



## Conservation Easement Guidelines March 2021

**What is an agricultural conservation easement?** An agricultural conservation easement is a voluntary legal agreement between a landowner and MALT that permanently protects a property's conservation values (like productive agricultural land, creeks, and wildlife habitat) while also limiting future residential development and certain land uses. A MALT conservation easement ensures that the land will remain as productive farm/rangeland forever, even after the property changes ownership. For more information about agricultural conservation easements, please see [Link to Easement 101](#).

### Easement Application Process:

**1. Application & Evaluation (3 Months)** – Anyone interested in working with MALT to permanently protect their property can download the easement application from the MALT website or ask MALT staff to mail an application. [Link to application](#). MALT staff is available to assist in filling out the application. The application and all information in the application will be kept confidential by MALT staff. Once MALT has received a completed application, MALT will review it to determine whether the proposed project meets the threshold requirements of MALT's easement program:

- The project will advance MALT's mission<sup>1</sup>, protect agricultural and natural resources and benefit the public.
- The property, by itself or as part of a larger agricultural operation, can support productive agricultural use.
- The applicant either owns the land or is in contract to purchase the land. If the applicant is in contract, the project will not be placed on the active project list unless (i) the applicant owns the land or (ii) MALT, the applicant, and the current owner enter into an agreement that the easement will be recorded on the property in the same escrow as the sale of the property to the applicant.
- The applicant is willing to keep the property in agricultural use.
- The staff has not identified any readiness, financial challenges or risk factors that would make the project infeasible.

If the application meets these criteria, MALT will send an acceptance letter to the applicant. If the application does not qualify, MALT will notify the applicant in writing explaining why.

**2. Project Review (6-9 Months):** Once the project has been accepted, MALT will conduct an in-depth review of the proposed project.

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<sup>1</sup> MALT's mission is "to permanently protect Marin's agricultural land for agricultural use" and MALT's vision is of "Marin County as a thriving agricultural community in a healthy and diverse natural environment."

*Site Evaluation.* MALT staff will visit the property and meet with the landowner and land managers to learn more about the property's history, agricultural resources, current operation, and environmental condition.

*Title Review.* MALT will acquire and review a title report for the property to ensure there are no title issues that might affect the proposed project. Any mortgages, leases, or other liens on the property will need to be subordinated to the easement before the easement is recorded.

*Easement Terms.* MALT will provide a draft easement to the applicant, and MALT and the applicant will agree on the terms of the easement, including the land included in the easement, existing uses, building envelopes and future permitted uses.

*Feasibility.* MALT will review the project to ensure adequate funding sources are available (either from Federal, State, or Local government grants, private fundraising, or foundation grants) and that all title issues found are able to be resolved within six months.

Once this review is completed, the MALT Board will consider whether to add the project to the Active Project List. If the Board doesn't add the project, staff will provide the applicant a written explanation. If the project is not added to the Active Project List solely due to project readiness, staff will provide the applicant with recommendations about how to develop the project.

**3. Active Project List, Option Agreement, and Easement Appraisal (6-9 Months):** Once the project has been added to the Active Project List, MALT and the applicant will enter into an Option Agreement giving MALT the right to purchase the easement at an appraised value satisfactory to both MALT and the applicant. The option agreement also lays out a tentative timeline for closing the transaction. MALT and the applicant will finalize the terms of the conservation easement, and MALT will hire an appraiser to value the easement. The appraisal, by a qualified appraiser with experience appraising conservation easements, shall meet the Uniform Standards of Professional Appraisal Practice, Land Trust Alliance Standards and Practices, and MALT's Appraisal Policy. MALT also retains a consultant to prepare an environmental assessment of the property. During this time, MALT staff seeks funding for the easement. Once all of these steps are complete, the MALT Board will consider final approval to purchase the easement at the appraised value.

**4. Closing the Easement (3-6 Months):** Once the appraisal has been approved, MALT will move forward to record the easement on the property. To prepare for closing, MALT staff and consultants will finalize:

- Agricultural Management and Creek Conservation plans for the property.
- Baseline Documentation Report for the property. This report contains an inventory of the property's current features, agricultural and natural resource values, improvements, natural resources, and other significant factors deemed important for the property.
- Final easement, escrow instructions and closing documents.

Once all the documents have been signed, the documents and funding to purchase the easement will be placed in escrow with a title company, and the easement and any other necessary documents will be recorded with the Marin County Reporter.