

## **Taos Land Trust Conservation Easement Question & Response Form**

*Review verbally with the landowner, or  
let the landowner respond in writing on his/her own.*

### **PURPOSE**

This Conservation Easement Question & Response Form is intended to help you, the landowner, think in more detail about your conservation easement (CE). The questions and explanations are part of the first steps to drafting the easement; and concern the conservation values, landowner's intentions, reserved rights and restricted uses to be included in the conservation easement. Please remember that the Taos Land Trust is happy to discuss any of these issues with you, and that how you respond here can change as we draft the conservation easement together.

As you read through the questions and explanations, remember that a CE is flexible, and that the Land Trust will work with you to craft a CE that best meets your objectives, while preserving the conservation values of the property. The rights and restrictions incorporated in the final CE are binding on all present and future landowners, which creates a lasting legacy for the preservation of the land's conservation values. The CE must then be written in a way that protects the intent and conservation values of the property, while not unreasonably restricting future landowners or advances in technology. And although the landowner who grants the CE is not likely to violate its terms, the CE must be written to prevent a future landowner many years from now from harming the property and violating the letter and intent of the CE. Thus, it is very important that we carefully draft a CE with clearly stated intentions & explicit restrictions to ensure that the land will be preserved as you wish, in perpetuity.

### **SUGGESTIONS FOR THE LANDOWNER**

- The Land Trust recommends that you list your objectives and vision on a separate sheet of paper. It may also be very useful to describe the areas and values (scenic, riparian, etc.) that are important to you, and to draw these on a map of the property.
- Please think about and answer the following questions. Include any explanations to your responses, as they will be helpful in drafting the CE to most clearly meet your objectives.
- Feel free to raise additional questions or describe other ideas you have. You are not limited to the options listed below. The Land Trust will be happy to discuss any of these with you.
- You can choose to leave out some of the restrictions. For example, there need not be any mention of hunting (for or against) in the CE.
- Consider a notification or approval requirement for reserved rights as a way to provide a level of involvement for the Land Trust regarding changes being made to the property.

If you would like, the Land Trust can provide a copy of the Generic Conservation Easement, which has a sample of the language used in the full CE.

Note that some paragraphs from the Generic CE have been left out of this Question & Answer Response Form, because they do not involve any questions that need to be answered at this time.

## CONSERVATION EASEMENT QUESTIONS & RESPONSES

- |   |  |
|---|--|
| Legal Description   | 1) List all the people who hold a property interest in the land? Please list his/her name and address as you would like it to appear on the CE.  |
|   | 2) Please list any improvements; such as roads, buildings, sheds, fences, etc.   |
| Qualitative Descriptions of Conservation Values                 | 3) What are the conservation values that this conservation easement will preserve (e.g., irrigated farmland, agricultural productivity, acequia (irrigation ditch), scenic and open space character, riparian ecology, wildlife habitat, historic/archeological sites, etc.)?  |
|   | 4) <u>For Agricultural Easements</u> -- Are there any noteworthy agricultural features (e.g., soil type, crop, etc.)?  |
|   | 5) <u>Water Rights</u> -- Does the land have a history of irrigation?  |
|   | 6) <u>For Scenic Easements</u> -- From what public roads, public lands, or view points is the land visible?  |
|   | 7) <u>For Historic/Archeological Easements</u> -- Does the property contain any archeological or historic resources? If so, describe the site and reference official reports and/or designations.  |
| Landowner's Intentions  | 8) Why is preserving your land important to you, personally?   |
|   | 9) Please describe your intentions or objectives for preserving your land.   |
|   | 10) What features, in particular, do you want to preserve?   |
| Public Benefits   | 11) Does the land exist in an area where development is occurring, and is expected to occur at an accelerated rate in the future?  |
| Conservation Restrictions & Express Reserved Rights             | <p><i>The following paragraphs are tailored to your specific situation and objectives. Disregard paragraphs that are not applicable to your land.</i></p> <p>12) <u>Construction of Buildings and Other Structures</u> -- Do you want to prohibit all future building? If not, do you want to:</p> <ul style="list-style-type: none"> <li>a) Limit the number of buildings?</li> <li>b) Restrict their size and/or height?</li> <li>c) Set the location of homesites (specifically or within a general area)?</li> <li>d) Prohibit temporary buildings and/or mobile homes?</li> <li>e) Allow additional structures (e.g., barns, sheds, decks, garages, etc.)</li> <li>f) Prohibit the use of reflective surfaces (like corrugated steel roofs), mercury-vapor lights (like street lights), etc.?</li> </ul> <p>You can also draw on a map or survey the areas that you don NOT want built on or disturbed.</p> |
| Conservation Restrictions & Express Reserved Rights (continued) | 13) <u>Subdivision</u> -- Do you want to:  |
|   | a) Prohibit subdivision altogether?  |
|   | b) Allow limited subdivision (explain)?  |
|   | c) Deed or bequeath undivided interests in the property?   |

- 14) Ranching, Agriculture and Conservation Practices -- Remember that although the CE should protect the agricultural productivity of the land and its soil and water quality, the CE should also provide sufficient flexibility so that future landowners can take advantage of appropriate technologies in the future, changes in the condition of the land, the production of different agricultural products, etc. You should also consider that although you may have no intention of using some agricultural practice, a future landowner may wish to have that option. For example, you may not wish to use pesticides yourself, but a future landowner may want that option to stop a pest outbreak that is destroying a crop. If you would like, you can place specific restrictions and reserved rights on pesticide use and other agricultural practices, or require that a landowner seek the opinion of an appropriate expert and/or seek approval from the Land Trust before changing specified agricultural practices. Your decisions should be based on your vision and objectives for the land. Some suggestions are listed below, and the Land Trust can work with you to craft balanced language for this, and other, paragraphs. Do you want to:
- a) Restrict the use (quantity, frequency, and/or type) of pesticide, herbicide, and/or fertilizer applications?
  - b) Require that the Land Trust be notified if there are any changes in agricultural practices? Describe.
  - c) Require the landowner to seek the opinion of a competent expert if there are any changes in agricultural practices? Describe.
  - d) Require the landowner to seek the Land Trust's approval for any changes in agricultural practices? Describe.
  - e) Property to be leased out for agricultural purposes?
  - f) Preserve a buffer around sensitive areas, such as prohibiting the application of pesticides within 25 feet of a stream or wetland? Describe.
  - g) Permit or restrict the use of the property for livestock or other domestic animals? You may also limit the amount of livestock permitted or restrict their access to sensitive areas, such as riparian areas.
- 15) Timber Harvesting or Tree Management -- Please consider that although your land may not have any trees on it at this time, vegetation changes over time. If not disturbed, most areas would eventually evolve to a stand of trees or a forest. Therefore, it is relevant to consider tree management or timber harvesting, although it is not required. The Land Trust does permit cutting of trees to prevent encroachment onto open fields, to control insects or disease, for fire control, or to prevent personal injury and property damage. In addition, do you want to:
- a) Prohibit commercial harvesting of timber or wood products?
  - b) Limit the size of a cut over a one- and/or five-year period?
  - c) Require a forest management plan or the opinion of a professional forester if any cutting is planned?
  - d) Require notice and/or approval from the Land Trust?
- 16) Utilities (electric, sewer, water, telephone, gas, and other) -- Do you want to:
- a) Prohibit the placement of above-ground utilities?
  - b) Require notice and/or approval from the Land Trust before placing any new utilities?
  - c) Specify where utilities may be placed, such as along existing roads?

- 17) Roads -- Do you want to:
- a) Prohibit the construction of new roads?
  - b) Specify the location and/or width of any new roads?
  - c) Reserve the right to allow temporary vehicular, farm, or excavation equipment access? If so, do you want to limit this in any way (location, which areas can be accessed, duration, etc.)?
- 18) Commercial Activity -- Do you want to prohibit commercial activity on the property? Do you want to restrict it to activities related to products grown or produced on the property?
- 19) Signs -- Generally, the Land Trust prohibits signs except signs against trespassing and signs that notify the public that the land is protected. In addition, do you want to:
- a) Prohibit all other signs?
  - b) Permit signs to advertise activities listed in the Commercial Activity paragraph?
  - c) Limit the size of signs to: (\_\_\_\_ x \_\_\_\_)?
  - d) Restrict the use of neon or reflective materials?
- 20) Climbing – If relevant, do you want to prohibit technical rock climbing?
- 21) Firearms and Fireworks -- Do you want to:
- a) Prohibit any use of firearms?
  - b) Prohibit the recreational use of firearms?
  - c) Prohibit fireworks?
- 22) Hunting – Do you want to prohibit hunting? Do you want to permit hunting for the control of “rodents and varmints”