

T E M P L A T E

Determining Public Benefit

This template is designed to help you determine if a particular project will meet the public benefit test. Once you have collected enough information about a property, answer the following questions. Although directed to conservation easements, this template can also be easily adapted for fee land acquisitions.

Who benefits from the conservation of this particular property and why?

If the project involves a donated conservation easement for which a tax benefit is contemplated, does the project meet the IRS conservation purposes test? (Check all boxes that apply.)

- Outdoor recreational and/or educational use by the general public.
- Protection of a relatively natural habitat of fish, wildlife or plants, or similar ecosystem.
- Preservation of a historically important land area or a certified historic structure.
- Open space (including farmland and forestland) that is either:
 - Preserved for the scenic enjoyment of the general public and will yield a significant public benefit; or
 - Protected pursuant to clearly delineated federal, state or local governmental conservation policy and will yield a significant public benefit.

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Does the project meet the IRS definition of providing a “significant public benefit” when considering the following factors set forth in the Treasury regulations?

- The uniqueness of the property to the area;
- The intensity of land development in the vicinity of the property (both existing development and foreseeable trends of development);
- The consistency of the proposed open space use with public programs (whether federal, state or local) for conservation in the region, including programs for outdoor recreation, irrigation or water supply protection, water quality maintenance or enhancement, flood prevention and control, erosion control, shoreline protection, and protection of land areas included in, or related to, a government approved master plan or land management area;
- The consistency of the proposed open space use with existing private conservation programs in the area, as evidenced by other land protected by easement or fee ownership by nonprofit organizations in close proximity to the property;
- The likelihood that development of the property would lead to or contribute to degradation of the scenic, natural or historic character of the area;
- The opportunity for the general public to use the property or to appreciate its scenic values;
- The importance of the property in preserving a local or regional landscape or resource that attracts tourism or commerce to the area;
- The likelihood that the land trust will acquire equally desirable and valuable substitute property or property rights;
- The cost to the land trust of enforcing the terms of the conservation easement;
- The population density in the area of the property; and
- The consistency of the proposed open space use with a legislatively mandated program identifying particular parcels of land for future protection.

Does the project support local, regional or statewide conservation plans, national designations, or similar goals?

By protecting this particular property, will you further other state laws, local master or comprehensive plans, scenic highway plans, watershed protection strategies, national designations, etc.?

For easements purchased using local, state or federal dollars, does the project satisfy the requirements for use of such funds?

Note: Document the public benefit requirements, in addition to any listed above, required for the use of such funds.

° This material is designed to provide accurate, authoritative information in regard to the subject matter covered. It is provided with the understanding that the Land Trust Alliance is not engaged in rendering legal, accounting, or other professional counsel. If legal advice or other expert assistance is required, the services of competent professionals should be sought.

This example can be used as a starting point to create a policy or other document for your own land trust, but should be altered as necessary to reflect your organization's unique circumstances using guidance found in the *Land Trust Standards and Practices Guidebook* text and corresponding Standards and Practices Curriculum.

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