



Land Trust of Virginia Conservation Easement Consent Form

Donation of a conservation easement is an act of land protection that will permanently affect how your land may be used in the future. Your easement donation is completely voluntary, and you may change your mind at any time until you have signed and delivered the easement to the Land Trust of Virginia (LTV) for recordation.

All restrictions on the use of your property under easement are contained in the deed of easement. After the deed of easement is signed and recorded, these restrictions become permanently binding on you and all subsequent owners of the easement property. The easement and other information related to the donation that you provide to LTV will become a matter of public record.

The Land Trust of Virginia does not provide legal or tax advice. You should consult with your advisors on estate planning, real estate, and tax matters, and have an attorney assist you in the review of the easement throughout the process. You will also need your attorney to review with you the effect of the gift of easement on your estate plan.

Easement donors who wish to claim a federal or state income tax deduction or state tax credit must ensure that the project meets the requirements of IRC § 170 and the accompanying Treasury Department regulations and/or any other federal or state requirements.

LTV requires that an appraisal be produced although it is not involved in the appraisal process. If you intend to take a federal tax deduction or to claim a state tax credit for a non-cash charitable gift, it is your responsibility, for gifts of property valued at more than \$5,000.00, to engage a qualified independent appraiser to determine the value of the gift and provide you with a qualified appraisal. The timing of the appraisal is essential: it cannot be made earlier than 60 days before the date of the gift, and must state the fair market value of the gift as of the date of the contribution. The entire written appraisal and Appraisal Summary (IRS Form 8283) must be received by the donor on or before the due date (including extensions) of the tax return on which the deduction is claimed. LTV strongly recommends the use of a *Certified General Appraiser* who follows the Uniform Standards of Professional Appraisal Practice. LTV will require a copy of any appraisal produced. You are responsible, not LTV, for any determination of the value of the donation, but LTV will not knowingly participate in projects where it has significant concerns about tax law compliance.



In order to claim a state tax credit you will be required to submit a form to the Virginia Department of Taxation describing the easement being donated, the conservation purpose(s) being served by the donation, the fee simple value of the property being donated in absence of the restrictions set forth in the easement, the public benefit being derived from the donation, the extent to which water quality best management practices will be implemented on the property, whether the property is fully or partially forested, and, if so, whether a forest management plan is included in the terms of the donation. In addition, if you think that the appraised value of the easement may equal or exceed \$2.5 million and you intend to claim a state tax credit for the gift, then you and your attorney should make certain that the terms of the easement meet or exceed the conservation value review criteria adopted by the Virginia Land Conservation Foundation.

You may transfer unused but otherwise allowable state tax credits for use by another taxpayer on Virginia income tax returns. In the event that you decide to transfer a state tax credit to another taxpayer, the Virginia Department of Taxation will charge a fee on the transfer of the tax credit.

If there is a mortgage on the property to be placed under easement, the mortgage holder must subordinate the mortgage to the easement so that the easement will continue to protect the property after sale in the event of a foreclosure. In addition, subordination by the holder is necessary for the easement to be tax deductible under federal tax law. You or your attorney should contact the mortgage holder as soon as possible, but certainly no later than a final draft of the easement is complete, as the subordination process may take some time.

Finally, you must also have prepared, at your expense, a Baseline Documentation Report, documenting the condition of the property at the time of the donation, that meets applicable tax requirements and that is satisfactory to LTV.

Please note again that the Land Trust of Virginia does not provide legal or tax advice. You should consult with your advisors on estate planning, real estate and tax matters and have an attorney assist you in the review and drafting of the easement throughout the process. You will also need your attorney to review with you the effect of the gift of easement on your estate plan. You or your attorney should contact the mortgage holder as soon as possible, but certainly no later than a final draft of the easement is complete, as the subordination process may take some time.

Please sign and return to this statement to LTV staff.

I acknowledge that I have read and understand the above information.

Owner's Signature

Date

