



**SOUTHERN
VIRGINIA**
LAND CONSERVANCY

Southern Virginia Land Conservancy

Guidelines for Attorneys

The Southern Virginia Land Conservancy (SVaLC) strongly encourages every conservation easement donor to work with qualified legal counsel to help prepare their easement and assist in the process. The following guidelines have been prepared to assist attorneys in the process of working with (SVaLC) to accept a donation of a conservation easement.

1. SVaLC does not provide legal or tax advice, or sell Virginia Land Preservation Tax Credits.
2. Each potential easement donor (Grantor) must complete an *Application* with SVaLC to initiate the conservation easement donation process, available for download at SVaLC.org or by request from the land conservancy.
3. We encourage every donor and their attorney to complete a *Terms Sheet* early in the process with SVaLC staff.
4. SVaLC uses its own *Conservation Easement Template*, and all draft easements should adhere to that document (available for download or by request). Please note that as a private land trust in Virginia, SVaLC operates under different statutes than agencies such as the Virginia Outdoors Foundation, and language suitable for use in a VOF easement may not apply to a SVaLC easement. **The Conservation Easement Template is being updated and a new version will be released in March 2023.*
5. SVaLC reserves the right to prepare the baseline documentation report or engage a third party to do so.
6. SVaLC will provide assistance with identifying the conservation values of the property, as well as assistance with mapping of Exhibits and other needs at no cost, if requested.
7. SVaLC requires the donor to provide a title insurance policy, as well as a title bring-down report prior to closing. SVaLC also requires a copy of the deed showing the donor's ownership of the Property, and may also require a current survey if property boundaries cannot be determined.
8. SVaLC requires a one-time stewardship fee, paid to SVaLC prior to closing, in an amount



specified in the Application. At SVaLC's discretion, the fee may be paid to the donor's attorney and held in escrow until the easement is recorded. SVaLC does not make a determination if this fee is tax-deductible, and donors should seek qualified tax advice. This is the only fee charged by SVaLC.

9. While SVaLC will make every effort to see that the gift of an easement qualifies under IRS and Virginia regulations, the land conservancy makes no assurances regarding the deductibility of any easement gift. SVaLC reserves the right to decline any easement if the donor intends to pursue a tax deduction or credit, but SVaLC believes the easement will not qualify.
10. SVaLC strongly encourages the use of a reputable and experienced appraiser to value all gifts of easement, and reserves the right not to participate in a project if it is not confident in the qualifications or work of the chosen appraiser.
11. 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. The donor's attorney should contact the lender early on in the process, as subordination can be very time consuming.
12. For properties owned by an LLC or other pass-through entity, SVaLC may require additional information about the entity, including but not limited to its articles of organization, proof of registration with state government, and a list of members.
13. The donor is responsible for their own attorney's fees, appraiser's fees, title search and opinion fees, surveyor's costs, and any other expenses they may incur.
14. SVaLC approves conservation easements in a multi-step process: 1) staff visit; 2) land stewardship committee visit; 3) committee approval to proceed; 4) committee approval of draft easement; 5) board approval of draft easement. Board meetings are held quarterly in March, June, September and December, however, SVaLC can approve easements by means if time is of the essence.
15. The date of the gift on the easement document should predate all signatures by the Grantee, Grantor, and any parties subordinating their interests to the easement to avoid



all issues with subordination.

16. Normally the donor or their attorney will be responsible for recording the final approved conservation easement; however, SVaLC may be willing to provide this service if time is of the essence.

It is the aim of the Southern Virginia Land Conservancy to work closely with the donor and the donor's counsel to provide a smooth and successful donation of a conservation easement. If at any time you have any questions, please do not hesitate to contact the Southern Virginia Land Conservancy at (540) 985-0000 or by e-mail at ebender@brlcva.org (Emily Bender, Assistant Director). All forms are available on the website of the Southern Virginia Land Conservancy at SVaLC.org.

