

Conservation Easements – Fully Donated vs. Bargain-Sale Funded

Every conservation easement is personalized based on the specific property and the landowner's goals. Pee Dee Land Trust (PDLT) works with landowners to learn about the property's history, current land uses and the landowner's wishes for the future of the property. The terms of the conservation easement agreement, the restrictions and reserved rights, are discussed in detail to ensure the landowner is comfortable knowing these terms are permanent. Typically, the stronger the restrictions the higher the conservation value and the more reserved rights the lower the conservation value, which is determined by a specialized appraisal.

A qualified appraiser with experience appraising conservation easements prepares a standard appraisal of what the unencumbered property is worth today (the Before / Current value). The appraiser then considers all the terms in the conservation easement and evaluates what a landowner is 'giving up' (what is being restricted to not allow development) and the landowners 'retained rights' (the reserved rights of what the landowner can continue to do or build in the future) to determine the value of the property encumbered by the conservation easement (After Value). The difference between these two values is the Conservation Easement Value.

If a landowner chooses to 'donate' the conservation value to a qualified entity (like PDLT), that is called a **'fully donated conservation easement'**. If the transaction qualifies as a Qualified Conservation Contribution, the landowner can claim the appraised value of the conservation easement as a charitable contribution and receive Federal tax deductions and SC State tax credits. The landowner retains full ownership and management of their property while the land trust becomes a partner to ensure all the conservation easement terms are upheld in perpetuity.

In some cases, the tax incentives are not able to be fully utilized by a landowner for a variety of reasons. In these cases, PDLT works with landowners to personalize a **'bargain-sale conservation easement'** structure that may vary depending on the physical property assets and uses, the location of the property and/or the conservation values being protected by the terms of the conservation easement.

Bargain-sale conservation easements are no different than fully donated conservation easements in the fact that the landowner retains full ownership and management of their property. The land trust is purchasing the conservation easement for less than its appraised value. Hence the term 'bargain-sale'. PDLT applies for grant funding from state, federal, or private sources to purchase a portion of the Conservation Easement Value. The percentage of the appraised Conservation Easement Value a particular funder is willing to contribute through a grant varies depending on the funder and is often based on specific requirements that may or may not apply to all properties.

Conservation Easement EXAMPLE – Fully donated vs. Bargain-sale

Hypothetical, yet realistic scenario: John has a 300-acre property in rural Darlington County. The property has functioned as a working agricultural farm for centuries and John would like to keep it in farming and/or timber. John's residence is on the property, there is a fishing cabin near the river, and there are multiple agricultural buildings on the property.

Reserved Rights: Agricultural uses including farming or timber management within SC BMP's; Leasing the land for hunting/farming/timber management; Maintain the current residence; Build 1 additional residential structure in the Designated Building Area; Maintain current infrastructure and build future infrastructure outside of the Designated Building Areas within the impervious surface limits; Hunting and recreation

Restrictions: No commercial/industrial development, mining, or garbage dumping of any kind; No subdivision of the property; Maximum of 5,000 sq ft of impervious surfaces outside of the Designated Building Areas; No dwellings other than permitted residential structures; No timber harvesting in mutually agreed upon Preservation Areas (150' buffer along the river, 100' buffer along the scenic roadway)

The appraiser's report determines the Before Value of the property is \$5,000 an acre/ 1.5 million. They determine the Conservation Easement Value is \$525,000 or 35% of the Before Value (the development value the landowner is giving up determined by the easement terms), which results in a \$975,000 After Value for the property (essentially what the appraiser's opinion is what the property could be sold at that same point in time with the conservation easement restrictions in place).

Fully Donated Conservation Easement Example: Conservation Easement Value of \$525,000 'donated' to the land trust and eligible to be claimed as a Qualified Conservation Contribution, could result in \$525,000 in Federal deductions -*ability to annually claim 100% of AGI if qualified farmer/ 50% of AGI if a non-farmer; 15-year carry forward; and \$75,000 in SC State Credits (25% of the eligible federal deduction amount with a \$250 cap per acre; dollar-for-dollar credit, don't expire and can be transferred or sold).*

Bargain-sale Conservation Easement Example: PDLT applies to a funding entity for 40% of the Conservation Easement Value / \$210,00 cash grant and it is approved. Farmer John receives the \$210,00 at the closing. John is still eligible to claim a charitable contribution for the donated portion: \$315,000 donation conservation easement value. Hence \$315,000 Federal tax deductions and \$75,000 in SC State Tax Credits.

PDLT will determine the best potential funding sources based on the different parameters for each specific funding program and provide landowners with options for the conservation easement structure for the landowner to review with their own tax and legal advisors.

****Disclaimer:** *The above is used for example purposes only; PDLT can not provide legal or tax advice. Landowners are encouraged to consult with their own legal and tax consultants to evaluate their personal tax circumstances. There may be additional considerations for determined exact tax incentives based on ownership structure, final percentage of grant amount in proportion to the eligible tax incentives, etc. For a more in-depth tax incentive overview for conservation easements, please visit our website: www.peedeeelandtrust.org and download our Landowner Guide, which includes information provided by a professional legal tax consultant.*



Conservation Easement Grant Funding Sources:

PDLT has been successful working with a wide variety of funding sources **for bargain-sale conservation easements** through multiple project structures. Every project is different and therefore, every bargain-sale conservation easement project varies; not every property will satisfy the funder's requirements. Prior to PDLT staff being able to present a landowner with the best possible funding options, it is very important to work with staff to agree upon the general terms for the conservation easement for the specific property, communicate if there is a specific timeline needed for the project to close and discuss the ownership structure.



The SC Conservation Bank (SCCB) is the most widely used funding source for both public fee acquisitions and private conservation easements in South Carolina. The grant application cycle is quarterly followed by the SCCB Board announcing approvals during the quarter following the application. The grant application process is handled by PDLT staff in coordination with landowners; it is a competitive process that involves ranking each project based on the matrix of SCCB priorities.

The SC Working Ag Fund was approved in 2024 and is administered by the SCCB; this funding is only applicable for qualified farmers protecting working agricultural land. This funding source allows land trust staff to apply for a larger percentage of funding from the SCCB (up to 50% of conservation value). For example – the Farmer John example on the previous page- Farmer John makes more than 50% of his income from his working farmland, therefore instead of potentially getting 35% of the conservation easement value funded by the SCCB, PDLT could apply for an additional 15% of the conservation value from the Working Ag Fund, which could result in a potential total grant amount to increase from \$227,500 (35%) to \$325,000 (50%).

North American Wetlands Conservation Act (NAWCA) funding has been an instrumental funding source used to protect conservation easement properties that have extensive wetlands and water frontage throughout the Pee Dee Watershed. The timeline for this Federal funding program typically is 12-18 months from application to final award. NAWCA is a highly competitive program that ranks projects against all other applications submitted in the Southeast; the top submissions are then ranked nationally prior to awards being announced for the top applications. Land Trusts in SC often work together to submit multiple projects in one large NAWCA application in an effort to strengthen the overall application by including both public acquisitions and private conservation easement funding in a targeted area. NAWCA requires multiple matches, including another grant funding source which is most often leveraged with SCCB grant funding.



Lynches River Conservation Fund is a private fund that targets high conservation value projects in the Lynches River watershed of SC. The application mirrors the SCCB application process, however they have an open application period throughout the year. This program gives priority to public acquisitions and conservation easements that fall within their primary target area of the Lynches River in the northern portion of the watershed.



Agricultural Conservation Easement Program in SC

ACEP



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

USDA – NRCS- Agricultural Conservation Easement Program (ACEP):

The Agricultural Conservation Easement Program (ACEP) Agricultural Land Easements (ALE) helps private and tribal landowners protect croplands and grasslands on working farms by limiting non-agricultural uses of the land through voluntary conservation easements. The grant funding from this program is applied for by the land trust on the landowner's behalf; awarded funds are distributed to the landowner at the closing as a bargain-sale conservation easement.

PDLT completed three ACEP bargain-sale conservation easements on working farms in 2024.

To learn more about the ACEP program and to see if your land legacy goals align with the program's requirements, please contact Seth Cook, PDLT Director of Land Protection, 843-667-3229,

landprotection@peedeelandtrust.org or visit the program website:

<https://www.nrcs.usda.gov/programs-initiatives/acep-agricultural-conservation-easement-program>



Regional Conservation Partnership Program in SC

RCPP



Natural Resources Conservation Service
U.S. DEPARTMENT OF AGRICULTURE

NRCS, in partnership with Pee Dee Land Trust, is offering conservation opportunities through the **Pee Dee Watershed Land Conservation RCPP Project** (RCPP Project#2287). This project focuses on addressing critical land and water conservation challenges in the Pee Dee Region of SC. With increasing development pressure in our watershed, PDLT's primary objective is to partner with private landowners to protect high conservation value working farms and timberlands in close proximity to waterways through voluntary bargain-sale conservation easements. Protecting land with enhanced buffers along and close to our waterways provides public benefits including clean water sources for drinking, habitat, flood mitigation, scenic views and recreational opportunities.

PDLT is the only land trust in SC to currently have approved RCPP funding for the Pee Dee Watershed.

To learn more, please contact Seth Cooper, PDLT Director of Land Protection, 864-992-7069,

landprotection@peedeelandtrust.org.