

# Hill Country Land Trust

[www.hillcountrylandtrust.org](http://www.hillcountrylandtrust.org)



# History

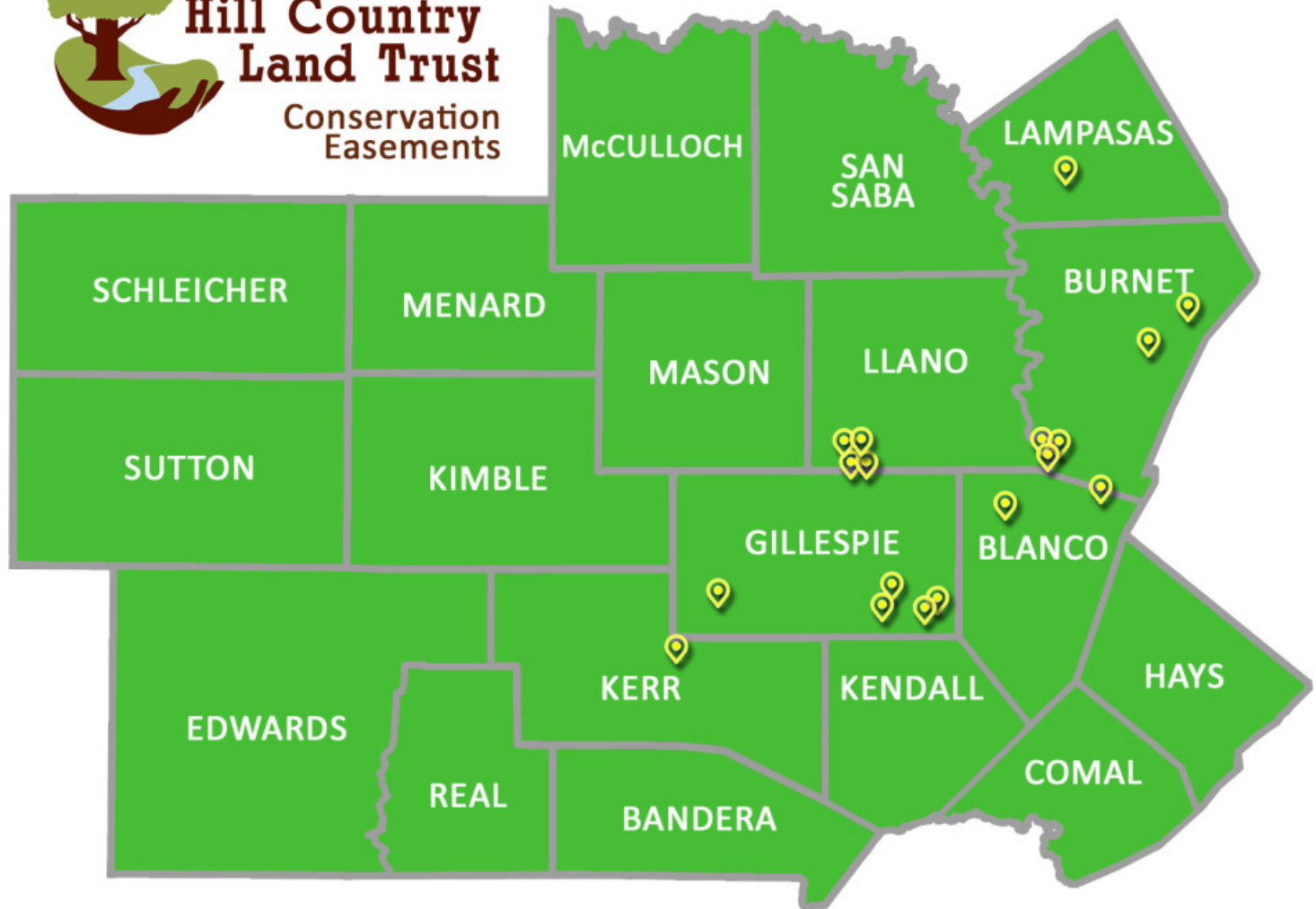
- Volunteers started meeting in 1998, received non-profit status in 1999
- First CE in 2001
- Largest CE (1,500 acres) in 2009
- Received Accreditation in 2013
- Currently hold 19 CEs, over 5,900 acres
- One of over 30 land trusts in Texas holding easements on over 1.6 million acres



# Our 19 Conservation Easements



**Hill Country  
Land Trust**  
Conservation  
Easements



**Hill Country  
Land Trust**



# Mission

*The mission of the Hill Country Land Trust is to conserve and protect the agricultural lands, wildlife habitat, scenic beauty, and watersheds of the Texas Hill Country for present and future generations.*



# Primary Statutory Requirements for Conservation Easements

Three requirements to qualify for federal income/estate tax benefits:

- Qualified real property interest granted in perpetuity
- **Granted to qualified organization**
- Granted for conservation purposes



# Primary Statutory Requirements for Conservation Easements

Granted to qualified organization:

- **Non profit conservation organization/land trust**
  - National, statewide, **regional, local**
- Governmental agency with conservation mission/policies
  - Federal, state, local, political subdivision





# Selecting a Land Trust - The Dating Game

Do your Research - Is the land trust a good fit for your family and your property?

Do you feel comfortable with the values and mission of the land trust and does your property fit their goals and focus?



# IRS Considerations



## Two Issues:

- Land Trust's status as 501(c)(3) non-profit
- Donor's Charitable Contribution

Land Trust  
Alliance  
Standards  
& Practices





# Conservation Purposes

IRS Tax Code 170(h)

A conservation easement donation must meet one or more of the following requirements:

- Preserve land for public outdoor recreation or education
- Protect relatively natural habitat and ecosystems
- Preserve open space including farms, ranches, and forests for public scenic enjoyment
- Preserve historically important land and certified historic structures



# Creating a Conservation Easement

- **Step 1 - Preliminary Discussion (office visit)**
- **Step 2 - Site Visit followed by Committee recommendation to Board - Project Selection Checklist**
- **Step 3 - Board Approval - First Board Vote**
- Step 4 - Independent Legal Advice
- Step 5 - Easement Drafting
- Step 6 - Appraisal



## Project Selection and Criteria Checklist For Prospective Easements (8A) Hill Country Land Trust

The mission of the Hill Country Land Trust is conserve and protect the agricultural lands, wildlife habitat, scenic beauty and watersheds of the Texas Hill Country for present and future generations.

This project selection and criteria checklist ensures that prospective easements meet guideline criteria for the Hill Country Land Trust. This checklist is a tool for the board of directors to use in making a decision whether to work with landowners to formalize a conservation easement.

Owner: \_\_\_\_\_  
County/Countries: \_\_\_\_\_  
Size of Prospective Easement: \_\_\_\_\_

**HCLT Focus Areas (19 Counties):** Menard, Kimble, Mason, Llano, Burnet, Blanco, Hays, Comal, Kendall, Gillespie, Bandera, Real, Kerr, Edwards, Schleicher, Sutton, Lampasas, San Saba, McCulloch) with priority to the following areas (check if applicable)

☐ Enchanted Rock ☐ Balcones Canyonlands ☐ Pedernales River Water Catchment

Additional Considerations:

\_\_\_\_\_  
\_\_\_\_\_

### **Significant Conservation Value (CHECK ALL ITEMS THAT APPLY)**

#### **Land Protection**

☐ Agriculture ☐ Ranching ☐ Native wildlife and habitat, ecosystems or other natural features ☐ Rare, endangered and/or threatened plant and animal communities ☐ Historic/prehistoric sites with man made cultural, educational or historic value ☐ Views from public rights-of-way, state or national parks, refuges or wildlife management areas ☐ Enlarging already conserved areas to create larger tracts of contiguous habitat ☐ Riparian corridors ☐ Corridors or linkage between conserved properties ☐ Buffer for agricultural land, wetlands, wildlife habitats or other sensitive areas

Additional Considerations:

\_\_\_\_\_  
\_\_\_\_\_

#### **Habitat** Protection of wildlife

☐ Native species ☐ the presence of exemplary communities ☐ Identified as used by rare, threatened, endangered or declining species ☐ Identified as suitable for rare, threatened, endangered or declining species

# Project Selection and Criteria Checklist for Prospective Easements - HCLT

- Property within focus areas
- Significant Conservation Values: (native habitats, plant and animal diversity, rare species, riparian corridors/wetlands, water catchment/aquifer protection, cultural resources, views from public right-of-ways, open space and ag lands, linkage to other protected areas, sensitive habitats, unique natural features)
- Landowner commitment to conservation and long term stewardship
- Property size, location and threat of development
- Long term management feasibility



# Information Given to the Landowner Early in the Process

- Landowner engagement letter - History of HCLT and role of the trust
- Easement process for landowners
- Considerations for easement donors - reserved rights, building envelopes
- Appraisal policy and procedures - IRS forms
- Stewardship fund and other estimated costs
- List of appraisers and conservation attorneys if requested



# Creating a Conservation Easement

- Step 1 - Preliminary Discussion
- Step 2 - Site Visit
- Step 3 - Board Approval to move forward
- **Step 4 - Independent Legal Advice**
  - Easement Guideline Drafted - Board Vote
- **Step 5 - Easement Drafting - Board Vote**
- **Step 6 - Appraisal**





# Easement Drafting

## Long-term Dreaming and Planning

Help landowners build a compelling vision

- What are the desired long term goals
- Now is the time to plan, not after the CE is in place

Plan for forever: Considering successor landowners

- Donor and land trust must consider the desires of future landowners that may or may not share your values



# Easement Drafting

## Long-term Dreaming and Planning

### Educating on conservation values and conservation easement process

- How current and potential land uses and activities relate to protection of conservation values
- Creative solutions to potential conflicts
- How can we meet your needs while protecting the **conservation values**

### Educating on restrictions and rights

- Restrictions and why they are necessary
- Helping the landowner determine what **reserved rights** are necessary for ongoing enjoyment and economic viability of the property (hunting, recreation, agricultural uses, limited residential uses)



# Creating a Conservation Easement

- Step 7 - **Baseline Documentation Report**
- Step 8 - **Endowment**
- Step 9 - Executing Easement
- Step 10 - IRS Form 8283 (Non-cash Charitable Contributions)
- Step 11 - Monitoring
- **Typically, the easement donation process takes 9 - 12 months or longer**





# Stewardship Fund Contribution

A land trust is required to not only monitor and enforce the terms of the CE in perpetuity, but also to have the resources to do so.

Base Component: \$9,000 per easement

Parcel Size: \$25/ac first 250 ac., \$14/ac next 500 ac., \$10/ac next 2,250 ac  
\$6/ac for every acre over 3,000

Building Sites: \$1,000 per building envelope

Allowed Subdivisions: \$9,000 per each subdivision

Costs - Surveys, Attorney and Accounting Fees, Baseline Documentation, Monitoring Costs, Records

LTA Standard 11A –Funding Easement Stewardship  
HCLT Stewardship Fund Policy and Cost Estimate  
Adopted 2/16/11, amended 12/5/13 (Commendation by LTA)

# Creating a Conservation Easement

- Step 7 - Baseline Documentation Report
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- **Step 11 - Monitoring**



# After the Conservation Easement

## Monitoring

Monitoring and record keeping according to best practices

Meeting with landowners once per year is required

- Review recent activities and plans related to conservation easement
- Guidance on how to implement landowner goals and plans while maintaining conservation values identified in the easement





# After the Conservation Easement

## Enforcement and Defense

- Lack of prior notice when exercising reserved rights can lead to alterations not allowed under terms of the easement
- In rare cases, there is resistance or unwillingness to honor the terms of the easement
  - Subsequent owners who, although voluntarily inheriting or purchasing the property with restrictions, resist or refuse to honor restrictions
- Most land trusts' policy is to focus on productive relationships with landowners, with litigation being the last course of action
- Maintain a legal defense fund/using Terrafirma insurance



## Value-Added Being a Resource to Landowners

Provide technical assistance and resources

- Development of Stewardship Plan (management plan)
  - Brush management, livestock grazing, prescribed fire, wildlife management, etc.
- Provide assistance by referring donors to knowledgeable people
- Provide information on financial incentives for land management
- Mid-year follow-up with a phone call
- Field days, workshops, seminars
- Videos and other resources (newsletters, etc.)



# Value-Added

## Being a Resource to

Takeaway: **Landowners**

Easement holding organizations (land trusts) should develop capacity to focus on cultivating ongoing relationships between themselves and their landowner partners (CE donors) beyond the traditional role of easement monitoring and enforcement.



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