

A Brief Overview of Our Conservation Easement Process

If you are a landowner who is considering placing a conservation easement (CE) on your land, this brochure is designed to give you a quick and simple overview of the process used by the New Mexico Land Conservancy (NMLC) to get you started.

A CE is a type of voluntary, private land protection agreement between a landowner and a land trust that is designed to permanently restrict subdivision, development and certain uses of the subject land for conservation purposes. Completing a CE is a specialized real estate transaction that involves a number of essential steps.

In general, the process for completing a CE can take anywhere from three months to a year depending on the complexity of the project. If you are interested in receiving the federal and state tax benefits associated with a qualified easement donation, it is generally best to start as early in the year as possible, as the end of the year is typically the busiest time for NMLC and it may be difficult for us to complete a CE for tax purposes by the end of the calendar year that is initiated after October 1.

This overview describes the basic steps for completing a CE in their most logical order, but you should be aware that every property and every CE is different, so the number and order of steps may vary.

1. INITIAL DISCUSSIONS BETWEEN YOU AND NMLC: These initial discussions provide an opportunity for NMLC to see if the property has sufficient conservation value to merit easement protection and to qualify for the associated federal and state tax benefits, and to determine if there is a good match between your interests and those of NMLC.

2. SITE VISIT: The site visit gives NMLC an opportunity to see the property and understand its current condition and management; and to talk in greater detail with you about its conservation values and what goals you hope to achieve through the CE. In particular, NMLC will want to understand what rights you may want to reserve (e.g., future building sites, land divisions, roads, farming, ranching, timber harvesting, recreation, etc.), the status of mineral and water rights, and the existence of any title issues that could conflict with or impact the CE.

3. LANDOWNER PROFESSIONAL ADVISORS. A CE restricts the use of the subject land forever and, therefore, should not be entered into lightly. You should get the facts before going too far into the process. Speaking to NMLC first is a good place to start, but NMLC cannot provide specific legal, tax or financial advice, and recommends that you seek your own legal counsel regarding these matters. NMLC can provide names of

professional conservation easement advisors and make recommendations to you upon request.

4. LETTER OF INTENT, COSTS AND CONTRIBUTIONS: If you and NMLC mutually agree to proceed after initial discussions and the site visit, NMLC will ask you to enter into a letter of intent to begin the process. The letter of intent specifies the general terms under which you and NMLC agree to complete the conservation easement process, including the estimated timeframe, responsibilities of each party and the costs, most of which can be structured as tax-deductible contributions toward the process. NMLC will typically ask you to make an initial “commitment contribution” upon signing the letter of intent. Final contributions are due upon successful completion of the CE process.

5. DUE DILIGENCE: As with any standard real estate transaction, our CE process begins with a thorough review of title, mineral and water rights, and potential environmental hazards. NMLC will ask you to cooperate with this process through full disclosure about the property and providing essential documentation. The existence of serious title or environmental issues may result in NMLC’s terminating the process.

6. BASELINE: The Baseline Documentation Report serves to describe the conservation values and document the present condition of your property at the time you grant your CE. Although NMLC typically prepares this report, it occasionally uses outside consultants as necessary.

7. CONSERVATION EASEMENT DEED: Preparing the CE deed is the most important step in the entire process. NMLC has a standard template that it uses as an initial framework for preparing all of its CE deeds, but it is important to understand that the terms of each CE deed are negotiated and tailored to meet the goals mutually agreed upon between you and NMLC.

8. APPRAISAL: NMLC will assist you in obtaining a qualified appraisal to verify the value of your easement donation for tax purposes.

9. FINAL BOARD APPROVAL, RECORDING AND CLOSING: With the final approval of NMLC’S Board of Directors, you and NMLC will sign the final CE deed. Upon payment for title insurance and final contributions due, NMLC will record the CE deed with the appropriate County Clerk’s office. You and your representatives will receive copies of the recorded CE deed and associated documentation.

10. TAX INCENTIVES FOR QUALIFIED CONSERVATION EASEMENT DONATIONS: There are both federal income tax deductions and a New Mexico state income tax credit available to you for a qualified donation of a conservation easement. NMLC can inform you of these benefits, and assist you with completing the required IRS

Form 8283 for the federal tax deductions and the application process for pursuing a New Mexico state tax credit.

II. STEWARDSHIP: NMLC sets aside a portion of the contributions it receives for each CE in its Stewardship Endowment Fund, which it uses to cover the recurring costs of CE monitoring and the potential, long-term costs of CE legal defense in the event of a violation. NMLC monitors all of its CE holdings on an annual basis for compliance with the terms of the CE and to document any changing conditions in the property based upon information contained in the Baseline.

NMLC completes all of its easements in accordance with the generally accepted professional standards and practices as set forth by the national Land Trust Alliance (www.lta.org).

For additional information, please contact us directly or refer to our website:

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***Thank you for considering the New Mexico Land Conservancy
as a partner in conserving your land!***