

# **CALIFORNIA TAHOE CONSERVANCY**

## **ASSET LANDS PROGRAM GUIDELINES**

*Principles and Parameters to Govern Conservancy  
Property Sale, Exchange, and Transfer*



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## TABLE OF CONTENTS

<b>1. PROGRAM PURPOSE AND BACKGROUND</b>	<b>3</b>
Overview	
California Tahoe Conservancy Mission	
Land Management and Acquisition Program Overview	
Consistency with Conservancy’s Enabling Legislation	
Conservancy Inventory of Asset Lands	
<b>2. GENERAL ASSET LANDS PROGRAM CRITERIA</b>	<b>6</b>
When will the Conservancy consider pursuing transactions that involve the transfer, sale, or exchange of Conservancy land?	
How can the public become aware of Conservancy land sales, transfers or exchanges?	
<b>3. GOVERNMENT-TO-GOVERNMENT TRANSFERS: PRINCIPLES AND PARAMETERS</b>	<b>8</b>
Sale and Exchange Considerations	
<b>4. OTHER SALES AND EXCHANGES: PRINCIPLES AND PARAMETERS</b>	<b>9</b>
Sale and Exchange Considerations	
<b>5. CONSERVANCY LAND SALE PROGRAM: PARAMETERS AND PRINCIPLES</b>	<b>11</b>
Parameters	
Principles	

# 1. PROGRAM PURPOSE AND BACKGROUND

## Overview

The Conservancy has devised a broad range of approaches to the management of Conservancy land in a manner consistent with its acquisition and management objectives. These Program Guidelines establish a land sale or land exchange component under its overall property management program, providing a consistent set of criteria for Board adoption of individual land sale, transfer, and exchange actions. The Conservancy has developed these Program Guidelines as internal operating procedures that offer broad policy guidance, providing the agency with the ability to adjust its land ownership consistent with its legislative mandate and without compromising its core program objectives.

## California Tahoe Conservancy Mission

The California Tahoe Conservancy (Conservancy) is a California state agency with a mission to preserve, protect, restore, enhance, and sustain the unique and significant natural resources and recreational opportunities of the Lake Tahoe Basin. Established in 1984, the Conservancy's jurisdiction extends throughout the California side of the Lake Tahoe Region, as defined in California Government Code Section 66905.5. The Conservancy develops and implements projects to improve water quality, preserve Lake Tahoe's scenic beauty, provide recreational opportunities and public access, preserve wildlife habitat areas, and manage and restore lands to protect the natural environment.

## Land Management and Acquisition Program Overview

The Conservancy's program for the purchase of environmentally sensitive lands was initially adopted in April 1985. Land acquisition criteria were modified on several occasions -- in April 1986, May 1987, July 1988, September 1988, and February 1989 -- to encompass significant resource lands and lands necessary to protect the natural environment.

In addition to acquisition of environmentally sensitive lands, the Conservancy has periodically acquired parcels for public access, and stream environment zone and wildlife protection purposes. The Conservancy has also acquired parcels through litigation settlements and "bulk acquisitions," or acquisitions of a variety of properties from a landowner, not all of which supported the primary purpose of the acquisition, but which were part of the package of lands that were part of the acquisition.

In the Conservancy's land acquisition inventory of 4,890 parcels totaling more than 6,500 acres, there are just over 300 Conservancy-owned properties that are regarded as "*asset lands*." **Asset lands** are parcels of land within the Conservancy's ownership which are not essential to carrying out Conservancy goals, which could have significant market value, and which are not otherwise

restricted from disposal by law or Board policy. In fact, some asset lands, at the time of acquisition, were identified for possible future transfer or sale.

Managing the Conservancy's properties is a complex task. Aside from their sheer numbers and small sizes – most are no bigger than 1/3 of an acre – parcels are often scattered throughout already-developed areas, creating the potential for conflicts between open space and residential uses. The Conservancy's Property Management Program was adopted in September 1986 and guides land management of Conservancy-owned lands. In contrast, these Program Guidelines will provide direction regarding the circumstances and considerations for land that is considered for transfer from Conservancy ownership.

## Consistency with Conservancy's Enabling Legislation

These Program Guidelines for Conservancy Asset Lands are consistent with the Conservancy's enabling legislation.

- The Conservancy is authorized under Government Code Section 66907 to *“select and acquire real property or interests therein in the name of and on behalf of the State, for the purposes of protecting the natural environment.”*
- Pursuant to Government Code Section 66907.1, *“the Conservancy may acquire interests in land by means of land exchanges.”*
- Government Code Section 66907.2 provides for the Conservancy to *“accept and hold real property or any interest herein acquired through gift, exchange, donation or dedication.”*
- Pursuant to Government Code Section 66907.8, *“notwithstanding any other provision of law, the Conservancy may . . . sell, exchange, or otherwise transfer any real property or interest therein, or option acquired under this title to local public agencies, State agencies, Federal agencies, nonprofit organizations, individuals, corporate entities or partnerships for management purposes pursuant to terms and conditions approved by the Conservancy.”*

NOTE: State Surplus Property Law may apply if a proposed conveyance is not for management purposes, part of a land exchange, or for a specific project purpose.

## Conservancy Inventory of Asset Lands

Potential asset lands generally fall within the following categories, as refined in March 2014:

- **Easement Protected Lands:** Lands where Conservancy ownership of a conservation easement would be more cost-effective than full fee title ownership

- **Area Plan or Town Center Asset Lands:** Developable parcels in highly urbanized areas that could support sustainable compact development consistent with local area or town center plans
- **Highway 50 Right-of-Way Lands:** Developable parcels along the former Highway 50 right-of-way that could be used to support the South Tahoe Greenway bike trail or be sold or leased to help fund the trail
- **Bulk Acquisition Lands:** Developable lands acquired as part of "bulk acquisition" of conservation and developable lands from a single seller
- **Residential Land Coverage Parcels:** Developable lands purchased to acquire land coverage for mitigation purposes or for bike trails or other development projects

The Conservancy owns approximately 331 parcels that may be classified in one or more of the above categories. Of the 331 parcels classified as Asset Lands the Conservancy may seek to sell or transfer a total of 17 parcels, described below.

Description of Lands	Number of Parcels
<b>Area Plan or Town Center Asset Lands:</b> Developable parcels in the Kings Beach, Meyers and South Tahoe "Y" area plans or town centers that could support sustainable compact development consistent with local area or town center plans.	17

Important to the discussion of asset lands identification is what lands are not generally suitable for disposal. At this time, lands acquired under the Conservancy's ESL Acquisition Program which were not specifically noted as a potential asset land at the time of purchase are generally excluded from the scope of the program. Therefore, approximately 4,465 separate parcels (over 90% of all Conservancy lands) which were acquired to protect water quality and for which the development potential has been retired are generally excluded from consideration at this time. These undeveloped lands are within or adjoining a stream environment zone, wholly or partially within Bailey Land Capability Classes 1, 2, or 3, received a Tahoe Regional Planning Agency Individual Parcel Evaluation System (IPES) score of 725 points or less, are within subdivisions where either a dirt road or no road exists, or where all or a portion of the property was denuded of vegetation and the compacted dirt surface was a water quality problem.

## 2. GENERAL ASSET LANDS PROGRAM CRITERIA

### When will the Conservancy consider pursuing transactions that involve the transfer, sale, or exchange of Conservancy land?

In no case shall the Conservancy be compelled to transfer any properties under its ownership. However, as a general policy, the Conservancy would consider pursuing transactions involving the transfer, sale, or exchange of Conservancy land if the following criteria are met:

- 1) The transaction is consistent with the Conservancy's enabling legislation (Gov. Code § 66905 et seq.). Specifically, Government Code section 66907.8 allows for the Conservancy to sell, exchange, or otherwise transfer any real property or interest therein, or option acquired under the legislation to local public agencies, State agencies, federal agencies, nonprofit organizations, individuals, corporate entities or partnerships for management purposes pursuant to terms and conditions approved by the Conservancy; and
- 2) The transaction is consistent with these and other Conservancy Program Guidelines and purposes, such as: policies adopted as part of the development of the Conservancy's ESL Program; the Conservancy's Property Management Program and related guidelines; the Conservancy's Leasing and Stewardship Land Management Services Guidelines; and past Conservancy Board policy discussions and actions relating to specific land purchases; and
- 3) The transaction is consistent with requirements of bond acts and other applicable funding sources specific to the acquisition, including but not limited to California Propositions 12, 13, 40, 50, 84, and the Lake Tahoe Acquisitions Bond Act of 1982 (Gov. Code § 66950 et seq.).

In addition to the above 3 criteria, the proposed transaction shall document how it satisfies one or more of the following project-specific circumstances:

- a) *Achieves program or project objectives where the original project purposes have changed, the land is no longer needed to achieve the original project purpose, and the land does not provide significant benefits to another Conservancy program.*

Example: A number of parcels in the vicinity of U.S. Highway 50 and State Route 89 in Meyers were purchased to facilitate construction of a permanent visitor center. Current site improvement considerations do not require all of these parcels for project implementation. Several of the parcels are high capability lands within the Meyers Community Plan area.

- b) *Achieves program or project objectives through the disposal of land which is considered incidental to the original acquisition, program, or project objective and the project purposes have been, or can be, achieved with either the remaining property or remaining property interest, and/or with the “consideration” being offered in trade.*

Example: Lands which may have been acquired as part of a bulk acquisition (e.g. within the City of South Lake Tahoe located near the Tahoe Daily Tribune building).

- c) *Achieves public and environmental benefits that significantly exceed the public or environmental value of the land owned by the Conservancy.*

Example: If another party owns or acquires a parcel that is of high value for environmental purposes, and proposes to transfer the property to the Conservancy in exchange for other Conservancy land of significantly less environmental importance, such as the exchange transaction that occurred in 2010).

- d) *Facilitates more efficient management of public lands in the Basin or through project delivery, while furthering Conservancy program objectives.*

Example: Possible Conservancy land transfer/exchange with the U.S. Forest Service, the California Department of Parks and Recreation, and/or the City of South Lake Tahoe.

- e) *Provides equitable relief to the owner of a neighboring parcel, in such a manner that environmental disturbance is minimized and the Conservancy’s acquisition objectives are not adversely impacted.*

Example: Certain cases where a pre-existing condition such as a secondary access or encroaching structure can be documented as present on a portion of Conservancy land prior to Conservancy acquisition.

- f) *The Conservancy may consider a possible transfer, sale, or exchange of land in certain cases when criteria 1-3 (above) are met and where the transaction would help achieve other State mandates, local community plan goals, redevelopment objectives, or other public purposes on a case-by-case basis.*

## **How can the public become aware of Conservancy land sales, transfers or exchanges?**

Actions proposing to transfer lands from Conservancy ownership shall all require Conservancy Board decisions, including appropriate CEQA documentation and processing. All transactions shall be processed as follows:

*Board Process* – Upon receipt of a request or upon initiation by Conservancy staff of a possible land transfer opportunity, the item may first be presented to the Board for authorization to fund the due diligence review and sale or exchange process. The land ownership adjustment action will be evaluated for consistency with these Program Guidelines. If staff determines that the transfer meets the criteria and consideration included in these guidelines, the action shall be presented to the Board on a case-by-case basis, for authorization to complete the transaction and transfer the land. All Board actions require public noticing, including on site posting of the lands proposed for transfer (see Principles below for details).

### **3. GOVERNMENT-TO-GOVERNMENT TRANSFERS: PRINCIPLES AND PARAMETERS**

#### **Transfer, Sale, or Exchange Considerations**

Both the States of California and Nevada and the U.S. Forest Service have legislation/regulation for acquisition of certain environmentally sensitive lands and other lands at Lake Tahoe. Cooperative planning assisted with their acquisition such that government entities did not compete when making purchase offers; cooperative planning for land ownership adjustment can also assist with efficient public property management. In addition, local government land acquisitions for various purposes have also created a public land base that could be strategically adjusted for land management efficiency. Finally, specific project needs or agency funding situations sometimes dictate the need for government-to-government transfers of jurisdiction of either fee title or easements, both permanently and temporarily, in order to implement the project or to best deliver government services to the public. Properties received by the Conservancy from the U.S. Forest Service or the California Department of Parks and Recreation will likely contain a covenant (e.g. deed restriction) to ensure the properties are managed by the Conservancy consistent with the purposes for which they were acquired.

Government-to-government land ownership adjustments (transfer, sale, or exchange, in whole or in part, permanent or temporary, and in fee or easement) shall satisfy consideration (d), as described in the section of these Program Guidelines entitled “*When will the Conservancy consider pursuing transactions that involve the transfer, sale, or exchange of Conservancy land?*” Specifically these transactions shall facilitate more efficient management of public lands in the Basin or through project delivery, while furthering Conservancy program objectives.

These Program Guidelines provide the circumstances for government-to-government transactions. Sales, transfers, or exchanges shall further one or more of the following objectives:



- Shift management responsibility to another suitable public land manager will provide for continued management of the property in a manner consistent with the funding source requirements and purposes for which it was acquired; and/or
- Accommodate legitimate past uses in order to avoid future use conflicts; and/or
- Support regulatory policies or deliver public services, including recreational use and public access; and/or
- Enhance administrative capabilities; and/or
- Shift management responsibility to another suitable land manager, resulting in a reconfiguration or consolidation of ownerships that improves management and enhanced resource protection; and/or
- Further one or more Conservancy program objectives.

#### **4. OTHER SALES, TRANSFERS, OR EXCHANGES: PRINCIPLES AND PARAMETERS**

##### **Sale, Transfer, or Exchange Considerations**

Land ownership adjustments (transfer, sale, or exchange, in whole or in part, permanent or temporary, and in fee or easement) with non-government entities shall satisfy either consideration (c) or (e), as described in the section of these Program Guidelines entitled “*When will the Conservancy consider pursuing transactions that involve the transfer, sale, or exchange of Conservancy land?*” Specifically these transactions shall achieve public and environmental benefits that significantly exceed the public or environmental value of the land owned by the Conservancy or provide equitable relief to the owner of a neighboring parcel in such a manner that environmental disturbance is minimized and the Conservancy’s acquisition objectives are not adversely impacted.

Proposals from non-government entities are not a current priority for the Conservancy and may be evaluated as time and workloads allow. Conservancy staff may also consult with other agencies and organizations with expertise to help evaluate proposals. In some cases, the applicant may be asked to further refine their proposal or provide supplemental information.

Previous Conservancy land transfers or exchanges have derived one or more of the following benefits:

- Substantial environmental benefit achieved.
- Broader public benefit achieved and there is no reasonable or feasible alternative to the use of a small portion of high capability land on a Conservancy-owned property(ies).
- Broader public benefits were achieved or superior land management

- objectives were achieved through boundary line adjustment.
- Made the Conservancy whole and minimized environmental disturbance.
  - Directly supported and implemented a Conservancy or grantee program or project objective.
  - Extraordinary public and environmental benefits were realized that would not otherwise be achievable.

Future land transfers, sales, or exchanges with adjoining private land owners must be consistent with one or more of the above benefits and will be evaluated against the following criteria:

- Consistency with acquisition – Generally, all exchanges will have to serve the purpose for which the parcel was acquired. In most cases the exchange will have to be consistent with open space and the protection of the natural environment objectives.
- Suitable site – The proposed Conservancy property is suitable for the proposed use (i.e., topography, vegetation) described in this staff report.
- Furthers management objectives – The proposed use must further the Conservancy’s management objectives, including enhancement of the environment, provision of water quality benefits, and avoidance of use conflicts.
- Consistency with rules and regulations – The existing or future use is consistent with and supports applicable regulatory policies and supports planning objectives in the Lake Tahoe Basin.
- The resulting resource benefits for the Conservancy must be at least equal to those envisioned by the Conservancy’s original acquisition and management objectives – the area should be of substantially the same size and value and may have similar environmental characteristics. The nature and composition of the landscape and forest vegetation resources should be similar on both parcels. Both parcels should have nearly identical environmental sensitivity.
- The properties to be exchanged are of equal or greater value to the Conservancy.
- If resolving an encroachment onto Conservancy land:
  - The encroachment can be documented to have been present five or more years prior to Conservancy acquisition; and
  - The proposed transfer/exchange is the most cost effective and reasonable way of achieving the Conservancy’s objectives; and
  - The recommended sale, transfer, or exchange is a reasonable and fair alternative for both the Conservancy and the adjoining landowner.

## 5. CONSERVANCY LAND SALE PROGRAM

**Parameters:** The limited program scope includes Board authority to explore sale of a limited number of properties, all of which satisfy either criteria (a) or (b), above; specifically:

- (a) Lands that, if sold, achieve Conservancy program or project objectives where the original project purposes have changed and the land is no longer needed to achieve the original project purpose, and the land does not provide significant benefits to another Conservancy program.
- (b) Lands that, if sold, achieve Conservancy program or project objectives through the disposal of land which is considered incidental to the original acquisition, program, or project objective and the project purposes have been, or can be, achieved with the remaining property.

**Principles:** The sale of asset lands shall be conducted consistent with the following principles:

- All land sales shall be conducted in a manner pursuant to and consistent with California Government Code Section 66907.8, the Conservancy's statute providing for the sale of real property or interests therein, and applicable state laws.
- The Conservancy Board shall designate specific parcels or classes of land for sale consideration at a public meeting and authorize staff to proceed with all pre-sale activities, including the solicitation of bids to acquire lands.
- The Conservancy staff shall administer the pre-sale process consistent with these guidelines, preparing all due diligence packages and public documents describing the property and the bid/sale process, advertising the land, and conducting a transparent process open to all interested and qualified parties. Staff may employ title companies, engineers, surveyors, appraisers, land use planning, and/or real estate professionals during the pre-sale process in order to display the conditions of title for prospective buyers and to perfect entitlements prior to the sale of land.
- Public notification and transaction documents will be prepared by Conservancy staff using model documents employed by the California Department of General Services (DGS) and the California Department of Transportation (Caltrans).
- Public notification for pre-sales activities shall include the following: One month prior to a Conservancy meeting – post properties; place public notice in newspaper and post on Conservancy website for four weeks leading up to the meeting; and send direct mail to property owners within 500 feet of the property.
- Public notification for sales authorizations shall include the following: 10 days prior to meeting- post properties; place public notice in newspaper

one time prior to meeting; post on Conservancy website 10 days prior to meeting, and send direct mail to property owners within 500 feet of the property.

- All proposed sales will be at or above current fair market value as determined by an independent fee appraiser. Sealed written bids and/or oral auctions may also be used to determine the sales price.
- Marketing assistance of the local real estate professional community may be sought to ensure Conservancy lands are well publicized and a fixed “finder’s fee” may be paid to the real estate professionals who represent successful bidders. Prospective buyers will not be required to team up with a real estate professional in order bid on Conservancy land sales.
- In a bidding process Conservancy staff may reject any and all bids for any reason and in particular, if staff believes the high bid is too low for recommendation to the Conservancy board for approval at a future public meeting.
- The Conservancy will conduct the appropriate environmental review and comply with the California Environmental Quality Act (CEQA) prior to making a decision on the sale of any specific property.
- The Conservancy shall, at a public meeting held after the completion of the bidding process, authorize the sale of land to the highest qualified bidder at the recommended price.
- Buyer is responsible for all title, escrow, recording and other closing costs. Any appraisals, surveys, or legal description preparation as part of the due diligence process whereby the Conservancy determines likely use and value of the property will be paid by the Conservancy in order to determine how to best market the property.
- The Board and public will tour the property prior to presale authorization. Regular meeting notification will be followed.
- The funding source for the original purchase of the property will be identified.
- Land capability will be identified.
- All proceeds from the sale of Conservancy lands are deposited in the Tahoe Conservancy Fund and available for expenditure upon appropriation by the California Legislature. Proceeds from Lake Tahoe Acquisition Bond Act parcels may only be used to buy other undeveloped parcels and proceeds from parcels acquired with other bond funds may be used to buy and/or restore lands consistent with existing Conservancy statute and programs.