

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 and various tax incentives and have been used by landowners to diversify or expand their operations, pay down debt, pay for healthcare costs, college tuition, 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. 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.

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. For example, a \$3,000,000 donation will yield \$1,500,000 in state income tax credits (\$75K of the first \$100,000 plus 50% of the remaining \$2,950,000; Remember, the maximum credit allowed is \$1.5 million). Credits typically sell for between \$0.82 and \$0.85 per dollar. **NOTE:** Typically, landowners do not incur any issues selling conservation easement tax credits through a reputable tax credit broker. Brokers work throughout the year to identify buyers and match them with

sellers. Recent legislation also requires the State of Colorado to certify all conservation easement tax credits prior to any tax credits being issued.

Property Tax Benefits

Under Colorado law, an agricultural conservation easement will lock in the property tax valuation at its agricultural value. It is important to note that granting a conservation easement WILL NOT eliminate property tax burdens and the property will remain on the tax rolls. It is also important to note that the landowner retains responsibility for any property tax liabilities.

Cash

Occasionally, CCALT 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 ethic that is an inherent component of the makeup of the agricultural families that produce the food and fiber that feed the world. Landowners consistently state that the benefits of the conservation easement extend far beyond the pocketbook. These non-financial benefits include, but are not limited to, 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

Typically, the conveyance of a conservation easement requires the following reports to be produced in support of the conveyance, (1) a baseline inventory report documenting the natural resources and human activity on 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. There are other fees associated with the conveyance of a conservation easement including a project coordination fee, stewardship endowment contribution and various legal fees. Together, these fees typically range from \$68,350 to \$100,200 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 \$84,350 to \$157,700. A breakdown of the transaction costs associated with a conservation easement and a range of those costs 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: \$1,000 - \$2,500 Bargain Sale: \$2,000 - \$4,000	
Colorado Conservation Tax Credit- Preliminary Advisory Opinion	\$6,175-\$12,350	Cost of the Division of Real Estate's preliminary review of the appraisal and conservation values. Each review is \$6,175 or \$12,350 for both. This is an optional cost and is set each year by the state.
Colorado Conservation Tax Credit Certification Fee	\$12,350	Cost of the Division of Real Estate'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	\$3,000 - \$5,000	Required by IRS for obtaining tax incentives.
Mineral Report	\$1,000 - \$2,000	Only required if landowner does not 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	
Your legal fees	\$ unknown	CCALT expects landowners to obtain independent legal counsel.
CCALT Stewardship Endowment	\$16,000 \$18,500 Bargain Sale with 3 rd party reporting requirements	Due only if project is completed.
CCALT Legal Defense Fund	\$4,000	Due only if project is completed
CCALT Project Coordination Fee	Donated: \$6,000 Donated w/ project fees raised: \$7,500 Bargain Sale: Tiered depending on amount raised \$12,000 - \$24,500	Due only if project is completed.
CCA Lifetime Membership	\$5,000	Due only if project is completed.
TOTAL RANGE	Donated Conservation Easement: \$68,350 - \$100,200 Bargain Sale Conservation Easement: \$84,350 - \$ 157,700	

Costs – Non-Financial

Conveying a conservation easement is often 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. It is also worth noting that conveying a conservation easement can be seen as controversial within the local community and neighbors may speak their mind about their dislike of conservation easements. These sentiments are typically garnered by individuals who are not educated on the facts of conservation easements.

It should also be noted that CCALT has established strict confidentiality policies to protect landowners but oftentimes funders require that information related to a conservation easement is disseminated to the public. 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 families. 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 and directing them 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.