

Conservation Easements 101

Who? What? How?



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Types of Agricultural Easements

Different Easements – Different Purposes

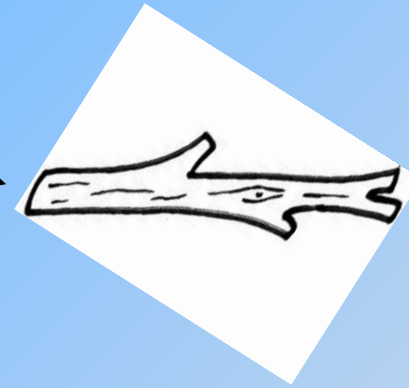
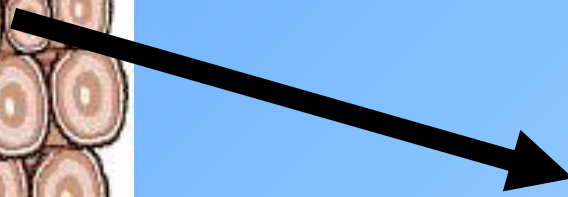
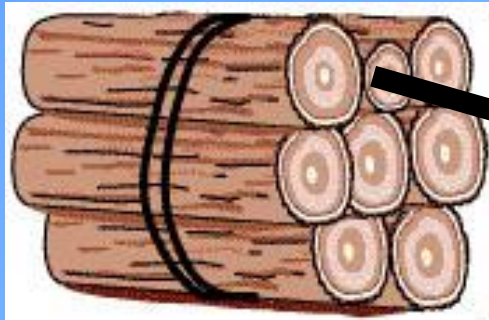
- Protect Farmland and Agricultural Uses
 - *Agricultural Land Easements (**ALE**)* {USDA-NRCS}
 - *Agricultural Development and Farmland Preservation Trust Fund (**ADFPTF**)* {NCDA&CS}
- Protect and Restore Drained Wetlands
 - *Wetland Reserve Easement (**WRE**)* {USDA-NRCS}
- Protect Stream Buffers
 - *Conservation Reserve Enhancement program (**CREP**)* {USDA-FSA/NCDA&CS-Division of S&W}

Know Your Choices

- Perpetual Conservation Easement
 - Most common
 - USDA, Military, and ADFP Trust Fund
- Term Conservation Easement
 - Currently available only with ADFP Trust Fund
- Conservation Agreements
 - Voluntary Agricultural Districts
 - Enhanced Voluntary Agricultural Districts
 - Other programs under development

Agricultural conservation easement

- An agricultural conservation easement is a legal tool that restricts residential, commercial, and industrial development of land to maintain its agricultural production capability.
- The purpose of these easements is to ensure the land remains in agricultural, horticultural, or forestry production.
- The conservation easement is recorded in the records of the Register of Deeds office in the county in which the property is located.
- The conservation easement “runs with the land,” meaning the terms and conditions stay with the land as it is transferred to buyers or heirs of the landowner.
- The easement is “held” by the applicant organization, which can be a local nonprofit conservation organization or a county government, to ensure compliance with its terms and conditions.
- Authority for these conservation easements is found in N.C.G.S. 106-744.



- Water Rights
- Hunting Rights
- ~~Development Rights~~ → Development Rights
- Farming Rights
- Mineral Rights
- Timber Rights

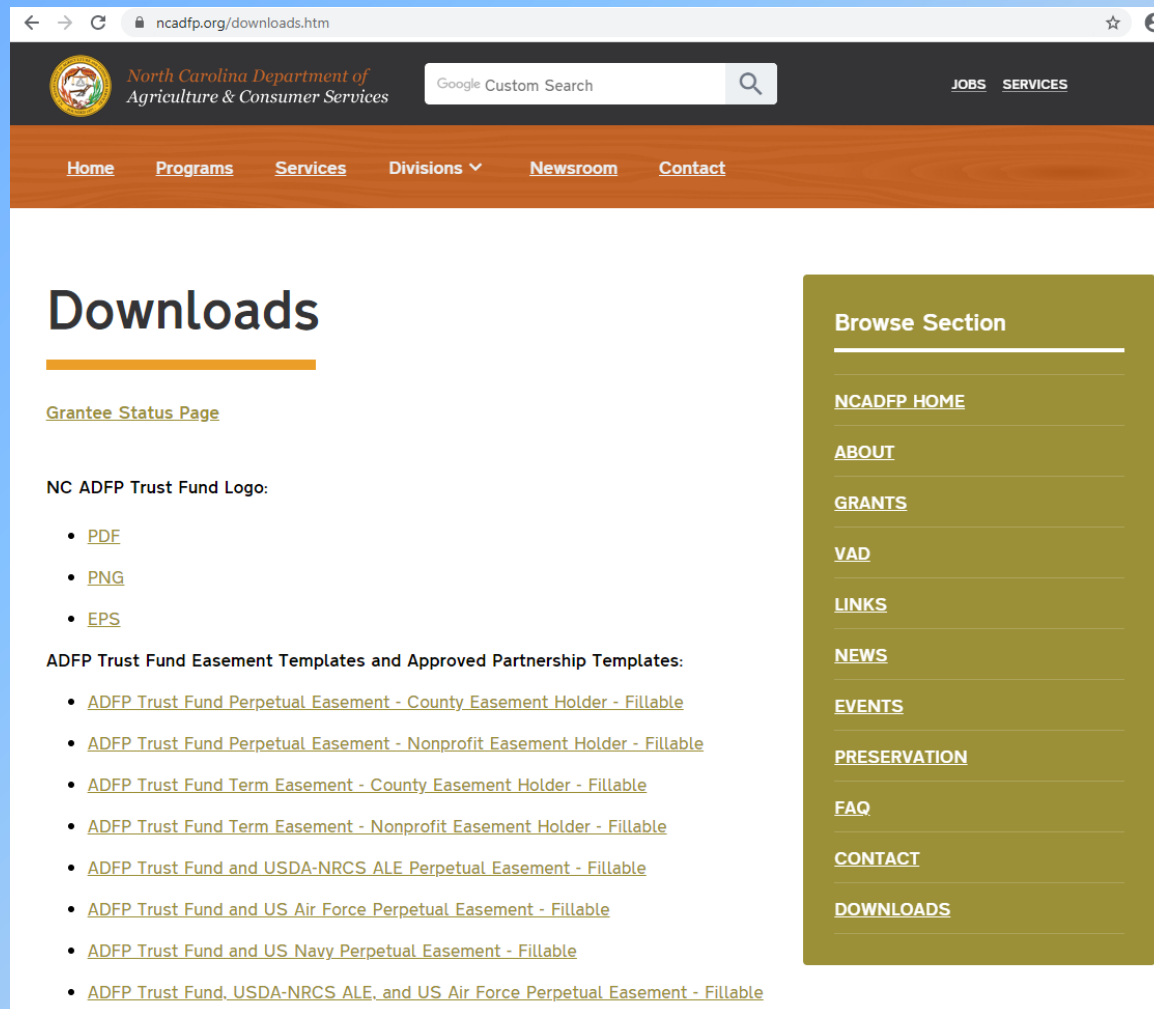


Understand the Restrictions

- Easement Language
 - USDA minimum deed terms
 - ADFP Trust Fund templates online
- Primary restrictions
 - Commercial and residential development
 - Subdivision of the property
 - Industrial and commercial uses outside of agricultural and customary rural enterprises
 - Mining
 - Dumping and trash
 - Commercial signage
 - Military: large towers, upward facing lights, and other developments that hinder military training


Exact Easement Language

- Go to: www.ncadfp.org/downloads.htm



The screenshot shows the NCADFP website's Downloads page. The header includes the North Carolina Department of Agriculture & Consumer Services logo, a Google Custom Search bar, and links for JOBS and SERVICES. A navigation bar below the header contains links for Home, Programs, Services, Divisions, Newsroom, and Contact. The main content area is titled 'Downloads' and features a section for 'Grantee Status Page' with links to PDF, PNG, and EPS files. Below this is a section for 'ADFP Trust Fund Easement Templates and Approved Partnership Templates' with a list of downloadable templates. A right-hand sidebar titled 'Browse Section' lists various site categories, with 'DOWNLOADS' highlighted at the bottom.

← → ↻ 🔒 ncadfp.org/downloads.htm ☆ ⓘ

 North Carolina Department of Agriculture & Consumer Services

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Downloads

[Grantee Status Page](#)

NC ADFP Trust Fund Logo:

- [PDF](#)
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- [EPS](#)

ADFP Trust Fund Easement Templates and Approved Partnership Templates:

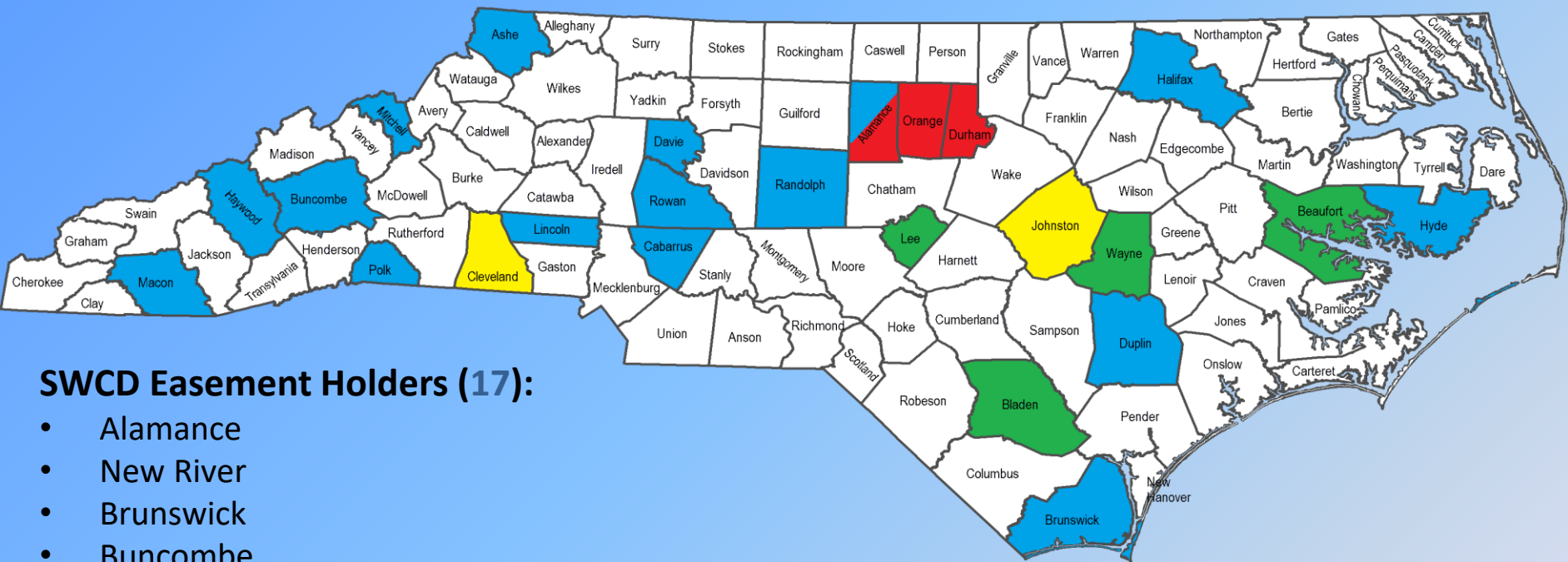
- [ADFP Trust Fund Perpetual Easement - County Easement Holder - Fillable](#)
- [ADFP Trust Fund Perpetual Easement - Nonprofit Easement Holder - Fillable](#)
- [ADFP Trust Fund Term Easement - County Easement Holder - Fillable](#)
- [ADFP Trust Fund Term Easement - Nonprofit Easement Holder - Fillable](#)
- [ADFP Trust Fund and USDA-NRCS ALE Perpetual Easement - Fillable](#)
- [ADFP Trust Fund and US Air Force Perpetual Easement - Fillable](#)
- [ADFP Trust Fund and US Navy Perpetual Easement - Fillable](#)
- [ADFP Trust Fund, USDA-NRCS ALE, and US Air Force Perpetual Easement - Fillable](#)

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Eligible grantee

- A certified, tax-exempt charitable organization or agency as approved by the Internal Revenue Service. For the ADFP Trust Fund, this includes nonprofit conservation organizations and county agencies.
- Easement holder
 - Primary enforcement of the restrictions of the conservation easement



SWCD Easement Holders (17):

- Alamance
- New River
- Brunswick
- Buncombe
- Cabarrus
- Columbus
- Davie
- Duplin
- Fishing Creek
- Haywood
- Hyde
- Lincoln
- Macon
- Mitchell
- Polk
- Rowan
- Randolph

County Easement Holders (3):

- Alamance
- Durham
- Orange

Current Grantees (4):

- Beaufort
- Bladen
- Lee
- Wayne

New Applicants (2):

- Cleveland
- Johnston

Before the Application Process

- Is my property eligible?
 - The property must be privately-owned
 - Located within the borders of the State of North Carolina
 - In working lands use (agriculture, horticulture, forestry).
 - Minimum acreage requirements should follow the present-use value guidelines:
 - Five acres for horticulture
 - 10 acres for agriculture (row crops or pasture)
 - 20 acres for forestry
 - A combination of working lands use

Before the Application Process

- **Assess your Conservation Priorities**
 - What are your future plans? What are your ultimate objectives?
 - Agricultural, horticultural, and forestry
 - Environmental benefits
 - Short and long-term financial benefits
 - Public benefits
 - Family and community heritage
- **Conversations with partners and potential heirs and buyers**
 - Is there an agreement? Shared vision?
 - Ultimately, it is the decision of the current landowners

“Will I receive money for placing my farmland under a conservation easement?”

- Yes. If awarded a grant in which the application requests funds for the easement purchase value, you will be compensated for the purchase of the development rights.
- Any amount of money you may receive for your easement purchase value (i.e., selling the development rights of your farmland) will be determined by appraised values of the property and funds in the contract budget.

How is an agricultural easement on farmland valued?

- Based on an appraisal.
 - The appraisal is a Before and After.
 - The appraisal provides the market value of the easement property before the easement is placed and the market value of the easement parcel after the easement is placed.
 - The difference of the two values is the effect of the easement on the offered (easement) property. This the value of the easement.

ADFPTF Easement Grant Application Options

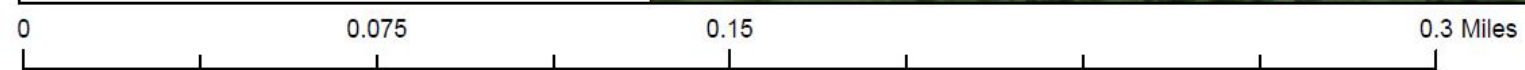


Application Materials

- ADFP Trust Fund Conservation Easement Application Materials Checklist
 - Option to Purchase an ADFP Conservation Easement
 - Proof of ownership
 - Parcel identification numbers
 - Prime, unique, or soils of statewide importance
 - Maps
 - Conservation Easement boundaries and right-of-way access



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ADFP Trust Fund Grant Program Calendar

Mid-Oct. –
Mid-Dec.

- Application period open for general appropriation grant program

Jan. - April

- Internal application evaluation and site visits

May

- Present recommendations to Advisory Committee
- Advisory Committee votes

July 1

- Start of State fiscal year
- Biennial budget

July-Sept.

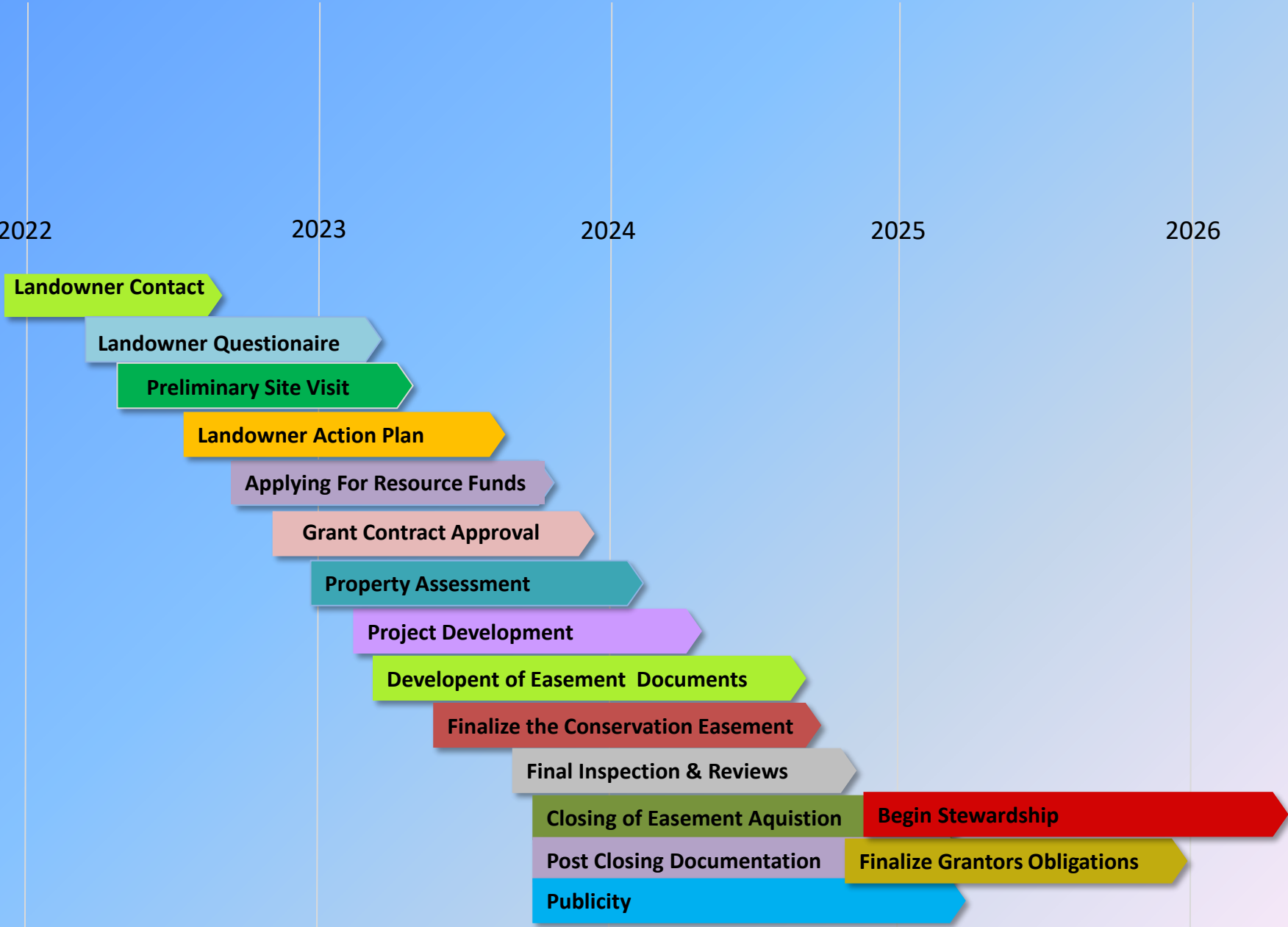
- Prepare and send out contract offer packets
- Contracts signed by grantees

Oct. 1

- Start of 2-year contract period for general appropriation grants

Conservation Easement Planning

A Multiple Year Process



Deliverables

Deliverables (Documents) Must be provided in the following order and submitted as a complete suite in Word or PDF electronic format for ADFPTF review and approval.	Completion Date for Documents Provided to the Agency by the Grantee
Easement Parcel Identification Suite <ul style="list-style-type: none">• Preliminary Conservation Easement Survey, including GIS, per the ADFPTF Survey Requirements and Checklist• Preliminary Title Policy• Preliminary Attorney's signed Title Opinion certifying title for a period of at least sixty years	Within 180 days of the beginning date of the grant contract

Deliverables

Deliverables (Documents) Must be provided in the following order and submitted as a complete suite in Word or PDF electronic format for ADFPTF review and approval.	Completion Date for Documents Provided to the Agency by the Grantee
<p>Land Management Documents Suite</p> <ul style="list-style-type: none">• Environmental Audit including Hazardous Materials Checklist and Landowner Interview• Certified Development Rights Appraisal dated less than 90 days prior to closing. Updated Opinion Letters by the appraiser are acceptable.• Conservation Plan, if applicable• Forestry Plan, if applicable• Preliminary Baseline that includes applicable Conservation Plan and Forestry Plan, Environmental Audit, and Conservation Easement Survey, per the ADFPTF Baseline Documentation Report Requirements and Checklist	<p>Within 210 days of the beginning date of the grant contract and no less than 60 days before the scheduled conservation easement recording date</p>

Deliverables

Deliverables (Documents) Must be provided in the following order and submitted as a complete suite in Word or PDF electronic format for ADFPTF review and approval.	Completion Date for Documents Provided to the Agency by the Grantee
Legal Conservation Document Suite <ul style="list-style-type: none">• Conservation Easement Survey in recordable format and approved by County Review Officers• Final Conservation Easement with applicable exhibits• Preliminary HUD Statement• Title Commitment• Signed Subordination Agreement, if applicable• Final Baseline that includes applicable Conservation Plan and Forestry Plan, Environmental Audit, and Conservation Easement Survey, per the ADFPTF Baseline Documentation Report Requirements and Checklist	Within 240 days of the beginning date of the grant contract and no less than 30 days before the scheduled conservation easement recording date

Deliverables

Deliverables (Documents) Must be provided in the following order and submitted as a complete suite in Word or PDF electronic format for ADFPTF review and approval.	Completion Date for Documents Provided to the Agency by the Grantee
Set Target Date for Easement Closing <ul style="list-style-type: none">• All Legal Conservation Document Suite documents must be approved by NCDA&CS Legal Affairs	Within 270 days of the beginning date of the grant contract, and shall be no less than 30 days before the contract end date.

Deliverables

Deliverables (Documents) Must be provided in the following order and submitted as a complete suite in Word or PDF electronic format for ADFPTF review and approval.	Completion Date for Documents Provided to the Agency by the Grantee
Final Legal Conservation Document Suite <ul style="list-style-type: none">• Recorded Conservation Easement• Recorded Survey• Final Title Opinion• Final Title Policy• Recorded Subordination Agreement, if applicable• Signed HUD Statement• Signed Baseline	Due within 20 working days (28 calendar days) following the recording date of the conservation easement



Questions?

