

**EAST COVENTRY TOWNSHIP
CHESTER COUNTY PENNSYLVANIA**

RESOLUTION NO. 2017-21

**A RESOLUTION APPROVING THE EXPENDITURE OF \$119,075 PLUS
TRANSACTIONAL EXPENSES FOR THE PURPOSE OF PURCHASING A
CONSERVATION EASEMENT AND TRAIL EASEMENT ON THE TAYLOR
PROPERTY**

WHEREAS, municipalities are authorized to acquire interests in real property to protect and conserve natural or scientific resources, to protect scenic areas, to preserve sites of historic, geologic or botanic interest, to promote sound, cohesive and efficient land development by preserving open spaces between communities, and for purposes consistent with the terms of the Conservation and Land Development Act (the "Conservation Act"), as amended by Act 153 of 1996, Pa. Stat. Ann. Title 32, Section 5001 et seq.; and

WHEREAS, the Board of Supervisors of East Coventry Township, Chester County, has designated proceeds raised pursuant to its Ordinance No.175, adopted January 10, 2011 authorizing the imposition of an additional earned income tax to raise revenue to purchase interests in real property and/or to make additional acquisitions of real property for the purpose of securing open space benefits in the Township as more particularly set forth as required by Act 153 of 1996; and

WHEREAS, Keith Taylor is the owner in fee simple of a certain tract of ground located in East Coventry, Chester County, Pennsylvania containing approximately 10.650 acres, with a street address of 604 Kulp Road, Pottstown, PA 19465 being Parcel ID Nos. 18-4-169 and 18-4-169.1 (the "Property"); and

WHEREAS, the Natural Lands Trust has been awarded a \$50,000 Chester County Preservation Partnership Program Grant to assist in the preservation of the property; and

WHEREAS, the Property possesses natural, scenic, open space, historical, educational, and/or recreational values (collectively "conservation values") of great importance to the citizens of East Coventry Township; and

WHEREAS, in particular the subject Property contains a tributary to the Pickering Creek a High Quality stream as designated by 25 Pa. Code § 93 and,

WHEREAS, the specific conservation values of the Property will be documented in an inventory of relevant features of the Property to be kept on file at the offices of East Coventry Township, and incorporated herein by this reference ("Baseline Documentation Report"), which consists of reports, maps, photographs and other documentation that the parties agree provide, collectively, and accurate representation of the Property at the time of its Conservation Easement and Trail Easement purchase by East Coventry Township which is intended to serve as an objective information baseline for monitoring compliance: and

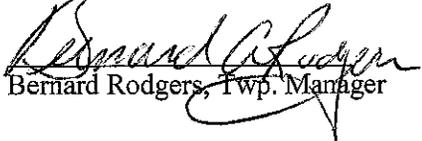
WHEREAS, the Taylor family expressed an interest in selling a Conservation Easement and Trail Easement over the Property to permanently protect the Property's conservation values and permit public access for passive recreation; and

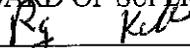
WHEREAS, the Board of Supervisors of East Coventry Township has determined that it is in the best interest of its citizens to preserve the property by the purchase of a Conservation Easement and Trail easement; and

NOW, THEREFORE, BE IT RESOLVED AND ENACTED that the Board of Supervisors, East Coventry Township, Chester County, Pennsylvania adopts this Resolution approving the expenditure of \$119,075.00 plus transactional expenses for the above purpose.

RESOLVED AND ENACTED this 14th day of August, 2017

ATTEST


Bernard Rodgers, Twp. Manager

EAST COVENTRY TOWNSHIP
BOARD OF SUPERVISORS


Ray Kolb, Chairman

Taylor Easement Acquisition
Estimated Costs and Sources and Uses of funds.
7/25/17

Taylor Easement Value **\$119,075**

Estimated Transactional Expenses:

Summary of Estimated NLT Easement Costs

Natural Lands professional staff	\$12,000 (not more than)
Legal	\$ 650 (actual)
Stewardship Fund	\$12,000 (actual)

Summary of Estimated Non-NLT Easement Costs

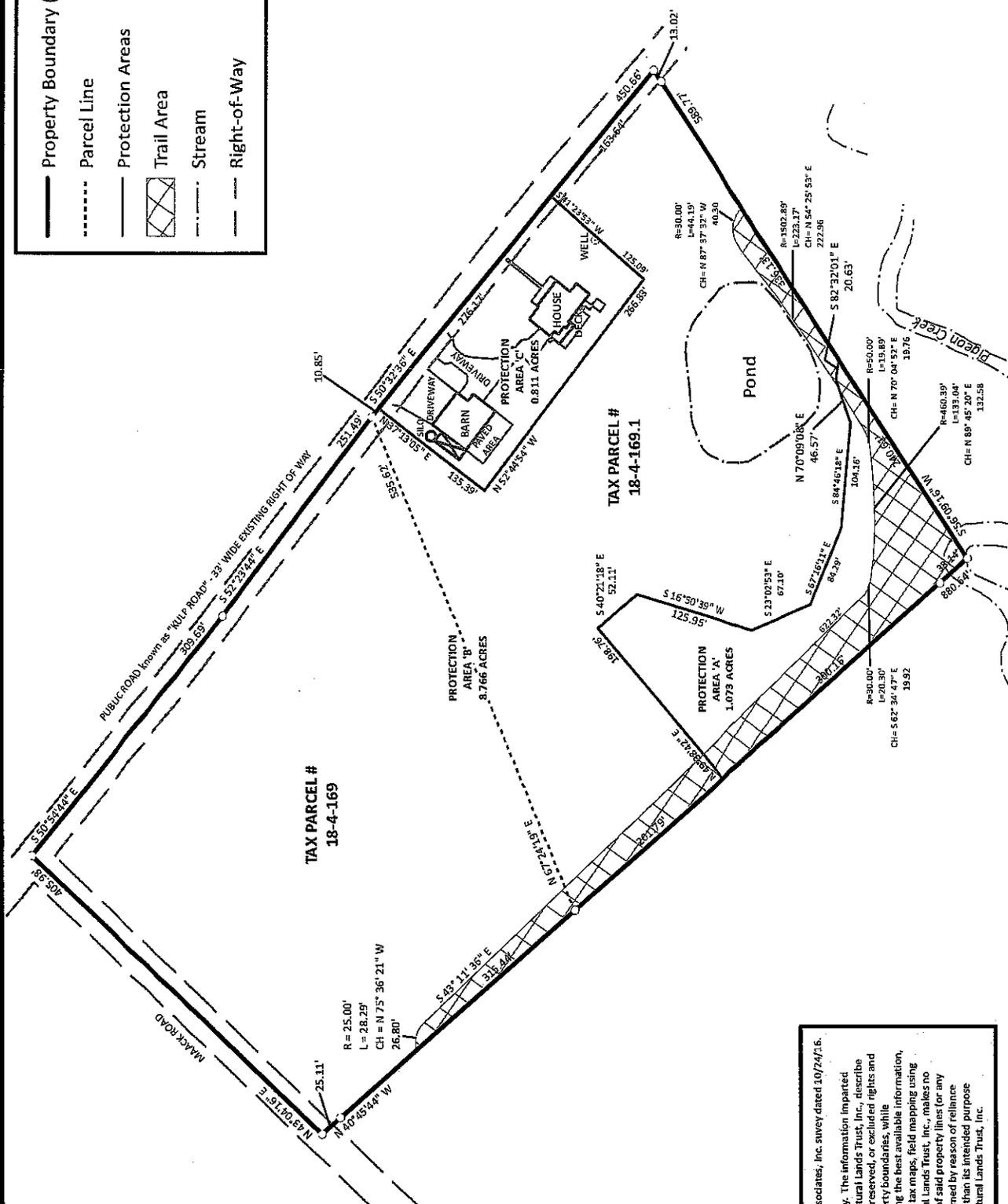
Title report and Insurance	\$ 1,450 (actual)
Environmental Assessment	\$ 1,275(actual)
Appraisals (two required for County Grant)	\$ 5,000(actual)
Survey	\$ 3,800 (actual)
Subtotal, transactional expenses	\$ 36,175

ESTIMATED TOTAL	\$155,250
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Sources and Uses of Funds

Chester County	Acquisition	\$ 50,000.00
East Coventry Township	Acquisition	\$ 69,075.00
East Coventry Township	Transactional Expenses	\$ 40,200.00
TOTAL		\$155,250.00

- Property Boundary (+/- 10.65 acres)
- Parcel Line
- Protection Areas
- Trail Area
- Stream
- Right-of-Way



1. Property lines from Register Associates, Inc. survey dated 10/24/16.
 Disclaimer: This map is not a survey. The information imparted with this map is meant to assist Natural Lands Trust, Inc., describe the placement of certain retained, reserved, or excluded rights and to calculate acreage figures. Property boundaries, while approximate, were established using the best available information, which may have included: surveys, tax maps, field mapping using G.P.S., and/or orthophotos. Natural Lands Trust, Inc., makes no representation as to the accuracy of said property lines (or any other lines), and no liability is assumed by reason of reliance thereon. Use of this map for other than its intended purpose requires the written consent of Natural Lands Trust, Inc.

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Compiled By: MEB 07/21/17

Exhibit B: Conservation Plan
TAYLOR PROPERTY
 Tax ID: 18-4-169 and 18-4-169.1 (+/- 10.65 acres)
 East Coventry Township, Chester County, PA

Natural Lands
 1031 Palmers Mill Road, Media, PA 19063
 610-353-5587 | natlands.org



May 4, 2016

Keith Taylor
604 Kulp Road
Pottstown, PA 19465

East Coventry Township Supervisors
c/o Bernard Rodgers, Township Manager
855 Ellis Woods Road
Pottstown, PA 19465

Hildacy Farm Preserve
1031 Palmers Mill Road
Media, PA 19063
tel: 610-353-5587
fax: 610-353-0517
info@natlands.org
natlands.org

RE: Conservation Project, Taylor Property
Proposed Conservation Easement on Tax Parcels 18-4-169
and 18-4-169.1, containing approximately 11.2 acres

BOARD OF TRUSTEES

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Dear Keith:

Natural Lands Trust (NLT) is very pleased to submit this proposal for the acquisition of a conservation easement on your property shown on the attached Draft Conservation Plan.

The following proposal is our initial outline of the important issues and objectives of the conservation easement followed by our standard description of the technical and legal procedures necessary for an easement conveyance. Please feel free to call if it raises any questions or concerns.

The following summarizes our understanding of the scope of work:

1. The Taylor's intend to sell a conservation easement on their 11.2-acre property in East Coventry Township.
2. The two tax parcels will be considered a single property. The conservation easement will cover the entire property, approximately 11.2 acres as shown on the attached draft conservation plan. The woodlands, creek, wetlands, and steep slopes portions of the property will be designated as a "Highest Protection Area/Area A" and will be limited to passive open space uses. Agricultural areas of the property will be designated a "Standard Protection Area/Area B" and will be limited to agriculture, forestry and open space uses. A "Minimal Protection Area/Area C" surrounding the existing residence and other buildings will be designated to allow for residential uses.
3. No subdivision of the property will be permitted other than an allowance to permit minor lot line changes that do not create additional lots, or to





transfer a portion of the property to a conservation organization or public land preservation agency.

4. Natural Lands Trust will be the primary easement holder with East Coventry Township and Chester County (as funders) serving as a beneficiary. The beneficiary's role will be largely passive, with Natural Lands Trust having primary responsibility of review, approval, and monitoring of the restrictions. The beneficiaries will retain rights of prior consultation on easement amendments, transfers and subdivisions.
5. The value of the easement has been determined by an appraisal commissioned by Natural Lands Trust and paid for by East Coventry Township.
6. Natural Lands Trust submitted an application and has been awarded grant funds for the purchase of the conservation easement from the Chester County Preservation Partnership Program. The amount awarded is \$50,000.
7. The following due diligence is required for placing a conservation easement on the property: a survey, two appraisals, a Phase One Environmental Hazards Assessment, baseline documentation report, and title insurance. NLT will also incur staff and legal costs associated with the easement conveyance. Typical costs are outlined further below.
8. The County requires public access to the easement area as a condition of funding. It is NLT's belief that the trail corridor as outlined on the draft conservation plan, which will traverse the property, will satisfy the public access requirement.
9. A portion of the costs associated with the easement conveyance includes Natural Lands Trust request for funding for the perpetual monitoring of the easement(s) and any potential legal action required to defend the easement against violations. The requested contribution to the Board restricted reserve, which is explained more fully, further below, will be \$12,000.
10. Natural Lands Trusts costs and expenses will be paid for by East Coventry Township and are further explained below. If for any reason this easement not finalized NLT will bill East Coventry for accrued costs and expenses.



11. The landowners will be responsible for any legal, financial or other advisory services they employ.
12. For the purposes of keeping costs reasonable, particularly in instances when multiple parties are involved in negotiations, NLT requests to the degree possible, that the landowners and Township each assign a single advisor to represent their interests in their communications with Natural Lands Trust.

Enclosed is a map of the easement protection areas (Highest Protection Area/Area A, Standard Protection Area/Area B, Minimal Protection Area/Area C.) Also enclosed is a draft summary of easement restrictions. Please let us know if we have properly understood your intentions or if we should address additional concerns.

SCOPE OF WORK FOR NLT IN THE EASEMENT CONVEYANCE

Six work tasks are involved in conveying a conservation easement.

Task 1. Easement Acceptance by the Natural Lands Trust Board of Trustees

Board approval is necessary for all easements accepted by Natural Lands Trust. NLT staff will present the proposed easement to our Conservation Programs Committee for review and recommendation to the Board of Trustees.

Task 2. Baseline Property Documentation

The baseline documentation report will describe the property's features and resources as well as the conservation objectives of the easement, such as the protection of water resources, aquatic habitat, and scenic views. The baseline documentation will also provide the basis for monitoring the easement conditions in the future. NLT will ask the landowners to acknowledge the accuracy of the baseline documentation when the easement is signed. The baseline report includes the following:

1. *Conservation Plan* showing boundaries, improvements, streams, and rights-of-way. The base map will be based on the survey and will be supplemented with information obtained from a site visit, aerial photography, and other maps and publications.
2. *Environmental conditions maps* showing topography, floodplains, soils, woodlands, and hedgerows. Information collected from our site visit will be used to supplement data from published sources, such as soil surveys or geographic information system (GIS) files.
3. *Plant Inventory* of habitat areas and plant communities.



4. *On-Site Photography* taken during site visits by NLT.
5. *Aerial Photograph* obtained from existing photography sources.
6. *Improvements Inventory* of existing buildings and improvements and the tabulation of impervious coverage of structures that are limited by the conservation easement.

Easement Sign

Natural Lands Trust and funders want to celebrate and recognize the conservation of your land at the completion of the easement. One of the ways we do that is to erect a permanent sign on the property recognizing that the land has been conserved and acknowledging those who made the easement possible.

During the baseline site visit, NLT staff and the landowner will determine an appropriate location for the easement sign. After settlement, NLT will be solely responsible for securing any and all required permits, installation of the sign, and maintenance of the sign in the future.

The sign will be double-sided and consistent in design with the attached example. The sign will consist of two parts:

- a larger top portion that is 25.5" wide x 28" tall and includes the phrase "Preserved Forever," the Natural Lands Trust logo, and the Natural Lands Trust web site address;
- a smaller portion, which is 25.5" wide x 9" tall, will be placed below the larger sign and will acknowledge those entities that funded the purchase of the easement and the landowner's/landowners' name/names.

Task 3. Conservation Plan

During the preparation of the easement, NLT will consult with the landowners to finalize the easement protection area boundaries (approximate areas outlined on the attached map) on the ground. The boundaries for the property and protection areas will be surveyed and set using durable "witness" markers, such as steel fence posts or concrete monuments. We may also use geographic positioning system technology (GPS) to record corner locations. The surveyor will also prepare a legal description of the easement area that will be attached as an exhibit to the easement.

Task 4. Conservation Easement

NLT staff will prepare the first draft of the conservation easement document. It will be important for the landowners and their attorney to review the draft so that all are comfortable with the restrictions. NLT will be available to answer any questions, and would be happy to go over the draft easement



page by page if you wish. The easement will also need to be reviewed and approved by Chester County.

Upon review and approval of the draft easement, NLT staff will circulate a final draft for approval and signature. The final draft will show any revisions to the preliminary draft.

It will be necessary for the landowners to get the consent of any mortgage or lien holder to the conservation easement, prior to signing and recording the easement.

NLT can provide the landowners with the form that would need to be signed by the mortgage holder. The mortgage holder will probably also ask to see a copy of the draft easement and the conservation plan for the property.

Payment of the Trust's costs and expenses associated with the easement conveyance will be due at the signing of the easement. NLT will submit an invoice prior to settlement.

Task 5. Documentation in Support of Public Benefit.

To qualify as a tax-deductible contribution and/or establish the rationale for the expenditure of public funds, a conservation easement must meet the following requirements under Section 170(h) of the Internal Revenue Code:

(1) it must be a qualified real property interest; (2) it must be given in perpetuity to a qualified organization; and (3) it must be exclusively for conservation purposes. To meet the third requirement, that the gift is for conservation purposes, the easement must accomplish at least one of the following:

1. **Public Recreation or Education** - preserve land areas for outdoor recreation by the general public or for the education of the general public;
2. **Protection of Habitat** - protect a significant, relatively natural habitat of fish, wildlife, or plants, or similar ecosystem;
3. **Preservation of Open Space** - preserve open space (including farmland and forest land) if such preservation is:
 - a. pursuant to a clearly delineated federal, state, or local governmental conservation policy, and will yield a significant public benefit; or
 - b. for the scenic enjoyment of the general public, and will yield a significant public benefit;
4. **Historical Preservation** - preserve a historically important land area or a certified historic structure.



The IRS regulations suggest the requirements an easement must meet to qualify in each of the above categories. For your property, we will focus upon the qualifications on the basis of (2) Protection of Habitat, and (3) Preservation of Open Space Pursuant to Governmental Policy. A description of the property's qualifications will be included in the baseline documentation report. Please bear in mind that while we can pose reasonable arguments in support of the conservation value of the easement, NLT cannot guarantee that the environmental and open space values of the property will qualify as a tax-deductible contribution.

The documentation will also be used to establish the conservation objectives of the easement, such as the protection of scenic views, water resources and woodland habitat. The conservation objectives provide guidance for the interpretation of the easement and the application of the restrictions and limitations in the easement to new or unforeseen circumstances. The conservation objectives will also describe the various benefits the easement will provide to the region and the citizens of East Coventry Township, Chester County, and Pennsylvania.

Should the Landowners consider a donation of value, as you may be aware, when the value of a donation to be claimed as a deduction exceeds \$5,000, the donor must obtain a qualified appraisal meeting federal tax requirements to justify the value of the gift. The appraisal must be prepared in accordance with the Uniform Standards of Professional Appraisal Practice and basic U.S. Treasury Department Regulations. To give you some guidance on the timing of the appraisal, it must be dated no earlier than 60 days prior to the date the easement is signed and no later than the due date of the income tax return on which a deduction for the gift is first claimed or reported.

The appraisals required for the Chester County Preservation Partnership Program and other funding programs are solely to determine the value of the *easement* to justify the grant requests and awards. These appraisals will not meet the IRS requirements for an appraisal to justify the value of the *gift* for the purpose of claiming a tax deduction. Under most circumstances, however, the appraiser who did the original appraisal can update that appraisal so that it meets the federal tax requirements. The landowners will incur an additional cost for this appraisal.

NLT is required to acknowledge the receipt of the easement donation by signing IRS form 8283. Please note that form 8283 has instructions that require the landowner to attach specific documents required with the form.



For example, you will be required to "identify the conservation purposes furthered by your donation."

NLT requires a copy of the IRS-compliant appraisal for our files and the appraiser's signature on the form 8283, prior to signing the form. Please keep in mind that we require two weeks to return a signed IRS form 8283. While the values claimed for the easement gift are a matter between the donor of the easement, the appraiser, and the IRS, Natural Lands Trust cannot support a tax deduction that could threaten our credibility as a 501(c)(3) organization. NLT may request additional documentation for the values claimed before signing form 8283. NLT will not knowingly participate in a project if it has significant concerns about the tax deduction.

Enclosed is a handout further detailing the IRS appraisal requirements and NLT's requirements for signing a form 8283.

Task 6. Settlement and Reimbursement

After completion of the above tasks, NLT will assemble, arrange, and organize final documents for easement conveyance, payment, and reimbursement. This will include:

- Title report and preliminary settlement sheet
- Environmental Assessment
- Final survey
- Completed Baseline Documentation
- Completed Easement Document for Signatures
- Scheduling of settlement
- Invoice of NLT's costs and expenses

Post Settlement:

- NLT will record the easement at the Chester County Recorder of Deeds
- A recorded copy of the easement shall be provided to the landowners, Township, and County

WORKING ARRANGEMENTS AND COSTS

Natural Lands Trust is a nonprofit conservation organization chartered as a public charity under section 501(c)(3) of the Internal Revenue Code. We have a strong interest in working closely with municipalities, private landowners and other organizations where our involvement will facilitate a responsible approach to land use and conservation. To continue our work we must be reimbursed for our staff time and the costs for the preparation and conveyance of a conservation easement.



1. NLT Staff Costs and Expenses

NLT staff services including the administration, coordination, document preparation, and mapping for the easement transaction as well as direct out-of-pocket expenses such as reproduction, postage, travel and recording fees. We expect our total staff costs for the entire project to be \$12,000. We will only charge for our actual costs. Should our costs be less than the above estimate, it will be reflected in our final invoice.

Billing Rates and Direct Costs through June 2016:

Jack Stefferud	\$85/hour
Other staff as needed	\$45-\$70/hour (cartography, proofreading, etc.)
Copier	
Black & White	\$0.08/copy
Color	\$0.45/copy
Color Printer	
8 ½ x 11	\$0.80/sheet
11 x 17	\$1.60/sheet
Plotter	\$10.00/foot
Postage	at current rates
Mileage	\$.54 per mile (federal rate)

2. Appraisals

An appraisal by a state-qualified, general appraiser was commissioned to establish the value of the easement. The appraisal was prepared by a Member, Appraisers Institute (MAI), formerly Institute of Real Estate Appraisers, or a PA State Certified Appraiser. A second appraisal, to verify the value of the first, is required for all Chester County grants. The cost of the two appraisals is estimated to be a total of \$6,000.

3. Title Report and Insurance

A title report is important to verify the ownership of the property and the existence of any liens, judgments, rights of way, or other easements on the property. The cost for the title report, with associated title insurance, is set by law and is based on the purchase price of the easement. Assuming a total value of the easement is \$119,075 for the easement, the title insurance would be approximately \$1,100.

4. NLT Legal Fees

Every easement involves the Trust's attorney for the preparation of the conservation easement. NLT's attorney will draft the easement document and review any suggested changes made by the landowners' attorney. We expect legal fees to be approximately \$1,500, provided no unusual problems



are encountered. Please note that legal fees incurred on the landowners' behalf are not part of this proposal and are solely their responsibility.

5. Surveying Fees

Conservation easements that are purchased with public funds require an up-to-date legal description of the conservation easement area. It is important that we enter into the easement with knowledge of the property boundaries, and assurance that neighbors have not encroached upon the conservation easement area. The cost of a survey varies with the size and configuration of the specific property. NLT will obtain quotes from qualified surveyors in the area, including any surveyors who may have surveyed the property in the past.

6. Environmental Hazards Assessment

NLT will arrange to have a Phase 1 Environmental Hazards Assessment conducted. The estimate for this service is \$1,600. Should the assessment discover a hazard, contingency arrangements must be made to address the concerns.

7. Stewardship Fund

Natural Lands Trust requests funding for all conservation easements for the following purposes:

- annual monitoring and inspection of the easement area
- review and approval of plans and additional improvements
- ongoing interpretation of easement restrictions
- legal enforcement of easement provisions, should that be necessary

The funds will be placed in a Board restricted reserve that will help provide an annual source of income to cover NLT's perpetual responsibilities. The amount of the stewardship fund is based on the size of the property, the specific restrictions and reserved rights of the easement, and the anticipated costs to administer, monitor, interpret, and enforce the easement over time. Because there will be a single easement at the time of conveyance the requested contribution to the Board restricted reserve, which is explained more fully further below, will be \$12,000.



Estimated Costs and Sources and Uses of funds.

Taylor Easement Value \$119,075

Estimated Transactional Expenses:

Summary of Estimated NLT Easement Costs

Natural Lands professional staff	\$12,000
Legal	\$ 1,500
Stewardship Fund	\$12,000

Summary of Estimated Non-NLT Easement Costs

Title report and Insurance	\$ 1,100
Environmental Assessment	\$ 1,600
Appraisals (two required for County Grant)	\$ 6,000
<u>Survey</u>	<u>\$ 6,000</u>
Subtotal, transactional expenses	\$ 40,200

ESTIMATED TOTAL \$159,275

Sources and Uses of Funds

Chester County	Acquisition	\$ 50,000.00
East Coventry Township	Acquisition	\$ 69,075.00
East Coventry Township	Transactional Expenses	<u>\$ 40,200.00</u>
TOTAL		\$159,275.00

Contractual Agreement

This letter outlines the work to be completed by Natural Lands Trust for the conveyance of a conservation easement on Taylor's Kulp Road property, containing approximately 30.6 acres.

If problems or complications arise that changes the scope of the work and affects our costs we will contact the Taylor's and East Coventry Township for further authorization. Should our costs be less than the above estimates, it will be reflected in our invoices. Upon your request, we can periodically inform you of our projected bill based on the actual time and expenses incurred. *If for any reason the easement is not completed, East Coventry Township will reimburse Natural Lands Trust for its costs and expenses, including the cost of its consultants and advisors.* If these financial terms create any problems, please contact us as soon as possible.

If this letter is acceptable as a contractual agreement, we request your acknowledgement by signing in the space provided below. Natural Lands



Trust is prepared to begin work on the application in earnest upon receipt of one signed copy of this letter.

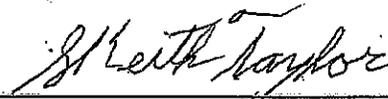
Should you have any questions, please do not hesitate to contact me.

Sincerely,



Jack Stefferud
Senior Director of Land Protection
(484) 368-9961
jstefferud@natlands.org

Accepted by:



Keith Taylor, Landowner

Date: 5-26-16



East Coventry Township, Beneficiary
Chairman, Board of Supervisor

Date: May 9, 2016