



COSTS ASSOCIATED WITH DONATED CONSERVATION EASEMENTS

This fact sheet is intended to be a resource that outlines the various costs an easement donor can expect to pay when donating a conservation easement to the Eastern Shore Land Conservancy (ESLC). Since each easement donor's situation is unique just like each property is unique, the services required and costs incurred may vary greatly among conservation easement projects. While the costs associated with donating a conservation easement can be considerable, they may be tax deductible. All easement donors are encouraged to seek professional tax advice regarding the deductibility of all costs associated with a conservation easement donation. Below is a general guide to the services commonly associated with the donation of a conservation easement.

ATTORNEY: ESLC strongly recommends all easement donors seek professional legal counsel from an attorney familiar with conservation easements and estate planning strategies. Placing a conservation easement on a property has permanent implications; therefore, careful consideration should be given before making this major decision. An attorney familiar with conservation easements and estate planning strategies can help an easement donor understand the donation process, review, and comment on the deed of conservation easement on behalf of the donor, and help provide a comprehensive estate planning strategy for the donor. The easement donor is solely responsible for hiring and paying for such legal counsel. ESLC cannot provide legal advice.

TAX PROFESSIONAL: ESLC recommends all easement donors seeking to take advantage of the federal and/or state tax benefits for easement donations seek the advice of a tax professional familiar with conservation easements and estate planning issues. Each easement donor's circumstances are unique. Only a tax professional can provide easement donors with the most current tax information and sound advice regarding the deductibility of the easement donation and the associated transactional costs. Tax professionals are also invaluable resources regarding strategies for estate planning. The easement donor is solely responsible for hiring and paying for such professional tax services. ESLC cannot provide tax advice.

APPRAISER: All easement donors who wish to take advantage of the federal and/or state tax benefits for easement donations must hire a qualified appraiser to determine the value of the conservation easement. ESLC can provide a list of Maryland appraisers who have completed the Land Trust Alliance's course entitled "Valuation of Conservation Easements". Easement donors should seek out a qualified appraiser who can work within the desired time frame and who has an acceptable fee for the service. The easement donor is solely responsible for paying for the appraisal used to determine the value of the donor's charitable contribution for tax purposes.

SURVEYOR, TITLE COMPANY, ENVIRONMENTAL ASSESSMENT...: These services are not always necessary for completing a donated conservation easement. Staff will inform the landowner if it is determined that one or more of these services are required. The easement donor is solely responsible for hiring and paying for these services.

REQUIRED MANAGEMENT PLANS: Some easement programs may require one or more management plans. The most common plans include Forest Stewardship, and Soil Conservation and Water Quality Plans. Often properties with over 5 contiguous acres of forest will need to have a Forest Stewardship Plan prepared with the management objectives identified in the easement. Easements funded by certain programs may also require the landowner to have a Soil Conservation and Water Quality Plan prepared and fully implemented. In the event that a one or both plans already exist for the property, they will need to be updated per the terms of the easement. ESLC can help the landowner identify the appropriate entity to prepare the plans, but the landowner is solely responsible for the cost and arranging for the plan to be drafted.

***ESLC PROCESSING AND PLANNING:** Since ESLC staff and board members spend considerable time processing, planning, and reviewing each conservation easement project (see ESLC's fact sheet titled "Key Steps to Complete a Conservation Easement" for an overview of the various tasks), an administrative fee must be charged for this service. After the initial conversation with the donor and before staff begins gathering information on the property, ESLC will require a \$500 Engagement Fee be paid by the easement donor to continue with the easement process. The minimum, total administrative fee will be \$10,000 (includes the Engagement Fee), but may be higher depending upon the complexity of the easement and the amount of negotiation and staff time required to complete the easement. The balance of the administrative costs are due before the easement is finalized and recorded in the land records of the appropriate county.

The base administrative fee for certain types of development and regulatory easements is \$20,000 as these easements tend to be much more costly to process than voluntary, donated easements.

*** ESLC STEWARDSHIP:** In accepting a conservation easement, ESLC forever assumes the legal obligation of carrying out the easement donor's wishes by upholding the terms of the easement. The original easement donor is not likely to violate his or her own easement, but as time passes and properties transfer, the risk of violation increases. We must be prepared to monitor and defend all of our easements against future violations. In order to fulfill this stewardship responsibility, and pursuant to standard land trust practices and procedures, ESLC charges, at minimum, a stewardship endowment fee in the amount of \$10,000 for every conservation easement donation. The fee could be higher depending on added stewardship burdens within the easement such as reserved subdivisions. This endowment fee is necessary in order for ESLC to successfully monitor, service, and enforce the easement in perpetuity. These funds are not used for ESLC's general operating expenses; rather, the money is deposited into a managed investment account that is used to steward and enforce our easements in perpetuity.

The base stewardship fee for certain types of development and regulatory easements is \$20,000 as these easements tend to have more issues associated with them than voluntary, donated easements.

**If you feel you can not afford some or all of the ESLC fees associated with a conservation easement, staff will work with you and the ESLC Board of Directors to explore options for covering the costs.*