

# THE MANADA CONSERVANCY

## Description of a Land Trust

### **What is a land trust?**

Land Trusts are non-profit organizations which work hand-in-hand with landowners to protect open spaces increasingly threatened by sprawl, development, and pollution. Land trusts use a variety of tools, such as conservation easements that permanently restrict the uses of the land, land donations, and outright purchases of land. Land trusts vary in size. They can be global, such as The Nature Conservancy, national, regional, such as The Brandywine Conservancy and Western Pa. Conservancy in Pennsylvania, or local, like The Manada Conservancy. They are private organizations helping communities and individuals save America's heritage without relying exclusively on government assistance.

### **How can individuals work with land trusts to protect their land?**

Land trusts are experts at helping landowners find ways to protect their land for the future. They may accept land through donation or purchase, work with landowners to write conservation easements, or assist landowners to find other ways to protect land.

### **What is a Conservation Easement?**

Simply stated, a conservation easement is a restriction placed on a property which runs with the deed. The restrictions vary, but usually limit the ability to divide the land and develop it, which protects its value as a farm, as habitat, as a historic place, or other conservation value. Such easements can be donated or sold by the landowner. Once the easement is placed on the property, present and future owners of the property must abide by the easement as written. More information about conservation easements is included in this package.

### **What kind of space do land trusts protect?**

Land trusts protect open space of all kinds--wetlands, wildlife habitat, farms, ranches, shorelines, forests, scenic views, watersheds, historic properties, and recreational areas--land of every size and type that has conservation, agricultural, historic, scenic, or other value as open space.

### **When did land trusts start?**

The first land trust was founded more than 100 years ago in New England. The first American conservation easement, which permanently limits development of land, was written in the late 1880's to protect parkways in and around Boston and designed by the architect, Frederick Law Olmstead, Sr. Conservation easements, now the most popular

means to protect land, came into widespread use after the Tax Reform Act of 1976 explicitly recognized them as tax deductible donations.

**How many land trusts are there?**

There are currently more than 1,200 land trusts in America, double the number of just a decade ago. In Pennsylvania, there are approximately 75 land trusts.

**Are land trusts successful?**

Absolutely. Land trusts have protected approximately 4.7 million acres of wetlands, farms and ranches, wildlife habitat, shorelines, forests, recreation land and other property of ecological significance in the United States. The number of land trusts has grown phenomenally, from 535 in 1985 to more than 1,200 today. Land trusts operate in every state as well as in Puerto Rico.

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## History of the Manada Conservancy

Concern for loss of farmland and wildlife habitat in the Swatara Creek watershed prompted a group of local citizens to form The Manada Conservancy in the fall of 1996. The group believed that there is still good farmland and wildlife diversity in the region and the hope was to help protect those resources as changes occur. Other goals include the preservation of historical sites and the communication of information that will help private landowners steward their land in an environmentally sound manner.

The name “Manada Conservancy” was chosen to signify not only the geographical area upon which the Conservancy hopes to focus, but also the importance of waterways and habitat and the rich historical heritage of the region. The Manada Creek is near the center of the focal area and feeds into the Swatara Creek. Abundant wildlife can be found along these waterways as well as evidence of Native American settlements and other unique historical sites such as the Union Canal.

The Conservancy was formed as a private, charitable organization that accepts financial donations, donations of land and conservation easements. The Conservancy holds the land and easements and the land is left in its natural state into perpetuity. The board of directors is comprised of 17 individuals representing Derry, Conewago, Londonderry, South Hanover, East Hanover and West Hanover townships in Dauphin County and East Hanover in Lebanon County. The Conservancy is a member of two professional organizations, the Pennsylvania Land Trust Association and the National Land Trust Alliance.

### **Important milestones reached by the Conservancy since its formation:**

-  Received approval from the Internal Revenue Service to operate as a section 501(C)(3), tax exempt, charitable organization.
-  Completed a Natural Resources Inventory of West Hanover, South Hanover, East Hanover, Derry and Hummelstown in Dauphin Co., and East Hanover in Lebanon Co. This information is used to help us prioritize areas in need of protection and to evaluate lands that we may acquire.
-  Taken on the Swatara Greenway Project as a primary focus project
-  Established a web site with membership information, mission information, educational material and a Greenway page, where all involved organizations can submit and receive news and accomplishments relating to the Swatara corridor and the status of the Greenway project. ([www.manada.org](http://www.manada.org)). The Conservancy also offers a quarterly newsletter.

- 🌲 Received a grant from the Pa. Department of Conservation and Natural Resources to acquire a 6 acre parcel of land along the Swatara Creek, offered as a partial donation to the Conservancy by a generous owner who wanted to see the land protected in its natural state.
- 🌲 Sponsored a seminar in the fall of 1999 on the topic of conservation easements.
- 🌲 Opened an office located at 113 (rear) East Main St., Hummelstown.
- 🌲 Hired an employee who serves as our administrative assistant.
- 🌲 Received several grants to help with operations, mapping, and membership.
- 🌲 Our land preservation work has protected to date approximately 250 acres of land, which includes two properties owned by the Conservancy and three farms preserved by a conservation easement. The Conservancy is currently working on other preservation projects, which will be announced soon.
- 🌲 Initiated a continuing partnership with Derry Township Park and Recreation Department to present a series of highly successful educational programs. The programs are free to the public and feature speakers on a wide variety of topics related to our environment. These programs have been very well attended and have received many compliments for their quality and content.
- 🌲 Developed a Strategic Plan to best use the expertise of our Board members and plan for our future operation and activities.
- 🌲 Initiated a new Natural Resources Inventory to update existing information and add the Townships of Conewago and Londonderry in Dauphin County.
- 🌲 Increased our membership to over 300 families, individuals and businesses.
- 🌲 Established a major fundraising project for the Conservancy, which is our annual Native Plant Sale. With the help of many volunteers, we provide a wide variety of native plants, which are sold to the public each Spring. In addition to being a vehicle to raise funds, this project also increases the public's awareness of the benefits of native plants and enhances local biodiversity.
- 🌲 Sponsored a Native Plant Garden Tour to showcase yards which have been converted or allowed to remain filled with plants native to Pennsylvania, in many cases using plants purchased from The Manada Conservancy.
- 🌲 Received a \$1000 grant from the Kodak Foundation/Conservation Fund for preparation of a brochure and to produce outreach information for landowners within the Swatara Greenway.

🌲 Received a \$20,000 grand from the Pa. Department of Conservation and Natural Resources to establish a pilot program to promote the awareness of the environmental value of placing native plants in the built environment.

🌲 Hired a part-time Executive Director

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## Procedures for Preserving land with a Conservation Easement

### **1) Initial Contact**

Landowners or their agents contact the Conservancy for general information about conservation easements. The Manada Conservancy provides the landowner with the following introductory material:

- a) Manada Conservancy Brochure and other relevant brochures.
- b) Information describing conservation options.
- c) Procedures for the preservation of land using conservation easements.
- d) The Manada Conservancy's criteria for selection of projects.
- e) List of The Manada Conservancy Board of Directors.
- f) Articles and Resources for more information.
- g) Contact information for further discussion or information.
- h) Proof of The Manada Conservancy's qualifications to take donations.

### **2) Site Visit**

A representative of the Conservancy's Preservation Committee will tour the property with the landowner. During this site visit and meeting with the landowner, the following questions should be resolved.

- a) What are the landowner's conservation objectives for this property?
- b) Does a preliminary assessment of the property indicate that it may meet the Conservancy's criteria for accepting an easement?
- c) Does it appear possible for the Conservancy and landowner to develop the terms of an easement restriction that is acceptable to all parties?

### **3) Organization Decision**

The Board evaluates the merits of the potential easement donation using their selection criteria (included in this packet). If the subject property satisfies the criteria for conservation projects, the Board will authorize an appropriate representative of the Conservancy to work with the prospective donor and initiate a baseline inventory of the property. This decision is only to pursue possible development of the easement and not to formally accept the easement, which does not exist at this point. The landowner is advised of the Board's decision.

### **4) Landowner Advised To Consult Professional Advisors**

Once the Conservancy is committed to the pursuit of the acquisition, the landowner is advised to consult with legal and tax advisors if they have not done so already.

## **5) Easement Is Drafted**

A draft easement is developed cooperatively by the Conservancy and the donor. The document will reflect

- a) specific restrictions desired by the donor,
- b) characteristics and features and conservation values of the subject property,
- c) descriptions of monitoring and enforcement procedures.
- d) compliance with the requirements of the IRS and any regulations pertaining to easement agreements. Local, state, and federal regulations must be met while protecting land.

## **6) Sales Agreement**

Depending on the circumstances, a written agreement to enter into the transaction may be utilized. This will establish the donor's willingness to make the donation before the Conservancy spends additional time and money on the transaction. The Manada Conservancy rarely requires this.

## **7) Baseline Data Inventory**

A baseline inventory study is prepared which will document the current condition of the property. By identifying the property's important natural resources, the study will show the easement drafter what restrictions must be written into the document. It will also provide evidence of the condition of the property for future monitoring. It will solidify whether the property fully meets Conservancy criteria. In addition, compiling this data is required for tax purposes. So that the easement will meet legal standards and so that the easement donor may deduct the value of the easement if applicable.

## **8) Baseline Study Concurrence**

Both the landowner and Conservancy must acknowledge that the baseline is a true representative of the property at the time it is inventoried.

## **9) Clarify Ownership Questions**

### **a) Title Search**

A title search will be completed for the property, showing any existing easements or liens on the land.

### **b) Mortgage Subordination**

If any mortgages have been placed against the property, the landowner provides the Conservancy with the necessary documentation demonstrating subordination to the easement on behalf of the lien-holder. The IRS requires subordination when the easement is donated.

### **c) Mineral Interests**

The Manada Conservancy must check if anyone or any company owns the rights to minerals on the land.

**d) Authority to Donate**

All owners of the property must agree to support preservation.

**10) Donor Is Advised To Obtain A Qualified Appraisal**

When the acquisition is a donation, it is the donor's responsibility to obtain an appraisal. The Conservancy has an ethical obligation, however, to make an honest transaction and should advise the donor to obtain a well qualified appraiser. An appraisal is not usually required by The Manada Conservancy but is required by the IRS if the donor wants to take a deduction for their donation. The appraisal determines the value of the property before and after the easement donation.

**11) Formal Acceptance By Grantee**

Once agreement is reached and a formal easement document has been written and approved by the grantor, the Conservancy's Board will vote to accept or reject the easement.

**12) Execute And Record Agreement**

Each landowner will sign the deed of conveyance. It is then recorded in the office of the Recorder of Deeds of the County where the property is located. Landowner is subsequently given a copy of transaction records by the Manada Conservancy.

**13) Publicize Results And Express Appreciation**

If appropriate and only if the landowner grants permission, the Conservancy should distribute press releases and create media events to publicize the preservation. Local government agencies are also notified of the easement. If the easement was donated, a letter should be sent to the landowner expressing the Conservancy's appreciation. Signs will be erected on the property if the donor permits it.



**14) Annual Easement Inspections**

The Conservancy will inspect the property at least annually, at the landowner's convenience, to be sure that the terms of the easement are being complied with.



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**Project Selection Criteria**  
for fee land donation acceptance or  
conservation easement donation acceptance

\_\_\_\_\_ Is preservation of this property consistent with the mission of The Manada Conservancy (the mission which is legally articulated in our articles of incorporation)? If the answer to this question is NO, the project shall not be accepted by The Manada Conservancy.

Evaluator: Please answer as accurately as possible. For questions that require more than a yes or no, please attach pages as needed and reference the question by number.

**Public Benefit**

***Natural Resources***

- 1.\_\_\_\_\_ Does this land provide or have the potential to provide significant or diversified wildlife habitat?
- 2.\_\_\_\_\_ Is the land contiguous with or does the land provide or extend a greenway, riparian buffer or wildlife corridor?
- 3.\_\_\_\_\_ Is this land a known location for rare, threatened or endangered species? Does it provide potential habitat for them, or for Pa. Species of Concern? Please provide brief details.
- 4.\_\_\_\_\_ Does the land include wetland, riparian buffers, flood plains, waterways, important recharge areas or areas necessary or valuable for the protection of water quality?
- 5.\_\_\_\_\_ Does the property have woodlands that could be managed as wildlife habitat?
- 6.\_\_\_\_\_ Does the land include fragile ecological niches or unique geologic features, particularly vulnerable to disturbance?
- 7.\_\_\_\_\_ Is the land in close enough proximity to other preserved lands that its preservation would create a contiguous or complimentary habitat?

***Agricultural***

- 8.\_\_\_\_\_ Is the land in active agricultural use?
- 9.\_\_\_\_\_ Does the land provide potential for active agricultural use?

10. \_\_\_\_ Are there agricultural soils sufficient to support an agricultural operation?
11. \_\_\_\_ Is there a significant farmland, or agricultural lands close enough to contribute to a viable farm community? (For example, other Conservancy lands, lands in the Clean and Green program or Pa. Agricultural Security Area or Preservation lands)
12. \_\_\_\_ Is the land immediately adjacent to other protected agricultural lands?
13. \_\_\_\_ Does the protection of this land offer the landowner an option to protect which is not otherwise available?
14. \_\_\_\_ Is the land an example of historic agricultural use?

***Historical***

15. \_\_\_\_ Does the property contain known historical or archeological resources?
16. \_\_\_\_ Is there public access to historic sites?
17. \_\_\_\_ Is there a high probability for historical or archeological resources to be located on the property?

***Scenic***

18. \_\_\_\_ Is the property visibly prominent from public lands, trails, or roadways?
19. \_\_\_\_ Does it make a significant contribution to the rural character of the town, region, or state?

***Recreation and Public Access***

20. \_\_\_\_ Will preservation of this property allow for public access and enjoyment? Does the property offer access to outdoor, educational, or historic attractions?  
(Unique land features, scenic view, provides relief from development in surrounding area, tourism or commerce, etc.)
21. \_\_\_\_ What types of outdoor recreation activities would the property allow? (Hiking, boating, cycling, etc.)
22. \_\_\_\_ Is there a proposed or existing trail on the property which the public could use?

***Educational/Scientific***

23. \_\_\_\_ Does the parcel contain significant value or potential value for educational exploration or scientific study?

24.\_\_\_\_\_ Is public access for education or scientific study available? Does the parcel provide or ensure access to another study area?

### **Significance/Priority**

25.\_\_\_\_\_ Is this land within the Conservancy's focus area? If not, where it is located, how far outside of the focus area, and why would it be appropriate to consider protection by The Manada Conservancy?

26.\_\_\_\_\_ Is this land (or significant portions) in an area designated as a high priority area for protection on the Conservancy's natural features map?

27.\_\_\_\_\_ Will conservation value of the property still exist if the surrounding area is developed? Is the land under immediate development pressure? If yes, provide detail.

28.\_\_\_\_\_ Would acquisition further larger regional goals or assist other organizations that share our goals? Has it been designated as important by any other organization or municipality?

29.\_\_\_\_\_ What are the current land use regulations or permitted uses governing the property? How will the protection of this property affect the land use plan of the governing municipality(ies)?

30.\_\_\_\_\_ Does the property set a precedent for resource preservation or open space protection in a surrounding area that is of value to the community?

31.\_\_\_\_\_ Is the property contiguous with or act as a buffer to existing preserved lands? Is there a future hope of preserving adjacent lands?

32.\_\_\_\_\_ Is the protection of this property consistent with sound, long-term land use planning in the region?

### **Feasibility**

33.\_\_\_\_\_ Are there sufficient resources available to permit maintenance or monitoring of the property in perpetuity? Detail below, either resources or plan for fund-raising.

34.\_\_\_\_\_ Do the potential conservation gains justify the financial investment required?

35.\_\_\_\_\_ Is the Board satisfied that there is no history of dumping, pollution, contamination or other clean-up liability?

36.\_\_\_\_\_ Is the property free of any other known environmental or other liability that would have a negative effect on the Conservancy?

37.\_\_\_\_\_Are there known tax or legal issues regarding preservation of the property? (Title issues, boundary disputes, etc.; answering “no” to this question does not preclude further information being unearthed and affecting the decision to take on project)

38.\_\_\_\_\_Is the property owned by more than one landowner; is there anticipated difficulty, either legal or controversial, in working with landowners. Number of landowners:\_\_\_\_\_. For multiple landowners, describe ownership detail:

39.\_\_\_\_\_Is there development near the property that could compromise the conservation value of the land?

40.\_\_\_\_\_Does the landowner require provisions that would seriously diminish the property’s primary conservation values?

41.\_\_\_\_\_Is there adequate access to the property for management or monitoring?

42.\_\_\_\_\_Are there serious trespassing or encroachment issues that would be difficult to enforce?

All the preceding notwithstanding, The Manada Conservancy Board retains discretion over acquisition or disposition, and will review each on a case-by-case basis.

Statement by evaluator, and recommendation (attach pages if necessary):

**Date of evaluation**\_\_\_\_\_

**Signature of evaluator(s)**\_\_\_\_\_

\_\_\_\_\_

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## Costs and Benefits of Donating a Conservation Easement

Those considering the donation of a conservation easement often have questions about the benefits and costs of doing so. This brief section is intended to answer some basic questions. The Manada Conservancy recommends consultation with a knowledgeable professionals, such as an attorney or accountant for details about a specific property. The Manada Conservancy is happy to discuss and explain more about conservation easements and how they work, and meet with the consultants, if desired by the landowner.

### **Benefits**

The primary benefit to the donor of a conservation easement is the knowledge that they have protected their property from development that would harm its conservation, agricultural, ecological or scenic value. With this also comes the legal assurance that The Manada Conservancy will protect the property in perpetuity as stipulated in the easement language.

If the conservation easement is donated to The Manada Conservancy, the difference between the value of the land without the easement and the value of the land with the easement can often be deducted as a charitable donation on the donor's tax return. The Manada Conservancy is a 501(C)(3) organization and is eligible to receive such donations.

Since the value of the land is generally less with an easement placed on it, inheritors of the property may find that the estate tax is lower than it would have been without the easement. This has enabled some inheritors to keep a farm that they otherwise would have had to sell in order to pay the estate taxes.

### **Costs**

There are three major expenses involved in donating an easement. They are:

### **Appraisal**

In order for you to take a tax deduction from your federal tax return, the IRS requires that you have an appraisal done which provides you with two values. (1) Fair market value (the value if you were to sell your property today at its highest and best use); and (2) The value of the property if it were to stay strictly as farm and/or natural lands (with a conservation easement on it, for example). The difference is the value of the conservation easement. Who you use for this appraisal is your decision, although we strongly recommend using a well-qualified appraiser experienced in appraising conservation easements. The appraisal usually costs about \$1,500.

The cost of the appraisal is not treated as part of the charitable contribution. However, fees paid to determine the value of the easement donation could be claimed by the donor as a "miscellaneous deduction" on Form 1040. It is also occasionally possible to obtain grant assistance for these costs.

### **Legal and Accounting**

It is important to consider consulting with an attorney and perhaps an accountant. These costs would depend on your use of these professionals.

### **Stewardship Donation**

We may request that a modest cash donation be made to the Manada Conservancy. These funds provide an endowment that will ensure sufficient resources to oversee the protection of your property in the future.

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## Summary of Land Preservation Options

1. Donate a conservation easement, as described above. This is the most popular method of preserving land. In return for the public benefit provided by the preservation of the land, the land trust provides the service of monitoring and enforcing the terms of the easement in perpetuity.
2. Sell a conservation easement. Occasionally, landowners can be compensated for their conservation easement by a land trust, or by a government program such as the Agricultural Preservation program in Pennsylvania. Sometimes, if the land has high ecological value, grants can be obtained by land trusts to purchase conservation easements. If the conservation easement is purchased, its value is not tax deductible, since the owner has been compensated.
3. “Bargain Sale”: Under certain conditions, the landowner may wish to sell the land, but at a lower price than it is worth. The difference between the fair market value of the land and the price actually paid for the land can be a tax deductible donation. This method is most common when the land trust is awarded a grant for part of the value of the property and the owner decides to forgo the rest of its value in order to donate it and see the land preserved.
4. Outright land donation: A property owner may choose to donate a parcel of land outright to the Conservancy. The tax deduction would then be for the full market value of the property, and the Conservancy would take ownership of the property.



Each of these methods has been used by The Manada Conservancy to preserve the lands that we currently protect. In addition, we have helped landowners become aware of other programs that might help them to preserve their property. Our goal is to help landowners preserve land using the options that are open to them in the manner that suits them best.

