



American Friends of Canadian Land Trusts

Land and Easement Donation Process and Requirements Summary

Many of the steps involved in donating land or conservation easements to American Friends of Canadian Land Trusts (AF) will be familiar to people with experience in conservation transactions. However, due to their bi-national nature, there are some unique aspects of these gifts. The process of completing donations of land or easements in Canada from US taxpayers to a US charity is a hybrid of procedures from both countries. Please refer to the *Conservation Lands Program Overview*, available under the Cross Border Conservation tab at www.afoclt.org, and the *Fact Sheets* for donors, landowner advisors and land trusts, available in the Resources section of the same website, to gain a complete understanding of each of the steps involved in these donations. This summary provides AF's partners and potential donors with a highly condensed version of the information about the process, the parties' responsibilities and the costs involved. Please contact Program Coordinator, Sandra Tassel at (360) 515-7171 or info@afoclt.org if you have questions.

Underlined documents referenced below are either incorporated into this summary or are available in the Donate section of www.afoclt.org.

Outline of the Phases of the Donation Process

AF's conservation mission is accomplished through partnerships with qualified Canadian conservation organizations, which we refer to as Grantees. The outline below, and the chart that follows, are intended to give potential partners and donors a basic understanding of the usual steps of a cross border conservation donation to American Friends. Please keep in mind that every partnership and project is unique; tailored to meet the needs of the donor, the resources being protected and the statutes of the province in which the property is located. Structuring a donation of land or an interest in land is a collaborative process.

Following the outline and the chart you will find the checklists that AF and Grantees use to gather information, design the donation and complete the gift to AF.

Outline of the Steps Involved in a Donation of Land or a Conservation Easement

Grantee Application Phase

1. Canadian Conservation Organization (CCO) completes Grantee Application and submits with application fee. The CCO must be a Grantee in good standing to propose a land conservation project.

AF Decision Point: Notify CCO of approved Grantee status, send Letter of Acceptance.

Property Procurement: Phase I - Inquiry and Feasibility

1. CCO submits Phase I CCO Inquiry and Feasibility Assessment and Phase I fee to AF. (See Phase I Checklist on page 3.)
2. AF conducts internal Phase I Inquiry and Feasibility Evaluation.

AF Decision Point: Proceed to Phase II: Due Diligence, seek additional information or decline project.

Property Procurement: Phase II - Due Diligence

1. CCO and AF agree on terms of the Procurement and Management Agreement (P+MA) and execute the Agreement. (Please contact AF for a template of this document.)
2. CCO completes steps in Phase II Due Diligence Checklist and provides requested documents and Phase II fee. (See Phase II Checklist on page 4.)
3. AF performs internal Phase II Due Diligence Evaluation.

AF Decision Point: Proceed to Phase III: Closing, seek additional information or decline project.

Property Procurement: Phase III - Closing.

1. CCO provides Phase III Closing Checklist, required documents and Phase III fees. (See Phase III Checklist on page 5.)
2. AF completes internal Phase III Closing Checklist and, if complete, closes the transaction.

Process Summary Chart for Land and Easement Donations

Procedures	Documents	Fee to AF
Grantee Application Phase – approximately 60 days		\$350USD (cash Grantee) \$500 USD (land/easement Grantee) \$800 USD (cash and land/easement Grantee)
1. CCO submits completed Grantee Application and fee to AF	<u>Grantee Application</u>	
2. AF board reviews application/ notifies CCO of Grantee of status	Letter of Acceptance	

Property Procurement Phase I – Approximately 60 days		Phase I fee: \$2,000 USD - fee title \$3,000 USD – easement
1. CCO submits completed <u>Phase I Inquiry and Feasibility Assessment</u> and Phase I fees to AF	<u>Phase I CCO Inquiry and Feasibility Assessment</u> (See page 3) <u>Donor letter of intent template</u>	
2. AF board conducts Phase I Inquiry and Feasibility Evaluation AF Decision Point: a) Proceed to Phase I b) Seek more information c) Decline project	Phase I AF Inquiry and Feasibility Evaluation (AF internal document)	

Property Procurement Phase II - Due Diligence – Approximately 90-180 days		Phase II fee: \$5,000 USD – fee title \$7,500 USD – easement <i>Half due with CCO submission of draft Procurement and Management Agreement, balance due when AF completes its Due Diligence Evaluation</i>
1. CCO and AF develop and execute Procurement and Management Agreement	Procurement and Management Agreement (Call AF for template)	
2. CCO completes <u>Phase II Due Diligence Checklist</u> and submits required documentation and Phase II fee	<u>Phase II CCO Due Diligence Checklist</u> (See page 4)	
3. AF Board conducts Phase II Due Diligence Evaluation AF Decision Point: a) Proceed to Phase III b) Seek more information c) Decline project	Phase II AF Due Diligence Evaluation (AF internal document)	

Property Procurement Phase III - Closing - Approximately 30 days		Phase III fee: \$3,000 USD – fee title \$4,500 USD - easement
1. CCO completes final procedures needed for transfer and submits required documentation and fees to AF	<u>Phase III CCO Closing Checklist</u>	
2. AF reviews transfer documents and, when satisfied, accepts transfer of property interest		

Phase I: CCO Inquiry and Feasibility Assessment Checklist

(To be completed by sponsoring Canadian Conservation Organization)

In collaboration with Canadian Conservation Organizations (CCO), American Friends of Canadian Land Trusts (AF) conserves significant natural, recreational and scenic lands that are located in Canada and owned by US taxpayers. In order to remain a small, highly efficient organization, AF must be strategic in its choice of projects. Accordingly, AF seeks properties that are high priorities for its Canadian conservation partners. AF's board relies on its partners to be thoroughly acquainted with the geographic area in which the project is located and with the specific tract proposed for protection.

We look to our Canadian partners to complete all land procurement, stewardship and management activities related to these collaborative projects. All costs related to both procurement and stewardship will be the responsibility of the Canadian conservation organization and/or donor.

AF's mission is best accomplished by conveying conservation lands and easements it receives from US residents to qualified conservation organizations in Canada. However, in accordance with US tax law, AF must exercise sole, independent discretion in determining whether, when and to which organization it might transfer a property interest it receives as a gift. Any advance guarantees made with respect to AF's disposition of properties could jeopardize the tax deductibility of these donations. To protect the landowner's/donor's potential charitable deduction, AF's land/easement acquisitions and subsequent dispositions involve two entirely separate processes. The board is grateful for your interest in AF, your understanding of these principles and in the conservation of Canada's resources

1. Property Information. Please provide the following:

- Property description, including:
 - i. General description (size, location, features, buildings, property history, surrounding land uses, zoning, community profile, etc.).
 - ii. Description of the property's conservation significance and any special features. (If the property is to be protected by a conservation easement, servitude or covenant, please identify and describe the specific IRS conservation purposes of the donation. See the Cross-Border Conservation Easement template for the list of IRS conservation purposes.)
 - iii. Description of any potential management issues or other liability concerns.
 - iv. Recent photos or videos that show the property's important features.
 - v. Vicinity map, topographic map, recent aerial photo of property, with property boundaries clearly marked, if available.
- Title report, including legal description, copies of any encumbrances on title, outstanding mineral interests, etc.
- Survey (if available or requested).
- Estimated property value, anticipated cost of property taxes and any assessments.
- Description of the basic elements of the donation, including background information, such as proposed/desired timing, any unusual anticipated costs and any unique aspects of the donation or the property.
- Draft easement stewardship or land management plan, if already available, including monitoring schedule and budget, and sources of funds to cover the costs of stewardship and management.

2. Donor Information

- Submit signed Letter of Donor Intent (acknowledging donor sought and received independent professional financial advice regarding donation of property and acknowledgment that AF may elect not to hold title forever and may choose to transfer its interest to a qualified CCO sometime in the future).
- Provide contact information for all individuals or entities who are current landowners.

3. Fee

- Phase I fee: \$2,000 US Dollars for fee title or \$3,000 US for easements. Will be returned if project is not approved.

Phase II: CCO Due Diligence Checklist

Please provide the following items to AF for review:

- Conservation Land Procurement and Management Agreement or Conservation Easement Procurement and Management Agreement
- Property Baseline Document (if gift is a Conservation Easement. Include qualifications and experience of person(s) preparing document. *(template provided)*
- Environmental Assessment certification letter documenting absence or presence of any hazardous waste *(template provided)*. Include qualifications and experience of person(s) preparing document.
- Draft Deed of Transfer, Conservation Easement, Servitude or Covenant from landowner to AF.
- Preliminary title report, title certificate or equivalent showing any existing encumbrances on title, and documentation for any required legal/title procedures specific to the province in which the property is located.
- Copy of draft appraisal meeting both Internal Revenue Service (IRS) and Canada Revenue Agency (CRA) requirements. See the IRS requirements summary in the Cross-Border Conservation Gifts: Fact Sheet for Appraisers, available at www.afoclt.org.
- Evidence of application for non-resident disposition of land in Canada - Canada Revenue Agency Form T2062. (AF will provide a letter of “undertaking” to CRA stating that it will accept the property as a donation and that AF is a registered charity in the US and a prescribed donee in Canada under CRA. *(CRA requires that this letter and undertaking accompany the formal application)*).
- Stewardship plan, including monitoring schedule, planned management activities, permitted and prohibited uses, planned restoration projects, management budget and plan to secure stewardship funds.
- Resolution of any title issues previously identified.
- Any other items that may have been requested by AF. As a condition of proceeding to Phase II, AF may request other documentation as a result of the review conducted in Phase I.
- Phase II fee: \$5,000 US Dollars for fee title or \$7,500 US for easement, payable in two installments. One-half due with draft Procurement and Management Agreement (P&MA). The balance is due upon AF’s approval of the Phase II package.

Please note: Unless otherwise previously agreed with AF, the CCO is responsible for securing all of the items described above and providing them to AF.

Phase III: CCO Closing Checklist

Please supply the following items to AF to facilitate closing:

- Executed original Deed of Transfer, Conservation Easement, Servitude, Covenant or Remainder Interest.
- Updated title report, title certificate or equivalent showing clear title.
- Approved Canada Revenue Agency Certificate of Compliance to dispose of land in Canada (CRA Form T2068 "Certificate-Disposition of Property by a Non-resident of Canada").
- Confirmation of payment of property tax. Provide application for exemption ready for AF signatures (if applicable).
- Confirmation of payment of all property transfer costs.
- Notification of local property tax office of change in ownership (as well as notification of any other bodies/offices relevant to property ownership in the province in which the land is located) (for fee interest transfer only).
- Updated appraisal, if required.
- Any other documents or information as may have been requested by AF as a condition of proceeding to Phase III.
- Transmit stewardship funds to AF in the amount agreed upon in Phase II.
- Phase III fee: \$3,000 US Dollars for fee title or \$4,500 for easement.

Please note: Unless otherwise previously agreed with AF, the CCO is responsible for securing all of the items described above and providing them to AF.