



## Conservation Easement Donation Process

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A conservation easement is an excellent tool to both permanently protect your land and, potentially, realize income, property, and/or estate tax savings. The donation of a conservation easement is a formal conveyance of an interest in your property to a land trust, such as Sonoma Land Trust (SLT). This conveyance is a permanent and binding agreement between you and the land trust. Conservation easements run with land forever, even if the land is sold or passed down. It is important that you carefully consider making this conveyance, and obtain independent legal and tax advice throughout the process. SLT will work with you to craft an easement agreement that both parties wholeheartedly support.

A summary of SLT's conservation easement process is below.

1. **Initial Property Research.** In order to begin the evaluation process, we perform some initial research about the property, such as looking up zoning and biological data.
2. **Initial Meeting and Site Visit.** The next step is to meet with you and conduct a site visit to learn more about the conservation values of the property and your short- and long-term goals for the land. We also take this time to learn about the history of the property, its previous uses, and collect any information you have about the property, such as title reports, surveys, maps, biological assessments, etc.
3. **Internal Review by SLT staff.** After our visit, staff from the acquisitions and stewardship teams at SLT will review the potential project, taking into account our organization's goals and priorities. We will then recommend whether or not to move forward with a conservation easement on the property.
4. **Title Investigation.** When both parties have agreed to move forward with an easement, SLT begins title review. We require a title insurance policy for each conservation easement that we accept and we will order a preliminary title report to make sure that any issues are resolved early in our process. We will let you know if we find any outstanding issues and will send you a copy of the title report. If there are existing loans against the property, these will need to be subordinated to the conservation easement; we can provide general information about this process.
5. **Conservation Easement Planning.** With your help, we'll gather all available information about natural resources and existing infrastructure on the property. We'll also clarify both your and SLT's objectives for the easement. Then we'll start designing an easement that meets our mutual goals by drafting what we call a Conservation Easement Plan, which summarizes the conservation values of the property and the key terms of the easement in plain English. We'll refine the plan until it satisfies both you and SLT.
6. **Board of Directors' Site Visit and Approval.** We will schedule an opportunity for SLT's Board to visit

the property and hear about the project. We will then seek a Board resolution to approve acceptance of the conservation easement. This step is necessary to close.

7. **Drafting the Conservation Easement.** Once we have agreed on the terms outlined in the Conservation Easement Plan, SLT will prepare a draft Deed of Conservation Easement for your review and further refinement. We use a model conservation easement deed as a starting point for each project, and adapt it based on the unique characteristics of the property and landowner.
8. **Appraisal.** If you will be seeking a deduction for the donation of an easement, you will need to commission an appraisal of the value of the easement. The Internal Revenue Code requires a "qualified appraisal" prepared by a "qualified appraiser" for gifts of property valued at more than \$5,000. To qualify, the date of valuation of your appraisal must be no more than 60 days prior to the date of the donation and no later than the tax return filing date (or as extended). Your appraisal may be subject to special rules that apply when other adjacent or nearby property is owned by a family member or related party; these rules include the "contiguous parcel" and "enhancement" rule. Each conservation easement transaction is unique and it is essential that you work with your financial and tax advisors to ensure the best outcome.

Please note that SLT will request a copy of the appraisal before we sign IRS Form 8283 to acknowledge receipt of the gift. We will not review the appraisal to provide you assurances of its accuracy, but will review it to be sure the property is accurately described and for the general conclusion of value. If we have significant reservations about the claimed value of the donation, we reserve the right not to sign the Form 8283.

Once we have agreed to work together on an easement project, SLT will provide you with more information about a landowner's legal responsibilities when donating a conservation easement, along with Land Trust Alliance recommendations for filing Form 8283.

9. **Baseline Documentation Report.** When SLT acquires a conservation easement, we also prepare a baseline report to document the condition of the property at the time of easement donation. SLT's conservation easement stewardship staff will prepare the report. We will work with you to schedule additional visits to the property to gather information, take photographs, and map structures and features on the property. We will then provide you with a copy of the draft Baseline Documentation Report for your review and comment prior to completion of the final report; you will need to sign the final report prior to closing as an acknowledgement of your agreement that we have accurately captured the condition of the land.
10. **Suggested Contribution.** The donation of a conservation easement is a major, long-term commitment for both you and Sonoma Land Trust. When SLT accepts a conservation easement, we agree to become partners with you in order to protect and maintain the conservation values of your property in perpetuity. Current and all future landowners assume the legal responsibility to use the property in a manner consistent with the conservation easement. To fulfill our responsibilities as holder of the easement, we monitor easement properties annually to be sure the conservation values are intact and no violations of the easement terms have occurred. In addition, we will work with you and future landowners to review certain projects and activities allowed by the easement. If a violation is discovered, we work with the landowner to seek voluntary correction of the problem, and take steps to legally enforce the terms of the easement if necessary.

We are supported by our members and donors and have a policy of seeking financial contributions from those who are entrusting us to protect, monitor and enforce the easement over their lands in perpetuity. We always ask that landowners make a tax-deductible gift to SLT at the time of their easement donation. If a donation is not possible at the time of the transaction, landowners are asked to pledge a future contribution which may be donated over several years. Your gift helps cover some of our initial costs as well as our obligations into the future, when you may no longer own the property and the subsequent landowners don't cherish the land as you do.

11. **Closing.** We close the conservation easement through escrow. This will serve to provide a central location for collection and disbursement of documents, while identifying a party that is responsible for all follow-up documentation. We have established relationships with several title companies and will open an escrow account for the transaction.
12. **Stewardship.** After closing, SLT monitors and defends the conservation easement in perpetuity. We will coordinate with you and future landowner to schedule monitoring visits at least once a year, and work with you to resolve issues that arise.

### **Questions?**

We are always available to answer your questions, and encourage you to contact us at any time at (707) 526-6930. We appreciate your interest in preserving your land and safeguarding the beauty of Sonoma County for future generations to enjoy.