Steps to Granting a Conservation Easement

A conservation easement is a voluntary, legally binding, and perpetual agreement that identifies significant conservation values of a property and protective measures for those values. It is a publicly recorded document that runs with the land and becomes part of the title of the property; so even if the land is inherited or sold, the restrictions stay in place. Granting a conservation easement is a thoughtful and extensive process. Below are the steps to granting a conservation easement to the San Juan Preservation Trust (“Preservation Trust”).

1. **Phone or Videoconference Consultation:** The Preservation Trust’s conservation program staff conducts a phone or videoconference consultation with the landowner(s) to discuss the landowner’s goals and intent to protect the property. To help inform the discussion, please provide staff the Tax Parcel Number(s) associated with the potential project area in advance of the consultation. After the consultation, staff will send the landowner an inquiry packet of information for the landowner to review and consider.

2. **Follow-up Phone or Videoconference Consultation:** The landowner and staff will reconnect to answer any questions and discuss potential next steps. If the proposed project warrants further evaluation, conservation staff will coordinate with the landowner and the Preservation Trust’s stewardship staff to schedule a site visit. It is important to note that landowners will need to know where the legal boundary markers of their property are located. If unknown, it may be necessary for landowners to have a professional survey done.

3. **Initial Site Visit**: The Preservation Trust’s conservation and stewardship staff meets with the landowner to discuss her/his/their goals and interests in protecting her/his/their property. The site visit also gives the Preservation Trust a chance to learn more about the property's conservation values and describe our approach to partnering with landowners to help conserve their land.

4. **Evaluation of the Potential Project**: The Preservation Trust’s conservation and stewardship staff evaluates the project to ensure it protects significant conservation values and meets the mission of the organization. This is the point where staff decides to move the project forward for board consideration or determines that the proposed project does not fully meet the criteria of the conservation plan. If the latter occurs and the landowner still would like to pursue a conservation outcome, staff may be able to recommend re-structuring the project to increase its conservation values and protection of those values.

5. **Letter of Intent**: If the landowner and the Preservation Trust wish to proceed, the landowner writes a brief letter articulating her/his/they reasons for pursuing a conservation easement with the Preservation Trust.

6. **Preliminary Project Approval**: The Preservation Trust's board approval process is a two-step approach, with Preliminary Approval and then Final Board Approval required later in the process. The conservation easement proposal and letter of intent are evaluated by the Preservation Trust's Conservation and Acquisitions Committee and then Board of Directors to ensure that the project meets the organization's mission and that the Preservation Trust has the capacity to complete the project and accept its stewardship responsibilities. This also is an opportunity for board members to provide feedback on the project and recommend any adjustments to the project structure.

7. **Independent Tax and Legal Advice:** The Preservation Trust strongly encourages landowners to seek independent legal counsel and tax advice. This is particularly important for landowners who choose to pursue federal tax benefits for the donation of a conservation easement to understand whether the donation qualifies for federal tax benefits and, if so, how that donation is valued. Consulting legal and tax professionals can help improve the likelihood that the Internal Revenue Service (IRS) accepts the claim of a federal income tax deduction for your donation of a conservation easement to the Preservation Trust. Please refer to our Conservation Easement Donation Information – Federal Tax Benefit Considerations for more details.

8. **Title Research and Insurance**: The Preservation Trust assesses a preliminary title commitment to determine whether a conservation easement can protect the property's significant conservation values.

9. **Conservation Easement Drafting and Discussion of Terms**: The Preservation Trust's conservation program staff prepares the first draft of the conservation easement for landowner review. The Preservation Trust starts from a conservation easement template that is evaluated and updated annually by the Preservation Trust's staff, board, and outside legal counsel. The landowner and conservation program staff will work through the details of the conservation easement together. Please refer to #5 above for the Preservation Trust's recommendation for independent tax and legal advice.

10. **Baseline Conditions Report**: The Preservation Trust's stewardship staff compiles the Baseline Conditions Report. The report documents the important conservation values protected by the conservation easement, any improvements on the property, and relevant conditions for the stewardship staff to monitor and enforce the conservation easement. The landowner has an opportunity to review the report to confirm that it accurately describes the property. The final report is signed by the landowner and the Preservation Trust on or just before closing the conservation easement.

11. **Final Project Approval**: The Conservation and Acquisitions Committee and then the Board of Directors review the final conservation easement to determine if the organization should accept the terms in the easement. If approved, the project progresses to closing.

12. **Closing**: The landowner and the Preservation Trust sign the original conservation easement and Baseline Conditions Report at a local title company or remotely. The conservation easement requires notarized signatures and then is recorded. The Preservation Trust purchases title insurance for its conservation interest.

13. **Stewardship Contribution**: A Stewardship Contribution is required for every conservation easement that the Preservation Trust holds. The donation is deposited into a stewardship fund and is restricted to uses related to long-term monitoring and enforcement of conservation easements and properties that the Preservation Trust holds. Please refer to the Preservation Trust's Stewardship Fund document for more details.

14. **Appraisal and Potential Tax Deduction**: Valuation of the tax-deductible gift is a matter to be handled between the landowner and her/his/their appraiser and tax advisor. The Preservation Trust is not involved in determining the value of the charitable donation for tax purposes. The Internal Revenue Code requires a qualified appraisal for gifts of property valued at more than $5,000. If a landowner chooses to pursue federal tax benefits for the conservation easement donation, the landowner will need to obtain a qualified appraisal in accordance with Treasury Department Regulations. The Preservation Trust recommends that landowners use a qualified appraiser who follows the Uniform Standards of Professional Appraisal Practice. Please refer to our Conservation Easement Donation Information – Federal Tax Benefit Considerations for more details.