to reimburse the municipality for title and other costs should the landowner subsequently withdraw from the transaction. The partner that intends to hold the easement or title would be responsible for preparing a sales agreement.
4. **Baseline Documentation.** An analysis of the property's conservation values shall be performed. This is an IRS requirement for landowners who intend to take a charitable tax deduction and a way for easement holders to conduct meaningful inspections in the future. The partner would prepare a report – called "baseline documentation" – that describes the condition of the property at the time the easement is placed on it and identifies the property's important resources and any threats to those resources.
5. **Title Search.** An entity acquiring a conservation easement or title shall perform a title search to check for liens, encumbrances, or other problems with the property's title. Title information furnishes the legal property description that must be included in any land transfer document. A title insurance policy is required for every purchased easement. Title insurance protects an easement holder from financial loss resulting from defects in the property's title, other than defects that are listed and excluded from the title insurance policy. Some grantees obtain title insurance for donated easements as well. The cost of title insurance usually is borne by the entity acquiring the easement or title. The partner that intends to hold the easement or title would be responsible for obtaining both the title search and title insurance. The title search shall be performed within 90 days of the acquisition.
6. **Environmental Assessment.** A Phase I Environmental Assessment *may* be conducted to document the environmental condition of the property prior to acquisition. The assessment would include a site inspection of the property (and neighboring properties), review of past uses of the property (and neighboring properties), and could include ground or water sampling if necessary. These reports would be obtained by the partner and kept in their files. Copies of the report may be provided to the FPA.
7. **Drafting the Easement Document.** The easement document will list mutually agreed-upon use and development restrictions and will specify which parcels (or portions of parcels) are covered by those restrictions. The FPA staff will work with the partner to develop the easement language that satisfies the FPA conservation goals, following the suggested easement provisions included in Exhibit D. The partner would draft the easement and negotiate the document with the landowner.

8. **Survey.** A property survey is required to establish the project boundaries. The grant applicant is required to arrange for the survey to be conducted and stamped by a California Licensed Land Surveyor.
9. **Closing/Recording.** A real estate closing is completed after all the conditions of the easement or fee title acquisition have been agreed on. The title company or buyer's attorney generally handle the closing. After the grantor and grantee have signed the document, the easement is recorded at the county recorder's office.

## Project Implementation Schedule

This section should be used to explain the anticipated completion date for the proposed project, as well as any issues on which the project timing will hinge, including the timeframe of a willing seller to complete a transaction, identification of local cost share funding, and completion of an appraisal of the subject property.

## Project Budget

This section should identify the total estimated project costs, using the budget itemization worksheet in Exhibit E. The total estimated cost should be broken down to clearly delineate funds being requested from the FPA, commitments of funding from all other sources (both proposed and actual), as well as contributions in the form of donations on the part of a willing seller. Any funding from other State funds must be identified.

A summary of eligible and ineligible project costs are shown below. Eligible Costs include, but are not necessarily limited to:

1. Easement or fee title appraised fair market value price.
2. Other costs incidental to the acquisition, at the FPA's option, including but not limited to appraisals, preliminary title reports, escrow fees, title insurance fees, costs associated with subordination of pre-existing mortgages or liens, and property surveying costs.

Ineligible Costs include, but are not necessarily limited to:

1. Any purchase costs above the appraised fair market value
2. Indirect overhead costs
3. Ceremonial expenses
4. Expenses for publicity
5. Bonus payments of any kind
6. Interest expenses
7. Damage judgments arising from the acquisition, construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise
8. Services, materials, or equipment obtained under any other state program
9. Real estate brokerage fees and/or expenses



## Project Monitoring Plan

Part of upholding the legal terms of the easement will include parcel compliance monitoring and reporting. The grantee shall be responsible for monitoring and enforcement responsibilities, but this does not preclude the FPA from assisting with this responsibility or in providing their own monitoring if authorized.

Regular monitoring of properties under easement is necessary to ensure compliance with the terms of the easement. The FPA requires an annual report from the holder of the easement, certifying that the conditions of the easement are being upheld. The monitoring component of the application, not to exceed **two pages**, shall describe how the proposed project will be monitored following its completion, including:

- Establishment of baseline information;
- Frequency of monitoring;
- Who will be responsible for monitoring;
- How monitoring documents are archived; and,
- The budget available for monitoring and any necessary enforcement.

## Project location maps (regional and site specific)

Maps and drawings as necessary to describe the project and verify that the project is located at least partially in the Soap Lake Floodplain, including:

1. A vicinity map.
2. A map indicating location of project features and boundaries of affected property.
3. Drawings or sketches of project features as necessary to describe them.

## Letter of interest from landowner and any completed purchase-sale agreement

Provide evidence that affected landowners are willing participants in any proposed real property transactions and any completed purchase-sale agreement.

The FPA encourages applicants to inform landowners that a successful grant application may result in publicity. Because FPA funds are public, the landowner's name and the amount of the grant may be publicly disclosed. The letter of interest should include an acknowledgement of potential publicity.

## CEQA Documentation

If the applicant is required to comply with the California Environmental Quality Act (CEQA) for the acquisition, the applicant may demonstrate compliance with CEQA by providing either:

- A copy of the Notice of Exemption,
- A copy of the Notice of Determination, or
- Other documentation of CEQA project approval by the lead agency as appropriate.

## Appraisal

The grant applicant must select and retain an independent, certified appraiser to appraise the project property. The appraiser must use the “before and after” method of valuation, calculating the difference between the fair market value and the restricted value (PRC §10260). This is effectively two appraisals: one of the current market value without restriction, and the second of the diminished value as though encumbered by a flood easement. California Farmland Conservancy Program has developed and made available on its website easement appraisal guidelines as a resource for appraisers and applicants.

Applicants are strongly encouraged to thoroughly discuss the restrictions and permitted uses of the proposed easement with the appraiser early in the appraisal process. Major issues (e.g., reserved homesites) must be confirmed prior to the appraisal, as they will likely affect easement valuation. Subsequent changes to restrictions or permitted uses may necessitate an update to the appraisal.

Applicants are strongly encouraged to include a current easement appraisal with the grant application. Approval for grant funding may be delayed until such an appraisal has been completed. A complete appraisal must be submitted to the FPA and approved before grant funds may be released. Funds granted will not exceed the appraised fair market value of the easement plus the eligible pre-acquisition costs, the appraised fair market value of the total purchase price plus the eligible pre-acquisition costs, or the approved grant amount, whichever is less. In no situation shall the grant award for the easement or property be greater than the appraised fair market value.

The appraisal is subject to review by the FPA or the FPA’s designee. The FPA may fund appraisal costs incurred prior to execution of the grant agreement only if the project is approved for funding and if the appraisal costs are sought in the grant application.

If a landowner seeks tax benefits from the Internal Revenue Service in return for charitable donation of an easement or portion thereof, the timing of the easement appraisal is critical. See a tax attorney or accountant for more information.

Applicants should advise appraisers and landowners that appraisals may be subject to disclosure under the Public Records Act (Chapter 3.5 of Division 7 of Title 1 of the Government Code, commencing with Section 6250).

If a significant amount of time (6 months or more) transpires between the certification date of the appraisal and the submission of the grant application, applicants may be required to obtain a letter of certification from the appraiser, stating that the easement value has not diminished since the appraisal was conducted.

## **Use-Based IRS Deductions**

If the property proposed for acquisition has already been valued and restricted according to a use-based formula (for example, Internal Revenue Code 2032A), describe the parcels affected, the timeline, and restrictions. This “special use valuation” and qualified IRS deduction may affect easement and property valuation.

## **Preliminary Title Report**

Applicants must provide the appraiser with a complete preliminary title report prior to initiating the appraisal. A copy of the preliminary title report must also be submitted with the application.

## **Mortgage and Lien Subordination**

For successful projects, the FPA requires documentation of subordination of any liens or other financial encumbrances on the property. It is possible that the lender may charge a fee to provide the subordination. Applicants are encouraged to consult lenders early regarding subordination practices. Subordination fees may be eligible for FPA funding if requested in the grant application.

## Chapter 3: Grant Application Process

### ***HOW TO APPLY***

Applicants may submit multiple grant proposals. Each project proposal must be submitted in a separate application, which is distinct and can be reviewed independently of any other application. Acquisition projects are considered separate if properties are not held by the same landowner(s). An applicant may include multiple landowners only if the properties are within a specific, contiguous planning unit, and individual easement and property values are assigned for each stand-alone property.

Use the Grant Application Checklist (Exhibit A) to ensure that all necessary materials are included and to facilitate a prompt application review.

Three copies of the application should be mailed to the following address:

Pajaro River Watershed Flood Prevention Authority  
445 Reservation Road, Suite G  
Marina, CA 93933

Neither e-mail nor facsimile copies will be accepted.

Written questions regarding any aspect of the application procedure should be directed to the above address. Telephone or e-mail inquiries are also welcome: (831) 883-3750.

## Chapter 4: Grant Review Process

The FPA selects, approves, funds, and monitors projects funded by grants under the program. The process of managing the program includes these steps:

1. The FPA shall appoint and maintain a Project Evaluation Team comprised of FPA staff and FPA consultants. The FPA may request consultation with any appropriate government agency, including but not limited to the Department of Conservation, the Department of Fish and Game, the Department of Food and Agriculture, or the Department of Water Resources.
2. Local public agencies, nonprofit organizations, or private landowners which meet the qualifications set forth in Chapter 3 may apply for program grants for projects as long as uncommitted funds remain available to fund new projects.
3. The Project Evaluation Team shall review each application and evaluate the subject project within 60 days of receipt of requested additional information.
4. The Project Evaluation Team shall notify the FPA to request the applicant to provide additional information within 30 days of the FPA's request if:
  - The project appears potentially eligible but is missing information needed to evaluate the merits of the project, or
  - Additional information is needed to evaluate the merits of the project in comparison to others received.
5. If the requested additional information cannot be provided in 30 days, the applicant may refile its application with the additional information, when available.
6. When a proposal that meets minimum qualifications is complete and all requested additional information has been supplied, the Project Evaluation Team shall complete the evaluation of the project. Applications will be evaluated according to:
  - The quality and extent to which the application satisfies the questions asked in the Project Specification;
  - The amount of matching funds and in-kind services; and,
  - The cost-effectiveness of the easement or purchase price, considering any donations of value by the landowner or funding from other sources, in comparison to the actual easement or purchase value.
7. Grant application review may include a site visit by FPA staff members. Grant applicants may be asked to make arrangements for a tour of the property, which must be attended by a representative of the applicant and by the property owner.
8. After each review of proposals, FPA staff, using the evaluations of the Project Evaluation Team, shall recommend projects and amounts per project to be funded

and submit the recommendations to the FPA Board of Directors for approval. FPA staff may recommend:

- Allocating any portion of the available funds to projects managed and funded directly by the FPA.
- Allocating any or all of the remaining available funds to grants for recommend projects.
- Allocating partial funding to one or more of the recommended projects.

9. The Board of Directors will determine the final amount of funding for each project.
10. When the Board of Directors approve grant funding for the project, the applicant becomes the project sponsor.
11. Prior to expending any funds, the FPA and the sponsor shall enter into a grant contract as specified in Chapter 5.
12. Grant funds shall be disbursed as provided in the contract to reimburse costs incurred by the sponsor. The FPA anticipates that reimbursements will be made within a year of title transfer, however, due to the State reimbursement and budgeting process, the applicant should secure appropriate funding to accommodate a delayed reimbursement.
13. The FPA seeks to provide funding decisions within 120 days of receipt of a complete application. However, complexities associated with some applications may require additional review time and submission of additional documents.

## Chapter 5: Grant Contracting

1. Before the FPA enters into a grant contract, the sponsor shall develop a work plan satisfactory to the FPA. To assist the sponsor in developing a work plan, the FPA may visit the project site to assess its conditions and needs and may confer with the project sponsor, project supporters, and other local officials, agencies, and organizations with an interest in the project. The FPA may convey recommendations and information obtained from these efforts to the sponsor. The work plan shall reflect the specific schedule and components of the project. The sponsor may revise the work plan from time to time during project execution with the approval of the FPA.
2. The project sponsor, and all members of a joint sponsoring organization, shall provide authorization for specific individuals to sign the contract on behalf of each.
3. The FPA may enter into a contract before the sponsor has obtained all final sales agreements, but may not disburse any funds until the sales agreements and easement documents are final.
4. If a contract is not signed within six months of the date the grant is awarded, the grant may be withdrawn.
5. All contracts shall be signed by the sponsor, and, if the sponsor is a joint sponsoring organization, all the member organizations. If the sponsor is a nonprofit organization that is not incorporated, it must designate a fiscal agent satisfactory to the FPA to act on its behalf, and provide evidence that the fiscal agent agrees to so act.
6. The contract shall require the sponsor to make a progress report to the FPA, as described in Chapter 6, as a prerequisite to each grant disbursement. The FPA will monitor progress and may suspend all payments indefinitely if in the opinion of the FPA it appears the grantee is in breach of the agreement to such an extent that ultimate achievement of project objectives may be significantly compromised. If payments are suspended, the grantee shall be given six months to cure the breach or the funding agreement will automatically terminate. Decisions to suspend payments may be appealed to the Board of Directors.
7. The contract shall require the sponsor to submit a written completion report as described in Chapter 6.
8. The contract shall provide that the FPA may inspect the project at any reasonable time to ensure it is being carried out in accordance with the work plan, and after completion to ensure that it is being properly maintained.
9. The contract shall specify the method of payment. Under the terms of the FPA grant agreement with the State, the State will disburse the whole or portions of the Grant commitment to the FPA, following receipt of an invoice for costs incurred, and timely progress reports. At a minimum, the State will retain 10% of the invoice until the



FPA has completed the project and satisfied all final project requirements. The 10% retention will be paid to the project sponsor after receipt from the State following project completion. Invoices submitted by Project Sponsor, in support of reimbursement request by FPA, shall include the following information:

- A. Costs incurred for work performed in implementing the Project contracts during the period identified in the particular invoice.
- B. Costs incurred for any interests in real property (land or easements) that have been necessarily acquired for the Project during the period identified in the particular invoice.
- C. Any appropriate receipts and reports for costs incurred.
- D. Invoices shall meet the following format requirements:
  - i. Invoices must contain the date of the invoice, the time period covered by the invoice, and the total amount due.
  - ii. Invoices must be itemized based on the project tasks. The amount claimed for salaries/wages/consultant fees must include a calculation formula (i.e., hours or days worked times the hourly or daily rate = the total amount claimed).
  - iii. Each invoice shall clearly delineate those costs claimed for reimbursement from the grant amount, and those costs that represent Project Sponsor's costs.
  - iv. Original signature and date (in ink). Submit the original and one (1) copy of the invoice form to the following address:

Pajaro River Watershed Flood Prevention Authority  
445 Reservation Road, Suite G  
Marina, CA 93933

- 10. Any and all money disbursed to Project Sponsor under the contract and any and all interest earned by Project Sponsor on such money shall be used solely to pay project costs. Provided that Project Sponsor has met all requirements for disbursement, disbursement by FPA will be made within four weeks of receipt of payment from the state.
- 11. If the FPA or State determines that a project is not being implemented substantially in accordance with the provisions of contract, or that Project Sponsor has failed in any other respect to comply with the provisions of the contract, and if Project Sponsor does not remedy any such failure to the FPA or State satisfaction, the FPA or State may withhold from Project Sponsor all or any portion of the Grant and take any other action that it deems necessary to protect its interests.
- 12. Where a portion of the Grant amount has been disbursed to Project Sponsor and State notifies the FPA of its decision to withhold the balance of the Grant Commitment pursuant to paragraph 11, the portion that has been disbursed shall thereafter be repaid immediately with interest, as directed by State or FPA. Refusal of Project Sponsor to repay may, at the option of the FPA, be considered a breach of contract and may be treated as default under paragraph 14.

13. If State notifies FPA of its decision to withhold the entire grant amount from Project Sponsor pursuant to paragraph 11, the contract shall terminate upon receipt of such notice by Project Sponsor and, except for Project Sponsor's repayment obligations as set forth in the previous paragraph, shall no longer be binding on either party.
14. The FPA may determine that Project Sponsor is in default under the contract for any of the following:
  - A. Breach of the contract, or any supplement or amendment to it, or any other agreement between Project Sponsor and FPA evidencing or securing Project Sponsor's obligations;
  - B. Making any false warranty, representation, or statement with respect to this Agreement;
  - C. Failure to operate or maintain Project in accordance with the contract; or
  - D. Failure to make any remittance required by the contract.

## **Chapter 6: Grant Reporting**

The submittal and approval of all reports is a requirement for the successful completion of this contract. Reports shall meet generally accepted professional standards for technical reporting and shall be proofread for content, numerical accuracy, spelling, and grammar prior to submittal to the FPA for State review and approval. All reports shall be submitted to the FPA, and shall be submitted in both electronic and hard copy forms. If requested, Project Sponsor shall promptly provide any additional information deemed necessary by the FPA. The submittal and approval of reports is a requirement for initial and continued disbursement of funds. Submittal of a Project Completion Report is a requirement for the release of any funds retained.

### ***QUARTERLY REPORT***

For the duration of the contract, the sponsor shall submit quarterly progress reports to the FPA. The first progress report shall be made three months after contract award or upon submittal of the first invoice, whichever comes first. Reports shall be submitted by the 21st day of January, April, July, and October for the preceding quarter. Progress reports shall summarize the work completed for each project during the reporting period. Quarterly reports shall include a statement of progress compared to the schedule and a comparison of actual costs to date to the budget. The quarterly report should include the following:

- The status of the project relative to the project schedule
- Records of expenditures.
- Description of project activities since the previous report.
- Key issues that must be resolved.
- Results of project monitoring.

### ***PROJECT COMPLETION REPORT***

Project Sponsor shall prepare and submit to the FPA a Project Completion Report. Project Sponsor shall submit a Project Completion Report within seventy (70) calendar days of completion of all tasks associated with the project. The final progress report must include:

- A description of actual work done
- A final schedule showing actual progress versus planned progress
- A final budget showing actual versus planned expenditures
- Copies of any final documents or reports generated or utilized during the project.
- Photographs of the before-project condition.
- Photographs of the completed condition.

## ***POST PERFORMANCE REPORT***

Project Sponsor shall submit a Post Performance Report. The Post Performance Reports shall be submitted to the FPA within seventy (70) calendar days after the first year of a project has elapsed. In subsequent operational years, Post Performance Reports shall be submitted no later than March 30 of each year. This record keeping and reporting process shall be repeated annually for a total of 10 years after the completed project.

## ***AUDITS AND RECORD KEEPING***

All sponsor records and documents pertaining to the grant shall be maintained by the sponsor until three years after the final payment of grant funds is made. All sponsor records and documents pertinent to the grant shall be available for inspection and audit by the FPA or the State Auditor during normal business hours. The FPA or the State Auditor may audit the records of the project at any time within three years after final payment of grant funds.

## EXHIBIT A GRANT APPLICATION CHECKLIST

A complete grant application should include **three copies** of all application materials. See instructions for specific instructions for each component.

ALL GRANT APPLICATIONS MUST INCLUDE THE FOLLOWING:

	Completed Grant Application Checklist
	Completed Grant Application Cover Sheet
	Executive Summary (1 page maximum)
	Project location map (regional and site specific)
	Project Budget
	Project Implementation Schedule
	Easement Project Summary Sheet
	Project Specification (6 page maximum)
	Project Monitoring Plan (2 page maximum)
	Documentation of Public/Neighboring Landowner Notification
	Preliminary Title Report
	Easement/Property Appraisal
	An flood easement/land acquisition map that shows the exterior boundaries of subject parcel(s) and the parcel number(s)
	A letter from the property owner stating support for the application & any completed purchase-sale agreement

A Nonprofit organization must include:

	A copy of its nonprofit IRS 501(c)3 status
	A copy of its Articles of Incorporation
	A copy of its By laws
	A certification from the Board of Directors stating that no conflict of interest, or appearance of a conflict of interest exists for any of the board members or staff in connection with the proposed project

## EXHIBIT B GRANT APPLICATION COVER SHEET

Name of Organization/Unit of Government \_\_\_\_\_

Federal Employer I.D. Number \_\_\_\_\_

Mailing Address \_\_\_\_\_

Contact Person \_\_\_\_\_ Telephone (    ) \_\_\_\_\_

Title \_\_\_\_\_ Fax (    ) \_\_\_\_\_

Email \_\_\_\_\_

Project Title \_\_\_\_\_

Grant Request Amount        \$ \_\_\_\_\_ Total Estimated Project Cost        \$ \_\_\_\_\_

Matching Funds Pending        \$ \_\_\_\_\_ Matching Funds Committed        \$ \_\_\_\_\_

Project Parcel No. \_\_\_\_\_

Type of Grant Request:

\_\_\_\_\_ Agricultural Conservation Easement

\_\_\_\_\_ Temporary Fee Title Acquisition

\_\_\_\_\_ Permanent Fee Title Acquisition

## EXHIBIT C ACQUISITION PROJECT SUMMARY

**Project Title:** \_\_\_\_\_

**Landowner name(s)/Ownership structure:** \_\_\_\_\_

**Street Address of Property (or nearest cross streets):** \_\_\_\_\_

**Site Map of Property:** \_\_\_\_\_

**Total acres:** \_\_\_\_\_ **Prime:** \_\_\_\_\_ **Irrigated:** \_\_\_\_\_ **Non-irrigated:** \_\_\_\_\_

**Type of Acquisition:** \_\_\_\_\_

**Mineral rights** separated from fee title property? Y N If yes, Owner: \_\_\_\_\_

Type of mineral right separated: Hydrocarbon Aggregate/gravel Other: \_\_\_\_\_

**Number of residential structures currently on the property (if any):** \_\_\_\_\_

Approximate size of each residence (square footage of living area): \_\_\_\_\_

Number of additional residential homesites to be reserved in easement (if any): \_\_\_\_\_

Size restriction (sq ft), if any, on reserved homesites: \_\_\_\_\_

**Number of farm labor residential structures/units currently on property:** \_\_\_\_\_

Approximate size of each farm labor residence (sf of living area): \_\_\_\_\_

Number of additional farm labor structures to be reserved in easement: \_\_\_\_\_

Size restriction (sq ft), if any, on reserved farm labor residences: \_\_\_\_\_

**Minimum parcel size (current zoning):** \_\_\_\_\_

**Number of existing legal parcels:** \_\_\_\_\_

**Proposed number of easements:** \_\_\_\_\_

**Would proposed easement(s) prohibit further subdivision of existing legal parcels?** Y N undecided

**Would proposed easement(s) prohibit sale of existing legal parcels separately from other parcels in easement area?** Y N undecided

**Any special need to expedite? (explain)** \_\_\_\_\_



## EXHIBIT D STANDARD EASEMENT PROVISIONS

Even if the parcel is acquired in fee title, it is recommended that the property be held with an easement in place. Therefore, regardless of the original acquisition method, easements will likely be involved in maintaining the current land use and topography. This exhibit outlines some easement provisions that should be included or considered for inclusion in easements.

### Recommended Standard Provisions for Easements

Effective flood conservation easements will allow landowners the continued use of their land for farming without reducing the flood attenuation capacity of the land. Provisions should not be so restrictive as to discourage the usage of easements. However, provisions must explicitly state and enforce the prohibition of reduction in flood attenuation capacity. To achieve this balance, a clear understanding of the landowner's needs and willingness to give up greater rights is required. A good working relationship is necessary between the landowner and potential easement holder.

This section recommends standard provisions and specific provision language for Soap Lake easements. These provisions represent the minimum restrictions necessary to achieve the primary objective of the Project. The provisions should serve as a guide upon which additional provisions can be added, dependent on landowner and easement holder discussions. Provisions that do not relate directly to the flood protection objective are not included here.

It is important to state in the preamble or purpose section of the easement that flood protection is the main purpose of the easement. Suggested language is as follows:

"Grantor grants this Easement (for valuable consideration) to Grantee for the purpose of assuring that under Grantee's perpetual stewardship, the flood attenuation capacity (and other values) of the Property will be conserved and maintained forever, and the uses of the land that are inconsistent with these conservation purposes will be prevented or corrected."

Table D-1 presents the recommended standard floodplain preservation provisions, specific easement language, and notes on each provision. Additional discussion of select provisions follows the table.

**Table D-1 Recommended Standard Provisions for Soap Lake Easements**

Recommended Provision	Specific Easement Language	Notes
Maintain Floodplain Function (Purpose)	The purpose of this Easement is to enable the Property to retain its current flood attenuation capacity by preventing uses of the Property that will impair or interfere with the Property flood attenuation capacity.	In addition to this purpose, see specific restrictions regarding new structures, road building and other activities below.

Recommended Provision	Specific Easement Language	Notes
Single Family Residence	One (existing or new) single-family dwelling and ancillary uses, including, but not limited to, swimming pool, tennis court, gazebo and garage, may be built entirely within the Building Envelope.	New residences are restricted to the Building Envelope. Specific restrictions may be placed on the size of the residence. It is important to retain the right to a single family residence to preserve agricultural use over time.
Utility Services and Septic Systems	Existing wires, lines, pipes, cables or other facilities providing electrical, gas, water, sewer, communication, or other utility services solely for serving the improvements permitted herein may be installed, maintained, repaired, removed, or relocated and replaced without further permission of Grantee.	To ensure floodplain detention capacity, the easement might limit new utility structures to be placed underground.
Recreational Improvements	Private recreational improvements (e.g. swimming pool, tennis court) for the personal, non-commercial use of Grantor and Grantor's family and guests are permitted only in the Building Envelopes.	To ensure floodplain detention capacity, no commercial recreational improvements are allowed, and no improvements may be constructed outside of the building envelope.
Subdivision	The division, subdivision, defacto subdivision or partition of the Property, including transfer of development rights, whether by physical, legal, or any other process is prohibited. Grantor agrees the Property is comprised of one (1) existing legal parcel, and that no additional, separate legal parcels currently exist within the Property that may be recognized by a certificate of compliance pursuant to California Government Code section 66499.35 based on previous patent or deed conveyances, subdivisions, or surveys. Grantor will not apply for or otherwise seek recognition of additional legal parcels within the Property based on certificates of compliance or any other authority. Grantor shall continue to maintain the parcel comprising the Property, and all interests therein, under common ownership as a single parcel.	Prevents division of the property and subsequent loss of flood protection.
Mining	The mining or extraction of soil, sand, gravel, rock, oil, natural gas, fuel or any other mineral substance, using any other method that disturbs the surface of the land is prohibited.	Ensures floodway function and attenuation capacity.

## Structures

Structures can significantly impact flood attenuation. Buildings increase impervious area. They require roads for access and encourage further development. Provisions can stipulate that only necessary structures can be erected in the floodplain. The “necessary structures” can be specified on a case by case basis to 1) allow the landowner full extent of his desired rights; and 2) provide the greatest amount of floodplain protection benefits. An example of a necessary structure may be a single family residential dwelling. Fences can be another necessary structure to prevent animals from getting either in or out. However, certain types of fences, such as stone or concrete fences, can divert flood waters. Flood attenuation benefits can be maintained by including provisions that prohibit the construction of any impermeable fences.

## Building Envelopes

Building envelopes are a standard method to specify provisions on a case by case basis. Building envelopes designate areas for the construction of certain predetermined structures. Building envelopes can minimize the impacts structures have on floodplains by siting construction in non-vital areas of the floodplain. Sizing of the building envelope should allow the owner flexibility for future expansion of structures, but not to significantly alter flood protection capacity if the building envelope were fully developed with structures. The appropriate size should be decided on a case by case basis.

## Potential Additional Easement Provisions

Easement provisions should be tailored to each landowner’s needs while still providing the necessary amount of floodplain protection described above. The easement provisions presented in this section are not required but should be considered. Some provide a greater level of floodplain protection and others provide agricultural, ecological or other benefits. The most important factor in determining the value of these potential easement provisions is the landowner’s acceptance of the provision. It is in the best interest of the impending easement holder to allow the landowner a certain amount of leeway in the easement negotiation process. Table D-2 presents the potential additional agricultural easement provisions. Table D-3 presents the potential additional ecological easement provisions. Additional discussion of select provisions follows each of the table. Finally, there are opportunities to establish trail easements within the Soap Lake Project boundaries. Table D-4 identifies and describes the trails and the appropriateness of including trail easement provisions.

**Table D-2 Potential Additional Agricultural Provisions for Soap Lake Easements**

Recommended Provision	Specific Easement Language	Notes
Preservation of Agricultural Use of Land	Grantor retains the right to use the Property for agricultural purposes, or to permit others to use the Property for agricultural purposes, in accordance with applicable law as long as the agricultural productive	Continued agricultural usage, with certain limitations, is the preferred method for continued flood protection over time. Maintains economic value of land and still pays taxes.

Recommended Provision	Specific Easement Language	Notes
	capacity and open space character of the Property are not thereby significantly impaired.	
Restriction on Agricultural Practices	Require crops that leave stubble in the winter; Prohibit cultivation during the winter season; Prohibit use of plastic ground cloths	To maintain surface roughness to protect flood attenuation capacity. See plasticulture discussion below.
Agricultural Employee Housing	Any agricultural employee housing must be located entirely within the Building Envelope.	A specific size limitation may be placed on the structure.
Restrictions on Farm Roads	Prohibit roads which parallel major drainages and creeks	Will aid in flood protection capacity. See discussion below
Best Management Practices (BMPs) and Reduction of Pollutant Loading	Identify and implement agricultural methods that will reduce or eliminate the release of sediment, nutrients, and other pollutants between crops and wetlands/riparian corridors.	Agricultural runoff is receiving more attention from regulatory agencies as a source of pollution in waterways and water bodies. It is suggested to start self-regulation before the State imposes restrictions. BMPs will help wildlife habitats as well.

## Plasticulture

Plasticulture, or the use of plastics in agriculture, can have a large impact on runoff. Plastic sheets are used to surround plants and rows of crops to protect the crops from extremes in temperature, water, and wind. The plastic can be laid directly on the ground or lofted to create a tunnel. The sheets though are completely impervious by design and all rainfall is turned directly into runoff. The plastic is also very smooth so there is little potential for storage or slowing the overland flow. Due to the advantages that plasticulture can provide to farmers, limiting use of plastic sheeting is expected to be a contentious issue. The economic impact of such a limitation has not been evaluated.

To minimize conflict between farmers and implementing agencies and to stay in line with the goal and intent of the Project, it is recommended that farmers that currently use plasticulture be allowed to continue to do so. If the selling farmer does not currently use plasticulture, the easement provision that restricts the use of plastic sheets should be pursued but not at the cost of losing the acquisition. This recommendation also applies to the other restrictions on agricultural practices mentioned in the easement provision.

## Roadways

Roadways have significant impacts on floodplains. Compared to vegetated farmland, both paved and unpaved roads substantially reduce surface roughness. This provides a conduit for flood waters. In particular, roadways aligned parallel to the direction of flood water flows can dramatically decrease storage and attenuation. Whereas flood waters would normally be subject to the energy dissipating capabilities of vegetated farmland, roadways provide a channel to short circuit past the natural attenuation characteristics of farmland.

Roadway provisions may address:

- Construction of new paved or unpaved roadways
- Paving of unpaved roadways
- Expansion of existing roadways
- Raised roadways (divides floodplain)

**Table D-3 Potential Additional Ecological Provisions for Soap Lake Easements**

Potential Provision	Description	Discussion
Public Use of Land	Provide use of land for public uses: trails officially identified by publication of this document, education, research (documentation, surveys)	May be difficult to negotiate with landowner. Five proposed trails currently in project area; recent trail easement recorded. See discussion below.
Preserve Scenic Quality of Land	Prohibit uses that would destroy scenic quality of land	In most cases this is difficult to negotiate with landowners
Protect and Enhance Wildlife Habitats	Establish areas where agriculture is prohibited or certain types of agriculture or seasons or use are restricted	To protect wildlife corridors. Restrictions on tree crops, vineyards, and other permanent crops whose operations tend to leave the ground bare in the winter, may provide additional flood protection benefits. Wildlife habitat agricultural easements may cost more than ordinary agricultural easements, providing landowners with a larger easement payment.
Protect Riparian Corridors	Establish areas where agriculture is prohibited and provide for a restoration management plan.	Provides natural sediment removal, surface water benefits. Protected riparian corridors currently exist in Soap Lake project area.

## Public Use of Land and Recreational Use of Land

Discussions with the landowner will determine if the land will be open to public use or recreational use. There are many different types of uses possible through these provisions, among them:

- Recreational/public use for trails
- Public use for educational purposes (i.e. wildlife research, school field trips)
- Recreational use for bird watching

For all uses besides trail easements, the provisions can be established on a case by case basis. For trail easements, however, there are planned trails and established county policies that may dictate provisions.

There are currently five proposed trails within the Soap Lake Project boundaries. The establishment of trail easements is consistent with member county policies encouraging trail development. In cases where a landowner is willing, trail easements can establish a specific, permanent right of passage over the land. Inclusion of such trails could require further environmental analysis to ensure that potential impacts to natural or cultural resources are avoided or minimized. Trail easements can be designated separately from agricultural conservation easements yet be situated side by side to ensure no gaps in protection. Additionally, provisions regarding the management of the trail must be established. Maintenance money is not always readily available. It should be included in the provisions that the group implementing the trail is responsible for trail maintenance and associated costs. The flood and conservation easement holder and the land owner would not be responsible for maintenance or associated costs. Table D-3 lists the five proposed trails within the Soap Lake floodplain.

**Table D-3 Trails in Soap Lake Project Area**

Trail Name	Description
Juan Bautista de Anza National Historic Trail	National Historic Trail- National Park Service in partnership with fed, state, local agencies, non-profits, landowners
Monterey Yosemite State Trail	Regional trail and a "Corridor of Statewide Importance"
Benito-Clara Trail	Regional trail- Trail follows Pajaro River within project area.
Coyote Creek/Llagas Creek Trail	Regional trail
Bay Area Ridge Trail	Bay Area Ridge Trail Council- a non-profit organization

Specifics regarding these items must be determined on a case by case basis. In general, all of the items reduce the current abilities of the floodplain to protect against flooding and should be prohibited. However, because these provisions may be impractical for landowners, provisions must be discussed during the easement creation process.



**EXHIBIT E BUDGET ITEMIZATION WORKSHEET**

FPA Request (\$)	Other Funding (\$) (include any landowner donation)	State Funding (\$)	Total Funding (\$)
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**Acquisition Costs**

Easement Acquisition			
Fee Title Acquisition			

**Associated Costs**

(e.g., Appraisal, title, escrow, closing costs, legal, etc.)

Subtotal			

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<b>TOTALS</b>			
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