

## **THE LAND TRUST FOR SANTA BARBARA COUNTY**

### **Gift Acceptance Policies and Guidelines**

*(Revised by the Board of Trustees May 9, 2022)*

The Land Trust for Santa Barbara County (hereinafter “the Land Trust”), a not for profit organization, organized under the laws of the State of California, encourages the solicitation and acceptance of gifts to the Land Trust for purposes that will help the Land Trust to further and fulfill its mission. The following policies and guidelines govern acceptance of gifts made to the Land Trust or for the benefit of any of its programs.

The mission of the Land Trust is to protect natural resources, agricultural land and open spaces for the benefit of present and future generations.

#### **Purpose of Policies and Guidelines**

The Land Trust encourages current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of the Land Trust. These policies and guidelines govern the acceptance of gifts by the Land Trust and provide guidance to prospective donors and their advisors when making gifts to the Land Trust. The provisions of these policies shall apply to all gifts received by the Land Trust for any of its programs or services.

#### **Use of Legal Counsel**

The Land Trust may, at its option, seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- A. Closely held stock transfers that are subject to restrictions or buy-sell agreements;
- B. Documents naming the Land Trust as Trustee;
- C. Gifts involving contracts, such as bargain sales or other documents requiring the Land Trust to assume an obligation;
- D. Transactions with potential conflict of interest or that raise legal or administrative risks for the Land Trust; or
- E. Other instances in which use of counsel is deemed appropriate by Executive Director or Board of Trustees.

#### **Conflict of Interest**

The Land Trust encourages prospective donors to seek the assistance of personal legal and financial advisors (and where appropriate, family members) in matters relating to their gifts and the resulting tax and estate planning consequence so that the donor is fully aware of the financial, tax and other impacts that a donation will have on the donor and the donor’s estate. The Land Trust is not able to give legal or financial advice to donors.

#### **Restrictions on Gifts**

The Land Trust encourages donors to make unrestricted gifts, so that the Board of Trustees may direct funds where they are most beneficial to supporting the mission and conservation projects. Donors may wish to direct their gift to a specific purpose, such as the Operating Endowment, an existing land preserve or a current project or program. The Land Trust staff is available to discuss these options with donors.

The Land Trust will accept unrestricted gifts, and gifts for specific programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. The Land Trust will not accept gifts that are too restrictive in purpose. Gifts that are too restrictive are those that violate the terms of the corporate charter, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of the Land Trust. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Executive Director, upon consultation with the Board of Trustees of the Land Trust.

### **Unanticipated Large Donations**

From time to time, supporters of the Land Trust make sizeable, unanticipated and unrestricted donations to the organization. These donations may come in the form of cash, proceeds of a bequest, gifts of appreciated stock, real estate or other assets.

In the absence of clear direction from the donor regarding the intended purpose of their donation, the Board of Trustees directs that any unanticipated donation of \$25,000 or more in value shall be allocated as follows:

- A. 50% will be transferred to the Land Trust Operating Endowment
- B. 25% will be transferred to the Land Trust Stewardship Fund
- C. 25% will be used for current year operating expenses, not to exceed 50% of annual expenses, with any remaining balance transferred to the Operating Endowment.

At the end of the fiscal year, if unanticipated gifts result in an operating surplus, the Board of Trustees will decide how to direct the balance of surplus funds to meet the most important needs of the organization at the time. The Board retains the authority to direct any particular gift to meet the most important needs of the Land Trust.

### **Conservation Easement Transfer Fees**

The Land Trust makes every effort to include in all conservation easements a provision requiring payment to the Land Trust of a transfer fee whenever ownership of a property covered by such an easement is transferred other than to a family member. The goal is to augment the Stewardship Fund, knowing that the risk of an easement violation increases whenever such a property is transferred; future transfer fees will help ensure that adequate resources are available to defend our easements in perpetuity. Proceeds from a conservation easement transfer fee are to be credited to the Stewardship Fund, and not considered “Unanticipated Large Donations.”

### **Board of Trustees**

The Executive Director is charged with the responsibility of reviewing all gifts made to the Land Trust, properly screening and accepting those gifts, and making recommendations to the Board of Trustees on gift acceptance issues in cases where the form of the gift is other than cash. All gifts of any kind shall be reported by the Executive Director to the Board of Trustees no later than the first scheduled Board of Trustees’ meeting following receipt of the gift.

### **Types of Gifts**

- A. The following gifts are acceptable:
  - 1. Cash
  - 2. Tangible Personal Property
  - 3. Securities
  - 4. Real Estate

5. Interests in Property
6. Oil, Gas, and Mineral Interests
7. Bargain Sales
8. Life Insurance
9. Annuities and Trust Arrangements
10. Retirement Plan Beneficiary Designations
11. Bequests
12. Life Insurance Beneficiary Designations
13. Cryptocurrency Including Bitcoin

B. The following criteria govern the acceptance of each gift form:

1. **Cash:** Cash is acceptable in any form. Checks shall be made payable to “The Land Trust for Santa Barbara County” and shall be delivered to the Land Trust’s administrative office.
2. **Tangible Personal Property:** All other gifts of tangible personal property shall be examined in light of the following criteria:
  - Does the property fulfill the mission of the Land Trust?
  - Is the property marketable?
  - Are there any undue restrictions on the use, display, or sale of the property?
  - Are there any carrying costs for the property?

The final determination on the acceptance of other tangible property gifts shall be made by the Board of Trustees of the Land Trust.

3. **Securities:** The Land Trust can accept both publicly traded securities and closely held securities.

**A. Publicly Traded Securities:** Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Finance Committee. In some cases marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the Finance Committee of the Land Trust.

**B. Closely Held Securities:** Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in LLPs and LLCs or other ownership forms, can be accepted subject to the approval of the Board of Trustees. However, gifts must be reviewed prior to acceptance to determine that:

- there are no restrictions on the security that would prevent the Land Trust from ultimately converting those assets to cash;
- the security is marketable; and
- the security will not generate any undesirable tax consequences for the Land Trust.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The final determination on the acceptance of closely held securities by the Board of Trustees of the Land Trust after review by the Finance Committee, legal counsel and/or or accounting professionals when requested

by the Board of Trustees. Upon acceptance of a gift of non-marketable securities, the Board of Trustees shall direct the Executive Director when and whether non-marketable securities shall be held or sold.

4. **Real Estate:** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, except in cases where the Executive Director has determined little likelihood of environmental risk (e.g., in the bequest of residential real property with limited underlying land), the Land Trust shall require an initial environmental review of the property to help the Executive Director assess whether the real estate poses environmental risks to the Land Trust.

When appropriate, a binder or policy of title insurance shall be obtained by the Land Trust prior to the acceptance of the real property gift.

Gifts of real estate will typically be sold by the Land Trust, unless the Board of Trustees of the Land Trust finds that the real estate meets:

- A. All of the criteria set forth in the Goals and Purposes section of the Land and Conservation Easement Project Selection Criteria Guidelines approved by the Board of Trustees, as such guidelines may be amended from time to time (“Land Acquisition Guidelines”);
- B. One or more of the criteria set for in the Public Benefit Checklist set forth in the Land Acquisition Guidelines; and,
- C. Such gift is in general accordance with the other material considerations of the Land Acquisition Guidelines.

Upon a finding that the real property may be accepted by the Land Trust, and prior to acceptance of the real property, the gift shall be approved by the Board of Trustees, and if directed by such Board, by the Land Trust’s legal counsel and/or accountants, which may reject such gift upon any ground that has an adverse impact on the Land Trust. As part of the Board’s consideration of such gift, the Executive Director shall report to the Board on such issues as may be raised by the Board, including without limitation:

- Whether the property is useful for the purposes of the Land Trust.
- Whether the property is marketable.
- Whether there exist any restrictions, reservations, easements, or other limitations associated with the property.
- Whether there are carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property.
- Whether an environmental review reflects that the property poses environmental risks to the Land Trust.

If a property is deemed to have significant conservation value when evaluated under the Land Acquisition Guidelines, then the Board shall determine whether it is appropriate: (a) to retain ownership and manage the property to protect its conservation values; or (b) to convey ownership to another non-profit or governmental entity that will manage the property to protect its conservation values; or (c) to sell the property to a private owner subject to a restrictive covenant, such as a conservation easement, which will ensure protection of the property’s conservation values.

5. **Remainder Interests In Property:** The Land Trust may accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph 4 above. The donor or other occupants may continue to occupy the real property for the duration of the stated life. At the death of the donor, the Land Trust may use the property or reduce it to cash. Where the Land Trust receives a gift of a remainder interest, expenses for maintenance, real estate taxes, and any property indebtedness are to be paid by the donor or primary beneficiary.
6. **Oil, Gas, and Mineral Interests:** The Land Trust may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest, the gift shall be approved by Board of Trustees, and upon such Board's request, by the Land Trust's legal counsel. Criteria for acceptance of the property shall include:
- Gifts of surface rights should have a value of \$20,000 or greater.
  - Gifts of oil, gas and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).
  - The property should not have extended liabilities or other considerations that make receipt of the gift inappropriate.
  - A working interest is rarely accepted. A working interest may only be accepted where there is a plan to minimize potential liability and tax consequences and where all anticipated future obligations on the Land Trust are funded at the time of acceptance of the gift.
  - The property should undergo an environmental review to ensure that the Land Trust has no current or potential exposure to environmental liability.
7. **Bargain Sales:** The Land Trust may enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of the Land Trust. All bargain sales must be reviewed and approved by the Board of Trustees and, upon such Board's request, by the Land Trust's legal counsel and accountants. Factors used in determining the appropriateness of the transaction include:
- The Land Trust must obtain an independent appraisal substantiating the value of the property.
  - If the Land Trust assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
  - The Land Trust will endeavor to determine that it will use the property, or that there is a market for sale of the property allowing sale within 12 months of receipt.
  - The Executive Director of the Land Trust must calculate the costs to safeguard, insure, and expense the property (including property tax, if applicable) during the holding period.
8. **Life Insurance:** The Land Trust must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. If the donor contributes future premium payments, the Land Trust will include the entire amount of the additional premium payment as a gift in the year that it is made.

If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, the Land Trust may:

- continue to pay the premiums,
- convert the policy to paid up insurance, or
- surrender the policy for its current cash value.

9. **Annuities and Trust Arrangements:** Upon the recommendation of the of the Finance Committee, and approval of the Board of Trustees, the Land Trust may enter into the following arrangements:

A. **Charitable Gift Annuities:** The Land Trust may offer charitable gift annuities. The minimum gift for funding is ten thousand dollars (\$10,000). The Land Trust's Executive Director may make exceptions to this minimum. Typically, the minimum age for life income beneficiaries of a gift annuity shall be 55 and, where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 45, although this may be varied by the Finance Committee upon a finding that the variation is actuarially sound and, based upon advice of legal counsel, accountants, or other professionals, is in accordance with applicable laws, rules and regulations. No more than two life income beneficiaries will be permitted for any gift annuity.

Annuity payments may be made on a quarterly, semi-annual, or annual schedule. The Land Trust's Finance Committee may approve exceptions to this payment schedule.

The Land Trust will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. The Land Trust may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a five (5) year period before the commencement of the annuity payment date, and the value of the property is reasonably certain.

Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to the Land Trust's general endowment funds, or to such specific fund as designated by the donor.

B. **Charitable Remainder Trusts:** The Land Trust may accept designation as remainder beneficiary of a Charitable Remainder Trust, upon the review of same by the Land Trust's legal counsel, accountants or other professionals designated by the Finance Committee or Board of Trustees. The Land Trust will not accept appointment as Trustee of a Charitable Remainder Trust.

C. **Charitable Lead Trusts:** The Land Trust may accept a designation as income beneficiary of a Charitable Lead Trust with the approval of the Board of Trustees of the Land Trust upon the review of same by the Land Trust's legal counsel, accountants or other professionals designated by the Finance Committee or Board of Trustees. The Board of the Land Trust will not accept an appointment as Trustee of a Charitable Lead Trust.

10. **Retirement Plan Beneficiary Designations:** Donors and supporters of the Land Trust

may be encouraged to name the Land Trust as beneficiary of their retirement plans. Such designations will not be recorded as gifts to the Land Trust until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

11. **Bequests:** Donors and supporters of the Land Trust may be encouraged to make bequests to the Land Trust under their wills and trusts. Such bequests will not be recorded as gifts to the Land Trust until such time as the gift is irrevocable.

When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

12. **Life Insurance Beneficiary Designations:** Donors and supporters of the Land Trust may be encouraged to name the Land Trust as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to the Land Trust until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

13. **Cryptocurrency Including Bitcoin:** The Land Trust accepts cryptocurrency gifts only when converted to US Dollars prior to receipt. Gifts will be routed through an intermediary approved by the Finance Committee. The intermediary will maintain a cryptocurrency exchange account and wallet, provide donors with a tax receipt for their donation, then liquidate the donated cryptocurrency and direct the net cash proceeds to the Land Trust.

### **Miscellaneous Provisions**

- A. Securing appraisals and legal fees for gifts to the Land Trust: It will typically be the responsibility of the donor to secure an appraisal (where required) and independent legal counsel for all gifts made to the Land Trust.
- B. Valuation of gifts for development purposes: The Land Trust will record a gift received by the Land Trust at its valuation for gift purposes on the date of gift.
- C. Responsibility for IRS Filings upon sale of gift items: The Executive Director of the Land Trust will be responsible for filing IRS Form 8282 upon the sale or disposition of any asset sold within three years of receipt by the Land Trust when the charitable deduction value of the item is more than \$5,000. The Land Trust must file this form within the time frames specified by applicable tax authorities.
- D. Acknowledgement of all gifts made to the Land Trust and compliance with the current IRS requirements shall be the responsibility of the Executive Director in accordance with then existing applicable law.

### **Changes to Gift Acceptance Policies**

These policies and guidelines have been reviewed and accepted by the Board of Trustees of the Land Trust. The Board of Trustees of the Land Trust must approve any changes to or deviations from these policies.