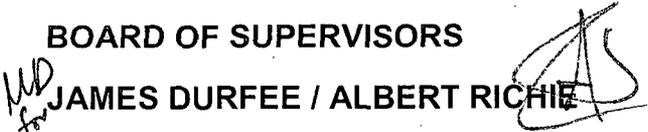


**MEMORANDUM  
DEPARTMENT OF FACILITY SERVICES  
COUNTY OF PLACER**

To: **BOARD OF SUPERVISORS**

Date: **NOVEMBER 4, 2008**

From:  **JAMES DURFEE / ALBERT RICHIE**

Subject: **NATURAL TRADING COMPANY AGRICULTURAL CONSERVATION  
EASEMENT ACQUISITION**

**ACTION REQUESTED / RECOMMENDATION:** It is recommended that your Board take the following actions associated with the acquisition of an Agricultural Conservation Easement (CE) on the 40± acre parcel located at 5841 Fruitvale Road in Newcastle owned by Bryan Kaminsky and Caren Hamilton of the Natural Trading Company (NTC Property):

1. Adopt the attached Resolution authorizing the Director of the Planning Department, or his designee, to submit and execute any and all documents on behalf of the County necessary for an application for funding in the amount of \$332,500 to the Farmland Conservancy Grant Program (CFCP) administered by the California Department of Conservation (DOC) to assist with the acquisition of the CE on the NTC Property and certifying that no known conflicts of interest, or the appearance of conflicts of interest, exist related to the proposed acquisition of the CE; and
2. If the County is successful in securing grant funds, direct Facility Services' staff to prepare and return for your Board's approval of both the CE, the Agreement of Purchase and Sale of the CE, and authorization to acquire the CE.

**BACKGROUND:** In 2006, Bryan Kaminsky and Caren Hamilton, owners and operators of the Natural Trading Company, approached the County expressing their interest in selling an agricultural and open space conservation easement to the County should they secure a property that would allow them to expand their organic farming operation. Kaminsky and Hamilton expressed their desire to move from the 12.5± acre property they leased/owned in Penryn to a 40± acre site located at 5841 Fruitvale Road in Newcastle. This larger property, zoned Farm with a minimum building site size of 10 acres (F-B-X-10ac), had been a family-run fruit orchard since the 1950's and was being marketed as farm property with potential for subdivision into four home sites. The property had not been actively managed due to advancing age of the parents, and a lack of interest in farming by the next generation. Staff did not commit to acquiring a CE but communicated that this type of acquisition would be consistent with the objectives of the Placer Legacy Open Space and Agricultural Conservation Program (Placer Legacy) and the goals and policies of the Placer County General Plan.

On April 24, 2007, Bryan Kaminsky and Caren Hamilton purchased, as joint tenants, the 40± acre property (see Exhibit A) and shortly thereafter approached the County expressing their interest as a "willing seller" to convey a CE to the County. To date, the Kaminsky/Hamilton's have made considerable progress in transforming much of the non-productive farmland into an organic farm capable of producing diverse products ranging from row and greenhouse crops, herbs/spices, flowers, and vegetables to range fed livestock and poultry. They have also begun restoration of the mature fruit orchard by pruning and replacing non-productive trees. With their relocation to this larger property, the owners have expanded organic food distribution to local stores and restaurants, farmer's markets, and the Community Supported Agriculture Program. The owners also plan to promote awareness about agriculture, food preparation, and nutrition through on-site K-12 educational programs.

To fund a portion of this acquisition, staff has identified the State DOC CFCP program as a potential source for 50% of the purchase cost. According to CFCP staff, the DOC's funding towards the

acquisition of this CE is viewed as a unique opportunity to protect small tracts of intensively farmed agricultural land that are suited for more diversified crops.

**CONSERVATION EASEMENT PRICE AND TERMS:** Consistent with objectives of the Placer Legacy Open Space and Agricultural Conservation Program (Placer Legacy), the proposed acquisition of the CE on the NTC Property would preserve in perpetuity the conservation values present on this property (e.g., open space, stream environment zone, rock outcroppings and oak trees) and the agricultural productive capacity (the quality of agricultural soils). In addition, this proposed action was unanimously supported by the County's Agriculture Commission and meets Placer Legacy goals by supporting an increasingly important segment of the County's agricultural economy – locally grown and distributed fresh fruit and vegetables; promoting sales of locally grown produce; and helping create additional markets for agriculture.

In recognition of the benefits associated with the proposed CE and the positive response by CFCP staff, Facility Services staff has developed a draft CE based on the CFCP's desired form and terms and obtained an appraisal that established the CE's value at \$665,000. The CE value is based primarily on the impact to the property value due to the following burdens that would be placed on the Property through the recordation of the CE:

- Loss of three of the four Development Rights with no increase in allowable Development Rights from future zoning changes and/or other governmental actions that would result in an increase in residential density. As a result, the property will be limited to one legal parcel.
- Permanence of the CE results in some risk associated with uncertainty of future farming economics.
- Responsibilities associated with conformance to the terms of the CE.
- Some intrusion resulting in some loss to the owner's right to quiet enjoyment.

Beyond the above burdens, the CE will impose other burdens that staff believes also contributes to the value of the CE:

- Loss of 80% of allowable site coverage. Current code allows up to 25% site coverage in a Farm District (up to 10 acres based on the property size). The CE would limit land coverage (structures) for non-agricultural producing activities to 2 acres comprised of:
  - Five separate Agricultural Building Envelopes for future Agricultural Accessory Structures not to exceed .95 acres.
  - One Residential Building Envelope not to exceed 1.05 acres comprised of both primary and secondary dwelling units (the secondary dwelling unit shall not exceed 1,200 sq.ft. and must be limited to non-commercial residents). Maximum coverage shall not to exceed 40% of the 1.05-acre area, or 18,295 square feet for all residential related structures.
- Protect agricultural productive capacity, the quality of agricultural soils, open space, and long-term retention of the Stream Environment Zone and the oak tree and rock outcrops.
- No Farm Labor Housing without written permission. Farm Labor Housing must be located entirely within an Agricultural Building Envelope.
- Maximum of two stock ponds with total area not exceeding 20,000 square feet. Use limited to agricultural purposes with a prohibition on commercial or recreational fishing, or any jet/water skiing.
- No resort structures, golf courses, non-residential swimming pools, public or commercial airstrips, commercial equestrian facilities, public or commercial helicopter pads, and any other non-agricultural recreational structures or facilities.

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- Ongoing oversight by the County and the CFCP to monitoring agricultural and biological resources and the property owner's uses and practices to determine whether they are consistent with this easement and to assure restoration, adaptive management, and maintenance activities do not compromise the Conservation Values.

Through the elimination of development rights and protection of the Conservation Values, the CE promotes the economic viability of commercial farming by ensuring larger tracts of land are preserved and ensures that uses do not degrade the quality of the soils or surface/subsurface waters. Through the elimination of development rights, a commercial farm becomes the most viable economic use for the landowner. In addition, the CE also allows leasing to another farmer so long as the terms of the CE are met. In addition, the current owner intends to apply for Williamson Act tax credits requiring a qualifying agricultural use. Although not contractually obligated, the owners have demonstrated their commitment to implementation and expansion of organic farming as evidenced by progress made and the property's certification as an organic farm with the California Certified Organic Farmers (CCOF).

**NEGOTIATIONS STATUS:** Staff has shared the appraised value for the CE and with the owners who agree this amount represents fair and reasonable consideration for the rights conveyed through the CE. Facility Services staff have commenced preparation of the Agreement of Purchase and Sale including the finalization of the CE and intend to return to your Board for approval of these documents and for authority to perform all actions necessary to acquire the CE.

**GRANT APPLICATION:** Subject to your Board's approval of the recommendations herein, the County's application will request \$332,500 in grant funds, or fifty percent of the estimated purchase cost. Factoring in a \$5,000 commitment from the Placer Land Trust, the County's match would be \$327,500. In preparation of the grant application and in accordance with CFCP requirements, Planning Department staff has issued public notifications (including direct mailings to adjacent property owners) indicating that your Board is considering the grant application and this acquisition today. In addition, your Board's approval of the attached Resolution that certifies your Board's approval to submit the application and that no conflict of interest exists related to the acquisition of the CE or the application to the CFCP.

**ENVIRONMENTAL CLEARANCE:** The acquisition of a CE is Categorically Exempt from the California Environmental Quality Act pursuant to Section 15317. That Section provides for the establishment of agricultural preserves or the acceptance of easements in order to maintain the open space character of an area.

**FISCAL IMPACT:** The total acquisition costs for this conservation easement are estimated to total \$681,827, including the purchase price, title and escrow costs, appraisal and environmental assessments (if required). The Placer Land Trust contribution will reduce this amount by \$5,000. With the DOC grant described above, the County's contribution to the total acquisition cost would be \$344,327. There are funds available in the Open Space Fund that has been established as part of the County budget to fund acquisitions such as this. If the County is successful in securing grant funds, staff will return to your Board with a budget revision to appropriate the funds for acquisition of the CE.

JD:AR:MR:LM:DB

ATTACHMENT: EXHIBIT A  
EXHIBIT B  
RESOLUTION

cc: COUNTY EXECUTIVE OFFICE  
PLANNING DEPARTMENT

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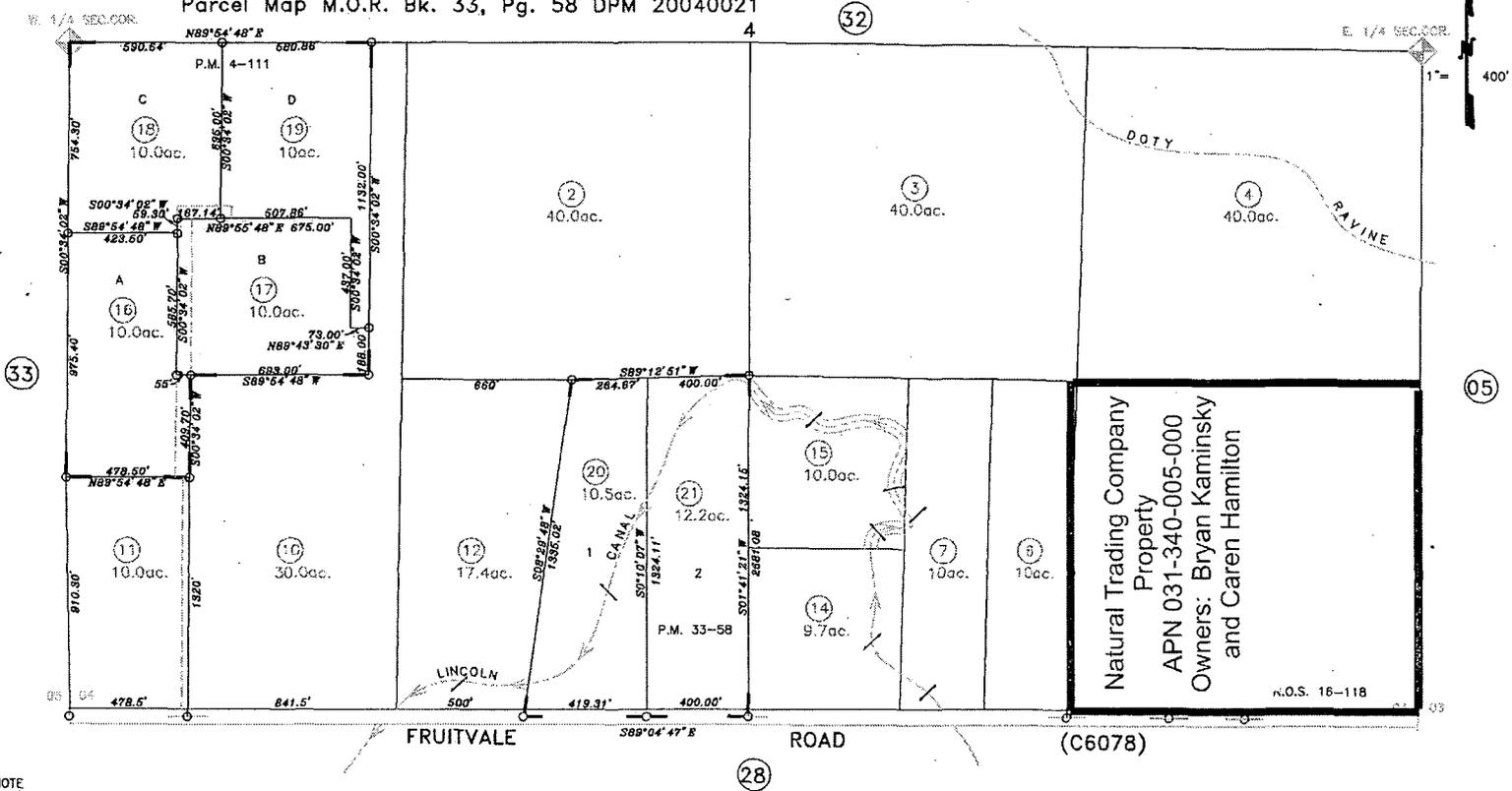
**EXHIBIT A  
PROPERTY MAP**

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S. 1/2 SEC.4, T.12N., R.7E., M.D.B.&M.

31-34

Parcel Map M.O.R. Bk. 4, Pg. 111  
 Survey M.O.R. Bk. 16, Pg. 118, No. 2319  
 Parcel Map M.O.R. Bk. 33, Pg. 58 DPM 20040021



NOTE  
 All distances on curved lines are chord measurements.

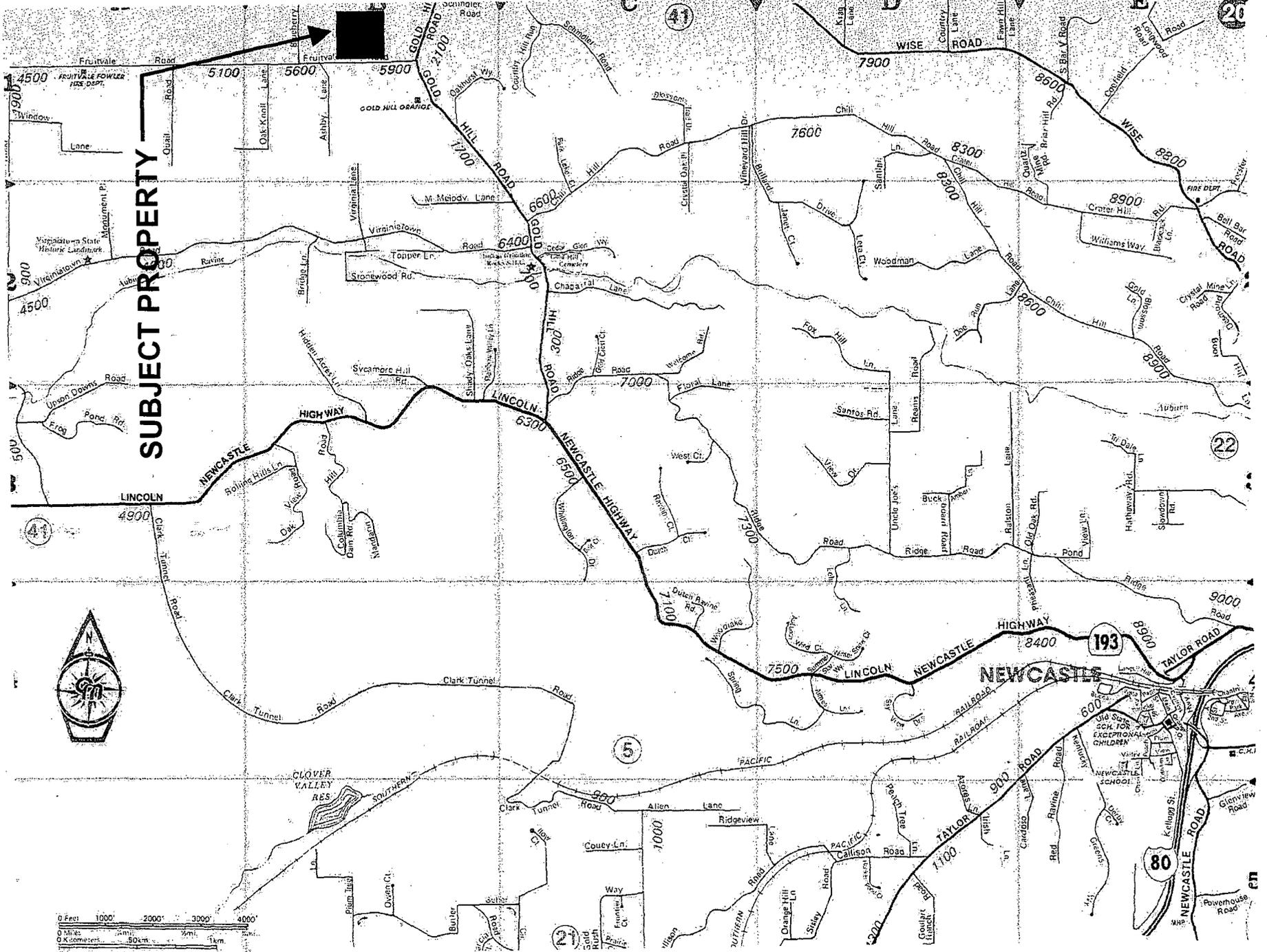
12-21-2006  
 03-28-2002 RNP  
 Page Redrawn from Base Map Information.

NOTE  
 This map was prepared for assessment purposes only, and is not intended to illustrate legal building sites or establish precedence over local ordinances. Official information concerning size or use of any parcel should be obtained from recorded documents and local governing agencies.

Assessor's Map Bk.31 Pg.34  
 County of Placer, Calif.

NOTE  
 Assessor's Block Numbers Shown in Ellipses.  
 Assessor's Parcel Numbers Shown in Circles.

**EXHIBIT B  
VICINITY MAP**



# Before the Board of Supervisors County of Placer, State of California

In the matter of: A RESOLUTION APPROVING THE  
EASEMENT PROPOSAL TO THE CALIFORNIA  
DEPARTMENT OF CONSERVATION'S  
CALIFORNIA FARMLAND CONSERVANCY  
PROGRAM FOR THE NATURAL TRADING  
COMPANY CONSERVATION EASEMENT

Resolution No. \_\_\_\_\_

The following **RESOLUTION** was duly passed by the Board of Supervisors of the County of Placer at a regular meeting held \_\_\_\_\_, 2008 by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Attest:

\_\_\_\_\_  
Chairman, Board of Supervisors

\_\_\_\_\_  
Clerk of said Board

**WHEREAS**, the Legislature has established the California Farmland Conservancy Program within the Department of Conservation, and through a grant program is providing assistance to conserve important agricultural land resources that are subject to conversion pressures; and

**WHEREAS**, the County of Placer intends to purchase a conservation easement on the 40-acre property known as The Natural Trading Company farm located at 5841 Fruitvale Road (APN 031-340-005-000) in Newcastle for the purpose of conserving priority agricultural land resources; and,

**WHEREAS**, procedures established by the Department of Conservation require a resolution certifying the approval of an application by the Board of Supervisors before submission of said application to the Department of Conservation; and

**WHEREAS**, the County of Placer Board of Supervisors approves the easement proposal and certifies that the easement proposal meets the eligibility criteria set forth in Public Resources Code Section 10251 to wit:

(a) The parcel proposed for conservation is expected to continue to be used for, and is large enough to sustain, commercial agricultural production. The land is also in an area that possesses the necessary market, infrastructure, and agricultural support services, and the surrounding parcel sizes and land uses will support long-term commercial agricultural production.

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(b) The County of Placer has a general plan which demonstrates a long-term commitment to agricultural land conservation. This commitment is reflected in the goals, objectives, policies, and implementation measures of the plan, as they relate to the area of Placer County where the easement acquisition is proposed.

(c) Without conservation, the land proposed for protection is likely to be converted to nonagricultural use in the foreseeable future.

**NOW, THEREFORE, BE IT HEREBY RESOLVED** by the Board of Supervisors of the County of Placer, State of California, as follows:

1. Certify that the easement proposal meets the eligibility criteria set forth in Public Resources Code Section 10251 and approves the filing of an application for funding from the California Farmland Conservancy Program for the Natural Trading Company conservation easement; and,
2. Certify that no known conflict of interest, or the appearance of a conflict of interest, exists for the Board or any of its members as related to the proposed acquisition of an agricultural conservation easement on The Natural Trading Company with proposed funding from the California Farmland Conservancy Program.
3. The Board of Supervisors agree that at any time in the future once the conservation easement is in place, should a Board member have a conflict of interest related to The Natural Trading Company Conservation Easement, such Board member shall recuse him or herself from all discussions and voting related to monitoring and enforcement of the conservation easement.
4. The Board of Supervisors appoints the Director of the Placer County Planning Department, or designee, as agent to execute all documents and activities necessary to file this application for funding with the California Farmland Conservancy Program for The Natural Trading Company.

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