



# Toward Land Justice

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*Actions White Farmland Owners Can Take*

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### Credits

Land For Good (LFG) is a New England-based nonprofit founded in 2004 to ensure the future of farming by putting more farmers more securely on more land. LFG offers direct assistance, educational programs and materials, professional development and advocacy on farm access, tenure, and transfer. ([landforgood.org](http://landforgood.org))

Ohio Ecological Food and Farm Association, formed in 1979, cultivates a future in which sustainable and organic farmers thrive, local food nourishes our communities, and agricultural practices protect and enhance our environment. ([oeffa.org](http://oeffa.org))

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Land For Good and Ohio Ecological Food and Farm Association acknowledge the history of colonialism and slavery that has enabled us to occupy the land we call the United States today. We honor the Native communities who have stewarded this land for eons and continue to do so.

Indigenous peoples were intentionally separated from their land in different ways. The Northeast is primarily unceded territory, stolen and settled without consent by Europeans prior to 1776. Additionally, between 1776 and 1887, 1.5 billion acres of land was taken from Indigenous nations in the U.S. either by executive order or treaty signed under duress.

Today, nearly 98% of the land in the U.S. is owned by white people. This is not an accident. It is a direct result of settler colonialism, slavery, restrictive land ownership, and of purposeful agricultural policies and practices. Our dominant food and farming systems and the institutions that govern them continue to perpetuate this history of racism, exploitation, and oppression.

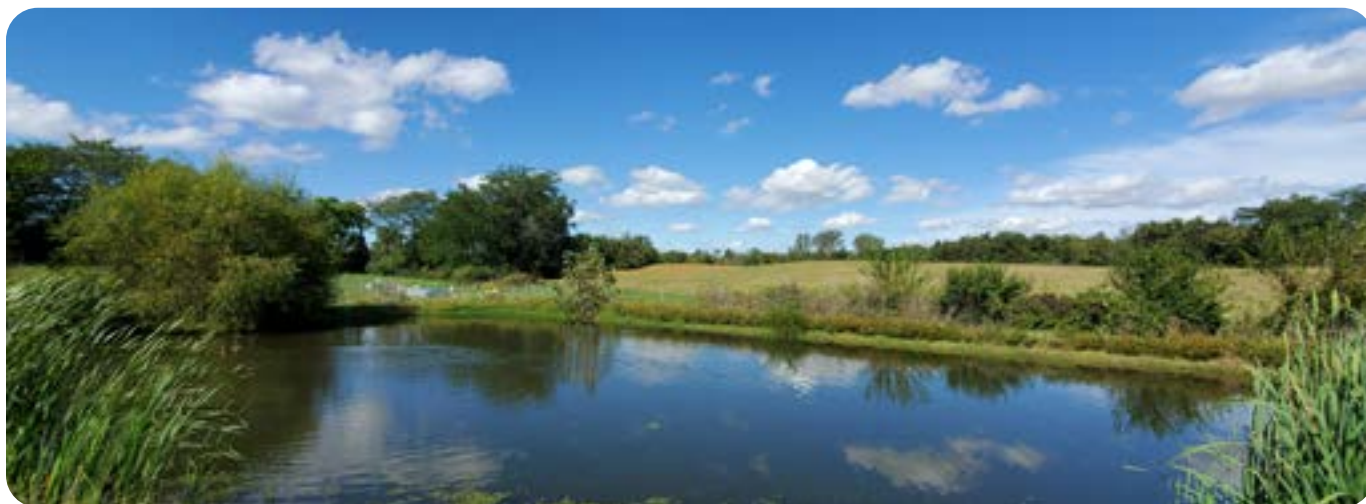


PHOTO CREDIT: TRUEST FARMS

**LEARN MORE** *Land acknowledgements are one step on the road towards addressing the ongoing issues of colonialism and systemic racism. To learn more about land acknowledgements, visit [usdac.us/nativeland](https://usdac.us/nativeland).*

*We also invite you to visit Native Land Digital to explore Indigenous place narratives. This online map uses overlapping colors to show the complex arrangement of Indigenous territories, languages, and treaties, instead of showing colonially imposed borders. Learn more about the land you steward at [native-land.ca](https://native-land.ca)*

Farmland access and tenure are among the most pressing issues in agriculture today. These land challenges must be considered in their historic and contemporary contexts. Systemic racism, a legacy of land theft, and policies that advantage white people conspire to perpetuate inequality and limit land access for farmers and communities of color.

While racial inequity is structurally ingrained in our society, individual action can make a difference. This guide for owners of farmland was motivated by our organizations—Land For Good and Ohio Ecological Food and Farm Association—hearing from white landowners seeking to do something with their land to advance social justice. The expansion of the Black Lives Matter movement after the murder of George Floyd and increased concerns on local food systems have heightened awareness of land access issues for Black, Indigenous, and other people of color (BIPOC)—and of possibilities for new models and partnerships.

We believe that this guide can inspire and assist white farmland owners to partner with farmers and communities of color to access land. And although we approached this guide with enthusiasm and conviction, we also understood the limitations inherent in our producing it. Staff from Land For Good and OEFFA did the research, grappled with terminology, and sought subject matter experts. We solicited and integrated comments/input from nineteen reviewers: white landowners, farmers of color, BIPOC organizations, and land access organizations. Together, we learned about the topic. We also grew our awareness about the challenges and how to talk about them with respect and humility.

The target audience for this guide is white private owners of farm and ranch lands in the United States. That said, the methods are generic; they could be considered by other categories of landowners who want to improve land access for marginalized groups. It is meant to have national application, but our direct experiences are mainly in the Northeast and Midwest. And while not directed at farmers, producers can take advantage of the guide's ideas and resources.

This guide is one contribution to the evolving exploration of how farmland access can be made more equitable, and what white landowners can do on their own to meaningfully redress past harms. We welcome comments and invite all readers to the conversation.

*Land For Good*

*Ohio Ecological Food and Farm Association*

## Why this guide? Why now? Why you?

Are you thinking about how you, as an owner of farm or ranch land, can help advance land justice in the United States? As a farmland owner you have the opportunity to shift power in the food system. Successfully transitioning or sharing your land can be challenging, but it can be done. This guide will help you explore your options. You'll learn about what you can do on and with the land in your care toward repairing past harms and promoting equity and opportunity.



PHOTO CREDIT: ANNIE SPRATT

The acronym BIPOC also includes Asian and Latinx communities; all people of color. Some people are comfortable using this acronym; for others BIPOC is not preferred terminology. In using the term BIPOC here, the message is to encourage you to engage broadly with farmers and communities of color. You will prepare for that engagement according to your situation as well as to the stated needs and desires of the individuals and groups with whom you connect. Many of the methods and approaches described in this guide can also be used with other groups that have been and continue to be marginalized.

The methods described here are intended to cultivate partnerships with Black, Indigenous, and People of Color (BIPOC) farmers and groups.

*“Land justice is the idea that people and communities that have been historically oppressed have a right to land and territory. It recognizes the central role of [farmland] in culture, in society, and in relations of power, as well as its restorative, protective and healing potential. As a pillar in people’s struggle for the right to fresh, healthy food, land justice is the ... link to food justice.”*

Eric Holt-Gimenez and Justine M. Williams, *Conclusion of Land Justice: Re-imagining Land, Food, and the Commons in the United States*, (Food First Books/Institute for Food and Development Policy, 2017), 258.

## Land

This simple word evokes many emotions—beauty, tranquility, refuge, loss, trauma. Land as sacred, land as legacy. Land is also about power, liberation, property, status, wealth, possession—and the lack of it. Land is about identity, community, culture, productivity, security, responsibility. Wars have been (and continue to be) fought over land; lives are lost, families and communities ruptured. Populations dispossessed of it. Land continues to be used as a tool to continue oppression.

Land that our food and fiber comes from—agriculturally productive land—holds unique meaning. These lands, in all regions and locations, are necessary to sustain life. They are also especially vulnerable to loss, abuse, and political maneuverings that have discriminated against and continue to disadvantage some people and groups including marginalized communities.

**Access to land** is the top challenge for the next generation of farmers and ranchers<sup>1</sup>. Buying farmland<sup>2</sup> is expensive—out of reach for many beginning and low-resource producers who cannot draw from generational wealth. Large, established operations easily out-compete for rented lands. When possible, rental arrangements are often insecure and inequitable, favoring the landowner

Farmers of color experience all these challenges along with additional impediments in accessing land<sup>3</sup>. They may face discrimination by lenders and prejudice

from potential sellers or landlords. People of color have been marginalized for generations, deprived of financial capital, and other resources to navigate land access. Due to this, BIPOC farmers often have fewer financial resources, fewer market opportunities, and less access to technical support and other resources as compared to white farmers. Farmers of color also are less likely to acquire farmland via traditional methods such as conventional mortgages, intra-family succession, or leasing.

While agricultural endeavors are the focus of this guide, farmland is not just for farming, or not just the types of farming with which you may be most familiar. Farms might also have recreational, conservation, energy production, and residential uses. They also may have archeological, historical, and/or cultural significance. Indigenous groups and others may seek access to land for hunting, wild crafting and gathering, or for cultural uses such as ceremonies. BIPOC farmers may use practices and grow or raise crops and animals of cultural importance that are not typical for your locale but have personal and communal significance to other farmers and their communities.

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1 National Young Farmers Coalition, “Land Policy Report,” Published 2020. [www.youngfarmers.org/land/wp-content/uploads/2020/11/LandPolicyReport.pdf](http://www.youngfarmers.org/land/wp-content/uploads/2020/11/LandPolicyReport.pdf)

*In this guide, the word “farmers” will mean both farmers and ranchers.*

2 In this guide farmland includes ranchland. These properties may include forestland.

3 Meleiza Figueroa and Leah Penniman, “Land Access for Beginning and Disadvantaged Farmers,” Data for Progress, Published March 2020, [www.filesforprogress.org/memos/land\\_access\\_for\\_beginning\\_disadvantaged\\_farmers.pdf](http://www.filesforprogress.org/memos/land_access_for_beginning_disadvantaged_farmers.pdf)

## Every acre tells a story

These stories start with Indigenous populations who did not see land as private property. Millions of Native Americans were forced from their land by white, European settlers who were supported and encouraged by government and church policies and broken treaties. Land was stolen, settled without consent, taken by executive orders or treaty signed under duress resulting in over 1.5 billion acres removed from Indigenous stewardship. Tribal nations were forced onto reservations, and Native groups were deprived of access to ancestral lands and land wealth.

This tragic story continues with slavery. The trans-Atlantic slave trade thrived on seeing land and certain groups of people as private property, as commodities to be bought, used, and sold—again, sanctioned by public policies, legal structures, and social practices. Colonial wealth was built on human slavery and stolen land. The years following emancipation of enslaved Black people and the Jim Crow era have failed to redress the enduring consequences and the continuation of violence, exploitation, and systemic discriminatory practices. Sharecropping and the failed promise of “40 acres and a mule” forced migration away from the land<sup>4</sup>. Government and lender discrimination have perpetuated inequality and built

*Over 10 million acres of Indigenous land were taken and granted to states to create our esteemed land grant colleges, whether by becoming campuses or sold for the proceeds to buy other land.*

white wealth at the expense of Black people.

Farmworkers also have historically experienced discrimination and been denied land. Displaced peasant farmers from Latin America and Asia have come to the United States for generations, bringing their labor, knowledge, and work ethic to farms across the country. With low wages and often dangerous working conditions, U.S. farmworkers are the “largest landless workforce in the food system.”<sup>5</sup> Agriculture policies that favor agricultural employers

and agribusiness, language barriers, and other factors continue to challenge this group in achieving better pay, safer working conditions, and access to health care. This diverse group provides the labor all along the food chain for much of the food on most Americans’ tables. Yet they remain disadvantaged in securing basic rights. For many these disadvantages thwart prospects for achieving their own farming aspirations.

This history, enduring government policies, and systematic advantages have led to striking inequalities in who owns, uses, and benefits from the land. **Ninety-eight percent of U.S. farmland is owned by white people**, each acre with a story about how it came to be in those hands, each region with its own legacy of colonization, violence, and struggles over land. Stolen. Granted by the United

4 Henry Louis Gates, Jr., “The Truth Behind ‘40 Acres and a Mule,’” PBS Learning Media, published 2013, [www.pbs.org/wnet/african-americans-many-rivers-to-cross/history/the-truth-behind-40-acres-and-a-mule](http://www.pbs.org/wnet/african-americans-many-rivers-to-cross/history/the-truth-behind-40-acres-and-a-mule)

5 Eric Hazard, “Unbroken Connection to the Land,” Food First, published 2017, [foodfirst.org/wp-content/uploads/2017/02/DR8\\_Final.pdf](http://foodfirst.org/wp-content/uploads/2017/02/DR8_Final.pdf)



States government. Inherited through generations. Bought and sold. Gifted. The impacts of these actions continue to advantage or disadvantage certain groups of people. Intergenerational, inherited wealth that shapes economic status is often derived from historic land wealth<sup>6</sup>.

## Changing the story

The National Young Farmers Coalition's Land Policy Report calls out "public policy as a tool of dispossession [that shapes] our food system and patterns of land ownership, and advocates for change."<sup>7</sup> In response to injustice, many institutions and local, state, and federal governments are taking action ranging from token to substantive. Advocates propose alternatives to current land inequities, which include policies and programs to make land more affordable and accessible for disadvantaged farmers; shifting power and resources to BIPOC farmers; land decommodification and alternatives to private ownership of land; community ownership by means of land trusts and other entities to hold, share, and use property; and creation of land commons accessible to and managed by all or by a large segment of local communities.

Many of the ideas presented in this guide are informed by these various approaches. Some methods are tested. Some are innovative. Some are controversial. All are based on the

current realities and legal parameters of private land ownership in the United States. For the most part, today's landowners did not intentionally trample the rights of others. But the systems in place protect, allow, perpetuate, and justify inequitable advantages for white people, at the expense of others, typically people of color. An increasing number of agricultural landowners are exploring what they can do to change this story.

**This is where you come in.** This conversation is not easy. It is often uncomfortable and uncertain. Passions and opinions run deep. Words can mean and trigger different things to different people. Trust is fragile; it takes time to build. Humility and an open mind are critical. By reading this guide you have already tread into sensitive territory. That is an important first step. Whatever you do, it is important to enter this space with an attitude of respect, partnership, and learning.

**Check to make sure your actions engage directly with the individuals and communities you seek to support, based on their needs, interests, and**

*The concept "nothing about us without us," has been around for centuries. It means people must have a say in decisions that impact them. Recall "no taxation without representation" from the American Revolutionary War. The phrase was adopted by the disability rights movement in the 1990s and has been an organizing mantra for social justice movements in the U.S. and globally.*

6 Note that this guide does not go into the history, theories, and arguments about land justice. The brief narrative above is intended to highlight the fact that the injustices in our agricultural system, including those regarding access to land, are not accidents of history, and that current disparities did not happen by chance. For further learning, see the Glossary and Additional Resources.

7 National Young Farmers Coalition, "Land Policy Report."

**aspirations.** Approach your exploration committed to “nothing about us without us.” Stephanie Morningstar, who is Mohawk Turtle Clan and the Relationships and Reciprocity Program Co-Director of the Northeast Farmers of Color Land Trust, emphasizes that such efforts begin by consulting Indigenous and other impacted communities. Success, she notes, might happen in different ways, but “ultimately, it’s about building and maintaining relationships.”<sup>8</sup> It is about placing the interests and needs of the partner community at the center.

**You can decide the next chapter in the story of your land.** Your personal views, values, and priorities will inform what you choose to do with your land. You may be inspired by religious, moral, ethical, or spiritual teachings. You may be connected to a local or national social justice group. You might have inherited a legacy of stewardship and fairness values from family members. Regardless of the origin, there is something deeply personal that has led you to this exploration.

Land use and transfer are complex matters. Views about what constitutes fairness—and remedies for unfairness—are not universally shared, even among family or members of a group. There can be strong emotions, controversy, and conflict. There are legal, financial, and practical realities. Family harmony, risk tolerance, and community relations will likely figure into your plans and decisions.

If you are actively farming, you can implement many of the strategies in this guide and continue to farm. You may also want to contemplate what happens when you stop farming. Your interests in social

*“I don’t have a lot of money, but I have property. How am I going to use that for the greater good, and not in a paying-penance sort of way but in an it’s-just-the-right-thing-to-do kind of way?”*

*Georgia landowner<sup>9</sup>*

justice can be reflected in your succession and estate planning.

What you do with your land is personal. It is also interpersonal. Your actions are part of a bigger picture – ecological and social. Land transactions can be about reconciliation, healing, and repair at the societal level. They can reflect your appreciation of history and bring visibility to injustices that have been largely out of sight, particularly for many white Americans. While no single transaction will create systemic reform, it can stimulate and be a part of it. You can convey the message that everyone can and deserves to have meaningful relationships to land. Your actions can inspire others, and help build trust and solidarity. You can be part of a much larger effort to, in the motto of First Light, a Maine-based Indigenous peoples land access organization, “repair and return at the speed of trust.”

8 Elodi Reed, “How some Northeast organizations are trying to return land, decision-making power to people of color,” New England Public Media, published December 15, 2021, [www.nepm.org/regional-news/2021-12-14/how-some-northeast-organizations-are-trying-to-return-land-decision-making-power-to-people-of-color](http://www.nepm.org/regional-news/2021-12-14/how-some-northeast-organizations-are-trying-to-return-land-decision-making-power-to-people-of-color).

9 Kim Severson, “Her Family Owned Slaves,” New York Times, Published July 4, 2021, Updated July 7, 2021, [www.nytimes.com/2021/07/04/dining/georgia-farm-slaves.html?referringSource=articleShare](http://www.nytimes.com/2021/07/04/dining/georgia-farm-slaves.html?referringSource=articleShare).

## First step - answer some guiding questions

Before you explore options and learn from some inspiring examples, it is important to get grounded. What knowledge and experiences do you have about oppression and land dispossession? Have you participated in anti-bias and/or anti-oppression training? Why are you exploring these issues and remedies? Motivation by guilt or a version of the "white savior complex" is not the best foundation for this exploration.

### Questions to help you learn new information:

- ▶ What is the history/story of your land? How has it been used, and by whom?
- ▶ Which Indigenous groups lived there? (See Resources section) Was it subject to any treaties, and if so, have those treaties been violated? How? Do other BIPOC groups have any history or ties to your land?

### Questions to help you reflect on your feelings and values:

- ▶ What are your beliefs about private property and land ownership?
- ▶ What does land stewardship mean to you?
- ▶ What is most important to you about the future of your land?
- ▶ Why is social justice a factor in planning for your land? What parts of the issues resonate with you?
- ▶ What future scenario(s) do you envision for your land? What does that scenario feel like?

### Questions to help you build relationships with others:

- ▶ Who are you hoping to partner with and why?

- ▶ What do you know about local BIPOC groups and their needs and desires? How can you initiate or deepen that relationship?
- ▶ What will your decision-making process be with stakeholders, partners, and land users?

### Practical/logistical considerations:

- ▶ How did you acquire your land? How is it used now and by whom?
- ▶ How is your land owned (legal structure, who is on the deed, etc.)?
- ▶ If you are currently farming, do you have a succession plan? If you are not farming your land, do you have a transition plan for your land? How does or could your plan reflect your values?
- ▶ Are family members and/or decision-makers on the same page? Who is or should be involved?
- ▶ What are your financial considerations?
- ▶ Where will you turn for support to learn more and make decisions about your land?

*"There are two categories of questions, those of fact that can be addressed via education, and those of values that require reflection and clarification."*

*Landowner reflection*

## Methods for making farmland available

This section explores practical options for making your land available to BIPOC farmers and communities. The methods can be applied to other marginalized groups to promote social justice goals and partnerships that are meaningful to you. An overview is provided for each method, along with important considerations and resources for further learning. Any methods you choose should be pursued conscientiously and in partnership with those you are seeking to support. This

work is likely to be challenging, take longer than planned, and perhaps go in unexpected directions. If you are committed to doing the work thoughtfully and in good faith, it will also be worthwhile.



PHOTO CREDIT: TRUEST FARMS

This section is divided into two parts. The first part focuses on what you can do with your land to meet your social justice intentions while retaining land ownership. The second part addresses methods to transfer ownership. Each method is briefly described, noting advantages and disadvantages. You will be directed to additional resources for more detail and guidance.

*A summary of the methods in Part I and Part II:*

### Part I. Retaining Ownership

- ▶ Acknowledgement
- ▶ Invitation
- ▶ Use agreement (license)
- ▶ Lease
- ▶ Easement

### Part II. Transferring Ownership

- ▶ Sale
- ▶ Gift
- ▶ Donation
- ▶ Bequest

An integral part of developing your plan is connecting with the individuals or communities with whom you wish to explore partnering. What groups do you want to connect with? What groups represent potential beneficiaries? How will you connect with them? Your decisions should reflect an understanding of your goals as well as the goals of those you are seeking to support. You will need to do your personal homework, such as answering the above questions.

It is also important to be sensitive and humble about language. How we talk about complex issues such as racial injustice or land return is evolving. The word “agreement,” for example, can trigger different reactions. A member of an Indigenous community may associate that word with a history of broken agreements.

The methods described here aim to particularly benefit BIPOC farmers and groups by:

- ▶ Tailoring terms and conditions to reflect the specific needs of the partner(s).
- ▶ Carefully choosing wording to maximize clarity and accessibility, and eliminate offensive and obscure language.
- ▶ Modifying language (including legal language) to be more culturally sensitive and inclusive.
- ▶ Reducing, adjusting or in some cases, waiving fees to address affordability.
- ▶ Paying some or all of the costs associated with developing the arrangement.

To be successful, you will need to form genuine and trusting relationships. Do not assume that your

ideas are the best or only options or that they meet the needs and interests of the individuals or groups with whom you wish to engage. Apply your personal examination, as well as anti-bias and anti-oppression resources, to inform how you show up for others. Learn about them and their goals, and develop a plan that is grounded in a real connection. How will you initiate and build meaningful relationships with the individuals or communities with whom you wish to partner? Begin by listening.

For some readers, it might be useful to explore general concepts of land access, and to build understanding of how land access methods look from the farmer’s perspective. [See the Resources section for several publications by Land For Good.](#)

*It is important to be sensitive and humble about language. How we talk about complex issues such as racial injustice or land return is evolving.*

*To be successful, you will need to form genuine and trusting relationships.*

*How will you initiate and build meaningful relationships with the individuals or communities with whom you wish to partner?*

## Part I.

# Methods while retaining ownership

As noted, people have different opinions about owning land. The trail of injustices that has resulted in 98% of U.S. land being owned by whites is hard to dispute. For the purposes of this guide, it is assumed that your land is held as private property. Regardless of how you acquired your land and your feelings about that history, you hold ownership rights and control its use within current legal parameters. Therefore, it is essential to know exactly who owns your land—in other words, who has an ownership stake and gets to decide about its use. Whose names are on the deed? Are there any mortgage or other liens attached? Is the property in a trust, corporation, or LLC? Are there current tenants or other users to be considered? What zoning or other use parameters apply?

The methods explored here are presented in order from less formal to more formal.

## Acknowledgement

### WHAT IS IT?

Land acknowledgement means publicly recognizing and honoring the traditional Indigenous inhabitants of a place. In some countries, such as New Zealand and Canada, and among tribal nations in the United States, it is common to open events and gatherings with such acknowledgement. Private landowners can offer and display acknowledgements too. Acknowledgment is a statement or declaration—a simple, powerful way to show understanding and respect. It is a symbolic step toward honoring Native communities and recognizing the injustices experienced by Indigenous peoples. It can be combined with other actions or as a prelude to further exploration.

### ADVANTAGES

- ▶ Land acknowledgement can be a genuine and appreciated gesture that shows support of and solidarity with Native communities.
- ▶ Acknowledgement can be expressed in many ways; there's no one formula. You might take a political, spiritual, or personal perspective.
- ▶ Legal or financial actions are not involved.
- ▶ Acknowledgement can inform others, inspire action and build relationships.

### CAUTIONS

- ▶ Land acknowledgements can be profoundly moving, but they can also ring hollow and at worst, be perceived as belittling and disrespectful. Your motives will be reflected in your acknowledgement; they should not be to reduce guilt or shame. Do not expect certain behaviors such as gratitude in response.
- ▶ Land acknowledgements are a good start, ideally

together with other actions.

- ▶ Acknowledgments are not just about history. They should recognize current injustices and celebrate living communities.

## THINGS TO CONSIDER

- ▶ Invest the time and diligence to learn the stories of your land. Find out about the Native communities, political landscape, and history.
- ▶ Build relationships; don't assume.
- ▶ Work with Indigenous community on language and presentation. Make sure of proper pronunciation of names and places. Compensate time and labor for this help.
- ▶ With the acknowledged group, ask for permission and develop the most culturally and historically accurate form or expression of acknowledgement: Signage? Webpage? Verbal presentation? Farm's marketing materials?

## RESOURCES

- ▶ **Native Land Digital.** An online map which uses overlapping colors to show the complex arrangement of Indigenous territories, languages, and treaties, instead of showing colonially imposed borders. [native-land.ca](https://native-land.ca)
- ▶ **Land Acknowledgments,** Dawnland Signals WERU 11/19/20. A radio interview with experts. [archives.weru.org/dawnland-signals/2020/11/dawnland-signals-11-19-20-land-acknowledgments](https://archives.weru.org/dawnland-signals/2020/11/dawnland-signals-11-19-20-land-acknowledgments)
- ▶ **A guide to Indigenous land acknowledgment,** Native Governance Center. Explanation and tips for creating a statement. [nativegov.org/a-guide-to-indigenous-land-acknowledgment](https://nativegov.org/a-guide-to-indigenous-land-acknowledgment)

- ▶ **Honor Native Land: a Guide and Call to Acknowledgement,** U.S. Department of Arts and Culture. A virtual resource pack aimed primarily at organizations and agencies. [usdac.us/nativeland](https://usdac.us/nativeland)

## EXAMPLES

- ▶ **Dena'ina Etnena homeland.** Joint Base Elmendorf-Richardson (JBER) designed signs, in collaboration with the Native Village of Eklutna, to post around JBER's government base. The signs acknowledge the territory as Dena'Ina homelands, in a meaningful gesture that conveys JBER's commitment to acknowledge the Alaska Native history unique to the land. [facebook.com/JBERAK/posts/2999387966781453](https://facebook.com/JBERAK/posts/2999387966781453)
- ▶ **The Land We're On.** A land acknowledgement honoring the lands of Minnesota as Dakota homelands written by the Native Governance Center, an organization led by and for Native people. [nativegov.org/about/our-land-acknowledgement-statement](https://nativegov.org/about/our-land-acknowledgement-statement)



*Sign posted at Abundance Farm  
Northampton, MA.*

## Invitation

### WHAT IS IT?

In this context, an invitation is a gesture of welcome. Private owners of land (individuals, families, and private organizations) can extend oral or written invitations to use their land in specific or general ways. These might include invitations to visit specific sites, hold events, practice cultural activities, camp or walk the grounds, for example. It could be a single event, for a specific length of time, or ongoing.

An invitation is an informal, unenforceable agreement; it is not considered a contract and carries no legal weight. There is no exchange of consideration like a fee. It is just an invitation, no strings attached. It does not have terms and conditions. An invitation can be restricted to a specific group or community; it doesn't imply public access. As with all of these methods, it is essential to engage and dialogue with the invitee about the spirit, intent, and details of the invitation at the beginning of the process. Who needs to be involved? Does the invitation have value and express meaning to the recipient? What is the appropriate language to use?

Even with this degree of informality, the scope of the invitation should be clear, and perhaps spelled out in writing. What portions of the property are included? What is the time period for the invitation (i.e. when does it expire)?

As the landowner you are obligated to provide a "duty of care" to your invitees. Broadly, this means you have a duty to keep guests reasonably safe. For example, you should inspect your property, repair dangerous conditions, and warn your guests of potential dangers, such as gopher holes and hidden barbed wire. When you invite people to your property, you are liable for certain injuries like those from icy paths or dog bites. Some states provide some

liability immunity to landowners who make their land available to others free of charge for recreation. It is prudent to check with your insurance provider and state conservation agency.

### ADVANTAGES

- ▶ Informal, invitations provide the invitee(s) with physical access and a personal connection to your property.
- ▶ Invitations are welcoming.
- ▶ It is easy to update and adjust invitations; they are informal, not contractual, agreements.

### CAUTIONS

- ▶ Initial parameters and any changes to invitations should be welcoming and clear.
- ▶ Check with an attorney and insurance provider regarding liability exposure; consider increasing your liability protection.
- ▶ The informality of invitations could lead to misunderstandings.

### THINGS TO CONSIDER

- ▶ An invitation is intended to be simple. If it includes qualifications and conditions, it might be more appropriate as a use agreement (below).
- ▶ How will the relationship be monitored or evaluated in a way that assures proper use and maintains trust?
- ▶ Will any invited uses be incompatible with other uses or program restrictions (e.g. U.S. Department of Agriculture's conservation programs)?

### RESOURCE

- ▶ **Invitations, cultural easements, cultural use agreements, and permits.** First Light. A list of resources and examples. [dawnlandreturn.org/first-](http://dawnlandreturn.org/first-)



[light/resources/invitations-cultural-easements-cultural-use-agreements-and-permits](#)

### EXAMPLE

- **Our invitation to the Passamaquoddy Nation.**  
An example invitation letter to the Passamaquoddy tribe, to access and use the land, facilities, and resources of Dickinson's Reach. [dawnlandreturn.org/sites/default/files/documents/invitation-to-passamaquoddy-nation.fin-2.pdf](http://dawnlandreturn.org/sites/default/files/documents/invitation-to-passamaquoddy-nation.fin-2.pdf)



PHOTO CREDIT: JACOB BUCHHAVE

## Use agreement / License

### WHAT IS IT?

An agreement is a mutually approved understanding or arrangement in which the parties accept the conditions of what is agreed to. In this guide, a use agreement is more than a casual gesture such as, “Sure, you may walk through my woods to the river.” It is more formal than an invitation. It is a legal contract. The technical name for this type of agreement is a license. In this case, a license grants special permission to do something on or with somebody else’s property which, without the license, could be illegal. It can be for a one-time or ongoing use.

The person or entity granting a license could revoke (terminate) it at any time for any reason, depending on the language of the license. This is important. While this may be advantageous to the grantor, it could be disadvantageous to the grantee. Arbitrary termination—including the perception of such—could also compromise trust in the relationship.

A license lays out the rights and obligations of the agreeing parties for the use of resources—in this case, land. As a legal contract, it is more formal than a non-binding invitation (above). This type of agreement is transactional in that both parties negotiate and agree to the terms. A license must include the offer, acceptance of the offer, and consideration. This means that what you as the landowner are offering is stated in the agreement, and that the recipient agrees with the conditions of the offer. Consideration means that something of value is exchanged; that is what makes it a legal contract. Consideration generally takes the form of goods, services, money, behaviors, or a promise of any of those. However, this doesn’t mean that the landowner must charge something or that the other party is required to pay. A landowner is offering the use of the property. The

user's consideration may be to use the property only in certain ways, or to refrain from certain behaviors such as digging up plants.

A license agreement grants certain rights from one party to another party. In your case, it gives others access to your land, in whole or in part, for specific uses and under certain terms and conditions. It does not attach to the land or convey an interest in the land itself. It is not binding to subsequent parties. Compare this with lease and easement, below. The license grantor (you, the landowner) retains control over the property and can revoke the license at will. The agreement should state this.

A license can be written or verbal; the situation will suggest the optimal degree of formality. Verbal licenses may be sufficient when the use is clear, the term is relatively short, and the parties agree to not having it in writing. Most often, however, it is far better to put the agreement in writing. Written agreements help in situations requiring more detail about who has authority as well as the location, timeframe, permitted uses, and other factors determined by you and the group(s) sharing your land. Either way, it is a contract and legally enforceable. This gives both parties certain protections.

This type of use agreement can be a positive partnership. A good license agreement is based on trust and shared understanding. It protects all parties. As with many relationships, clarity helps. Clear terms empower both parties and facilitate communications. The terms and conditions can be modified along the way as needed. Parties are assured that the rights and obligations will be fulfilled as the parties themselves intended. A license contract can and should be welcoming—an inviting, shared understanding and honoring of the land and its importance to the people on both sides of the agreement.

A license could allow walking, hiking, hunting and

fishing, camping, or swimming. It could welcome individuals and groups to visit cultural or historic places on your land. Terms of use might address clean up, bans on disturbing vegetation, fire restrictions, time/day restrictions, parking restrictions, noise levels, or more. Your agreement would specify which parts of your property are subject to the agreement.

Given the discussion above about land-taking, some people and groups might take offense at the notion of a license, of granting “permission to use” or setting conditions; the conversation could be awkward. In fact, many landowners and land users balk at the notion of putting their agreement in writing. To them, putting it on paper feels overly formal and implies that their relationship is not sufficient or trustworthy. This is understandable. However, it can also be a sign of trust to strive for clear and fair terms and processes which can significantly help avoid misunderstandings and erosion of trust down the road.

As with all methods in this guide, the most authentic outcomes result from landowners respectfully and humbly engaging with user groups from the outset to honor and incorporate their perspectives, needs, and guidance into any use agreement. Good relationships—with a shared power analysis—are foundational to good agreements, and they are mutually reinforcing.

**Cultural use agreements** or **cultural respect agreements** are specifically tailored around Indigenous access to land in recognition of their cultural legacies of the place. Uses could include occasional or regular ceremonial events, visiting sacred sites, seasonal hunting, or wild gathering, for example. Other uses might be harvesting certain wood, reeds, clay, and medicinal plants—plants and crops of Indigenous importance. You could reserve specific spots on your land identified by the Indigenous community, known as cultural ceremony

enclosures, for groups to gather.

As interest in cultural respect arrangements grows, they are taking on various forms. Some are in the form of use agreements (licenses, described here) which convey certain use permissions, and some are easements that attach to the land and confer legal rights (see below). Use caution with examples you find; an agreement might actually be an easement.

### ADVANTAGES

- ▶ Use agreements can be a friendly and tangible way to welcome others to access your property per their interests.
- ▶ A use agreement can be customized to suit the parties and purpose.
- ▶ Use agreements can include conditions and greater detail compared to an invitation.
- ▶ There is no or minimal expense associated with developing a license (although legal guidance may be prudent).
- ▶ A license formally proclaims that the use is allowed and welcome.
- ▶ With a license, landowners retain the right to terminate the agreement at any time for any reason. (This can be a disadvantage to the licensee.)

### CAUTIONS

- ▶ Clear terms and conditions are important in a license; vague language about timeframe or scope of use could be misunderstood or abused.
- ▶ A license can provide that the licensee is responsible for the cost of any damage to the property caused by the licensee's acts or omissions.
- ▶ There may be legal liability for the landowner; consult with your attorney and insurance provider.
- ▶ A decision to terminate the agreement should not be taken lightly and the details of termination

should be carefully considered when the agreement is developed.

### THINGS TO CONSIDER

- ▶ As the landowner/licensor, you must use reasonable care to create safe conditions. "Duty of care" standards vary from state to state, and will generally be higher if use includes children.
- ▶ How is the use agreement negotiated? By whom? Could a third party help facilitate a mutually beneficial arrangement?
- ▶ Clarity is key. What is permitted? Prohibited? Timeframe? Parties? How are disputes managed?
- ▶ Might you support the other party in acquiring legal advice?
- ▶ Who is authorized to execute the agreement? Who is the contact?
- ▶ How is the use agreement monitored?

### RESOURCES

- ▶ **Invitations, cultural easements, cultural use agreements, and permits**, First Light. A list of resources and examples. [dawnlandreturn.org/first-light/resources/invitations-cultural-easements-cultural-use-agreements-and-permits](https://dawnlandreturn.org/first-light/resources/invitations-cultural-easements-cultural-use-agreements-and-permits)

### EXAMPLES

- ▶ **Brown Ash Permit**, AMC Maine Woods Initiative. An annual permit available to Wabanaki for tree harvest. [dawnlandreturn.org/sites/default/files/documents/brown-ash-permit.pdf](https://dawnlandreturn.org/sites/default/files/documents/brown-ash-permit.pdf)
- ▶ **Mowita'nej Epijij: Wabanaki Food Sovereignty and Shared Stewardship at Crystal Spring Farm**. An innovative community partnership between the Wabanaki Community Garden Project, Mowita'nej Epijij, and the Brunswick-Topsham Land Trust, page 10. [btlit.org/wp-content/uploads/2021/11/BTLT-Annual-Report-2021-5-1.pdf](https://btlit.org/wp-content/uploads/2021/11/BTLT-Annual-Report-2021-5-1.pdf)

## Lease

### WHAT IS IT?

A lease is a contract in which one party conveys certain rights to another for the use of an asset under certain conditions. In this case, a landlord (aka lessor) gives rights to a tenant (aka lessee) to use their land. **Lease** and **rent** usually mean the same thing. Buildings and other infrastructure on the land may also be included in the arrangement. Many landowners are familiar with the practice of renting land for farming and ranching. Leasing is a common arrangement between landowner and land user for active, ongoing use of your land such as for crop or livestock farming.

Some farmers—understandably—could see leasing as a continuation of sharecropping. Sharecropping, in which tenants used a share of the landowner's land in exchange for a share of the crop, originated in the South after the Civil War. The practice was exploitative in that most often, sharecroppers became indebted to the landowner (for tools, seed, etc.), thus essentially forcing them to stay on and farm the land, impoverished and without any monetary compensation. While unfair leases exist, a good, equitable farm lease will have fair terms, with freedom to farm, grow, and sell (including to the landowner as a portion or form of rent).

A lease does not have to be written to hold up legally, provided it has all the required legal elements, but it's usually better to have it in writing. Most states have a Statute of Frauds that requires contracts over one year to be in writing. A good lease will fully describe the terms and conditions for use—time period,

description of what is being leased, the consideration (fee or rent), procedures for handling improvements, protocols for managing disputes, and rules for terminating the lease. A lease can be simple or very detailed. The level of complexity will depend on the arrangement.

### BASIC TYPES OF FARM LEASES

A **short-term lease** is typically for a term of one or two years. It can be renewed. A short-term lease does not provide a lot of security, but it can be adequate for some farmers and other users and allows a trial that might lead to a longer term arrangement.

A **long-term lease** can be for multiple years—up to 99 years, depending on the laws in your state. A lease of 5 or 10 years offers more security for the farmer to invest economically—and emotionally—in the property, and to implement sustainable practices.

A **ground lease** is when the tenant rents the ground (land) and owns some or all the improvements such as a house and/or barn that may already exist on the property or be constructed by the tenant. This gives the tenant equity, while the landlord retains ownership of the land. A ground lease is most often a long-term lease.

**Lease-to-own** is a term used to describe two methods by which a tenant may eventually own the property. A right of first refusal or a purchase option may be embedded in a lease or either method may be set up as a separate contract. This model is especially attractive to farmers who wish to own their land at some point.

A **residential lease** is for a dwelling. Sometimes a residence is part of a whole-farm lease and sometimes it is under a separate lease.

Leasing land is a common method of land access. Nearly half of U.S. farmers rent some or all the land they farm. Opinions differ on the merits of leasing versus owning land. Among the arguments is that leasing does not accrue wealth in land to the tenant. But the reality is that many farmers cannot afford to purchase land, and a good land lease could offer many advantages.

As mentioned above, sometimes farm buildings, fencing, water, and other infrastructure are part of a farm lease. Sometimes a residence is included too. A lease can be annual, lasting for one year or requiring annual renewal, or it can be for a much longer period of time – multiple years or even decades. A good lease gives the tenant adequate security and control. It also gives you, the landlord, assurance that your land likely will be cared for as you intend by a tenant (or tenants) whom you value and welcome.

A lease can reflect a positive partnership between the parties. An **equitable lease** means that both parties have a say in the terms and neither party is taken advantage of. The terms must be fair to both parties. When permitted and prohibited uses are clear, and when who is responsible for what is transparent, both parties benefit. For example, who maintains the fences? Can the tenant put up a wash station? How is well water shared? While not every detail can be spelled out, assigning maintenance and repair tasks and clarifying other details in the lease will help avoid confusion and conflict down the road.

It is critically important to attend to the process of formulating a lease by fostering good communications and building trust. Unequal power dynamics can skew landlord-tenant relationships, however well-intentioned. The process of working on the lease is a crucial part of developing a relationship. Ultimately, the relationship is more important than the lease language, which can always be revised. The

*The process of working on the lease is a crucial part of developing a relationship. Ultimately, the relationship is more important than the lease language, which can always be revised.*

time and effort invested, which may include language translation, stories, and/or contextual information are critical to success. A good lease reflects a strong partnership.

A lease contract, like a license, has to have consideration, meaning an exchange of value. You provide the land and barn(s), the lessee pays rent. The rent can be anything, including cash, farm products, services, or labor. The cash value of non-cash rent should be reflected by both parties in their financial records. A fair payment for the use of another's asset is not, and should never be, exploitative.

There are different types of tenants, just as there are different types of landlords. You could rent to:

- ▶ An individual farmer
- ▶ Multiple farmers with separate leases
- ▶ A cooperative farming business (several farmers in one operation)
- ▶ An organization that directly engages in farming, farmer training, community gardening, etc.
- ▶ An organization that facilitates farmers' access, such as a nonprofit specializing in BIPOC or immigrant farming. In this case, the organization becomes the main tenant and manages several sub-leasing farmers on the leasehold.

Traditionally, land leases tend to favor the landowner; there is a lot of history to this bias. It is important to be clear and upfront about your vision for the land, its uses, and tenant user(s). Clarify your objectives, needs,

and preferences for renting your land. If you are not a farmer or familiar with farming, it is equally important to be informed about farming practices and realities. An equitable lease resulting from a fair, honorable process can demonstrate otherwise. While getting good lease language is necessary, it can always be revised. The most important factor for success is the relationship between you and the tenant.

### ADVANTAGES

- ▶ A lease is a very flexible tool; it can be customized to suit both parties.
- ▶ A lease is legally binding.
- ▶ A lease conveys rights to the lessee (not just permission).
- ▶ Leases can provide security and stability for both tenant and landlord.
- ▶ The process of developing an equitable lease clarifies rights and responsibilities and builds a mutually beneficial relationship.

### CAUTIONS

- ▶ Attorney guidance in preparing a lease is recommended for both parties; there are costs involved.
- ▶ Making changes to a lease is a formal (but doable) process.
- ▶ Choosing a tenant can be challenging; establishing criteria and a transparent process is important.
- ▶ Monitoring and enforcing lease terms can be uncomfortable.
- ▶ The lease should include provisions for termination; still, if things go wrong, eviction may be necessary, which can be costly, time-consuming, and distressing for both parties.
- ▶ Both parties should always have their attorney review the lease before signing it.

- ▶ Some states have limits on term length (e.g., not more than 15 years).
- ▶ Determining the rent and establishing a process for managing improvements, repairs and maintenance can be challenging.
- ▶ It is important to make sure you are adequately insured through homeowners or commercial property insurance and, if appropriate, require the tenant to carry liability and renters' insurance.

### THINGS TO CONSIDER

- ▶ It takes time to connect with a BIPOC individual or community and to build a trusting relationship before getting to the mechanics of the lease, particularly if there are language or cultural differences.
- ▶ Power differences between landlord and tenant should be acknowledged; cultivating self-awareness and trust are crucial.
- ▶ It takes time and open conversation to negotiate an equitable, unbiased lease.
- ▶ It takes time and effort to be a good landlord.
- ▶ Privacy and ease of access are important to many tenants.
- ▶ It is often helpful to obtain assistance from knowledgeable advisors, especially to build trust and communications with a BIPOC tenant.
- ▶ It takes time to understand the different types of farm leases and their pros and cons for your situation.
- ▶ Relationships are more important than technical and legal language. Write a lease that suits the needs of both parties, with wording that makes sense to everyone involved; an attorney can refine the language as needed.

## RESOURCES

- ▶ **Multiple resources**, Land For Good. Resources for making land available for farming include elements of a good farm lease, lease examples and templates, and online Build-a-Lease tool. [landforgood.org/resource/group/making-land-available](https://landforgood.org/resource/group/making-land-available)
- ▶ **Lease Your Land**, American Farmland Trust Farmland Information Center. Multiple resources with links. [farmlandinfo.org/lease-your-land](https://farmlandinfo.org/lease-your-land)

## EXAMPLES

- ▶ **Land Access for Vermonters on ‘Across the Fence’**, 4/11/22. This YouTube video shares the perspectives of landowner Lori Barg and farmer Munyambaraga Shabagwe who is renting and farming on Barg’s land in Vermont (example runs from 5:30 - 8:45). [youtube.com/watch?v=to-UnRXHIBs&ab\\_channel=AcrosstheFence](https://youtube.com/watch?v=to-UnRXHIBs&ab_channel=AcrosstheFence)
- ▶ **An urban farm embarks on its first season, determined to serve its community**, Boston Globe, March 23, 2021. This article features Agric Organics Urban Farm and the story of Hameed & Ayo Bello who met a retiring farmer willing to rent them his farmland so they could “be part of the solution” in Western Massachusetts. [bostonglobe.com/2021/03/23/lifestyle/an-urban-farm-embarks-its-first-season-determined-serve-its-community](https://bostonglobe.com/2021/03/23/lifestyle/an-urban-farm-embarks-its-first-season-determined-serve-its-community)

*Hameed & Ayo Bello worked with Land For Good to advise on a lease arrangement, obtain resources and referrals to business planning courses and training programs, as well as introductions to local land trusts and other agricultural service providers. Hameed & Ayo, originally from Nigeria, own and operate Agric Organics Urban Farm because they persevered and met a retiring farmer willing to rent them his farmland so they could “be part of the solution” in Western Massachusetts.*

*(Boston Globe, March 23, 2021)*

## Easement

### WHAT IS IT?

An easement is a legal instrument that grants certain rights to enter and/or use another's property, or that transfers certain property rights to another party. One type of easement is a right-of-way that grants permission to traverse one's private property - for example, to a neighbor to access their back acreage or to a public utility to maintain electric or gas lines. This type of private easement directly affects the land. It also "runs with the land," meaning that it affects future owners.

Another type of easement is enabled through law.

These focus on certain public values and purposes (see box page 24). For a specific property, a conservation, historic, or agricultural easement grants or restricts certain uses directly related to the type of easement **in perpetuity**. In other words, these easements also "run with the land" and do not extinguish when the parties change. Those uses and prohibitions are specifically spelled out in the easement statute. The terms can only be changed in accordance with the enabling law of the particular state. Any amendment must be consistent with the easement's conservation purposes, and some amendments must be approved by a governmental agency or funder.

A **cultural easement**, also referred to as cultural respect easement or cultural conservation easement, intends to preserve and protect certain cultural values of a resource and/or grant culturally related use rights to that resource. At last research, we found no state or federal statutes specifically authorizing cultural use easements<sup>10</sup>. Groups are experimenting with how to achieve the desired conservation, agricultural, historic *and* cultural values.

The important point here is that unless the cultural uses and prohibitions fall within the statutory values of a conservation, historic, or agricultural easement, a cultural easement is considered an easement in gross. An easement in gross does not directly affect the

### MAJOR TYPES OF STATUTORY LAND EASEMENTS

A **conservation easement**, also known as conservation restriction, protects conservation values such as water quality, habitat and views by removing the right to develop the land. It might also contain other use restrictions.

A **historic preservation easement** protects a property's historic character. It may do this by limiting the types of renovations or paint colors, or prohibiting removal of stone walls, for example.

An **agricultural conservation easement** (ACE) focuses on protecting a property's agricultural values. An ACE typically removes development rights. It might also require, for example, certain farming practices.

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10 Ellen A. Fred, "Restoring Tribal Access to Land: A Menu of Options to Reestablish Cultural Access Rights," Conservation Partners LLP, Published July 16, 2021, [www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights](http://www.conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights)



land and is not associated with an adjoining parcel or physical right of way. The agreement is with the current landowner and a third party; it expires when the land changes hands. If an easement is written to include cultural values and uses *within* statutory conservation, historic, and/or agricultural easement language, such cultural conservation easement is perpetual under the terms of that law.

A cultural **easement** (in gross or perpetual) differs from a cultural **use agreement** (license; see above) in that the former grants legal rights in the property whereas a license grants permission to use. This may seem like legal hair-splitting, but the distinction matters. Cultural easements are still innovative; conservation groups, attorneys, and advocates are grappling with how best to execute easements that address cultural interests and values. According to the Land Trust Alliance, cultural easements “place greater emphasis on stewardship to perpetuate cultural practices and enhance culturally important plant and animal species.”<sup>11</sup> The Alliance suggests that as cultural easements become more popular, traditional conservation easements may become more attentive to cultural land uses and cultural preservation.

A cultural easement formalizes the arrangement between you as the landowner, and the affected community. With it, you are welcoming shared use of your land for cultural purposes such as wild-gathering and ceremonies. A well-written easement honors the meaning that invited communities attach to that land, while reserving your rights to other uses such as farming or forest management. The terms are developed in partnership with all stakeholder voices at the table. Such easements must be written and signed according to guidelines for such contracts.

They spell out the purposes, rights conveyed, limitations, procedures for violations, and various other standard legal provisions.

### ADVANTAGES

- ▶ An easement is a formal legal tool that offers solid protections for the parties, including the ability to enforce the agreement.
- ▶ Depending on how they are written, easements can be in effect in perpetuity, meaning their terms and conditions are permanent.
- ▶ Cultural considerations may be combined with other values such as conservation or historical, in an easement.

### CAUTIONS

- ▶ There are legal and other transactional costs associated with easement negotiation and document preparation.
- ▶ A permanent easement is a big commitment and should only be undertaken with serious consideration.
- ▶ Easements are very difficult to change.
- ▶ An easement may affect the estate or resale value of the property.
- ▶ Landowners may remain liable for accidents on their property under easement and should make sure they have insurance to cover any potential future claims.

### THINGS TO CONSIDER

- ▶ Careful attention should be paid to how the easement is written; the details and language are critical. Do your homework.
- ▶ The process often takes time.

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<sup>11</sup> Beth Rose Middleton, *Trust in the Land* (The University of Arizona Press, 2011).

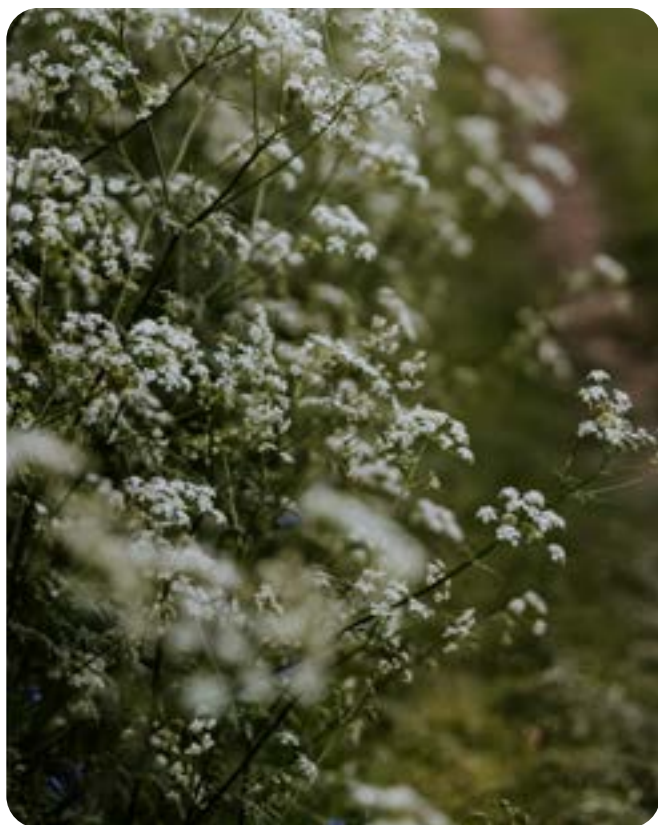


PHOTO CREDIT: ANNIE SPRATT

## RESOURCES

- ▶ **Deed of Cultural Conservation Easement.** The Cultural Conservancy. A sample draft cultural conservation easement. [dawnlandreturn.org/sites/default/files/documents/cultural-easement-template-from-cultural-conservancy.pdf](https://dawnlandreturn.org/sites/default/files/documents/cultural-easement-template-from-cultural-conservancy.pdf)
- ▶ **Agricultural Conservation Easements.** American Farmland Trust. Basic information on conservation easements. [farmlandinfo.org/publications/agricultural-conservation-easements](https://farmlandinfo.org/publications/agricultural-conservation-easements)
- ▶ **Restoring Tribal Access to Land: A Menu of Options to Reestablish Cultural Access Rights.** Conservation Partners LLP. Details on various easement options. [conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights](https://conservationpartners.com/restoring-tribal-access-to-land-a-menu-of-options-to-reestablish-cultural-access-rights)

- ▶ **Shifting to a Culture of Decolonization in Conservation Communities.** Wabanaki REACH. An article by Erica Buswell, Restorative Justice Project Maine, exploring the role conservation easements play in continuing colonization. [wabanakireach.org/shifting-to-a-culture-of-decolonization-in-conservation-communities](https://wabanakireach.org/shifting-to-a-culture-of-decolonization-in-conservation-communities)

## EXAMPLES

- ▶ **Cultural Conservation Easement, Midpeninsula Regional Open Space District (MROS).** A description of the cultural conservation easement MROS has with the Amah Mutsun Tribal Band, over 36 acres atop Mount Umunhum in Sierra Azul Open Space Preserve. It includes a short video and a list of FAQs about the Tribal Band and the easement. [openspace.org/cultural-conservation-easement](https://openspace.org/cultural-conservation-easement)
- ▶ **Cultural Respect Access Agreement.** The full text of the cultural respect access agreement that Dennis Conservation Land Trust in Massachusetts conveyed to the Native Land Conservancy for the purpose of honoring and protecting natural resources, and to assure the property will be retained in its natural state and for its cultural conservation values. [dennisconservationlandtrust.org/dclt-nlc-cultural-respect-easement](https://dennisconservationlandtrust.org/dclt-nlc-cultural-respect-easement)
- ▶ **Northeast Wilderness Trust & Native Land Conservancy Announce Partnership,** Northeast Wilderness Trust. Blog post explaining the emerging partnership between the Native Land Conservancy (NLC) and Northeast Wilderness Trust who are collaborating to grant land rights to NLC and the Wampanoag Nation, and to explore commonality between wilderness conservation and indigenous tradition and lifeways. [newildernesstrust.org/native-land-conservancy-partnership/](https://newildernesstrust.org/native-land-conservancy-partnership/)

## Part II.

# Methods to transfer ownership

Part One described methods to provide access and share land while retaining ownership. Part Two looks at methods to transfer ownership. For many people, this is a big step. Land may have been in your family for generations. You may feel deep attachment. And yet, perhaps the time has come to pass it on. You might be at the end of your farming career. Finances or management capacity could play into a decision to transition ownership. Or, to the point of this guide, you might desire a new chapter in the story of your land, one that embraces equity and social justice.

You have probably read about reparations. While the word has several meanings, at its core, reparations is about making amends for a wrong. It is about ways to repair injustices. There are different types of reparations, from guarantees of “non-repetition” to restitution (meaning restoring ownership rights to rightful owners or providing compensation for rights lost, as in, financial payments for past harms). Reparations are especially relevant to both Black and Indigenous experiences in the United States.

In this guide, reparations refers specifically to land. In this context, land reparations can mean returning stolen or unceded land to Indigenous communities. This is also called **rematriation** or **land return**. Land reparations also include transfers of land to African Americans – including, but not limited to, descendants of stolen people on stolen land.

There are generally four methods to transfer land: sale, gift, donation, or bequest. Each method has its unique considerations.

## Sale

### WHAT IS IT?

On one hand, selling land is pretty straightforward. You determine a price, find a buyer, and seal the deal. On the other hand, the emotion of letting go of your land, along with questions about price and suitable buyers, can be complex. The owners and any other key stakeholders must be content with the decision to sell for the purpose of advancing social justice. There likely will be other objectives, in addition to social justice, that will need to be addressed as well. To help you prepare for a sale, go through the [guiding questions](#) and do your research. You may want to seek guidance and support from advisors and other trusted sources to address important considerations. *Who* do you want your land to go to? *Why*? Have you identified potential recipients? Have you connected with that community? *How*? Are they interested? Do they have access to resources to accomplish their land access goals? How do you arrange the sale to work for you and your family as well as for the person or group with whom you are engaged in this transaction?

Starting by considering the *who*, potential buyers might be determined or influenced by your motivations and interests, the features and location of the property, and the needs and interests of certain groups and communities.

Buyers might include:

- ▶ An individual farmer of color (experienced or beginning, and their farm type)
- ▶ A group of BIPOC farmers
- ▶ A BIPOC-led organization (farming or other purpose)
- ▶ A conservation organization or other nonprofit that would purchase the land with an agreement to make it available to BIPOC farmers

*You might desire a new chapter in the story of your land, one that embraces equity and social justice.*

Just because you might want a buyer in one of these categories does not mean that any such potential buyer is interested in your property. You will need to understand a potential buyer's interest and capacity. Is the property appropriate for their needs? In a suitable location for them? For example, five acres of marginal soil in a hard-to-access location may not be desirable for someone who is looking to operate a direct sale vegetable farm, even if the offer of such is genuine and appreciated by the farmer. Other factors such as access to appropriate services and health care figure into the calculation.

Then get clear on what you are selling. All your property? Some acreage? Buildings? Land with a house? Some landowners are insufficiently knowledgeable or too idealistic about their property which can mislead prospective buyers. Can what you offer be reasonably farmed? Is there access to water? Do you want to retain any rights? Is the property encumbered by any easements or liens? These considerations will matter to the people or groups you hope to attract.

Finally, determine the price. As emphasized above, the cost of land is a top challenge for farmers, especially beginning and BIPOC farmers who face discriminatory lending. Affordability is key. On the other hand, you may need to balance affordability for the buyer with financial security and other needs of the owners.

Your options are:

1. **Sell at fair market value.** Aside from this being unaffordable to many buyers you wish to attract, you may be subject to capital gains tax.
2. **Sell at less than fair market value.** You can offer a below market price to anyone, which is any amount above zero and below fair market value. The difference between the farm market price and the price you receive will be considered a gift by the IRS. (See the section on Gift, below.)
3. **Offer a bargain (charitable) sale.** This means selling to a qualified nonprofit organization for less than market value. The difference between market value and the bargain price is considered a charitable contribution by the IRS. As such, this method may offer income and capital gains tax advantages.
4. **Sell or donate (see below) an easement on the property which can lower its price.** An easement could include additional terms that influence future sales of the property, such as prioritizing affordable sales to farmers.
5. **Offer seller financing or an installment sale.** Seller financing means you serve as the lender instead of a traditional lending institution, according to terms you determine. As with a traditional mortgage, the title passes to the buyer at the time of the sale. In an installment sale, also known as a land contract, the buyer pays the seller over time but the title remains with the seller until all or a significant number of payments are made. These methods can make a purchase more affordable for the buyer, for example by offering lower than market interest rates. But each has some risk for both parties. The USDA Farm Service Agency has a contract loan guarantee program that might work for you.

Another, less direct way to sell your land to advance



PHOTO CREDIT: JAROMIR KAVAN

your social justice interests is by donating some or all of what you receive from an outright market sale to a charitable organization of your choice, such as one that is led by and works with farmers of color, engages in land access struggles, and/or helps advance BIPOC communities in other ways. You might regard such a donation as a form of individual repair. Your cash donation from a land sale to a qualified entity may also qualify as charitable for tax purposes. (Compare this method with the gift or donation of land, below.)

As with most of these transactions, be sure to get advice on tax implications and associated transaction

costs. For example, if you donated the proceeds of the sale of an appreciated property, you may be subject to capital gains tax and get a smaller tax deduction.

It is essential that such steps are sensitively negotiated with the group receiving your money. What do you know about the group and what do they know about you? How did you find one another? Is the group interested? How will you acknowledge and handle the inherent power differential?

## ADVANTAGES

- ▶ Property sales convey full rights of ownership to the buyer.
- ▶ A property sale relieves you of responsibility for the property you sell, and places all management and other decisions in the hands of the new buyer (subject to easement, zoning or other restrictions.)
- ▶ You may receive a financial return from the sale.
- ▶ You may be able to reduce your taxable estate.
- ▶ You could make a below market or bargain sale that makes the land more affordable, or otherwise create terms for the sale that benefit the BIPOC individuals or communities you are seeking to support.

## CAUTIONS

- ▶ With a property sale, the property is no longer yours; you relinquish all rights and control.
- ▶ Finding an appropriate and able buyer may take time and compromise.
- ▶ There may be seller costs including capital gains and transaction fees.

## THINGS TO CONSIDER

- ▶ When you engage with potential buyers, be prepared to listen to their interests and concerns in order to develop sale strategies that suit their needs.

- ▶ Building relationships to make the transaction positive and meaningful is critical to this process, and this will take time.
- ▶ You may need to prepare yourself for letting go of the property.
- ▶ There may be tax and Medicaid eligibility consequences with a property sale.
- ▶ A property sale will involve advisors, such as an accountant or attorney, to plan for the seller costs and any tax considerations.

## RESOURCES

- ▶ **Options for Transferring Land: A Brief Guide.** Sustainable Economies Law Center. Clear, basic information for landowners considering transferring land. For each transfer option, pros and cons are included. [d3n8a8pro7vhmx.cloudfront.net/theselec/pages/608/attachments/original/1536713916/20180911 - Brief Guide to Transferring Land.pdf?1536713916](https://d3n8a8pro7vhmx.cloudfront.net/theselec/pages/608/attachments/original/1536713916/20180911_Brief_Guide_to_Transferring_Land.pdf?1536713916)
- ▶ **Reparations Map**, Northeast Farmers of Color Land Trust. [nefo.landtrust.org/reparations](https://nefo.landtrust.org/reparations)

## EXAMPLES

- ▶ **How This Tribe Got Their Coastal California Lands Returned**, Yes! Magazine, spring 2018. Short story highlighting the return of nearly 700 acres of land to the Kashia People of the coast of Sonoma County, CA. Prior owners prioritized selling to the tribe and a collaborative partnership made the sale possible. Now, the Kashia Coastal Reserve is owned and managed by the tribe, perhaps the first time that a tribe in the U.S. has held a private deed—as well as management rights—to their ancestral lands. [yesmagazine.org/issue/decolonize/2018/04/02/how-this-tribe-got-their-coastal-california-lands-returned](https://yesmagazine.org/issue/decolonize/2018/04/02/how-this-tribe-got-their-coastal-california-lands-returned)

## Gift

### WHAT IS IT?

A gift is a transfer of something of value for which no payment is received in return. If you sell something at less than market value, the difference is also considered a gift. Gifting land is more common within a farm family than between unrelated parties, but a gift can be given to anyone or any organization. See below about [donations](#) as a special category of gift. A gift of land is a powerful act. Eliminating the cost of land acquisition can give a farmer of color a huge advantage in starting or growing their operation. It can provide a farm support or conservation organization with the means to conduct farming, farmer training, or community programming, or offer secure tenure to one or more farmers.

Gifting land will require paperwork and, in some cases, reporting to the IRS. Higher value gifts over a lifetime may trigger gift tax consideration. While a gift should feel like a gift, you can set conditions for the recipient. For example, you might require that the recipient maintain the historic stone walls or farm according to organic standards. You might retain the right to harvest cordwood. Or, to prevent a future sale of the property for purposes undesired by the giver, such as for housing development or mining, the gift could be conditioned such that any resale has to be to a farmer, BIPOC community group, conservation organization, or similar. That said, enforcing conditions placed on a gift of land to a private individual, as opposed to a charity, could be questionable.

It is possible to structure the transfer of a property via a gift and retain what is called life estate. This allows the landowner [or other designated party] to continue to live on the gifted property. Conditions can be a customized manifestation of a meaningful relationship between the giver and receiver.

You can see how conditional gifting can get tricky. This does not mean you should avoid all conditions on a gift, but you want to be prudent and fair with them. It is important to consider the impacts of the conditions on the current recipient but also over time. As a general rule, the fewer conditions the better. A gift should truly be a gift to the receiver.

### ADVANTAGES

- ▶ A gift during lifetime (also [Bequest](#), below) is the most affordable land access option for the receiving farmer or group.
- ▶ A gift of land may have potential income and estate tax benefits for the giver.
- ▶ The giver is relieved of land carrying costs.

### CAUTIONS

- ▶ A gift of land may entail financial and tax implications for the giver.
- ▶ Once you gift the land, you relinquish control over it.

### THINGS TO CONSIDER

- ▶ Time must be spent to determine what conditions, if any, are placed on the gift and what implications they'll have on the receiving farmer or group. Include the recipient in developing conditions and think about their long-term, and possibly unintended, consequences.
- ▶ Legal expenses may be associated with the gift.
- ▶ Selecting the receiving farmer or organization to receive the gifted land may be a lengthy process.

### RESOURCES

- ▶ **Options for Transferring Land: A Brief Guide.** Sustainable Economies Law Center. Clear, basic information for landowners considering

transferring land. For each transfer option, pros and cons are included. [d3n8a8pro7vhmx.cloudfront.net/these/c/pages/608/attachments/original/1536713916/20180911 - Brief Guide to Transferring Land.pdf?1536713916](https://d3n8a8pro7vhmx.cloudfront.net/these/c/pages/608/attachments/original/1536713916/20180911_Brief_Guide_to_Transferring_Land.pdf?1536713916)

- ▶ **Reparations Map**, Northeast Farmers of Color Land Trust. [nefoclandtrust.org/reparations](https://nefoclandtrust.org/reparations)

### EXAMPLES

- ▶ **In Historic First, Nebraska Farmer Returns Land to Ponca Tribe Along "Trail of Tears."** Bold Nebraska, June 11, 2018. Press release highlighting the return of 1.6 acres of Oklahoma land to the Ponca Tribe. The link also includes a 2014 article about planting traditional corn on the property. [boldnebraska.org/in-historic-first-nebraska-farmer-returns-land-to-ponca-tribe-along-trail-of-tears](https://boldnebraska.org/in-historic-first-nebraska-farmer-returns-land-to-ponca-tribe-along-trail-of-tears)
- ▶ **More than 700 acres of ancestral land returned to Penobscot Nation.** Portland Press Herald, October 30, 2020. Elliotsville Foundation returned the ancestral land as part of a long journey of reparation. [pressherald.com/2020/10/30/more-than-700-acres-of-ancestral-land-returned-to-penobscot-nation](https://pressherald.com/2020/10/30/more-than-700-acres-of-ancestral-land-returned-to-penobscot-nation)
- ▶ **Black Farming Projects Look to Restore Historical Land Losses**, YES! Magazine, 2022. Article explains Black land rights activists efforts and how landowner Callie Walker will give away 75 acres of her family plot in Amelia County, Virginia, to allow farmers of color to set up homes and agrarian businesses, such as vegetable growing or beekeeping. [yesmagazine.org/economy/2022/08/26/black-farming-historical-land-losses](https://yesmagazine.org/economy/2022/08/26/black-farming-historical-land-losses)

## Donation

### WHAT IS IT?

A donation is a gift to a charitable organization (classified as a 501(c)(3) according to the IRS) or to benefit a cause such as a political party or lobbying group (501(c)(4)). A donation to an eligible tax-exempt nonprofit is called a **charitable donation**. It offers tax advantages to the donor by being able to claim a charitable deduction on their tax returns. Churches, conservation groups, educational institutions, social change organizations, and farm support organizations may qualify to receive a charitable donation. By comparison, donations to political groups are not charitable. Many of the same considerations of gifting apply to donations. Donations can be money or goods such as food, toys, or clothing, but land can be donated as well.

Land donated (or bequeathed – see the next section) to a charitable organization can have conditions attached to the donation. This is similar to the discussion of conditioned gifting, mentioned above. For example, the donated land must be farmed in a certain way, or only be farmed by beginning farmers. A donation to a qualified conservation organization might include a provision that, if it shuts down, the land will transfer to a similar entity, and never be sold. A condition might be that the recipient prioritizes the sale to BIPOC farmers or groups, or that the proceeds of the sale (by the receiving organization) of donated land must be used to advance the interests of BIPOC farmers. You can see where, as a donor, you can get creative.

### ADVANTAGES

- ▶ There are tax advantages for charitable gifts.
- ▶ A charitable gift reduces taxable estate.
- ▶ A charitable gift assures that the land is in the



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hands of an organization that reflects and advances your values.

- ▶ A charitable donation is a relatively uncomplicated legal transaction.
- ▶ There are multiple benefits for the receiver.

### CAUTIONS

- ▶ Once you donate the land, you relinquish ownership to the recipient organization, including the enactment of any conditions.



- ▶ You will want to consult with an accountant to understand and plan for any potential tax consequences of donating land.
- ▶ Monitoring and enforcement of such conditions can be challenging, and an additional burden for the receiving entity.

### THINGS TO CONSIDER

- ▶ Finding and building a relationship with the appropriate charitable organization may take time.
- ▶ It's important to work with the recipient to avoid placing conditions that are too numerous or onerous on the donation, and prioritize the intended beneficiaries of the donation in this planning too.
- ▶ The timing of the donation may be a factor in terms of tax and estate planning.

### RESOURCES

- ▶ **Options for Transferring Land: A Brief Guide.** Sustainable Economies Law Center. Clear, basic information for landowners considering transferring land. For each transfer option, pros and cons are included. [d3n8a8pro7vhm.cloudfront.net/theseclc/pages/608/attachments/original/1536713916/20180911 - Brief Guide to Transferring Land.pdf?1536713916](https://d3n8a8pro7vhm.cloudfront.net/theseclc/pages/608/attachments/original/1536713916/20180911 - Brief Guide to Transferring Land.pdf?1536713916)

### EXAMPLES

- ▶ **Native America Calling: Land donations add to tribal land holdings.** Native America Calling, October 20, 2022. This link leads to a short online article about the return of tribal lands in California to two different tribes. The link also includes an hour-long video about the importance of returning tribally important land. [indianz.com/News/2022/10/20/native-america-calling-land-donations-add-to-tribal-land-holdings](https://indianz.com/News/2022/10/20/native-america-calling-land-donations-add-to-tribal-land-holdings)

## Bequest

### WHAT IS IT?

All the transactions above are done during one's lifetime. A bequest is the act of leaving something upon death to another in one's will or trust. The person or entity receiving the asset is the inheritor. You can bequeath land to a person or entity. You can choose the recipient. Your will could designate a qualifying nonprofit organization to receive your charitable bequest. (See [Donation](#), above.) As with gifts and donations, a bequest can have conditions attached. Similar considerations apply, although in the case of a bequest, you won't be around to check compliance. You could combine a lease or other agreement for use of the land during your lifetime with a bequest upon your death. This type of arrangement could benefit both parties, provided that the contractual agreements are clear and fair, and there is sufficient trust to sustain the relationship into an uncertain future.

### ADVANTAGES

- ▶ A bequest allows the landowner to retain ownership during their lifetime.
- ▶ A bequest reduces estate taxes.
- ▶ Along with [gifting](#), a bequest is the most affordable option for a farmer recipient.

### CAUTIONS

- ▶ It takes time to identify and partner with the right person or entity to inherit.
- ▶ Changing needs and minds over time (e.g., promising to bequeath and then changing your will) may cause hard feelings.
- ▶ It is recommended that the bequest is written such that it cannot be challenged.

## THINGS TO CONSIDER

- ▶ Working with an attorney who understands and supports your intentions is advantageous.
- ▶ Expect that concerns about fairness and the interests of family and other stakeholders may surface.
- ▶ Timing and timeframe for your overall estate planning process

## RESOURCES

- ▶ **Options for Transferring Land: A Brief Guide.** Sustainable Economies Law Center. Clear, basic information for landowners considering transferring land. For each transfer option, pros and cons are included. [d3n8a8pro7vhmx.cloudfront.net/theselc/pages/608/attachments/original/1536713916/20180911 - Brief Guide to Transferring Land.pdf?1536713916](https://d3n8a8pro7vhmx.cloudfront.net/theselc/pages/608/attachments/original/1536713916/20180911_Brief_Guide_to_Transferring_Land.pdf?1536713916)



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## COMPARISON CHART

<i>Method</i>	<i>What is it?</i>	<i>When to use</i>
<b>Gift</b>	Transfer of asset without compensation (or at less than full value) during one's lifetime to individual or group other than a charity.	When you want to transfer ownership during your lifetime. You may need to file an IRS gift tax form, but may not trigger a tax payment.
<b>Donation</b>	Transfer of asset without compensation during one's lifetime to a qualifying charitable organization.	When you want to transfer ownership during your lifetime, have a charitable organization in mind, and may want income tax advantages.
<b>Bequest</b>	Transfer of asset through one's estate to any individual or entity at no cost to the inheritor.	When you wish to keep the asset while you are alive. If to a qualifying charity, your estate may receive tax advantages.

## Supporting Land Justice

The methods in Parts One and Two focus on ways to make your farmland available to BIPOC farmers and communities of color through use or transfer. You can also support land justice in other ways.



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### *Some additional actions to consider include:*

- ▶ Share your story—what you did, what mistakes you made along the way, what you learned—with neighboring landowners, in farming, conservation, church, or civic groups, and through social media channels and your local press.
- ▶ Advocate for building awareness, supporting BIPOC communities, and changing public policies.
- ▶ Implement a voluntary land tax<sup>12</sup>.

Perhaps you will dive into the resources listed in this guide and find other guidance that speaks to you. You can also learn a lot about needs local to your area and

You may not be ready to take the steps described in this guide. For various reasons, these methods may not work for you. Or you might want to pursue one or more methods described in this guide as well as take additional actions.

specific to BIPOC communities by attending events they are hosting and showing up to listen. You will likely learn about opportunities to engage and be supportive. Seek to build genuine relationships and the action steps will follow.

Wherever you are in this journey, you are not alone. Other landowners are grappling with these issues and choices. Organizations are reimagining land access and land ownership structures. BIPOC, immigrant, refugee, LGBTQ and other groups are finding solidarity with each other and with landowners like you in seeking more equitable and socially just models and relationships.

Discussions of land ownership, reparations, and equity elicit strong emotional responses. Mistakes will be made, and the process might be imperfect. Proceeding with an open heart, an inquiring mind, a readiness to face discomfort, and a willingness to listen and share your experiences could yield meaningful dialogue and outcomes.

<sup>12</sup> "Voluntary Land Taxes," Native Governance Center, published March 9, 2021, [nativegov.org/news/voluntary-land-taxes](https://nativegov.org/news/voluntary-land-taxes).

## Your Next Steps

This is a lot of material to digest. Moving forward can feel overwhelming. There is no single best place to start. You won't find a well-worn path, and the ultimate outcome may remain obscure for a while. That is ok. In fact, it probably means you're thinking correctly about these complicated issues. Here are summarized action steps to help you get started:

- ▶ **Learn** about your land, the issues around race and land access, and the communities with whom you hope to engage; participate in diversity, equity, inclusion, and justice trainings
- ▶ **Clarify** your values and goals, and those of your family and other key stakeholders
- ▶ **Gather** information, resources, and input from other landowners and your team of advisors
- ▶ **Seek Assistance** from people who will support your vision, push you to think critically, encourage you, and hold you accountable
- ▶ **Identify** methods and actions that seem to fit well for you and your land
- ▶ **Engage** with BIPOC individuals and organizations to listen and learn, build relationships, and identify potential partnership opportunities
- ▶ **Discuss** strategies and methods that meet your vision and that are requested by the groups with whom you are working toward a mutually beneficial outcome
- ▶ **Negotiate** the selected method; be prepared for constructive challenges and to take the necessary time
- ▶ **Acknowledge** that mistakes will be made and that the process might be imperfect

- ▶ **Celebrate** accomplishments along the way—all that you learn, the relationships you build, and the opportunities you help to create

Whether you find the methods and resources in this guide useful to your process or simply footnotes along your journey, your efforts to imbed social justice in decisions about your land are important and needed. You have a tangible opportunity to write the next chapter in the story of your land.

## For Service Providers

This guide is targeted to white farmland owners who want to explore how to promote equity and opportunity through their land, specifically with BIPOC farmers and communities. To achieve these goals requires a team effort. It requires skills, experience, expertise, insights, and on-going support that exceed any one individual's capacity. As a service provider you may be positioned to help advance this work, and to be a part of a team that supports landowners as well as BIPOC farmers and communities in your area.

In this guide, service provider means a professional who can play a role in guiding and supporting farmers and farmland owners. These include lawyers with various specialties (tax, real estate, conservation, estate, contract law), tax planners, estate planners, Extension educators, conservation staff, mediators, financial advisors, farm support organization staff, land access facilitators, and farm management company personnel.

Service providers play crucial roles in bringing landowners' visions to reality. This guide is intended to stimulate landowners' new perspectives and actions, but it is not a detailed manual. It does not cover everything about each method, nor does it examine

all methods and variations one could use. Landowners who seek to explore any of these approaches will need more customized research and support. That's where you as a service provider come in.

### WHAT CAN YOU DO?

- ▶ Share this guide with farmland owners who express an interest in using their farm property to advance equity and social justice or who you think might be open to exploring this path. Schedule a follow up conversation to discuss the material with them.
  - ▶ Recommend diversity, equity, inclusion and justice (DEIJ) training and other awareness-building opportunities to landowners.
  - ▶ Help landowners think critically at an early stage about their readiness to do this work, and help them build capacity along the way.
  - ▶ Become more informed about the options as they relate to your area of work and by conducting research with or for the landowner.
  - ▶ Make referrals to other service providers, organizations and programs.
  - ▶ Sustain forward motion by suggesting next steps, setting goals and timelines (even if they are flexible), checking in, and providing encouragement.
  - ▶ Offer ongoing guidance and support; serve as a sounding board.
  - ▶ Facilitate connections between landowners and BIPOC groups, and among like-minded landowners.
  - ▶ Provide technical assistance based on your area of expertise.
- ▶ Encourage the landowner to think critically and to be mindful about incorporating the stated goals and interests of the BIPOC individuals or groups they are seeking to support.

**Build your capacity.** Just as this guide emphasizes how white landowners should be self-aware about their motives and informed about history and strategy, service providers must be too. Most service providers in this space are white. Providers of color may ask different questions and bring different perspectives and experience to the table. But all providers will benefit from awareness training, skill building and networking.

This section of the guide is a brief primer to assist you as a service provider in evaluating your own readiness and enhancing your ability to support equity-focused farmland access opportunities. Here are a few considerations:

- 1. Be clear about your readiness and abilities.**  
If this is new work to you, that is okay. Start by participating in anti-bias and anti-racist training, and researching issues around race, farming, and access to land. You may also need to learn more about the methods detailed in this guide, or any other strategies that may be applicable to projects in your work area. What other professional development might you need? Who else should be included in, or leading, the projects you are working on? The resources listed in this guide will help along with your on-the-ground knowledge, experience and connections. If you don't know who is doing this work in your region, find out!
- 2. Understand your own context** by learning more about (and with) your organization. If you are part of a land grant university, for example, have you learned about the history of the land grabs that are foundational to your university's



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development? Has your organization, agency or firm staff as well as leadership and board of directors participated in diversity, equity and inclusion training? Has it taken steps to become more diverse and equitable? If you are self-employed, what background or experience do you have or need to work with BIPOC farmers?

3. **Connect with BIPOC-led organizations** working on these issues. Learn from their websites, social media posts, and other communications. What type of projects are they working on? Do they have guidance for white farmland owners, white-led organizations, or white service providers that you can apply to your work and the work you are doing with landowners? Would it be best to turn a project over to them, to play a supportive role, to take the lead, or some other course of action?
4. **Be realistic about timing and timelines.** This work will likely take longer than anticipated and longer than more traditional transactions. For example, more preparatory work may need to be done by the farmland owner before you help them with active outreach to BIPOC farm seekers or organizations. Or you may need to wait for

other players on the support team to weigh in. You don't want to derail the landowner's efforts, but you also want them to be prepared and to avoid mistakes. Plan and budget for sufficient time for your contributions as part of the team.

5. **Keep an open mind and be prepared for discomfort.** This applies to your support of the farmland owner as well as to your own work. It is important for the farmland owner to have a vision and be motivated to see it through. Because the goal is to benefit and support BIPOC farmers, it is also important that the farmland owner is open to new ideas and committed to developing the project with BIPOC farmers at the table. This may involve learning uncomfortable details about how their vision is received, or in other ways testing their ability to see the project through.

You can help by keeping their attention focused on the goal rather than on a preconceived notion about how it will look. Similarly, you might find that you approached or said something the "wrong" way, or that the project goes in an unexpected direction. While you want to minimize negative impacts on the individuals and groups you are supporting, you can expect to learn along with others. This work will not be easy, but easy is not the goal.

6. **Connect with and learn from other organizations and individuals** involved in farmland access and DEIJ projects. Joining, or starting, a network of service providers who can share lessons learned, honestly discuss mistakes, and problem-solve together is a great way to bolster your work and provide better support to landowners as well as the BIPOC farmers or organizations. The personal and emotional support offered by peer networks can also be helpful.

Key terms in this publication are defined below. For a more exhaustive glossary of relevant terms, please visit [A Farmland Access, Transfer and Justice Glossary](#) which is a work in progress.

**Access:** The dictionary refers to access as the right or liberty to enter or use. In the context of land access, it generally means the right to enter and use (land for farming), and also the power and opportunity to do so.

**BIPOC:** An acronym for Black, Indigenous and People of Color.

**Colonialism; settler colonialism:** Colonialism is the practice or policy of control by one people or power over others. Settler colonialism is a form of colonialism that seeks to replace the original population of the colonized territory with a new society of settlers.

**Colonization, decolonization:** Colonization is a system that enables privileged groups to take control of territories to gain resources and wealth. Decolonization is the undoing of colonization; the process by which those colonized become independent and territory is returned.

**Equity:** The guarantee of fair treatment, access, opportunity and advancement.

**Implicit bias:** Prejudices or attitudes towards others that are not consciously held or recognized.

**Indigenous:** Culturally distinct ethnic groups native to a place.

**Land dispossession:** having property (i.e. land) taken away from a person or group; removal of occupants.

**Land justice:** Refers to rights of people and communities to land and territory, particularly highlighting past injustices and inequitable access to land.

**Land reform:** Refers to changing laws, regulations and customs regarding land ownership, usually associated with agricultural land. Land reform often implies reallocation or redistribution of land from wealthy to poor or landless people.

**Rematriation:** Refers to a reclaiming of ancestral culture, knowledge, relationships and resources (including land). Rematriation is distinguished from repatriation—the literal returning to the land of one’s ancestry—by carrying a deeper spiritual meaning.

**Reparations:** Reparations comes from the word repair. Broadly, reparations refers to compensation for an abuse or injury. The National Coalition of Blacks for Reparations in America defines reparations as a process of repairing, healing and restoring a people injured because of their group identity and in violation of their fundamental human rights by governments, corporations, institutions and families.

The United Nations outlines five types or conditions of reparations:

1. Cessation and guarantees of non-repetition;
2. Compensation for damage;

3. Restitution i.e. reversing wrongful acts through restoring freedom, identity, culture, citizenship, legal standing, and/or wealth;
4. Satisfaction, meaning repair of emotional or moral damage, such as apology; and
5. Rehabilitation such as legal, medical and other care and services.

**Restitution:** One form of reparations (see above). Typically, compensation for something lost, or restoring to the original situation.

**Social justice:** Refers to fairness in terms of the distribution of wealth, opportunities and privileges in a society; that everyone deserves and should receive equal economic, political and social rights.

**Structural racism:** Policies and practices that exist throughout a whole society or organization that result in and support a continued unfair advantage to some people and unfair or harmful treatment of others based on race.

**Tenure:** Means to hold. In this context it refers to the conditions under which land is held or occupied.

**Tribal nation:** The U.S. Government defines a Federally recognized tribe as an American Indian or Alaskan Native tribe that has a government-to-government relationship with the United States with responsibilities, powers, limitations, and obligations that are attached to that designation. Federally recognized tribes are acknowledged as having natural rights to self-government (tribal sovereignty) and are entitled to receive some Federal benefits, services, and protections because of their special relationships with the U.S. Government. There are currently 567 Federally recognized American Indian and Alaskan Native tribes and villages.

**Unceded land:** Refers to land never ceded or legally signed away or turned over by any treaty or agreement.



Relevant resources are included at the end of each method's description. Below is a selection of general resources that may assist your learning. We welcome suggestions of other helpful resources.

**Land Back/Land Rematriation.** A list of linked resources including articles and examples from First Light. [dawnlandreturn.org/first-light/resources](https://dawnlandreturn.org/first-light/resources)

**Native Land Digital.** A digital map of native lands globally that shows Indigenous territories, languages, and treaties. [native-land.ca/](https://native-land.ca/)

**Timeline of Black, Latinx, Indigenous Solidarity in Food Sovereignty Movement Work.** Soul Fire Farm. Timeline of food sovereignty progress along with a timeline of racist events and longer form problems in the food system. Access the timeline via the "Additional Manuals & Guides" section. [soulfirefarm.org/resources](https://soulfirefarm.org/resources)

**Resources for social and racial justice in agriculture.** Growing for Market. Links to various resources on these topics. [growingformarket.com/articles/resources\\_for\\_social\\_and\\_racial\\_justice\\_in\\_agriculture](https://growingformarket.com/articles/resources_for_social_and_racial_justice_in_agriculture)

**Land Reparations & Indigenous Solidarity Toolkit.** Resource Generation. Articles, guiding questions, best practices, case studies and more. [resourcegeneration.org/land-reparations-indigenous-solidarity-action-guide](https://resourcegeneration.org/land-reparations-indigenous-solidarity-action-guide)

**Shifting to a Culture of Decolonization in Conservation Communities.** Wabanaki REACH. An article by Erica Buswell, Restorative Justice Project Maine, exploring the role conservation easements play in continuing colonization. [wabanakireach.org/shifting\\_to\\_a\\_culture\\_of\\_decolonization\\_in\\_conservation\\_communities](https://wabanakireach.org/shifting_to_a_culture_of_decolonization_in_conservation_communities)

**Options for Transferring Land: A Brief Guide.** Sustainable Economies Law Center. Clear, basic information for landowners considering transferring land. For each transfer option, pros and cons are included. [d3n8a8pro7vhmx.cloudfront.net/theselc/pages/608/attachments/original/1536713916/20180911\\_-\\_Brief\\_Guide\\_to\\_Transferring\\_Land.pdf?1536713916](https://d3n8a8pro7vhmx.cloudfront.net/theselc/pages/608/attachments/original/1536713916/20180911_-_Brief_Guide_to_Transferring_Land.pdf?1536713916)

**Land-grab universities.** High Country News. Article explaining how expropriated indigenous land became land grant universities. [hcn.org/issues/52.4/indigenous-affairs-education-land-grab-universities](https://hcn.org/issues/52.4/indigenous-affairs-education-land-grab-universities)

**Her Family Owned Slaves. How Can She Make Amends?** The New York Times, July 2021. In depth portrait of one landowner's struggles. [nytimes.com/2021/07/04/dining/georgia-farm-slaves.html?referringSource=articleShare](https://nytimes.com/2021/07/04/dining/georgia-farm-slaves.html?referringSource=articleShare)

**Return Land/Land Return.** Sogorea Te' Land Trust. Rematriation resources and examples.

[sogoreate-landtrust.org/return-land](https://sogoreate-landtrust.org/return-land)

**Land Justice: Re-imagining Land, Food, and the Commons in the United States.** Justine M. Williams and Eric Holt-Gimenez, eds. 2017. Food First Books. Comprehensive and provocative book of essays by leading thinkers in the land justice movement.

**Uneven Ground.** Land Inequality Initiative. New measures and analysis published in this synthesis report show that land inequality is significantly higher than previously reported. This trend directly threatens the livelihoods of an estimated 2.5 billion people worldwide involved in smallholder agriculture.

[landcoalition.org/en/uneven-ground/executive-summary](https://landcoalition.org/en/uneven-ground/executive-summary)

**Landowner and Farmland Transfer Planning Resources.** Land For Good. Resources for landowners to inform their decision-making and guide their planning for transferring their farm. Materials are most relevant to farming and farms in New England, but many may apply elsewhere.

[landforgood.org/resources](https://landforgood.org/resources)



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