

# LAND CONSERVATION IN COLORADO:

## *A Brief Guide to Conservation Easements*



We envision a Colorado  
where people, lands, waters  
and wildlife thrive.

### About Conservation Easements

A conservation easement is a voluntary legal agreement between a landowner and a qualified conservation organization, typically a land trust or a public agency. The conservation easement restricts use of the land (for example, prohibiting building on the land) in order to protect the property's conservation values (such as wildlife habitat, agriculture and scenic values) in perpetuity. The landowner still owns the land and can use, sell or transfer it. Conservation easements are flexible and tailored to meet the landowner's needs and wishes.

### Get in Touch with Your Local Land Trust!

To learn more about the land trust that serves  
your region of Colorado, visit:

[www.keepitco.org/meet-your-local-land-trust](http://www.keepitco.org/meet-your-local-land-trust)

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# By the Numbers: Helpful Data about Conservation Easements



## CONSERVATION EASEMENT EXPENSES

Range of expenses: \$86,500–\$172,500

### Due diligence

- Appraisal
- Baseline report
- Mineral report
- Water report
- Environmental report

### Title insurance

Closing and recording fees

### Land trust fees

- Stewardship endowment
- Legal defense fund
- Project coordination fee
- Legal fees

### State tax credit application fee

PLUS: Landowner attorney and accountant fees (not incl. in estimate range)



## CONSERVATION EASEMENT BENEFITS FOR LANDOWNERS

### Tax incentives

- Colorado state income tax credits
- Federal tax deductions
- Additional estate tax exemptions
- Property tax benefits

### Family legacy: Pass it down

Peace of mind: Know this piece of land will never be developed

Cash in hand: Sell Colorado tax credits



## CONSERVATION EASEMENT BENEFITS FOR COLORADO

ROI for every tax dollar spent on conservation:

up to **\$12**

- Open spaces
- Cleaner air and water
- Food security
- Wildlife habitat and corridors
- Scenic viewsheds
- Stronger rural communities

## EASEMENT TYPES, TIMELINES AND POTENTIAL FINANCIAL OUTCOMES



### DONATED CONSERVATION EASEMENT

- Revenue through the sale of Colorado state income tax credits
- Easement terms negotiated between landowner and land trust

Timeline: 1–2 years

### EXAMPLE FINANCIAL SCENARIO

Before-value	\$3,000,000
After-value	\$2,000,000
Easement value	\$1,000,000
Donated value	\$1,000,000
Tax credits	\$900,000
Transaction costs	\$86,500–\$126,500

Potential revenue from sale of tax credits\*

Gross landowner revenue after costs \$638,500–\$678,500

\*Income from tax credit sales and purchase price is taxable



### BARGAIN SALE EASEMENT

- Revenue from a combination of government and/or nonprofit sources, and the sale of tax credits
- Funder examples include GOCO, NRCS, CPW, county programs and The Nature Conservancy
- Negotiations include third-party funders

Timeline: 3–5 years

### EXAMPLE FINANCIAL SCENARIO

Before-value	\$3,000,000
After-value	\$2,000,000
Easement value	\$1,000,000
Purchase price	\$500,000
Donated value	\$500,000
Tax credits	\$450,000
Transaction costs	\$103,000–\$172,500

Potential revenue from sale of tax credits and purchase price\*

Gross landowner revenue after costs \$710,000–\$779,500

\*Income from tax credit sales and purchase price is taxable



### STATE TAX BENEFITS

90%

\$5 Million

The value percentage landowners are eligible to receive when donating a conservation easement through the Colorado state tax credit program.

Maximum individual Colorado tax credit, distributed in increments of \$1.5 million per year.



### FEDERAL TAX BENEFITS

50%

\$500,000

Federal deduction of Adjusted Gross Income (AGI) with a 15-year carry-forward.\*

Maximum additional estate tax exemption.

\*This deduction could be 100% of AGI for individuals making more than 50% of their annual income from farm/ranch activities.

# The Process

Every land trust operates differently and follows its own process for conserving land with conservation easements. The steps outlined here offer a general guide.

## Initial Site Visit or Phone Call

When a landowner contacts a land trust to explore options to protect a property, the land trust will typically schedule a phone call or make an appointment to meet with the landowner in person and briefly walk the land. During this first visit, the land trust will talk with the landowner about his or her conservation goals for the property and collect information about past and present land uses, ownership history, and the property's characteristics and features. The land trust will explain its mission and help the landowner understand its approach to conservation, stewardship, and organizational sustainability. It may take more than one site visit to gain a full understanding of the property and the landowner's goals, and to discuss conservation options.



## Deciding to Donate or Sell a Conservation Easement

As the landowner starts considering conservation options for the land, he or she may seek advice from tax and legal advisors to determine whether a conservation easement will work. A landowner will want to speak with family members or co-owners of the property and reach consensus before moving ahead. If the landowner decides to donate a conservation easement, the land trust will work with the landowner to determine a timeline for the transaction. Some land trusts may also facilitate a "bargain sale" in which the landowner sells a conservation easement to the land trust at less than fair market value. Landowners who donate a conservation easement are eligible to receive a federal tax deduction, and in Colorado, many are also eligible for a state tax credit.



## Property Title Review

Land trust staff will work with a title company to research the chain of title on the landowner's property. They will review the title, possibly with an attorney, to ensure that there is nothing that will prohibit the conservation easement from being valid. The land trust will work with the landowner to address any issues that arise, such as subordination of a lien or mortgage.



## Land Trust Review and Approval

After the land trust has built a profile for the conservation project, it will typically review the overall project characteristics to ensure it meets the land trust's conservation project criteria and any other considerations it requires to help meet its unique organizational mission.



## Property Appraisal

The landowner will work with a qualified appraiser to determine the value of the donated conservation easement. The appraisal process compares the unrestricted financial value of the property, based on comparable market sales, to the value of the property with the conservation easement restrictions. The difference in these values is the value of the conservation easement.



## Drafting the Agreement

After the land trust approves of the project concept, it will work with the landowner to draft a conservation easement document that permanently protects the land and achieves the landowner's vision for the land's future. The land trust will work with the landowner to develop a conservation easement that is tailored to the property's unique characteristics and balances flexibility for future uses and management needs with perpetual resource protection. If there is a bargain sale, funders of the conservation easement may have required language for the conservation easement document.



## Reviewing the Agreement

Once the overall conservation goals of the project have been clarified, the land trust will send the landowner a draft of the conservation easement for review. The landowner is encouraged to carefully review it with the family and any co-owners. After the landowner is comfortable with the terms and feels that the land trust has crafted an agreement that meets everyone's collective goals, the land trust will typically recommend that the landowner meet with an attorney familiar with conservation easements to independently review the document.



## Creating the Baseline Documentation Report

The land trust will prepare a required baseline documentation report, which documents the conservation values of the property and serves as a tool to help ensure that the landowner upholds the conservation easement over time. The report typically includes soil and location maps, aerial or satellite photos, tax maps, a property description, ground photographs, and any additional pertinent items. A boundary survey may also be completed at this time.



## Completing the Project

Once the land trust and the landowner agree on the language and terms of the easement, all parties will sign the baseline documentation report and the conservation easement document at a closing. The land trust will then file the easement document with the deed at the county clerk's office. The land trust will store the original baseline documentation report in its office and the landowner will receive a copy for his or her records. The land will be officially protected as conserved land in perpetuity.



## Stewarding the Land

After the land trust permanently protects a piece of land, the story does not end there. Rather, it is the beginning of a long-term relationship between the land trust and the current and successor landowners. The land trust assumes perpetual stewardship responsibilities to ensure that the integrity and terms of the conservation easement are upheld. These stewardship responsibilities include annual property monitoring and enforcement of the terms of the easement. Many land trusts offer support to landowners over time to address resource concerns.



## Enjoying a Beautiful Legacy

The land, now protected in perpetuity, offers lasting benefits for all of Colorado. Thanks to landowners who choose to voluntarily conserve their land, Coloradans experience all that our state has to offer – clean water to drink; clean air to breathe; healthy habitat for our wildlife to survive in and safely move across; a longstanding culture and identity of ranching, farming and rural way of life; natural outdoor places and spaces to enjoy; and spectacular, unobstructed views that Colorado is known for – from the tall mountain peaks, to the spacious valleys, to the wide-open grasslands and prairies.



### *Added incentive for Colorado landowners:*

Once a landowner completes a conservation easement, they can apply for a state tax credit through the [Colorado Division of Conservation](#). This program incentivizes landowners and leads to the conservation of more land in Colorado!

