



## ***STEPS OF THE CONSERVATION EASEMENT PROCESS***

Ozark Regional Land Trust (ORLT) is a private, not-for-profit 501(c)(3) land conservation organization dedicated to preserving the unique natural character and resources of the Ozark region. ORLT achieves its mission by working with private landowners to find, evaluate and implement any of the available land protection tools. ORLT has worked with private landowners to protect nearly 19,000 acres of land in the Ozarks and surrounding areas, primarily through donated conservation easements.

A **Conservation Easement** (C.E.) is a land-use agreement in which a property owner limits development and/or restricts certain activities on the land in order to protect the significant natural resources (agricultural, timber, natural, scenic etc.) of that property. Each C.E. is tailored to the needs of the individual landowner and the unique characteristics of the land. C.E.s allow continued private use and management of the land for farming, forestry, etc., and may include, but do not require, right of public access. C.E.s last forever and all future owners of the property are subject to the terms of the C.E. agreement.

The timing to complete an easement can vary; the process can be as short as two months but can take six to nine months.

- Step 1:** Inquiry. Landowner makes inquiry, obtains information about ORLT and conservation easements.
- Step 2:** Face to Face with landowner and Site Visit. Legal description of the property is obtained (from landowner or land records); a map of property is prepared by ORLT's mapping staff. ORLT staff meets individually with landowner to identify their goals/objectives, understand the characteristics of the property, and talk about conservation easement terms.
- Step 3:** Memorandum of Agreement. Once a landowner has decided to pursue an easement on their property, ORLT and the landowner will prepare a short memorandum of agreement outlining the process, timeline, and amount of stewardship contribution. This helps keep the process on track and helps avoid misunderstandings.
- Step 4:** First Draft. First draft of the conservation easement is prepared, including easement map, legal description of property and preliminary Exhibit C (conservation values of the property). During the drafting of the document, landowner is contacted for questions, additional information, or to clarify points made in meeting of Step 2. ORLT solicits outside expertise (biologists, foresters, etc.) to identify/assess important resources on the property and make recommendations for their protection.

- Step 5:** CE review by landowner - Refine Easement. The draft CE is sent to landowner for their review. This is followed by a meeting to answer questions, negotiate specifics, add/subtract terms, work out issues, define basic terms of the CE. Redraft language.
- Step 6:** Final Draft of CE. All issues of the CE are resolved and addressed and a final draft is prepared. ORLT will often work through some details with landowner's attorney.
- Step 7:** Title Search - Phase I. Title search is ordered, Phase I Environmental Assessment is conducted. Title search exposes issues related to ownership, good title, loans, liens, and easements, etc. Phase I Environmental Assessment conducted to determine existence of toxic material on property.
- Step 8:** Pre-Closing: Address any outstanding questions on all documents, approvals, etc. Review title commitment. Address/clean title issues - subordinations, trusts, ownership, etc. Review Phase I Environmental. Confirm all approvals in place, Prepare closing documents. Schedule Baseline work.
- Step 9:** Baseline Report: ORLT completes Baseline Documentation Report and send to landowner for review and signature.
- Step 10:** Closing: Getting papers together, make sure all documents in order, sign and record easement. Sign Baseline Report.
- Step 11:** IRS Documentation: If donating easement and pursuing tax deduction, landowner requests acknowledgment (substantiation) letter from ORLT for the easement donation and completes form 8283 for tax return.