



CONSERVATION EASEMENT CONSENT FORM

Donation of a conservation easement is a decision 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 the easement is signed and delivered to the Valley Conservation Council (VCC). All restrictions on the future use of your property 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.

VCC makes no assurances as to whether the easement donation will be deductible, what monetary value of the gift will be acceptable by the Internal Revenue Service or the Commonwealth of Virginia, or if the donor's appraisal is accurate. VCC has fully informed you of the following responsibilities that you have in donating a conservation easement:

Responsibility to Obtain Independent Legal, Financial, and Tax Advice

The Valley Conservation Council does not provide legal, financial, or tax advice. We strongly suggest you obtain independent legal advice. An attorney should review all documents and determine the effect of the gift on your estate plan. You should also consult with your advisors on estate planning, real estate, and tax matters.

Responsibility to Meet Requirements for Tax Incentives

The Valley Conservation Council makes no assurances as to whether the easement donation will qualify for tax incentives or what the resulting tax benefits would be. If you intend to claim a federal tax deduction or a state tax credit, it is your responsibility to ensure the project is a "qualified conservation contribution" meeting the federal requirements (Internal Revenue Code §170(h) and the accompanying U.S. Department Treasury Regulations § 1.170A-14) and state requirements. 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 tax credit for use by another taxpayer on Virginia income tax returns. If you decide to transfer to another Virginia taxpayer all or a portion of the Virginia income tax credit that you may receive as a result of contributing a conservation easement, the Virginia Department of Taxation will charge a fee on each transfer equal to 5% of the dollar amount of the credit transferred.

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 a final draft of the easement is complete, as the subordination process may take some time.

Responsibility to Acquire Qualified Appraisal

The Valley Conservation Council makes no assurances about what the monetary value of the gift the Internal Revenue Service (IRS) or Commonwealth of Virginia will accept or whether a donor’s appraisal is accurate. The donor is responsible for any determination of the value of their donation and should commission their own appraisals. For gifts of property valued at more than \$5,000, you must work with your attorney and appraiser to meet the federal requirements outlined in Treasury Regulations (§ 1.170A-13(c)). You must obtain a “qualified appraisal” prepared by a “qualified appraiser” that follows the Uniform Standards of Professional Appraisal Practice. The appraisal should be no earlier than 60 days prior to the date of contribution and before the due date for the tax return on which the deduction is first claimed. If the appraisal is after the donation, it must reflect the value of the conservation easement or fee property on the date of the gift.

If you intend to take a federal tax deduction or claim a state tax credit for a non-cash charitable gift, you will need to engage an independent appraiser to determine the value of the gift. VCC strongly recommends the use of a *Certified General Appraiser* who has experience appraising conservation easements. A list of these appraisers for the Shenandoah Valley will be provided to you at your request. We request a copy of the completed appraisal and will not knowingly participate in projects where we have significant concerns about the tax deduction.

Responsibility to Complete Form 8283

If seeking a federal deduction, the donor is responsible for completing and submitting Form 8283. The Valley Conservation Council will only sign this form if the information in Section B, Part 1 “Information on Donated Property” and Part 3 “Declaration of Appraiser” is complete. If VCC has significant reservations about the value of the gift, it may require additional substantiation of value and reserves the right not to sign Form 8283.

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

Signature

Date

Please attach a letter describing what is special about the property meriting protection, your goals for the conservation easement, and any additional items for VCC’s Board of Directors to consider.

Return to: Valley Conservation Council, P.O. Box 988, Staunton VA 24402