

LERAY MCALLISTER WORKING FARM AND RANCH
FUND

2024 Grant Manual

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Administered by the Utah Department of Agriculture and Food
Conservation Division

Grant Fund Overview

The LeRay McAllister Working Farm and Ranch Fund was established to preserve and restore working agricultural land in Utah. The mission of the Program is to conserve productive farm and ranch land through voluntary, incentive-based approaches on properties that will exhibit a substantial positive impact on Utah's agricultural future, whether on their own or as part of a broader working landscape.

The program uses funds appropriated by the Legislature to purchase conservation easements on important privately owned working farm and ranch lands. The landowner voluntarily agrees to sell their development rights on the property, which are extinguished forever, in exchange for the fair market value of those rights as determined by an appraisal, and the properties must remain in agriculture. In addition, the Fund can provide small restoration grants to improve conserved lands and acquire small parcels of critical land in fee title under limited circumstances.

Those eligible to apply include qualified local entities (such as a county, city or town), the Department of Natural Resources (DNR) or a division within the Department such as the Division of Wildlife (DWR) or Forestry, Fire, and State Lands (FFSL), the Utah Department of Agriculture and Food (UDAF), a recognized Land Trust, or other 501(c)(3) organization that is qualified to hold easements. A **qualified easement holding entity** must have an organizational commitment to protect the conservation purposes of the easement and have the resources and expertise to enforce those restrictions in perpetuity.

The Board will use approved specific scoring criteria to provide grants to lands identified as conservation priorities at the local, state, regional, and national planning levels. Grants are awarded only for acquiring interests in property that have not yet been permanently protected, and funded easements must be perpetual.

The enabling statute for the fund is set out in UCA 4-46-302. The fund is overseen within UDAF by the Land Conservation Program Manager under the direct supervision of the Director of Conservation and the Commissioner of UDAF.

LeRay McAllister Fund Defining Principles

Background:

The UDAF Land Conservation Program is committed to prudently balancing conservation and development interests in the State. Accordingly, the Land Conservation Board has a fiduciary obligation to use state funds only when appropriate standards are met. The application of these standards is articulated here through two defining principles and the requisite implementation steps and intent language in the governing statute. Compliance with these principles will implement the Board's legislative intent to ensure a net gain of privately held conservation land in the state.

Purpose:

The defining principles below will initially guide Board deliberations regarding the use of conservation fund monies, by statute. As the application of these principles, and the associated implementation steps and intent language evolves, the Board may make revisions and suggest additional language be added to explicitly codify Board policies.

Principle #1 – Local Control

Funds may be used to acquire land or an easement only after the local land use authority within whose jurisdiction the subject property lies has properly reviewed and approved the acquisition plan.

Implementation:

- Applicants shall submit a request for approval for the project to the applicable land use authority, in writing, before applying. This notification shall specifically state that the applicant is seeking funding from the LeRay McAllister Working Farm and Ranch Fund through UDAF and that County/land use authority approval is a statutory requirement for funding to be granted.

The letter shall include contact information for the Commissioner of Agriculture, should the legislative Member wish to contact the program regarding the proposed easement. It is advised that you contact the Member and ask how they prefer to receive such a notification (by Certified Mail, email, etc.) so there is documentation of the request. If the land use authority does not act within 60 days from the day on which the request for consent is filed with the land use authority, the board may treat the project as having the approval of the land use authority.

- Applicants must also notify their local elected officials (State Representative and Senator) of the proposed easement in writing before applying. This notification shall specifically state that the applicant is seeking funding from the LeRay McAllister Working Farm and Ranch Fund through UDAF and shall include contact information for the Commissioner of Agriculture should the legislative Member wish to contact the program regarding the proposed easement.

Principle #2 – Defining the Public Benefit

Funds will be granted only if the Board feels that the applicant has adequately documented the unique, irreplaceable, or compelling public benefit(s) gained from the acquisition.

Implementation:

- Unique and irreplaceable are defined to include lands or easements for which a reasonable person would accept that without the acquisition a compelling public benefit, not otherwise provided by the public lands or easements, would be substantially and permanently lost.
- Public benefits include sustaining agriculture capacity and production, public health, recreation, cultural, scenic and historical preservation, watersheds, wetlands, wildlife habitat, economic development, and other equally significant factors.
- The Board may appoint a Subcommittee comprised of Board members, who along with Program staff and conservation planners will be guided by the application of these principles to rank and review each application.
- If an application to the Fund proposes to acquire fee title to private land for a public benefit, the applicant must show why the compelling public benefit in acquiring this land cannot be reasonably accomplished in other ways, such as through a conservation easement.

Further Intent:

This provision is intended to safeguard against Funds being used to acquire easements or interests in land unless such acquisition can be demonstrated to possess qualities or attributes that are unique and irreplaceable. The following examples will hopefully help clarify this intent:

Example #1

Unique and irreplaceable may include a specific watershed area, even though other watershed areas already benefit the public because the specific watershed area is critical to ensure the adequacy of the water supply to a given area.

Example #2

Unique and irreplaceable would not include open space in an area where most of the land is already publicly owned and managed to remain as open space unless the open space can be proven to possess some compelling benefit other than being open and undeveloped. This provision is also intended to minimize the acquisition of fee title private lands where the public benefits derived from conserving that land can be realized while leaving the property in private sector ownership.

Example #3

Farmer Brown owns 300 acres of fertile irrigated ground that also serves as a trail access point for large tracts of adjacent public ground. The local community desires a trail link across Farmer Brown's property, and this is the principal reason for wanting to acquire this parcel. Instead of outright acquiring the parcel, the local community should first try to acquire a trail easement from Farmer Brown instead of purchasing the entire 300-acre parcel. This would allow the remaining property to remain in the private sector but still have a public benefit.

Important Program Information

1. Applications may be submitted by qualified local entities, state agencies, and their divisions, and registered (tax-exempt) nonprofit organizations that qualify as easement holders under UCA 4-46-302(1). Projects must protect land in perpetuity through the recordation of a perpetual conservation easement.
2. The money in the Fund shall be used for preserving or restoring working farm and ranch land, and those lands that will exhibit a substantial positive impact on Utah's agricultural future, whether on their own or as part of a broader working landscape.
3. As provided in UCA 4-46-302 (2)(b)(ii), money from the Program may be used to establish a conservation easement under Title 57, Chapter 18, Land Conservation Easement Act, or to fund similar methods to preserve open land or agricultural land. Grant funds may not be used to purchase a fee interest in real property to preserve open land or agricultural land except in specific limited circumstances.
4. Notwithstanding UCA 4-46-302 subsection (2)(b)(i), money from the Fund may be used to purchase a fee interest in real property to preserve open or agricultural land only if:
 - The parcel to be purchased is no more than 20 acres in size; and

- Concerning a parcel purchased in a county in which over 50% of the land area is publicly owned, real property roughly equivalent in size and located within that county is contemporaneously transferred to private ownership from the governmental entity that purchased the fee interest in real property.
5. No application relying on eminent domain shall be considered, as UCA 4-46-302 (2)(B)(iii) prohibits the use of funds to acquire any property interest through eminent domain. A parcel of land larger than 20 acres in size may not be divided into separate parcels smaller than 20 acres each to meet the requirement of Subsection (2)(b)(ii).
 6. A local entity, department, or organization under UCA 4-46-302 may not receive money from the fund unless the entity secures matching funds equal to or greater than the amount of money received from the fund.
 7. Under UCA 4-46-302 Subsection (2)(e)(i), after giving priority to working agricultural land, requests from the Department of Natural Resources will be honored for up to 20% of each annual increase in the amount of money in the Fund if the money is used for the protection of wildlife or watershed.
 8. The Board may not make a grant from the Fund that exceeds \$1,000,000 until after making a report to the Legislative Management Committee about the grant. The Legislative Management Committee may make a recommendation to the Board concerning the intended grant, but the recommendation is not binding on the Board.
 9. In ranking proposals and determining the award allocations, the Board will consider among other elements:
 - The nature and amount of working land proposed to be preserved or restored.
 - The qualities of the working land proposed to be preserved or restored, and the potential impact to the future of agriculture in Utah.
 - Public benefits (does not necessarily mean public access).
 - Project urgency.
 - Cost-effectiveness, funding leverage.
 - Available funding.
 - The number of applications and the amount of money requested.
 - The open land preservation plan of the local entity where the project is located, and support for the project by the local land use authority.
 - Potential effects on housing affordability and diversity.
 - Qualifications of the proposed easement holder.
 10. If a project's purpose is to protect a critical watershed, the Board shall require that the project be verified by the State Engineer.
 11. Any conservation easement purchased with money from the Fund shall either be held or co-held by UDAF or a qualified Local Entity (county, city, town). An entity seeking to hold an easement purchased with money from the fund must provide documentation in their application that they meet qualified easement holder requirements. It is the discretion of the Land Board to determine if an entity is qualified to hold an easement funded by the program.
 12. The Board may not authorize money for an easement project unless the local land use authority in which the project is located consents to the project. To obtain consent to a project, the person who

is seeking money from the Fund shall submit a written request for consent to a project with the applicable land use authority and provide documentation of this request to the Land Board. The land use authority may grant or deny consent or may remain neutral. If the land use authority does not act within 60 days from when the request for consent is properly filed and acknowledged, the board may treat the project as having the consent of the land use authority.

13. Applicants must notify their State Representative and Senator of their proposed easement in writing. This notification shall specifically state that the applicant is seeking funding from the LeRay McAllister Working Farm and Ranch Fund through UDAF. The letter shall include contact information for the Commissioner of Agriculture, should the legislative Member wish to contact the program regarding the proposed easement.
14. Applicants must demonstrate that all landowners of record have been notified and are receptive to the proposed project.
15. The proposed project must be for a specific property that meets the definitions of agricultural land and open land as defined by the Conservation Coordination Act. UCA 4-46-102. Applications that are not site-specific will not be considered.
16. The Board will use the project name provided in the application in public reports to the Governor and the Legislative Assembly and other publicly available reporting formats. If an applicant wishes to remain anonymous, they must discuss this with UDAF before submitting their application. All application materials are potentially subject to Government Records Access and Management Act (GRAMA) requests.
17. Applicants may request no more than fifty percent (50%) of the appraised value of the proposed conservation easement based on a qualified “before & after” easement appraisal. Due to the limited and highly competitive basis for funding, the fund may prioritize projects based on the project’s cost-effectiveness and the applicant’s ability to leverage other funding.
18. The Board will accept a qualified estimate of the easement value in place of a full appraisal when applying. The estimate must be based on an accepted methodology (sales comparison approach, average % diminution of other recently closed nearby and similarly encumbered easements, etc.), and the methodology must be detailed in the application materials. A full conservation easement appraisal will be required before payment of any funds. [See Appraisal Requirements Here.](#)
19. Up to five percent (5%) of requested funds may be used to reimburse eligible costs as approved by the Land Conservation Board for transactions involving state agencies, local entities, or qualified nonprofit organizations. [See Eligible Expenses Here](#)
20. If the source of all required matching funds is not determined at the time of the application, a letter detailing how the match will be met must be included with the application. Funding will not be disbursed until all matching funds are secured and documentation is provided to UDAF. Possible sources of match funding include (a) cash or pass-through dollars from other sources such as grants from other programs; (b) bargain sale, including the actual monetary value of the donated portion of the property.
21. Indirect costs cannot be reimbursed or considered as a match of project funds for purposes of obtaining program funding. These ineligible costs include, but are not limited to staff time, overhead, work provided pro bono, or maintenance/operating costs of lands and facilities.

22. The Fund requires certain property protections to further statewide environmental conservation goals, including permanent vegetated riparian buffers on all funded projects with perennial water resources. Landowners may utilize these riparian areas for grazing only under a qualified Grazing Management Plan written by a certified planner, if appropriate. These protections must be preserved in perpetuity by the deed associated with the project. See Appendix D for the required provisions and further information on riparian buffers.
23. For projects awarded funding, the easement deed shall include that the use of the property will be permanently restricted under the Conservation Coordination Act, UCA 46-16-102 (9)(a)(b) and that the protection is perpetual and not extinguishable except as provided for in the CE or as otherwise allowed under state or federal law, including the Easement Act and the CCA.
24. Properties acquired in fee or made subject to an easement using program Funds may not be diverted or converted from the approved use enshrined in the easement. If an easement is terminated, extinguished, or condemned, in whole or in part, then the Grantor must reimburse the Grantee, the total amount equal to the proportionate share of the fair market value of the land unencumbered by the easement. This requirement is a condition of an award of funds, and that language shall be included in the deed of acquisition or the deed of easement.
25. If a nonprofit organization is awarded a grant to acquire fee-simple property, it may be sold only if it remains under easement and the Program is reimbursed for the proportionate amount of the then fair market value of the property equal to the proportion of the value of the property on which the grant was based. The fair market value of the property must be supported by a current appraisal. An exception may be granted if the property is transferred to a public agency and the recorded deed of transfer states the agency agrees to hold and manage the property for the purposes for which it was originally acquired.
26. All projects must submit the required due diligence documentation, easement deed, and qualified appraisal specified in the Appraisal Guidelines at least 90 days before requesting a final payout.
27. **UDAF cannot provide legal or tax advice to landowners or applicants. Landowners are encouraged to consult early and often with their attorney and tax advisor to structure the transaction to comply with applicable laws and regulations** including IRS regulations governing charitable contributions of conservation easements.