



LA PLATA  
**OPEN SPACE**  
CONSERVANCY

**A CONSERVATION EASEMENT  
GUIDE FOR LANDOWNERS**

**For additional information,  
please contact:**



LA PLATA  
**OPEN SPACE**  
CONSERVANCY

**lposc.org**

**970.259.3415**

**info@lposc.org**

**PHYSICAL**

**776 E. 2nd Ave., Durango, CO 81301**

**MAILING**

**P.O. Box 1651 Durango, CO 81302**

 **laplataopenspaceconservancy**

Conserving Southwest Colorado's land, water, and way of life since 1992.



# LAND CONSERVATION IS A CHANCE TO HAVE A SAY IN *forever.*



**Landowners, perhaps more than any other single group, hold the key to our region's wellbeing.**

Their careful stewardship of our natural lands and working farms gives Southwest Colorado its unique character. Public land often does not protect our most valuable landscapes: wetlands, agricultural lands, river corridors and low-elevation fields and forests.

Increasingly, landowners are recognizing the incalculable value of our region's open spaces as well as the benefits that come with choosing to ensure the future of their land through conservation easements.

## LANDOWNER BENEFITS



### Leaving Your Legacy

By protecting your land with a conservation easement, you can rest assured that your years of hard work will never be in vain: your land will remain much as it is today, forever. How many of our other life choices last that long?



### Financial Benefits

Conserving your land may generate significant financial benefits for you and your family. These incentives might allow you to plan for retirement, reduce tax burden, pay down debt, or reinvest in the land. Agricultural producers might find the financial benefits sufficient to get on track to a sustainable future. Estate tax reductions may be realized as well, which can help keep land within your family for generations to come.

## CONSERVATION EASEMENTS ARE ONE OF THE MOST POWERFUL & EFFECTIVE TOOLS FOR THE PERMANENT PROTECTION OF PRIVATE LANDS.

## PUBLIC BENEFITS



### Healthy Ecosystems

Conserved lands protect water sources like irrigation, rivers, wetlands, lakes and ponds. They also preserve forests, grasslands, and native plant communities. By preserving these natural resources, they also preserve critical fish and wildlife habitat, and often provide safe havens for migrating birds and wildlife.



### Healthy Economies

Conserving scenic vistas not only preserves a myriad of ecological benefits, but also supports Colorado's outdoor economy. Tourism, agriculture, and outdoor recreation contribute significantly to our local economy, and land protection ensures that our region remains prosperous in the future.



## WHO IS LA PLATA OPEN SPACE CONSERVANCY?

Since 1992, La Plata Open Space Conservancy (LPOSC) has functioned as a private, nonprofit, 501(c)(3) charitable organization serving Southwest Colorado.

Based in Durango, CO, LPOSC currently holds conservation easements in six Colorado counties: La Plata, Montezuma, Hinsdale, Ouray, Archuleta, and San Juan. Currently, LPOSC protects over 20,000 acres of land through conservation easements that have been donated by public and private landowners. LPOSC is proud to have aided in the protection of an additional 5,000 acres by partnering with other land management organizations and securing funding from a variety of sources.

**Our conserved lands provide significant value to our community by forever preserving scenic open landscape, wildlife habitat, critical watersheds, public recreational parks, working family farms and ranches, and historical and archaeological resources.**

Our board of directors is an unpaid, volunteer board that is devoted to the support and operations of LPOSC. Our staff is a small but dedicated group of professionals who are passionate about land conservation. The invaluable support and cooperation of volunteers, student interns, donors, partnering nonprofits, and landowners ties our work together. Financial support of our work comes from donations, grants, sponsorships, and fundraising events.

The number of acres LPOSC protects increases each year as landowners seek permanent ways to protect their property for the benefit of their family, the resources, the community, and future generations.



**LEARN MORE AT [LPOSC.ORG](https://www.lposc.org)**

## WHAT IS A CONSERVATION EASEMENT?

**A conservation easement is a voluntary, legally binding agreement between a landowner and a qualified organization that restricts or prohibits certain types of development on a property and certain uses of a property in order to forever protect the property's conservation values. The conservation easement "runs with the land." In other words, the conservation easement remains with the property forever, including when the property changes ownership.**

If you think of private property rights as a bundle of sticks, conservation easements give you a way to exchange two big sticks - the right to subdivide and the right to commercially develop - for certain financial incentives. LPOSC "holds" the conservation easement, but does not own the property or get involved in day-to-day management.

Conservation easements provide a practical and flexible way to hold your land in safekeeping for the benefit of future generations. Granting an easement can make sound financial sense, potentially resulting in significant tax benefits through a federal income tax deduction, a reduction in estate taxes and a state tax credit.

**MOST IMPORTANTLY, CONSERVATION  
EASEMENTS OFFER A MEANS TO  
ENSURE THE PERMANENT PROTECTION**

**OF THE** *land you love.*





# CONSERVATION EASEMENTS:

# *Know the Facts*

## CONSERVATION EASEMENTS DO:

- Voluntarily restrict certain uses in order to protect certain resources.
- Run with the land in perpetuity.
- Constitute a legally binding agreement.
- Convey a subset of property rights.
- Get recorded in the property records of the county where the property is located.
- Allow the property to remain in private ownership & control.
- Require a land trust (non-profit) or government entity to hold the easement (the “holder” or “grantee”).
- Require the holder to monitor and enforce the terms of the easement forever.
- Require an appraisal to determine the value of the donation, if tax benefits are sought.

## CONSERVATION EASEMENTS DO NOT:

- Require public access.
- Require that all future development be prohibited – indeed, in a well-crafted document, the only rights given up are often rights that the property owner had no intention of exercising, such as the right to build a subdivision.
- Prohibit the property from being sold or bequeathed.
- Prevent condemnation.
- Involve the government (except if as a funder, holder, or for tax purposes).
- Require the same set of restrictions for every property. Conservation easements are customizable to a large degree.
- Conservation easements can only be removed from the property under exceptionally rare circumstances.



# BASIC STEPS & TIMELINE FOR ESTABLISHING A CONSERVATION EASEMENT

Many of these steps are iterative. The time required to complete a conservation easement varies, but is often a 1 - 5 year process, depending on complexity.

## SAMPLE TIMELINE

0-6 MONTHS



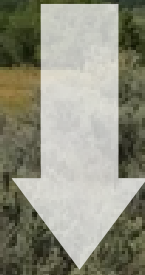
1. Initial Interest
  - a. Typically, landowner contacts land trust to discuss easement
2. Project Approval
  - a. Conservation easement applications, Board approvals, and site visit
  - b. At this stage, landowners seeking state tax credits should select a tax credit broker

6-8 MONTHS



3. Due Diligence
  - a. Review of title commitment and property deed
  - b. Obtain baseline report and mineral assessment, appraisal, surveys, and mortgage subordination as applicable

8-12 MONTHS



4. Drafting Stage
  - a. Draft Deed of Conservation Easement
  - b. Review with landowner and obtain legal and Board approval

5. Closing!
  - a. Landowner and Staff meet to sign closing documents and record easement

12-16 MONTHS



6. Obtain Tax Benefits
  - a. Landowner works with tax advisors and tax credit broker to complete state tax credit application (if applicable). Documents reviewed by the State of Colorado

7. Monitoring
  - a. Land trust staff monitors property annually and enforces terms of easement

1.5 YEARS - PERPETUITY

# POTENTIAL TAX BENEFITS OF DONATING A CONSERVATION EASEMENT

## FEDERAL TAX DEDUCTION

A conservation easement may be treated as a charitable gift in the public interest, making the value of the easement tax deductible. The federal tax incentive for CEes was recently impacted by new IRS rules regarding state and local tax deductions. The revised federal tax incentive allows a landowner to deduct the easement's value, less the value of any state tax credits received, up to 50% of their adjusted gross income, with a 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 15 year carry-forward period.

## COLORADO STATE TAX CREDITS

Donors of conservation easements are eligible for CE tax credits under CO law. These are credits that may be used against Colorado state income taxes owed. CE tax credits may be used by the donor over a 20-year period, sold to other Colorado taxpayers, or, in years of budget surplus, refunded by the State to the donor.

As of June 2021, donors of CEes can receive tax credits at the rate of 90% of the 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.

## 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. This lowers the value of the land for estate tax purposes, which 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.

## STATE PROPERTY TAX BENEFITS

Under Colorado law, properties that are classified as agricultural at the time of the easement donation will be "locked in" to the agricultural property tax status, even if agricultural use later ceases. 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.

**LPOSC makes no assurances that a conservation easement donation will receive tax benefits or whether the donor's appraisal is accurate. LPOSC cannot give specific legal, financial and tax advice, and recommends that landowners obtain independent legal advice.**



# FINANCIAL COSTS OF COMPLETING A CONSERVATION EASEMENT

Conservation easements are effective and cost-effective, but they are not free. Transaction costs are usually more than offset by tax benefits resulting from the gift of a conservation easement.

Transaction Costs	Description	Cost Range
Legal/Financial Advice	Ensure proper structuring of the easement for land protection and tax purposes.	\$1,000-\$5,000
Conservancy Project Fee	Covers LPOSC staff time spent developing the CE.	\$5,000-\$10,000
Title Commitment	Verifies ownership and identifies any exceptions to title that must be considered.	\$1,200-\$2,500
Mineral Assessment	If applicable, ensures that the mineral development potential is minimal, or "remote."	\$2,000-\$3,000
Appraisal	An appraisal by a qualified conservation easement appraiser is required to claim tax benefits for a gift of conservation easement. Appraisal costs vary, but an easement appraisal costs more than an ordinary real estate appraisal because it requires appraisal of both the "before" and "after" values.	\$20,000-\$30,000
Baseline Report	Establishes the condition of the property at the time of donation, and verifies the conservation values.	\$2,500-\$7,500
Conservancy Legal Costs	LPOSC's legal counsel must review and approve the final draft of the conservation easement deed prior to finalizing the conservation easement. Costs depend on complexity.	\$500-\$5,000+
Closing Costs	Covers recordation of the Deed of Conservation Easement at the Clerk & Recorders office in the County(ies) in which the easement is located.	\$200-\$500
Stewardship Contribution	The land trust is required by law not only to monitor and enforce its conservation easements in perpetuity, but also to have the resources to do so. Thus, the land trust requires a financial contribution large enough to earn adequate interest in a dedicated fund each year to support the land trust's monitoring and defense obligations. The fee varies based on the anticipated cost of annual monitoring and the perceived risk of violation of the easement.	\$20,000-\$45,000
State of CO Tax Credit Application	Conservation easement donors who wish to apply for State tax credits must pay this fee. Donors wishing to sell any tax credits received are also subject to tax credit broker fees if the donor elects to sell with the assistance of a broker. *Brokers can typically front this fee.	\$10,000*
<b>Total</b>		<b>\$60,000-\$120,000</b>

Other possible costs to consider include: Survey to determine exact boundaries of an easement or building areas (\$5-\$15k), State of CO preliminary review to ensure donation will qualify for state tax credits (\$2-\$3K).

# UNDERSTANDING THE APPRAISAL AND TAX CREDITS

The value of a conservation easement tax credit is based on the appraised value of the conservation easement. A qualified appraiser will determine how much your land value has decreased as a result of placing conservation easement restrictions on your property. The appraiser will consider the value of the property before the conservation easement restrictions and the value after the restrictions.

**For example, assume you own a property that could be sold for \$2,000,000 today. If you placed a conservation easement on your property that limited its use to agriculture with one house, its value today might only be \$1,200,00. In this case, you have reduced the value of your property by \$800,000 (40%) by restricting its use through a conservation easement and you have \$800,000 in donation value.**

This \$800,000 donation would yield \$720,000 in state income tax credits (90% of \$800k). The maximum state tax credit allowed is \$5 million per donation, to be issued in increments of no more than \$1.5 million per year.

Colorado law provides that donors of conservation easements may transfer their tax credits to one or more persons to be used against their Colorado tax bill. You may sell your credits by yourself or through a tax credit broker. Credits typically sell for between \$0.83 and \$0.85 per dollar. If tax credits are sold through a broker, that \$800,000 donation might result in a profit of about \$605,000.

**LPOSC makes no representation that a CE donation will generate tax credits or that transaction costs are tax deductible. We encourage landowners to consult with a tax advisor.**

