

**AGRICULTURAL LAND MITIGATION PROGRAM**

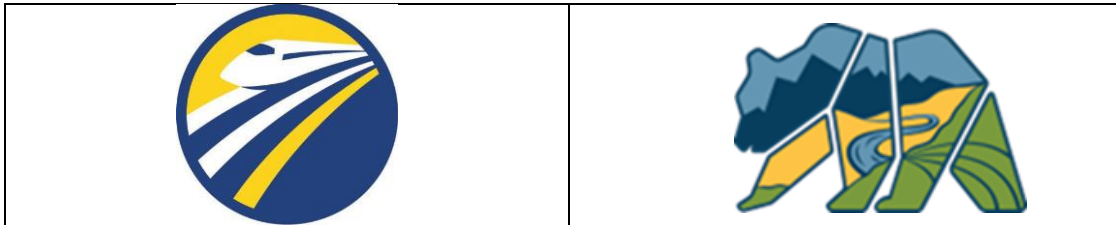
**GRANT GUIDELINES & APPLICATION**

**STATE OF CALIFORNIA**

**DEPARTMENT OF CONSERVATION  
&  
HIGH-SPEED RAIL AUTHORITY**

**DRAFT FOR PUBLIC COMMENT**

**May 9, 2019**



For additional information, please contact:

**California Department of Conservation  
Division of Land Resource Protection**

(916) 324-0850

<http://www.conservation.ca.gov/dlrp>

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## **ALMP At-A-Glance**

### **Program**

The Agricultural Lands Mitigation Program is administered by the Department of Conservation on behalf of the California High-Speed Rail Authority.

### **Funding Source**

This program is funded through the California High-Speed Rail Authority.

### **Critical Dates** (proposed, subject to change)

- Draft Guidelines released for comment—May 9, 2019
- Guidelines adopted—June 17, 2019
- Pre-proposal summaries due—July 22, 2019
- Full Applications due—October 31, 2019

Anticipated approval of projects by the HSRA—January 2020

### **Contact for Questions**

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## **Section 1: Agricultural Lands Mitigation Program Introduction and Program Summary**

On behalf of the California High-Speed Rail Authority (Authority), the Department of Conservation administers the Authority's Agricultural Land Mitigation Program. Through permanent agricultural conservation easements, the program compensates for the loss of Important Farmland due to impacts from the alignment and maintenance facilities. To date, there have been two rounds of easement acquisition funding. Round 1 and Round 2 closed February 2017 and May 2017, respectively.

### **Request for Grant Applications**

These **ALMP Guidelines** serve as the basis for the ALMP Request for Grant Applications and cover the following investment types:

- **Agricultural Conservation Easements (Easements)** – Grants to protect Important Farmland through the acquisition of voluntary, permanent agricultural conservation easements (easements).

### **Program Goals and Objectives**

The principal objective of ALMP is to pursue the establishment of agricultural conservation easements in furtherance of the mitigation measure set out in the Authority-approved individual EIR/EIS documents and Mitigation Monitoring and Reporting Plans for the high speed rail (HSR) project. The goal will be to protect agricultural land of equivalent quality and acreage in the general vicinity of the HSR project's alignment, stations, and maintenance facilities at a replacement ratio of not less than 1:1.

### **Funding**

ALMP has approximately \$17 million available for easement acquisitions. There are no minimum or maximum levels of grant funding.

### **Statutory Authority**

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

- Public Resources Code Sections 10200-10277, the California Farmland Conservancy Program
- Public Resources Code Sections 10280-10283, Agricultural Protection Planning Grant Program
- Government Code Section 65570, the Farmland Mapping and Monitoring Program
- Government Code Sections 51190-51294.7, the Williamson Act

- Public Resources Code Division 9, governing Resource Conservation Districts

### **Grant Application**

The application process is detailed in Section 2 of these Guidelines. Pre-proposals and applications must be received electronically by 11:59 p.m. on the deadlines specified in the "ALMP At-a-Glance," located at the beginning of the Guidelines.

ALMP applications, forms, and sample documents are available on the Department's website.

### **Publicity and Confidentiality**

Applicants are encouraged to inform landowners and other partners that grant applications may result in publicity.

Because public funds are used to secure easements under this program—or any similar government program—details related to an easement, such as the landowner's name and the amount of the grant, are public records that may be publicly released in accordance with the California Public Records Act.

### **Nondiscrimination Policy**

Consistent with Article I, Section 31 (a) of the California Constitution, the State of California and its programs shall not discriminate against, nor grant preferential treatment to, any individual or group on the basis of race, sex, color, ethnicity, or national origin in the operation of public employment, public education, or public contracting.

## Section 2: Agricultural Conservation Easement Grants

On behalf of the Authority, the Department will work with local, regional, or statewide entities to conserve Important Farmland in an amount commensurate with the quality and quantity of impacted farmland, within the same agricultural regions as the impacts occur.

### **Eligible Applicants**

Cities, counties, nonprofit organizations, resource conservation districts, regional park or open-space districts, regional park or open-space authorities, and California Native American tribes, as identified in Civil Code 815.3, 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 (2) multiple entities that are collaborating on the acquisition, one of which must be the intended easement holder.

The easement holder 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.

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

### **Eligible Projects**

Easement grants will only be provided to fund the purchase of agricultural conservation easements in Fresno, Madera, Merced, Kern, Kings or Tulare counties.

The property proposed for conservation must contain predominately Prime Farmland, Farmland of Statewide Importance, Farmland of Local Importance, and Unique Farmland.

A complete list of all of the Eligibility Criteria for agricultural conservation easement proposals is listed within the "Eligibility and Selection Criteria for Agricultural Conservation Easement Acquisitions" section.

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

### **Eligible Costs**

Only direct costs incurred to acquire the easement during the performance period specified in the Grant Agreement are eligible for payment under this program.

*Easement Acquisition Cost*

Grants will be awarded to cover up to 100% of the value of the agricultural conservation easement.

*Associated Costs*

Associated staff costs directly related to the easement acquisition may be eligible for reimbursement if the costs:

- Are approved as part of the application.
- Were incurred after the submission of a complete application and no more than 180 days before the execution of the Grant Agreement.
- Occur during the time period of the written Grant Agreement.
- Include rates comparable to those of similar expertise in the applicable professions.

The stewardship fund amount will be paid after the easement has been recorded with the county. 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>○ easement negotiations</li> <li>○ title work</li> <li>○ project mapping</li> <li>○ appraisal review and coordination</li> </ul> </li> <li>○ Stewardship funds</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> </ul> <p>Payment of associated costs is subject to Department review and approval and shall not exceed ten percent (10%) of the value of the easement for which the costs were incurred.</p>	<ul style="list-style-type: none"> <li>○ Indirect or overhead costs</li> <li>○ Travel</li> <li>○ Ceremonial expenses</li> <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>○ CEQA documentation</li> <li>○ Food or beverages (whether or not incurred as part of meetings, workshops, training, ceremonies, or other events)</li> </ul>

## **Match**

Matching contributions are not required under ALMP, however, there may be circumstances in which multiple sources of funds are used. For example, easements could use a different fund source to protect habitat values on the nonagricultural portions of properties. In these situations, the Applicant would report any contributions or donations, including those that affect the purchase price of the easement or the stewardship fund calculation, under the "Other Funds" column of the Budget.

The Authority shall have approval over apportionment of mitigation credits for any easement for which the Authority is not the sole funder or the sole recipient of mitigation credits.

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

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

A pre-proposal consists of a structured summary of the proposed easement project, preliminary title report(s) less than twelve months old, as well as maps of the project boundaries, location, and proposed or existing building envelopes. The pre-proposal worksheet is available on the Department's website.

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 or other issues.

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

The Eligibility Criteria for this program have been informed by the Department's California Farmland Conservancy Program and the Authority's mitigation requirements. The information submitted in the application package should demonstrate how effectively the proposal will meet ALMP Program goals and objectives, criteria, and readiness.



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

<b>Agricultural Conservation Easement Acquisition Eligibility Criteria</b>
<ul style="list-style-type: none"> <li>• The applicant(s) is/are an Eligible Applicant.</li> <li>• The applicant(s) agree(s) to all Conditions of Funding.</li> <li>• The project contains predominately Important Farmland.</li> <li>• The project is located in Fresno, Madera, Merced, Kern, Kings or Tulare county.</li> <li>• The parcel(s) proposed for conservation is/are expected to continue to be used for, and is/are large enough to sustain, commercial agricultural production.</li> <li>• The parcel(s) is/are in an area that possesses the necessary market, infrastructure, and agricultural support services to support long-term commercial agricultural production.</li> <li>• 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.</li> </ul> <p><u>For local government applicants only:</u> The local government applicant has not acquired, nor proposes to acquire, the agricultural conservation easement through the use of eminent domain, unless requested by the owner of the land.</p>

The following table outlines the Selection Criteria on which projects will be scored.

<b>Agricultural Conservation Easement Acquisition Grants</b>	
<b>Selection Criteria</b>	<b>Points</b>
Property is in active agricultural production.	<b>/15</b>
Property located within five miles of the HSR alignment, stations, and maintenance facilities.	<b>/15</b>
The property is in strategic proximity to other permanently protected lands (e.g., other agricultural conservation easements, habitat conservation easements, or other fee-title protection).	<b>/15</b>
The conserved property would act as or add to a community separator between two communities or a green-belt along the edge of a single community.	<b>/15</b>
Property falls within the Applicant's Priority Areas or within a larger, comprehensive permanent protection plan.	<b>/15</b>
Property has adequate water availability and water quality for agricultural purposes.	<b>/10</b>
Property has no known agricultural constraints due to soil or water contamination.	<b>/10</b>

The property is greater than 40 acres.	<b>/10</b>
Property is within 2 miles of a city Sphere of Influence.	<b>/10</b>
Property provides additional conservation values (e.g., open space, view shed, habitat, riparian).	<b>/10</b>
The size of the parcel or parcels comprising the property are above their current minimum zoning.	<b>/5</b>
Property is not encumbered with third party mineral interests.	<b>/5</b>
The property is surrounded by other parcels with sizes and land uses likely to support long-term commercial agricultural production.	<b>/5</b>
The irrigated farmland portion of the property is not within a flood zone and is not on highly erodible land as designated by NRCS.	<b>/5</b>
The proposal demonstrates an innovative approach to agricultural land conservation with a potential for wide application in the state.	<b>/5</b>
The price of the proposed acquisition with the associated costs is cost-effective in comparison to the estimated fair market value of the easement itself.	<b>/5</b>
For land trusts only: The applicant has the technical and fiscal capacity to secure and steward the easement, as evidenced by accreditation by the Land Trust Accreditation Commission.	<b>/5</b>
The property is located within an agricultural preserve.	<b>/5</b>
<b>Total points received/Total points possible</b>	<b>/165</b>

Selection for funding may not be determined by a project's selection criteria score alone. In determining which projects to award grant funding, the Authority may also consider factors including the Authority's goals and objectives, geographic distribution of funds, the urgency of the project, mitigation needs, and the Authority's priorities. Alternate projects may be identified and recommended for approval by the Authority in the current round of funding in the event that any of the recommended projects loses funding or comes in under budget. The Authority may award grants that partially fulfill an applicant's request.

## **Grant Application Review Process**

ALMP staff are available prior to the application deadline to provide technical assistance to eligible applicants interested in submitting an application.

### **Application Review**

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. Department staff may also review publicly available information as reasonable to verify the provided information. Pre-proposals will be reviewed and technical assistance provided to facilitate the development of competitive grant applications. Applicants interested in receiving technical assistance prior to submission of a pre-proposal may contact the Department with questions. Applications will be reviewed for completeness, whether they meet the Eligibility Criteria, and the extent to which they meet the Selection Criteria. Incomplete applications may not be evaluated or considered for funding at the sole discretion of the State.

Department staff may perform a site visit of each proposed project in order to verify the accuracy of and better understand the proposal, as well as to clarify any outstanding questions identified through the application review. Site visits may be conducted before or after a funding decision by the Authority. Applicants will be asked to make arrangements for a tour of the property, which must be attended by a representative of the applicant and by the property owner or property owner representative.

The Department seeks to provide tentative funding decisions within 90 days of receipt of a complete application. However, complexities associated with some applications may require additional review time and submission of additional documents.

Final funding decisions will be based on the concurrence of the Director of the Department and the Chief Executive Officer of the High-Speed Rail Authority or their designees. Applicants will be notified in writing of the funding decision.

## Application Requirements

This section provides additional information regarding the components of the Application.

<b>Agricultural Conservation Easement Acquisition Applications</b> <i>(All components are required unless otherwise noted)</i>	
<ul style="list-style-type: none"><li>○ Grant Application Checklist</li><li>○ Grant Application Cover Sheet</li><li>○ Executive Summary (1-page maximum)</li><li>○ Budget</li><li>○ Easement Acquisition Summary Sheet</li><li>○ Certification of Acceptance of Conditions of Funding</li><li>○ Detailed Characteristics of the Proposed Project (6 pages maximum)</li><li>○ Applicant Resolution of Support</li><li>○ Preliminary Title Report, Underlying Documents, and Assessor's Parcel Maps</li><li>○ Landowner Letter of Intent</li><li>○ Environmental Documents</li><li>○ First Opportunity Landowner Supplement (if applicable)</li></ul>	<ul style="list-style-type: none"><li>○ Appraisal or Support for Estimated Easement Value</li><li>○ Project Geographic Area Map(s)</li><li>○ Building Envelope Map</li><li>○ Documentation of Organizational Capacity*</li><li>○ Documentation of Organizational Eligibility* (documents differ for nonprofit and governmental applicants)</li></ul>
<p>*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.</p>	

For proposals where the proposed easement holder is not the applicant, the applicant must provide the following from the easement holder in the application:

- Certification of Acceptance of Conditions of Funding
- Easement Holder Resolution of Support
- Documentation of Easement Holder's Organizational Capacity
- Documentation of Easement Holder's Organizational Eligibility

Proposed easement holders may certify that the most current versions of the relevant documents are on file with the Department in lieu of submitting the documents themselves.

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

Application materials can be found on the Department's website<sup>1</sup> or attached.

<sup>1</sup> <https://www.conservation.ca.gov/dlrp/grant-programs>

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

### *Conditions of Funding*

In order to receive funding from ALMP, the applicant must agree to the following conditions within their application and adhere to these conditions for the entirety of the grant term. Failure to adhere to these conditions will result in denial of funding.

ALMP conditions of funding for easement acquisitions are as follows:

- Clean title to the agricultural conservation easement can be conveyed at close of escrow.<sup>2</sup>
- The applicant and seller of the agricultural conservation easement agree to restrict the use of the land in perpetuity.
- The easement will prohibit permanent restrictions of agricultural use on existing cultivated lands. Projects may restrict uses on non-cultivated portions of the property, including within or adjacent to riparian or wetlands areas or complexes.
  - For the purposes of this program, sustainable management practices are not considered restrictions on agricultural use.
- The Authority shall have approval over apportionment of mitigation credits for any easement for which the Authority is not the sole funder or the sole recipient of mitigation credits.
- 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.
- The easement acquisition can be completed within 2 years of grant agreement signature.
- The applicant uses accepted accounting practices as promulgated by either the Financial Accounting Standards Board or any successor entity for nonprofit organizations, of the Governmental Accounting Standards Board or any successor entity for public agencies, to the extent those practices do not conflict with any requirement for special districts in statute for local governmental financial affairs.

### *Property Restrictions*

#### Easement Language

Securing an agricultural conservation easement is a complicated transaction. It represents a multi-generational commitment on the part of the farm family and an equivalent commitment by the easement holder to steward the easement in perpetuity. These factors differentiate the easement application and due diligence process from most grant funding opportunities.

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<sup>2</sup> For the purposes of this program, clean title is defined in the *Title Considerations* section below.

The Department has developed model easement language specific to ALMP to address important terms and conditions that should be contained within each grantee's easement(s). Use of the model easement language will streamline the easement approval process. Should a grantee choose to utilize an alternative template, additional review may be necessary to ensure that the required terms contained in the model easement have been included. Grant applicants should include the ALMP model easement language when discussing easement restrictions with landowners and appraisers.

Discussion of the terms and conditions for the proposed easement with landowners early in the process will significantly expedite easement negotiation and review.

### *Property Valuation*

#### Appraisals

A current easement appraisal will be required to determine the fair market value of the easement, which will be used to determine the state's contribution to the easement acquisition. All appraisals are subject to review and approval by the Department and the California Department of General Services Real Property Services Section (DGS). The grant will only fund the appraisal that establishes the acquisition value used in the easement 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 easement purchase price be greater than the appraised fair market value of the agricultural conservation easement.

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

Any savings that result from a valuation that is lower than the estimated value may be apportioned to the participating funders to preserve the required match.

The applicant must select and retain an independent, certified appraiser to appraise the project property. The appraiser must use the "before and after" method of valuation 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 easement acquisition with the landowner and appraiser

early in the appraisal process<sup>3</sup>. 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 easement 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 an updated appraisal or a letter of certification from the appraiser stating that the easement acquisition value has not changed since the original value was determined.

#### 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.

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<sup>3</sup> 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).

## Title Considerations Due Diligence

Clean title is required in order to protect the state's investment in the easement. For the purposes of ALMP, clean title refers to an absence of deeds, easements, leases, or other potential encumbrances that have the potential to undermine the state's investment. Such encumbrances must be addressed 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 ALMP's goals and objectives.

Encumbrances for utility, road, or neighbor right-of-ways are examples of title issues that do not prohibit the conveyance of clean title under ALMP. A gap in the chain of title or deeds of trust are examples of title issues that do impact clean title under this program, such that without a resolution to those issues, ALMP will not pay for the lands impacted by those issues. Applicants are expected to exercise due diligence to discover and disclose such potential issues in the pre-proposal and application. The Department will also work to identify such issues during its project review. If the applicant submits a full application, a plan to address title issues should be included in the application. The information within this plan will affect the project's readiness.

Disbursement of funds into escrow for the purchase of an easement 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 easement 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.

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 easement acquisition process, any liens or other financial encumbrances on the property are required to be either subordinated to the terms of the easement 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.

#### Affected Landowners – First Opportunity Landowner Supplement

Applications for the purchase of an agricultural conservation easement that are submitted on behalf of landowners whose farmland has been purchased for the construction of the high-speed rail system's right of way or related facilities will be reviewed prior to others received that cycle.

While all proposals must meet the Eligibility Criteria, this provision provides an opportunity for those most affected by high-speed rail to protect their remaining property.

Documentation of the impacts to these landowners, describing the location and scope of impacts relative to the property being proposed for placement of an easement, will be submitted as a one page supplement to the application.

#### *Additional Requirements and Considerations*

#### Secondary Dwelling Units and Farm Worker Housing

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.

#### Stewardship Funds

The total cost of the easement acquisition includes funds dedicated solely for the long-term stewardship of that easement. Stewardship typically includes the cost of annual monitoring, evaluation and defense of easement threats and are normally not more than 5% of the easement valuation.

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

In the Budget itemization, the Applicant should include a stewardship amount that has been calculated to include a principle amount that, when managed and invested, is reasonably anticipated to cover the annual stewardship costs of the property in perpetuity. The stewardship fund amount will be subject to review and approval by Department, and may be different from the original budgeted amount concurrent with any changes to final easement configuration or property valuation. Stewardship funds

will be paid at the same time as the easement transaction costs, after the easement has been recorded with the county.

#### Annual Compliance Monitoring and Reporting

Regular monitoring of properties under easement is necessary to ensure compliance with the terms of the easement. Beginning the year after the easement is recorded, the Department requires an annual report from the easement holder certifying that the conditions of the easement are being upheld.

## Section 3: Post-Funding Decision and Grant Administration

### **Authority-DOC Approved Projects**

All projects approved by the Authority will only receive funding disbursements if the conditions of funding identified in these Guidelines and any additional conditions identified in the award letter are satisfied. The State will not pay for easements that do not close, although the state may reimburse associated costs incurred up to the point that the project withdraws, at the Authority's discretion.

#### *Overview of the Process After Grants Are Awarded*

#### Steps in Executing the Grant Agreement

1. The Department notifies applicant of award, detailing conditions of funding, if any.
2. Department sends grant agreement and materials to grantee. Grant agreements are based on a standard template and have a maximum duration of two years. With written justification from the applicant, the duration of a grant agreement may be extended by up to an additional year.
3. Grantee must submit all supporting materials and a signed agreement within six (6) months of the Authority's award or risk forfeiting the grant award.
4. Grantee signs and returns all required copies back to the State (a fully executed copy will be returned to the grantee).

#### Steps Upon Signature of the Grant Agreement

1. Grantee commences work and submits invoices at time of easement acquisition and post-closing.
2. Grantee submits quarterly progress reports via electronic file if the grantee is more than one month behind schedule on any task.
3. Grantee submits a project closeout report upon completion of the grant agreement in order to receive its final payment. The State may withhold one hundred percent (100%) of remaining agricultural conservation easement associated costs to ensure that final reports and documentation have been received.
4. All easements require post-project annual monitoring reports and annual endowment reports from the easement holder.

### **Funding and Accounting**

#### *Payment of Grant Funds*

Funds cannot be disbursed until there is a fully executed Grant Agreement between the Department and the grantee. Only those eligible costs incurred during the grant term, as outlined in these Guidelines, and as specified in the Grant Agreement will be eligible for payment. All costs must be supported by appropriate invoices, purchase orders, canceled warrants/checks, or other approved documents. Additional

justification of costs such as environmental site assessments, boundary surveys, and mineral remoteness evaluations may be requested at the Department's discretion.

Funds for the purchase of an easement will be deposited into an escrow account established with a title insurance company licensed by the California Bureau of Real Estate for disbursement upon completion of all requirements necessary to close the easement, as outlined in the ALMP grant agreement. At close of escrow, the title insurance company must be able to insure title to the interest being recorded.

#### *Accounting of Grant Funds*

It is essential that complete and accurate records be maintained. Grant recipients must maintain an accounting and record keeping system that reflects sound fiscal controls and safeguards. The accounting information must be sufficient so that the total cost of each aspect of the project can be readily determined and records are readily available upon demand. Grant recipients must retain all grant transaction records for a period of three years after final payment is made by the State.

This does not limit requirements for permanent record-keeping of all conservation easement, baseline report, and monitoring-related documents.

#### *Auditing of Fund Expenditures*

All expenditures of public funds under this program are subject to audit by the State of California. All grant recipients shall maintain books, records, documents and other evidence sufficient to properly reflect the amount, receipt, and disposition of all project funds (including State funds, interest earned, and matching funds by the grant recipient) and the total cost of the project.

### **Organizational Considerations**

#### *Subcontractors and Purchasing*

Grant recipients (grantees) may make use of their own staff and such subcontractor(s). Grantees are expected to adhere to the jurisdiction's or organization's competitive bid, internal contracting and purchasing guidelines. Documentation of the grantee's contracting or purchasing guidelines, processes, and project-specific approvals may be requested in the event of an audit by the State of California.

#### *Workplace Certifications and Insurance*

Pursuant to the requirements of Government Code §8355, grantees must sign a certification that a drug-free workplace will be provided.

Governmental grantees will be required to show evidence of self-insurance. All other grantees must obtain and keep Worker's Compensation, commercial general liability, and automobile liability insurance policies compliant with specifications provided by

the Department for the term of the Grant Agreement. The insurance specifications are included within the standard grant agreement template. These policies shall cover any acts or omissions of the grantee or its employees engaged in the provision of service specified in the grant agreement.

Grantees shall name the State of California, its officers, agents, employees and servants as additional insured parties for all insurance required and are responsible for guaranteeing that a copy of each Certificate of Insurance is submitted to the Department within thirty (30) days of Grant Agreement signature.

*Loss of Funding (Not a complete list)*

The following are examples of actions that may result in a grantee's loss of funding:

- Grantee fails to execute a Grant Agreement within 6 months of project award.
- Grantee withdraws from the grant program.
- Grantee fails to adhere to the conditions of funding specified in these Guidelines.
- Grantee fails to complete the funded work within two years of project award.
- Grantee fails to complete work in a manner that meets the requirements agreed upon.
- Grantee fails to submit all documentation within the time periods specified in the Grant Agreement.
- Grantee changes scope of work without approval of the Department.
- Grantee changes the subcontractor or partner(s) identified in the work plan or application without approval from the Department.

## APPENDIX A – Glossary

The terms used in these grant Guidelines are defined as follows:

**Agricultural Conservation Easement (easement):** A voluntary, legally recorded deed restriction in perpetuity, as defined in Section 815.1 of the Civil Code. The ACE removes development pressure, prohibits practices that would damage or interfere with the agricultural use of the property, and prevents the restriction of agricultural husbandry practices. The ACE remains in effect even when land changes ownership and maintains the land in private ownership and on the tax rolls.

**Agricultural Land:** For the purposes of this program, agricultural land includes both cultivated and non-cultivated (e.g., rangeland and pasture) lands.

**Agricultural use:** For the purposes of the ALMP Program, agricultural activity, operation or facility or appurtenances thereof shall include the cultivation and tillage of the soil, dairying, the production, cultivation, growing, and harvesting of any agricultural commodity including timber, viticulture, apiculture, or horticulture, the raising of livestock, fur bearing animals, fish, or poultry, and any practices performed by a farmer or on a farm as incident to or in conjunction with those farming operations, including preparation for market, delivery to storage or to market, or delivery to carriers for transportation market.

**Applicant:** An organization requesting funding from this program to be administered by the State and will likely be the same entity as the easement holder. Eligible applicants for the Agricultural Conservation Easement Grants include local governments, nonprofit organizations, resource conservation districts, or a regional park or open-space district, regional park or open-space authorities, and California Native American tribes as identified in Civil Code section 815.3.

**Applicant's stated purpose:** As described in enabling legislation, adopted by-laws, articles of incorporation, policy, or resolution of the applicant's governing body (does not include statements on website).

**Baseline Conditions Report:** A comprehensive document that describes the condition of a property placed under conservation easement. The Baseline Conditions Report (BCR) is compiled by the easement holder and is referred to during future monitoring of the easement to determine whether the terms and conditions of the easement are being upheld.

**Co-Applicant:** An organization or entity that is eligible to apply for funding under ALMP and applies for funding in partnership with a second organization.

**Conservation easement:** An interest in land, less than fee simple, which represents the right to prevent the development or improvement of the land, as specified in Section 815.1 of the California Civil Code. For the purposes of the ALMP Program, the easement

is held to prevent any use that may diminish or impair purposes other than agricultural production.

**Conservation management practices:** Conservation management practices include agricultural management practices that sequester carbon, reduce atmospheric GHGs and improve soil health. These practices can include United States Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) Conservation Practice Standards (CPS), California Department of Food and Agriculture Healthy Soils Program Practices, and Carbon Farm Plans.

**Fully-Burdened rate:** The actual cost of a company to have an employee, aside from the salary the employee earns. Labor burden costs include benefits that a company must, or chooses to, pay for employees included on their payroll. These costs include but are not limited to payroll taxes, pension costs, health insurance, dental insurance, and any other benefits that a company provides an employee.

**Fund or Funds:** Monies authorized by the California High Speed Rail Authority to the Department of Conservation to develop and administer the Agricultural Land Mitigation Program.

**Grant Administrator:** An employee of the State who manages grants, also called a Grant Manager.

**Grant Agreement:** A contractual arrangement between the State and grantee specifying the payment of funds by the State for the execution of the work program by the grantee.

**Grant Performance Period:** The beginning and ending dates of the Grant Agreement. Eligible costs incurred during this period may be funded from the grant. No work plan should exceed 24 months.

**Grant term:** The period beginning upon the Department Director's signature of the grant agreement, during which the grantee and the Department execute the work program outlined in said agreement.

**Grantee:** An applicant that has signed an agreement for grant funding with the State.

**Highway:** ALMP will rely on CalTrans definitions of a major highway, arterial highway, and intersection. CalTrans defines a major highway as an arterial highway with intersections at grade and direct access to abutting property and on which geometric design and traffic control measures are used to expedite the safe movement of through traffic. Arterial highway is a general term denoting a highway primarily for through traffic usually in a continuous route. For the purposes of ALMP, major highway includes, but is not limited to, freeways. Appropriate traffic control measures for a highway to be considered major include traffic signals and dedicated turn lanes; a traffic sign (i.e. stop sign) alone is not sufficient. Multiple lanes in a single direction would also qualify a highway as major. An intersection is the general area where two or more

roadways join or cross, within which are included roadside facilities for traffic movements in that area. See [www.dot.ca.gov/hq/oppd/hdm/pdf/chp0060.pdf](http://www.dot.ca.gov/hq/oppd/hdm/pdf/chp0060.pdf).

**Including:** Including means “including, but not limited to.”

**Land Trust:** A private, nonprofit organization that holds a tax exemption as defined under Section 501(c)(3) of the Internal Revenue Code, and further qualifies as an organization under Section 170(b)(1)(A)(vi) or 170(h)(3) of the Internal Revenue Code. For purposes of ALMP, land trusts eligible to hold agricultural conservation easements must have among their purposes the conservation of agricultural lands.

**Local Agency Formation Commission (LAFCO):** The Cortese-Knox Local Government Reorganization Act (Government Code Section 56000, et seq.) established Local Agency Formation Commissions in each county, empowering them to review, approve or deny proposals for boundary changes and incorporations for cities, counties, and special districts. Among the purposes of a LAFCO are discouraging urban sprawl, preserving open-space and prime agricultural lands, efficiently providing government services, and encouraging the orderly formation and development of local agencies based upon local conditions and circumstances (Government Code Section 56301). One of the primary planning tasks is the establishment of “Spheres of Influence” for the various governmental bodies within their jurisdiction.

**Natural Resources:** The materials and functions that comprise the natural wealth of an area’s ecosystems, including the plants, animals, minerals, air, water, and soil. Among these functions are watershed catchment, wildlife migration and habitation, forestry, grazing, and crop production. Of particular importance for complex, large scale natural resources functions are lands that flood, lands that are farmed, lands dedicated to open space, lands designated for mineral extraction, greenbelts, parks and trails, and lands valued for their aesthetics.

**Project structure:** Attributes that define the agricultural conservation easement project including acreage, boundary, legal access, reserved rights, prohibited uses, fee ownership, mineral estate, and co-benefits.

**Reasonable Associated Costs:** A cost is reasonable if, in its nature and amount, it does not exceed that which would be incurred by a prudent person under the circumstances prevailing at the time the decision was made to incur the cost. In determining reasonableness of a given cost, consideration must be given to:

- Whether the cost is of a type generally recognized as ordinary and necessary for the operation of the entity or the proper and efficient performance of the Grant Agreement.
- The restraints or requirements imposed by such factors as: sound business practices; arm's-length bargaining; federal, state, local, tribal, and other laws and regulations; and terms and conditions of the Grant Agreement.
- Market prices for comparable goods or services for the geographic area.



- Whether the individuals concerned acted with prudence in the circumstances considering their responsibilities to its employees, the public at large, and the State.
- Whether the cost significantly deviates from the acquiring entity's established practices and policies regarding the incurrence of costs.

**Reserved rights:** Rights expressly retained or proposed to be retained by the landowner/grantor of an agricultural conservation easement.

**Specific Plan:** A tool for local government implementation of all or part of an area covered by a general plan. A specific plan can combine policy statements with development regulations. It is often used to address the development requirements for projects such as urban infill developments or planned communities. Its emphasis is on standards and development criteria for projects within the area of the specific plan. A specific plan may be adopted either by resolution or by ordinance. Specific plans must be consistent with all facets of the General Plan (§65450, et seq.).

**Sphere of Influence (SOI):** The SOI is a plan for the probable physical boundaries and service area of a local government agency (Government Code Section 56076). One of the primary planning tasks of each county's LAFCO is the establishment of SOIs for the governmental bodies within their jurisdictions.

**State:** For purposes of the this Program, State is a general term including the High-Speed Rail Authority and Department of Conservation or its representatives.

**State Planning Priorities:** As defined under Government Code Section 65041.1: The State planning priorities, which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the State, including in urban, suburban, and rural communities, shall be as follows:

- (a) To promote infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development and appropriate reuse and redevelopment of previously developed, underutilized land that is presently served by transit, streets, water, sewer, and other essential services, particularly in underserved areas, and to preserve cultural and historic resources.
- (b) To protect environmental and agricultural resources by protecting, preserving, and enhancing the State's most valuable natural resources, including working landscapes such as farm, range, and forest lands, natural lands such as wetlands, watersheds, wildlife habitats, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open space, and landscapes with locally unique features and areas identified by the State as deserving special protection.
- (c) To encourage efficient development patterns by ensuring that any infrastructure associated with development, other than infill development, supports new development that does all of the following:
  - (1) Uses land efficiently.

- (2) Is built adjacent to existing developed areas to the extent consistent with the priorities specified pursuant to subdivision (b).
- (3) Is located in an area appropriately planned for growth.
- (4) Is served by adequate transportation and other essential utilities and services.
- (5) Minimizes ongoing costs to taxpayers.<sup>4</sup>

**Stewardship Funds:** Funds dedicated solely for the long-term stewardship of conservation easements. These funds are set aside by the easement holder at the recordation of a conservation easement and dedicated to ensure funding for the cost of annual monitoring and evaluation of easement threats.

**Subcontractor:** An entity contracting with the applicant that will participate in the proposed work program submitted by the applicant. Subcontractors must be included in the work plan and budget form. The lead applicant submits invoices on behalf of the subcontractor. The State pays the grantee, who then pays the subcontractor.

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<sup>4</sup> (Amended (as added by Stats. 2002, Ch. 1016) by Stats. 2002, Ch. 1109, Sec. 1. Effective January 1, 2003.)

**APPENDIX B – Online Resources**

<b>Datasets and Databases including Geographical Information System Layers</b>	
<p><b>Farmland Mapping and Monitoring Program</b> Department of Conservation <a href="http://www.consrv.ca.gov/DLRP/fmmp/Pages/index.aspx">http://www.consrv.ca.gov/DLRP/fmmp/Pages/index.aspx</a></p>	<p><b>Healthy Communities Data and Indicators Project</b> Department of Public Health <a href="https://www.cdph.ca.gov/Programs/OHE/Pages/Healthy-Communities-Data-and-Indicators-Project-(HCI).aspx">https://www.cdph.ca.gov/Programs/OHE/Pages/Healthy-Communities-Data-and-Indicators-Project-(HCI).aspx</a></p>
<p><b>National Conservation Easement Database</b> U.S. Endowment for Forestry and Communities <a href="https://www.conservationeasement.us/">https://www.conservationeasement.us/</a></p>	<p><b>Natural Community Conservation Plans Map</b> Department of Fish and Wildlife <a href="https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=68626&amp;inline">https://nrm.dfg.ca.gov/FileHandler.ashx?DocumentID=68626&amp;inline</a> <b>Riparian Habitat Conservation Program</b> <a href="https://www.wcb.ca.gov/Programs/Riparian">https://www.wcb.ca.gov/Programs/Riparian</a></p>
<p><b>California Protected Areas Database</b> GreenInfo Network <a href="http://www.calands.org/data">http://www.calands.org/data</a></p>	<p><b>Geoportal Public Access</b> Department of Technology <a href="http://portal.gis.ca.gov/geoportal/catalog/main/home.page">http://portal.gis.ca.gov/geoportal/catalog/main/home.page</a></p>
<p><b>California Conservation Easement Database</b> GreenInfo Network <a href="http://www.calands.org/cced">http://www.calands.org/cced</a></p>	<p><b>GHG Emission Inventory – Query Tool for 2000-2012</b> CAL EPA <a href="http://www.arb.ca.gov/app/ghg/2000_2012/ghg_sector.php">http://www.arb.ca.gov/app/ghg/2000_2012/ghg_sector.php</a></p>

<b>Land Conservation and Technical Assistance Programs</b>	
<p><b>California Council of Land Trusts</b> <a href="http://www.calandtrusts.org/">http://www.calandtrusts.org/</a></p>	<p><b>California Resource Conservation Districts</b> Department of Conservation <a href="http://www.conservation.ca.gov/dlrp/RCD">http://www.conservation.ca.gov/dlrp/RCD</a></p>
<p><b>California Farmland Conservancy Program</b> Department of Conservation <a href="http://www.conservation.ca.gov/dlrp/cfcp/Pages/Index.aspx">http://www.conservation.ca.gov/dlrp/cfcp/Pages/Index.aspx</a></p>	<p><b>California State Conservancies</b> Natural Resources Agency <a href="http://resources.ca.gov/offices/">http://resources.ca.gov/offices/</a></p>
<p><b>Habitat Conservation Planning Programs</b> Department of Fish and Wildlife <a href="https://www.wildlife.ca.gov/Explore/Organizations/HCPB">https://www.wildlife.ca.gov/Explore/Organizations/HCPB</a></p>	<p><b>Environmental Quality Incentive Program-NRCS</b> United States Department of Agriculture <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/">http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/financial/eqip/</a></p>

<b>Agriculture</b>	
<p><b>California Climate Change Portal</b> Department of Food and Agriculture <a href="https://www.cdffa.ca.gov/oefi/climate/">https://www.cdffa.ca.gov/oefi/climate/</a> Climate Change Consortium for Specialty Crops: Impacts and Strategies for Resilience <a href="http://www.cdffa.ca.gov/environmentalstewardship/pdfs/ccc-report.pdf">http://www.cdffa.ca.gov/environmentalstewardship/pdfs/ccc-report.pdf</a></p>	<p><b>California Farm Bureau Federation</b> <a href="http://www.cfbf.com/">http://www.cfbf.com/</a></p>
<p><b>California Climate and Agriculture Network</b> <a href="http://calclimateag.org/">http://calclimateag.org/</a></p>	<p><b>Land Conservation Act (Williamson Act)</b> Department of Conservation <a href="http://www.consrv.ca.gov/dlrp/lca/Pages/Index.aspx">http://www.consrv.ca.gov/dlrp/lca/Pages/Index.aspx</a></p>

<b>Farmland Studies and Reports</b> American Farmland Trust <a href="https://www.farmland.org/publications">https://www.farmland.org/publications</a>	<b>Agricultural Conservation Easement Program-NRCS</b> United States Department of Agriculture <a href="http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/acep/">http://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/easements/acep/</a>
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<b>Land Use</b>	
<b>California Environmental Quality Act (CEQA) Guidelines</b> Office of Planning & Research <a href="http://www.opr.ca.gov/ceqa/">http://www.opr.ca.gov/ceqa/</a>	<b>Land Use, General Plans, and Disadvantaged Communities Technical Advisory</b> Office of Planning & Research <a href="http://opr.ca.gov/docs/SB244_Technical_Advisory.pdf">http://opr.ca.gov/docs/SB244_Technical_Advisory.pdf</a>
<b>Guidelines for Classification and Designation of Mineral Lands</b> Department of Conservation <a href="http://www.conservation.ca.gov/smgb/Guidelines/Documents/ClassDesig.pdf">http://www.conservation.ca.gov/smgb/Guidelines/Documents/ClassDesig.pdf</a>	<b>Planner's Guide to Specific Plans</b> Office of Planning & Research <a href="http://opr.ca.gov/docs/specific_plans.pdf">http://opr.ca.gov/docs/specific_plans.pdf</a>
<b>General Plan Guidelines</b> Office of Planning & Research <a href="http://www.opr.ca.gov/planning/general-plan/">http://www.opr.ca.gov/planning/general-plan/</a>	<b>Transit Oriented Development (TOD) Resources</b> Department of Housing & Community Development <a href="http://www.hcd.ca.gov/financial-assistance/transit-oriented-development-housing-program/tod_housing_program_guidelines.pdf">http://www.hcd.ca.gov/financial-assistance/transit-oriented-development-housing-program/tod_housing_program_guidelines.pdf</a>
<b>LAFCOs, General Plans, and City Annexations</b> Office of Planning & Research <a href="http://opr.ca.gov/docs/LAFCOs_GeneralPlans_City_Annexations.pdf">http://opr.ca.gov/docs/LAFCOs_GeneralPlans_City_Annexations.pdf</a>	<b>California Strategic Growth Council Strategic Plan</b> Strategic Growth Council <a href="http://sgc.ca.gov/">http://sgc.ca.gov/</a>
<b>Important Farmland Maps</b> Department of Conservation <a href="http://www.consrv.ca.gov/dlrp/fmmp/Pages/Index.aspx">http://www.consrv.ca.gov/dlrp/fmmp/Pages/Index.aspx</a>	<b>Oil and Gas Resources</b> Department of Conservation <a href="http://www.consrv.ca.gov/dog/Pages/Index.aspx">http://www.consrv.ca.gov/dog/Pages/Index.aspx</a>

<b>Water</b>	
<b>California Water Plan</b> Department of Water Resources <a href="https://www.water.ca.gov/Programs/California-Water-Plan">https://www.water.ca.gov/Programs/California-Water-Plan</a>	<b>California State Coastal Conservancy Strategic Plan</b> Coastal Conservancy <a href="http://scc.ca.gov/files/2013/03/SCC-Strategic-Plan-2013-18.pdf">http://scc.ca.gov/files/2013/03/SCC-Strategic-Plan-2013-18.pdf</a>
<b>Safe Drinking Water State Revolving Fund</b> Public Health <a href="http://www.waterboards.ca.gov/drinking_water/services/funding/SRF.shtml">http://www.waterboards.ca.gov/drinking_water/services/funding/SRF.shtml</a>	<b>Regional Board Water Quality Control Plans (Basin Plans)</b> State Water Resources Control Board <a href="http://www.waterboards.ca.gov/plans_policies/">http://www.waterboards.ca.gov/plans_policies/</a>