



## 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 the conveyance of 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*

The donation of a conservation easement may be treated as a charitable gift, making the value of the easement tax deductible. The federal charitable tax deduction for the donation of a conservation easement is reduced by the value of any state tax credits received. After that reduction, you are allowed to deduct the donated amount up to 50% of your 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 100% of their adjusted gross income with a fifteen (15) year carry-forward period. If you receive state tax credits for 90% of the donated value of the conservation easement, the federal charitable deduction may only be the remaining 10% of donated value.

#### *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 if they file a Colorado income tax return. 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 for up to 90% of the donated value of the conservation easement 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 \$1,800,000 in state income tax credits. The maximum credit allowed per calendar year is \$1.5 million, which is generated by a donation of \$1,666,666.67 or more. In this example, as the donor generated more than \$1.5 million of state tax credits, they would receive \$1.5 million for the year of the donation and the remaining \$300,000 in tax credits the following year. Credits can be sold to individuals or businesses with state tax liabilities and typically sell for \$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. Transfers of the credits are required to be reported to the State. There is an overall \$45 million dollar cap per year for the tax credits. If the cap is exceeded, the landowner will receive a tax credit for a future year. Typically, tax credits are received 4 months after a complete application is submitted to the Division of Conservation, which is usually 5-6 months after the easement is recorded.

### *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 can raise money from public and private funding sources to purchase a portion of a conservation easement with cash. The cash is received by the landowner at closing. 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 \$74,400 to \$112,150 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 \$89,900 to \$157,150. A breakdown of the transaction costs associated with a conservation easement is provided below. Unless otherwise noted on the cost breakdown, costs are due at the time the report is completed prior to completion of the project. Typically, \$30,000-\$50,000 is due prior to closing. 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	\$2,500 - \$11,000	Due upon project completion.
Colorado Conservation Tax Credit Certification Fee	\$2,400	Cost of the Division of Conservation's review and certification of the tax credits. This fee is set each year by the state and is likely to increase. Due after closing.
Conservation Easement Appraisal	Donated: \$15,000 - \$25,000 Bargain Sale: \$15,000 - \$35,000	Required by IRS for obtaining tax incentives.
Baseline Inventory	\$4,500 - \$7,500	Required by IRS for obtaining tax incentives.
Water Report	\$750	Required if all or a portion of the property is irrigated.
Mineral Report	\$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. Due upon project completion.
Your legal fees	\$ unknown	CCALT expects landowners to obtain independent legal counsel.
CCALT Stewardship Endowment	Donated: \$20,500 Bargain Sale: \$23,000	This fee may be increased for additional risk factors. Due upon project completion.
CCALT Legal Defense Fund	\$7,500	Due upon project completion.
CCALT Project Coordination Fee	Donated: \$12,000 Donated w/ transaction cost assistance: \$15,000 Bargain Sale: Tiered depending on amount raised \$20,000 - \$32,500	\$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 due upon project completion.
CCA Lifetime Membership	\$5,000	Due upon project completion.
<b>TOTAL RANGE</b>	<b>Donated Conservation Easement: \$74,400 - \$112,150 Bargain Sale Conservation Easement: \$89,900 - \$ 157,150</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 of conservation easements in general, please contact CCALT at 303.225.8677.