

Land Trust 
Accreditation Commission
An independent program of the Land Trust Alliance

September 30, 2015

John Smith
Green Acres Land Trust
100 South St
Green Valley, ST 00000

Re: Additional Information Request

Dear John:

It was a pleasure for Larry Kueter and me to join you on the phone on September 17. Thank you again for all of the work that went into your application and for preparing for the call. Larry and I really enjoyed learning more about your land trust's programs and appreciated that you were able to answer many of our questions on the call.

The next step of the review process is the Additional Information Request. To continue our review of your application we will need the additional documents and/or action steps outlined in the attached request. This step enables us to confirm that your land trust is following *Land Trust Standards and Practices* and meets all the program requirements so that the Commission can ensure that all accredited organizations meet the same national quality standards.

In order to make sure your review proceeds on schedule, please provide two copies of the materials requested in the attached request. The materials need to be received in our office **no later than December 30**. We look forward to reviewing the materials and expect to complete our review in time for the Commission to provide you with an accreditation decision by March 2016.

Thank you again for all you are doing to conserve land and for your commitment to excellence. Please let me know if you have any questions or if I can be of assistance as you prepare your response.

Sincerely,

Greg Good
Review Specialist



The Commission awards the accreditation seal to community institutions that meet national quality standards for protecting important natural places and working lands forever.

Land Trust 
Accreditation Commission
An independent program of the Land Trust Alliance

**Green Acres Land Trust
Additional Information Request
Information due December 30**

Sample Land Trust Additional Information Request - represents more examples than are typically found in an actual letter

The additional information requested below will enable the accreditation review team to advance your application through the next stage of the review process. For details about each indicator practice and the specific accreditation requirements please refer to the Commission's [Requirements Manual](#).

Items to Complete the Application

To complete the application, please provide the following.

Documents Requested

1. Unredacted Schedule B from the 2014 Form 990 (relates to practice 2C)
2. Board meeting minutes from when the ABC project was granted final approval (relates to practice 3F)

2B. Nonprofit Incorporation and Bylaws

The review team noted that the organization's bylaws were recently revised or were being revised at the time of application.

Document Requested

3. Please provide a copy of the revised bylaws with the date of adoption or, if the revisions have not been approved as of the deadline to respond, draft revisions.

2C. Tax Exemption

We request documentation that the organization's Form 990 is complete and accurate. Specifically, the review team noted that the reported financial information on the Form 990 does not match or reconcile with the audited financial information.

Documents Requested

4. Please provide a more recent Form 990 that shows temporarily restricted funds reported on the balance sheet and Schedule D.
5. Please provide a statement explaining the difference between the audited financial statements and the Form 990.

3F. Board Approval of Land Transactions

As discussed on the applicant call, the application did not document the following:

- Every land and conservation easement transaction is reviewed by the board or by a committee.
- The board receives timely and adequate information about each transaction before it makes its final decision to approve it.
- The organization documents that it applies its selection criteria when deciding whether to proceed with a project.
- The organization identifies and documents the public benefit(s) of every land and conservation easement transaction.

In order to document the organization's current policies and procedures, please provide the following documentation for a recent project (either completed or in process).

Documents Requested

6. Evidence of the review of the project by the full board and/or by a committee (such as meeting minutes, internal memos, timeline of events, etc.).
7. Material provided to the board [or other decision maker] before final approval of the project.
8. Minutes of the board meeting when the project was approved or other record of final decision or a statement indicating approximately when board approval is expected.
9. Evidence that the organization reviewed the project against its project selection criteria, including that it evaluated the project against its capacity to perform any perpetual stewardship responsibilities (such as completed criteria worksheets or checklists, site evaluation checklists, project planning sheets, meeting minutes, etc.).

5A. Legal and Ethical Practices

We request documentation that the organization issues a contemporaneous written gift acknowledgement letter for gifts greater than \$250 (including land and conservation easements) that is compliant with the Internal Revenue Code (§170(f)(8)) and the Treasury Department Regulations (§1.170A-13). The review team found that the letter provided to X was missing the date of the donation and one of the following: statement that no goods or services were provided by the organization in return for the contribution, or a description and good faith estimate of the value of goods or services that the organization provided in return for the contribution. For your convenience, a sample annotated gift acknowledgement letter has been attached as a reference.

Documents Requested

10. Please provide a recent gift substantiation letter acknowledging the donation of land or a conservation easement that meets the Treasury Regulations by containing the date of the donation and one of the following: statement that no goods or services were provided by the organization in return for the contribution, or a description and good faith estimate of the value of goods or services that the organization provided in return for the contribution. If no such letter is available, please provide a template for letters that will be used in the future.

We also note that the Land Trust solicits contributions from donors in other states but have only registered in its state. We need confirmation that the land trust is taking action to understand the requirements in these states and come into compliance where necessary.

Document Requested

11. Documentation that Green Acres Land Trust is taking action with respect to state charitable registration requirements (such as correspondence with an attorney or other advisor as to which states require registration, research the land trust has done on requirements in states where it solicits, copies of filed applications, etc.).

6B. Financial Records

We request documentation of how the organization is clear about any restrictions on the use of moneys received as well as when the organization reserves the right to expend the principal of the donation. The review team noted that the organization is soliciting gifts using the term “endowment,” which could set a donor expectation on the funds. If the organization solicits gifts using the term “endowment,” then those funds should be either permanently restricted or temporarily restricted (if the donor is aware that the principal of the funds could be spent). Specifically, the review team noted that the organization solicited funds as GALT Stewardship Endowment and classified them as unrestricted board-designated.

Document Requested

12. Please provide one of the following:
 - a. A statement attesting that the stewardship and defense funds have been reclassified as permanently or temporarily restricted and will be classified as such in the future. (Please also provide a revised [Schedule of Dedicated and Restricted Funds](#) or annotated balance sheet that clearly shows the current level and restrictions on the funds). If the funds are reclassified as temporarily restricted, please also indicate how the donor is made aware that the principal of the funds could be spent.
 - b. A letter from an independent certified public accountant confirming that he/she has:
 - i. Reviewed the solicitation and acknowledgment materials for stewardship and defense and any additional relevant correspondence with donors making a contribution to the endowment fund
 - ii. Compared the expectations set out in these documents against generally accepted accounting principles, state law relative to classifying funds and ethical responsibilities for honoring donor intent
 - iii. Determined that no reclassification is required.

6D. Financial Review or Audit

We request documentation that the organization obtains the expected level of annual financial audit, review, or compilation as outlined in the *Requirements Manual*. As discussed on the call, the Commission requires that a land trust obtain an annual audit by an independent certified public accountant] when total annual support and revenue is greater than \$500,000.

Documents Requested

13. A report of an independent financial audit by a qualified financial advisor that presents the statement of financial position, statement of activities, and statement of cash flows for the year ending April 30, 2015.
14. If the report contains recommendations for improving the Land Trust’s accounting procedures or system, please provide a copy of the recommendations along with a statement of how the Land Trust intends to implement them.

9E. Easement Drafting

We request documentation of how the organization's future conservation easements will meet the requirements of the Treasury Regulations for tax-deductible conservation easements regarding the surface extraction of minerals. Specifically, the conservation easement template allows for sand and gravel extraction but does not require restoration of the impacted area.

Document Requested

15. Please provide template easement language the organization will use to ensure compliance in the future when a landowner intends to take a tax deduction and reserves rights for sand and gravel extraction, that i) restricts the location and amount of sand and/or gravel extraction, ii) requires protection of the conservation values, and iii) requires restoration after the completion of use in conformance with Treasury Regulations §1.170A-14(g)(4)(i).

9H. Title Investigation and Subordination

We request documentation of how the organization intends to meet the requirement that it investigate title to each property or conservation easement it intends to acquire both to confirm the legal description and the owner and to uncover liens, mortgages, reserved mineral rights, mineral or other leases, water rights and/or other encumbrances or matters of record that may affect the transaction. The review team noted that the organization has not consistently investigated title for each property as the practice requires.

Documents requested

16. Please provide a board-adopted policy stating that the organization will investigate title for all easements and fee properties it acquires and that it will ensure that all mortgages, liens, and other encumbrances that could undermine its ability to protect the conservation values are appropriately addressed.
17. Documentation of title investigation for a recent transaction (such as title report, title commitment, title insurance certificate) and how any exceptions were addressed (such as mineral remoteness letter, mortgage subordinations, etc.). If no such documentation is available for a recent project, then please complete a retroactive title investigation for the organization's most recent past project and provide the requested documentation on the basis of that transaction.

9J. Purchasing Land

We request documentation of how the organization intends to meet the requirement to obtain a qualified independent appraisal as outlined in the *Requirements Manual*. The review team found that the organization has purchased interests in land without obtaining an appraisal.

Documents Requested

18. Please provide a board-adopted policy for obtaining appraisals when purchasing interests in land that conforms to the requirements of practice 9J, as outlined in the Commission's Requirements Manual.
19. If available, an independent appraisal completed for the XLT project or the most recent purchase of land or conservation easement.

10B. Appraisals

We request documentation of how the organization notifies potential land or easement donors of all elements required by practice 10B as specified in the *Requirements Manual*. The review team noted that the organization's current communication is missing that the donor should obtain a qualified appraisal as per the Treasury Department Regulations, including information on the timing of the appraisal (not earlier than 60 days prior to the date of contribution and before the due date for the tax return on which the deduction is first claimed; if the appraisal is after the donation, it must reflect the value of the conservation easement or fee property on the date of the gift). For your convenience, a sample annotated landowner notification letter has been attached as a reference.

Document Requested

20. Please provide a copy of a recent letter or other written material informing a potential land or easement donors of all elements required by practice 10B as outlined in the *Requirements Manual*. If no such letter or other written communication (such as a handout, landowner's guide, etc.) is available, please provide a template notification letter or other communication to be used in the future.

11B. Baseline Documentation Report

We request documentation of how every baseline documentation report includes the required contents, as outlined in the *Requirements Manual*. The review team noted that the baseline documentation report for the ABC conservation easement did not contain documentation of the conservation values and public benefits, including written descriptions along with related maps and photographs and dated signatures of the landowner and organization acknowledging that both attest to the accuracy of the information contained in the report (if the landowner is receiving tax benefits for a donated conservation easement) the acknowledgement must be compliant with the Treasury Department Regulations [§1.170A-14(g)(5)(i)(D)].) For your convenience, information about signatures on baseline documentation reports has been attached as a reference.

Document Requested

21. Please provide a supplement or update to the ABC baseline documentation report that contains the additional information noted above. The revised/supplemental report should include the date the report was completed, the organization's signature, and the current landowner's signature (or documented attempt to obtain the landowner's signature).

11I. Amendments

We request documentation that the organization meets the requirement to have a board-adopted policy or procedure that addresses conservation easement amendments by containing the elements as specified in the Commission's *Requirements Manual*. The review team noted that the organization's policy is missing a provision that amendments must not result in private inurement or confer impermissible private benefit. For your convenience, a sample annotated amendment policy has been attached as a reference.

Document Requested

22. Please provide a procedure or board-adopted policy for conservation easement amendments that, in addition to the information it already contains, includes all the elements required by the practice.

Time Tracking

In your land trust's pre-application acceptance letter, we requested that the land trust keep track of the time it spent in the application process. This information helps us give better guidance to future applicants and evaluate our program improvements. If your organization was able to track its time or has a rough estimate of the time spent, please complete the time tracking form. You can provide a tally of each individual's time or an aggregate of the hours spent by the organization.

Document Requested

23. A completed time tracking form, *if available* (see attached or visit the Commission's website for the [electronic version](#)).

Resources

- While you are preparing your response, the review team encourages you to carefully review the [Requirements Manual](#).
- If you need information on how to implement the accreditation indicator practices or sample documents, we encourage you to visit the Land Trust Alliance's online [Learning Center](#).
- For your convenience, we have included the following reference document(s).
 - Annotated Gift Acknowledgement Letter (practice 5A)
 - Annotated Tax Code/Appraisal Review Notification Letter (practice 10B)
 - Annotated Amendment Policy (practice 11I)
 - Putting it Into Practice: Baseline Document Report Signatures (practice 11B)

**Thank you for your commitment to accreditation and to excellence in land conservation.
Together we are helping to foster public confidence in land trusts.**

Land Trust Accreditation Program
Applicant Time Tracking Form - First-time Application
Name of Organization: _____

ACTIVITY	Land Trust Team Member A¹	Land Trust Team Member B	Land Trust Team Member C	Land Trust Team Member D	Land Trust Team Member E	TOTAL # of Hours/Activity
PREPARING FOR ACCREDITATION						
Include time spent developing policies or on other activities that are needed specifically for accreditation and not part of routine implementation of Standards & Practices						
COMPLETING THE PRE-APPLICATION						
Include time spent completing and submitting the questionnaire and attachments						
COMPLETING THE APPLICATION & ATTACHMENTS						
Completing application questionnaire						
Gathering and compiling attachments						
Creating public notice (e.g., press releases, events)						
Compiling project documentation						
Assembling/shipping application package						
PREPARING APPLICATION FOLLOW-UP						
Preparing for, and participating on, phone call with Commission review team (your organization will receive an agenda in advance)						
Preparing follow-up materials (your organization may receive a request for additional information)						
TOTAL # of Hours/Person						

TOTAL # of People²	
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Sample Land Trust Follow-Up Letter Document – does not represent an actual follow-up letter in terms of length or content

Practice 5B – Contemporaneous Written Gift Acknowledgment for Land or Conservation Easements Accreditation Requirements Annotated (also see the *Requirements Manual*)

For gifts greater than \$250 the organization must issue a contemporaneous gift acknowledgement letter that includes the items highlighted below.

Name of your organization

Your Land Trust Name and Address

Date

Property/Gift description (size, location, etc.)

Dear :

Date of donation

I am delighted to learn that you recently completed the bargain sale of a conservation easement on [XXX] acres of your land located on [ROAD] in [CITY], [STATE], recorded on [DATE]. I want to express my appreciation for this important gift to the future of our community. I know that this decision required many hours of careful thought and consideration on your part. Thank you for taking this important step.

In appreciation, I want to welcome you as an honorary lifetime member of [LAND TRUST]. As a member, you will receive our publications, as well as an invitation to attend our annual meetings, which are traditionally held on conserved properties around the community.

You will also receive our special newsletter, [LAND TRUST] *News*. It is produced by our stewardship staff, who are dedicated to providing assistance and information to you and other owners of conserved land. Please feel free to call or write our stewardship department if you have any questions or concerns that we can answer. We will be sending you further information about our conservation stewardship services in the next few weeks.

Please retain this letter as our acknowledgement

Value of goods/services provided, if applicable (e.g. in a bargain sale)

for bargain sale...other than the purchase price of the land
if other goods and services provided... other than brush-clearing and tree-trimming services valued at \$[AMOUNT]...

Statement that no goods and services (other than identified above) were provided

[LAND TRUST] did not provide you with any goods or services in exchange for your [bargain-sale] contribution.

Again, please accept my personal thanks. Your example will help inspire many others who also care about the future of their land and our state.

Sincerely,

[NAME]
President

P.S. Please note that for federal income tax purposes, the amount of your contribution is limited to that portion of the gift in excess of the value of goods or services provided by [LAND TRUST].

**Practice 10B – Tax Code/Appraisal Review Notification Letter
Accreditation Requirements Annotated (also see the *Requirements Manual*)**

The organization must notify potential land or easement donors, including those knowingly engaged in a bargain-sale transaction, of the items highlighted below.

Date

Dear Landowner,

Thank you for considering a gift of [land][a conservation easement] to [LAND TRUST].

Most landowners' thoughts about donating either a parcel of land, part of the value of a parcel or a conservation easement on their property begin with their hopes that the special values of their land--its beauty, farm and forest productivity, wildlife, water resources or recreation opportunities--will forever be conserved. We share that vision and work cooperatively with landowners to achieve that goal.

For a landowner who makes this commitment, there are potential tax incentives for such donations, including a federal income tax deduction. The Internal Revenue Service (IRS) has extensive requirements that must be met in order to take an income tax deduction for a donation of land or a conservation easement, and the donor is responsible for determining the value of the donation.

Must be a qualified appraisal for gifts over \$5,000

The IRS requires that the donor obtain a written "qualified" appraisal prepared by a "qualified" appraiser if the gift is valued at more than \$5,000. These terms and other matters related to land conservation donations are detailed in Treasury Regulations §1.170A-13 and §1.170A-14 and in IRS Notice 2004-41 (released June 2004 regarding conservation easement donations), which you should discuss with your appraiser, attorney and tax advisor.

Donor responsible for determining value

Use a qualified appraiser

Key elements of the process include the following:

- The appraiser should be certified in [STATE] and have substantial, verifiable experience in appraising the value of parcels of land or conservation easements that are to be donated to [LAND TRUST].
- The appraiser must be independent of the parties to the transaction, including their relatives, employees or any other person whose relationship to a party might cause a reasonable person to question the appraiser's independence.
- The appraisal must comply with the Uniform Standards of Professional Appraisal Practice (USPAP). The appraiser's fee must not be based on a percentage of the appraised value of the property being appraised. The appraisal report must state it was prepared to establish the value of the donation – fee title or conservation easement – for the client's use for income tax purposes.
- The appraisal must be dated no earlier than 60 days prior to the date of contribution and before the due date for the tax return on which the deduction is first claimed. If the appraisal is completed after the donation is made, it must reflect the fair market value of the gift as of the date it was given.

Appraiser must follow USPAP

Include explicit information on the timing of the appraisal

Land Trust will request a copy of the appraisal

- ~~IRS Form 8283, including the required attachments, must first be prepared and signed by your attorney or tax advisor and the appraiser. Then it can be sent to [LAND TRUST], with a complete copy of the appraisal, for our review and authorized signature acknowledging receipt of the gift. [LAND TRUST] policies cover documentation of donations in order to ensure that the value of the gifts we receive are accurately represented. These policies include not signing the IRS Form 8283 should we have strong reservations about the stated value of a donation. [LAND TRUST] will not knowingly participate in a transaction for which we have concerns about the validity of the tax deduction. We do not anticipate any issues surrounding your appraisal, but will contact you if we have any questions.~~

Land Trust will not knowingly participate in a transaction if it has concerns about tax deduction

- After we return IRS Form 8283 to you, you must attach it to the federal income tax return on which the deduction for the contribution is first claimed. If the value of the gift is more than \$500,000, a full copy of the appraisal must be included with the tax return.
- You must maintain records containing certain information required for property contributions in general, including the complete written appraisal and the letter sent by [LAND TRUST] at the time the donation is made that acknowledges our acceptance of the gift.

An appraisal of undeveloped land in which part or all of the value is being donated is substantially different from a typical residential property appraisal. An appraisal of a conservation easement is even more complex and requires special knowledge and experience. [LAND TRUST] has had the opportunity to observe the work of many appraisers of conservation properties and, if you wish, we can provide a list for your consideration of appraisers whose work we have reviewed.

The IRS views donations of land and conservation easements very seriously and may impose substantial penalties on both the landowner and the appraiser for gifts that are overvalued for tax purposes. You need to choose an appraiser carefully and to work with your appraiser, attorney and tax advisor throughout the conservation donation process. While [LAND TRUST] makes every effort to complete projects in a manner consistent with IRS Tax Code requirements, ultimately meeting the qualifications for a tax deduction is the responsibility of you and your advisors. [LAND TRUST] cannot provide any assurances to landowners who are donating interests in real estate that their donation will be tax-deductible nor can [LAND TRUST] provide any statement declaring the amount of the monetary value of the donated interest or what amount might be accepted by the IRS.

Should you have questions on any of the foregoing, please do not hesitate to contact me.

Sincerely,

Executive Director/President

Practice 11I – Conservation Easement Amendment Policy
Accreditation Requirements Annotated (also see the *Requirements Manual*)

The organization’s amendment policy must include all of the items highlighted below.

[LAND TRUST]
CONSERVATION EASEMENT AMENDMENT POLICY

1. INTRODUCTION

[LAND TRUST] holds conservation easements to protection conservation values in accordance with IRC 170(h). [LAND TRUST] is obligated to protect these conservation values in perpetuity by monitoring its easements at least annually and enforcing them in the event of a violation. [LAND TRUST] recognizes that it may be necessary or desirable on rare occasions to modify the terms of its easements, but [LAND TRUST] will do so only in accordance with applicable law and only for uses that have a beneficial or neutral effect on the conservation values they protect.

Must have net beneficial or neutral effect on conservation values

Therefore, it is [LAND TRUST]’s policy to hold and enforce its conservation easements as written, except in the limited circumstances described in this policy. All requests for consent, waiver, modification or amendment of the terms of an easement (“amendment”) will be reviewed according to the procedures set forth in this policy.

Because every property is unique, no decision by [LAND TRUST] with respect to the amendment of a conservation easement shall create a precedent with respect to any other request for an amendment. The amendment policy process laid out in the original conservation easement deed will guide the consideration of any proposed amendment.

Although this amendment policy sets forth certain guidelines and procedures, nothing herein shall be deemed to impair the sole and absolute discretion of the board of directors in determining whether any proposed amendment is acceptable to [LAND TRUST].

Circumstances for which the land trust would consider an amendment

2. AMENDMENT POLICY

[LAND TRUST] will consider amendments to its conservation easements only in the following circumstances:

- A. Correction of an Error or Ambiguity. [LAND TRUST] may amend an easement to correct a drafting error or oversight made at the time the easement was granted. This may include correction of a legal description, inclusion of standard language that was unintentionally omitted or clarification of an ambiguity in the terms of the restrictions in order to avoid litigation over the interpretation of the document in the future.
- B. Prior Agreement. Occasionally, an easement contains a specific provision or there is an unrecorded agreement or other document allowing modification of the easement terms at a future date under defined circumstances. Such agreements must be set forth in the conservation easement or in a separate document signed by all parties,

including [LAND TRUST], on or before the date the easement was executed. The amendment must be consistent with the terms and conservation intent of the original agreement.

C. Settlement of Condemnation Proceedings. Conservation easements and other interests in land held by [LAND TRUST] may be subject to condemnation for public purposes, such as highways, schools, etc. In the event of a lawful condemnation proceeding, [LAND TRUST] shall attempt to preserve the intent of the original conservation agreement to the greatest extent possible.

- i. Whenever all or part of the property is taken in the exercise of eminent domain by a public, corporate or other authority so as to abrogate in whole or in part the conservation easement, the landowner and [LAND TRUST] shall act jointly to recover the full damages resulting from such a taking with all incidental or direct damages and expenses incurred by them thereby to be paid out of the damages recovered.
- ii. The balance of the damages recovered shall be divided between them in proportion to the fair market value on the date of execution of the easement deed of their respective interests in the condemned portion of the property. For this purpose, [LAND TRUST]'s interest shall be the amount by which the fair market value of the property immediately prior to the execution of the conservation easement deed was reduced by the restrictions imposed. [LAND TRUST] shall use its share of the proceeds in a manner consistent with and in furtherance of the conservation purposes set forth in the easement deed.

D. Substantial Alteration or Destruction of a Conservation Value. Alteration or destruction caused by a cataclysmic event, such as a volcanic eruption, earthquake, fire, rising sea levels, destruction of habitat caused by climate change or species extinction, are examples of actions or circumstances that could greatly alter conservation values an easement is intended to protect. In this situation, [LAND TRUST] may amend the easement to protect and preserve the remaining conservation values, provided that the amendment meets the requirements listed in section 3, below. If there are no conservation values remaining, [LAND TRUST] may petition a court of competent jurisdiction to terminate the easement.

E. Minor Modifications Consistent with Conservation Purpose. [LAND TRUST] may authorize other minor modifications of the conservation restrictions upon making the following findings:

- i. The amendment clearly serves the public interest and is consistent with [LAND TRUST]'s mission.
- ii. The amendment is consistent with the conservation purposes and intent of the easement.

Must serve public interest

Must be consistent with land trust mission

Must be consistent with the conservation purposes and intent of original easement

Must comply with federal, state and local laws

iii. The amendment complies with all applicable federal, state and local laws and regulations.

iv. The amendment has a net beneficial or neutral effect on the relevant conservation values protected by the easement.

Must not jeopardize the organization's tax-exempt or charitable status

v. There are no feasible alternatives available to achieve the purpose of the amendment.

Must not result in private inurement or confer impermissible private benefit

vi. The amendment will not jeopardize [LAND TRUST]'s tax-exempt status or status as a charitable organization under federal or state law.

vii. The amendment does not result in private inurement or confer impermissible private benefit.

Must be consistent with the original intent of donor, grantor, and any funding source

viii. The amendment is consistent with the documented intent of the donor, grantor and any direct funding source.

ix. The amendment will not impair [LAND TRUST]'s ability to steward, defend or enforce the conservation easement.

x. No amendment shall effect a termination of the existing easement unless the terminated easement is immediately replaced by an amended easement consistent with this policy. No amendment shall cause the perpetual duration of an existing easement to be terminable.

xi. The amendment will not undermine the public's confidence in [LAND TRUST] to protect conservation values in perpetuity.

xii. No amendment shall be approved by [LAND TRUST] that is likely to result in the conservation easement failing to qualify as a valid conservation easement under the Internal Revenue Code.

3. PROCEDURES FOR AMENDING A CONSERVATION EASEMENT

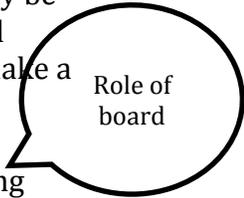
- A. Amendments may be initiated by the landowner or [LAND TRUST].
- B. Amendment requests must be submitted in writing. The request should include a description of the change being requested, the reasons why it is warranted, a map of the property showing areas affected by the proposed amendment and any other information that justifies the request.
- C. Each request by a landowner must be accompanied by a payment of \$500 to cover anticipated costs in reviewing the amendment request, regardless of whether the request is approved, and if it is approved, the costs of drafting and recording the amendment. Any unexpended portion of the fee will be refunded. Additionally, the

landowner will be responsible for any costs exceeding the initial fee, as billed by [LAND TRUST], and the costs of any required documentation, such as a survey boundary marking or updated baseline documentation report.

- D. Staff and/or the Lands Committee will review the amendment request for consistency with the original conservation easement deed, this policy, the [LAND TRUST] Conflict of Interest Policy and any related documentation. Legal counsel will review the findings. Other persons, such as natural resource professionals, may be consulted. A site visit and meeting with the current landowner and/or original donor may be conducted. The Lands Committee will review the request and make a recommendation to the board of directors.
- E. A written summary of the proposed amendment and the reasons why it is being requested will be presented to the [LAND TRUST] board of directors for preliminary approval. Such approval will be granted or withheld using the criteria listed in section 2E, above. The board's findings and decision will be recorded in the minutes of the board meeting.
- F. If the board grants preliminary approval, the amendment will be drafted by staff or by counsel. All amendments must be reviewed and approved by [LAND TRUST]'s legal counsel.
- G. The final draft of the amendment and a written summary of the reasons for its request will be presented to the board of directors for final approval. The board's decision and any additional findings will be recorded in the minutes of the board meeting.
- H. If the terms of the amendment are approved, [LAND TRUST] staff will have the title status reviewed by legal counsel to determine whether further title insurance and subordination of lenders is required to ensure that the amended conservation easement is covered by any policy and any lenders will be subject to the amendment.
- I. The amendment will be duly recorded. Originals and copies of the amendment deed and all related documentation shall be retained according to [LAND TRUST]'s recordkeeping policy.



Role of committees



Role of board

4. STEWARDSHIP AND LEGAL DEFENSE ENDOWMENT

If an amendment requested by a landowner will increase the administrative burden on [LAND TRUST] for future monitoring of compliance and/or enforcement of the conservation easement, [LAND TRUST] will advise the landowner of the amount of additional funding needed for the Conservation Stewardship Fund Endowment and suspend processing of the amendment until and unless the landowner has agreed to deposit the additional amount in the event [LAND TRUST] approves the amendment.

This policy is adopted by [LAND TRUST] board of directors on [DATE].

Putting it into Practice

Accreditation and Signatures on Older Baseline Documentation Reports

Land Trust Standards and Practices and the accreditation requirements call for every baseline documentation report to be signed by the land trust and the easement grantor or current landowner. What should a land trust do if it has older baselines that are not signed? This fact sheet provides tips on how to secure signatures on older baselines or document the process to secure the signatures for accreditation.

Purpose of the Practice

Baselines, if consistently and professionally prepared in the ordinary course of business, can help defend the conservation easement by creating an exception to hearsay rules, allowing the baseline to be introduced as evidence in court even though the preparer(s) of the baseline may no longer be available to testify to its accuracy. Signatures of the parties acknowledging the baseline can strengthen the document's admissibility.

Accreditation Requirements

Practice 11B of *Land Trust Standards and Practices* requires a baseline be completed and signed by the landowner at closing. Signed baseline documentation is also required to meet Treasury Regulation requirements for donated easements and to meet accreditation requirements. The accreditation requirement is excerpted below. See the [Requirements Manual](#) for more detail.

Dated signatures of the landowner and organization acknowledging that both attest to the accuracy of the information contained in the report

- o If the landowner is receiving tax benefits for a donated conservation easement, the acknowledgement must be compliant with the Treasury Department Regulations [§1.170A-14(g)(5)(i)(D)]

Tips for Meeting the Requirements

While signing the baseline prior to, or at, closing is ideal, many land trusts have older baselines that are not signed by the landowner. The lack of signatures can be addressed by the land trust in a variety of ways. For accreditation purposes the land trust needs to secure the signatures from the original or subsequent owner or document its attempts to do so. How does this work in practice?

Scenario 1: Relatively recent donation, original owner

If the easement closed within the last few years and the land is still owned by the original grantor, many land trusts find it is relatively simple to ask the donor to sign an acknowledgement statement indicating that the original baseline still reflects the condition of the property at the time the easement was granted. Land trusts sometimes incorporate the request for the signature into the annual monitoring visit.

Scenario 2: Older baseline, new owner

What happens when you have an older baseline and a new owner? Some land trusts are reluctant to ask a new owner to sign a baseline that was created before the person owned the property. In

this situation, land trusts generally create a current conditions report or supplemental baseline report and ask the new owner to sign it.

The standards for creating and authenticating a current conditions or supplemental baseline are the same as for new baselines (for more information, see the resources below). The current conditions or supplemental report, however, may not need to contain all of the detailed inventory information in the original baseline. Land trusts often find this is a good opportunity to update property descriptions, maps and photos, which can be gathered during a monitoring visit. Sharing this important information about the property with a new landowner can help build stronger relationships with the owner.

Scenario 3: Landowner refuses to sign

The accreditation program recognizes that it may be impossible to get some landowners to sign the baseline or current conditions or supplemental report. In that case, a land trust needs to keep documentation of its attempt to secure the signatures. What does this documentation look like for the purposes of accreditation? It takes a variety of forms.

- If a land trust only has a few baselines needing signatures, it may keep correspondence, emails or internal notes about its attempt to secure the signature on each.
- If a land trust has a number of baselines needing signatures, it may create a chart to track the date the landowner was asked to sign, an indication if it was signed and/or the date a subsequent request was sent and a note if the signature was never received and/or the owner refused to sign.

By taking these simple steps, land trusts can help ensure their baselines will meet evidentiary, Treasury Regulations and accreditation requirements.

RESOURCES

For additional articles and other information on baselines, see these resources:

- Hamilton, J. E. Land Trust Alliance. 2008. Chapter 3. Baseline documentation reports. *Conservation Easement Drafting and Documentation* (S. Bates, ed.). Available at <http://www.landtrustalliance.org/resources/publications/pubs-alphabetical-listing#c>.
- Land Trust Accreditation Commission [*Requirements Manual*](#) 11B.
- Open Space Institute. 2012. Appendix 2. Baselines and Current Conditions Reports: Authentication and Admissibility. [*Easement Revitalization: A problem solving guidebook for land trusts*](#).

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