

The Conservation Easement Process Step By Step

Protecting your land with a conservation easement is a relatively straightforward process, and our board and staff are here to help walk you through each step. In this letter we wish to give you an overview of process from start to finish, including many of the typical components and costs associated with each.

Step 1: Preliminary Site Visit

We begin every one of our conservation projects by visiting with you, the landowner, and your land. By touring your property, taking photos and observations, listening to your stories and vision for its future, we are able to get a better picture of your property's conservation values. We will use these photos and observations to begin preparation of a Baseline Documentation Report for you (see below) and to present your project to our full Board of Directors for preliminary approval. Once we all agree to pursue this project, we will dive into the heart of the preparation process.

Step 2: Due Diligence & Document Preparation

In order to properly protect your property for perpetuity, there are a number of processes that must be completed. The most common of these are explained for you here.

Baseline Documentation Report – The baseline documentation report (“baseline”) is a full report of the property and its conservation values, including photos, maps, narratives, physical descriptions, and information about ownership and access. It describes the conservation values of the property at the time you establish the conservation easement. We will begin compiling this report during our initial site visit with you. Shortly before you sign the final easement document, we may come back to your property to take further observations and update the report for you.

If you expect to apply for a federal or state tax incentive, please be aware that it is ultimately the landowner's responsibility to provide baseline documentation for your property. We offer baseline services to our landowners, but should you wish to obtain a different or more in-depth report than the one we provide, please know that you are welcome and encouraged to do so.

- Completed by: the Land Trust (or landowner's agent, if requested)
- Paid for by: the Landowner
- Must be signed by both Landowner and Land Trust at closing

Title Report, Insurance, & Mortgage Subordination – A title report is a legal document identifying all owners of the property, any lien holders or mortgages, encumbrances and pre-existing easements (i.e. gas or power line), and must be completed before closing on the easement. Typically, the Land Trust will order the report early in the process, and have it updated just before closing. In the case that you have a mortgage on your property, we will need to consult with the

lending agency to secure from them a letter of subordination. This simply states that, in the event of a foreclosure, the lender agrees to the terms of the conservation easement and that the easement will not be extinguished.

- Completed by: the Land Trust, and the Land Trust's title search agent
- Paid for by: the Landowner

Note: *A deposit of \$500 for these expenses will be required before beginning due diligence and conservation easement negotiations*

Survey & Legal Description - A surveyed plat and legal description are also crucial components in the conservation process. These two documents help identify the exact property being protected by the conservation easement. The survey is a graphic representation of the property's size, shape, and location, while the Legal Description provides a written legal description of the property's meets and bounds. Both the survey and legal description will be attached to the final conservation easement. In many cases, a current survey and legal description can be obtained at minimal cost from the County Records office.*

- Completed by: A licensed Land Surveyor authorized to practice in the State of Georgia, for properties located in Georgia, or South Carolina, for properties in South Carolina
- Paid for by: In the case that a new survey is needed, the survey shall be paid for by the Landowner.

Note: *If your conservation easement allows for the construction of any additional structures in the future, a survey must be completed showing the locations where construction is permitted.*

Conservation Easement Document – This is the main document which protects your property's conservation values. It defines the conservation values of the property, outlines the activities and uses prohibited in order to preserve those values, describes the public benefit of conserving the property with the Easement, outlines ways in which the Land Trust will ensure your conservation wishes will be fulfilled in perpetuity (forever), and provides the mechanism for resolving future issues. The details of the conservation easement document will be discussed and negotiated by you, the landowner, your legal counsel if you wish, and the Land Trust. We will spend considerable time with you ensuring that your wishes for your property are properly described, and preserved in this document.

- Prepared by: the Land Trust
- Paid for by: the Land Trust
- Must be signed by both the Landowner and Land Trust and recorded at the County records office. The date the document is recorded becomes the effective date of the Easement.

Stewardship Gift – As a non-profit organization, the Land Trust must rely upon charitable contributions to support our conservation initiatives. A portion of this support is obtained through stewardship contributions donated in concert with the donation of conservation easements. When you place a conservation easement on your land, the Land Trust accepts the responsibility for managing and upholding the easement’s terms forever. This responsibility comes with predictable expenses, including the cost to establish and then annually monitor your easement in perpetuity, the cost of annual conservation easement defense insurance, as well as the risk of larger expenses for enforcing the easement in court should a violation occur in the future. At the end of the day, we must have the resources necessary to keep our promise to you to protect your land forever.

In order to do this, we request a one-time, tax-deductible donation from each of our landowners. This donation, or “stewardship gift,” will be used to provide for the costs associated with establishing, monitoring, and defending our easements. The size of the gift requested will be based on the property’s annual monitoring costs, which will be determined once you and I determine the terms of your easement. A receipt for your tax records will be provided to you at the time of your donation.

Note: *Other costs and fees associated with the easement process are business expenses, which may also be tax deductible. We suggest you consult your tax advisor for details on this.*

IMPORTANT NOTE: **In order for your conservation project to be considered for completion in a given calendar year, the following items must be completed before December 1st of that year:**

- Preliminary Title Report - to be updated shortly before closing
- Baseline Documentation Report - to be updated with current photos and current observations shortly before closing only
- Final Conservation Easement language agreed upon by landowner and Land Trust
- Map of the Property or area of the Property to be conserved, with acreage calculation
- Appraisal and completed Form 8283, for owners other than individuals, sole proprietorships, or family partnerships

The Board reserves the right to table final approval of a conservation project until after the New Year if these above-listed items are not received by December 1st. Work on the conservation project may then resume after the New Year.

Step 3: Closing and Recordation of the Conservation Easement

Once all the documents have been finalized, the Land Trust will schedule a time to meet with you to sign them. The conservation easement and Baseline Documentation Report will be signed by all property owners and the Land Trust. A closing attorney will secure a Certificate of Title Insurance. The conservation easement document will then be recorded in the County courthouse. Stewardship gift donations will also be made at this time.

Overview of those items paid for by the Land Trust:

- ◆ Site Visit(s) to your property
- ◆ Conservation Easement Document
- ◆ Annual Monitoring Visits for perpetuity
- ◆ Conservation Easement Defense Insurance
- ◆ Any Legal Costs to defend your Conservation Easement

Overview of those items paid for by the Landowner:

- ◆ Property Title Report and Insurance (deposit required)
- ◆ Baseline Documentation Report
- ◆ Survey and Legal Description (if needed)
- ◆ Closing and Recording of Conservation Easement
- ◆ Stewardship Gift
- ◆ Appraisal

Step 4: Claiming a Tax Deduction (optional)

In order to qualify for a tax deduction for your donation of a Conservation Easement, you must obtain an appraisal of the value of your conservation easement from a qualified appraiser licensed to practice in the State of Georgia. The value of a Conservation Easement is generally the difference in the fair market value of the property before and after the easement is placed on it. The appraiser will determine the value of the land with the development restrictions you placed on your land through the easement, and will evaluate those values with the land values derived from an economic analysis of the highest development/yield potential for your land.

In order to claim a tax deduction, you must file a Form 8283 with your income tax return for the year of donation. The Form 8283 must be signed by both your appraiser and the Land Trust. An information sheet to help you with this process will be provided by the Land Trust. However, we recommend that you obtain your own independent tax advice, as the Land Trust cannot serve as your tax advisor.

Note: For conservation projects where the owner is anyone other than a single individual, sole proprietorship, or family partnership, the Land Trust requires receipt of the appraisal and completed Form 8283 with all attachments sufficiently prior to closing on the conservation easement as to have ample time to read, review, and ensure compliance with all Land Trust, IRS, Land Trust Accreditation Commission, and any other pertinent requirements. The Land Trust will not participate in Tax Shelter Transactions, as defined by the Land Trust Alliance and the Internal Revenue Service. (Ref. Land Trust Alliance Tax Shelter Advisory, published February 5, 2018 and any subsequent revisions thereof)

Before signing the 8283, the Land Trust must have ample time to review a full copy of your appraisal(s). Please be advised, that the Land Trust will not knowingly participate in a conservation project if it has significant concerns about the type or amount of tax deduction being

sought after by a potential conservation easement donor. The Land Trust reserves the right to not sign a donor's Form 8283. In the event that we do not sign the Form 8283, you may submit the Form along with an explanation.

- Prepared by: A qualified appraiser familiar with conservation easement valuation, and licensed to practice in the state in which the property is located.
- Paid for by: The appraisal is ordered by and paid for by the Landowner. The Land Trust may provide recommendations on qualified appraisers in the area, but by law, we cannot be relied upon to establish the monetary value of your property or whether it qualifies for a tax deduction.
- Timeframe: The appraisal must be dated no earlier than 60 days prior to the effective date of the conservation easement and no later than the date of closing of the conservation easement.

Step 5: Monitoring the Conservation Easement

Federal regulations obligate the Land Trust to conduct field visits in perpetuity to ensure that the requirements of the conservation easement are being met. The Land Trust monitors all of its conservation easements on an annual basis through a prearranged visit with the owner. Each year, the Land Trust will contact you and schedule a time to visit your property, take photos, and update the Baseline Documentation Report to keep the property's file current. You may be present for this visit if you wish, but it is not always necessary. After we finish compiling our report, we will send you two copies for you to sign: one to keep, and one to return to us.

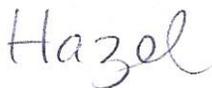
If you or we should encounter a violation of the easement, we will contact you and attempt to resolve the problem as quickly and efficiently as possible.

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Your decision to protect your land's natural resources is a noble one. You will be making a mark on our landscape that will last for generations to come. You may also enjoy certain tax benefits in the short-term as well. We are excited to be partnering with you in this important endeavor. We hope that this letter has helped explain the details of the conservation easement process and that we have answered many of your questions. If you have any additional questions that we can answer, please contact me. I can be reached at the address/telephone number on this letterhead, via e-mail at hazel@csrlt.org, or on my mobile phone: 831-521-3481.

I look forward to working with you.

Sincerely,



Hazel Cook
Executive Director

The Conservation Easement Process An Overview

- 1. Initial Meeting and Site Visit** (*landowner + CSRLT staff*)
- 2. Board Review:** Project Proposal, Notice to Proceed given (*CSRLT Board*)
- 3. Due Diligence Deposit** (*paid by landowner before work begins*)
- 4. Due Diligence** (*completed by CSRLT staff, contractors, and landowner’s agents*)
 - ◆ Site Visit(s), with landowner as necessary
 - ◆ Baseline Documentation Report
 - ◆ Property Title Report and Insurance
 - ◆ Mortgage Subordination (if necessary)
 - ◆ Survey and Legal Description
 - ◆ Conservation Easement Appraisal (if claiming a tax incentive)
 - ◆ Form 8283 – *filled out/signed by landowner, then signed by appraiser and, lastly, CSRLT*
- 5. Conservation Easement** (*language agreed upon by landowner and CSRLT staff*)
- 6. Board Review:** Due Diligence & Conservation Easement, Final Approval given (*CSRLT Board*)
- 7. Conservation Easement Signing Day** (*landowner & CSRLT Staff*)
 - ◆ Balance of Due Diligence Fees paid by landowner
 - ◆ Conservation Easement & Baseline Report signed by landowner and CSRLT staff
 - ◆ Stewardship Gift given by landowner
 - ◆ Tax Receipt letter given by CSRLT
- 8. Conservation Easement Recorded at Courthouse** (*CSRLT Staff*)

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Congratulations, your land is now officially protected, forever!

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- 9. Claiming a Donation/Tax Filing** (*landowner – optional*)
 - ◆ Federal: Conservation Easement, Appraisal, and signed Form 8283 with attachments
 - ◆ State: State Tax Credit application (if applicable) – *sent to state agency*

We recommend that you consult a tax professional for specific instructions and advice regarding claiming a donation. By law, the CSRLT cannot serve as your tax advisor.

- 10. Long Term Stewardship** (*landowner + CSRLT Staff*)