



N.C. Department of Agriculture & Consumer Services
N.C. ADFP Trust Fund
Appraisal Requirements and Checklist for Conservation Easement Programs



Grantees:

The Grantee is responsible for verifying that the subcontractor meets the requirements described below and supplying the subcontractor with the attached checklist.

Failure to do so may result in the rejection of due diligence items and subsequent delays.

N.C. Agricultural Development and Farmland Preservation Trust Fund (NCADFPTF) Easement Program (check only one):

- NCADFPTF Easement
- NCADFPTF and County or NGO Easement
- NCADFPTF and USDA-NRCS ALE Easement
- NCADFPTF and USDA-NRCS RCPP Easement
- NCADFPTF and US Air Force Easement
- NCADFPTF and US Navy Easement
- NCADFPTF, USDA-NRCS ALE, and US Air Force Easement

For Agricultural Conservation Easement Program Agricultural Land Easements (ACEP-ALE) or RCPP transactions, these requirements and instructions are in addition to any closing instructions provided by the United States Department of Agriculture (USDA) Natural Resource Conservation Service (NRCS).

The Parties to this transaction are as follows:

State of North Carolina:
 N.C. Dept. of Agriculture & Consumer Services
 NC ADFP Trust Fund
 2 West Edenton Street
 Raleigh, NC 27601

Landowner/Grantor (name & address below):

 _____,

Eligible Entity/Grantee (name & address below):

 _____,



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Certified Development Rights Appraisals ("Appraisals") will only be accepted and approved by the North Carolina Department of Agriculture and Consumer Services (NCDA&CS) if the following qualifications are met and documentation of such is provided in the appraisal.

Responsibilities of the Grantee

1. The Grantee is responsible for contracting a qualified appraiser and identifying the scope for the assignment. The appraiser must be licensed in the proper standards for the assignment. Based on the funding partnerships, the following types of appraisals shall be used to determine the effect of the conservation easement on the subject property:

ADFPTF as the sole funding or County/NGO partnership projects:	Uniform Standards of Professional Appraisal Practice (USPAP) OR Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA "Yellow Book") appraisal
USDA-NRCS partnership projects:	NRCS maintains specific qualifications for real property appraisals and conservation easement-specific appraisers. Please contact Brian Loadholt, state easement coordinator, for specific requirements.
Military partnership projects:	Uniform Appraisal Standards for Federal Land Acquisitions (UASFLA "Yellow Book") appraisal

2. The Grantee must supply the appraiser with the following documents:
 1. A copy of the survey approved by NCDA&CS staff AND any additional funding partners.
 2. The environmental and legal prescreen and/or the Environmental Site Assessment or Environmental Audit.
 3. A copy of all ownership documents, including the property deed highlighting all existing landowners.
 4. A copy of the current tax card.
 5. A copy of the ADFPTF-approved easement template identified in the contract.
 6. Provide the following appraisal checklist to the appraiser for reference.
3. Review the appraisal with the landowner for approval before submission to NCDA&CS staff.
4. The Grantee must forward copies of the appraisal to NCDA&CS staff and, if applicable, partnering funding agencies.



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Additional Grantee Acknowledgements

- Final conservation easement values must be determined by a Certified Development Rights Appraisal and must be dated within the contract period and with an effective date of valuation dated less than 365 days before closing. If the appraisal falls outside of these dates one of the following options must be completed:
 - An appraisal update that brings forward the effective date of appraisal by the appraiser. This update will validate the appraisal for an additional 365 days after the new effective date of valuation.
 - An appraisal update that certifies the value but does not bring forward the effective date of valuation. This option will result in an additional 60 days of appraisal approval to reach closing.
 - A recertification of value. A recertification of value does not change the effective date of the value opinion. Appraisers may perform a recertification of value to confirm whether the conditions of a prior appraisal have been met. This option will result in an additional 60 days of appraisal approval to reach closing.

NOTE: All update options are considered “new assignments” for an appraiser and may incur additional costs. It is important to discuss appraisal requirements before engaging an appraiser to reduce confusion and subsequent fees.

- For the purposes of updating the values of the conservation easements for the federal permanent conservation easement tax incentive, supplemental appraisals, updates, or recertification letters may be submitted within 60 to 32 days before a potential closing date, pending the approval of all funding partners. All other deliverables must be approved if submitting an update. **No appraisals, supplemental appraisals, appraisal updates, or recertification letters by the appraiser for the original appraisal will be accepted 30 days before a potential closing date or end of a contract.**
- The ADFPTF does not pay for property appraisals. The Grantee must order the appraisal and be identified as the client. The landowner may not be the client but should be listed as an intended user.
- ***Please note: the N.C. Department of Agriculture and Consumer Services does not provide tax or legal advice to entities or individuals. Before considering an appraisal update or recertification of value by the appraiser within 60 of the potential closing, consult with your appraiser and tax or legal advisors.***



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Responsibilities of Appraiser

By signing this document, the appraiser is certifying to these credentials and understand the following:

1. Presentation of a *qualified* appraisal by a *qualified* appraiser meeting the definitions of such set forth in U.S. Public Law 109-280
 - a. Including but not limited to:
 - i. Appraisers must be state-certified general appraisers with current registration.
 - ii. Appraisers must provide documentation of completion of a valuation of conservation easements or eminent domain appraisal course.
 - iii. Appraisers must be familiar with conducting appraisals of rural and agricultural properties of the requested type.
 (<https://www.govinfo.gov/content/pkg/PLAW-109publ280/html/PLAW-109publ280.htm>).
2. Understand that a substantial or gross valuation misstatement resulting from an appraisal value that they know, or reasonably should have known, would be used in connection with a tax return may subject the appraiser to a civil penalty under IRC §6695A.
3. Are not an excluded individual, which generally includes the taxpayer.
4. Understand that an intentionally false overstatement of the value of the property may subject them to the penalty for aiding and abetting an understatement of tax liability.
5. The appraisal must contain the name, address, and taxpayer ID of every appraiser who participated in the appraisal.
6. Certifies to the following conditions:
 - a. The Appraiser is NOT the donor of the property or the taxpayer who claims the deduction.
 - b. The Appraiser is NOT the donee of the property.
 - c. The Appraiser is NOT any person employed by, married to or related to any of the above persons.
 - d. The Appraiser is NOT an appraiser who appraises regularly for any of the above and who does not perform a majority of their appraisals during a tax year for other persons.

By signing this “Appraisal Requirements and Checklist for Easement Programs,” I am certifying that I meet the requirements set forth herein, which ensure that the State funds received for the purchase of the subject easement are handled in a manner that protects the interest of the State of North Carolina.

Signature of Appraiser	Name of Appraiser	Date
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By signing this “Appraisal Requirements and Checklist for Easement Programs,” I concur with the appraiser's qualifications and agree to comply with the requirements.

Signature of Grantee	Name of Grantee	Date
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Appraisal Checklist	
	1. Appraiser must provide a full narrative appraisal report.
	2. The appraisal must reflect the value of the donation as of the Valuation Effective Date.
	3. The client must be listed as the Grantee.
	4. Intended users MUST include: <ul style="list-style-type: none">• The eligible entity (Grantee of the ADFPTF easement contract),• North Carolina Department of Agriculture and Consumer Services (NCDA&CS) AND the Agricultural Development and Farmland Preservation Trust Fund (NC ADFPTF)• Any additional funding entities,• The landowner
	5. The NCDA&CS approved survey MUST be the version used for valuation. <ul style="list-style-type: none">• The acres used to determine the easement value in the appraisal must be equal to the acres in the survey of the conservation easement area.• The survey used for the valuation of the property must be included in the appraisal addenda.
	6. The NCDA&CS approved easement template MUST be the version used for valuation. <ul style="list-style-type: none">• The easement holder should be identified, as well as the enforcement rights and legal remedies given.• The appraisal will clearly state the specific restrictions on the use of the property and consider the permitted rights.• The narrative must address the impacts these restrictions will have on the valuation.
	7. The appraiser must reference the environmental assessment, audit, or prescreen. Any potential Recognized Environmental Conditions or other potential hazards must be addressed and recognized in the valuation.
	8. The appraiser must list the provisions related to the subordination of current and future mortgages and liens.
	9. The appraisal must clearly identify the following calculations: <ul style="list-style-type: none">• Highest and Best Use Before Value,• Highest and Best Use After Value,• Conservation Easement Value
	10. The appraisal must depict an accurate assessment of the physical characteristics of the land that reflect its value (for example, wetlands, ledge, road frontage, developable and undevelopable areas, views and other value enhancements, neighborhood location and so forth) and contain a good description of the property, its physical attributes and its location.



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	11. The subject property must be extensively defined, photographs, and other documentation of property condition must be included.
	12. Any extraordinary assumptions or Limiting Conditions must be defined.
	13. If used, the highest and best use conclusion must be supported by market evidence. The conservation easement provisions affecting the analysis of highest and best use should be identified. <ul style="list-style-type: none">• A noneconomic highest and best use, such as "forever wild" or "natural lands," or any use that requires the property to be withheld from economic production in perpetuity, is not a valid use upon which to base an estimate of market value.
	14. The highest and best use of the property should be legally permissible, physically possible, AND financially feasible as well as maximally productive.
	15. If the Sales Comparison Method is used, the following should be considered: <ul style="list-style-type: none">• Comparable sales must use easements with similar character. Highly restrictive easements, including wetland easements, may not be used as a comparable sale.• Nearby transactions comparable to the land under appraisal with similar easement restrictions and reasonably current may provide the best evidence of market value.
	16. The appraisal must provide a sales adjustment chart FOR BOTH BEFORE AND AFTER COMPARISONS that clearly: <ul style="list-style-type: none">• Summarizes the adjustments.• Shows the final adjusted sale price and how the sales compare with the subject property is required• Shows market evidence and provides a supporting narrative for each adjustment used.
	17. The appraisal must identify all existing and future options for residential building envelopes and recognize the impact on valuation.
	18. The appraisal must identify any existing easements that restrict property rights and recognize the impact on valuation.



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	<p>19. Enhancements to other or adjacent unencumbered property should not be considered as part of the valuation of the easement or quantified in the report. For ADFPTF use, only the prescribed or defined easement area being acquired using state funds is appraised.</p> <ul style="list-style-type: none">• To meet the requirements of a qualified appraisal, the appraiser may identify the contiguous property and the other property that potentially will be enhanced.• If no contiguous property exists, the question of the potential effect on value can be addressed in discussion.• If the landowner seeks to claim a federal tax deduction, IRS regulations require additional enhancement considerations. It is advisable for the appraiser to meet with qualified tax counsel to discuss the best process to satisfy the IRS regulations on enhancements for deduction purposes.
	<p>20. Addenda Must Include:</p> <ul style="list-style-type: none">• Copy of the NCDA&CS approved survey• Copy of the tax card• Copy of the property deed• Copy of the Easement Template• Legal description with photographs and other documentation of property condition• Detailed qualifications of the appraiser, including a highlight of conservation easement or eminent domain coursework.
	<p>21. The appraisal must include the qualifications of the appraiser and should contain a recitation of the appraiser's experience, specifically as it relates to appraising conservation properties and conservation easements.</p>



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22. Appraiser must certify appraisal identifying that it is prepared, signed and dated by a qualified appraiser, an individual who declares on the appraisal summary that they:
- Hold themselves out to the public as an appraiser or perform appraisals regularly.
 - Are qualified to make appraisals of the type of property being valued because of their background, experience, education and membership in professional associations and other qualifications described in the appraisal.
 - Understand that a substantial or gross valuation misstatement resulting from an appraisal value that they know, or reasonably should have known, would be used in connection with a tax return may subject the appraiser to a civil penalty under IRC §6695A.
 - Are not an excluded individual, which generally includes the taxpayer.
 - Understand that an intentionally false overstatement of the value of the property may subject them to the penalty for aiding and abetting an understatement of tax liability.
 - Provide: Name, Address, Registration #'s and Signature
 - Provide copy of current registration card



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Additional Considerations for the Appraiser:

- Finding sales of conservation easement encumbered properties is becoming easier. A useful starting point is the interactive national map on the Land Trust Alliance website. www.lta.org/landtrustdirectory/. If you click on the state, county, and easement organization, you can find the number of acres conserved and other details.
- The National Conservation Easement Database may provide easement information that is comparable as well. The NCED works to provide a comprehensive picture of encumbered properties, including easements on over 24.7 million acres.
- Assignment may include the development of two opinions of the value of the subject property: One before placement of the conservation easement and the second after placement of the conservation easement. The after condition or second value will be based upon a hypothetical condition that the conservation easement is in place and the effects on the value that may be created. The difference in the two values is the proposed conservation easement's effect on the property's value otherwise denoted as Conservation Easement Value.
- The determination of the significance and contribution to the value of any existing improvements on the appraised property is the responsibility of the appraiser.
- The property rights, such as mineral, water, timber, and hunting, must be owned in fee simple terms by the current landowners.
- Surface rights, including improvements such as structures, barns, hay sheds, fencing, orchards, or other plantings, and any irrigation water rights, including but not limited to wells, ditches, ponds, and lakes that provide irrigation on the subject property and are legally permitted, may be appraised. Crop base and allotments, including timber value on the subject property, may be appraised, and included in any valuations.
- If the survey identifies Farmstead Building Envelopes for future residential development, those sites for development may also be valued based on the highest and best use, particularly with designated road easements, road frontage, view sheds, utility, etc.
- The contract appraiser must be aware that all appraisal reports completed for ADFPTF grants will be used by staff who will rely on the details in the report to understand the property and market characteristics.
- The appraisal report must include the level of detail necessary to thoroughly explain and support the property description, highest and best use analysis, market characteristics, adjustment process, and all conclusions so that all users have an adequate understanding of the statements, opinions, and conclusions offered within the report.