# **MODEL POLICY FOR THE ACQUISITION, SALE AND TRANSFER OF MARKETABLE ASSETS[[1]](#footnote-0)°**

From time to time, [LAND TRUST] may receive, by charitable gift, by bequest, or by purchase through a bargain sale, real property, personal property, or financial instruments such as securities or mutual funds. The board of directors has adopted this policy to guide decisions on the receipt, holding, transfer and resale of such marketable assets by the land trust.

1. [LAND TRUST] welcomes gifts of land or other marketable property which can be used, managed or sold by the organization to further its nonprofit conservation mission when consistent with the following guidelines.
2. The intent of the donor should be clearly communicated to [LAND TRUST] in writing at the time of the gift along with a description of the program or project the donor wishes to benefit from the gift. If feasible, [LAND TRUST] will discuss with the donor options for the management, sale or transfer of donated marketable assets, and how the proceeds will further the donor’s charitable intent. In some cases, a written donation agreement may be appropriate.
3. Any asset offered for donation or sale to [LAND TRUST] will be carefully evaluated, using outside professional advisors where appropriate, to ensure that it is in useable, safe and marketable condition at the time of the transfer. Consideration will be given to the amount of staff and/or board work required, potential liability of ownership and other issues related to accepting, managing and liquidating a donated asset, relative to its value to the organization.
4. Prior to purchasing land, easements or other interests in real property, [LAND TRUST] will obtain a qualified independent appraisal to justify the purchase price. However, the land trust may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstances when a property has a very low economic value or a full appraisal is not feasible before a public auction. In limited circumstances where acquiring above the appraised value is warranted, the land trust documents the justification for the purchase price and that there is no private inurement or impermissible private benefit. If negotiating for a purchase below the appraised value, [LAND TRUST] ensures that its communications with the landowner are honest and forthright.
5. Donations of corporate securities, bonds, mutual funds and other marketable financial instruments normally will be sold upon receipt, and the proceeds of sale transferred to the appropriate [LAND TRUST] account to fulfill the donor’s intent. It is [LAND TRUST]’s policy to hold and manage a diversified portfolio of securities and financial instruments, under the supervision of the finance committee and working with professional investment advisors, and not to hold and manage individual financial instruments that may be donated. Exceptions to this approach (such as a stipulated gift from a donor) must be approved by the finance committee.
6. Donations of equipment, art, vehicles, and other personal property will be evaluated for their usefulness to [LAND TRUST]. Gifts of vehicles or equipment will be accepted only if in a safe and serviceable condition. If no practical and beneficial use for donated personal property is apparent, it will be sold and the proceeds used in accord with the donor’s intent.
7. Real property (land) gifts will not be accepted until a thorough due diligence review (e.g. preliminary title report, surveys, environmental hazards assessment, building inspection reports, land use permits) shows that the donor has clear, marketable title to the land, and that there are no outstanding easement, legal, land use, or environmental issues or conditions that would cause problems or potential liability for [LAND TRUST].

[LAND TRUST] will conduct a phase 1 environmental assessment on donated land unless the board of directors agrees to waive this requirement for a particular property. A gift of property will not be accepted if it is deemed to have undue risk of injury or liability, or unreasonable holding, management, tax and transfer expenses to [LAND TRUST].
8. When real property is donated, or is purchased with the intent of transfer or resale to a private party or public agency, [LAND TRUST] will first evaluate whether significant conservation values (i.e. agricultural, wildlife habitat, scenic, historic resources) exist on the property, using the land trust’s project selection criteria. In cases where a property has high conservation value, it will be considered for long-term ownership by [LAND TRUST], provided that the land trust has sufficient capacity to own and manage it responsibly. Otherwise, it may be transferred to another qualified conservation agency. In some cases, the conservation values of donated land may be protected with a conservation easement on all or part of the property, with the easement granted either before or at the time the property is conveyed to another owner.
9. [LAND TRUST] may also receive real property with little or no conservation value, in which case the property may be sold to generate funds to support land trust programs or projects. The decision to hold, sell or transfer any real property will be made by the board of directors.
10. Careful consideration will be given to the staff time commitment and direct management costs associated with receiving and managing real property until its appropriate disposition is completed. Real or personal property accepted for donation will be reported to [LAND TRUST]’s liability insurance carrier to ensure appropriate insurance coverage during the period of [LAND TRUST] ownership.
11. In the sale of any asset, [LAND TRUST] will seek to receive the full fair market value of the asset. Professional advisors, such as attorneys, appraisers, land planners and real estate brokers, should be consulted, as appropriate, to determine the best strategy to achieve the full market value. Land that is being sold should be priced for sale based on an appraisal report or, in cases of assumed low value, a letter of opinion from a qualified real estate professional If land is to be restricted by a conservation easement, the appraisal will also determine the diminution in market value attributable to the easement.
12. Assets may be sold to a member of the [LAND TRUST] staff, board of directors, substantial contributor, or a family member of a member of the above only in compliance with [LAND TRUST]’ conflict of interest policy. Once a member of the staff or board states an interest in purchasing an asset, that person shall recuse himself or herself from any discussion or participation in [LAND TRUST]’s disposition process for that asset. Such assets will be marketed to the general public before sale to any [LAND TRUST] insider.
13. [LAND TRUST]’s treasurer is authorized to pursue the disposition of any donated marketable financial instrument in accordance with this policy, and the disposition of any personal property with an estimated or appraised value of less than $5,000. The board of directors must approve the disposition of: (a) any real property; (b) any personal property valued at $5,000 or greater; and (c) any property being sold to a member of [LAND TRUST]’s staff, board of directors or advisory council. The finance committee will consider whether a general public offering or the use of a broker is appropriate for the sale of a particular asset.
14. The executive director [OR TREASURER] will ensure that the acceptance and disposition of any donated asset fully complies with federal and state tax laws, including requirements for the donor to have an independent appraisal to determine the value of certain donations, [LAND TRUST]’s obligation to review the appraisal and the donor’s IRS Form 8283 (Noncash Charitable Contributions), and, when appropriate, IRS Form 8282 (Sale, Exchange, or Other Disposition of Donated Property).
1. This policy adopted by the [LAND TRUST] board of directors on \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ . [↑](#footnote-ref-0)