

Santa Fe Conservation Trust
FEE PROPERTY ACQUISITION POLICY
Policy 2013- 01
Adopted On: January 19, 2013
Updated: April 25, 2023

Introduction

Although Santa Fe Conservation Trust's (SFCT's) primary method of preserving the scenic, ecological, and cultural values of land is by holding and enforcing conservation easements, SFCT also preserves lands by acquiring fee interests through donation or purchase. SFCT does not hold both the conservation easement and fee interest on a property, except for brief periods in circumstances in which the fee or easement interest will soon be transferred to another qualified entity; and in any such case, SFCT will take appropriate steps to ensure that the easement is not lost by the doctrine of merger. Fee ownership entails greater responsibilities and expenses than easement holding. It is the goal of this "Fee Property Acquisition Policy" to ensure that SFCT is able to meet the responsibilities associated with the lands it acquires and that ownership serves its interests and those of the public. All transactions will comply with SFCT's Policy on Board Approval of Land Transactions. Donations or bargain-sale purchases of fee property will also comply with SFCT's Gift Acceptance Policy.

Stewardship Fund

Every tract that SFCT intends to own long-term in fee must have its own stewardship fund in an amount, established by using the Stewardship Calculator as a baseline and approved by the Board of Directors. The interest from this fund should normally be sufficient to pay for taxes, maintenance and insurance for the property. Properties will not be purchased nor land donations accepted without such funds in place or definite, approved plans to raise them, shortly after acquisition.

Donations of Land

Unrestricted

A donor may wish to make an unrestricted gift of land to SFCT. SFCT may accept such a gift, subject to the Gift Acceptance Policy. SFCT could choose to hold the land long-term for conservation purposes, or the land could be re-sold to help finance other projects. If the land meets SFCT's Project Selection Criteria for conservation easements, SFCT shall place it under conservation easement before or as part of its conveyance to another entity

Restricted

Some donors will donate land with the desire that SFCT hold and preserve that land or portions of it in perpetuity. SFCT will work with such donors to understand their desires, and accept the gift if appropriate, subject to the Gift Acceptance Policy. SFCT will also explain the time and

expenses associated with long-term responsible management of their donation and the necessity of an accompanying stewardship fund. SFCT will work with the potential donors to find ways to fund the stewardship fund.

Purchase

There may be some lands so essential to SFCT's conservation efforts that purchasing them would be the only feasible option for conservation. Such property could be held long or short-term by SFCT. If it will be held long-term, monies for its stewardship fund must be raised simultaneously with money for purchase.

Any transaction in which a property is deeded directly from a seller to SFCT will be considered a purchase by SFCT, regardless of the source of the funds deposited in escrow. As a 501(c)3 nonprofit organization, SFCT must obtain a "qualified" appraisal that meets the Uniform Standards of Professional Appraisal Practice (USPAP), to establish the "Fair Market Value" (FMV) of the property to be purchased. Exceptions may be made if (a) the property has a very low economic value, (b) a full appraisal is not feasible before a public auction, or (c) the amount paid is significantly below market value. If SFCT encounters one of these situations and chooses not to obtain an appraisal, prior to acquisition the organization will instead obtain a written letter of opinion of value from a qualified real estate professional.

SFCT will not pay more than the appraised value for a property. Exceptions may be made in rare instances in which (a) the acquisition will provide such extraordinary public benefit that the purchase price is justified and (b) the transaction will not provide impermissible private benefit or private inurement. If SFCT decides to proceed with a purchase price above appraised value, the organization will document in writing its analysis of these two criteria.

Potential Stewardship Funding Scenarios:

- In the case of a donation of land, the donor could make a cash donation to endow the stewardship fund for the property.
- In the case of a donation of land, SFCT could first help the donor put a conservation easement on the property to be held by another land trust. The donor could sell the resulting NM tax credits to endow the stewardship fund.
- In the case of either a donation or purchase of land, SFCT could place the property under conservation easement with a qualified land trust and SFCT could apply for and sell the tax credits to endow the fund.
- In the case of either a donation or purchase of land, SFCT could solicit funds from its donor base.

Considerations for Fee Land Ownership

Even with a well-endowed stewardship fund, fee lands held could put considerable demands on

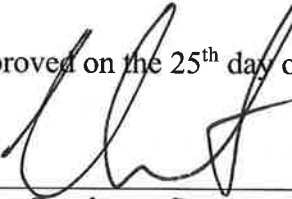
SFCT's limited staff and volunteer resources. SFCT should not acquire land it is not able to maintain appropriately. Poorly maintained land could have an adverse effect on SFCT's reputation as well as damaging legal consequences. Before acquiring fee land that SFCT plans to hold long-term for conservation purposes, SFCT's land committee and board should ask questions similar to those asked before accepting a conservation easement, primarily including the following:

1. Is this proposed ownership consistent with the goals expressed in SFCT's Mission Statement?
2. Is SFCT the best entity to hold the property?
3. Can the property be effectively monitored and maintained with appropriate frequency?
4. Is the property within Santa Fe, San Miguel, Rio Arriba, or Mora Counties?
5. Will acquiring the property result in a significant public benefit? Will the public recognize that benefit? Will it preserve a scenic vista that the public now enjoys?
6. Does the property help create or maintain public access to public lands or trails?
7. Does the property complement programs of City or County designed to develop open space or trails?
8. Is the land area of sufficient size to justify the trouble and expense of fee land acquisition?
9. Will this property's preservation encourage other land to be preserved in the same area?
10. Will owning this property prevent or slow undesirable development or deterioration in an area that now has excellent scenic or open space characteristics that currently provide a public benefit?
11. Are trails and opportunities for active public use possible?
12. Is the land currently in a relatively natural state?
13. Does the parcel have an important relation to the hydrology of its area?
14. Does the property have a clear legal title? Prior to closing and preferably early in the process, have a title company or attorney investigate title for each property the land trust intends to acquire and update the title policy at or just prior to closing.
15. It is reasonably likely that the property will not experience mineral development without SFCT's consent?
16. Is the property free of encumbrances?
17. Are property lines clearly defined? .
18. Is the property reasonably free of any risk of negative environmental impacts?
19. Are surrounding areas and their uses and zoning classifications such as to make the maintenance of the property in its natural state practicable?
20. Is it reasonable to expect that no conditions or circumstances are likely to arise in the future that would make the land less desirable or stewardship more difficult?
21. Is it reasonable to expect that acquisition of the property will not give rise to any unusual or special liability exposure? Is existing insurance coverage adequate?

22. Is the land already being preserved in some fashion? Is such preservation assured for the future?
23. Is adequate and permanent access to the property available to the Trust?
24. Can all of the intentions and expectations of the donor be met?

The more "yes" answers to questions such as these that are warranted by the proposed acquisition, the stronger the case for acquisition. All proposals for acquisition of lands in fee must be approved by a majority vote of the Board of Directors.

Approved on the 25th day of April, 2023.

A handwritten signature in black ink, appearing to be 'Brant Goodman', written over a horizontal line.

Brant Goodman, Secretary, SFCT