

California Purchase of Agricultural Conservation Easement Programs

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About American Farmland Trust

American Farmland Trust (AFT) is the only national conservation organization dedicated to protecting farmland, promoting sound farming practices, and keeping farmers on the land. Founded in 1980, AFT's research and advocacy have led to major advancements in both federal and state policy.

About AFT's California Regional Office

Since 1983, American Farmland Trust has published groundbreaking research, led smart-growth and farming coalitions, and worked with farmers to implement climate-smart agricultural practices in California. Some of their many achievements include launching and financing agricultural land trusts and championing statewide farmland conservancy and monitoring and mapping programs.

About AFT's Farmland Information Center

The Farmland Information Center (FIC) is a project of American Farmland Trust that serves as a clearinghouse for information about farmland protection, serving people working to save farmland and ranchland for agriculture. It is a partnership with USDA Natural Resources Conservation Service. In addition, it offers an Answer Service through which Farmland Information Center staff are available to answer questions and provide assistance by phone and e-mail. Visit www.farmlandinfo.org for more information.

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Background

These resources have been developed for AFT’s California Regional Office by the Farmland Information Center. The purpose of preparing this brief and related documents is to inform interested policymakers and advocates about the current state of California’s purchase of agricultural conservation easement (PACE) programs.

Each year, California loses an average of 50,000 acres of agricultural land, the equivalent of more than one and a half times the area of San Francisco. This loss of farmland, especially to urban and suburban development, also contributes to rising greenhouse gas (GHG) emissions.

Land conservation offers a double benefit for the climate. It not only helps absorb greenhouse gases; it also prevents significant greenhouse gas emissions that would result from development — including deforestation, construction and the additional driving required by poorly planned growth. By capturing and sequestering carbon, working landscapes help to regulate atmospheric carbon dioxide, the most important driver of climate change.

To meet California’s ambitious goals of reducing greenhouse gas emissions and safeguarding the state from the impacts of climate change, the protection and management of natural and working lands will be critical. Natural and working lands investments can result in net zero or even negative greenhouse gas emissions over time while providing resiliency co-benefits like improved water quality and retention, flood prevention, public health and safety benefits, food and forest products, job creation, recreation and tourism revenue and wildlife habitat, among other benefits.

Methods

This informational policy brief offers a detailed, comparative view of four of California’s state programs that purchase agricultural conservation easements: the **California Farmland Conservancy Program**; the **Rangeland, Grazing Land, and Grassland Protection Program**; the **Sustainable Agricultural Lands Conservation Program**; and the **Agricultural Land Mitigation Program**. Information about each program was compiled using 11 factors to allow direct comparison of program purposes and implementation methods. These factors were selected to represent the most common features of state easement grant programs.

Program information was gathered using program guidelines, state statutes, administrative regulations, AFT’s Farmland Information Center annual “Status of State Purchase of Agricultural Conservation Easement Programs” surveys, and communications with program staff from the California Department of Conservation and the Wildlife Conservation Board.

California Farmland Conservancy Program

California Farmland Conservancy Program draft guidelines for FY 2021 were released on January 13, 2021. The public comment period closes on February 12, 2021, with an official solicitation expected in March 2021. This section was drafted prior to the release of these draft guidelines and is based on the 2018 Request for Grant Applications, statute and regulations, and communications with Department of Conservation staff.

Statutory Authority and Program Purpose

The California Farmland Conservancy Program (CFCP) was established in 1995 by the California Farmland Conservancy Program Act.¹ Administrative regulations for the program have also been promulgated.² The stated purpose of CFCP is to encourage voluntary, long-term private stewardship of agricultural lands, protect farming and ranching operations from nonfarm or nonranch land uses, protect the agricultural economy of rural communities, and encourage local land use planning for conservation of agricultural land.³

Administering Agency's Role

CFCP is administered by the California Department of Conservation (the Department), Division of Land Resource Protection. Department staff process applications and provide funding for eligible projects, but the state does not hold easements directly. CFCP provides grant funding to eligible entities to acquire, steward, and monitor agricultural conservation easements. Approximately 0.5 full-time equivalent staff members work directly with easement acquisitions on behalf of CFCP.

Grants for Fee Acquisitions

CFCP has statutory authority to acquire land in fee.⁴ The program funds fee acquisitions in the form of reimbursable grants as part of a buy-protect-sell (BPS) transaction. The grant recipient temporarily holds fee title before selling it subject to an agricultural conservation easement to a private landowner within three years.⁵ The program's objective is to keep land in private production, so land must be returned to private ownership. Fee transactions require a minimum match requirement of 5% of the grant value.⁶ The recipient must reimburse the CFCP Fund the fair market value of the property less the value of the easement plus costs within 30 days after sale of restricted fee title to landowner.

¹ [Public Resources Code §§ 10200-10277](#)

² [14 CCR §§ 3000-3015](#)

³ [Public Resources Code § 10202](#)

⁴ [Public Resources Code § 10230](#)

⁵ [Public Resources Code § 10239](#)

⁶ [Public Resources Code § 10233](#)

Project Eligibility

Eligible applicants for CFCP include cities, counties, resource conservation districts, regional park or open space districts or authorities, and nonprofit organizations. The applicant must have agricultural conservation among its stated purposes. Nonprofit organizations must hold a tax exemption under Internal Revenue Code (IRC) Section 501(c)(3) with the conservation of agricultural lands in its purpose.⁷

Land that is eligible for CFCP funding must be agricultural land.⁸ The parcel must be expected to continue to be used for and large enough to sustain commercial agricultural production. Additional criteria include the following:⁹

- The land is 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.
- The applicable city or county has a general plan that demonstrates a long-term commitment to agricultural land conservation. This commitment must be reflected in the goals, objectives, policies, and implementation measures of the plan as they relate to the area of the county or city where the easement acquisition is proposed.
- The land proposed for protection is likely to be converted to non-agricultural use in the foreseeable future.

Public notification is required within specified timeframes prior to funding.¹⁰ Written notice must be provided to the county and/or city, adjacent landowners, and provided in a newspaper. Local government resolutions of support are required. A recent real estate appraisal is also required.¹¹

Project Ranking

Applications are evaluated based on the following factors:^{12,13}

- The quality of the agricultural land based on land capability, Farmland Mapping and Monitoring Program definitions, productivity indices, and other soil, climate, and vegetative factors;
- Meets multiple natural resource conservation objectives, including wetland protection, wildlife habitat conservation, and scenic open-space preservation;
- The extent of a city or county's long-term commitment to agricultural land conservation as demonstrated by general plans, land use policies, California Environmental Quality

⁷ As defined by IRC Sec. 170(b)(1)(A)(vi) or 170(h)(3).

⁸ "Agricultural land" means prime farmland, farmland of statewide importance, unique farmland, farmland of local importance, and commercial grazing land as defined in the [Guidelines for the Farmland Mapping and Monitoring Program](#), pursuant to Section 65570 of the Government Code. In those areas of the state where lands have not been surveyed for classification, land shall meet the requirements of "prime agricultural land" as set forth in subdivision (c) of Section 51201 of the Government Code.

⁹ [Public Resources Code § 10251](#)

¹⁰ [Public Resources Code § 10254](#)

¹¹ [14 CCR § 3010](#)

¹² See CFCP 2018 Request for Grant Applications, Appendix B.

¹³ [Public Resources Code § 10252](#)

Act policies, right-to-farm ordinances, the existence of local agricultural land trusts or conservancies, and strategies for the economic support of agriculture;

- If located in a county that participates in the Williamson Act, the land is within a county or city agricultural preserve;¹⁴
- Within two miles outside of a city's sphere of influence;¹⁵
- Applicant has the fiscal and technical capability to carry out the proposal, demonstrated by agricultural land conservation expertise on the governing board or staff of the applicant, or through partnership with an organization that has that expertise;
- Demonstrates a coordinated approach among affected landowners, local governments, and nonprofit organizations. If other entities are affected, there is written support for the proposal. The support of neighboring landowners is also considered;
- Conservation of the land supports long-term private stewardship and continued agricultural production in the region;
- Demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state;
- Amount of matching funds and in-kind services contributed by local governments and other sources toward the acquisition;
- Acquisition is cost-effective in comparison to the fair market value; and
- Other relevant considerations established by the director:
 - Information providing evidence that, by acquisition of an agricultural conservation easement for a given parcel or parcels, long-term conservation of neighboring lands through any combination of geographic, zoning, or other considerations can logically be expected without incurring costs of additional easement acquisitions.

Application Process and Match Requirements

Applications must include an executive summary, project details, a preliminary title report (less than six months old), assessor's parcel maps, a landowner letter of intent, conflict of interest and easement amendment policies, an easement appraisal (or estimated easement valuation), a project monitoring plan, and a project budget.

The application process takes about four to six months. After submission, the review period for eligibility takes up to 180 days. Staff review applications to ensure eligibility and make recommendations to the director of the Department who makes final funding decisions. Once an application is selected for funding, the acquisition process takes between six months to two years. Grant agreements are executed upon selection. Agreements include conditions for funding, an established budget, and schedule. This information may be used to comply with Proposition 84 bond authorization reports. Grants must be completed within two years. Issues with property titles often cause delay.

¹⁴ [Government Code §§ 51200 to 51297.4](#)

¹⁵ A Sphere of Influence is a plan for the probable physical boundaries and service area of a local government agency (Government Code § 56076).

A funding match is required of the applicant of at least 5% of the value of the grant. Alternatively, a landowner may donate at least 10% of the easement value. If both matching funds and donations are used, the combined match must be at least 10% of the value of the easement.

Per statute, some direct costs associated with acquiring an easement may be paid directly to the applicant, not more than 10% of the easement value. This can include the cost of lost property tax revenue from the establishment of the easement.¹⁶ In addition, the program reimburses school districts that request reimbursement for any net loss of property tax revenues as a result of the program.¹⁷

Program Funding

Funding has come from a variety of sources, including the general fund, the Environmental License Plate Fund, the Soil Conservation Fund, and proceeds from Propositions 12, 40, and 84.^{18,19} Proposition 68 was passed in 2018²⁰ and will serve as a source of funding along with Propositions 12 and 40 starting in FY 2021.²¹

Easement Provisions

Minimum easement terms are set by statute as follows:²²

- Must be in perpetuity, subject to review after 25 years. Easements may only be terminated after 25 years upon the request of a landowner, with the approval of the local government, and if certain conditions are met.²³
- Easements cannot restrict husbandry practices.²⁴
- An easement shall not prevent any of the following, as long as the agricultural productivity is not significantly impaired:
 - The granting of leases, assignments, or other authorization, for the exploration, development, storage, or removal of oil and gas by the landowner,
 - The granting of rights-of-way by the landowner for the water, sewage, electric, telephone, gas, oil, or oil products lines, stock water development and storage, energy generation, and fencing.
 - The construction and use of structures necessary for agricultural production and marketing.
 - Customary part-time or off-season rural enterprises or activities.
- An easement may provide for additional residences for the immediate family members of the landowner. The 2018 grant application guidelines limit each single-family residence to a

¹⁶ [Public Resources Code § 10231](#)

¹⁷ [Public Resources Code § 10245](#)

¹⁸ Proposition 84 codified in [Public Resources Code § 75055\(d\)\(3\)](#)

¹⁹ [Prop. 84 Bond Accountability for CFCP](#)

²⁰ Proposition 68 codified in [Public Resources Code § 80134](#)

²¹ See [Solicitation Notice and Application for 2021 California Farmland Conservancy Grants](#)

²² [Public Resources Code § 10262](#)

²³ [Public Resources Code § 10273](#)

²⁴ [Public Resources Code § 10238](#)

maximum living area of 3,000 square feet, which must be located within a building envelope and may not be enlarged.

- Easements may not prohibit either secondary dwelling units or farmworker housing.
- There is no public access required on easement parcels.

Conservation Planning

The preparation of an on-farm conservation plan is not required to participate in this program.

Monitoring and Stewardship

Up to 50% of contributions to an easement monitoring endowment for the subject property may be part of the match requirement. This contribution may be provided in the form of cash or in-kind services, or any combination thereof, as determined by the Department. Direct funding for stewardship is an ineligible cost.

Benefits for Socially Disadvantaged Farmers

CFCP is currently funded through the Proposition 84 bond authorization, which tracks and reports whether a project is located in a socially disadvantaged community. There are no additional requirements or provisions. Additional benefits are included in the 2021 CFCP program guidelines.

Proposition 68

Proposition 68 was passed in 2018 to authorize a bond issuance providing funding for a variety of programs addressing “drought, water, parks, climate, coastal protection, and outdoor access for all.”²⁵ The legislation added Public Resources Code § 80134(c)(1) to provide that \$20,000,000 will be available to the Department of Conservation to “protect, restore, or enhance working lands and riparian corridors through conservation easements or other conservation actions” and for the California Farmland Conservancy Program.²⁶

On January 13, 2021, the Department issued a draft solicitation notice for CFCP that incorporated the use of Prop. 68 funds.²⁷ The official solicitation is due to be released in March 2021, after which applications for agricultural conservation easements and land improvement grants will be accepted.

Prop. 68 requires that at least 15% of available funds be allocated to projects serving severely disadvantaged communities, defined as a community with a median household income less than 60% of the statewide average. In accordance with this requirement, the 2021 draft CFCP guidelines provide that:

- Disadvantaged communities are eligible for up to 25% advance payments;

²⁵ [SB-5 California Drought, Water, Parks, Climate, Coastal Protection, and Outdoor Access for All Act of 2018](#)

²⁶ [Public Resources Code § 80134\(c\)\(1\)](#)

²⁷ [2021 CFCP Solicitation Notice - Public Comment Draft](#)

- Selection criteria crediting projects serving severely disadvantaged and/or socially disadvantaged farmers/ranchers; and
- The Department may prioritize funding for projects serving severely disadvantaged communities.

This report may be updated to include additional details related to CFCP implementation once the FY 2021 guidelines are finalized.

Rangeland, Grazing Land, and Grassland Protection Program

Statutory Authority and Program Purpose

In September 2002, the “Rangeland, Grazing Land and Grassland Protection Act of 2002” was enacted. The Rangeland, Grazing Land, and Grassland Protection Program (the RGGPP) was created in statute to protect rangeland, grazing land, and grasslands through the use of conservation easements, prevent the conversion of land to nonagricultural uses, protect the long-term sustainability of livestock grazing, and ensure continued wildlife, water quality, watershed, and open-space benefits of livestock grazing.²⁸

The Wildlife Conservation Board (WCB) is the designated entity to administer the program. The WCB has authority to fund the acquisition of real property interests under the California Fish and Game Code.²⁹

Administration of the program is provided in Program Guidelines published on the WCB website.³⁰

Administering Agency’s Role

The program is administered by the WCB, which unlike the Department of Conservation, does not have agriculture as a stated purpose. Its purpose is to provide for wildlife protection and preservation and maximize recreational opportunities for the state. The WCB does not hold easements, but rather provides grants to eligible entities to hold and monitor easements acquired using WCB funds. The number of full-time equivalent staff that work directly with easement acquisitions is currently unknown.

Grants for Fee Acquisitions

While the WCB has the authority to hold land in fee, the purpose of the program is only to acquire agricultural conservation easements.

²⁸ [Public Resources Code §§ 10330 to 10344](#)

²⁹ [Fish and Game Code § 1348](#)

³⁰ [Rangeland, Grazing Land, and Grassland Protection Program Application and Guidelines](#) (the “guidelines”); see Appendix C.

Project Eligibility

Eligible applicants and partners include state or local public agencies, special districts, resource conservation districts, joint authorities, and nonprofit organizations.³¹

Projects that are eligible to receive RGGPP funding must:

- Contain rangeland, grazing land, or grassland used or suitable for grazing;³²
- Be zoned for agricultural grazing or open-space use;
- Be used or suitable for habitat for aquatic or terrestrial wildlife species or native plants.³³

Proposed easements must protect, restore, or enhance rangeland, grazing land, or grassland and sustain the character of the property.

Project Ranking

The following criteria are considered in evaluating proposals:

- Productivity or potential productivity of the land;
- Long-term economic viability of the property;
- Threat to the property of urban or intensified rural development;
- Presence of scenic open-space or viewshed, historic, or archeological values, or unique geologic features;
- Presence of water resources, including groundwater recharge;
- Presence of vegetation with ecological significance, such as oak woodlands, forests, riparian corridor, or native vegetation;
- Quality of the soil;
- Location of the property relative to an urban Sphere of Influence;
- Location of the property relative to other properties preserved by conservation easements;
- Whether protecting this property will assist in protecting other lands; and
- Geographic concentration of other rangelands, grazing lands, and grasslands.³⁴

When preparing proposals, applicants are asked to describe how the project addresses the long-term sustainability of livestock grazing on the property and in the region, whether the project will prevent the conversion of rangeland to nonagricultural uses, and several wildlife and open-space benefit criteria, including:

- The number of acres of habitat types found on the property, with soil types;
- The species that may benefit from the proposal;
- How the size of the property promotes ecological integrity and provides wildlife habitat values;
- How the easement will protect or enhance water quality and watershed;

³¹ “Nonprofit organization” means any nonprofit public benefit corporation formed pursuant to the Nonprofit Corporation Law (Division 2 of Title 1 of the Corporations Code), qualified to do business in California, and qualified under IRC Section 501 (c)(3) that has as a principal purpose the conservation of land and water resources.

³² Refer to pages 4-6 of the guidelines for definitions of each land use term.

³³ [Public Resources Code § 10332](#)

³⁴ [Public Resources Code § 10337](#)

- Whether the project protects historic or archaeological values or unique geologic features; and
- The project location in relation to other protected areas, including parkland, wildlife areas, and other lands protected with agricultural or wildlife easements.³⁵

Application Process and Match Requirements

Application submissions must contain a legal property description, a description of the current land use and habitat types, an appraisal, and disclosure of environmental conditions.³⁶ In addition to narrative descriptions of how the project addresses program goals, applications must include maps and site photographs, contact information for adjacent landowners and mineral right holders, a monitoring plan, and a copy of the draft easement. A Baseline Conditions Report describing the property and the health of its resources and conservation values must be completed, signed, and certified by the landowner and the easement holder prior to closing.

Project proposals that include funding partners may receive a higher priority than those applicants requesting 100% of the easement cost. The program guidelines do not provide provisions for reimbursing transactional costs associated with the acquisition. The program statute provides authority for WCB or the grant recipient to accept funds from the seller of the easement for transaction costs.³⁷

Program Funding

The program was originally funded by bond authorizations, most recently by Proposition 84.³⁸ According to the program website and confirmed by program staff, there is currently no funding available for this program. All available funds have been allocated. Funding has not been available for the program for several years.³⁹

Easement Provisions

The required easement terms are provided in the program guidelines as follows:

- The easement must be in perpetuity.
- The easement was not, and is not, required to satisfy a condition imposed upon the landowner by any lease, permit, license, certificate, or other entitlement for use issued by one or more public agencies, including, but not limited to, the mitigation of significant effects on the environment of a project pursuant to an approved environmental impact report or mitigated negative declaration.
- Landowners must certify the proposed use is consistent with local land use plans and zoning requirements.

³⁵ See the guidelines.

³⁶ [Public Resources Code § 10338](#)

³⁷ [Public Resources Code § 10340](#)

³⁸ [Prop. 84 Bond Accountability Detail](#)

³⁹ According to communications with WCB program staff.

- Holders of mineral rights will be notified of the intent to purchase a conservation easement.⁴⁰
- The easement shall contain at a minimum, information outlined in the “WCB Conservation Easements, Minimum Requirements”.⁴¹

Conservation Planning

Conservation plans (which may be referred to as management plans) are not required as a condition of funding but may be required on a case-by-case basis.⁴² In those cases, WCB typically gives the applicant one year from the date of closing to implement the plan. Plans are subject to review and approval.

Monitoring and Stewardship

In completing the program application, applicants are asked which stewardship practices have been or will be implemented that make the ranch unique and promote conservation, economic integrity, and resource values on the property. The easement holder is also asked to prepare a specific monitoring plan at the time of application.

The holder of the conservation easement must review and monitor the project site at least annually to assess compliance with the terms and conditions of the conservation easement. The holder of the easement reports the findings of the annual review to the WCB and arranges for the WCB to access the protected property at least once every three years.

The conservation easement shall contain a statement that any costs incurred by either party for the purpose of correcting a default on the part of the landowner or the easement holder will be borne by the losing party.

Benefits for Socially Disadvantaged Farmers

There are no provisions for farmers who are disadvantaged.

Sustainable Agricultural Lands Conservation Program

Statutory Authority and Program Purpose

The Sustainable Agricultural Lands Conservation Program (SALC) is a component of the Affordable Housing and Sustainable Communities (AHSC) Program. The AHSC program was enacted by statute in 2014.⁴³ The Strategic Growth Council (SGC), in consultation with the California Air Resources Board (CARB), was tasked with developing the program and

⁴⁰ See [program webpage](#).

⁴¹ See pages A-9 through A-13 of the guidelines.

⁴² According to communications with WCB program staff.

⁴³ [SB 862](#) (2014, Ch. 36, Sec. 21), codified in [Public Resources Code §§ 75210 to 75218.1](#)

delegating administration to a state agency. The SGC was also given the authority to award grants and develop guidelines for providing financial assistance.⁴⁴

The California Health and Safety Code apportions 20% of Greenhouse Gas Reduction Fund (GGRF) auction proceeds to SGC for use in the AHSC program on an annual basis.⁴⁵ SALC was developed as a component of AHSC to administer projects eligible for GGRF funds pursuant to these sections. The Department of Conservation (the Department), in conjunction with the Natural Resources Agency, administers SALC on behalf of the SGC. The Department's authority for agricultural land protection derives from the various sections of California statutes detailing the state's role in agricultural preservation and planning.⁴⁶

SALC is not specifically identified in statute. Details about program administration are set out in Program Grant Guidelines published each fiscal year.⁴⁷ Guidelines for the most recent round of funding included a public comment period prior to final release publication.

The statutory purpose of the program is to reduce greenhouse gas emissions (GHGs) through land use, housing, and agricultural land preservation projects supporting compact development. The statute directs that projects must demonstrate reduction in GHGs, as well as additional co-benefits. It specifically identifies agricultural easement acquisitions as eligible AHSC projects.⁴⁸

Administering Agency's Role

SALC was identified by the SGC as most appropriately administered by the Department in conjunction with the Natural Resources Agency. SALC was developed in consultation with the Department of Food and Agriculture.

SALC provides grant funding to eligible entities to acquire, steward, and monitor agricultural conservation easements. Approximately 4.5 full-time equivalent staff members work directly with easement acquisitions as part of SALC.

Grants for Fee Acquisitions

Up to three fee acquisitions and no more than 25% of available funding is available for fee acquisition pilot projects. The buyer must lease the property within a reasonable time to private operators for agricultural use or sell the property to a private operator. If the applicant intends to

⁴⁴ [Public Resources Code § 75125](#)

⁴⁵ [Public Resources Code § 39719\(b\)\(1\)\(C\)](#)

⁴⁶ The Department's authority for agricultural land protection derives from various sections of statute:

- [Public Resources Code §§ 10200-10277](#), the California Farmland Conservancy Program
- [Public Resources Code §§ 10280-10283](#), Agricultural Protection Planning Grant Program
- [Government Code § 65570](#), the Farmland Mapping and Monitoring Program
- [Government Code §§ 51200-51297.4](#), the Williamson Act
- [Public Resources Code Division 9](#), governing Resource Conservation Districts

⁴⁷ [Sustainable Agricultural Lands Conservation Program Final Program Guidelines 2020](#) ("SALC Guidelines"); see Appendix D.

⁴⁸ [Public Resources Code § 75212\(h\)](#)

sell the property, it must be sold within three years. Title to the property must be encumbered in perpetuity with a number of specified covenants:

- The land must actively be used for agricultural uses;
- Permanent severance of water rights is prohibited;
- Property development is restricted, consistent with an agricultural conservation easement;
- All net proceeds from the lease revenue will be reinvested only in improvements on the purchased property or in pursuit of agricultural conservation easements in the region;
- The state must be paid its proportionate share of the net proceeds from the fair market sale of the burdened fee title within 30 days of close of escrow;
- At least once every 12 months, a report must be sent to the Department certifying that the conditions of the deed are being upheld;
- At least once every 12 months, the Department must be allowed to access the property for monitoring and verifying compliance with the terms of the deed.

Easement acquisition criteria also apply to fee purchases.

Project Eligibility

Eligible applicants for SALC include cities, counties, resource conservation districts, regional park or open-space districts or authorities, California Native American tribes,⁴⁹ and nonprofit organizations. Nonprofit organizations must hold a tax exemption under Internal Revenue Code (IRC) 501(c)(3) with the conservation of agricultural lands in its purpose.⁵⁰ Nonprofits must also be accredited by the Land Trust Accreditation Commission (LTAC)⁵¹ or adopt equivalent or greater policies as typically required by LTAC. The easement holder must have the conservation of agriculture, rangeland, or farmland among their stated purposes.

The land that is being proposed for an easement must be agricultural land. Some agricultural intensification restrictions on *non-cultivated* land are permitted if the restriction is consistent with the property's continuing agricultural use and agricultural use of the property is not substantially impaired.

Proposed projects must meet these eligibility criteria:

- Not part of a local government's condition placed upon the issuance of an entitlement for use of a specific property;⁵²
- No known agricultural constraints (e.g., contamination);
- Supports infill and compact development;

⁴⁹ As identified in [Civil Code § 815.3](#)

⁵⁰ As defined by IRC Sec. 170(b)(1)(A)(vi) or 170(h)(3)

⁵¹ [Land Trust Accreditation Commission](#)

⁵² If the easement is sought to be used as a mitigation requirement in exchange, for example, for receiving a building permit, the landowner must set aside a number of acres that will not be developed. This program does not provide funding for easements being used for these purposes. This requirement also ensures compliance with [Civil Code § 815.2](#), which requires that a conservation easement be voluntary.

- Supports the implementation of a Sustainable Communities Strategy⁵³ or, if a Sustainable Communities Strategy is not required, a regional plan that includes policies to reduce GHG emissions;
- Consistent with California’s Planning Priorities;⁵⁴
- In an area that possesses necessary market, infrastructure, and agricultural support services to support commercial agriculture;
- Expected to be used for and large enough to sustain commercial agricultural production;
- Demonstrates it will achieve a reduction in GHG emissions using CARB’s methodology;⁵⁵ and
- At risk of conversion to non-agricultural uses.

Submitted projects that satisfy eligibility criteria will then be evaluated for readiness and receive an A, B, C, or D “Readiness Ranking.” Readiness is based on whether there is match funding and/or whether there are title concerns. A or B ranks will be ranked against one another using “Selection Criteria” below, and C ranks will be evaluated if funding allows. D ranks will not be funded or further evaluated.

Project Ranking

Once Readiness Rankings are established, projects are given a numerical score according to the “Selection Criteria” table provided on pages 17 and 18 of the SALC guidelines. The most heavily weighted criteria for SALC relate to whether the property is in commercial agricultural use and the risk that the property will be converted to development. These criteria account for 100 out of 155 possible points. Additional criteria ask applicants to show to what extent a proposed project provides environmental, economic, public health, and other co-benefits.⁵⁶ Points are also awarded if the project is expected to benefit priority populations, and if the applicant has the capacity to acquire and manage a perpetual easement.

Application Process and Match Requirements

Before they can apply, applicants are required to submit a pre-proposal that summarizes the project, provides a preliminary title report (less than 12 months old), and includes maps of the project showing boundaries, location, and building envelopes. Materials that must be submitted with a full application include maps, evidence of risk of conversion, a preliminary title report, applicant resolutions of support, a letter notifying the local government’s planning director about the application, a landowner letter of intent, easement valuation documentation (appraisal or other supporting evidence), and documentation of the organizational capacity and eligibility of the applicant. The local planning director and regional transportation planning agency have 30 days to provide comments regarding the application. SALC may consider these comments when evaluating the application.

⁵³ [Sustainable Communities Strategies](#)

⁵⁴ [California’s Planning Priorities](#)

⁵⁵ [California Air Resources Board Agricultural Lands Conservation Easement Quantification Methodology](#)

⁵⁶ See page 7 of the SALC Guidelines.

Department staff perform an initial review of projects for criteria compliance, and funding decisions are then made by an interagency committee including SGC staff. Once a project is selected for funding, the parties enter into a Grant Agreement with additional terms and conditions for closing. The acquisition must be completed within two years of the grant agreement effective date. This may be extended by an additional year with justification.

There is no requirement to provide match funding, but matches are considered during the “Readiness Ranking” process. Applicants may not use other Department funding as a match.

There is no maximum award for acquisition grants. Grants for easement acquisitions may cover up to 75% of the value of the easement. Grants for pilot fee title acquisition projects may cover up to 75% of the agricultural easement value of the property’s fair market value. All projects are eligible to receive up to \$50,000 in addition to the acquisition cost for reasonable associated costs.⁵⁷ This amount may increase if the SGC determines the costs are commensurate with the work needed to complete the project. Applicants are expected to submit a detailed budget if the project is selected.

Because SALC is a California Climate Investments (CCI) program, it must follow greenhouse gas emissions and job creation reporting requirements. SALC measures vehicle miles avoided by protecting agricultural land. Applicants are also asked to estimate potential employment benefits associated with their proposed project. If a project cost exceeds \$1 million, applicants must report on post-closing employment outcomes. There are several other “co-benefits” that are achieved through SALC-funded projects, as required for GGRF funds by the California Global Warming Solutions Act of 2006.⁵⁸

Program Funding

SALC is one of several CCI programs that are supported by cap-and-trade auction proceeds administered by CARB. Auction revenues from these auctions are deposited into the GGRF. These funds are appropriated to a number of programs each year.⁵⁹ All projects funded by GGRF monies must reduce or avoid greenhouse gas emissions.

Easement Provisions

The required easement terms as listed in the program guidelines are as follows:

- Must have clean title (no restrictions or encumbrances that have the potential to undermine the state’s investment);
- If the surface landowner owns less than 51% of the underlying mineral rights, there must be an evaluation and potentially a quiet title action, subordination, or deed language restricting surface access to rights;
- Mortgages, liens, and other financial encumbrances must be subordinated or paid off in closing;

⁵⁷ See page 14 of the SALC Guidelines for a full list of eligible and ineligible costs.

⁵⁸ [California Global Warming Solutions Act of 2006 \(AB 1532\)](#)

⁵⁹ [Greenhouse Gas Reduction Fund Appropriations by Fiscal Year](#)

- Single-family residences reserved in the deed are limited to a maximum living area and must not impair the conservation purpose; and
- The easement may not prohibit either secondary dwelling units or farmworker housing.

Refer to the sample easement deed attached from Round 5 of funding for full terms.⁶⁰

Conservation Planning

On-farm conservation plans are not required for participating in this program. However, projects are eligible to receive an additional \$10,000 to develop an adaptive management plan for the property. This plan must be incorporated by reference into the deed, require sustainable natural resource practices, be approved by the Department, and be updated at least every 10 years.

Monitoring and Stewardship

Entities applying for grant funding must prepare a budget for long-term easement stewardship as part of the application materials. A portion of these funds is typically provided by the landowner. SALC funds cannot be used toward stewardship costs. The Department requires an annual report certifying the deed conditions are being upheld for both easement and fee acquisitions. SALC staff must be allowed access to the property at least once per year for fee acquisitions.

Benefits for Socially Disadvantaged Farmers

Minimum allocations of all CCI program funding must be designated for disadvantaged communities.^{61,62} At least 35% of investments made from the GGRF must be located within and benefit residents of disadvantaged communities, low-income communities, and low-income households across California.⁶³

If at least 50% of a project is located in a priority population area, it receives five additional ranking points. If the project benefits priority populations, it receives five additional ranking points and may receive 100% funding for eligible costs. Applicants can be considered for priority population benefits by completing a Priority Population Benefits Checklist with supporting documentation showing that:

- 50% or more of the project is located within:
 - A disadvantaged community census tract, as designated by CalEPA;
 - A low-income community census tract;⁶⁴ or,

⁶⁰ [Round 5 SALC Easement Template](#)

⁶¹ Required by [AB 1550 \(2016\)](#)

⁶² “Disadvantaged communities” is defined by [Health and Safety Code § 39711](#): “The California Environmental Protection Agency shall identify disadvantaged communities for investment opportunities related to this chapter. These communities shall be identified based on geographic, socioeconomic, public health, and environmental hazard criteria, and may include, but are not limited to, either of the following: (1) Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation. (2) Areas with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.”

⁶³ See page 6 of the SALC Guidelines.

⁶⁴ As defined in [Health and Safety Code § 39713](#)

- A half-mile of a disadvantaged community and within a low-income community census tract;
- The project addresses an important community or household need; **and**
- The project provides direct, meaningful, and assured benefits to a priority population.⁶⁵

Agricultural Land Mitigation Program

Statutory Authority and Program Purpose

The Agricultural Land Mitigation Program was not legislatively created, and as such does not have a statutory program purpose. The program was established by the California High Speed Rail Authority (the Authority) in partnership with the Department of Conservation (the Department). The Department relies on its general statutory authority to engage in farmland preservation projects, including grantmaking authority, to administer this program.⁶⁶ The California High-Speed Rail Act is the governing statute for the Authority.⁶⁷

In addition, this program was created in response to California’s environmental protection statutes. California is developing a high-speed rail corridor through the center of the state to connect major population hubs. Due to the large scale of the project and its anticipated impact on the surrounding environment, the Authority was required to comply with the California Environmental Quality Act (CEQA).^{68,69} CEQA is the state’s statutory tool for mitigating the negative environmental impacts of large development projects conducted by state agencies, including impacts on farmland. The Authority and the Department established the Agricultural Land Mitigation Program (ALMP) to satisfy the mitigation component of the high-speed rail project under CEQA.^{70,71} The program also satisfies the impact mitigation requirements under the federal environmental protection law, the National Environmental Protection Act (NEPA).⁷² ALMP mitigates the impact to prime farmland by providing grants for the acquisition of agricultural easements in six identified counties located in the rail corridor.⁷³

⁶⁵ See pages 6-7 of the SALC Guidelines.

⁶⁶ The Department’s authority for agricultural land protection derives from various sections of statute:

- [Public Resources Code §§ 10200 to 10277](#), the California Farmland Conservancy Program
- [Public Resources Code §§ 10280 to 10283](#), Agricultural Protection Planning Grant Program
- [Government Code § 65570](#), the Farmland Mapping and Monitoring Program
- [Government Code §§ 51200 to 51297.4](#), the Williamson Act
- [Public Resources Code Division 9](#), governing Resource Conservation Districts

⁶⁷ [Public Utilities Code §§ 185000 to 185511](#), the California High-Speed Rail Act

⁶⁸ [Public Resources Code §§ 21000 to 21189.57](#), the California Environmental Quality Act

⁶⁹ [Final Program Environmental Impact Report/Environmental Impact Statement \(EIR/EIS\) for the proposed California High-Speed Train System \(2005\)](#)

⁷⁰ [CEQA mitigation requirement for state agencies](#)

⁷¹ [EIR/EIS Exhibit B, Mitigation Monitoring and Reporting Program](#)

⁷² [California High-Speed Rail System Environmental Impact Statement](#)

⁷³ Fresno County, Madera County, Merced County, Kern County, Kings County, and Tulare County

ALMP guidelines are published online to detail the program's administration.⁷⁴ Guidelines for the most recent round of funding included a public comment period prior to final release publication.

Administering Agency's Role

The program is administered by the Department of Conservation's California Farmland Conservancy Program on behalf of the California High-Speed Rail Authority.⁷⁵ In 2013, the Authority and the Department entered into an Interagency Agreement under which the Department agreed to assist the Authority with mitigating farmland conversion by establishing permanent agricultural conservation easements on land of similar acreage, location, and quality to that impacted by the high-speed rail project.

ALMP provides grant funding to eligible entities to acquire, steward, and monitor agricultural conservation easements. Approximately 1 full-time equivalent staff member works directly with easement acquisitions as part of ALMP.

Grants for Fee Acquisitions

ALMP funds may not be used to purchase land in fee. There is no specific statutory authority for ALMP that would authorize this type of transaction.

Project Eligibility

Eligible applicants for ALMP include cities, counties, resource conservation districts, regional park or open-space districts or authorities, California Native American tribes,⁷⁶ and nonprofit organizations. The applicant must have agricultural conservation among its stated purposes. Nonprofit organizations must hold a tax exemption under Internal Revenue Code (IRC) 501(c)(3) with the conservation of agricultural lands in its purpose.⁷⁷

Land that is eligible for ALMP funding must meet the following criteria:

- Located in Fresno, Madera, Merced, Kern, Kings, or Tulare counties.
- Contain predominantly Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, or Unique Farmland.
- Expected to be used for, and large enough to sustain, commercial agricultural production.
- In an area that possesses necessary market, infrastructure, and agricultural support services to support commercial agriculture.
- The proposed acquisition is *not* part of a local government's condition per an entitlement for use of the property.⁷⁸

⁷⁴ [Agricultural Land Mitigation Program Guidelines](#); see Appendix E.

⁷⁵ [Department of Conservation Agreement with the California High-Speed Rail Authority Board of Directors](#)

⁷⁶ As identified in [Civil Code § 815.3](#)

⁷⁷ As defined by IRC Sec. 170(b)(1)(A)(vi) or 170(h)(3)

⁷⁸ If the easement is sought to be used as a mitigation requirement in exchange, for example, for receiving a building permit, the landowner must set aside a number of acres that will not be developed. This program does not provide funding for easements being used for these purposes. This requirement also ensures compliance with [Civil Code § 815.2](#), which requires that a conservation easement be voluntary.

Landowners whose farmland was purchased for the construction of the high-speed rail or related facilities are First Opportunity Landowners. They may apply for the purchase of an agricultural conservation easement and their applications will be reviewed prior to others received in that cycle. Their applications must still meet eligibility criteria. Supplemental documentation is required as part of the application for landowners using this option.

Project Ranking

Proposed projects are scored using the criteria table listed on pages 6 and 7 of the program guidelines. The most heavily weighted criteria for ALMP relate to whether the property is agricultural land located in the high-speed rail mitigation area that would contribute to existing blocks of protected land. ALMP criteria are also concerned with the future viability of commercial agriculture on the parcel and in the surrounding areas. There are additional points awarded if the applicant has the capacity to acquire and manage a perpetual easement.

Application Process and Match Requirements

Before they can submit a full application, applicants are required to submit a pre-proposal that summarizes the project, provides a preliminary title report (less than 12 months old), and includes maps of the project showing boundaries, location, and building envelopes. Materials that must be submitted with a full application include a budget, maps, a preliminary title report, applicant resolutions of support, a landowner letter of intent, easement valuation documentation (appraisal or other supporting evidence), and documentation of organizational capacity and eligibility of the applicant.

Funding decisions are made by an agreement of the Director of the Department and CEO of the Authority. The Department tries to ensure tentative funding decisions are made within 90 days of receipt of a complete application, but this is subject to change if there are complex application packages. The easement acquisition must be completed within two years of the Grant Agreement execution, but the Department may authorize a one-year extension with written justification.

There are no minimum or maximum levels of grant funding. Grants will be awarded to cover up to 100% of the value of the agricultural conservation easement. Some associated costs related to the acquisition may be *reimbursed* if they are:

- approved as part of application,
- incurred after the submission of a complete application and within 180 days before signing a Grant Agreement,
- occur during time period of the Grant Agreement, and
- include comparable rates to those of similar expertise in the profession (i.e., appraisals, surveys, title work, etc.).

Reimbursable costs may also include stewardship funds. See the “Stewardship” section for additional information.

Grants may be awarded that partially fulfill an applicant's request. The program administrators may maintain a list of alternate projects for the current round of funding if selected projects do not close or are completed under budget.

There is no entity match required, however multiple sources of funds may be used. A common example is if the easement protects habitat values on the nonagricultural portion of the property, any applicant contributions or donations would be reported in the project budget. If the Authority is not the sole funder or the sole recipient of mitigation credits, it has approval authority over how mitigation credits are apportioned for the project.

Program Funding

This program is funded through the California High-Speed Rail Authority, which receives proceeds from the Cap-and-Trade Program through the Greenhouse Gas Reduction Fund (GGRF),⁷⁹ among other sources.

As of June 2019, ALMP had approximately \$17 million available for easement acquisitions. There were two rounds of easement acquisition funding that closed in February 2017 and May 2017, respectively. The third round of funding closed January 2020 according to program guidelines.

Easement Provisions

The required easement terms as listed in the program guidelines are as follows:

- Must be in perpetuity;
- Must have clean title (meaning no restrictions or encumbrances that have the potential to undermine the state's investment);
- Must prohibit permanent restrictions of agricultural use on existing cultivated lands;⁸⁰
- If the surface landowner owns less than 51% of the underlying mineral rights, there must be an evaluation and potentially a quiet title action or subordination;
- Mortgages, liens, and other financial encumbrances must be subordinated or paid off in closing; and
- The easement may not prohibit either secondary dwelling units or farmworker housing.

Refer to the sample easement deed attached for full terms. If a landowner or applicant wishes to use an alternate template, additional review is required to ensure all required terms are addressed.

Conservation Planning

The preparation of an on-farm conservation plan is not required to participate in this program.

⁷⁹ [California Climate Investments Funded Programs](#)

⁸⁰ Sustainable management practices are not considered restrictions on agricultural use.

Monitoring and Stewardship

The total easement acquisition cost includes stewardship funds for annual monitoring, evaluation, and easement defense. This cost is typically not more than 5% of the easement valuation and should be calculated as part of the project budget submitted with application materials. Applicant entities certify their ability to manage and account for stewardship funds as part of the Grant Agreement. Stewardship fund amounts are subject to approval by the Department. The stewardship fund amount will be paid after the easement has been recorded with the county. Annual monitoring reports are required by the Department.

Benefits for Socially Disadvantaged Farmers

There are no provisions for farmers who are disadvantaged.

Appendices

Appendix A. Summary Table

Program Guidelines and Model Easement Terms

Appendix B. California Farmland Conservancy Program

Appendix C. Rangeland, Grazing Land, and Grassland Protection Program

Appendix D. Sustainable Agricultural Lands Conservation Program

Appendix E. Agricultural Land Mitigation Program

Funding Tables

Appendix F. Annual and Per Capita Funds Spent by Calendar Year

Appendix G. Funds Spent by Fiscal Year Snapshot: 2014 to 2019