

# Agricultural Land Easement (ALE) Grants

The availability of Federal funding can be extremely helpful to supplement State, County, Municipal and Nonprofit dollars and leverage funding for preservation of more farmland through the SADC Farmland Preservation Program.

The U.S. Department of Agriculture (USDA) Natural Resources Conservation Service (NRCS) offers an opportunity for eligible partners to receive financial assistance to purchase easements on farmland through the Agricultural Land Easement (ALE) component of the Agricultural Conservation Easement Program (ACEP).

The NRCS may provide a grant up to 50 percent of the fair-market value of the easement. Where NRCS determines that grasslands of special environmental significance will be protected, NRCS may contribute up to 75 percent of the fair-market value of the agricultural land easement.

However, the ALE grant requires certain provisions in the Deed of Easement that are different than the standard Deed of Easement utilized in connection with typical SADC Farmland Preservation Program transactions. This guidance document reviews the additional restrictions in an attempt to assist landowners and program partners in understanding these additional requirements. Please note that "Premises" refers to the preserved acreage exclusive of any exception areas.

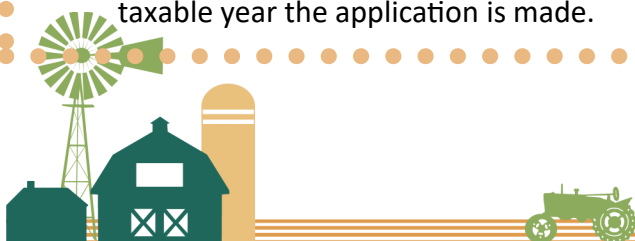
## The eligibility requirements for the ALE grant include:

- Land is privately owned;
- At least 50% is Prime, Important or unique soils;
- Landowners must be enrolled in their local USDA Service Center Agency's customer records system; and
- Landowners must have an average Adjusted Gross Income (AGI) of less than or equal to \$900,000 for the 3 taxable years preceding the taxable year the application is made.

Applications are ranked 1-2 times per fiscal year and selected subject to available funding. The ALE closing process is fairly similar to that in the SADC's farmland preservation program. As always, good cooperation and communication result in a smoother and quicker closing.

Every landowner should thoroughly read and understand the Deed of Easement that will be recorded on the farm when the easement is purchased. This document is intended to highlight some of the most important additional requirements of the ALE Deed of Easement.

**NOTE:** The information contained in this document is for general guidance only and is not to be considered legal advice. The SADC encourages you to consult with an attorney and/or other professionals regarding your rights and obligations under the ALE program.



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## The primary additional restrictions/conditions in the ALE Deed of Easement include:

- **Prohibited Uses:** Sod farming, ball and burlap operations and any activity that violates federal criminal statutes (such as the growing of marijuana plants) are prohibited.
- **Impervious Cover Limitation:** There is a maximum impervious cover limitation on the preserved acreage, outside of any exception areas, typically ranging from 2-8% based on an NRCS formula. Impervious surfaces are defined as material that does not allow water to percolate into the soil on the Premises, including, but not limited to, buildings with or without flooring, paved areas and any other surfaces that are covered by asphalt, concrete or roofs, excluding NRCS-approved conservation practices.
- **Future Construction:** "Building Envelopes" for existing improvements and future construction of agricultural and permitted residential buildings are defined and approved prior to closing. These areas may be updated with NRCS approval, however, they may not increase in size. All future building construction must occur within the Building Envelope.
- **Division of the Premises:** The potential for future subdivision of the farm must be defined in the Deed of Easement. For example, if the owner of a 150 acre farm wished to reserve the right to subdivide the farm once in the future, resulting in 2 separate farm units, the landowner must request, and the NRCS must approve, providing for that future opportunity in the Deed of Easement. This opportunity for division does not guarantee future approval. Any future division request require the approval of the Easement holder, SADC and NRCS.
- **ALE Plan Implementation:** The purpose of the ALE easement is to protect the agricultural use, including pasture use, and related conservation values of the Premises. The ALE plan is a type of conservation plan that identifies the landowner's objectives, resource concerns and management strategies and goals. The ALE plan is designed to meet NRCS minimum criteria. The landowner/farmer are active participants in its development and have the opportunity to approve all required management techniques in the plan before the sale of the easement. No additional practices can be added to the ALE plan without the landowner's approval; however, the ALE plan is intended to be a living document and may be revised or updated as necessary, through mutual agreement to reflect current farm management. The ALE Plan is required prior to closing and the landowner is obligated to implement the ALE Plan.
- **Enforcement Action Costs:** The Grantee will enforce the easement and monitor the ALE plan. If the Grantee fails to enforce the easement and the USDA is required to enforce easement and monitor the ALE plan, the landowner will have 180 days to take corrective action to come into compliance. If this corrective action does not occur and USDA institutes an enforcement action, the USDA may seek reimbursement for its costs related to the enforcement action from the Grantee and landowner.



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## Additional conditions within the ALE Deed of Easement:

- Forest management and timber harvesting must be performed in accordance with best management practices. If the Premises contains at least 40 contiguous acres of forest or at least 20% of premises is forested (whichever is less), timber harvesting must occur in accordance with New Jersey forest stewardship or woodland management plan prepared in consultation with the Grantee.  
Forest management plans are not required for certain noncommercial activities including the construction of permitted road, utility or structural improvements on the Premises, cutting for personal firewood use and the removal of trees posing an imminent hazard or to remove invasive species.
- Restrictions for haying, mowing and harvesting for seed during certain nesting seasons for birds whose populations are in significant decline may be included in the ALE plan if the property is in grassland use, enrolled in an ALE grassland program, or funded for conservation purposes that include conserving or restoring grassland uses or grassland-dependent species. Such restrictions do not apply to properties that do not fall under one of those three categories.
- The mining or extraction of mineral substances from the property using mining or dredging techniques is prohibited. The only exception to this prohibition is the extraction of these materials used in support of the agricultural operations, such as a borrow pit. Such extraction is limited to a pre-defined area or acreage on the Premises, which may be altered or relocated in the future with approval of the NRCS. This limitation does not apply to grading, construction of irrigation ponds, and other normal site activities conducted in compliance with the ALE plan, nor site preparation activities necessary to facilitate construction of improvements as permitted in the defined building envelope.
- Maintenance of existing roads and trails is permitted, however widening and improvements must stay within the impervious surface limitations, must be necessary for allowed uses on the premises and require Grantee approval. New roads may be constructed if they are within the impervious surface limitations, approved in advance by the Grantee and necessary to carry out the agricultural operations or other allowed uses on the Premises. Granting or modifying easements for roads is prohibited and therefore appropriate future public right of way should be reserved prior to closing.
- The landowner may derive income from certain outdoor recreational activities. As with the standard SADC deed of easement, the activities must use the Premises in its current condition and not interfere with the agricultural operations.
- The landowner may install utilities necessary for permitted uses on the Premises, including renewable energy, provided there is a minimal impact on agricultural use and conservation values of the Premises, and infrastructure is within the impervious surface limitations.



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## Acknowledgement of Receipt

By signing below, I acknowledge receipt of this guidance document.

\_\_\_\_\_

Print Name

\_\_\_\_\_

Signature/Date

\_\_\_\_\_

Print Name

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Signature/Date

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Print Name

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Signature/Date

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Block

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Lot

\_\_\_\_\_

Township

\_\_\_\_\_

County

\_\_\_\_\_

SADC ID#



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