



WILLIAMSON ACT CANCELLATION ADVICE FOR SUBMISSION OF PETITIONS

The preferred method to terminate a Williamson Act contract is the nonrenewal process, however, cancellation of a contract is an option under limited circumstances and conditions set forth in Government Code (GC) §51280 et seq¹. The provisions for cancellation of contracts were included in the Williamson Act (Act) as a means of dealing with situations where the cancellation will either facilitate an alternative use that is consistent with the purposes of the Act or facilitate a public interest that substantially outweighs the objectives of the Act. The Constitutional authorization of the Williamson Act requires the Act represent an enforceable restriction; easily available cancellation would render the Act ineffective as a land-use control device².

A contract may only be canceled upon the request of the landowner (GC §51281). Landowners may petition a county board of supervisors or city council for a Williamson Act contract cancellation. The county or city is required to send a copy of the petition to the Department of Conservation (Department) as a separate submittal from any CEQA document. Any comments submitted by the Department shall advise the board or council on the findings required in GC §51282 (§51284.1(c)). The board or council is required to consider the comments by the Department, if submitted (§51284.1(d)).

There are five sections under the Williamson Act statute for cancellation. The landowner may petition a board or council for a full or partial cancellation pursuant to one of the following sections:

- GC § 51282(b) Cancellation is Consistent with the Williamson Act
- GC § 51282(c) Cancellation is in the Public interest
- GC § 51282.3 Cancellation for Specified Alternate Use of the Land
- GC § 51282.5 Cancellation of Land Zoned as Timberland Production
- GC § 51297 Cancellation of Farmland Security Zone Contract

The uneconomic character of an existing agricultural use is not sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be

¹ There are many other aspects of the cancellation process that are not addressed in this advice paper. Specific information on the cancellation process, code section content, and other contingencies can be found in Government Codes §51280 through §51287. Staff is also available to answer questions for proposed projects.

² *Sierra Club v. Hayward* (1981) 28 Cal 3d 840, 171 Cal Rptr 619, 623 P2d 180, 1981 Cal LEXIS 117, superseded by statute as stated in *Friends of East Willits Valley v. County of Mendocino* (2002, Cal App 1st Dist) 101 Cal App 4th 191, 123 Cal Rptr 2d 708, 2002 Cal App LEXIS 4509.

considered only if there is no other reasonable or comparable agricultural use to which the land may be put (GC § 51282(d)).

For information on rescinding and reentering contracted land into an Agricultural Conservation Easement please see [Government Code § 51256](#).

DEFINITIONS

FOR THE PURPOSES OF THE WILLIAMSON ACT AND THIS ADVISORY, THE FOLLOWING DEFINITIONS APPLY

Prime agricultural land (as defined by § 51201) means any of the following:

1. All land that qualifies for rating as class I or class II in the Natural Resource Conservation Service land use capability classifications.
2. Land which qualifies for rating 80 through 100 in the Storie Index Rating.
3. Land which supports livestock used for the production of food and fiber and which has an annual carrying capacity equivalent to at least one animal unit per acre as defined by the United States Department of Agriculture.
4. Land planted with fruit- or nut-bearing trees, vines, bushes, or crops which have a nonbearing period of less than five years and which will normally return during the commercial bearing period on an annual basis from the production of unprocessed agricultural plant production not less than two hundred dollars (\$200) per acre.
5. Land which has returned from the production of unprocessed agricultural plant products an annual gross value of not less than two hundred dollars (\$200) per acre for three of the previous five years.

Any lands that do not meet this definition are considered non-prime lands under the Act.

"Proximate," noncontracted land (as defined by GC § 51282) means:

Land not restricted by contract, which is sufficiently close to land which is so restricted that it can serve as a practical alternative for the use which is proposed for the restricted land.

"Suitable" for the proposed use (as defined in GC § 51282) means:

The salient features of the proposed use can be served by the land not restricted by contract. Such nonrestricted land may be a single parcel or may be a combination of contiguous or discontinuous parcels.

THE ROLE OF THE DEPARTMENT OF CONSERVATION AND OVERVIEW OF THE PROCESS

THE DEPARTMENT'S ROLE IN PROTECTING AGRICULTURAL AND OPEN SPACE LANDS

Contract cancellation requirements were specifically written so that land is not removed from agricultural use in an opportunistic fashion if a more profitable (urban or industrial) development opportunity occurs. A Williamson Act contract represents an investment by all parties in California's valuable agricultural resources. It is the loss of agriculture on the proposed project site that is being weighed, not the profit it will bring once the land is leased or sold.

Per GC § 51206, the Department may publish and disseminate information regarding the policies, purposes, procedures, administration, and implementation of the Williamson Act statute.

Consistent with this section, the Department typically does not support the cancellation of contracts located on land designated as Prime Farmland. The Department also believes Important Farmlands, as defined by the Farmland Mapping and Monitoring Program (FMMP), are the best soils available in which to grow crops and therefore have an extremely high value to the State of California.

The findings required by the Williamson Act statute for cancellation in the public interest can be difficult to make when weighed against valuable and productive farmland. The Department has more often found that cancellations are in the public interest when the parcel(s) are not located on lands classified as Prime Farmland, Unique Farmland, or Farmland of Statewide Importance, as shown on the Important Farmland Maps. Cancellation of Prime Farmland, Unique Farmland, or Farmland of Statewide Importance is more likely to be supportable when it can be proven that a parcel or parcels are eligible for cancellation based on information provided in the petition demonstrating that circumstances exist that limit the use of the parcel for agricultural activities.

OVERVIEW OF THE CANCELLATION PROCESS: SUMMARY OF PETITION CONTENT

Documentation to support cancellation approvals should address each required finding, describing the relationship between all relevant data, the site, and how the data supports the specific finding. Data provided must be accurate and accompanied by citations or descriptions of how the data was derived, to best support cancellation findings. The Department takes into consideration additional factors that could devalue the site and limit crop production, including, but not limited to, contamination of the soil, water quality, and limited water allocations. The acreage of prime land proposed for cancellation is also taken into account; properties less than 10 acres in size are presumed to be too small to sustain agricultural use. Similarly, parcels of non-prime

agricultural land are presumed to be too small to sustain their agricultural use if they are less than 40 acres (GC § 51222).

DEPARTMENT REVIEW TIMES

Most often, the Department has been notified through an early consultation notice or the CEQA process that a cancellation is to occur. However, the Williamson Act notes separate notification procedures in addition to any CEQA process a cancellation may be involved in. The county or city is required to mail a notice of the public hearing and a copy of the landowner's petition to the Director of Conservation ten (10) days prior to the planning commission meeting³ to notify the Department that a cancellation petition is forthcoming.

Once a county/city determines a cancellation to be complete, but no less than thirty (30) days prior to a board or council meeting where action on the tentative cancellation will take place, the county/city is required to send the tentative cancellation notice⁴, often referred to as the cancellation petition, to the Director of Conservation. The cancellation petition should include: a copy of the petition, justification for the required findings prepared by the County, a copy of the contract, a general description of the land, cause for cancellation of the contract, and the deadline for submitting comments. Department review times must be consistent with the Permit Streamlining Act (GC § 65920) and the county or city must allow at least 30 days for comments.

A cancellation petition is considered to be complete once the county/city has, either conducted a preliminary review and deemed the petition data and findings to be acceptable, or they have finished their own set of findings to forward on to the Department. As a result, the cancellation findings and petition information will reflect the views of the county/city as the lead agency.

SUPPLEMENTARY INFORMATION

Any supplementary materials sent to the Department for review should have the project name, contract number, and APN(s) listed as reference. This includes the valuation, copy of the recorded certificate of tentative cancellation, copy of the recorded certificate of cancellation, and notification of payment of the cancellation fee.

VALUATION

As part of the cancellation process the county assessor determines the current, unrestricted fair market valuation of the property. GC §51283 requires payment by the landowner of a cancellation fee to the state that is 12.5 percent of that valuation. A city or county may impose their own cancellation fee in addition to the fee imposed by

³ Government Code § 51284.1 (a)

⁴ Government Code § 51284.1

the Act. If the land is restricted by a Farmland Security Zone Contract, the cancellation fee is 25 percent of the Assessor's valuation. Valuation is not required to accompany the petition, but must be made available to the Department prior to any action by the board or council on the tentative cancellation (GC § 51283).

FORMAL REVIEW

If the Department or the landowner believes that the current fair market valuation is not accurate, the Department or the landowner may request formal review by the county assessor pursuant to Government Code § 51203. The Department or the landowner shall submit, to the assessor and the other party, the reasons for believing the valuation is not accurate and the additional information the requesting party believes may substantiate a recalculation of the property valuation. Each party shall have the opportunity to respond to the information submitted by the other party.

TENTATIVE CANCELLATION

The board or council may grant tentative cancellation only if it makes all of the required statutory findings (discussed in subsequent sections of this paper). The clerk of the board or council must record a certificate of tentative cancellation with the county recorder, which includes the contingencies to be satisfied, a requirement that the landowner obtain all permits necessary to commence the project, and payment of the cancellation fee⁵. Within 30 days of a county or city's approval of a tentative cancellation, the city or county shall deliver a copy of the published notice of decision to the Department of Conservation⁶.

In the event of a cancellation of a Farmland Security Zone contract the Director of the Department of Conservation must approve the cancellation; therefore, the Director's approval must be included as a condition/contingency in the certificate of tentative cancellation⁷.

CERTIFICATE OF CANCELLATION

In order to record the certificate of cancellation, officially removing the land from contract, the landowner is required to pay the cancellation fee as outlined in GC §51283(b) and §51297(c)(3) and meet any additional requirements of the tentative cancellation. The landowner must notify the board or council once all conditions/contingencies of the tentative cancellation have been met.

Within 30 days of notice by the landowner, the board or council must execute a certificate of cancellation, cause the certificate to be recorded, and send a copy of the recorded certificate to the Director of the Department of Conservation (Director). In the event the landowner is unable to satisfy the conditions/contingencies outlined in

⁵ Government Code § 51283.4(a)

⁶ Government Code § 51284

⁷ Government Code § 51297

the certificate of tentative cancellation, they must notify the board or council who in turn has 30 days to execute a certificate of withdrawal of tentative approval of a cancellation of contract. The certificate of withdrawal must be recorded (GC § 51283.4). Any recorded certificate of withdrawal should also be forwarded to the Director.

CANCELLATION PETITIONS CAN BE SENT DIGITALLY TO:

David Shabazian, Director
Department of Conservation
c/o Division of Land Resource Protection
801 K Street, MS 14-15
Sacramento, CA 95814
LCA@conservation.ca.gov

SUPPORTING DATA FOR ALL PETITIONS

The Department requests adequate information is submitted in order to conduct the reviews and make recommendations as required by Williamson Act statute. A cancellation petition may use any format for submitting information to the Department; however, all relevant information outlined in this advice paper should be a part of the submittal. The county or city should prepare the draft cancellation findings; however, the findings may be drafted by the applicant. Any findings drafted by the applicant shall be reviewed by the county or city before they are forwarded on to the Department for review and ultimately considered for adoption by the board or council. Petitions that are submitted without pertinent data or with conflicting information will take longer to review and may result in the Departments recommendation to reject/deny the cancellation request. A description of the type of supporting data and documentation to be submitted with the petition request is outlined below.

DETAILED PROJECT DESCRIPTION AND DOCUMENTATION:

Project Name

Stated purpose of cancellation (type of cancellation; cancellation as consistent with the Act or cancellation in the public interest, cancellation for agricultural labor housing, cancellation for land zoned as timberland production, or cancellation of farmland security zone contract).

Draft findings.

Description of the specified alternative use of the land. The proposal for the alternative use shall list those governmental agencies known by the landowner to have permit authority related to the proposed alternative use, and the provisions and requirements of GC § 51283.4 [the certificate of tentative cancellation] shall be fully applicable thereto. The level of specificity required in a proposal for a specified alternate use shall be determined by the board or council as that necessary to permit them to make the findings required (GC § 51282 (f)).

Extent of cancellation (partial or full cancellation)

Copy of Contract

Contract Number

Agricultural Preserve (Number or Name)

Landowner(s)

Applicant

Total Existing Contract Acreage

Cancellation Acreage Proposed (Number of acres to be cancelled by the proposed project)

- Assessor's Parcel Numbers (APN)- note if it is a portion of an APN
- Existing agricultural conditions in the county and region
- Existing agricultural uses on the project site & adjacent to project site
- Maps

Location map of project site (including individual fields, if applicable)

Acres of Prime and Non-Prime Williamson Act Land (as defined by GC § 51201(c)) and the current Important Farmland Map classification(s)⁸ (i.e. Prime, Unique, etc.) with project area outlined.

Most recent aerial photos available with project area delineated

The county or city's staff summary of their review of the evidence relevant to the cancellation which may include any recommendations from an Agricultural Advisory Committee or other recommending bodies.

Any additional information that demonstrates or otherwise substantiates the statutory findings. This may include recent soils test; analysis of water quality; and crop yield information for the past six years.

Project Planner's contact information: name, title, phone number and/or email address, and fax number.

DATA AND ANALYSES WHICH MAY BE SUBMITTED AS RELEVANT TO SUPPORT CANCELLATION FINDINGS

If recent soils tests, water quality analysis, or crop yield information are being provided to help demonstrate or substantiate the statutory findings the Department asks the information be provided consistent with the guidelines outlined here.

RECENT SOIL TEST OR NATURAL RESOURCE CONSERVATION SERVICE (NRCS) REPORTS:

A soil test report and/or soil survey demonstrating the present characteristics of the soil significantly reduce the soil's agricultural productivity.

The soil test report or survey shall have been conducted by a Certified Soil Scientist or Certified Professional Soil Classifier.

The soil test report shall include the name, employer, date of licensure, and contact information of the Certified Soil Scientist or Certified Professional Soil Classifier who conducted the soil test.

⁸County Farmland Mapping and Monitoring Program maps can be found online at: <https://www.conservation.ca.gov/dlrp/fmmp/Pages/Maps-and-Data.aspx>

All soil samples utilized in the soil test report shall be taken from the land proposed for cancellation. The soil test report shall include a map showing the locations of the land proposed for cancellation where the soil samples were taken.

Additional soil information would include a soil map clearly delineating the soil mapping units found on the site; the land capability classification, indicating whether the land is irrigated or non-irrigated, for each soil mapping unit; the Soil Survey description of the primary physical or chemical limitation to the agricultural use for each soil mapping unit; the existing agricultural use on the site; a discussion of the typical cultivation management practices used to carry out the existing agricultural use; and the existing agricultural conditions in the surrounding area of the county; and a discussion of the best currently available agricultural management practices and an explanation as to whether one or a combination thereof would allow continued agricultural production on the project site.

ANALYSIS OF WATER AVAILABILITY

An analysis of water availability demonstrating the insufficiency of water supplies for continued agricultural production. It is recommended that the water availability analysis include the following:

The source or sources of surface water used for agricultural production on the project site including the number of acre feet delivered and applied for each of the immediately preceding six (6) years.

A characterization of the groundwater available to the project site including the well depth, the amount of groundwater applied, and the groundwater fluctuation over the immediately preceding six (6) years.

A description of any dryland farming on the project site.

ANALYSIS OF WATER QUALITY

An analysis of water quality demonstrating continued agricultural production would be, under the best currently available management practices, significantly reduced. It is recommended the water quality analysis include the following:

A qualitative description of surface water sources that is focused on chemical content and other constituents with the potential to impact agricultural productivity.

A qualitative description of groundwater that is focused on chemical content and other constituents with the potential to impact agricultural productivity.

A description of water source blending, pre-treatment, and other techniques used to mitigate water quality issues; and the limitations of such techniques specific to the site.

CROP AND YIELD INFORMATION

IF CROP YIELD INFORMATION IS BEING PROVIDED TO HELP SUBSTANTIATE THE STATUTORY FINDING, IT IS RECOMMENDED THE INFORMATION PROVIDED INCLUDE THE FOLLOWING:

Annual cropping history and yields, by parcel and individual field location, over the immediately preceding six (6) years.

A comparison of crop yield information for the site against average crop yields for the same crop on a county basis. County level data may be acquired from the County Agricultural Commissioner's Office.

If applicable, supporting information in the form of crop insurance or disaster assistance approvals may be provided as evidence of crop and yield impacts.

CANCELLATION CONSISTENT WITH THE WILLIAMSON ACT

REQUIREMENTS FOR CANCELLATION CONSISTENT WITH THE PURPOSE OF THE WILLIAMSON ACT UNDER GC § 51282(B).

THE BOARD MUST MAKE ALL OF THE FOLLOWING FINDINGS:

The cancellation is for land on which a notice of nonrenewal has been served pursuant to GC §51245.

That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

That cancellation is for an alternative use which is consistent with the applicable provisions of the county or city general plan.

That cancellation will not result in discontinuous patterns of urban development.

Urban development can be demonstrated by the construction of buildings and/or the utilization of a property, for a use which is unrelated to an agricultural or open-space use, or which substantially impairs the agricultural or open-space use of the land.

That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that the development of the contracted land would provide more contiguous patterns of urban development of proximate noncontracted land.

SUPPORTING DATA THAT MUST BE INCLUDED WITH THE PETITION:

Project description and documentation (as described previously)

A copy of the recorded notice of nonrenewal

Information that considers adjacent development proposals. Approved development in proximity to the area could cause a domino effect of cancellations, which would result in the removal of adjacent lands from agricultural use and therefore create a significant impact to agricultural resources.

A requested response time for receipt of Department comments regarding the proposed cancellation.

Documentation of the applicant's efforts to search for available and suitable, proximate, noncontracted, land for the proposed use; with detailed information explaining why noncontracted sites were not selected. A table or map presenting the documentation requested may be provided. The petition should explain and provide evidence why the search for proximate, non-contracted

land within the radius utilized by the petitioner was adequate to satisfy the statutory requirement. Generally, a radius of no less than two to three miles can be adequate; however, the characteristics of the project and the project area may suggest that a greater radius should be considered. An explanation of why the site was chosen is also requested. Graphics must be of good visual quality.

Valuation of the land to be canceled, if available at the time. Valuation is not required to accompany the petition but must be made available to the Department prior to the board or council taking action on tentative cancellation.

Any additional information that demonstrates/substantiates the statutory findings. This may include a recent soil test; analysis of water quality; and crop yield information for the past six years (as described previously).

CANCELLATION IS IN THE PUBLIC INTEREST

REQUIREMENTS FOR PUBLIC INTEREST FINDINGS UNDER GC § 51282(C).

The terms "public" and "interest" refer to the interest of the public as a whole in the value of the land for open space and agricultural use. Though the interests of the local and regional communities involved are also important, no decision regarding the public interest can be based exclusively on the local benefit of the proposed project.

Moreover, the principal "interest" involved is the preservation of land in agricultural production. Though the Legislature, by providing for cancellation has recognized the importance of other interests, such as housing, needed services, environmental protection, economic growth and employment, it must be shown that agricultural and open space objectives, which are explicitly and unequivocally protected by the act, are substantially outweighed by other public concerns before the cancellation can be deemed "in the public interest."⁹

THE BOARD MUST MAKE BOTH OF THE FOLLOWING FINDINGS:

Other public concerns substantially outweigh the objectives of the Act, and

There is no proximate, noncontracted land which is available and suitable for the use proposed on the contracted land, or, development of the contracted land would provide more contiguous patterns of urban development than development of proximate noncontracted land.

SUPPORTING DATA THAT SHOULD BE INCLUDED WITH THE PETITION:

Project description and documentation (as outlined previously)

A requested response time for receipt of Department comments regarding the proposed cancellation. In no case may the response time be less than 30 days (GC§ 51284.1(a)(4) & (c)).

Documentation of the applicant's efforts to search for available and suitable, proximate, noncontracted, land for the proposed use; with detailed information explaining why noncontracted sites were not selected. A table or map presenting the documentation requested may be provided. The petition should explain and provide evidence why the search for proximate, non-contracted land within the radius utilized by the petitioner was adequate to satisfy the statutory requirement. Generally, a radius of no less than two to three miles can be adequate; however, the characteristics of the project and the project area

⁹ *Sierra Club v. Hayward* (1981) 28 Cal 3d 840, 171 Cal Rptr 619, 623 P2d 180, 1981 Cal LEXIS 117, superseded in part by statute as stated in *Friends of East Willits Valley v. County of Mendocino* (2002, Cal App 1st Dist) 101 Cal App 4th 191, 123 Cal Rptr 2d 708, 2002 Cal App LEXIS 4509.

may suggest that a greater radius should be considered. An explanation of why the site was chosen is also requested. Graphics must be of good visual quality.

Valuation of the land to be canceled, if available at the time. Valuation is not required to accompany the petition but must be made available to the Department prior to the board or council taking action on tentative cancellation.

Any additional information that demonstrates/substantiates the statutory findings. This may include a recent soil test; analysis of water quality; and crop yield information for the past six years (as described previously).

CANCELLATION FOR AGRICULTURAL LABOR HOUSING

REQUIREMENTS FOR CANCELLATION OF SPECIFIED ALTERNATE USE OF THE LAND UNDER GC §51282.3.

The landowner may petition the board or council for cancellation of any contract, or of any portion of a contract, if the board or council has determined that agricultural laborer housing is not a compatible use on the contracted lands. This section applies only to agricultural laborer housing.

THE FOLLOWING MUST BE PROVIDED IN THE PETITION AND SUBSEQUENT CANCELLATION:

Description of the acreage to be subject to cancellation

Stipulate that the purpose of the cancellation is to allow the land to be used exclusively for agricultural laborer housing facilities

Demonstrate that the contracted lands, or portion thereof, for which cancellation is being sought are reasonably necessary for the development and siting of agricultural laborer housing

Certify that the contracted lands, or portion thereof, for which cancellation is being sought, shall not be converted to any other alternative use within the first 10 years immediately following the cancellation.

SUPPORTING DATA THAT SHOULD BE INCLUDED WITH THE PETITION:

Project description and documentation (as discussed previously)

A requested response time for receipt of Department comments regarding the proposed cancellation. In no case may the response time be less than 30 days (GC §51284.1(a)(4) & (c)).

Valuation of the land to be canceled, if available at the time. Valuation is not required to accompany the petition but must be made available to the Department prior to the board or council taking action on tentative cancellation.

Copy of the draft tentative cancellation certificate that shows a lien in favor of the city or county, in the amount of what would have been the cancellation fee:

As required by §51282.3(b), if the owner of the property is issued a certificate of cancellation of contract, it is required that a lien in favor of the city or county, in the amount of the cancellation fee which would otherwise have been imposed, is recorded concurrently with the Certificate of Final Cancellation. That amount shall bear interest at the rate of 10 percent each year. From the date of recordation, the lien shall have the force, effect and priority of a judgment lien.

The board or council shall execute and record a release of lien if, after a period of 10 years from the date of the recordation of the certificate of cancellation of contract, the real property subject to the lien has not been converted to a use other than agricultural laborer housing.

In the event the real property subject to the lien has been converted to a use other than agricultural laborer housing, or the construction of agricultural laborer housing has not commenced within one year from the date of recordation of the certificate of cancellation of contract, then the lien shall only be released upon payment of the fees and interest for which the lien has been imposed.

Where construction commences after the one-year period, the amount of the interest shall only be for that period from one year following the date of the recordation of the certificate of cancellation of contract until the actual commencement of construction.

LAND ZONED AS TIMBERLAND PRODUCTION

REQUIREMENTS FOR CANCELLATION OF LAND ZONED FOR TIMBERLAND PRODUCTION UNDER GC §51282.5.

The owner of any land which has been zoned for Timberland Production pursuant to GC § 51112 or § 51113, and that zoning has been recorded as provided in § 51117, may petition the board or council for cancellation of any contract as to all or part of the land. Upon petition, the board or council shall approve the cancellation of the contract. The findings specified in §51282 are not required for this type of cancellation.

Pursuant to GC §51246 (b) no city or county shall enter into a new contract or shall renew an existing contract on or after February 28, 1977, with respect to timberland production zones. The city or county shall serve notice of its intent not to renew the contract. The provisions of §51283 (assessment of land and determination of cancellation fee) shall not apply to any cancellation under this section, and no cancellation fee shall be imposed.

SUPPORTING DATA THAT SHOULD BE INCLUDED IN THE PETITION:

Along with the project description and documentation (outlined previously), provide a copy of the filed notice of timberland production zone status required by GC § 51117.

CANCELLATION OF FARMLAND SECURITY ZONE CONTRACT

REQUIREMENTS FOR CANCELLATION FARMLAND SECURITY ZONE CONTRACT UNDER GC §51297.

Due to the nature of an FSZ, the Williamson Act statute places stringent requirements on the findings necessary to cancel a contract. The Legislature has found that it is desirable to expand options to preserve agricultural land and encourage the creation of longer-term enforceable restrictions within agricultural preserves¹⁰, giving rise to the FSZ provisions.

FSZ contracts entered into under GC §51296.1 are required to be for a term of no less than 20 years and are given a higher tax deduction for enrollment into such contracts. Cancellation of an FSZ contract requires additional findings compared with a Williamson Act contract, including approval of the FSZ cancellation findings by the Director of the Department of Conservation.

The requirements necessary for cancellation of an FSZ contract are outlined in GC § 51297. The County must make both the Consistency with the Williamson Act and Public Interest findings based on substantial evidence in the cancellation petition. Additional subdivisions, inclusive of § 51282, must also be taken into account¹¹.

THE BOARD OR COUNCIL MUST MAKE ALL OF THE FOLLOWING FINDINGS:

The cancellation is for land on which a notice of nonrenewal has been served pursuant to GC §51245.

That cancellation is not likely to result in the removal of adjacent lands from agricultural use.

That cancellation is for an alternative use which is consistent with the applicable provisions of the city or county general plan.

That cancellation will not result in discontinuous patterns of urban development.

That there is no proximate noncontracted land which is both available and suitable for the use to which it is proposed the contracted land be put, or, that the development of the contracted land would provide more contiguous patterns of urban development of proximate noncontracted land.

Other public concerns substantially outweigh the objectives of the Act.

¹⁰ Government Code §51296, Legislative Findings and declarations, Williamson Act statute.

¹¹ Gov Code § 51282 (b) through (e). Specifically (d) - The uneconomic character of an existing agricultural use shall not by itself be sufficient reason for cancellation of the contract. The uneconomic character of the existing use may be considered only if there is no other reasonable or comparable agricultural use to which the land may be put.

IN ITS RESOLUTION TENTATIVELY APPROVING CANCELLATION OF THE CONTRACT, THE BOARD OR COUNCIL SHALL ALSO MAKE THE FOLLOWING FINDINGS¹²:

That no beneficial public purpose would be served by the continuation of the contract.

That the uneconomic nature of the agricultural use is primarily attributable to circumstances beyond the control of the landowner and the local government.

That the landowner has paid a cancellation fee equal to 25 percent of the cancellation valuation calculated in accordance with subdivision (b).

DIRECTOR APPROVAL:

Once the County approves the tentative resolution, a signed and recorded copy, along with the record of decision supporting the findings for cancellation should be sent to the Department. The Director of the Department of Conservation will review the record of the tentative cancellation provided by the County, and may approve the cancellation for a FSZ only if he finds both of the following:

That there is substantial evidence in the record supporting the decision.

That no beneficial public purpose would be served by the continuation of the contract.

SUPPORTING DATA THAT SHOULD BE INCLUDED IN THE PETITION:

A project description and documentation (as described previously)

A copy of the notice of nonrenewal

Valuation of the land to be cancelled

Valuation is not required to accompany the petition but must be made available to the Department prior to the board or council taking action on the tentative cancellation.

A copy of the board or council's determination and certification, to the county auditor, of the amount of the cancellation fee that the landowner will be required to pay the county treasurer upon cancellation of the contract. The cancellation fee shall be in an amount that equals 25 percent of the cancellation valuation of the property (GC § 51297 (b)).

A requested response time for receipt of Department comments regarding the proposed cancellation. In no case may the response time be less than 30 days (GC §51284.1(a)(4) & §51284.1(c)).

Documentation of the applicant's efforts to search for available and suitable, proximate, noncontracted, land for the proposed use, with detailed information

¹² Gov Code § 51297(c)

explaining why noncontracted sites were not selected. A table or map presenting the documentation requested may be provided. The petition should explain and provide evidence why the search for proximate, non-contracted land within the radius utilized by the petitioner was adequate to satisfy the statutory requirement. Generally, a radius of no less than two to three miles can be adequate; however, the characteristics of the project and the project area may suggest that a greater radius should be considered. An explanation of why the site was chosen is also requested. Graphics must be of good visual quality.

Any additional information that demonstrates or otherwise substantiates the statutory findings, including the finding that no beneficial public purpose would be served by continuation of the contract. This may include recent soils test; analysis of water quality; and crop yield information for the past six years (as described previously).