

Steps to Donating a Conservation Easement

Donating or selling a conservation easement to the Sheridan Community Land Trust offers you the landowner a distinctive way to permanently preserve your property while continuing to own and enjoy your land, sell it, or eventually pass it along to heirs or beneficiaries intact. By conserving your land you may benefit from significant income tax, real property tax, and estate tax savings.

Conservation easements are commonly used to conserve landscapes and limit future development, while often providing some form of financial advantage, either through a charitable contribution, payment for the value of the easement, decreasing estate tax exposure, or a combination of these. The following is an overview of the major steps along the way to the donation or sale of a conservation easement to SCLT. We have found it helpful to inform landowners ahead of time about the easement process so they know what to expect and can ask any questions they may have regarding the process. It is our desire to smoothly, clearly, and efficiently navigate the often complex elements of a conservation easement while honoring the landowner's vision for their property.

1. Introduction to SCLT. Fully understanding your family's vision for your property, including your intended uses and conservation desires, is critical to the success of a relationship between you and SCLT. This is an initial meeting where you, the landowner, have the opportunity to share with SCLT staff your goals, needs, and interests regarding your property, as well as express specific concerns and questions that apply to your particular situation. In turn, SCLT staff will explain the mission and goals of SCLT, how conservation easements work, as well as address your specific concerns and questions.

This initial conversation gives us a chance to explain to you the benefits of conservation, some background on SCLT, potential issues with the project, and next steps. We will provide you with written materials summarizing our work to-date and the potential benefits associated with the donation or sale of conservation easements.

2. Property Visit. SCLT will arrange a site visit with you and / or other family members to assess your property's conservation values, natural features, and how your property compares in keeping with the mission of SCLT. Key conservation values include scenic views, water quality and stream protection, wildlife habitat and open space protection, and retaining working agricultural land.

3. Initial Property Analysis. SCLT will take the information gained from this property visit and create an initial snapshot of the conservation merits of your property. This "Property Analysis" will be presented to SCLT's Conservation Easement Work Group for discussion. If it is determined by the Work Group that an easement on the property would be supported by SCLT's mission, the Work Group will recommend this to SCLT's Board of Directors who then authorize staff to continue to pursue an easement. This does not constitute formal organizational approval of the easement. If you are interested in selling a conservation easement to SCLT, the property analysis will include an estimated value of the easement, and will be compared against other easement purchase projects while SCLT investigates the fundraising potential for the easement.

4. Letter of Intent. SCLT will draft a non-binding letter of intent for your consideration, memorializing landowner and land trust interest in the project. This will include a summary of the proposed easement project and estimated costs borne by the landowner.

5. Legal Description and Property Title Review. The landowner submits a legal description of the property to SCLT who then researches the details of your property's title in order to determine if there are title-related issues that need to be addressed by the conservation easement, such as third-party ownership of natural resources (gas, oil, and/or minerals), access easements, mortgage subordination, liens, and other potential complexities.

6. Minerals Report. SCLT requires a standardized Minerals Report to be completed for the property to determine that the probability of surface mining is "considered to be so remote as to be negligible" as per IRS easement requirements. This is required even if no IRS benefit is being pursued by the landowner.

7. Draft Conservation Easement. Because the recording of a conservation easement is permanent and runs with a property forever, it is critical that you and your family fully understand and endorse the terms and conditions of the conservation easement. One of the benefits of easements is that they are customized to meet your needs and to fulfill your vision for your land while also conserving your property's key conservation values. SCLT prepares the first draft of the easement and then the landowner and his/her lawyer review and discuss it. This can require a significant amount of time depending on the complexity of the easement. SCLT is in frequent contact with you the landowner, and/or your representatives, in order to create a clear, mutually acceptable easement document. Although SCLT works diligently to craft each donated easement to meet the IRS requirements, SCLT cannot and will not guarantee the federal acceptability of any donation.

8. Conservation Easement Work Group and Board Approval. After a draft conservation easement has been finalized through close consultation with the landowner, the final draft is presented to SCLT's Conservation Easement Work Group. This Work Group reviews each of SCLT's easement documents and, when satisfied with the language/terms of the easement, makes an official recommendation on the final draft to the full Board of Directors, as each project requires review and approval by SCLT's Board of Directors.

9. Board Discussion and Attorney Review. The Board of Directors will review and discuss all elements of the proposed easement and the final draft easement document. Minor changes may be made before the document is passed on to SCLT's attorney for final review. Any significant changes at this juncture will be reviewed and approved by the landowner before SCLT attorney review.

10. Baseline Inventory of the Property. A baseline inventory documents the condition of the property at the time of the donation. The inventory, recognized in the tax code, describes the natural features of the property and includes detailed maps and photos documenting the conservation values. This document becomes an exhibit to the conservation easement and is required by the tax law. SCLT staff, in most cases prepares the baseline inventory at no cost to the landowner. However, you may elect to engage a qualified consultant to prepare the inventory at your cost.

11. Legal Description of the Property. Similar to any real estate transaction, SCLT requires an accurate legal description and survey of the property. If the property does not have a recent survey, we can arrange the completion of a survey for you, although the cost is typically borne by

the landowner. This legal description will be reviewed by a Title agency prior to finalizing any easement.

12. Executed Conservation Easement. Again, similar to most real estate transactions, all owners of the property will sign the attorney-reviewed easement before legally recording the conservation easement with the county register of deeds. If the easement is being purchased, the financial transaction will happen at this step as well. SCLT safeguards the original easement in a secure, off-site storage unit and provides a copy to you for your records.

13. Stewardship Donation. SCLT requests each donating landowner to consider a contribution to SCLT's Stewardship Fund. The Stewardship Fund helps SCLT pay for all costs associated with permanently stewarding and monitoring the property, including annual site visits.

14. Appraisal and Claiming Tax Benefits for the Donation. In order for an easement donor to be eligible for tax benefits, a qualified appraisal of the easement gift must be completed. SCLT can help with the appraisal process, but the ultimate responsibility of the appraisal resides with you, the landowner. Typically, you or your tax advisor presents IRS Form 8283 to SCLT for approval and signature acknowledging the gift. There are specific parameters and procedures regarding the appraisal process, most important is that the certified appraisal documenting the value of the conservation easement donation occur within the same tax year of, but no more than 60 days prior to, the donation. SCLT will not knowingly participate in a project where it has significant concern about a grossly inaccurate appraised value, the tax deductibility of the transaction or any situation that would risk our own tax exempt status.

15. Celebrating Partnership. *Congratulations and thank you for working with the Sheridan Community Land Trust to conserve and preserve the best of Sheridan County for the benefit of current and future generations!* Conserving your property is not the end; it's really just the beginning! After completing these steps and celebrating the permanent protection of your property, you, your family and SCLT will continue our working relationship to ensure your property's conservation values are permanently preserved. With our permanent commitment to the community of Sheridan County, we are readily available to answer questions, respond to concerns, discuss management and stewardship of your land, and identify potential funding sources for further improvements of the conservation values.

This document is intended as a general explanation for landowners who are contemplating the donation of a conservation easement. However, each landowner's situation is different and they should always consult an advisor before proceeding.