

A Guide to the Conservation Easement Process

These are the basic steps MLT follows to create a conservation easement (CE). The steps are not always in the same order, and the details are different for each property based on conservation goals, funding sources, and other factors.

Initial Property Investigation. MLT staff discusses the property with the landowner, evaluates the potential benefits of conserving the property and consistency of the project with MLT's mission, and conducts an initial site visit to learn more about the property. We order a preliminary title report to make sure that any title issues are identified and resolved early in the process, and we find out about the property's environmental condition, legal status, and other relevant circumstances.

Preliminary Board Approval. We give our Acquisitions Committee and our Board of Trustees an initial briefing about the project and obtain preliminary approval to proceed.

Letter Agreement and Deposit. We prepare a preliminary budget and enter into a legal agreement to proceed with the CE, including a deposit from the landowner to MLT to cover initial costs if the project does not have outside funding.

Conservation Planning. We work with the landowner to agree on their vision and goals for protecting the land, and engage in more detailed discussions about the property's conservation values, improvement areas, and possible permitted and restricted uses of the property.

Deed of Conservation Easement. We draft a conservation easement deed that fits the unique circumstances of the land and the agreed-upon conservation goals, and work with the landowner to revise the conservation easement until both parties are comfortable with it.

Baseline Documentation Report. We compile this report—including property description, maps, and photos—to record the condition and status of the property at the time the CE is signed. This document will be used as a baseline to monitor the property annually, as required by the IRS.

Appraisal. Landowners seeking a tax deduction for the donation of all or part of a CE must personally commission an appraisal of the value of the property based on IRS requirements. MLT cannot provide landowners with assurances as to the deductibility or value of an easement donation. Every donor must use independent legal and tax advisors.

Final Board Approval and Closing. We obtain final Board approval of the project and coordinate the closing through escrow with a local title company, at which point the CE deed is recorded on the title of the property.

MLT Stewardship and Legal Defense Fund Contribution. For every CE, the landowner makes a donation to fund MLT's annual monitoring and defense of the property in perpetuity to ensure that all current and future owners comply with the terms of the CE. This tax-deductible donation is invested into a pooled, restricted account.