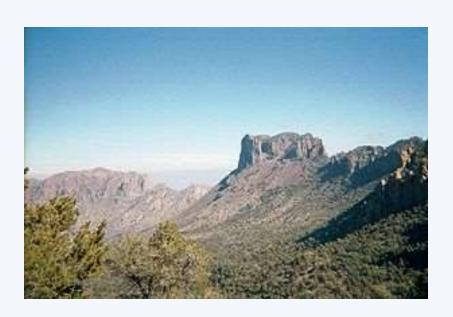
# Protecting Texas with Conservation Easements





# WHAT IS A CONSERVATION EASEMENT?

- Legal agreement (deed) between landowner and land trust
- Protects conservation values and limits some uses of land



### WHAT IS A LAND TRUST?

- Nonprofit organization
- Public charity (501c3)
- Conservation mission
- Monitors and enforces conservation easement



### **KEY CONCEPT:**

- Landowner retains title to the land
- Abides by conservation restrictions
- Maintains uses of land not prohibited by conservation easement

#### **LANDOWNER CAN:**

- Give the land to heirs, or
- Sell the property to anyone

**SUBJECT TO the Conservation** 

**Easement** 



## **KEY CONCEPT:**

Contribution of a conservation easement to a land trust may entitle the landowner to federal tax benefits



### **KEY CONCEPT:**

To be eligible for federal tax benefits the conservation easement must be **perpetual** 



# WHAT type of property is eligible for a (tax deductible) CE?

Four "Qualified Conservation Purposes:"

- 1) Education or outdoor recreation of general public
- 2) Protection of relatively natural habitat
- 3) Open Space
- 4) Historic preservation

## WHAT type of property is eligible for a (tax deductible) CE?

Four "Qualified Conservation Purposes:"

1) Education or outdoor recreation of general public

REQUIRE PHYSICAL PUBLIC ACCESS

4) Historic preservation

#### Four "Qualified Conservation Purposes:"

Most CEs in Texas are one of these two:

- 2) Protection of relatively natural habitat
- 3) Open Space



#### Four "Qualified Conservation Purposes:"

- 2) Protection of "significant habitat or ecosytem"
- Habitat for rare, threatened or endangered species
- High quality example of natural community
- Contribute to ecological viability of park or natural area

#### Four "Qualified Conservation Purposes:"

### 3) Open Space

- -The preservation of open space (including farmland and forest land) where such preservation is –
- (I) For the scenic enjoyment of the general public, or (II) Pursuant to a clearly delineated governmental conservation policy,

AND Will yield a significant public benefit

#### **Perpetual Conservation Easement**



## ELEMENTS OF A CONSERVATION EASEMENT DOCUMENT

**Element 1: Purpose Clause** 



1. PURPOSE. The purpose of this Conservation Easement is to ensure that the Property will be retained forever predominantly in its natural condition; to protect native plants, animals, or plant communities on the Property; to prevent any use of the Property that will significantly impair or interfere with the Conservation Values of the Property, while allowing for traditional uses on the Property that may be compatible with and not destructive of the Conservation Values of the Property, such as limited residential construction, agricultural/grazing, and recreational activities, all subject to the terms of this Conservation Easement.

## ELEMENTS OF A CONSERVATION EASEMENT DOCUMENT

**Element 1: Purpose Clause** 

**Element 2: State Conservation Values** 

**Element 3: Restrictions & Reserved Rights** 



# RESTRICTIONS AND RESERVED RIGHTS

- Subdivision
- Construction
- Land Uses
- Surface Alteration
- Vegetation Management

# RESTRICTIONS AND RESERVED RIGHTS

- Subdivision
- Construction
- Land Uses
  - Agriculture/crops
  - Grazing
  - Hunting
  - Surface mining
  - Oil & gas development
  - Water extraction
- Surface Alteration
- Vegetation Management

# RESTRICTIONS AND RESERVED RIGHTS

- Subdivision
- Construction
- Land Uses
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## ELEMENTS OF A CONSERVATION EASEMENT DOCUMENT

**Element 1: Purpose Clause** 

**Element 2: State Conservation Values** 

**Element 3: Restrictions & Reserved Rights** 

**Element 4: Administrative Sections** 



# WHAT ARE WE CONSERVING? Baseline Documentation

"Documentation sufficient to establish the condition of the property at the time of the gift."



# ADMINISTRATIVE SECTIONS: KEY PROVISIONS

- Land Trust right of entry to monitor compliance
- Land Trust right of enforcement



### SPECIAL ISSUE: MORTGAGED PROPERTY

- Mortgage must be "subordinated" to conservation easement
  - Lender agrees to allow CE to remain after foreclosure





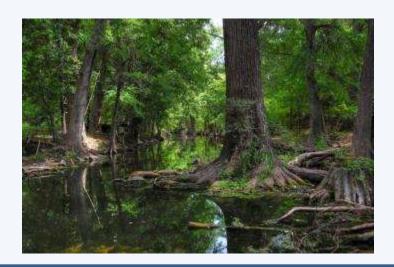
#### Who Wants a Conservation Easement?

- Protect family legacy
- Preserve important conservation values
- Unlock value in land
- Reduce estate tax



#### **Considerations for Landowners**

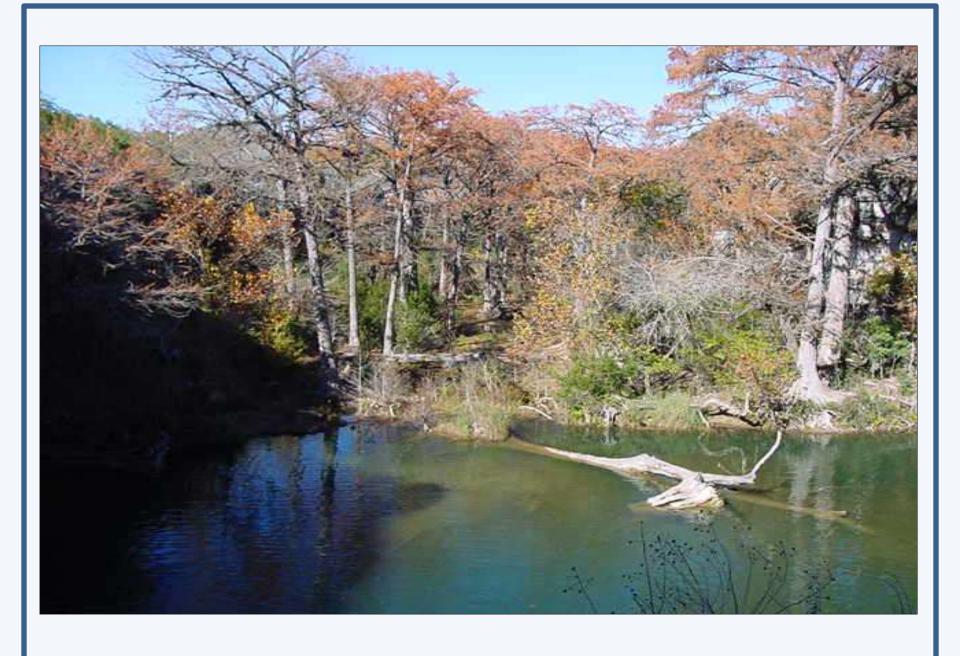
- Perpetual restrictions
- Ongoing relationship with land trust
- Transaction costs appraisal, legal fees, title insurance, survey, stewardship contribution



# LIFE WITH A CONSERVATION EASEMENT

- Annual Compliance Monitoring
- Notice of Exercise of Reserved Rights





### ADDITIONAL RESOURCES

**Texas Land Trust Council:** 

www.texaslandtrustcouncil.org

Land Trust Alliance:

www.lta.org

Conservation Easements: A Guide for Texas Landowners

http://www.gbrtrust.org/documents/easements/ConservationE

asements.pdf

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