

Steps for a Project Person to Follow in Completing a California Real Estate Transaction

<p>1 Prepare and Route a Preliminary Deal Abstract (“PDA”)</p> <p>Why: This is how you make sure that the California Program supports moving forward with the proposed deal and investing time and resources in the deal. The PDA is also a way to make sure that different California projects are not competing against each other for the same pots of funding.</p> <p>How: A form PDA and routing sheet are available on the Shared Drive.</p> <p>Note: If your deal is a Conservation Buyer Transaction (“CBT”), you’ll need to follow some steps that are not listed on this chart. Consult your attorney and review TNC’s Policies & Procedures regarding CBTs.</p>	<p>2 Obtain a Title Report</p> <p>Why: So you can confirm who owns the property and so you can begin reviewing title in order to determine whether there are any encumbrances on title that would affect your negotiations in the deal.</p> <p>How: Your paralegal will order the Title Report for you.</p>	<p>3 Provide a Uniform Relocation Act (“URA”) Notice to the Seller</p> <p>Why: If you will be using federal funds in the deal (either in the deed-in or in the later deed-out), federal law requires you to provide this notice. If you think there’s a chance that you’ll be using federal funds, you should provide this notice. The law requires this notice to be provided before TNC makes an offer in the deal, and the Worldwide Office has decided that it must therefore precede any LOI (see step #4).</p> <p>How: Your attorney will provide you with the appropriate form notice. Always have your attorney review the notice before you send it out.</p>	<p>4 Send a Letter of Interest (“LOI”) (Optional)</p> <p>Why: An LOI is optional. Some business people skip this step, but others do it because it can be useful for fleshing out basic deal points before you start investing a lot of time and energy in negotiating documents. LOIs should always be “non-binding,” and you need to word the LOIs very carefully to ensure that they are “non-binding.”</p> <p>How: Your attorney will provide you with a form LOI. Always have your attorney review the LOI before you send it to the seller.</p>	<p>5 Obtain a Disclosure Form from the Seller</p> <p>Why: This form confirms whether the Seller has a conflict of interest with TNC. Our Policies & Procedures require that you have this form completed and signed by the seller.</p> <p>How: Your attorney will provide you with the form. You should discuss any changes to that form with your attorney.</p>	<p>6 Negotiate Grant Agreements</p> <p>Why: Unless you’ll be using TNC reserves or taking out an internal Land Preservation Fund (“LPF”) loan, you’ll need to have more grant agreements so that you can pay for the acquisition.</p> <p>How: Work with your Grants & Finance Specialist.</p> <p>Note: Grant agreements must be entered into TNC’s Conservation Land System (“CLS”). Send a copy of each grant agreement to Mary Beth D’Alonzo.</p>	<p>7 Complete and Information Checklist</p> <p>Why: This is how you make sure Legal has all the basic information that Legal will need to draft documents for the deal.</p> <p>How: Your paralegal will walk you through the checklist.</p>
<p>8* Negotiate the Conservation Easement</p> <p>How: Your attorney will help you.</p> <p>Note: Steps throughout this chart that are applicable only if you’re doing a conservation easement deal are marked with an asterisk (*).</p>	<p>9 Obtain an Appraisal</p> <p>Why: To ensure that TNC is not paying more than fair market value for the property interest.</p> <p>How: Enter into a non-real estate contract with the appraiser. Make sure you carefully review the appraisal once you receive it.</p> <p>Note: If you’ve sent a URA notice to the seller and the appraisal shows a value that is materially higher than what you used in the URA notice, you might need to send an amended URA notice. Consult your attorney.</p>	<p>10 Negotiate the Purchase Agreement or the Option Agreement</p> <p>How: Your attorney will help you.</p>	<p>11 Have the Seller Execute the Purchase Agreement or the Option Agreement</p>	<p>12 Do an Updated PDA and a draft Real Estate Project Abstract and Resolution (“REPAR”)</p> <p>Why: To document any changes in the deal from the original PDA. You’ll need to route the Updated PDA in order to get the Purchase Agreement or the Option Agreement executed by TNC. You are also expected to attach to the PDA a draft REPAR for the deal (see step #15).</p>	<p>13 Have the Purchase Agreement or the Option Agreement Executed by TNC</p> <p>Why: Route the Purchase Agreement or the Option Agreement along with the Updated PDA and the draft REPAR. The Purchase Agreement or Option Agreement can be executed only by particular TNC staff who have received properly delegated written real estate approval authority.</p>	<p>14 Ensure that the Escrow is Opened and that the Deposit or the Option Consideration is Deposited</p> <p>Why: It’s required under the Purchase Agreement or under the Option Agreement.</p> <p>How: Your paralegal will handle this for you.</p>
<p>15 Continue the REPAR Process</p> <p>Why: This is how you request ultimate TNC approval to do the deal.</p> <p>How: Work with Mary Beth D’Alonzo.</p>	<p>16 Obtain a Phase I Environmental Site Assessment (“Phase I”)</p> <p>Why: TNC’s Policies & Procedures require that an environmental assessment be done before TNC acquires any property interest. In the California Program, we comply with that policy by obtaining a Phase I.</p> <p>How: Do a non-real estate contract with an environmental consultant. Make sure you carefully review the Phase I once you receive it.</p>	<p>17 Object to Title Exceptions</p> <p>Why: So that you can ensure that title is in the condition you want it to be in at closing. The objection notice that is sent to the seller will inform the seller of actions the seller needs to take in order to deliver the title in the appropriate condition.</p> <p>How: Legal will object to title for you but might need your input on with items to object to.</p>	<p>18* Order an Easement Documentation Report (“EDR”)</p> <p>Why: TNC’s Policies & Procedures require that an EDR be completed before closing a conservation easement deal.</p> <p>How: Do a non-real estate contract with an EDR consultant. Make sure you carefully review the EDR once you receive it.</p>	<p>19 Complete Due Diligence</p> <p>Why: This is how you make sure that you know of any problems, risks, or liabilities associated with the property.</p> <p>How: Legal will assist you, but it’s up to you to weigh the risks and determine whether to acquire the property interest.</p>	<p>20 Exercise the Option or the Waive Contingencies</p> <p>Why: This is the action that legally obligates TNC to acquire the property interest. Consequently, you must be certain at this point that you want to acquire the property interest and that any risk associated with the acquisition are acceptable to you.</p> <p>How: The letter/notice must be executed by the California Program’s COO or Director of Real Estate. Legal will prepare the letter/notice and will send it to the seller, but you will need to approve of the letter/notice and authorize taking this action.</p>	<p>21 Ensure Completion of and Full Approval of the REPAR</p> <p>Why: You can’t close the deal without having received this approval.</p> <p>How: Work with Mary Beth D’Alonzo to ensure timely completion.</p>
<p>22* Finalize the EDR</p> <p>Why: You can’t close a conservation easement deal without having the EDR finalized by the EDR consultant and certified by TNC and by the seller.</p> <p>How: Work with your EDR consultant. Legal will have the EDR certified by TNC and by the seller.</p>	<p>23 Review the Closing Documents and the Escrow Instructions</p> <p>Why: You can’t close the deal without these documents.</p> <p>How: Legal will draft the documents, but your attorney might need you to review and approve them.</p>	<p>24 Ensure that all Funding is in the Escrow</p> <p>Why: You can’t close the deal if you money’s not in the escrow.</p> <p>How: Work with your Grants & Finance Specialist to ensure that grant funding is in the escrow. Work with your paralegal to ensure that internal TNC funds are in the escrow.</p>	<p>25 Do a Final Walk-Through of the Property</p> <p>Why: To make sure that the conditions of the property have not changed.</p> <p>How: Visit the property and report to Legal in writing.</p>	<p>26 Review the Closing Statement</p> <p>Why: To make sure fees and costs and funds are allocated correctly.</p> <p>How: Legal might need you to review the closing statement.</p>	<p>27 Authorize Closing</p> <p>Why: Escrow can’t close until the Project Director authorizes closing in writing.</p> <p>How: Deliver your written authorization to Legal.</p>	<p>28 Announce and Celebrate Closing</p> <p>How: Work with the Market Resource Center, as appropriate, to coordinate external announcement.</p>
<p>29 Review Closing Memo</p> <p>Why: The closing memo is the vehicle by which the transaction will be entered into and tracked in TNC’s CLS database. It’s also a way to memorialize post-closing actions that need to be taken with respect to the property.</p> <p>How: Legal will prepare the closing memo, but your attorney might need you to review and approve it.</p>	<p>30 Complete Post-Closing Actions, Including Compliance with Grant Agreements</p> <p>Why: There are often many post-closing actions that you will be responsible for taking.</p> <p>How: The closing memo will list your post-closing responsibilities. Work with your Grants & Finance Specialist in identifying, calendaring, and accomplishing post-closing grant requirements.</p>	<p>31 Make Sure the Property is Properly Covered by TNC’s Insurance</p> <p>Why: TNC’s Policies & Procedures require proper insurance coverage.</p> <p>How: Work with your Operations Manager and, as appropriate, with TNC’s insurance broker.</p>	<p>32 Schedule and Complete Annual Monitoring</p> <p>Why: TNC’s Policies & Procedures require annual monitoring of conservation easements. It’s also a good idea to visit fee interests at least annually in order to check on the condition of the property.</p> <p>How: Work with Lynn Lozier and ConservationTrack.</p>			

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