

**ATTACHMENT 2**

**CALIFORNIA TAHOE CONSERVANCY**

**LAND TRANSFER GUIDELINES**



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# **I. PURPOSE AND BACKGROUND**

## **Executive Summary**

The California Tahoe Conservancy (Conservancy) has developed a broad range of approaches to the acquisition, management, and transfer of Conservancy land to achieve its mission and program objectives. These Guidelines establish criteria for the Conservancy's land transfer activities. These activities include:

- government to government transfers, which are generally intended to facilitate more efficient management of public lands;
- transfers to non-government entities, which must provide significant environmental and public benefits; and
- sales of designated Asset Lands to help revitalize town centers, and to help achieve statewide, regional, and area plan goals and other Conservancy objectives.

These Guidelines include general criteria for staff and Board consideration of all transfers, and more specific criteria and public process requirements for transfers in each of these categories. The term "transfer" for the purposes of these Guidelines is broadly defined to include not only conveyances of title or a less-than-fee estate in real property through a sale or exchange but also assignments of rights or interests in real property. Transfer of land does not include the acquisition of property. Guidance on acquisition of property is found under the Guidelines and Criteria for the Land Acquisition Program (September 2005). All transfers must be approved by the Conservancy Board and address the requirements of the California Environmental Quality Act (CEQA) and other relevant statutes.

## **California Tahoe Conservancy Mission and Vision**

### **Mission**

The mission of the Conservancy is to lead California's efforts to restore and enhance the extraordinary natural and recreational resources of the Lake Tahoe Basin.

### **Vision**

The Conservancy envisions a Basin where:

- the Lake is clear and its watersheds are healthy;
- public access opportunities are prevalent around the Lake;
- eco-tourism activities support a robust economy;
- communities are walkable, bikeable, and transit-friendly;
- numerous private/public partnerships help sustain the balance between Lake clarity and regional economy; and

- Lake Tahoe serves as a model for sustainability and stewardship.

## **Acquisition Programs and Priorities**

Since its inception in 1985, the Conservancy has acquired 4,679 parcels totaling more than 6,500 acres (as of February 2016). The initial focus of its acquisition program was to acquire environmentally sensitive lands, primarily on vacant urban lots, but the program was later expanded to include acquisitions for public access, lakefront parks, wildlife, and other recreational and environmental purposes, and then further expanded to include acquisitions of coverage and other transferable development rights to help implement the Tahoe Regional Planning Agency's (TRPA) Excess Coverage Mitigation Program.

In December 2013, the Conservancy established a new set of acquisition priorities through the creation of the Tahoe Livable Communities (TLC) Program. The purpose of the TLC Program is to: 1) remove the threat of development in roadless subdivisions; 2) remove aging developed properties on sensitive lands; and 3) retire or transfer the development rights to help revitalize town centers. Through this program, the Conservancy has acquired four developed parcels on sensitive or lakefront land in South Lake Tahoe, and one roadless subdivision parcel in Placer County.

## **Transfers**

Throughout its history, the Conservancy has also sold or otherwise transferred property or interests in property, primarily to other government agencies to achieve greater management efficiency and public benefits. These transactions were approved pursuant to the Conservancy's enabling legislation, mission, program guidelines, and funding requirements.

Recent examples include:

- A series of land transfers with State Parks to consolidate ownerships and increase management efficiencies of State-owned land in the Lake Tahoe Basin;
- A land exchange with the City of South Lake Tahoe in 2012, in which the Conservancy conveyed two non-sensitive urban parcels for three highly sensitive stream environment zone (SEZ) parcels along the Upper Truckee River and Trout Creek;
- A proposed land exchange with the USDA Forest Service (USFS), in which the Conservancy and State Parks would convey nearly 2,000 acres of general forest land to the USFS in return for an equivalent acreage of USFS land that could be more efficiently managed by the State; and
- More than twenty transfers of fee title or easement interests to public utilities or other local governments to facilitate bike trail, stormwater, or other Lake Tahoe Environmental Improvement Program (EIP) projects.

The Conservancy also occasionally transfers land to non-government entities to achieve Conservancy goals and public benefits. For example, the Conservancy recently acquired 1.5 acres of SEZ land adjoining the Upper Truckee River in return for the transfer of .25

acres of non-SEZ land to a private party. Another private transfer involved reciprocal access easements that benefit the Conservancy with its management of a single property.

### **Asset Lands**

In 2012, the Conservancy identified 331 parcels that could be sold to assist with town center revitalization and other Conservancy goals. These “Asset Lands” are generally parcels that were acquired by the Conservancy to obtain land coverage, facilitate EIP projects (e.g., a visitor center) that are no longer planned, or as part of a “bulk acquisition” of both sensitive and non-sensitive, developable parcels from a single seller. From the initial list, the Conservancy sold two Asset Land parcels in the City of South Lake Tahoe in 2013 through a public bidding process after easements or restricted covenants were placed over sensitive areas of the parcels.

During this period, the Conservancy also engaged in a public process to further refine its designation of Asset Lands. Based on extensive public comments, in March 2014 the Conservancy Board narrowed its list to 17 developable parcels in three highly urbanized areas (Tahoe Valley, Meyers, and Kings Beach) that could support sustainable compact development consistent with local area or town center plans (see Conservancy [website](#) for list of current Asset Lands).

Finally, in 2015, the Conservancy sought amendments to its enabling legislation to clarify its authority to sell or transfer parcels to promote the State’s planning priorities, including infill development, more efficient land use patterns, and implementation of sustainable communities strategies required by SB 375. In the Lake Tahoe Basin, the Sustainable Communities Strategy is a key element of the TRPA Regional Plan, and is implemented largely through the adoption of area plans. The legislation sought to harmonize the Conservancy’s authority with the requirements of Proposition 1, which requires Conservancy expenditures to promote sustainable communities strategies and other State planning priorities. The Conservancy’s proposed legislation (AB 1004), sponsored by Assemblyman Brian Dahle, was passed unanimously by the State Legislature and enacted in 2015.

## **II. GENERAL LAND TRANSFER CRITERIA**

Transfers of Conservancy lands must be consistent with the Conservancy’s mission, Conservancy guidelines, the purpose and funding source of the original acquisition, and the Conservancy’s enabling legislation (Gov. Code § 66905 et seq.), as described below.

### **Enabling Legislation**

Transfers must be consistent with the Conservancy’s enabling legislation (Gov. Code § 66905 et seq.). Specifically, Government Code section 66907.8 states:

*[N]otwithstanding any other provision of law..., the [C]onservancy may lease, rent, 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 to fulfill the purposes of this title and to promote the state's planning priorities, consistent with subdivision (i) of Section 79707 of the Water Code.*

NOTE: See Appendix A for section 79707 of the California Water Code.

### **Program Guidelines**

Transfers must be consistent with these and other Conservancy programs, policies, and guidelines, such as: the Conservancy's ESL Program, Property Management Program and related guidelines, TLC Program, Land Acquisition Guidelines, Land Coverage and Marketable Rights Program, Special Use Guidelines, and past Conservancy Board policy discussions and actions relating to specific land purchases.

### **Source of Acquisition Funds**

Transfers must be consistent with the requirements of bond acts and other applicable funding sources specific to the acquisition, including but not limited to, California Propositions 1, 12, 40, 50, 84 and the Lake Tahoe Acquisitions Bond Act of 1982 (Gov. Code § 66950 et seq.).

### **Board Approval**

All actions proposing to transfer lands from Conservancy ownership shall require Conservancy Board approval, including appropriate CEQA documentation and processing by the appropriate lead agency.

## **III. ADDITIONAL CRITERIA FOR PUBLIC AND PRIVATE LAND TRANSFERS**

### **Government to Government Transfers**

The Conservancy will continue to pursue transfers with federal, State, and local agencies to increase public land management efficiency in the Lake Tahoe Basin. In addition to complying with the general criteria outlined in Section II, these transfers must meet one or more of the following objectives:

- Shift management responsibility to another suitable public land manager that will provide for continued management of the property in a manner consistent with the funding source requirements and purposes for which it was acquired;
- Accommodate legitimate past uses in order to avoid future use conflicts;
- Support regulatory policies or deliver public services, including but not limited to recreational use and public access; or
- Enhance administrative capabilities or overall management efficiencies and/or

further one or more Conservancy program objectives.

### **Non-Governmental Transfers**

The Conservancy occasionally receives proposals to transfer its lands to private landowners and other non-governmental entities. With the exception of proposals to transfer Asset Lands described in Section I and IV, these proposals will generally not be considered unless they would provide significant public benefits, or would address intractable or contested land use conflicts or other exceptional situations.

In addition to complying with the general criteria outlined in Section II, these transfers must meet one or more of the following objectives:

- Achieve public and environmental benefits that significantly exceed the public or environmental value of the land owned by the Conservancy, and that would otherwise not be possible; or
- Resolve contested or intractable land ownership or use conflicts where environmental disturbance is minimized and the Conservancy's acquisition objectives are not adversely impacted.

## **IV. SALES OF ASSET LANDS**

As described in Section I, the Conservancy has designated 17 parcels as Asset Lands which could be sold to help achieve regional and area plan objectives and other Conservancy goals. The Conservancy will work closely with TRPA and local jurisdictions to ensure that sales of these parcels are consistent with area plan goals.

Potential sales of these Asset Lands to public agencies must be consistent with the criteria in Sections II and III. In addition, to facilitate public input and review of any potential private sales of these parcels, Conservancy staff will seek two separate Conservancy Board authorizations, as described below. First, staff will seek authorization for pre-sale due diligence activities, such as appraisals, inspections, and real estate negotiations. Second, staff will seek Board authorization to sell the property. All Board actions will include appropriate noticing requirements and CEQA compliance.

### **Asset Land Pre-Sale Activities**

- The Conservancy Board shall authorize funding for pre-sale activities for specific Asset Land parcels. Pre-sale activities may include appraisals, inspections, a solicitation of bids from potential buyers, exclusive negotiations with uniquely qualified partners, or other transfer strategies.
- Conservancy staff will solicit input from the appropriate local jurisdictions on Asset Land parcels authorized for pre-sale activities prior to making a decision on the sale of any specific property.
- Conservancy staff will issue public notifications of both the proposed pre-sale and sale authorizations one month prior to seeking Board authorization, including:

- a. Public notices of the proposed action on the property, in the newspaper and on the Conservancy website and
  - b. Direct mail a notice of the proposed action to property owners within 500 feet of the property.
- Prior to the Conservancy Board meeting at which pre-sale activity recommendations are heard, staff will hold a Conservancy Board tour of the property(ies).

### **Asset Land Sales Negotiations**

- All proposed sales generally will be at or above current fair market value as determined by an independent fee appraiser. Fair market value payment may include non-monetary consideration. Sealed written bids and/or oral auctions may also be used to determine the sales price. (See process below.)
- Documentation shall be provided to the Board that justifies any exclusive negotiations with a uniquely qualified partner, which may include a public agency or an adjacent landowner who may be able to provide public benefits not possible with an open market sale.
- The Conservancy will conduct the appropriate environmental review and comply with CEQA prior to making a decision on the sale of any specific property.

### **Special Rules for Public Bidding Process, if applicable (Not all Asset Lands parcels will be subject to a public bidding process)**

- One month prior to the Conservancy Board meeting at which staff will seek authority to sell the parcel through a public bidding process, staff shall:
  - a. Post a public notice of the proposed action on the property, in the newspaper and on the Conservancy website and
  - b. Direct mail a notice of the proposed action to property owners within 500 feet of the property.
- Staff may seek authorization to seek marketing assistance from the local real estate professional community 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 to bid on Conservancy land sales.
- Conservancy staff may reject any and all bids because the high bid is too low, or for any other reason.
- The Conservancy Board shall authorize the sale of land to the highest qualified bidder at the recommended price, unless Conservancy staff has rejected all bids.

### **Use of Funds from Asset Land Sales**

Proceeds from the sale of Conservancy lands are deposited in the Tahoe Conservancy Fund and are available for expenditure upon appropriation by the California Legislature. Proceeds from Lake Tahoe Acquisition Bond Act parcels will be used only to buy other undeveloped parcels, and proceeds from parcels acquired with other funds may be used to buy and/or manage lands consistent with the authorizing statute or source of funds.

## **Appendix A: Applicable California Code Provisions**

### **Water Code section 79707(i):**

Projects funded with proceeds from this division will promote state planning priorities consistent with the provisions of Section 65041.1 of the Government Code and sustainable communities strategies consistent with the provisions of subparagraph (B) of paragraph (2) of subdivision (b) of Section 65080 of the Government Code, to the extent feasible.

### **Government Code section 65041.1:**

The state planning priorities, which are intended to promote equity, strengthen the economy, protect the environment, and promote public health and safety in the state, including in urban, suburban, and rural communities, shall be as follows:

(a) To promote infill development and equity by rehabilitating, maintaining, and improving existing infrastructure that supports infill development and appropriate reuse and redevelopment of previously developed, underutilized land that is presently served by transit, streets, water, sewer, and other essential services, particularly in underserved areas, and to preserving cultural and historic resources.

(b) To protect environmental and agricultural resources by protecting, preserving, and enhancing the state's most valuable natural resources, including working landscapes such as farm, range, and forest lands, natural lands such as wetlands, watersheds, wildlife habitats, and other wildlands, recreation lands such as parks, trails, greenbelts, and other open space, and landscapes with locally unique features and areas identified by the state as deserving special protection.

(c) To encourage efficient development patterns by ensuring that any infrastructure associated with development, other than infill development, supports new development that does all of the following:

- (1) Uses land efficiently.
- (2) Is built adjacent to existing developed areas to the extent consistent with the priorities specified pursuant to subdivision (b).
- (3) Is located in an area appropriately planned for growth.
- (4) Is served by adequate transportation and other essential utilities and services.
- (5) Minimizes ongoing costs to taxpayers.

### **Government Code section 65080(b)(2)(B) and (C):**

(2) A sustainable communities strategy prepared by each metropolitan planning organization as follows:

(B) Each metropolitan planning organization shall prepare a sustainable communities strategy, subject to the requirements of Part 450 of Title 23 of, and Part 93 of Title 40 of, the Code of Federal Regulations, including the requirement to utilize the most recent planning assumptions considering local general plans and other factors. The sustainable communities strategy shall (i) identify the general location of uses, residential densities, and building intensities within the region, (ii) identify areas within the region sufficient to house all the population of the region,

including all economic segments of the population, over the course of the planning period of the regional transportation plan taking into account net migration into the region, population growth, household formation and employment growth, (iii) identify areas within the region sufficient to house an eight-year projection of the regional housing need for the region pursuant to Section 65584, (iv) identify a transportation network to service the transportation needs of the region, (v) gather and consider the best practically available scientific information regarding resource areas and farmland in the region as defined in subdivisions (a) and (b) of Section 65080.01, (vi) consider the state housing goals specified in Sections 65580 and 65581, (vii) set forth a forecasted development pattern for the region, which, when integrated with the transportation network, and other transportation measures and policies, will reduce the greenhouse gas emissions from automobiles and light trucks to achieve, if there is a feasible way to do so, the greenhouse gas emission reduction targets approved by the state board, and (viii) allow the regional transportation plan to comply with Section 176 of the federal Clean Air Act (42 U.S.C. Sec. 7506).

(C) (i) Within the jurisdiction of the Metropolitan Transportation Commission, as defined by Section 66502, the Association of Bay Area Governments shall be responsible for clauses (i), (ii), (iii), (v), and (vi) of subparagraph (B), the Metropolitan Transportation Commission shall be responsible for clauses (iv) and (viii) of subparagraph (B); and the Association of Bay Area Governments and the Metropolitan Transportation Commission shall jointly be responsible for clause (vii) of subparagraph (B).

(ii) Within the jurisdiction of the Tahoe Regional Planning Agency, as defined in Sections 66800 and 66801, the Tahoe Metropolitan Planning Organization shall use the Regional Plan for the Lake Tahoe Region as the sustainable community strategy, provided that it complies with clauses (vii) and (viii) of subparagraph (B).