



A STEP-BY-STEP GUIDE TO DONATING A CONSERVATION EASEMENT

Thank you for considering the *donation* of a conservation easement on your property. This guide is meant to help you understand the steps that must be completed to conserve your property and the typical costs that are involved. We surveyed five land trusts of varying sizes to compile this guide – you may encounter costs that fall outside of this range. If you have a question about any step in the process, please don't hesitate to get in touch with us!

Is a conservation easement right for you?

Define your goals

Think through your goals for protecting your land and talk it over with your family. This step takes some people 3 months and others 3 years to complete. Do you plan to build another house on the property one day for ranch hands or for family members? Will you be changing your use of the land in some way? What kind of financial goals do you have for your property? We'd be happy to discuss your specific goals for your land and try to help you decide if a conservation easement is the right choice for you and your family.

Call your accountant or financial advisor, and an attorney

Talk with your accountant about what you're planning to do in case there are any tax implications that you want to plan for in advance. Sometimes changing the timing for your donation by a few weeks could make a difference of thousands of dollars in taxes. An attorney experienced in conservation law can be an invaluable resource when it's time to negotiate the terms of the conservation easement.

Interview qualified conservation organizations

Once you've worked through your goals for protecting your land, you can then interview a few land trusts to see who is a good fit for you. Different land trusts require different restrictions, so it's a good idea to do your homework. This conservation easement will be on your property forever! We are happy to give you a recommendation of the land trusts that have similar goals to yours.

Contact a qualified appraiser

The appraisal is the most time consuming step of the process, so choosing an appraiser early will really help clarify the project timeline. Some appraisers are willing to provide you with a preliminary appraisal prior to writing the full 100-200 page report for half of the fee. That gives you the opportunity to see if the value is in the ballpark of what you're expecting before you pay the appraiser to do all of the work to make their formal report. The associated costs in a typical conservation easement transaction range from \$29,000 to more than \$75,000! It can be a good idea to speak informally with a qualified appraiser early in the process to see if their work style fits with your goals. We know many appraisers and would be happy to help you find one who is an expert in your geographical area and who would be a good fit for you.

Conserving your property

Hire a land trust (\$4,500 - \$15,000)

When you are ready to commit to a land trust, the next step is to sign a letter of intent with them. They will also ask for a project fee to cover the land trust's time and expenses for the project. The fee is designed to cover the land trust's travel, staff time, administrative costs, and overhead. *This fee does not cover grant writing costs.* Some land trusts include the stewardship endowment fee (see last step in this section) at this time so that you're paying just one fee to the land trust for the project. Please discuss fees with your land trust so you are clear on what is expected – *each land trust handles their fees differently.*

Hire an appraiser (\$7,000 - \$35,000)

As we said before, the appraisal is the most time consuming step of the process. Please be aware that there is a high level of scrutiny of these appraisals, particularly as it relates to the tax credit program. That means that your tax credit broker, attorney and land trust will read over the appraisal carefully before we submit it to the state to receive a tax credit certificate.

Submit a Preliminary Advisory Opinion (\$6,175 - \$12,350)

The chances of you receiving your Tax Credit Certificate are much greater if you submit a Preliminary Advisory Opinion (PAO). What a PAO can do is check for two things: 1) the credibility of the appraisal and/or 2) whether the donation is a qualified conservation contribution. The Appraisal PAO (1) is most noteworthy, and has almost established itself as part of the overall process, even though it is optional. The PAO would be submitted to the Division of Real Estate after our team, the land trust and appraiser carefully read over the first draft. The result of a positive PAO review is an appraisal that is top notch and free of error. Each PAO option has a fee of \$6,175.

Negotiate terms of your conservation easement

Now that you've selected a land trust, signed their letter of intent, and paid their project fee, it's time to negotiate the specific language of your conservation easement. Remember, a conservation easement is a legally binding agreement that will forever restrict the use of the land and water. An attorney experienced in conservation law can help ensure the conservation easement is structured to preserve exactly what you want to protect and how you want to protect it. If you hire an attorney, that will add to the cost of your project. Additionally, some land trusts bill for the hours their attorney spends on the transaction. Please discuss fees with your land trust so that you know what fee is your responsibility and what fee is not. *Negotiating terms of your conservation easement is done simultaneously with the appraisal work.*

Order title work (\$350 - \$1,500)

Pulling title work on your property now will help you figure out quickly whether there are any time consuming title issues that need to be ironed out. It will also tell you whether you own 100% of your minerals. *This should happen at the same time that you're negotiating the terms of your conservation easement.*

Get a mineral remoteness letter (if applicable) (\$1,500 - \$4,500)

If you don't own 100% of your minerals, you'll need to hire a geologist to do a mineral report. If this applies to you, we can go into more details.

Subordinate your mortgage (if applicable)

If you have a mortgage on your property, start talking with your lender about subordinating the mortgage to the deed of conservation easement. This can take some time depending on whether you are with a large bank or if you're with a local one. If you have a mortgage, we can talk about this in greater detail.

Document the conservation values and condition of the property (\$2,000 - \$6,000)

Our landowners have found the Baseline Report to be one of the most rewarding parts of the process. An ecologist will come to your property to take pictures, study the plants and animals that live on your land and you'll undoubtedly learn about something special you didn't already know about your property. This report documents the condition of the property at the time of donation. Down the road, if you and the land trust have any questions about the condition of the property when you did the conservation easement, the baseline report serves as the benchmark. It is also the document that shows the state and the IRS why your land is special and deserving of tax benefits.

Finalized appraisal comes back

The appraisal's effective date must be within 60 days of the recorded conservation easement or it will need to be updated by the appraiser. That could entail additional appraisal fees and time for the appraiser to research any new sales that have happened.

Sign and record the conservation easement

It's closing day and it's time to celebrate! You've spent a lot of hours working with your land trust and now it's official – your property will always remain the way you intended it to be.

Pay your stewardship endowment fee (\$8,000 - \$20,000)

By accepting your donation, the land trust is promising to uphold the terms you agreed to in your deed of conservation easement. This means the land trust will visit with you once a year to look at the property. If the land trust finds problems on the land (becomes more likely when someone else owns it in the future), they will uphold the terms of the conservation easement and ensure your property remains protected forever.

Selling your tax credits

Send us any of your materials that you have handy

This is the time we make sure we have everything. We are happy to work with your land trust to gather your documents.

Our review

We will review everything, starting with the appraisal and deed of CE. If we have any questions or find any typos, we will work with the appropriate professional to fix them up. Once all of the documents have been reviewed, we will prepare the tax credit certificate application for you to send to the Division of Real Estate.

State review (\$12,350)

The tax credit certificate application review process takes on average 120 days. Tax Credit Connection will work with the folks at the state to get them any additional information they need or to help with any necessary corrections.

Application pending

While the application is with the state, we will finalize the tax forms and circulate them to the appraiser and land trust for signatures.

Tax credit certificate is issued

We will match you with a buyer /buyers and send out documents for all parties to sign and return.

We send you your check(s) and we're done with the sale!

Prior to tax day, we'll send your accountant all of the documents he or she needs to file your taxes so you can be sure nothing is missing.

For more information, please contact:

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This information is not intended to be legal or financial advice. Please consult your own advisor.