Conservation Easement Application

Please fill out this form to initiate the process of donating a conservation easement to the Blue Ridge, Central Virginia or Southern Virginia Land Conservancies. If you have any questions about the document, please reach out to Kacie Amstutz at kamstutz@brlcva.org or (540) 759 8469.

Return to: The Lemon House
1305 Maple Ave SW
Roanoke, VA 24016

or by email to: kamstutz@brlcva.org

Landowner or Primary Point of Contact

Name(s):

Mailing Address:

Phone Number:

Email:

Ownership Information

Property owner(s) as listed on deed:

When did you acquire the property? (*If the property is owned by an LLC or partnership, this is the date the most recent member was added to the partnership.)*

How was the property acquired? *(If the property is in an LLC or partnership, how did the partnership acquire the property*?)

If the property was purchased, what was the purchase price? If the property was inherited or gifted, what was the Fair Market Value at the time of gift?

If using Fair Market Value, was this an appraised value at the time of transfer? ☐ Yes ☐ No

LLC/Partnership Information *(only to be completed if property is owned by an LLC or partnership)*

If the property is owned by an LLC or partnership please list all members of the partnership indicating who has authority to execute documents on behalf of the entity, their relationship to each other, the date each member joined, each member's basis interest in the partnership, and the percent ownership interest of each member in the subject property. Please attach a copy of the entity's partnership agreement, operating agreement or bylaws to the application:

Is substantially all (>90%) of the donor entity owned by family members? ☐ Yes ☐ No

Before The Land Conservancy accepts the easement you will be asked to provide a resolution stating the following.
a. The transaction is authorized by the donor entity's decision makers.
b. The person signing the documents is authorized to sign on behalf of the donor entity.
c. Any actions taken up to the point of the resolution toward finalizing the transaction are ratified.
d. Nothing related to the transaction conflicts with any other agreement or law affecting the donor entity or the land.

Did any owner/member of the donor entity receive verbal or written promotional materials or information offering investment and an eventual charitable gift deduction to be claimed by the owner/member that is equal to or greater than 250% of such owner/member's basis in its ownership interest in the donor entity? ☐ Yes ☐ No

Is any owner/member of the donor entity projected to receive the benefit of a charitable deduction for federal tax purposes attributable to the easement or land donation that is equal to or greater than 250% of such owner/member's basis in its ownership interest in the donor entity? ☐ Yes ☐ No

Donor entity assumes all responsibility for such notices or disclosures as are necessary or desirable to comply with the Internal Revenue Code. Donor entity agrees to indemnify, defend and hold the land trust harmless from any claims, costs, expenses, fines, penalties, or other liabilities incurred by land conservancy or for which land conservancy may be liable under applicable law pertaining to the failure to give notice to IRS as and when required pursuant to IRS Rules. This provision survives closing of the donation. ☐ Yes ☐ No

Property Information/Characteristics

Property Address:

Number of Acres:

Parcel Numbers:

Do you own property in the immediate area? ☐ Yes ☐ No

If yes, please list parcel numbers:

Acres in forest: Acres in crops:

Acres in pasture: Acres in other use:

Please describe the property's current use:

Does the property have streams, springs or other water frontage? ☐ Yes ☐ No

If yes, please describe:

Does the property have unique resources (historic buildings or sites, caves, etc)? ☐ Yes ☐ No

If yes, please describe:

Please list all dwellings (homes, cabins, barn apartments, stationary trailers, etc.) on the property:

List all other buildings on the property:

Liens/Disputes/Existing Easements Do you have any mortgages or are there any liens on the property? ☐ Yes ☐ No

If yes, have you spoken with your mortgage holder about easement subordination? ☐ Yes ☐ No

Who is your mortgage lender:

Are there any other easements on the property such as for utilities or neighbor access? ☐ Yes ☐ No

If yes, please describe:

Are you enrolled in any Soil and Water Conservation District (SWCD) or Natural Resource Conservation Services (NRCS) Programs? ☐ Yes ☐ No

If yes, please describe:

Do you have a current Forest Stewardship Management Plan for the Property? ☐ Yes ☐ No

If yes, please attach to this application.

Do you have a current survey for the Property?

☐ Yes, Full Property ☐ Yes, Portion of Property ☐ No

If yes, please attach to this application.

Are there any boundary issues with neighbors? ☐ Yes ☐ No

If yes, please describe:

Are the mineral rights on the property intact? ☐ Yes ☐ No

If no, please explain:

Is there anything else unique about the property or other information that you want us to know?

Professional Advisor Information

The Land Conservancy requires that you be represented by an attorney through the easement donation process. Additionally, it strongly recommends that each easement donor work with experienced conservation easement professionals throughout this process. If you have not selected the professionals you wish to work with the land conservancy can provide a list of easement professionals upon request.

Has an independent promoter or third party played a role in facilitating the proposed conservation easement transaction or fee parcel donation or otherwise promoted, organized or secured the transaction? ☐ Yes ☐ No

If yes, list the organization:

Attorney:

Name and firm:

Mailing Address:

Telephone:

Email:

Appraiser:

Name and firm:

Mailing Address:

Telephone:

Email:

Other Professionals:

Name and firm:

Mailing Address:

Telephone:

Email:

Conservation Easement Consent and Acknowledgment

No Obligation. The Blue Ridge Land Conservancy, Central Virginia Land Conservancy and Southern Virginia Land Conservancy (The Land Conservancy) reserve the right not to participate in any transaction for any reason, and to withdraw from the conservation easement donation process at any time.

Voluntary and Permanent. The donation of a conservation easement is an act of land protection which will permanently affect how your land may be used in the future. You agree that your easement donation is completely voluntary, and you may negotiate easement terms and/or withdraw from the process up until such time as the easement is recorded at the courthouse. After the easement is signed and recorded it becomes permanent, binding on you and future owners, regardless of any IRS or state determinations regarding deductibility of your gift of easement. All restrictions on the use of the easement property are found in the deed of easement. Recorded easements are a matter of public record at the courthouse, although at your direction the Land Conservancy will refrain from publicizing your easement.

No legal or tax advice. The Land Conservancy does not provide legal advice, tax advice, promotional materials and does not make any tax statements. The land conservancy and its staff is working solely in its capacity as a qualified organization. *You are strongly encouraged to consult with your advisors on estate planning and tax matters related to the donation of a conservation easement and have an attorney assist you in drafting and the review of your easement throughout the process.*
The Land Conservancy will not make assurance as to:

1. Whether a particular land or conservation easement donation will be deductible.
2. What monetary value of the gift the IRS and/or state will accept.
3. What the resulting tax benefits of the deduction or credit will be, if any.

Qualifying donations. While The Land Conservancy will make every effort to see that the gift of an easement meets IRS and Virginia regulations, The Land Conservancy makes no assurances regarding the deductibility of any easement gift. The Land Conservancy considers all easement donations to be intended for a charitable gift and each easement must meet the requirements of IRC 170 and the accompanying Treasury regulations, state and federal requirements.

Appraisals. The Land Conservancy does not require a gift appraisal to accept the donation of an easement; however, if you intend to take advantage of the federal tax deductions, state tax credits and other tax benefits you will need to engage a qualified independent appraiser to determine the value of the gift. The Land Conservancy strongly suggests that you employ a Certified General Appraiser experienced in conservation easement appraisals who follows Uniform Standards of Professional Appraisal Practice (USPAP). You should understand that the timing and quality of your appraisal may impact the tax benefits you receive from your easement, and that the IRS states that the appraisal needs to be dated no more than 60 days prior to the easement's recordation or prior to the filing of the tax return for the period in which the easement was donated. The Land Conservancy makes no assurances regarding appraisals or easement valuations.

No obligation to participate or sign 8283. The Land Conservancy reserves the right not to sign the IRS Form 8283 for a gift in excess of $5,000 if it has concerns about the appraisal methodology, valuation or other concerns. The form 8283 must be completely filled out and The Land Conservancy must have the opportunity to review the appraisal to determine its appropriateness, prior to signing the form 8283. The Land Conservancy shall not participate in transactions in which it has concerns about the appraiser, appraisal methodology, valuation or tax deduction. *The Land Conservancy may require that it review the appraisal prior to signing the conservation easement.*

Federal and state tax benefits. In order to claim the VA state income tax credits from the gift of an easement, you will be required to send form LPC-1 to the VA department of Taxation. If the value of your easement is in excess of $1 million, then your easement will have to have certain specific protections as adopted by the Virginia Land Conservation Foundation. To claim federal and state tax benefits, a Baseline Documentation Report (BDR) is required which documents the conditions of the property at the time of the donation of your easement. While this report is the responsibility of the easement donor, you agree that The Land Conservancy shall prepare this report to ensure it meets The Land Conservancy's quality standards for future easement monitoring.

Abusive, syndicated or tax shelter transactions. The Land Conservancy requires a copy of your appraisal prior to closing when engaging in transactions with pass-through entities of unrelated parties. The Land Conservancy shall decline to participate in any transaction with pass through entities consisting of unrelated parties, particularly those offered or assembled by a third party or described in IRS Notice 2017-10 or otherwise described as a syndication by the IRS, in which:

-the appraisal indicates an increase in value more than 2.5 times the basis in the property, and
-the easement or property is donated within 36 months of the pass through entity's acquisition, and
-the value of the donation (not the deduction) is $1 million or greater.

The Land Conservancy shall decline to participate in any transaction involving a conservation donation by unrelated parties that appears to have all of the following characteristics as set forth in IRS Notice 2017-10:

-A pass through entity will make the contribution.
-Members of the entity are investors who have been solicited to invest in the entity.
-The investment is offered to investors in oral or written promotional materials.
-Promotional materials offer a possibility of a tax deduction that is at least 2.5 times the investment.
-The transaction is intended to result in a contribution for which a federal income tax deduction will be claimed by investors.

Material Advisor Reporting Requirements. By signing this application you acknowledge the potential applicability of the reporting requirements in 26 CFR 1.6011-9 (Syndicated conservation easement listed transaction regulations). The Land Conservancy will report and file Form 8918 if it determines itself to be a material advisor. Additionally, The Land Conservancy is able to decline to proceed or participate if the easement is determined to be a listed transaction and to avoid classification as a material advisor.

Subordination. 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 can continue to protect the property in the case of foreclosure. Your attorney should contact the lender early on in the process, as subordination can be very time consuming.

Deeds, title work, and surveys. As part of the easement process, The Land Conservancy requires a copy of your property deed(s), title insurance, title work showing clear title to your property, and a survey plat if available. The Land Conservancy may also require a new survey if clear property boundaries cannot be determined.

Costs and fees. You are responsible for your own attorney's fees, appraiser's fees, title search and opinions fees, title insurance costs, surveyor's costs, and any other expenses you may incur.

Please see the attached fee schedule for The Land Conservancy's fees and their due dates.

Conservation Easement Consent and Acknowledgment
Signature Page

I have read and acknowledge the above information and understand the information presented. The information I have provided is correct to the best of my knowledge. If any of the provided information changes during the process of donation a conservation easement I will notify The Land Conservancy as soon as possible.

I acknowledge that before The Land Conservancy accepts the easement I will be asked to provide a resolution stating the following:
a. The transaction is authorized by the donor entity's decision makers.
b. The person signing the documents is authorized to sign on behalf of the donor entity.
c. Any actions taken up to the point of the resolution toward finalizing the transaction are ratified.
d. Nothing related to the transaction conflicts with any other agreement or law affecting the donor entity or the land.

Signature: _____

Name: _____

Date: ☐☐ / ☐☐ / ☐☐

Signature: _____

Name: _____

Date: ☐☐ / ☐☐ / ☐☐

CENTRAL VIRGINIA LAND CONSERVANCY

BLUE RIDGE LAND CONSERVANCY

SOUTHERN VIRGINIA LAND CONSERVANCY

LAND SAVERS UNITED
CONSERVATION EASEMENT FEE SCHEDULE

Land Savers United (dba Blue Ridge Land Conservancy, Central Virginia Land Conservancy and Southern Virginia Land Conservancy) (LSU) provides an array of services to landowners free of charge, such as initiating the easement donation process, interpreting existing easements, reviewing and approving plans for activities on easement properties, and responding to questions and inquiries from easement landowners and prospective buyers. The following fees are set to defray the costs incurred by LSU during the easement donation process and to provide for the long-term stewardship, monitoring and enforcement of your conservation easement. Please note that paying the fee does not guarantee the approval or acceptance of your conservation easement. Fees are refundable if LSU declines to hold your conservation easement. All fees must be paid in full to LSU or held in escrow by your attorney before LSU will sign your conservation easement.

- **LSU Easement Fee:** *$6,500*
  - This fee must be paid in full to LSU or held in escrow by your attorney before LSU will sign your conservation easement. There are no other fees charged by LSU for information or assistance with your donation of a conservation easement.
- **Stewardship Fee:** *$5,500*
  - This fee must be paid in full to LSU or held in escrow by your attorney before LSU will sign your conservation easement. This fee helps to cover the cost of long-term monitoring and enforcement of your easement.
- **Reserved Rights Fee:** *$2,000*
  - For each division right retained as part of your easement this fee will be charged. This reflects the additional stewardship responsibilities created when an easement property is divided.
- **Baseline Documentation Report Additional Site Visit Fee:** *$1000*
  - The Baseline Documentation report is valid for 90 days after it is completed, prior to the easement being recorded. If the easement is not recorded in this time, an additional site visit will be required to ensure that the conditions of the site have not changed. If the delay is due to action or inaction on the part of the easement donor this fee will be assessed. If assessed, this fee must be paid in full to LSU or held in escrow by your attorney before LSU will sign your conservation easement.
- **Payment by Gift of Stock or Credit Card**
  - There will be a 5% charge added to any fee listed above if paid by gift of stock or with a credit card.