

PECONIC LAND TRUST



PROCEDURES FOR MAKING GIFTS OF EASEMENTS

Initial contact between potential easement donors and the Peconic Land Trust may result from conservation activities or referrals from third parties. Initial meetings and a site visit will be held with the potential donor to discuss the location and purposes of the proposed easement, and the future stewardship responsibilities.

Authorization by the Trust's Board of Directors

The Board of Directors evaluates the merits of all potential donations. If the property satisfies the Trust's "Criteria for Conservation Projects," the Board will authorize Trust staff to negotiate terms and conditions related to the donation as well as the performance of any services on behalf of the donor to facilitate the donation.

Coordination of the Donation

With the approval of the donor, the Trust's professional staff coordinates a variety of tasks required to complete the donation of a conservation easement to the Peconic Land Trust:

- **Baseline Documentation** - an inventory of the current condition of the property. It may include site photographs, a recent aerial photograph, a topographic map, and identification of the natural resources on the site. This information enables the Board to a) verify the public benefit in acquiring the easement, b) identify and document the significant features of the property to be protected, and c) assess the future management needs of the site.
- **DRAFT Conservation Easement** - this draft easement will be developed in a collaborative effort by the Trust, our advisors, the donor, and his/her advisors. The document will reflect a) specific needs of the donor, b) characteristics of the subject property, c) aspects and features of the property to be protected, and d) the legal provisions of the document.
- **Appraisal** - the Peconic Land Trust encourages all donors to obtain a competent appraisal of the property by a qualified appraiser. The Internal Revenue Service has regulations that penalize donors and appraisers for the over-valuation of gifts. Ultimately, the donor must attach a copy of the IRS form 8283 for Noncash Charitable Contributions to his/her tax return. In

addition to the donor, this form must also be signed and dated by the qualified appraiser and the Trust.

- Title Report - the title report will: a) verify ownership, and b) identify possible encumbrances on the property such as liens, mortgages, covenants and restrictions. The prospective donor can assist the Trust by providing copies of existing title insurance policies and/or title reports.
- Mortgage Subordination - if the property is subject to a mortgage, the Internal Revenue Service requires that the lender subordinate its rights in the property to the rights of the easement holder. This protects the easement from being extinguished in the event of a foreclosure. The Trust is available to assist the donor in negotiating subordination with a lender, as necessary.
- Final Conservation Easement - the final easement document must be approved by the Board of Directors before it is signed. Once the easement is signed by the donor and the President of the Peconic Land Trust, the Trust will have assumed the legal obligation to insure that the terms of the easement are upheld.
- Deed of Conveyance - the Deed of Conservation Easement must be recorded with the Suffolk County Clerk, together with an executed Transfer Gains Tax Affidavit (TP-584). The Trust must be reimbursed for the recording fees and time.
- Charitable Stewardship Contribution - a gift of a conservation easement represents a significant sacrifice for any landowner. While the donor makes a generous gift with potential charitable tax benefits, the Trust assumes a liability, given the responsibilities and costs associated with its long-term obligation, to monitor the conservation easement. Because the IRS recognizes the charitable donation of the donor, they require that the Trust fulfill its conservation mission and responsibility to the greatest extent possible. Donors expect the Trust to fulfill this responsibility as well and, therefore, they make an additional charitable gift to underwrite the long-term management of the protected land. After a careful review of the management implications of any proposed gift of easement—size and type of site (wetlands, farmland, woodland, etc.), access, etc.—our Board of Directors will suggest a charitable contribution to the Peconic Land Trust Stewardship Fund to support the long-term management responsibilities of the Trust.
- Posting - the Trust's Stewardship staff and committee will post the property to identify its easement status, and monitor it annually.

Management Plan - the Trust can prepare a plan to assist the landowner with the long-term management of protected land, if so desired. This might include periodic mowing or planting, trail maintenance, wetland restoration, or managing leases of agricultural lands. The Trust acts as a stewardship partner with the landowner and is available to discuss any land issues that may arise.