



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



## **Grantee Responsibilities and Acknowledgements**

- It is the responsibility of the Grantee to provide these instructions to the closing agent completing the title search and easement closing items. The closing agent **MUST** complete the Closing Agent Requirements for Easement Programs Form and a State of North Carolina Substitute W-9 Form.
- If a Grantee does not have a Closing Agent at the time of grant award contract execution, the future Closing Agent **must** complete the Closing Agent Requirements for Easement Programs Form, State of North Carolina Substitute W-9 Form, at least **60 days** prior to a tentative conservation easement closing date.
  - **Due to the vendor registration requirements of the Office of State Controller, there are no exceptions to this 60-day policy.**
- **The Grantee must ensure the following for an accurate and timely process:**
  - Engage the closing attorney directly after the contract award.
  - Ensure the attorney has the necessary skills and schedule to complete a thorough review according to NCDA&CS standards, as described herein.
  - Discuss with the landowner any potential title issues (use the NCDA&CS title prescreen) that could affect the certification of the title **BEFORE** the execution of the grant contract.
  - Maintain contact with the closing attorney throughout the process. The Grantee is responsible for ensuring the transaction meets contract requirements and is completed in a timely manner within the budget parameters.
    - Grantees need to fully understand the billing practices of the Closing Attorney before engagement.
  - The closing attorney must represent the Grantee only.
  - The closing attorney must be supplied with the most current information regarding ownership, easement area acreage, and parcel identification.
  - NCDA&CS legal sets the closing date for easement recordation following approval of the closing attorney's deliverables. NCDA&CS legal will coordinate with the closing attorney.



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For Agricultural Conservation Easement Program Agricultural Land Easements (ACEP-ALE) 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):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

**Closing Agent (name & address below):**

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_, \_\_\_\_\_

**Qualification Acknowledgements**

1. Acknowledge that he or she has up-to-date knowledge of the General Statutes of North Carolina pertaining to conducting real estate transactions and obtaining title clearance.
2. Certify that he or she is an attorney duly licensed to practice law in the State of North Carolina.



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## **Preliminary and Closing Agent Requirements**

1. Certify that the title insurance company issuing the title commitment and final policy of title insurance is approved by the North Carolina Insurance Commissioner.
2. Provide all Parties evidence of liability insurance coverage or indemnification in an amount equal to or greater than the easement purchase value paid from State Funds for each NCADFPTF easement. Further, the closing agent agrees to provide reimbursement to NCAD&CS for any loss of State funds caused by errors, omissions, fraud, dishonesty, negligence, or failure by the attorneys, agents, or closing agent employees to comply with written closing instructions. An insured closing protection letter is satisfactory to meet this condition of responsibility.
3. Certify that he or she will not close on an easement purchase for his or her spouse, children, partners, or business associates, and that he or she does not have a financial interest in the real estate to be covered by the proposed easement.
4. Upon approval of the Grantee's submission of a Request for Payment form and an Easement Closing Check Request form, the NCADFPTF will submit the required documentation to the Grants and Contracts office to transmit the NCADFPTF portion of the purchase price for the acquisition (i.e., State funds). The Request for Payment form, Easement Closing Check Request form, and all required documents must be submitted in one complete package to the NCADFPTF no later than 30 days before the proposed closing dates. Errors in the Grantee's forms and documents, or outdated State of North Carolina Substitute W-9 Form for the Grantee or Closing Agent may cause delays in the EFT.
5. Agree to close the easement transaction within 30 calendar days of receipt of the State funds.
6. Acknowledge that costs to clear title defects are the responsibility of the landowner.
7. Return the easement funds and any accrued interest in accordance with NCADFPTF instructions if the conservation easement is not closed within 30 calendar days of receipt of the State funds.
8. Immediately following closing, issue policies of title insurance free and clear of all encumbrances (exceptions) to the title except those that NC ADFPTF, has determined to be acceptable.



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9. Certify that the following package will be delivered within five (5) business days of receipt of recorded documents from the local land records office to NCADFPTF:
  - a. Policy of title insurance (original and one copy) on the appropriate form.
  - b. Recorder's certified copy of the recorded conservation easement deed and a recording receipt.
  - c. Recorder's certified copies of any curative documents, including subordination agreements.
  - d. Original and one copy of executed settlement statements.
  - e. Record of disbursement of funds to the landowner.
  
10. Acknowledge receipt and agree to comply with the terms of these requirements by promptly signing and returning a signed copy of these closing agent requirements to NCADFPTF.
  
11. Provide a complete State of North Carolina Substitute W-9 Form with this document. Per the Office of State Controller, the State of North Carolina Substitute W-9 Form must be dated within one year prior to transmitting funds to the closing agent's escrow account. Updated forms must be submitted before requesting funds.

### **Preliminary and Closing Agent Requirements for Title Search**

Certify that he or she will:

- a. Examine the real estate records and certify title for a period of sixty years or more. There are NO EXCEPTIONS to the sixty-year title search period.
- b. Provides a duly signed title opinion along with vesting deeds, exceptions, recorded plats and a copy of the tax parcel card.
- c. Comply with any listed title commitment requirements. NCDA&CS requires the Grantee and NCDA&CS to be listed on the insured and the amount of title insurance is equal to the cash value of the easement purchase price (does not include landowner donation).
- d. Secure the policy of title insurance.
- e. Obtain and record as instructed the properly executed curative documents for any items required to be removed, released, subordinated, waived, or otherwise handled as required by the title commitment or proforma policy and closing instructions.
- f. Immediately prior to closing, examine the real estate records covering the time from the effective date of the title commitment to the date of closing to determine that no new encumbrances have been recorded against the subject property, no adverse change in title has occurred, and that there are no intervening matters affecting the title that might result in a new title exception on the policy. Notify



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- NC ADFPTF of any such changes or matters that are discovered, and delay the closing, the recording of the deed, and the disbursement of funds pending consultation with NCDAFPTF.
- g. Ensure all taxes, homeowners’ assessments, etc., are current as of the date the conservation easement deed is recorded.
  - h. Obtain the properly executed conservation easement deed from the landowner and any other required signatory parties.
  - i. Record the conservation easement deed within two business days of execution.
  - j. Complete Internal Review Service (IRS) tax reporting Form 1099 for the full easement compensation amount, as identified in the conservation easement deed.

***By signing this “Closing Agent Requirements 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 Closing Agent

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name of Closing Agent

***By signing this “Closing Agent Requirements for Easement Programs”, I concur with the closing agent’s qualifications.***

\_\_\_\_\_  
Signature of Grantee Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Grantee Representative