



## PROCESS FOR DEVELOPING DONATED CONSERVATION EASEMENT PROJECTS

*This document outlines the general process of conveying a donated conservation easement to CCALT.*

### IMPORTANT NOTES REGARDING PROJECT DEVELOPMENT

*Timeline Associated with the Completion of a Donated Conservation Easement:* It typically takes a minimum of 9-18 months after CCALT Board approval to go through the process of developing and completing a conservation easement donation.

*Landowner Legal Counsel:* CCALT strongly encourages landowners to retain independent legal representation to assist in negotiating and reviewing the conservation easement on the landowners' behalf. CCALT wants every landowner to fully understand all the legal ramifications associated with a perpetual conservation easement.

*Landowner Financial Advisor:* Conservation Easements have significant tax ramifications. CCALT strongly encourages landowners to retain independent financial advice. CCALT wants every landowner to fully understand all the financial ramifications associated with granting a conservation easement.

### STEPS TO COMPLETING A DONATED CONSERVATION EASEMENT TRANSACTION

#### **1. Contact CCALT and Request and Information Packet and Landowner Application:**

CCALT is prohibited from soliciting conservation projects. Therefore, interested landowners must make the initial contact to notify CCALT of their interest in conservation and to request an information packet and landowner application. The landowner information packet includes detailed information about CCALT, the uses and benefits of agricultural conservation easements, tax benefits associated with conservation easements, and many resources to continue learning about conservation easements. If after reviewing the packet, a landowner is interested in having further conversations with CCALT about a potential conservation easement, the landowner must contact CCALT.

#### **2. Landowner Project Application:**

The Landowner Project Application should be completed by the landowner and submitted to CCALT for review. CCALT will also provide a proforma which provides estimated costs and financial benefits. **NOTE:** Typically, a donated conservation easement will cost between \$72,900 and \$103,150 to complete.

### 3. Site Visit:

After reviewing the Landowner Project Application, the CCALT Project Staff will meet to determine if the project meets CCALT's project criteria. If the project is determined to meet the project criteria, the CCALT Project Manager will establish a time to visit the property and further evaluate the conservation values. The site visit is used to gather additional information about the property and further assess its consistency with CCALT's project criteria.

### 4. Project Approval from the Board of Directors:

Following the site visit, the project will be presented to the CCALT Board of Directors (Board) for formal project approval. Upon formal Board approval, the CCALT Project Manager and landowner will begin the process of ordering the required due diligence reports and negotiating the terms of the conservation easement. A \$1,000 non-refundable application fee will be due 30 days following Board approval. This fee will be applied to the total project coordination fee.

**NOTE:** CCALT recommends that the landowner hire independent legal counsel to assist in negotiating and reviewing the conservation easement immediately following formal Board approval.

**5. Due Diligence:** The following four (4) due diligence reports need to be completed prior to conveying a conservation easement: (1) Appraisal Report; (2) Mineral Remoteness Assessment; (3) Baseline Inventory Report; and (4) Title work. CCALT will provide a resource list of qualified professionals who specialize in the development of the required due diligence reports. It is the landowner's responsibility to contact, hire and pay for the production of the required due diligence reports.

- **Appraisal:** An independent qualified conservation easement appraisal must be prepared to determine the value of the conservation easement. **NOTE:** A standard land appraisal will not qualify for a conveyance of a conservation easement. The value of the conservation easement is what determines both state and federal tax benefits.
- **Mineral Remoteness Assessment:** Federal law requires a Mineral Remoteness Assessment be completed in all instances where the mineral estate has been severed and is owned separate from the surface estate. The mineral report must be completed by a professional geologist and must conclude that the likelihood of surface mining is "so remote as to be negligible". **NOTE:** Oil and gas development is **not** considered to be surface mining, but extensive oil and gas activity may preclude qualification.
- **Baseline Inventory Report:** Federal law requires that a Baseline Inventory Report that documents the property's conservation values, natural resources, and current condition be completed. This report is used by CCALT to carry out its perpetual stewardship obligations.
- **Title Work:** CCALT will review the property's chain of title and examine all exceptions to title. CCALT will order title for the property from a title company that operates in the area.

### 6. Deed of Conservation Easement:

CCALT, CCALT's legal counsel, the landowner, and the landowner's legal counsel will draft the deed of conservation easement. The initial drafting will be based off of CCALT's model deed of conservation easement. The deed of conservation easement will be tailored to the specific characteristics and

conservation values of the property, as well as the needs of the landowner. Negotiating the terms of the deed of conservation easement can be complex and time consuming. It is essential that CCALT and the landowner fully agree on all of the terms of the deed of conservation easement at the end of the negotiation.

**7. Easement Approval from the CCALT Board of Directors:**

Once the deed of conservation easement has been fully negotiated, the CCALT Board of Directors will review it for their approval. Once the Board has formally approved the deed of conservation easement, CCALT and the landowner may proceed to closing and recording.

**8. Closing and Recording:**

Closing will be handled through a title company which will ensure that the deed of conservation easement is properly signed by CCALT and the landowner. The signed deed of conservation easement will be recorded in the county records by the title company. The title company will subsequently issue a title policy on the conservation easement interest to CCALT.

**9. Secure a Tax Credit Broker:** CCALT strongly encourages landowners who desire to sell their conservation easement tax credits to work with a reputable conservation easement tax credit broker. CCALT will provide a list of names of individuals who specialize in this work.

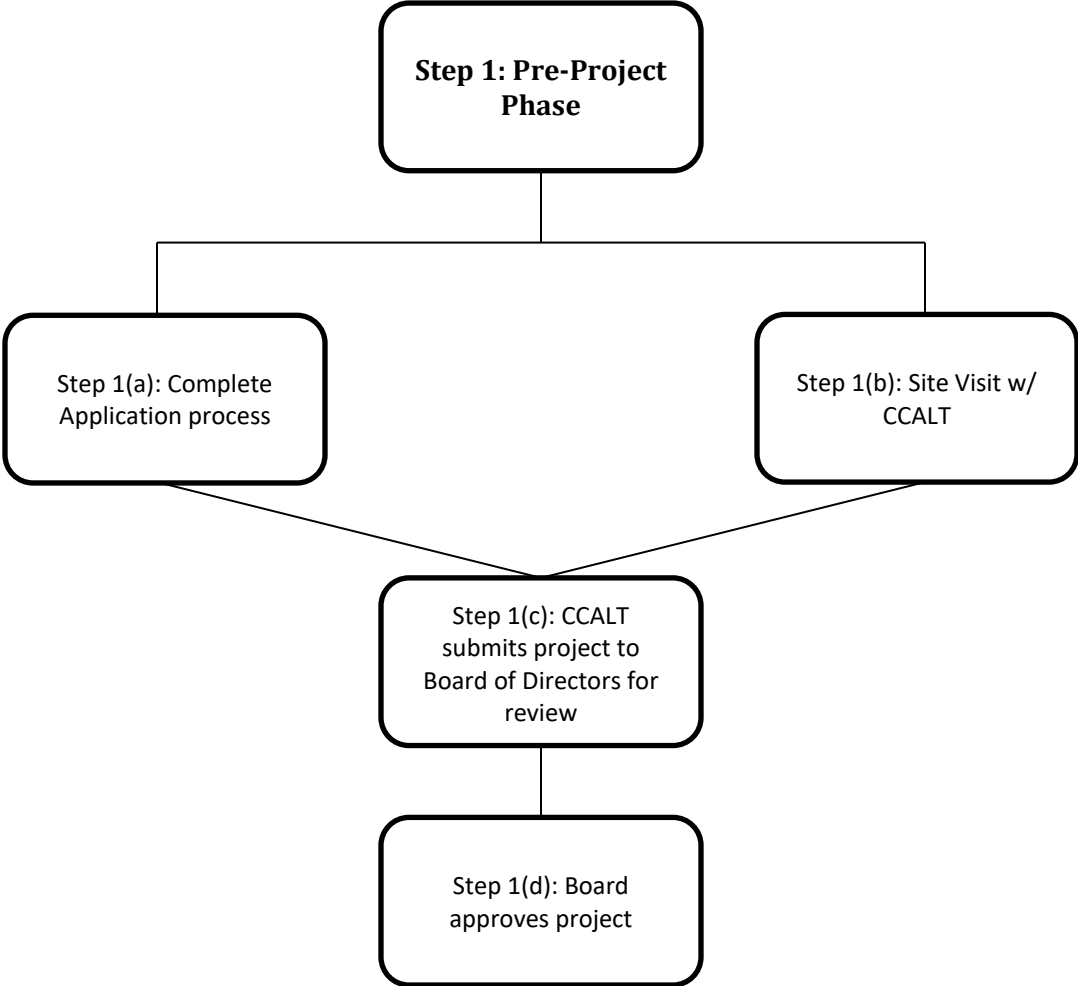
**10. Working with the Broker to sell your Tax Credits:**

Following closing and recordation, the landowner and CCALT Project Manager will work cooperatively with the tax credit broker to complete all necessary forms and applications related to the issuance and sale of conservation easement tax credits. Once the Division of Conservation receives a completed tax credit application, it has 120 days to review all of the documents and issue the credits or request additional information.

CCALT has developed a flow chart to assist landowners in learning about the process of conveying a bargain sale conservation easement. The flow chart is presented on the next several pages.

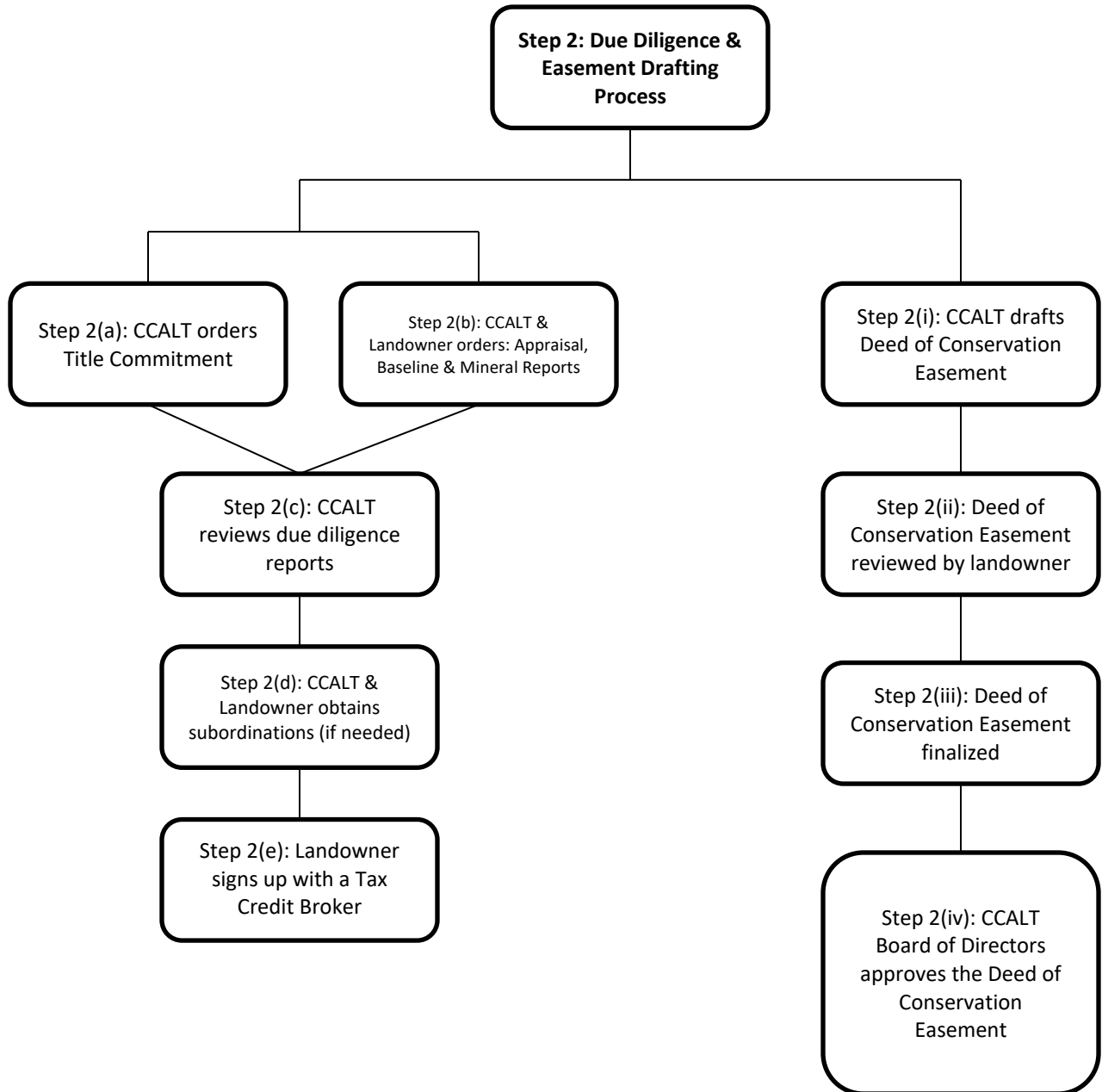
*Please contact CCALT (303.225.8677 or [www.ccalt.org](http://www.ccalt.org)) with any additional questions that you have related to the process for developing a donated conservation easement project.*

**STEP 1 - PRE-PROJECT PHASE**



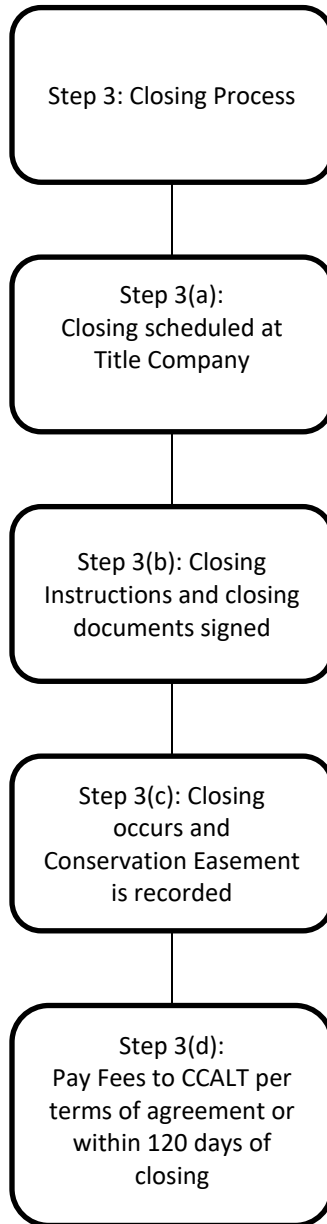
*[STEP 2 CONTINUES ON THE NEXT PAGE]*

## STEP 2 – DUE DILIGENCE & EASEMENT DRAFTING PROCESS



*[STEP 3 CONTINUES ON THE NEXT PAGE]*

### STEP 3 – CLOSING PROCESS



*[STEP 4 CONTINUES ON THE NEXT PAGE]*

**STEP 4 – POST CLOSING PROCESS**

