



Easement Process Flow Guidelines

1. New Project Application and \$500 application donation received.
2. Call with landowner to schedule site inspection visit
3. Site inspection visit conducted by 2 ERRCT representatives
 - a. Conduct site visit and complete Site Inspection Form
 - b. Discuss the easement process, including terms and conditions, allocation of costs, stewardship and monitoring and timing of project.
 - c. All landowners should attend meeting, including family members. This may take more than one meeting if multiple family members are unable to meet at one time.
 - d. Explain landowner costs which include, but are not limited to:
 - (1) Upfront deposit retainer of \$5,000 or more for initial project costs
 - (2) Appraisal cost
 - (3) Attorney's fees
 - (4) CPA consulting fees
 - (5) We also request a donation relative to the amount of the easement value, typically 3%, or a minimum of \$10,000 upon close of escrow
 - (6) Misc. reports and or studies TBD if necessary
 - e. Recommend landowner(s) retain legal and accounting advice
 - f. Require verbal approval from landowner(s) of interest in proceeding
4. Two copies of the Easement Engagement Letter sent to landowner which summarizes some of the information covered during the site visit, reinforces the importance of landowner seeking professional legal, financial and tax advice and asks landowner to acknowledge they understand the information contained in the letter and attachment. Landowner signs one copy of the letter and returns it to ERRCT in the self-addressed, stamped envelope which has been provided. The landowner should retain the second copy for their records.
5. MOU prepared by ERRCT, and two copies are sent to the landowner for signature. Landowner should return the signed copy in the self-addressed, stamped envelope provided and keep the second copy for their records. ERRCT will not be required to take any action in furtherance of the easement until they receive the executed MOU.
6. Conservation Committee reviews Site Inspection Form and inspectors give verbal report to committee on findings. Conservation Committee discusses project, identifies conservation values, and determines if project meets ERRCT Project Selection Criteria Guidelines. If Conservation

Date of Adoption – August 3, 2021

Date of Last Revision –

Date of Last Board Review –

Committee decides to move forward with project, the following documents are created or obtained:

- a. Project Summary
 - b. Project budget
 - c. Vicinity map
 - d. Aerial photograph of property
 - e. Property map
7. Conservation Committee reviews documents and places project on the agenda for the next board meeting.
8. Board of Directors reviews New Project Application, Site Inspection Form, maps, photographs, project budget and any other available documentation. A decision is made to (1) give preliminary approval for the project or (2) inform the landowner the project is not feasible. Projects are generally identified as not feasible if:
- a. The proposed open space is part of a development proposal, which is likely to have significant adverse impacts on conservation resources; or
 - b. The transaction involves the purchase of land or easement and the acquisition cannot be completed at a reasonable price; or
 - c. The property cannot be acquired by ERRCT with reasonable effort and resources in relation to the property's conservation value (e.g., multiple owners, title issues, etc.); or
 - d. There is not adequate time to perform due diligence on the project; or
 - e. The property is found to be contaminated with hazardous waste, and the cleanup costs are significant or ERRCT is potentially exposed to liability; or
 - f. There are insufficient ERRCT resources to undertake perpetual stewardship of the easement; or
 - g. There is reason to believe the easement would be difficult to monitor and enforce (e.g., poor access, multiple proposed reserved uses or development rights, numerous dwellings or structures, frequent incidence of destructive trespassing, etc.); or
 - h. There is little public or community support for the project.
9. If moving forward with project, a Preliminary Project Approval Form is completed.
10. If funding is approved, appraisal is completed.
- a. Landowner funds appraisal cost
 - (1) If NRCS funding is involved, ERRCT must contract directly with appraiser and landowner reimburses ERRCT. Otherwise, landowner will directly engage and pay the appraiser.
 - b. ERRCT provides appraiser with property information and relevant easement restrictions.
 - c. In the event a "bargain sale" or "full donation" of the easement is being considered, landowner is made aware the appraisal must comply with strict IRS guidelines if the landowner intends to claim a deduction.
 - d. The appraisal is reviewed and sent to landowner.
11. Landowner reviews appraisal and decides to proceed or not. If proceeding with project, ERRCT requests 2 paper copies and, if possible, an electronic copy of completed appraisal.

12. Board completes appropriate Conservation Easement Resolution.
13. ERRCT prepares Purchase and Sale Agreement and initial draft of easement document.
 - a. Draft and forward to landowner for review
 - b. Legal review by all parties
 - c. Landowner's CPA review, if necessary
 - d. Purchase and Sale Agreement is executed and becomes binding on the parties
14. ERRCT enters into agreement with a stewardship or land protection specialist for development of a Baseline Documentation Report. This report must be completed and signed by the landowner and ERRCT at or prior to closing.
15. Proceed with escrow (Escrow commenced at the time the preliminary title report was ordered-see _____ above)
 - a. Title exceptions are reviewed, and pertinent documents ordered
 - b. Title cleanup and subordinations required, etc.
 - (1) Third party mineral rights release of right of surface entry
 - c. Complete joint escrow instructions
 - (1) Reviewed and approved by the parties
 - d. Radius Report, if necessary
 - e. Landowner must complete an environmental questionnaire
 - (1) Phase I environmental assessment, if necessary
 - f. Geologist remoteness opinion, if necessary
16. Respective funder(s) final tasks are reviewed and completed
17. Prepare final easement agreement
 - a. Draft and forward to landowner for review and approval
 - b. Legal review by all parties, including funders
 - c. Landowner's CPA review, if necessary
 - d. Complete Baseline Report, documenting physical condition of the property
 - e. ERRCT final review of escrow instructions and document(s)
 - f. Documents are executed by the parties (This is typically done at the Title Company in conjunction with the closing of escrow)
18. Finalize escrow closing procedures
 - a. Request funders to deposit "good" funds in escrow pursuant to joint escrow instructions and estimated settlement statement prepared by the Title Company/escrow holder.
19. Schedule title company or attorney to conduct a title investigation to identify both ownership and encumbrances within 30 days of closing

20. Conduct final site inspection and complete Pre-Closing Inspection Form
21. Baseline preparer provides three original copies of the Baseline Documentation Report to ERRCT. If possible, an electronic copy is also provided.
22. Baseline Documentation Report is signed by the landowner and ERRCT at or prior to closing.
23. Close escrow and record easement with ERRCT as holder.
24. Submit final invoice to funder for reimbursement of related transactional costs per grant agreement following escrow closing.
25. ERRCT prepares file folders for original documents and stores them in fireproof filing cabinet. Prior to filing originals, the following is completed:
 - a. Original documents are scanned and stored on the Egnyte server
 - b. Original documents are copied, and copies are used to make a “working file”
 - c. If electronic copies were not provided, both the appraisal and baseline report is scanned and stored on the Egnyte server

ERRCT documents used:

- ✓ Site Inspection Form
- ✓ Easement Engagement Letter
- ✓ Project Selection Criteria Guidelines
- ✓ New Project Application
- ✓ Preliminary Project Approval Form
- ✓ Conservation Easement Resolution
- ✓ Purchase and Sale Agreement
- ✓ Draft conservation easement
- ✓ ERRCT environmental questionnaire
- ✓ Pre-Closing Inspection Form

Non-ERRCT documents used;

- ✓ Appraisal
- ✓ Baseline Documentation Report
- ✓ Third party mineral rights release of right of surface entry
- ✓ Geologist remoteness opinion
- ✓ Phase I environmental assessment
- ✓ Baseline Report
- ✓ Title Investigation

Note: If agency funding is involved, the process may take 24+ months to complete. If agency funding is not involved, the process may take 9+ months to complete.