



## THE COSTS AND BENEFITS OF CONSERVATION EASEMENTS

Several governmental entities (federal, state, and local) and private organizations have established financial incentives to encourage landowners to conserve their lands. These incentives include cash payments and various tax incentives and have been used by landowners to diversify or expand their operations, pay down debt, pay for healthcare costs, and save for retirement. While financial incentives are an important motivator for catalyzing conservation, there are other non-financial benefits to conservation. This document has been developed to provide landowners with information related to the financial and non-financial benefits and the costs of conveying a conservation easement.

### **Benefits – Financial**

There are basically five (5) types of financial benefits that can accompany a conservation easement, (1) federal tax deductions; (2) estate tax benefits; (3) Colorado state tax credits; (4) property tax benefits; and occasionally, (5) cash payments. Each financial benefit is explored in detail below.

#### *Federal Tax Deduction*

A conservation easement may be treated as a charitable gift, making the value of the easement tax deductible. The federal tax incentive for conservation easements allows a landowner to deduct the easement's value up to fifty (50) percent of his/her adjusted gross income, with a fifteen (15) year carry-forward period. Qualified farmers and ranchers are allowed to deduct the easement's value up to one hundred (100) percent of their adjusted gross income with a fifteen (15) year carry-forward period. New proposed IRS regulations would reduce the amount of the federal deduction by the amount of state tax credits received. This rule is not yet finalized; however, landowners and accountants should be aware of the potential change.

#### *Estate Tax Incentive*

Another important tax benefit is the reduction of estate taxes. By granting away development rights the value of the land is decreased, which lowers the value of the land for estate tax purposes, and can provide a significant reduction in the estate tax burden on family members. In addition to this decrease in value, qualified conservation easements can earn an additional \$500,000 estate tax exemption.

### *Colorado State Tax Credits*

Donors of conservation easements are eligible for conservation easement tax credits under Colorado law. These are credits that may be used against Colorado state income taxes owed. Conservation easement tax credits may be used by the donor over a 20 year period, transferred to other Colorado taxpayers, or, in years of budget surplus, refunded by the State to the donor. Donors of conservation easements can receive tax credits at the rate of 75% of the first \$100,000 of the value of the conservation easement and 50% of the remaining conservation easement value up to a total credit amount of not more than \$1.5 million per calendar year and a total transaction cap of \$5 million. For example, a \$2,000,000 donation will yield \$1,025,000 in state income tax credits (\$75K of the first \$100,000 plus 50% of the remaining \$1,900,000. The maximum credit allowed per calendar year is \$1.5 million, which is generated by a donation of \$2,950,000 or more). In a second example, a donation of \$5 million dollars would generate a tax credit of \$2,525,000. The donor would receive \$1.5 million in credits for the year of the donation and \$1,025,000 in credits for the following year. Credits typically sell for between \$0.83 and \$0.85 per dollar. **NOTE:** Landowners should sell conservation easement tax credits through a reputable tax credit broker. Brokers work throughout the year to identify buyers and match them with sellers. The State of Colorado must certify all conservation easement tax credits prior to issuing the credits. To be eligible to receive a State Income Tax Credit, you must be classified as a taxpayer under Colorado Revised Statute § 39-22-522(1).

### *Property Tax Benefits*

Under Colorado law, for properties which are classified as agricultural at the time of easement, the conservation easement will lock in the property tax valuation at its agricultural value. Granting a conservation easement WILL NOT eliminate property tax burdens and the property will remain on the tax rolls, and the landowner retains responsibility for any property tax liabilities.

### *Cash Payments*

Occasionally, CCAALT is able to raise money from public and private funding sources to purchase a portion of a conservation easement with cash. This is known as a bargain sale conservation easement conveyance. Typically, 50% of the value of the easement is purchased in a bargain sale transaction. The remaining 50% is treated as a donation and compensated through the various tax benefits described above.

### **Benefits – Non-Financial**

Landowners have different reasons for deciding to encumber their land with a conservation easement. Many of these reasons have nothing to do with financial gain but have everything to do with a landowner's conservation ethic and love of the land they work. Landowners consistently state that the benefits of the conservation easement extend far beyond the pocketbook. These non-financial benefits include the preservation of Colorado's agricultural heritage, preservation of the land in its open, productive and undeveloped state, and preservation of water resources for agricultural purposes. Conservation easements can also eliminate future family disputes over what to do with property and provide opportunities for young farmers and ranchers to get a start by allowing them to purchase land at a more affordable price.

## **Costs – Financial**

The conveyance of a conservation easement requires the following reports to be produced: (1) a baseline inventory report documenting the current condition of the property; (2) an appraisal to determine the value of the conservation easement; (3) a mineral remoteness assessment to determine the likelihood of mineral extraction; (4) title work; and occasionally, (5) an environmental assessment. In addition to these costs, there are other fees associated with the conveyance of a conservation easement including a project coordination fee, stewardship and legal defense endowment contributions, and various legal fees. Together, these fees typically range from \$61,500 to \$81,500 for a donated conservation easement depending on the complexity of the transaction. Bargain sale transactions tend to be more expensive due to the increased complexity involved with funders and the additional due diligence requirements. The fees for a bargain sale conservation easement can range from \$78,000 to \$136,500. A breakdown of the transaction costs associated with a conservation easement is provided below. Landowners contemplating a conservation easement should also know that conservation easements can make obtaining a mortgage more difficult. Landowners should consult with their banks/lenders to determine how they would handle a subsequent mortgage on a parcel of land encumbered by a conservation easement.

SERVICE	AMOUNT	NOTES
Title services & closing costs	Donated: \$2,000 - \$3,000 Bargain Sale: \$2,500 - \$4,000	Due at closing.
Colorado Conservation Tax Credit Certification Fee	\$8,000	Cost of the Division of Conservation's review and certification of the tax credits. This fee is set each year by the state.
Conservation Easement Appraisal	Donated: \$15,000 - \$25,000 Bargain Sale: \$15,000 - \$40,000	Required by IRS for obtaining tax incentives.
Baseline Inventory	\$3,500 - \$5,000	Required by IRS for obtaining tax incentives.
Mineral Report	\$2,000 - \$2,500	Only required if landowner does <b>not</b> own all of the mineral rights.
Environmental Assessment	Typically Bargain Sale only: \$2,500 - \$5,000	Environmental reports are only required in a bargain sale situation where the report is a condition of funding.
CCALT Legal Expenses	Donated: \$5,000 - \$10,000 Bargain Sale: \$10,000 - \$25,000	CCALT expects landowners to cover CCALT's legal costs.
Your legal fees	\$ unknown	CCALT expects landowners to obtain independent legal counsel.
CCALT Stewardship Endowment	Donated: \$16,000 Bargain Sale: \$18,500	Due upon project completion. This fee may be increased for additional risk factors.
CCALT Legal Defense Fund	\$4,000	Due upon project completion.
CCALT Project Coordination Fee	Donated: \$6,000 Donated w/ transaction cost assistance: \$7,500 Bargain Sale: Tiered depending on amount raised \$12,000 - \$24,500	\$1,000 will be due up front when the CCALT Board approves the project. For a bargain sale, an additional \$1,500 is due at the time the first grant application is submitted. The remainder of the fee is upon project completion.
CCA Lifetime Membership	\$5,000	Due only if project is completed.
<b>TOTAL RANGE</b>	<b>Donated Conservation Easement: \$61,500 - \$81,500 Bargain Sale Conservation Easement: \$78,000 - \$136,500</b>	

### **Costs – Non-Financial**

Conveying a conservation easement can be a long, difficult, and time-consuming process that can cause stress, frustration, and disagreement amongst family members. This is especially true in bargain sale transactions which tend to require more restrictions, cost more, and take longer. Moreover, landowners must consider that conservation easements will restrict certain uses of the property in perpetuity (forever), tie the hands of future owners, reduce the value of the property and extend the time it takes to sell the property on the open market.

CCALT has strict confidentiality policies to protect landowners, but oftentimes funders require that information related to a conservation easement is disseminated to the public and all conservation easements are recorded in the public records in the county where the property is located. The location of all conservation easements is also shared with CSU's COMaP service, which is available to anyone with a subscription. While both the benefits and costs are important to understand when deciding whether or not to pursue a conservation easement the decision essentially comes down to answering two questions, (1) does it make financial sense? and (2) do you believe in your heart that encumbering the property is the right thing to do? Answering those questions can be difficult, but there are several resources that can help landowners make the right decision for their land and their family. The CCALT website is full of information dedicated to helping landowners educate themselves on conservation easements, and CCALT staff members are more than willing to spend time talking with landowners about the costs and benefits of conservation easements and can direct landowners to other reputable resources.

For more information or to talk to someone about the costs and benefits or conservation easements in general, please contact CCALT at 303.225.8677.