

### Section 3: Agricultural Conservation Acquisition Grants

Under the [Cap-and-Trade Auction Proceeds Third Investment Plan](#) and Executive Order N-82-20, California aims to invest California Climate Investment dollars in the conservation of working lands in order to facilitate net climate benefits and long term carbon sequestration in the land base.

Preventing the conversion of agricultural land to residential or rural residential development avoids vehicle miles traveled and related greenhouse gas emissions.

A complete list of all the Eligibility Criteria for acquisition projects is listed within the “Eligibility and Selection Criteria for Agricultural Conservation Acquisitions” section.

Applications that do not meet all the Eligibility Criteria will not be considered for funding.

#### Investment Targets

Not more than twenty five percent (25%) of available funding is available for fee acquisition projects. Funds not awarded for fee title acquisition projects may be awarded to fund easement acquisitions or planning grants.

SALC will aim to award 20% of available funding for acquisition grants to fund projects that:

- provide secure land tenure to a beginning or Veteran farmer or rancher, a farmer or rancher who is a member of a Federally recognized or non-federally recognized California Native American tribe on the contact list maintained by the Native American Heritage Commission, or to a farmer or rancher that is a resident of a priority population, or
- provide meaningful benefits to a priority population, as defined in these Guidelines.

SALC will aim to award 5% of available funding for acquisition grants where a farmer or rancher who is a member of a Federally recognized or non-federally recognized California Native American tribe on the contact list maintained by the Native American Heritage Commission or a tribal non-profit with 501 (c)3 status is either the applicant or a co-applicant on the project.

If insufficient projects are submitted to meet the above targets, the Strategic Growth Council may elect to award remaining target funds to other eligible applications submitted this round, or to roll those funds over to meet target purposes in the subsequent solicitation, at its sole discretion.

There is no maximum award for Acquisition grants. Funds not awarded under other program components may be used to increase available funding for the Acquisition component.

### **Eligible Applicants**

Cities, counties, non-profit organizations, resource conservation districts, regional park or open-space districts, regional park or open-space authorities, and federally recognized California Native American tribe or a nonfederally recognized California Native American tribe that is on the contact list maintained by the Native American Heritage Commission, are eligible to apply for funding.

An application can be submitted by either (1) a single applicant where the applicant is the intended easement holder or intended conservation buyer or (2) multiple entities that are collaborating on the acquisition, one of which must be identified as the intended easement holder or intended conservation buyer. The easement holder/conservation buyer must have the conservation of agriculture, rangeland, or farmland among their stated purposes, as is prescribed by statute, or as expressed in the entity's adopted policies. The applicant and co-applicant cannot already have an interest in the property.

Non-profit applicants that intend to be the easement or fee title holder of the acquired property must be accredited by the Land Trust Accreditation Commission or have adopted equivalent or greater policies regarding conflict of interest, amendments, monitoring, stewardship endowments, and enforcement, as relevant, prior to submission of an application. Those that haven't must apply with either a co-applicant that has such policies in place or a government entity.

Non-profit organizations must hold a tax exemption as defined under Section 501(c)3 of the Internal Revenue Code and further qualify under Internal Revenue Code Sections 170(b)(1)(A)(vi) or 170(h)(3).

Eligible applicants are not limited in the number of project applications they may submit.

### **Eligible Projects**

Agricultural conservation acquisition grants will be provided to fund the purchase of conservation easements or fee title to agricultural land. For purposes of this program agricultural land includes both cultivated and non-cultivated lands that support an agricultural use, including gathering and activities that promote healthy trees, shrubs, and perennial forbs for the

cultivation of traditional foods, herbal medicine, fibers (such as basketry material), and dyes so long as such activities are led by or conducted in partnership with an eligible California Native American tribe or members thereof.

Agricultural intensification restrictions on non-cultivated land are permitted if each of the following conditions is met:

- The restriction is consistent with the property's current and reasonably foreseeable agricultural use, and
- Agricultural use of the property is not substantially impaired.

#### Example 1: Restriction permitted

A restriction on conversion of rangeland to vineyards would be permitted because the restriction 1) is consistent with the property's current and reasonably foreseeable future commercial agricultural use and 2) permits continued use as rangeland.

#### Example 2: Restriction permitted

A restriction that prohibits cattle from accessing sensitive riparian areas containing threatened species so long as alternative water sources are available onsite would be permitted. Such restriction does not 1) interfere with the continuing agricultural use as cattle can drink from the alternative water source and 2) the restriction does not substantially impair agricultural use on the property but only a small portion of the property.

#### Example 2: Restriction permitted

A restriction that prohibits conversion of land used for the cultivation of traditional foods, herbal medicine, fibers (such as basketry material), and/or dyes to irrigated agriculture would be permitted if the project is led or developed in partnership with a tribe. Such restriction 1) is consistent with the property's current and reasonably foreseeable use and 2) permits continued cultivation of traditional materials.

#### Example 3: Restriction not permitted

A restriction on pasture land that would allow only one llama, a family pet, to be grazed with imported llama feed would not be permitted as such a restriction 1) is not consistent with the property's continuing agricultural use as pasture and 2) substantially limits the agricultural use.

## Eligible Costs

Only direct costs incurred to acquire the easement or fee title to the property during the grant term specified in the Grant Agreement are eligible for payment under this program.

### *Easement Acquisition Cost*

Competitive grants will be awarded to cover up to seventy-five percent (75%) of the value of the agricultural conservation easement.

### *Fee Acquisition Cost*

Up to three projects and not more than twenty five percent (25%) of available funding may be awarded for fee acquisition projects. Competitive grants may be awarded to cover up to seventy-five (75%) of the agricultural conservation easement value of the property's fair market value. For example, if the property's fair market value is \$1,000,000, and its easement value is 50% of the fair market value (\$500,000), SALC would contribute a maximum of \$375,000 (or 75% of \$500,000) toward the purchase of the property.

### *Associated Costs*

All projects approved for funding are eligible to receive up to \$50,000—in addition to the funding toward the acquisition discussed above—to cover reasonable associated costs incurred to acquire the real property interest.

The Strategic Growth Council will allocate \$50,000 in associated costs funding for each awarded project, unless applicants specify a lower amount in their application. The Strategic Growth Council may increase a project's associated cost allocation if it determines such costs are commensurate with the work needed to complete the project. Applicants requesting more than \$50,000 must provide a detailed budget with the preproposal and application. All applicants must provide a detailed budget for the project, should the project be awarded funding.

All eligible costs must be supported by appropriate documentation during the invoicing process.

<b>Eligible Associated Costs</b>	<b>Ineligible Associated Costs</b>
<ul style="list-style-type: none"><li>○ Fully-burdened applicant staff time for:<ul style="list-style-type: none"><li>● deed negotiations</li><li>● title work</li></ul></li></ul>	<ul style="list-style-type: none"><li>○ Costs incurred outside the grant term</li><li>○ Indirect or overhead costs</li><li>○ Travel</li><li>○ Ceremonial expenses</li></ul>

<ul style="list-style-type: none"> <li>● project mapping</li> <li>● appraisal review and coordination</li> <li>● SALC-required reporting</li> <li>○ Technical and legal consulting</li> <li>○ Appraisal</li> <li>○ Preliminary title report</li> <li>○ Baseline conditions report</li> <li>○ Escrow fees</li> <li>○ Title insurance fees</li> <li>○ Property boundary survey(s)</li> <li>○ Building Envelope survey(s)</li> <li>○ Environmental site assessment(s)</li> <li>○ Mineral remoteness evaluation(s)</li> <li>○ Tribal consultation(s)</li> <li>○ Conservation Management Plan</li> <li>○ Carbon Farm Plan</li> </ul>	<ul style="list-style-type: none"> <li>○ Expenses for publicity</li> <li>○ Bonus payments of any kind</li> <li>○ Interest expenses</li> <li>○ Damage judgments arising from the acquisition, construction, or equipping of a facility, whether determined by judicial process, arbitration, negotiation, or otherwise</li> <li>○ Services, materials, or equipment obtained under any other State program</li> <li>○ Real estate brokerage fees and/or expenses</li> <li>○ Stewardship costs/Legal defense funds</li> <li>○ CEQA documentation</li> <li>○ Food or beverages (whether or not incurred as part of meetings, workshops, training, ceremonies, or other events)</li> </ul>
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*Conservation Management Plans and Carbon Farm Plans*

All projects awarded funding are eligible to receive up to \$10,000, in addition to the funding toward the acquisition and associated costs discussed above, to develop a conservation management plan for the property, or up to \$10,000 to develop a carbon farm plan for the property.

Minimum conservation management plan and carbon farm contents are set forth in Appendix J.

**Match**

Applicants must identify all existing or potential match funders in their pre-proposals and applications. Applicants cannot utilize other Department-administered program funding as match toward the purchase price of the property interest.

CARB encourages all agencies that administer California Climate Investments programs to coordinate investments and leverage funds where possible to provide multiple benefits and to maximize benefits. To aid SALC’s efforts to coordinate investments and leverage funds as recommended by CARB, applicants pursuing project funding through other California Climate

Investments programs should indicate which programs they are applying to, and whether such applications are for funding in lieu of or as match to SALC funding, in their application.

### **Initial Screening–Pre-proposals**

Because the acquisition grant application process entails a significant amount of work, applicants are required to submit a pre-proposal to the Department prior to applying.

A pre-proposal consists of a structured summary of the proposed acquisition project; preliminary title report(s) less than twelve months old; an initial assessment of title concerns; as well as maps of the project boundaries, location, and proposed or existing building envelopes. Applicants are highly encouraged to submit a plotted easements map with their title report to facilitate the Department's title review. The pre-proposal worksheet is available in Appendix B.

Department grant managers will utilize pre-proposal information to assist the applicant in determining whether the project meets the Eligibility Criteria; identifying what, if any additional information will be needed in the full application; and ascertaining whether the project has title complexities that may impact the project or other issues.

### **Eligibility and Selection Criteria for Agricultural Conservation Acquisitions**

The Eligibility Criteria are informed by the GHG reduction requirement associated with use of Greenhouse Gas Reduction Funds, [Civil Code section 815 et seq.](#) (Conservation Easements), and the Department's California Farmland Conservancy Program. The information submitted in the application package should demonstrate how effectively the proposal will meet the SALC goals and objectives, criteria, and readiness requirements.

Projects must meet all Eligibility Criteria to be considered for funding.

<b>Eligibility Criteria</b>	
<b>1.</b>	The application is for an Eligible Project.
<b>2.</b>	The applicant(s) is/are an Eligible Applicant.
<b>3.</b>	The proposed acquisition is not part of a local government's condition placed upon the issuance of an entitlement for use of a specific property.
<b>4.</b>	The property has no known agricultural constraints (e.g., due to soil or water contamination).
<b>5.</b>	Protection of the property will support infill and compact development.

6. The proposal will support the implementation of an adopted or draft Sustainable Communities Strategy or, if a Sustainable Communities Strategy is not required for a region by law, a regional plan that includes policies and programs to reduce greenhouse gas emissions.
7. The project is consistent with [California's Planning Priorities](#)
8. The property is in an area with the necessary market, infrastructure, and agricultural support services to support long-term commercial agricultural production.\*
9. The property is expected to continue to be used for, and is large enough to sustain, commercial agricultural production.\*
10. The project demonstrates that it will achieve a reduction in GHG emissions.
11. The property is under pressure of being converted to non-agricultural uses.
12. For local government applicants only: The local government applicant has not acquired, nor proposes to acquire, the interest in real property through the use of eminent domain, unless requested by the owner of the land.

\* Acquisitions to promote healthy trees, shrubs, and perennial forbs for the cultivation of traditional foods, herbal medicine, fibers (such as basketry material), and dyes, and where the applicant or co-applicant is a California Native American tribe, are exempt from requirements related to commercial agricultural production.

Projects that meet all the Eligibility Criteria will then be evaluated based on readiness and the extent to which they address the program's Selection Criteria. Projects that receive an A or B Readiness Ranking will be ranked against one another based on their Selection Criteria score. Projects with Readiness Ranking C may be evaluated if funding allows. Projects with Readiness Ranking D will not be funded through SALC in the current round and will not be further evaluated.

<b>Acquisition Readiness Ranking</b>	
A	Project ready (match funding for easement acquisition secured, if applicable; no title concerns, or defined plan to address title concerns prior to close of escrow that is acceptable to Department; project structure clearly defined; and reserved rights clearly defined).
B	Project feasible but requires resolution of specific issues (e.g., match funding identified or applied for but not secured; contingencies in project structure and/or reserved rights).
C	Larger potential issue/resolution concerns (no match identified; project structure unclear; or reserved rights unclear).

D	Project not ready (e.g., plan to address title concerns is insufficient, nonexistent, or unlikely to resolve concerns prior to close of escrow).
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The following table outlines the Selection Criteria by which eligible projects ranked A, B, or C will be scored using the Selection Criteria and ranked based on their score. Applications will be awarded points for each Selection Criteria on a sliding scale from zero to the number listed in the Selection Criteria table. All information submitted in the application package will be used by reviewers to evaluate the proposal and should demonstrate how effectively the proposal meets SALC goals and objectives.

<b>Agricultural Use</b>	
The extent to which the proposed project will support long term, economically viable, commercial agricultural production. For projects where the easement is to conserve land for the cultivation of traditional tribal foods, herbal medicine, fibers (such as basketry material), and/or dyes, the project will be scored based on the extent to which it supports sustainable management of cultural resources of historical importance to the tribe.	/30
<b>Infill Development/ Conversion Pressure</b>	
The extent to which the project supports infill and compact development and is likely to be converted to non-agricultural uses, particularly residential or rural residential uses in the near future.	/30
<b>Other Program Goals</b>	
The extent to which the project meets program goals not scored in other sections, including contributing to carbon neutrality and building climate resilience, supporting sustainable land management, reducing risk from extreme climate events, contributing to the State's effort to combat climate change, supporting coordinated land use planning, safeguarding the State's economic sustainability and food security, and protecting biodiversity.	/20
<b>Equity</b>	
The extent to which the proposed project will advance equity and opportunity.	/15
<b>Other Co-benefits</b>	
The extent to which the proposed project provides co-benefits to the State beyond the program goals, including environmental, economic, public health, or other co-benefits.	/5
<b>Total</b>	<b>/100</b>

### *Agricultural Use*

Factors considered when scoring this section include soil quality and water availability and quality.

Projects with better soil quality, as determined using the Farmland Mapping and Monitoring Program data for irrigated land and Natural Resources Conservation Service gSSURGO data for rangeland, will score more points.

Water availability and quality will be evaluated as it relates to the current and foreseeable agricultural use on the property. Projects in high and medium priority groundwater basins, as defined by the Sustainable Groundwater Management Act (SGMA), will be evaluated based on the type and diversity of water sources available on the property, with projects with a diversity of water sources scoring more points.

### *Infill Development and Conversion Pressure*

Factors considered when scoring this section include:

- the likelihood that the property will be converted or is adjacent to lands likely to be converted to residential or rural residential uses in the near future
- whether the property acts as or adds to a community separator or greenbelt.

### *Other Program Goals*

Factors considered when scoring this section include the number of goals addressed, as well as the extent to which a project meets individual goals. Projects that meet one goal very well will score better than projects that superficially meet multiple goals. Goals scored in other sections of the rubric will not be scored in this section.

### *Equity*

Factors considered when scoring this section include:

- whether the project provides meaningful benefits to a priority population, as defined in these Guidelines
- whether the project provides secure land tenure to a beginning or Veteran farmer or rancher, a farmer or rancher who is a member of a Federally recognized or non-federally recognized California Native American tribe on the contact list maintained by the Native American Heritage Commission, or a farmer or rancher who is a member of a priority population, as defined in these Guidelines
- whether the project is led by or conducted in partnership with a California Native American tribe to increase that tribe's ownership, co-management of, or access to natural lands and cultural resources.

## *Other Co-Benefits*

Factors considered when scoring this section include the number of co-benefits provided, as well as the extent to which a project provides individual co-benefits. Projects that provide one co-benefit very well will score better than projects that superficially provide multiple co-benefits. Items scored in other sections of the rubric will not be scored in this section.

Selection for funding may not be determined by a project's selection criteria score alone. Projects that meet the program's investment targets for priority populations and tribes will be granted priority for funding independent of the selection criteria so long as they first meet the program's eligibility criteria and readiness requirements. Should the number of projects that provide these benefits exceed the investment targets, those projects with the highest selection criteria scores sufficient to meet the targets will be given priority, while the remaining projects will be evaluated relative to the remaining applications submitted that round.

In determining which projects to award grant funding, the Strategic Growth Council may also consider factors including SALC's goals, avoided vehicle miles traveled, geographic distribution of funds, the urgency of the project, the Strategic Growth Council's priorities, and the applicant's past performance in completing SALC grants or Department administered grants. Alternate projects may be identified for funding by the Strategic Growth Council in the current round of funding if funding becomes available. The Strategic Growth Council may award grants that partially fulfill an applicant's request.

## **Application Review**

Applications for acquisition grants will be reviewed at least once per year, with the opportunity for additional cycles as funding and staff capacity allow. Additional application cycles will be announced on the Department's and Strategic Growth Council's websites at least 60 days in advance of the pre-proposal deadline.

Department staff are available prior to the application deadline to provide technical assistance to eligible applicants interested in applying. Pre-proposal forms are available as Appendix B. Application forms are available as Appendix C.

All pre-proposals and applications received by the Department will be evaluated based on the materials provided as of the pre-proposal and application deadlines, respectively. Materials not requested as part of the

application process will not be reviewed. Department staff may review publicly available information as reasonable to verify the provided information.

Applicants interested in receiving technical assistance prior to submission of a pre-proposal may contact the Department with questions. Pre-proposals will be reviewed to determine project eligibility, and technical assistance provided to facilitate the development of competitive grant applications. Applicants will be notified regarding their project's eligibility following the pre-proposal review. Projects deemed eligible, or eligible with conditions, may be submitted as applications for further evaluation and scoring. In cases where reviewers have questions regarding eligibility or title concerns, proposers will be given the opportunity to respond to those concerns prior to an eligibility determination. For projects deemed eligible with conditions, applicants must provide substantive responses to the conditions identified in the pre-proposal feedback in their application in order for their application to be considered for funding.

Applications will be reviewed for completeness, readiness, and the extent to which they meet the Selection Criteria and address program priorities. Incomplete applications may not be evaluated or considered for funding at the sole discretion of the SGC.

Department staff will perform a site visit of each proposed project to verify the accuracy of and better understand the proposal, as well as to clarify any outstanding questions identified through the pre-proposal or application review. Applicants will be asked to arrange a tour of the property, which must be attended by a representative of the applicant and by the property owner or property owner representative. Department staff may conduct virtual site visits in lieu of in-person visits consistent with State guidance.

Following the Department's initial review of the projects in relation to the Eligibility Criteria, Selection Criteria, and Readiness Rankings, an Interagency Committee that includes Strategic Growth Council staff will review and evaluate all applications. This committee will make the final determination on which projects are recommended to the Strategic Growth Council for funding or as alternates.

## **Pre-proposal and Application Requirements**

This section provides additional information regarding the components of the pre-proposal and application.

### **Agricultural Conservation Acquisition Pre-proposals** *(All components are required unless otherwise noted)*

- Acquisition Summary Sheet
- Documentation of Organizational Eligibility\* (documents differ for non-profit and governmental applicants)
- Documentation of Organizational Capacity\*
- Applicant-Landowner Letter of Intent
- Narrative Questions
- Preliminary Title Report, Underlying Documents, and Assessor's Parcel Maps
- Project Boundary Map
- Priority Population Benefits Table and supporting documentation (*only required if applying for priority population status*)
- Associated Costs Budget Table (*only required if applying for more than \$50,000*)

\*Applicant may certify that the most current versions of the starred documents are on file with the Department in lieu of submitting the documents themselves.

### **Agricultural Conservation Acquisition Applications**

*(All components are required unless otherwise noted)*

- Grant Application Cover Sheet
- Executive Summary (1-page maximum)
- Acquisition Summary Sheet
- Narrative Questions
- Applicant Resolution of Support
- Letter to Planning Director
- Letter from Groundwater Water Sustainability Agency (*only required for projects in critically overdrafted basins*)
- Updated Preliminary Title Report, Underlying Documents, and Assessor's Parcel Maps (*if requested*)
- Appraisal or Support for Estimated Easement Value
- Revised Project Boundary Area Map(s)
- Revised Building Envelope Map
- Revised Priority Population Benefits Table and supporting documentation (*only required if applying for priority population status*)

Applicants are required to notify the planning director of the county government within which the project is located about the application. Applicants with a project located within a city or city sphere of influence will need to notify both the relevant city and county. For all applications received, SALC will independently notify the local government's planning director. SALC will also notify the regional transportation planning agency responsible for the applicable sustainable communities strategy or regional transportation plan if a sustainable communities strategy is not required by law. These parties will have 30 days to provide comments regarding the application. SALC will make reasonable efforts to address concerns raised by these parties and may consider feedback in evaluating the application.

For applications where the intended holder of the real property interest is not the applicant, the applicant must provide the following from the intended holder of the real property interest in the pre-proposal:

- Certification of Acceptance of Conditions of Funding
- Documentation of Organizational Capacity
- Documentation of Organizational Eligibility

The intended holder of the real property interest may certify that the most current versions of the relevant documents are on file with the Department in lieu of submitting the documents themselves.

The applicant must provide a Resolution of Support from the intended holder of the real property interest in the application.

Application materials can be found in Appendix C.

## **General Information Regarding Agricultural Conservation Acquisition Requirements**

### *Conditions of Funding*

To receive funding from the SALC, the applicant must agree to the following conditions within their application and adhere to these conditions for the entirety of the grant term. Entrance into a grant agreement constitutes acceptance of the conditions of funding. Failure to adhere to these conditions throughout the grant term will result in loss of funding.

SALC's conditions of funding for **easement** acquisitions are as follows:

- Clear title to the agricultural conservation easement can be conveyed at close of escrow.
- The applicant and seller of the agricultural conservation easement agree to restrict the use of the land in perpetuity.
- If the Department is funding preparation of a conservation management plan or carbon farm plan, the Department has approved the plan.
- If agricultural intensification restrictions on non-cultivated land are proposed:
  - The restriction will be consistent with the property's continuing agricultural use, and
  - Agricultural use of the property will not be substantially impaired

- For projects where the property includes forest lands, the project will comply with [Civil Code Section 815.11](#).
- The total purchase price of the proposed easement shall not exceed the appraised fair market value of the easement.
- The easement appraisal must comply with the Department's published Overview and Preparation of Agricultural Conservation Easement Appraisals.
- The appraisal used to establish the easement value must be approved by DGS and the Department.

SALC's conditions of funding for **fee** acquisitions are as follows:

- Clean title to the property can be conveyed at close of escrow.
- A Notice of Unrecorded Grant Agreement and an Irrevocable Offer to Convey Title in Fee will be recorded concurrently with the grant deed.
- The title to the property will be encumbered in perpetuity with the following covenants that run with the land:
  - The property must actively be used for agricultural uses,
  - Prohibits permanent severance of water rights from the fee,
  - Restricts development potential on the property 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,
  - From the subsequent fair market sale of the burdened fee title, the state must be paid its proportionate share of the net proceeds within 30 days of close of escrow,
  - At least once every twelve months, the interest holder shall report to the Department certifying that the conditions of the deed are being upheld. The report must include an account of how each covenant is being upheld, including documentation of income generated from leasing the property and documentation of agricultural use on the property, and
  - At least once every twelve months, the interest holder shall allow the Department access to the property for the purposes of monitoring and verifying compliance with the terms of the deed.
- Except where the buyer is a tribe or tribal non-profit with 501(c)3 status, the buyer agrees to lease the property to one or more private operators

for agricultural use or to sell the property to a private operator. The property must be leased within a commercially reasonable time after purchasing the property. If the applicant intends to sell the property as part of this conservation transaction, they must sell the property within 3 years of purchase. This requirement does not preclude the applicant from electing to sell the conserved property, with deed restrictions in place, at a later date.

- If the Department is funding preparation of a conservation management plan or carbon farm plan, the Department approves the plan within one year of close of escrow on the purchase.
- If agricultural intensification restrictions on non-cultivated land are proposed:
  - The restriction will be consistent with the property's continuing agricultural use, and
  - Agricultural use of the property will not be substantially impairedThe total purchase price of the proposed acquisition shall not exceed the appraised fair market value of the property.
- The appraisal used to establish the easement value (for the purposes of determining Department funding) and the fair market value of the property must comply with DGS standards and must be approved by DGS and the Department.
- The grant deed, including any exhibits, must be approved by the Department.

### *Property Restrictions*

#### Deed Language

SALC staff developed deed language to address important terms and conditions that should be contained within each SALC-funded acquisition deed. Applicants are encouraged to review this language and discuss it with landowners and appraisers early in the process. Grantees will be required to obtain Department approval of the deed prior to disbursement of the acquisition funding. This language may be updated periodically and is available on the [Department website](#) or upon request.

### *Property Valuation*

#### Appraisals

A current appraisal will be required to determine the fair market value of the property interest to be acquired, which will be used to determine the state's contribution to the acquisition.

All appraisals are subject to review and approval by the Department and the California Department of General Services Real Estate Services Section (DGS). The grant will only fund the appraisal that establishes the acquisition value used to complete the transaction. This cost will only be covered if the project is approved for funding, the appraisal is approved by the state, and the grantee requests Department reimbursement of associated costs in the grant application. In no situation shall the purchase price be greater than the appraised fair market value of the interest to be acquired.

The appraisal should be submitted prior to close of escrow, and with sufficient time for Department and DGS review.

If the project is approved, funding is available, and the appraisal contains a value that is higher than the estimate provided in the application, then, upon request by the grantee, awards may be increased:

- Up to five percent (5%) of the total grant award without further action by the Strategic Growth Council; or
- Up to fifteen percent (15%) of the total grant award with formal action by and at the discretion of the Strategic Growth Council Executive Director.

In no case shall the SALC contribution to the purchase price exceed seventy-five percent (75%) of the appraised easement value, except if the project met the requirements for reduced match at the time of award. Funding for any such increases in award amounts will be allocated either from existing non-allocated funds or from future allocations. Projects that receive award augmentations from future allocations will not be required to participate in any additional competitive solicitation processes. Any additional increase in valuation above fifteen percent (15%) will need to be covered by a landowner bargain sale (donation) or by other match funders.

Savings that result from an appraised value that is lower than the applicant's estimated value may be apportioned to the participating funders to preserve the match.

The applicant must select and retain an independent, certified appraiser to appraise the subject property. For both easement and fee purchases, the appraiser must use the "before and after" method of valuation to calculate the difference between the fair market value and the restricted value. The "before and after" method evaluates the property's market value under two scenarios:

first, the current market value without restriction; and second, the diminished value as though encumbered by an agricultural conservation easement. The Department has developed a resource for appraisers and applicants, entitled Overview and Preparation of Agricultural Conservation Easement Appraisals, which is available on the Department website.

Applicants are encouraged to thoroughly discuss the restrictions and permitted uses associated with the proposed acquisition with the landowner and appraiser early in the appraisal process. Applicants should advise appraisers and landowners that appraisals are public records under the California Public Records Act of 1968 (Chapter 3.5 of Division 7 of Title 1 of the Government Code, commencing with §6250). Major considerations such as reserved home sites or other areas that will not be utilized exclusively for agriculture must be confirmed prior to and be identified in the appraisal, as they will likely affect the easement valuation. Subsequent changes to proposed restrictions or permitted uses may necessitate an update to the appraisal.

If a significant amount of time (12 months or more) transpires between the effective date of the appraisal and the anticipated escrow closing date, applicants may be required to obtain a new appraisal.

#### Use-Based IRS Deductions

If a landowner seeks tax benefits from the Internal Revenue Service in return for the charitable donation of an easement or portion thereof, the timing and requirements of the easement appraisal are critical. See a tax attorney or accountant for more information—the Department is not able to provide the applicant or landowner with assistance relating to this or other tax-benefits. A “special use valuation” and qualified IRS deduction may affect the easement valuation.

#### *Title Considerations*

#### Due Diligence

Clean title is required to protect the state’s investment. For the purposes of SALC, clean title refers to an absence of deeds, easements, leases, or other encumbrances that have the potential to undermine the state’s investment. Such encumbrances must be resolved prior to close of escrow because they may grant another person or entity the ability to take action to prohibit the project or impact the easement terms in a manner that contradicts SALC’s goals and objectives.

Applicants are expected to exercise due diligence to discover and disclose potential title issues in the pre-proposal and application. The Department will also work to identify such issues during its project review. The applicant will be asked to submit an initial plan to address title issues with their pre-proposal. If the Department determines that such a plan is inadequate, the applicant may be required to provide a more detailed plan in the application. The information within this plan will affect the project's Readiness Ranking. Disbursement of funds into escrow for the purchase of an easement or fee interest in the property is contingent upon the Department's determination that identified title concerns have been resolved.

For properties where the surface owner does not have control over at least 51% of the underlying minerals, the mineral rights may be addressed through:

1. A Mineral Remoteness Evaluation which finds that the likelihood of the separated mineral rights being exercised on the relevant parcel(s) is so remote as to be negligible. This finding may be confirmed by the Department's Division of Oil, Gas, and Geothermal Resources and/or the Division of Mine Reclamation.
2. Quiet title action(s) to restrict surface access to mineral rights within the proposed property boundary, to set aside drilling pads to direct the separated mineral rights holders' extraction to a specific area, or to remove the separated mineral interests from title.
3. Subordination, surface use agreements, or remerger of the separated mineral interests to title.
4. Deed language that restricts surface access to the mineral rights within the proposed property boundary, or to set aside drilling pads to direct the separated mineral rights holders' extraction to a specific area, to the extent allowable by law.

Advance coordination with the Department and the applicant's title company is highly recommended if any separated mineral interest exists.

#### Mortgage and Lien Subordination

As part of the acquisition process, any liens or other financial encumbrances on the property are required to be either subordinated to the terms of the deed or payed off in closing. Subordination documents are subject to review and approval by the Department.

It is possible that the lender may charge a fee to provide the subordination. Applicants are encouraged to consult lenders early regarding subordination practices.

## *Additional Requirements and Considerations*

### Single Family Residences, Secondary Dwelling Units, and Farm Worker Housing

Each single-family residence reserved in the deed is limited to a maximum living area that is consistent with grantee's policies, local building codes, and the surrounding neighborhood. The residence must not significantly impair the conservation purpose of the deed.

The California Legislature has enacted numerous policies to address the state's shortage of housing, particularly affordable housing. Easements funded through this program shall not prohibit either secondary dwelling units or farmworker housing. Any easement restrictions on these dwellings cannot be more restrictive than California Government Code section 65852.2 or California Health and Safety Code section 17021.6, respectively.

If there are any single-family residences, secondary dwelling units, or farm worker housing units existing at the time of pre-proposal submission, at least one building envelope must be identified in the pre-proposal to contain these structures. If no single-family residences, secondary dwelling units, or farm worker housing units exist at the time of the pre-proposal submission, the applicant shall:

- Identify the size, number, and location of one or more building envelopes to contain these structures in the pre-proposal, or
- Identify the size and number of proposed future building envelopes to contain these structures in the pre-proposal and agree to deed language establishing a process for the identification of the location of the future building envelope(s), including approval of the selected location by the Council.

The size, number, and location of proposed building envelopes is subject to review and approval by the Department.

### *Other reserved rights*

Other reserved rights listed here are subject to review and approval by the Department. All other reserved rights must be identified in the application.

### Stewardship Fund

Costs related to the acquisition include funds dedicated solely for the long-term stewardship of the encumbered property. For agricultural conservation easements, stewardship typically means annual monitoring of the easement for compliance with easement conditions. A portion of these funds is typically

provided by the landowner. SALC funds cannot be used toward stewardship costs.

Within the Grant Agreement, grantees will certify their ability to effectively manage and account for stewardship funds, whether pooled for all acquisitions or held in separate accounts for individual acquisitions funded through the Grant Agreement.

### Annual Reporting and Monitoring

Regular monitoring of and reporting on interests acquired with SALC funds is required to ensure compliance with the terms of the deed. Beginning the year after the deed is recorded, the Department requires an annual report from the interest holder certifying that the conditions of the deed are being upheld. For fee acquisitions, the report must include an account of how each covenant is being upheld, including documentation of income generated from leasing the property and documentation of agricultural use on the property.

For fee acquisitions, SALC staff must be allowed access to the property for the purposes of monitoring and verifying compliance with the terms of the deed at least once every twelve months.