



## **PROCESS FOR DEVELOPING DONATED CONSERVATION EASEMENT PROJECTS**

Updated: February 2025

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

### **IMPORTANT NOTES REGARDING PROJECT DEVELOPMENT**

*Timeline to Completion of a Donated Conservation Easement:* After formal CCALT Board approval of the conservation easement project, it typically takes 9-18 months to complete the process of developing and closing a donated conservation easement.

*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 aspects associated with granting a conservation easement.

### **STEPS TO COMPLETING A DONATED CONSERVATION EASEMENT TRANSACTION**

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

Interested landowners should make the initial contact with CCALT to discuss their interest in conservation easements and to request an information packet and landowner questionnaire. 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 should contact CCALT.

#### **2. Landowner Project Questionnaire:**

If a landowner wants to proceed with a conservation easement, the Landowner Project Questionnaire must be completed by the landowner and submitted to CCALT for review. CCALT will also provide a

financial pro-forma which provides estimated costs and financial benefits. **NOTE:** Typically, a donated conservation easement will cost between \$87,750 and \$127,750 to complete.

### **3. Site Visit:**

After reviewing the Landowner Project Questionnaire, the CCALT Conservation Team will determine if the project fits into 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 evaluate its alignment with CCALT's project criteria and mission.

### **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, CCALT will send the landowner an engagement letter. Following receipt of the signed engagement letter, 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 receipt of the signed engagement letter. This fee will be applied to the total project coordination fee due at closing.

**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. Additionally, if water rights are being conveyed, a separate water report will be needed. CCALT will provide a resource list of qualified professionals who specialize in the development of the required due diligence reports. CCALT can help identify contractors and coordinate initial contact, but *it is the landowner's responsibility to hire and pay to produce the required due diligence reports.*

- **Appraisal:** An independent qualified conservation easement appraisal must be prepared to determine the value of the conservation easement. The value of the conservation easement is what determines both state and federal tax benefits.

**NOTE:** A standard land appraisal will not qualify for a conveyance of a conservation easement.

- **Mineral Remoteness Assessment:** Federal law requires a Mineral Remoteness Assessment to 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. Field work must be completed to document current conditions and can only be completed when there is no snow cover. 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. If the property is subject to any deeds of trust and the landowner does not plan to pay those off prior to closing, the landowner and CCALT will work with the lender to have the lender subordinate the deed of trust to the conservation easement. It is important to determine how any deeds of trust will be addressed as early in the process as possible, as lenders often require a significant amount of time to review subordination requests.
- The consent and subordination agreement will be attached to the deed of conservation easement. **Water Report:** If irrigation water rights will be conveyed in the easement, a water report documenting water rights, use, and history of rights must be completed. CCALT typically writes these reports, but an outside contractor can be used.

**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 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. Obtain and Sell Tax Credits (if applicable):** A conservation easement donor (“Donor”) is eligible to receive tax credits under Colorado law if they file a Colorado income tax return or if they otherwise qualify as a taxpayer pursuant to CRS 39-22-522(1)(b). Conservation easement tax credits may be used by the donor over a 20-year period beginning in the first year of the tax credit certificate’s eligibility. The tax credits may also be sold to other Colorado taxpayers.

**10. 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. CCALT also has the capacity to facilitate tax credit transactions on a limited basis and may be able to work with you to sell your credits. If you are interested in working with CCALT to sell your tax credits, inquire with your CCALT Project Manager as your project progresses.

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

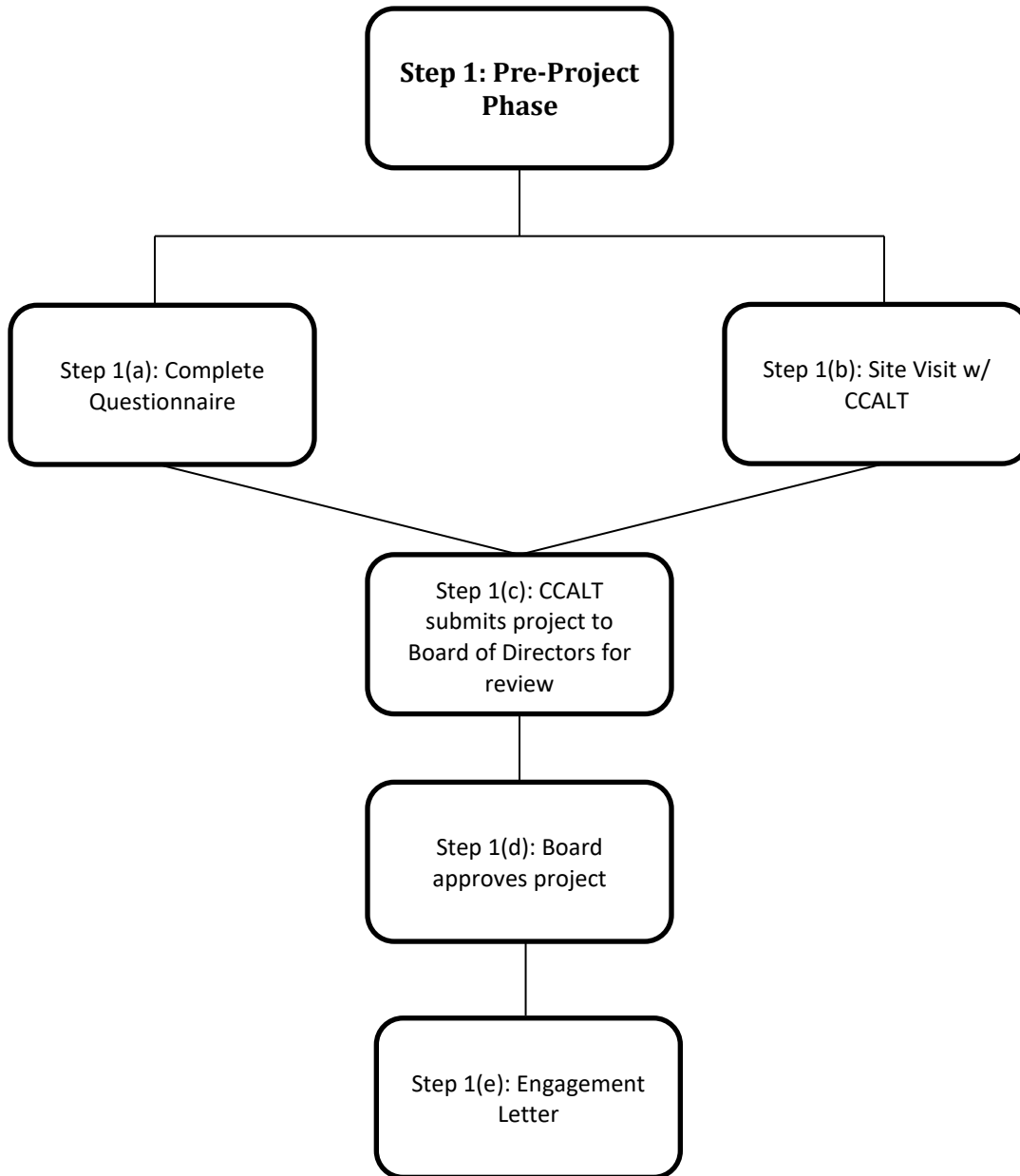
Following closing and recordation, the landowner and CCALT Project Manager will work cooperatively with the tax credit broker to complete all necessary forms and applications related to the issuance and

sale of conservation easement tax credits. Once the Division of Conservation receives a completed tax credit application, it has up to 120 days to review all of the documents and issue the credits or request additional information. If the landowner desires to have CCALT facilitate their tax credit sale(s), and if CCALT has the capacity to work with the landowner for this purpose, CCALT will work closely with the landowner and landowner's independent legal counsel and financial advisor(s) on all aspects of obtaining and selling the tax credits.

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

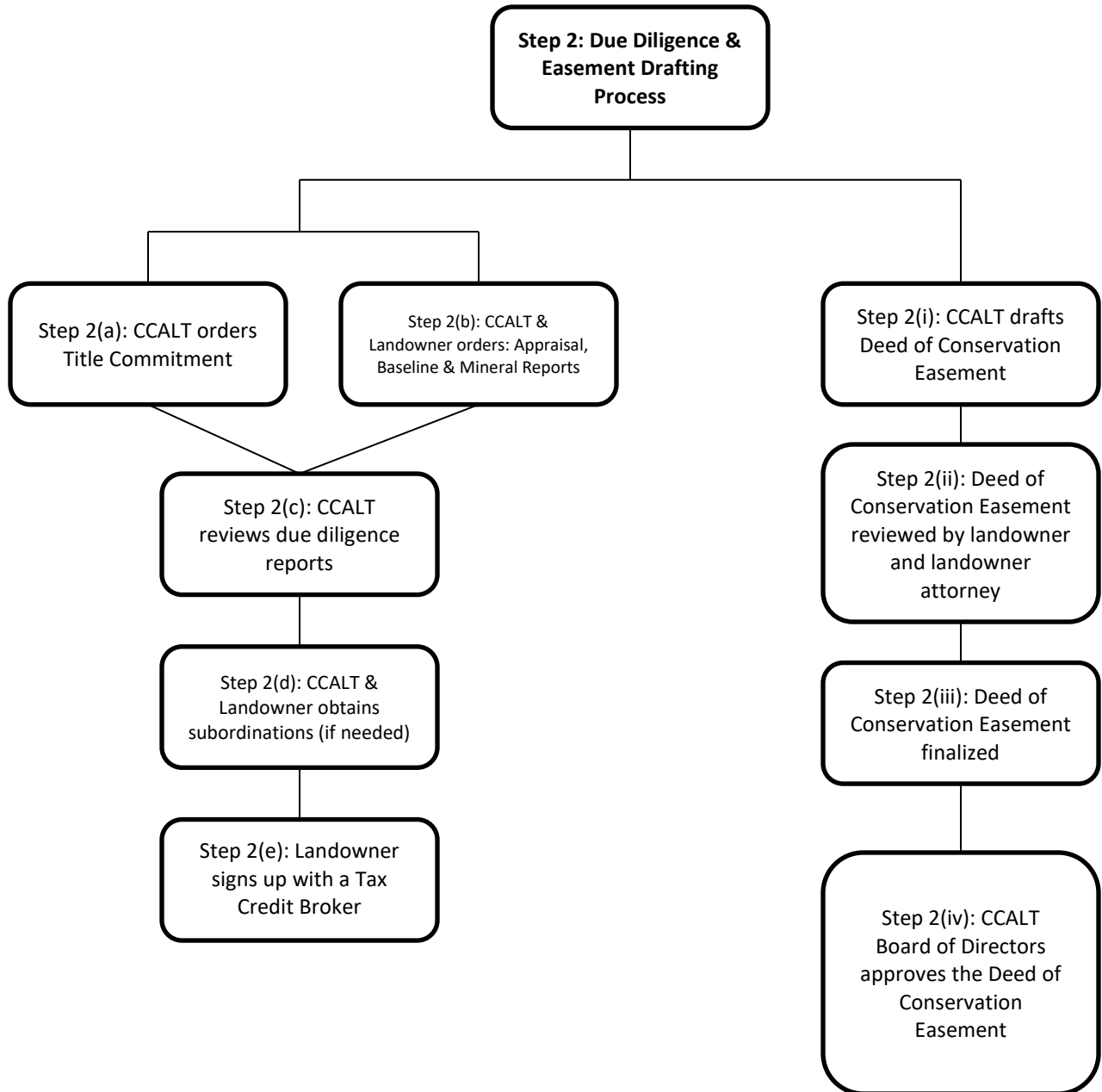
*Please contact CCALT (303.225.8677 or [www.ccalt.org](http://www.ccalt.org)) with any additional questions that you have related to the process for developing a donated conservation easement project.*

## STEP 1 - PRE-PROJECT PHASE



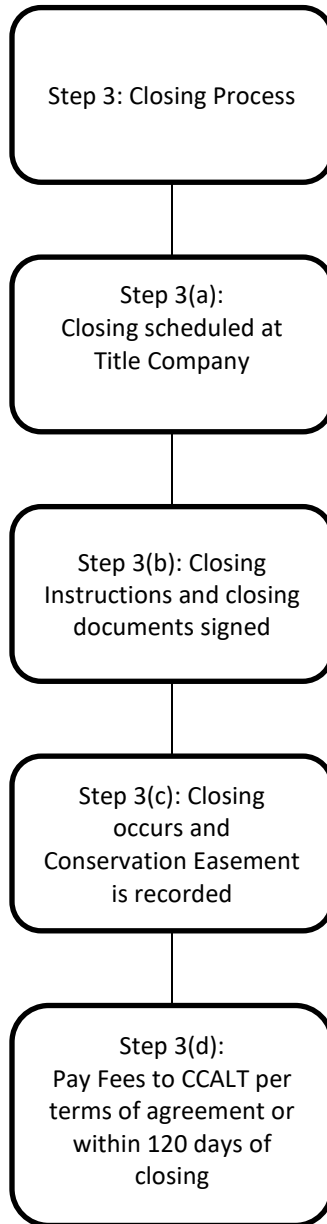
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## STEP 2 – DUE DILIGENCE & EASEMENT DRAFTING PROCESS



*[STEP 3 CONTINUES ON THE NEXT PAGE]*

### STEP 3 – CLOSING PROCESS



*[STEP 4 CONTINUES ON THE NEXT PAGE]*

**STEP 4 – POST CLOSING PROCESS**

