



## MET Conservation Easement Transactions: Co-holding Tasks for the Processing of Conservation Easements

For jointly held conservation easements, in the Cooperative Agreement between MET and co-holding land trusts, each organization agrees to exchange information, to negotiate, and prepare documentation and recordable instruments for conservation easements and to use the model Deed of Conservation Easement developed by MET. The purpose of this document is to list the tasks each organization will perform in conservation easement transactions. The goals of this document are to bring clarity to the process and to facilitate efficient transactions. This document should be used as a guide only, one that may be modified if the staff from both organizations managing a conservation project see fit to do so.

### DONATED CONSERVATION EASEMENT TRANSACTIONS

Staff of the co-holding partner and staff of MET determine if a potential project meets their respective selection criteria. During the initial conversations between the staff of the co-holding partner and staff of MET, the parties will discuss terms of a conservation easement that each organization is willing to negotiate with the landowner. The co-holding partner conducts the initial meeting with the landowner unless the staff of both organizations agree that both should be present at the initial meeting. At the initial meeting the landowner is given the Model Easement and MET’s Disclosure.

MET Tasks	Co-holding Partner Tasks
<ul style="list-style-type: none"> <li>• Draft the body of the Deed of Conservation Easement, Subordination form(s), Exhibits A, B, E, F and G</li> <li>• Title research (MET will provide a copy of this to the co-holding partner upon request after the easement has been recorded)</li> <li>• Office of Attorney General legal review</li> <li>• Contact with the landowner to address questions about the easement document</li> <li>• DNR’s Green Infrastructure (“GI”) scoring</li> <li>• Local government notice letter (required of MET by law)</li> <li>• MET Board of Trustees review. MET will provide a copy of the staff’s Memo to co-holding partner.</li> <li>• Print the final Deed of Conservation Easement and circulate for signatures</li> <li>• Board of Public Works (“BPW”) review. MET will provide a copy of BPW approval to co-holding partner.</li> <li>• Record Deed of Conservation Easement in the appropriate county land records office</li> <li>• Gift acknowledgement letter. MET will provide a copy to co-holding partner.</li> <li>• Post-recording package to easement grantor that includes a copy of the complete easement and the</li> </ul>	<ul style="list-style-type: none"> <li>• Lead contact with landowner</li> <li>• Initial list of conservation purposes, including local information that can be included in the Exhibit B</li> <li>• Initial list basic terms negotiated by all parties (See Attachment A)</li> <li>• Property condition research               <ul style="list-style-type: none"> <li>○ List of existing land uses and associated acreage</li> <li>○ Planning and Zoning info from the County either on county letterhead or in email from a county staff (Attachment B for sample request)</li> <li>○ Soil Report that maps and lists the acreage of the soil types and includes the farmland classification of the soils of the property from:  <a href="https://websoilsurvey.sc.egov.usda.gov">https://websoilsurvey.sc.egov.usda.gov</a></li> <li>○ Extensive and complete list of existing structures to be used in Exhibit C</li> </ul> </li> <li>• Corporate documents if the landowner is a corporation. See Attachment A for a list.</li> <li>• Draft Exhibit D: take photos, write the descriptions and provide points on a map for MET, so MET can create the Map portion of this exhibit. Share photos (jpegs) and contact sheet with MET. See</li> </ul>

<p>BPW approval. MET will provide a copy of this letter to co-holding partner.</p>	<p>Attachment A for the preferred format for these items.</p> <ul style="list-style-type: none"> <li>• Coordinate with the landowner to schedule a date and time for MET staff to visit the property</li> <li>• Gift acknowledgement letter.</li> </ul>
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MET will begin drafting the conservation easement once MET staff receives the following:

From the landowner grantor

- signed Disclosure

From the co-holding partner

- Initial list of conservation purposes, including local information that can be included in the Exhibit B
- Initial list of basic terms negotiated by all parties for MET to use to draft the conservation easement
- Property condition research
  - List of existing land uses and associated acreage
  - Planning and Zoning info from the County either on county letterhead or in email from a county staff (Attachment B for sample request)
  - Soil Report that maps and lists the acreage of the soil types and includes the farmland classification of the soils of the property from: <https://websoilsurvey.sc.egov.usda.gov>
  - Extensive and complete list of existing structures to be used in Exhibit C
  - Corporate documents if the landowner is a corporation. See Attachment A for a list.

MET staff will visit the property with the partner at some point in the process prior to the MET Board of Trustees meeting.

Note about IRS Form 8283: If a donor asks MET to sign IRS Form 8283, MET will follow its policy and procedure in doing so. MET will share a copy of the signed IRS Form 8283 and accompanying appraisal with the co-holding partner. Likewise, if a donor asks the co-holding partner to sign IRS Form 8283, the co-holding partner will share a copy of the signed IRS Form 8283 and accompanying appraisal with MET. IRS Form 8283 is the responsibility of the donor. It is the donor’s decision who they ask to sign IRS Form 8283. MET will not provide tax advice.

**PURCHASE AND BARGAIN SALE CONSERVATION EASEMENT TRANSACTIONS**

Purchase and bargain sale easements are initiated by the co-holding partner, who will have secured funding and has the relationship with the funding source. The co-holding partner will handle the financial side of the transaction. MET does not have funds or access to funds to use toward conservation easement transactions.

Staff of the co-holding partner and staff of MET determine if a potential project meets their respective selection criteria. During the initial conversations between the staff of the co-holding partner and staff of MET, the parties will discuss terms of a conservation easement that each organization is willing to negotiate with the landowner. The co-holding partner conducts the initial meeting with the landowner unless the staff of both organizations agree that both should be present at the initial meeting. At the initial meeting the landowner is given the Model Easement and MET’s Disclosure. MET will work to develop templates with the various funding sources such as ACUB, REPI and MARBIDCO.

The co-holding partner will procure a conservation easement appraisal using the appropriate Model Easement and a list of terms negotiated by all parties. MET will draft the conservation easement. Unless otherwise discussed and agreed upon,

the co-holding partner enters into an agreement of sale with the landowner based on a conservation easement draft that has been prepared by MET and been through MET’s legal review process.

<b>MET Tasks</b>	<b>Co-holding Partner Tasks</b>
<ul style="list-style-type: none"> <li>• Draft the body of the Deed of Conservation Easement, Subordination form(s), Exhibits A, B, E, F and G; and</li> <li>• Draft corporate resolution/certificate of secretary, if applicable and deemed necessary</li> <li>• Title research (MET will provide a copy of this to the LT partner upon request after the easement has been recorded)</li> <li>• Office of Attorney General legal review</li> <li>• Contact with the landowner to address questions about the easement draft</li> <li>• DNR’s Green Infrastructure (“GI”) scoring</li> <li>• Local government notice letter (required of MET by law)</li> <li>• MET Board of Trustees review</li> <li>• Print the final Deed of Conservation Easement and acquire MET and AAG signatures</li> <li>• Board of Public Works (“BPW”) review. MET will provide a copy of BPW approval to LT partner.</li> <li>• MET staff and AAG will review Title report, Binder, HUD and provide edits and comments to partner</li> <li>• Bring the Deed of Conservation Easement to closing</li> <li>• Record Deed of Conservation Easement in the appropriate county land records office</li> <li>• Gift acknowledgement letter, if bargain sale. (MET will provide a copy to co-holding partner)</li> <li>• Post recording package to easement grantor that includes a copy of the complete easement and the BPW approval. MET will provide a copy of the letter to co-holding partner.</li> </ul>	<ul style="list-style-type: none"> <li>• Lead contact with landowner</li> <li>• Initial list of conservation purposes, including local information that can be included in the Exhibit B</li> <li>• Initial list of basic terms negotiated by all parties (See Attachment A ) for MET to use to draft the conservation easement</li> <li>• Financial tasks/funding requirements including: <ul style="list-style-type: none"> <li>○ Appraisal</li> <li>○ Survey work, if required</li> <li>○ Agreement of Sale</li> <li>○ Phase 1 Environmental Impact Report, if required by funder</li> </ul> </li> <li>• Property condition research <ul style="list-style-type: none"> <li>○ List of existing land uses and associated acreage</li> <li>○ Planning and Zoning info from the County either on county letterhead or in email from a county staff (Attachment B for sample request)</li> <li>○ Soil Report that maps and lists the acreage of the soil types and includes the farmland classification of the soils of the property from: <a href="https://websoilsurvey.sc.egov.usda.gov">https://websoilsurvey.sc.egov.usda.gov</a></li> <li>○ Extensive and complete list of existing structures to be used in Exhibit C</li> </ul> </li> <li>• Corporate documents if the landowner is a corporation. See Attachment A for a list.</li> <li>• Draft Exhibit D: take photos, write the descriptions and provide points on a map to the MET, so MET can create the Map portion of this exhibit. Share photos (jpegs) and contact sheet with MET. See Attachment A for the preferred format for these items.</li> <li>• Coordinate with the landowner a date and time for MET staff to visit the property</li> <li>• Title Report. Provide copy to MET</li> <li>• Closing due diligence: Title Insurance, Binder, HUD. Provide initial drafts to MET for review and copy of final signed versions to MET for files</li> <li>• Gift acknowledgement letter, if bargain sale.</li> </ul>

MET will begin drafting the conservation easement once MET staff receives the following:

From the landowner grantor

- signed Disclosure

From the co-holding partner

- Initial list of conservation purposes, including local information that can be included in the Exhibit B
- Initial list of basic terms negotiated by all parties (See Attachment A) for MET to use to draft the conservation easement
- Property condition research
  - List of existing land uses and associated acreages
  - Planning and Zoning info from the County either on county letterhead or in email from a county staff (Attachment B for sample request)
  - Extensive and complete list of existing structures to be used in Exhibit C
- The following can be provided after the easement is drafted but before the Agreement of Sale is signed
  - Corporate documents if the landowner is a corporation. See Attachment A for a list.
  - Soil Report that maps and lists the acreage of the soil types and includes the farmland classification of the soils of the property from: <https://websoilsurvey.sc.egov.usda.gov>

MET staff will visit the property with the partner at some point in the process prior to the MET Board of Trustees meeting.

Note about IRS Form 8283: If a donor asks MET to sign IRS Form 8283, MET will follow its policy and procedure in doing so. MET will share a copy of the signed IRS Form 8283 and accompanying appraisal with the co-holding partner. Likewise, if a donor asks the co-holding partner to sign IRS Form 8283, the co-holding partner will share a copy of the signed IRS Form 8283 and accompanying appraisal with MET. IRS Form 8283 is the responsibility of the donor. It is the donor's decision who they ask to sign IRS Form 8283. MET will not provide tax advice.



# Attachment A

Co-holding Partner Check List

The following can be sent via email to MET staff or uploaded to a shared DropBox or Google Drive. Please do not send hard copies.

- **Initial list of conservation purposes, including local information that can be included in the Exhibit B.** Such local information may include local historic district, historic register listing, local planning document etc...

- (1) the preservation of land areas for outdoor recreation by or the education of the general public;
- (2) the protection of relatively natural habitat of fish, wildlife or plants, or similar ecosystems;
- (3) the preservation of open space for the scenic enjoyment of the general public and which yields a significant public benefit, or pursuant to a clearly delineated Federal, State, or local governmental conservation policy and which yields a significant public benefit;
- (4) the preservation of historically important land areas or certified historic structures

- **Initial list of basic terms negotiated by all parties for MET to use to draft the conservation easement including:**

- Number of allowed dwellings (including existing dwellings)
- Size limits of dwellings
- Subdivision/separate ownership of parcels
- General location/configuration of Building Areas
- Forest Stewardship Plan objectives, if applicable
- Unique situations, such as: buffer exceptions or increase to standard buffer width requirement; historic protections; archeology dig; etc...

- **Property condition research**

- List of existing land uses and associated acreage
- Planning and Zoning info from the County either on county letterhead or in email from a county staff (Attachment B for sample request)
- Soil Report that maps and lists the acreage of the soil types and includes the farmland classification of the soils of the property from: <https://websoilsurvey.sc.egov.usda.gov>
- Extensive and complete list of existing structures to be used in Exhibit C.

- **Corporate documents if the landowner is a corporation.**

The following is a list of corporate documents, including any amendments to said documents, according to type of entity

Corporation:

- Articles of Incorporation
- Bylaws
- Certificate of Good Standing from SDAT (current w/in 6 mo.)

LLC:

- Articles of Organization
- Operating Agreement
- Certificate of Good Standing from SDAT (current w/in 6 mo.)

Limited Partnership:

- Certificate of Limited Partnership
- Partnership Agreement
- Certificate of Good Standing from SDAT (current w/in 6 mo.)

Resolution/Secretary's Certificate\*  Resolution\*

Resolution\*

\* MET will provide a template Resolution if said document is deemed necessary during the review of the other corporate documents.

Trust:

Trust documents/agreement (pages that give Trustees power to grant the easement and signature page)

• **Draft Exhibit D:**

*Baseline Photos:* Take photos of the conservation purposes and attributes (scenic views, open agricultural fields, forest, etc...) Take photos of all the structures and try to get all vantage sides of the structures. Photos of the property corners and boundaries are helpful if they capture a marker that an easement monitor can locate in the future. Take photos of existing dumping and other issues such as encroachment.

The JPEG files should be named to include the landowner's name and the date of the photos were taken. MET's typical JPEG name uses this formula: County-Grantor-BLYEARMonthDay-(Image #). Example: QUEE-Smith-BL20070217-14

*Contact Sheets:* If the co-holding partner has the ability to create contact sheets, please try to get four images on a contact sheet so the images are large enough to see what is in the image and place the image number beneath the image.

*Descriptions:* This is the Table in the Model Easement for Exhibit D image descriptions.

<b>Image File Name: <i>County-Grantor-BLYEARMonthday-(Image #).jpg</i></b>		
<b><u>Image #</u></b>	<b><u>View Toward</u></b>	<b><u>Image Description</u></b>
01	Looking NW	Showing .....
02	Looking ....	Showing...
03	Looking	Showing....

*Map:* Provide points on an aerial image map so that MET can create the Map portion of this exhibits. MET will provide the aerial image. If the co-holding partner has the ability to create the map with the photo points, please include both organization logos on the map and send to MET



## Attachment B

The following is the template letter/email requesting information from the County Planning and Zoning office:

Date

Name

XXXXX County Department of Planning & Zoning

Address

Dear XXXXXXXX:

The Maryland Environmental Trust and the [co-hold partner] may be offered a conservation easement on a property in XXXXX County.

During our background research we attempt to determine if a conservation easement is consistent with local planning objectives for the area. I would appreciate your cooperation in providing the following information for this property:

- (1) What is the present zoning of the property?
- (2) Given this zoning and or any additional regulations that may exist encumbering the property, what is the maximum number of houses that would be allowed on the property (including accessory dwellings such as a caretaker's house or guest house)?
- (3) Is water or sewer service existing or planned for the area?
- (4) What are the long-term planning objectives for the area?
- (5) Would a conservation easement be consistent with the County Comprehensive Plan?
- (6) Is any portion of the property within the Critical Area, and if so, how many acres of the property are within this designation?
- (7) Is the property in the Priority Preservation Area?
- (8) Are there planned infrastructure/public works projects that would impact the property?

The property being considered at this time is as follows:

Landowner: XXXXXXXXX

XXXX County Tax Map XX, Parcel XX, Lot XX

XXXXX acres

Please call me at XXXXXXXXX if you have any questions. Thank you for your assistance. The information you provide is vital to our conservation decision process.

Sincerely,