

### NRCS Closing Agent Requirements

NRCS Easement Program (check only one):

- Agricultural Conservation Easement Program - Agricultural Land Easement (ACEP-ALE)
- Agricultural Conservation Easement Program - Wetland Reserve Easement (ACEP-WRE)
- Emergency Watershed Protection Program - Floodplain Easement Program (EWPP-FPE)
- Healthy Forest Reserve Program (HFRP)

By signing these “NRCS Closing Agent Requirements,” I am certifying that I meet the requirements set forth herein, which ensure that the Federal funds received for the purchase of the subject easement and are handled in a manner that protects the interests of the United States of America.

- For ACEP-ALE transactions, these requirements and instructions are in addition to any closing instructions provided by the eligible entity.
- For ACEP-WRE, HFRP, EWPP-FPE transactions, these requirements and instructions are in addition to further closing instructions provided by NRCS and requirements outlined in the USDA Office of General Counsel (OGC) title opinions.

The Parties to this transaction are as follows:

United States of America  
Natural Resources Conservation Service  
Enter NRCS State office address

Landowner/Grantor: \_\_\_\_\_  
Enter landowner(s) names, address, and phone number

(For ACEP-ALE only)  
Eligible Entity/Grantee: \_\_\_\_\_  
Enter eligible entity’s name, address and phone number

The closing agent must—

1. Acknowledge that he or she has current knowledge of the requirements of State law in connection with closing real estate transactions and title clearance.
2. Certify that the he or she is an approved agent licensed to engage in title insurance business in the State.
3. Certify that the title insurance company that has issued the title commitment and that will issue the final policy of title insurance is approved by the State insurance commissioner.
4. Provide the Parties liability insurance coverage or indemnification in an amount equal to at least the amount of the Federal funds for each easement satisfactory to the Natural Resources Conservation Service (NRCS), acting on behalf of the Commodity Credit Corporation, providing for reimbursement to NRCS for any loss of Federal funds caused by fraud, dishonesty, negligence, or failure by the attorneys, agents, or closing agent employees to comply with written closing instructions.
  - The American Land Title Association (ALTA) closing protection letter revised 4/2/2014 is satisfactory to meet this condition of responsibility.
5. Provide evidence of liability insurance or indemnification to NRCS and, if applicable to the eligible entity, prior to the transfer of Federal funds into escrow.
6. Certify that the he or she will not close on an easement purchase for a spouse, children, partners, or business associates who have a financial interest in the real estate to be covered by the proposed easement.
7. Agree that the USA's portion of purchase price for the acquisition (i.e., Federal funds) will be sent from the U.S. Treasury by electronic fund transfer (EFT) to the escrow account prior to closing payable to the landowner in the amount of \$\_\_\_\_\_.
8. Agree to provide a copy of the proposed settlement statement to NRCS and, for ACEP-ALE, the eligible entity, for review and approval at least 3 business days prior to closing.
9. Agree to close the easement transaction within 30 calendar days of receipt of the Federal funds.
10. Return the easement funds and any accrued interest in accordance with NRCS instructions if the conservation easement cannot be closed within 30 calendar days of receipt of the Federal funds.
11. Certify that the he or she will—
  - Immediately prior to closing, examine the real estate records covering the time from the effective date of the commitment to the date of closing to determine that 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 NRCS, and for ACEP-ALE the eligible entity, 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 NRCS and, for ACEP-ALE, the eligible entity.
  - Obtain the properly executed conservation easement deed from the landowner.
  - Comply with any listed title commitment requirements.
  - Obtain and record as instructed the properly executed curative documents for any items required to be removed, released, subordinated, or otherwise handled as required by the commitment, closing instructions and OGC title opinions.
  - Secure the policy of title insurance referred to below.

- Ensure all taxes, homeowner's assessments, etc. are paid to the date the conservation easement deed is recorded.
  - Record the conservation easement deed within 5 business days of closing.
  - Complete Internal Revenue Service tax reporting Form 1099 for the full easement consideration, as identified in the conservation easement deed.
12. Acknowledge that the he or she understands that costs to clear title are the responsibility of the landowner, and for ACEP-ALE the eligible entity.
13. Immediately following closing, issue policies of title insurance free and clear of any and all encumbrances (exceptions) to the title except those that NRCS, or for ACEP-ALE the eligible entity, have decided are acceptable.
- For ACEP-ALE easements, ALTA owner's policy in the amount of the purchase price.
  - For ACEP-WRE, HFRP and EWPP-FPE easements, ALTA U.S. Policy (9/28/91, revised 12/3/2012) with the United States named as insured in the amount of the purchase price.
14. Certify that he or she will deliver the following immediately following closing to NRCS, or for ACEP-ALE, the eligible entity:
- A statement covering the agreed upon closing costs
  - Original policy of title insurance on the appropriate form
  - Original and one copy of executed settlement statements
  - Recorder's certified copy of the recorded easement deed and a recording receipt
  - Recorder's certified copies of any clearance documents, including subordination agreements
  - Record of disbursement of funds to the landowner
  - Completed IRS Form 1099
15. Acknowledge receipt and agree to comply with the terms of these requirements by promptly signing and returning a signed copy to NRCS or for ACEP-ALE, eligible entity.
16. Provide a projected closing date and the name, address, and account number of the financial institution where electronic funds are to be deposited.

17. Complete the following for all ACEP Transactions:

Signature of Closing Agent \_\_\_\_\_

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

Projected Closing Date: \_\_\_\_\_

18. Complete the following for all ACEP Transactions:

Name, address, and account number of financial institution where electronic funds are to be transferred.

Name \_\_\_\_\_

Address \_\_\_\_\_

Account Number \_\_\_\_\_

Escrow Number \_\_\_\_\_

Attach Wire Instructions if applicable

19. Provide the following for non-ACEP-ALE transactions only:

Total Projected Closing Costs \$ \_\_\_\_\_

(Attach itemization of costs)

The Eligible Entity must complete the following ACEP-ALE transactions only  
I concur with the closing agent's qualifications:

\_\_\_\_\_  
Signature of Eligible Entity Representative

\_\_\_\_\_  
Date

\_\_\_\_\_  
Name and Title of Eligible Entity Representative