

## The Value of Municipal Partnerships with Conservation Land Trusts

Karen Colligan-Taylor

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As a long-time Gustavus resident and former mayor of the City of Gustavus, I strongly endorse a partnership between the City of Gustavus and the Southeast Alaska Land Trust in seeking permanent conservation status for the Gustavus Beach Meadows. The beach meadows offer opportunities for hiking, skiing, dog walks, bird watching, picnics, sketching, and strawberry picking to residents and visitors of all ages. Summer wildflowers and the view of the Fairweather range make this property a spectacular gateway to Gustavus. There are few places, globally, where one can still find large undeveloped tracts of sandy beach connected with their upland meadow ecosystems. For ecological, aesthetic, and recreational reasons, these lands deserve protection.

The following represents my research and reasoning regarding the merits of this project.

### Background: The Gustavus Beach Meadows

Definitions:

Conservation easements are conveyed by deed, have a conservation purpose, are in perpetuity (legal term meaning forever), require stewardship and monitoring, may only be extinguished by a court of law, are permanent and may offer tax benefits. It is difficult to remove a conservation easement. <https://www.renstrust.org/protect/landowner-information/questions-and-answers-on-conservation-easement>

Land trusts are nonprofit organizations that, as all or part of their mission, work to conserve land.<sup>[1]</sup> By virtue of their nonprofit status as 501(c)(3) tax-exempt, charitable organizations,<sup>[2]</sup> among other characteristics, land trusts are qualified to accept qualified conservation contributions of real property interests, such as conservation easements.<sup>[3]</sup> Land trusts may accept a qualified conservation contribution in the form of a conservation easement for exclusive conservation purposes, including the preservation of land for outdoor public recreation, protection of wildlife habitat, preservation of open space, and preservation of historically important areas.<sup>[4]</sup> <https://www.landcan.org/article/legal-defense-and-enforcement-of-conservation-easements/202>

Southeast Alaska Land Trust. *The Southeast Alaska Land Trust collaborates with communities, individuals, and organizations throughout Southeast Alaska to help ensure that highly valued habitat, recreation, open space, and cultural and historic areas continue to thrive for the well-being of each generation.* <https://www.southeastalaskalandtrust.org/about/mission-vision-and-land-acknowledgement/>

KCT: Southeast Alaska Land Trust (SEALT) is negotiating with the DeBoer family for purchase of a two-year temporary conservation easement on their beach meadow lands, some of the cost for which will be contributed by the City of Gustavus (CoG) utilizing a contribution from the Endowment Fund, through a grant applied for by the CoG Conservation Lands Advisory Committee. The temporary conservation easement will provide time for SEALT to raise funds for a permanent conservation easement on approximately 235 acres of beach meadow

ensuring recreational and habitat values for Gustavus in perpetuity.

CoG policy regarding the Endowment Fund indicates that the City may be a recipient of Endowment Fund grants. Any City-managed project of greater than \$15,000 requires a scoping document. The Conservation Lands Advisory Committee has management responsibility to make sure the project proceeds according to the terms of the grant application proposal. The scoping document and allocation of Endowment funds for this temporary conservation easement were approved by motion by the City Council (representatives by election of their community at large) after a separate public hearing on each item. This is how our government, by State law and by City ordinance and policy, works.

Because Southeast Alaska Land Trust is not an NGO within the City of Gustavus, SEALT could not apply for a Gustavus Endowment Fund grant. The Conservation Lands Advisory Committee applied for an Endowment Fund grant as a partner in the Gustavus Beach Meadows Conservation Project. The role of the City in supporting the project is essential and critical to its long-term success. It shows that the community/City has offered support and has a stake in the process. The Gustavus Beach Meadows Project represents a municipal-land trust partnership of which we can be proud.

#### CoG Policy:

##### Gustavus Endowment Fund

[https://library.municode.com/ak/gustavus/codes/code\\_of\\_ordinances?nodeId=CD\\_ORD\\_TIT4REFI\\_CH4.13GUENFU\\_S4.13.010GUENFUES](https://library.municode.com/ak/gustavus/codes/code_of_ordinances?nodeId=CD_ORD_TIT4REFI_CH4.13GUENFU_S4.13.010GUENFUES)

(c) *Eligible recipients:* Grants may be awarded to city departments, non-governmental organizations within the City of Gustavus, or other local entities whose proposals the city council deems worthy based on criteria outlined in the Endowment Fund Grant Policy and Procedure. At least one applicant for each project must be at least sixteen (16) years of age and a Gustavus resident. All applicants must be current on city taxes (if applicable).

(d) *Eligible purposes:* Capital outlays, grant matching funds, and projects of broad community value may be funded in accordance with the Endowment Fund Grant Policy and Procedure.

(e) *Solicitation of proposals:* The city council shall establish a procedure and timeline for soliciting proposals for community needs desiring funding. Proposals should, at minimum, include a written justification of need, explanation of benefits, and itemized budget showing how the funds will be spent in accordance with the Endowment Fund Grant Policy and Procedure.

Policy and Procedure for Awarding Endowment Fund Grants:

[https://www.gustavusak.gov/sites/default/files/fileattachments/administration/page/11071/awarding\\_grants\\_from\\_the\\_endowment\\_fun\\_earnings.pdf](https://www.gustavusak.gov/sites/default/files/fileattachments/administration/page/11071/awarding_grants_from_the_endowment_fun_earnings.pdf)

KCT: Advisory Committees traditionally have comprised one or two council members and several community members. The council members can ensure that actions and recommendations are consistent with CoG policy.

[https://www.gustavus-ak.gov/sites/default/files/fileattachments/administration/page/11061/cy19-](https://www.gustavus-ak.gov/sites/default/files/fileattachments/administration/page/11061/cy19-20_pp_city_advisory_committees.pdf)

[20\\_pp\\_city\\_advisory\\_committees.pdf](https://www.gustavus-ak.gov/sites/default/files/fileattachments/administration/page/11061/cy19-20_pp_city_advisory_committees.pdf)

KCT: The Conservation Lands Advisory Committee is a CoG committee serving a quasi-departmental function with specific remits in the absence of an official Lands Dept., just as the Marine Facilities, Roads, DRC, and Library committees once served specified departmental functions.

[https://library.municode.com/ak/gustavus/codes/code\\_of\\_ordinances?nodeId=CD\\_ORD\\_TIT10PRACDIMAUS\\_CH10.08MALA\\_S10.08.010MAFULA](https://library.municode.com/ak/gustavus/codes/code_of_ordinances?nodeId=CD_ORD_TIT10PRACDIMAUS_CH10.08MALA_S10.08.010MAFULA)

Section 10.08.010 - Management functions for city lands.

(a)The City of Gustavus shall manage lands owned by the City of Gustavus or under management agreement with state, federal, or other agencies, in the public interest. [emphasis mine]

Scoping document for projects greater than \$15,000

[https://www.gustavusak.gov/sites/default/files/fileattachments/administration/page/11071/pp\\_for\\_grant\\_proposals\\_and\\_capital\\_requests\\_over\\_15001\\_10.05.2022\\_cy22-20.pdf](https://www.gustavusak.gov/sites/default/files/fileattachments/administration/page/11071/pp_for_grant_proposals_and_capital_requests_over_15001_10.05.2022_cy22-20.pdf)

KCT: While not specifically required for Gustavus Endowment Fund Grant proposals, when the funds are administered by the City for a project of a City department or committee, it is consistent with policy to use a scoping document. Previous examples/precedent might include the use of such a document by the Roads Committee and the Marine Facilities Committee.

**What is a conservation easement and how is it used by a land trust?**

MORE DETAIL on Land Trusts and Conservation Easements—if you don't want more detail, please scroll down to **Partnerships between cities and a land conservation trust**

<https://www.landcan.org/article/legal-defense-and-enforcement-of-conservation-easements/202>

## **Land Trusts**

Land trusts are nonprofit organizations that, as all or part of their mission, work to conserve land.<sup>[1]</sup> By virtue of their nonprofit status as 501(c)(3) tax-exempt, charitable organizations,<sup>[2]</sup> among other characteristics, land trusts are qualified to accept qualified conservation contributions of real property interests, such as conservation easements.<sup>[3]</sup> Land trusts may accept a qualified conservation contribution in the form of a conservation easement for exclusive conservation purposes, including the preservation of land for outdoor public recreation, protection of wildlife habitat, preservation of open space, and preservation of historically important areas.<sup>[4]</sup>

Land trusts protect a variety of land types, such as wetlands, watersheds, forests, river corridors, scenic views, ranches and farmland, wildlife habitat, trails, greenways, and urban lands.<sup>[5]</sup> In addition to protecting land, land trusts also maintain land for recreation and public access, environmental education, land use planning, biological monitoring and research, ecological restoration, and management for rare and endangered species.<sup>[6]</sup>

Land trusts protect land in a variety of ways, including: undertaking or assisting direct land transactions through the purchase of land or acceptance of donations of conservation easements, transferring land to

governmental agencies and other nonprofit organizations, acquiring land from governmental agencies and other nonprofit organization, raising funds for land acquisition on behalf of other organizations, identifying and encouraging conservation buyers,<sup>[7]</sup> and conducting negotiations for land acquisitions by public agencies.<sup>[8]</sup>

The most common methods of protection used by land trusts are land donations, conservation easement donations, and land purchase.<sup>[9]</sup> When a land trust accepts a conservation easement from a landowner on the landowner's property, the land trust becomes responsible for enforcing the restrictions the landowner is agreeing to within that easement document.<sup>[10]</sup> To enforce the terms of the easement, the land trust must monitor the eased property on a regular basis by visiting the property, and must maintain written records of the monitoring visits.<sup>[11]</sup> If the land trust learns that the terms of the conservation easement have been violated by the landowner, the land trust has a duty to require the owner to correct the violation and restore the property to its prior condition.<sup>[12]</sup>

<https://www.landcan.org/article/legal-defense-and-enforcement-of-conservation-easements/202>

### **Conservation Easements**

Conservation easements are unique, dynamic tools used by private landowners and land trusts to preserve private lands.<sup>[24]</sup> Plainly, a conservation easement is a voluntary contract between a landowner and a land trust, or government entity, that usually contains permanent, perpetual restrictions on the use and development of the landowner's property.<sup>[25]</sup>

Those who describe property rights often use the example of a landowner possessing a bundle of sticks, each stick representing a property right held by the owner of the property.<sup>[26]</sup> Without a conservation easement, a landowner may have the right to construct buildings, subdivide his or her property, restrict access to the property, harvest timber, sell water rights, build ponds, and graze cattle on his or her property.<sup>[27]</sup> When a landowner enters into a conservation easement, he or she relinquishes some of these rights, or sticks, from his or her bundle of rights, such as the right to build additional buildings in a scenic vista, or the right to graze animals in sensitive wildlife habitat.<sup>[28]</sup> Because each landowner negotiates different restrictions for his or her property, and each piece of property is distinct from another, each conservation easement is a unique document, drafted to fit the particular property and the interests of its owner.<sup>[29]</sup>

The specific rights, or sticks, a landowner relinquishes are described in detail within the conservation easement document itself.<sup>[30]</sup> The promises made by the landowner in the conservation easement run with the land to bind future landowners, usually perpetually, if the landowner is seeking a charitable deduction under the income tax code.<sup>[31]</sup> A perpetual easement granted by a landowner as a charitable gift to a land trust may qualify that landowner for income, estate, and property tax benefits, since the tax code provides deductions and estate tax incentives to individuals and entities making conservation donations, providing that the donation meets certain statutory requirements.<sup>[32]</sup>

Section 170(h) of the Internal Revenue Code provides the framework for the deductibility of charitable contributions of conservation easements by allowing an income tax deduction for a "qualified conservation contribution."<sup>[33]</sup> The term "qualified conservation contribution" is defined in § 170(h)(1) as a contribution

that is a “qualified real property interest” granted to a “qualified organization” that is exclusively for conservation purposes.<sup>[34]</sup> A “qualified real property interest” includes the entire interest of the donor in real property, other than a qualified mineral interest.<sup>[35]</sup> A “qualified organization” includes the following entities: the United States, a state, a political subdivision of the United States or a state, a state or federally chartered corporation, trust, community chest, fund or foundation that is organized and operated for a specified conservation purpose, and certain §501(c)(3) organizations, including land trusts.<sup>[36]</sup>

When a landowner grants and conveys his or her rights to a qualified organization, such as a land trust, that entity then bears the responsibility of monitoring and enforcing the terms of the easement to ensure that the landowner is upholding his or her end of the conservation easement bargain.<sup>[37]</sup> A variety of organizations hold conservation easements aside from land trusts, including local entities such as towns, conservation commissions, state divisions of wildlife, watershed associations, and historic preservation organizations. Each organization must be prepared to monitor, enforce, and in some cases, defend its easements.

Conservation easements are not only defined by federal statutes and regulations, but also by state conservation easement acts.<sup>[38]</sup> The Uniform Conservation Easement Act approved by the National Conference of Commissioners on Uniform State Laws also provides some guidance as to how the conservation easement document should evolve.<sup>[39]</sup> The conservation easement document, like many contracts, is comprised of a title, names of the parties involved in granting and receiving the easement, recitals providing background about the property and its qualifying characteristics, title and legal description of the property.<sup>[40]</sup> It also describes attributes unique to a conservation easement, such as the conservation values of the property, a qualitative description of the property, a baseline inventory of the condition of the property, prohibited and permitted uses under the easement, remedies, enforcement, access, and amendment to the easement, among other things.<sup>[41]</sup> Because each one of these sections within the easement document impacts the rights and obligations of the grantor landowner and the grantor land trust, the conservation easement should be negotiated on equal footing with attorneys on either side of the negotiation, so that those rights involved are adequately represented.<sup>[42]</sup>

Accepting or “holding” a conservation easement is a great responsibility for a land trust, requiring large amounts of time and resources, and when accepting such a responsibility, a land trust typically solicits a donation from the landowner in order to offset some of these costs.<sup>[13]</sup> Improper use of funds, private inurement, and inability to monitor might all jeopardize a land trust’s nonprofit, tax-exempt status.<sup>[14]</sup> However, the responsibilities that accompany holding conservation easements have not curbed the growth in number or size of this country’s land trusts. Land trusts protect land in a variety of ways: by undertaking or assisting direct land transactions through the purchase of land or acceptance of donations of conservation easements, by transferring land to governmental agencies and other nonprofit organizations; by acquiring land from governmental agencies and other nonprofit organization; by raising funds for land acquisition on behalf of other organizations; by identifying and encouraging conservation buyers, and by conducting negotiations for land acquisitions by public agencies.

## Partnerships between cities and a land conservation trust

A "municipal partnership with a land conservation trust" refers to a collaborative effort between a local government (municipality) and a non-profit land trust organization, where the municipality works with the land trust to protect natural areas and open spaces within their jurisdiction by utilizing tools like conservation easements on municipally owned land, acquiring land for conservation purposes, or supporting land trust initiatives through funding and policy measures; essentially, leveraging each other's resources to achieve conservation goals within a community. [Emphasis mine, KCT]

- **Community Engagement:**

Partnerships can facilitate community outreach and education efforts to raise awareness about conservation issues and encourage public support for land protection initiatives.

Benefits of Municipal-Land Trust Partnerships:

- **Preserving Open Space:** Protects natural areas like wetlands, forests, and wildlife habitats.
- **Improving Quality of Life:** Provides recreational opportunities for residents like hiking, biking, and nature viewing.
- **Flood Control and Water Quality Protection:** Can help mitigate flooding and improve water quality by preserving natural features
- **Economic Development:** Attracts tourists and residents seeking quality of life amenities

## Regional land trust and local land trust partnerships with municipalities/private land owners

<https://landtrustalliance.org>

950 land trusts in the US belong to the **Land Trust Alliance**. The national level includes The Nature Conservancy and Trust for public land. There are regional branches of the Alliance. Alaska land trusts, including SEALT, belong to the Western Division.

The Land Trust Alliance (LTA) has members that include land trusts, nonprofits, government agencies, and businesses. Some examples of LTA members include:

- **Land trusts:** 950 land trusts are members of the LTA
- **Nonprofits:** Nonprofits are members of the LTA
- **Government agencies:** Government agencies are members of the LTA
- **Businesses:** Businesses are members of the LTA
- **Professional affiliates:** Professional affiliates are members of the LTA, such as 1st AEROW Valuation Group, Abernathy Consulting, and Bold Bison Communications and Consulting

A land trust is a nonprofit that conserves land by acquiring and stewarding land or conservation easements.

Strong partnerships are key to making conservation last. By partnering with the Land Trust Alliance, you can save the places we need and love and strengthen your community.

<https://landtrustalliance.org/why-land-matters/land-conservation/about-private-land-conservation>

The Land Trust Alliance and its member regional land trusts often work with private landowners and municipalities to obtain broad public benefits, including recreational opportunities and habitat protection.

<https://landtrustalliance.org/land-trusts/gaining-ground/alaska>

Big or small, Alaska land trusts increasingly are meeting the needs of their communities through partnerships, engagement and outreach.

**Southeast Alaska Land Trust is an accredited member of the Land Trust Alliance**

<https://landtrustalliance.org/land-trusts/explore/southeast-alaska-land-trust-ak>

**Southeast Alaska Land Trust**

**ALLIANCE MEMBER** [Land Trust Alliance sets standards and provides resources, including insurance for conservation easements.]

**ACCREDITED** [SEALT has gone through the rigorous process to be accredited by The Land Trust Accreditation Commission.] <https://www.southeastalaskalandtrust.org/about/accreditation/>

**TERRAFIRMA INSURED** [The Land Trust Alliance formed Terrafirma in 2011 to help land trusts defend their conserved lands from legal challenge. It is owned by its members to insure the costs of upholding conservation easements and fee lands held for conservation purposes when they have been violated or are under legal attack, and to provide information on risk management to those land trusts. This national initiative demonstrates land trusts' commitment to take seriously their responsibility to ensure the permanence of their conservation work.]

*The Southeast Alaska Land Trust collaborates with communities, individuals, and organizations throughout Southeast Alaska to help ensure that highly valued habitat, recreation, open space, and cultural and historic areas continue to thrive for the well-being of each generation.*

**Global/local land conservation partnerships**

Example: **The Nature Conservancy** (TNC)

<https://www.nature.org/en-us/what-we-do/our-insights/perspectives/the-power-of-partnership-unlocking-natures-value-through-collaboration/>

**"Does cooperation actually lead to a better environment?"**

That's a central question in the work of Örjan Bodin, a researcher at the Stockholm Resilience Centre. ...

As a global conservation organization dedicated to improving the future for people and nature, our answer at The Nature Conservancy is a resounding "yes." The environmental and development problems we confront

today don't fit neatly within national borders—they don't even fit within discrete sectors. We see this as an opportunity—a chance to forge new partnerships with other institutions, businesses, governments and communities around the world.

KCT: Land trusts often entrust management of lands upon which they have placed conservation easements to the municipality in which they are located. They generally do so after assisting in establishing a stewardship position and an endowment to fund it. Lands are protected in perpetuity by the legal mechanisms defining the conservation purposes and public uses of the land. The Gustavus Forelands are important conservation lands locally, statewide, nationally, and globally. It is important that the City of Gustavus demonstrate that it is a willing, proactive, and responsible partner in stewarding these TNC lands. We need to be a trusted collaborator so that TNC does not turn to other sources more willing to manage these lands. The same may be said for the City's relationship with Southeast Alaska Land Trust. We can and should be a trusted partner.