

Purchase of Agricultural Conservation Easement (PACE) Program

Guidelines



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Introduction

San Diego county's climate supports a year-round growing season that allows for a variety of small farms and diverse crops. In 2018, San Diego county was ranked among the top 10 agricultural counties in California, contributing over \$1.7 billion to the local economy. The County of San Diego (County) recognizes preservation of this valuable and unique local resource is essential when planning for the County's future.

In 2011, a comprehensive update of the San Diego County General Plan sought to balance the County's future growth with its diverse natural resources. The Purchase of Agricultural Conservation Easement (PACE) Program was included as part of the update, which focused on maintaining rural and semi-rural character in certain communities within the unincorporated county. The PACE Program compensates participating agricultural property owners for placing a permanent agricultural conservation easement on selected properties. These easements commit the land to agricultural use. In 2020, an update to the PACE Program was directed to provide an opportunity for a larger group of agricultural landowners to participate in and to support the County's commitment to climate action planning and sustainability. The update includes expansion of the eligibility criteria, modifications to the criteria staff use for ranking PACE applications received, and other implementation changes to reflect current regulations and best practices.

The PACE Program has the following goals:

1. Promote the long-term preservation of agriculture in the unincorporated area;
2. Establish criteria for the selection of agricultural conservation easements and protocols for the long-term monitoring of easements;
3. Establish a PACE mitigation bank as a mitigation option for development projects impacting agricultural resources; and
4. Satisfy General Plan Implementation Measure 5.3.1.F (Purchase of Agricultural Conservation Easements) and Climate Action Plan Measure T-1.2 (Acquire Agricultural Easements).

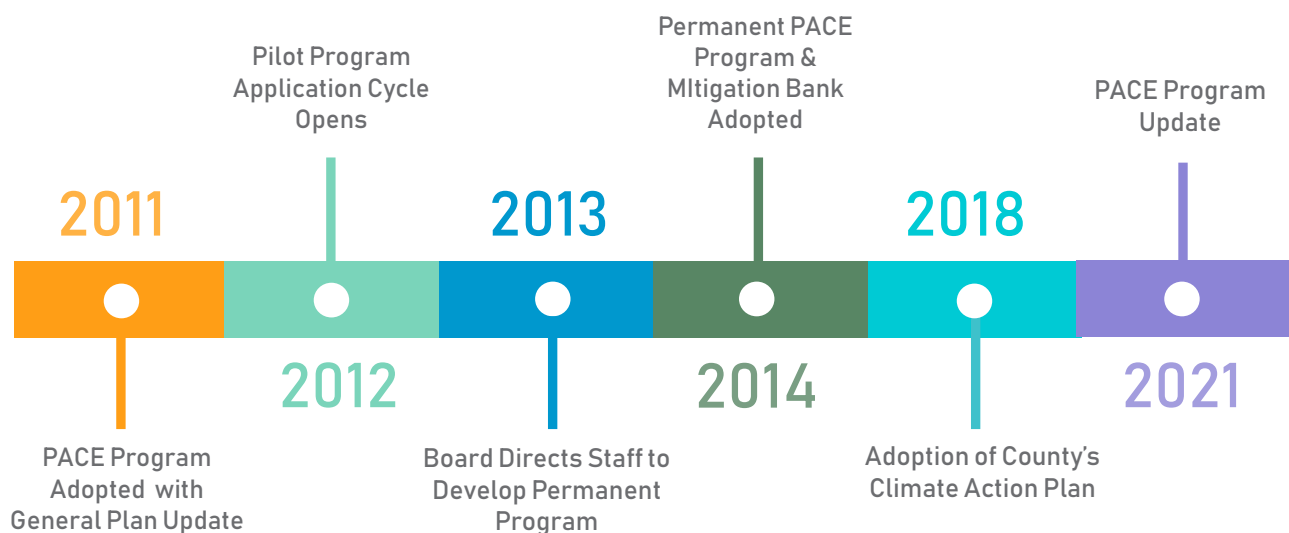


Figure 1: PACE Program Timeline

Program Update

On February 14, 2018 (1), the Board adopted the County’s Climate Action Plan (CAP) which established greenhouse gas (GHG) emissions reduction targets for 2020 and 2030 for County operations within the unincorporated areas. The CAP includes 26 measures which rely upon enhancing several existing County programs and new initiatives to be undertaken by the County.

CAP Measure T-1.2 (Acquire Agricultural Easement) directed the County to expand the PACE Program eligibility to no longer require a realized density reduction under the 2011 General Plan Update to increase availability of eligible agricultural properties and expand the acquisition of PACE easements. Increased acquisition of agricultural easements by the County under the PACE Program reduces GHG emissions by relinquishing future development potential and thus a reduction in transportation, energy use, waste, and water consumption. The updates to the PACE Program will allow the County to further contribute to local agricultural preservation and local GHG emissions reductions.

The update to the PACE Program includes an easement monitoring component, an expansion of the eligibility requirements, and changes to the ranking criteria used for easement selection to include additional considerations such as proximity to preserved lands, contributions to GHG reductions, and water availability.

Easement Monitoring

The PACE Program includes a monitoring component, which allows the County to ensure the agricultural, open space, and scenic values of each property are preserved through compliance with the permitted and prohibited activities outlined in Exhibits B and C of the recorded PACE easement (see page 24). A sample easement can be found in Appendix B. The monitoring program runs on a repeating 5-year cycle which includes ownership review, offsite inspections, and onsite inspections as outlined below. Onsite inspection during easement preparation in Year 1 includes an appraisal by the County’s contracted third-party appraiser and appraisal report to be used as the baseline conditions for the PACE easement.

Table 1: PACE Easement Monitoring Methods and Timeline

Year 1	Year 2	Year 3	Year 4	Year 5
Onsite Inspection	Ownership Review	Offsite Inspection	Offsite Inspection	Offsite Inspection

Program Implementation

The following framework is provided to guide the implementation of the PACE Program and provide PACE Program participants with an understanding of the easement acquisition process. Typically, the timeline from application to easement acquisition averages 8 to 15 months. The overall length of the process varies based on the number of applications received and is dependent upon the constraints of each property.

Application Cycle

A PACE application form is posted on the County's website (www.sandiegocounty.gov/pds/advance/PACE.html) and made available in print format 14 days prior to the beginning of all PACE application periods. Launch of PACE application periods are publicized through multiple media sources.

The PACE application acceptance period is 45 days and all interested property owners must submit a PACE application during this period. The PACE application requests basic information about the property owner, subject property, and agricultural activities. All information collected is analyzed to determine PACE Program eligibility and to rank the property for selection.

Eligibility Requirements

To be eligible for participation in the PACE Program, properties must satisfy the requirements listed below:

1. The property must have active agriculture¹ (farming and/or ranching) for a minimum of two years immediately prior to applying to the PACE Program; and
2. The property must be zoned as A70, A72, RR, S90, or S92.

At the close of each PACE application period, all applications are cataloged and screened for eligibility. To preserve local agriculture in perpetuity, it is important that the lands acquired under the PACE Program remain viable for agricultural use. Requiring PACE Program participants to have actively farmed and/or ranched land on their property for a minimum of two years prior to applying to the PACE Program ensures properties are actively engaged in agricultural activities, which increases the likelihood that properties continue to be used for agriculture in the future.

Ranking Criteria

PACE Program ranking criteria utilize information provided in the application and GIS analysis to ensure that PACE Program funds are allocated to properties important for the preservation of agriculture in the County. All eligible PACE applications will be ranked according to the criteria described below:

1. Agricultural importance of a property pursuant to the County's Local Agricultural Resources Assessment (LARA) Model.
2. Contribution as a buffer between Multiple Species Conservation Plan (MSCP) priority acquisition areas and/or existing preserved lands and development areas.
3. Contribution to the preservation of endangered species habitat through voluntary best-management practices when located within MSCP priority acquisition areas.
4. Contribution to achieving GHG emissions reduction goals under the County's CAP.
5. Compatibility with existing development patterns in reference to Vehicle Miles Traveled (VMT) efficiency data.
6. Density reductions realized under the 2011 General Plan Update.

Easement acquisition offers are made in ranked order. If a property owner chooses not to participate in the PACE Program, the next highest ranking property owner is notified and the process is repeated as necessary.

¹Agriculture: Shall mean the production of goods such as food, fibers or feed by the systematic growing and harvesting of plants, animals and other life forms. Typical forms of agriculture include cultivation of land and raising of livestock. (The Zoning Ordinance, San Diego County, Section 1100)

Easement Selection

Agricultural conservation easement selection decisions are based on the ranking criteria identified above and any additional factors determined by the PDS Director. Additional factors may include, but are not limited to:

1. Cost of easement relative to total Board allocations and appropriations available and anticipated funding.
2. Availability of time-sensitive matching funds such as state, federal or private contributions.
3. Consistency with County plans and policies.
4. Urgent situations that threaten a property with high agricultural importance.

Easement Valuation and Provisions

Properties participating in the PACE Program are appraised by an independent third-party appraiser to determine the agricultural easement value. The appraiser selected is on the County's approved list of qualified appraisers for this specialty purpose. Property owners are provided with a copy of their appraisal report and presented with a draft agricultural conservation easement contract prior to completing a "willing seller letter" and moving forward with formal easement acquisition proceedings. Property owners are given a 14-day "due diligence" period to review and accept or decline the easement purchase price and terms of the agricultural conservation easement contract.

Appraisal Method

The PACE Program utilizes a traditional appraisal process to determine agricultural conservation easement values. Under the traditional appraisal valuation approach, appraisers estimate the current fair market value of the property then subtracts an estimate of the property's value with the PACE easement to determine the value of the easement itself. The County's DGS, Real Estate Services Division, conducts the appraisal reviews, approves the easement values, and coordinates the acquisitions.

Easement acquisitions utilizing state or federal funding require use of this appraisal valuation method. Opportunities to leverage outside funding sources will be pursued during the easement valuation phase based on the selected properties and their ability to meet outside funding source's eligibility requirements.

Easement Provisions

Agricultural conservation easement contracts contain provisions that limit uses and activities that are inconsistent with continued commercial agriculture, and permit agricultural uses, structures, and related enterprises. A standardized agricultural conservation easement document is utilized for the County's PACE Program. However, in cases where funding partnerships and/or unique circumstances require specific easement language/terms, allowances will be made to alter the document. Monitoring and enforcement provisions are included in all easement agreements to ensure the land complies with the terms of the easement.

Easement Acquisition

After easement contracts have been finalized and approved by the property owner, the DGS Director approves execution of finalized easement agreements, if the easement value is less than \$500,000. A hearing before the Board is required to execute all finalized easement agreements when the easement value is greater than \$500,000. Properties for which outside funding is being pursued will be processed on an independent track and brought before the Board as the funding agreements are finalized with the partnering funding agencies.

Total Time to Complete PACE Easement Acquisition Process = 8 to 15 Months



Application Period

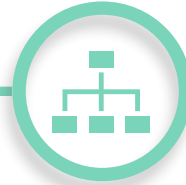
The PACE Program process begins with a 45-day application cycle to allow all willing participants to apply via the application included on the PACE website.

Time to Complete: 45 Days

Application Review & Ranking Period

Staff reviews each application for eligibility and ranks them according to the ranking criteria. After the applications have been ranked, staff notifies each property owner selected to participate in the program.

Time to Complete: 15 Days



Property Evaluation

The property value is evaluated through a title report and third-party appraisal. This information is reviewed and is used to determine the cost of the easement that will be paid to the owner.

Time to Complete: Up to 90 Days



Easement Offer & Contract Preparation

The Department of General Services will extend an offer at the cost of the easement valued by the appraiser. The owner has up to 30 days to accept or decline the offer.

Time to Complete: Up to 45 Days



Contract Execution & Open Escrow

If the easement is valued at $\leq \$500,000$, the Director of the Department of General Services may approve the contract and open escrow.

If the easement is valued at $> \$500,000$, approval authority transfers to the Board of Supervisors and a hearing will be scheduled to receive a decision.

Time to Complete:

Less than or equal to \$500,000 = 5 days

More than \$500,000 = Up to 90 Days



Close Escrow

If the property owner does not have a loan on the property, escrow will continue without separate approval and typically takes 45 days.

If the property owner does have a loan on the property, they will need to obtain written approval (i.e., Subordination Agreement) from mortgage lender before proceeding. This process may add up to 6 months.

Time to Complete:

No Loan = 45 days

With Loan = Up to 180 Days



PACE Mitigation Bank

The following framework is provided to guide implementation of the mitigation program and inform PACE Program participants.

Agricultural Mitigation Needs

The County's CEQA Guidelines for Determining Significance for Agricultural Resources establish significance thresholds for impacts to agricultural resources, define agricultural resources, and identify suitable mitigation measures for private development projects that convert agricultural lands to non-agricultural uses. Under the PACE mitigation program, instead of purchasing real property in the form of agricultural conservation easements, applicants of projects that require agricultural mitigation may choose to purchase PACE mitigation credits.

PACE Mitigation Credits

Agricultural lands permanently protected under the PACE Program on or after September 17, 2014, may combine to form the County's PACE mitigation bank. Applicants may purchase PACE mitigation credits to mitigate for agricultural impacts at a 1:1 ratio, as required by the County's CEQA Significance Guidelines for Agricultural Resources. PACE mitigation credits must be purchased prior to approval of any final subdivision map, or issuance of any building permits. A condition of approval requiring purchase of PACE mitigation credits can be found in the LUEG Conditions of Approval Manual.

How to Use PACE Mitigation Credits

Project Review

During Project Planning review, the CEQA Significance Guidelines are used to determine whether there is a significant impact to agriculturally viable land identified as an important agricultural resource. If impacts exist, the PACE Mitigation Bank may be selected as an agricultural mitigation tool to satisfy project conditions. The PACE Program Manager will determine whether there are sufficient credits available for purchase to mitigate those impacts.

Mitigation Credit Fee

Each PACE credit is equivalent to one acre of mitigation. The cost of one credit is \$3,827. This cost is based on the aggregate easement value per acre for all PACE easements acquired, plus an additional 10% for administrative costs and a 10% acquisition cost adjustment. The 10% acquisition cost adjustment is intended to cover fluctuations in land values for future acquisitions. Every three years, staff will assess the need for adjustments to the PACE mitigation credit. The mitigation credit fee adjustment will reflect changes in the average easement value per acre over the preceding three-year period.

Mitigation Credit Payment

The cost of mitigation credits shall be determined by the fee in effect on the date the final subdivision map is filed, the vesting tentative map application is deemed complete, or the date the building permit is issued, as applicable. Applicants must have an approved discretionary project with a condition of approval requiring agricultural mitigation in order to purchase PACE mitigation credits. Purchase of PACE mitigation credits is nonrefundable and nontransferable.

PACE Trust Fund

All funds collected under the PACE mitigation program are deposited into an interest-bearing trust fund established specifically for the purposes of the PACE Program. PACE Trust fund revenue may be used as follows:

1. To pay for the future acquisition of PACE agricultural conservation easements that will be added to the PACE mitigation bank.
2. To pay for real estate transaction costs related to the acquisition of PACE agricultural conservation easements.
3. To pay for the ongoing monitoring and administrative costs related to the ongoing stewardship of PACE conservation easements.
4. To provide a contingency for unexpected transaction costs or future legal costs required to maintain the terms of a PACE agricultural conservation easement.

PDS maintains a registry of each mitigation credit purchase that includes the date of purchase, amount purchased, Assessor's Parcel Number, associated discretionary project, and name of applicant. PDS staff will also present to the Board an accounting of all PACE mitigation credit fees paid into and withdrawn from the PACE Trust Fund at the time when future PACE acquisitions are brought to the Board for consideration. In addition to the items identified above, this accounting also includes the source and amount collected, beginning and ending balance of the Trust Fund, interest earned during the prior fiscal year, amounts expended from the Trust Fund, and the acquisitions for which such expenditures were made.

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