## Charitable Remainder Trust

A Charitable Remainder Trust (CRT) is created through the assistance of an attorney. You donate an asset (cash, securities, land, etc.) to the CRT and identify a charitable organization that will be the beneficiary of the remaining asset after you have been provided a stream of income during a specified time period. The trustee of the CRT sells the asset and manages the investment of the proceeds of the sale and distributes the income to you. At the conclusion of the term, the remaining value is donated to the charitable organization.

1. You receive a charitable deduction for the donation of the asset.
2. Appreciated assets donated to the CRT will not be subject to capital gains tax and the income distributed to you will be based upon the full value of the assets.
3. A charitable organization is the recipient of the remaining value of the asset after donor's passing.

## Like-Kind Exchange

IRC Section 1031 allows you to postpone paying tax on the gain of your sale of real property if you reinvest the proceeds or exchange it for other qualified, like-kind real property that is held for use in a trade or business or for investment. The exchange can be fulfilled through a sale of land or development rights as long as the exchange property is identified within 45 days after the sale of the initial property. The proceeds of the sale must be invested in qualified business or investment property and the closing must take place within 180 days after the initial sale.

1. Capital gains tax is deferred.
2. The gross proceeds can be used to acquire additional farmland.

*Given the complexities involved in estate planning, conservation transactions, and land development, landowners are urged to consult an attorney and/or financial advisor.*

Founded in 1983, the Peconic Land Trust has worked with landowners, communities, partner organizations, and local government to conserve over 12,000 acres, including 6,000 acres of farmland, miles of hiking trails, and over 5,000 acres of natural lands, watersheds, shorelines, wildlife habitats and scenic vistas.

**Conserving Long Island's working farms, natural lands, and heritage for our communities now and in the future.**

*This brochure was funded by New York State Department of Agriculture and Markets Farmland Access Outreach Activities Grants*

PECONIC LAND TRUST

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# PECONIC LAND TRUST

# Conservation Options for Farmland Owners

The loss of farmland threatens the future of local food, economic viability of agriculture, and our quality of life within Suffolk County. Conservation of the remaining farmland is critical, and your efforts are key to protecting this most valuable resource.

Fortunately, you can benefit from many conservation tools and farmland protection programs that are available. These can be tailored to meet your specific goals, needs, and circumstances.

This brochure outlines the various options that you as a landowner may consider to protect your land from development and help you realize the equity that your land provides.

Each of the following conservation tools can be used alone or may be blended in order to create the greatest benefit for you.

## Conservation Easement

A Conservation Easement is a voluntary legal agreement between a landowner and the Peconic Land Trust or municipality that restricts uses of the land in order to protect its conservation values. The donation of a conservation easement can provide you, the landowner, with a variety of benefits related to income taxes, property taxes, as well as state and Federal estate taxes.

1. You continue to own your land and retain the right to sell it or pass it on to your heirs.
2. You can choose to permanently protect all or a portion of your land.
3. Your donation of a conservation easement may result in a charitable, tax-deductible gift and a reduction in your property taxes.
4. A conservation easement may reduce the value of your taxable estate.

**Note:** *Section 2031c of the IRS code allows the executor or beneficiaries of an estate to donate a conservation easement within fifteen months after the landowner's death, (due date of estate return plus extension), thereby reducing the potential estate tax liability if a codicil to the landowner's will is put into place prior to death.*

## Purchase of Development Rights

The sale of development rights from your farmland is a voluntary option if you are actively farming your land. Suffolk County and many towns can Purchase Development Rights (PDR) to protect prime agricultural soils so that the land is perpetually available for agricultural activity.

1. You continue to own your farmland and retain the right to sell it or pass it on to your heirs.
2. You can choose to permanently protect all or a portion of your farmland.
3. Participation in these programs is initiated by sending a letter of interest to the Town or County.
4. While the value of your farmland may be reduced for estate tax purposes, the income from the sale of development rights will be reported as income and may impact your tax liability.

## Transfer of Development Rights

Development rights can be transferred from one parcel or area of land in a sending district to another parcel or area of land in one or more receiving districts thereby increasing development yields in the receiving district and permanently protecting land in the sending district.

1. You continue to own your land and retain the right to sell it or pass it on your heirs.
2. You can choose to permanently protect all or a portion of your land.
3. The value of the development rights being transferred is negotiated between the landowner and the purchaser and is not limited by an appraisal.
4. The sale price received by the landowner is subject to capital gains taxes and there is no opportunity for a bargain sale.

## Family Limited Partnership

A Family Limited Partnership (FLP) is a joint venture arrangement whereby family members own shares of interest in order to facilitate the transfer of land and other assets from one generation to another while securing some tax protections.

1. The General partners control all management and investment decisions and are responsible for 100% of the liability.
2. Limited partners cannot participate in the management of the FLP and have limited liability.
3. The FLP itself is not taxable, instead the owners of the FLP report the partnership's income and deductions on their personal tax return, in proportion to their interests.

## Conservation Subdivision

This is an approach to subdividing land on a reduced-density basis, while protecting natural resources on a portion of the land (agricultural soils, natural features) through the sale or donation of development rights.

1. It could blend the sale of land with charitable gifts to offset potential capital gains tax.
2. The reduced density component may expedite the municipality's approval process.
3. Infrastructure costs of the subdivision implementation are reduced.
4. It provides an alternative to full development that is responsive to the local real estate market.

## Bargain Sale

A Bargain Sale is the sale of development rights, or land, at less than fair market value to a conservation organization or municipality. The difference between the land's fair market value and its bargain sale price may qualify as a charitable gift to offset potential capital gains tax. Your bargain sale value is determined by a qualified appraisal.

Photo courtesy of Jeff Heatley