

This document contains more detail for some questions that were asked during the live Coastal Homeowner Buyout Forum on April 21, 2021. The presenters followed up with this information after doing some more research.

From the Federal Emergency Management Agency:

In regards to whether a land trust can hold a property acquired with FEMA funding, please reference the following language pulled from the [FEMA Model Deed Restriction](#):

d. Transfer. The Grantee, including successors in interest, shall convey any interest in the Property only if the FEMA Regional Administrator, through the State, gives prior written approval of the transferee in accordance with this paragraph.

- i. The request by the Grantee, through the State, to the FEMA Regional Administrator must include a signed statement from the proposed transferee that it acknowledges and agrees to be bound by the terms of this section, and documentation of its status as a qualified conservation organization if applicable.
- ii. The Grantee may convey a property interest only to a public entity or to a qualified conservation organization. However, the Grantee may convey an easement or lease to a private individual or entity for purposes compatible with the uses described in paragraph (a), of this section, with the prior approval of the FEMA Regional Administrator, and so long as the conveyance does not include authority to control and enforce the terms and conditions of this section.
- iii. If title to the Property is transferred to a public entity other than one with a conservation mission, it must be conveyed subject to a conservation easement that shall be recorded with the deed and shall incorporate all terms and conditions set forth in this section, including the easement holder's responsibility to enforce the easement. This shall be accomplished by one of the following means:
 - a) The Grantee shall convey, in accordance with this paragraph, a conservation easement to an entity other than the title holder, which shall be recorded with the deed, or
 - b) At the time of title transfer, the Grantee shall retain such conservation easement, and record it with the deed.

From US Department of Agriculture – Natural Resources Conservation Service:

First off, this is the link to the [program page](#) with some good information. The sample purchase agreement and warranty deed are probably most informative (NRCS-LTP-80 AND NRCS-LTP-20).

Regarding Allowable Uses

Here's an excerpt from the warranty deed regarding uses:

PART II. Reservation in the Landowner on the Easement Area. Subject to the rights, title, and interest conveyed by this easement deed to the United States, the Landowner reserves:

- A. **Title.** Record title, along with the Landowner's right to convey, transfer, and otherwise alienate title to these reserved rights.
- B. **Quiet Enjoyment.** The right of quiet enjoyment of the rights reserved on the easement area.
- C. **Control of Access.** The right to prevent trespass and control access by the general public subject to the operation of State and Federal law.
- D. **Recreation Uses.** The right to undeveloped and recreation uses, including hunting and fishing, and including leasing of such rights for economic gain, pursuant to applicable State and Federal regulations that may be in effect at the time.
- E. **Subsurface Resources.** The right to oil, gas, minerals, and geothermal resources underlying the easement area, provided that any drilling or mining activities are to be located outside the boundaries of the easement area, unless activities within the boundaries are specified in accordance with the terms and conditions of EXHIBIT C.

Sometimes under a Compatible Use Agreement it may be acceptable to have low impact trails but only if it doesn't adversely affect the floodplain storage/flows.

Cost Share

NRCS pays 100% of restoration cost. The easement purchase usually covers about 90% of the appraised value so the "remaining fee title value" that the Sponsor is responsible for to take ownership of the easement is in that 10% range. This is an estimate and will vary on a case by case basis.

All Homeowners need to participate

Again this is on a case by case basis and would involve consideration for acquisition, restoration, management ...but ideally we would want to approach the easement/restoration holistically. Impacts to offsite resources would need to be considered if the outer extents of the easement had properties that weren't included. Certainly if homeowners in the middle of the easement didn't want to participate then that wouldn't work.

US Army Corps of Engineers

Regarding whether a conservation trust entity can receive the land: There is no definition of what a non-federal sponsor needs to be. However, the project boundary real estate needs to be owned by the non-federal sponsor or able to be acquired. It's an individual project scope definition; details will be determined on a case-by-case basis.