



## The Restoration Trust

### Standards and Practices

January 23, 2015

The Restoration Trust adopted the Standards and Practices of the American Land Trust Association (ALTA) on November 18, 2011. The following provides specific descriptions of the practices the Trust follows in response to these Standards.

#### 1. Mission

##### Standard

*The Trust has a clear mission that serves the public interest, and all programs support that mission.*

##### Practices

- *Mission. The board adopts, and periodically reviews, a mission statement that specifies the public interest(s) served by the organization.*

#### The Restoration Trust Mission Statement

The Trust provides charitable assistance to the public to protect land, including the acquisition of easements, to restore land to native conditions, to manage it to further promote native habitats, to engage in scientific activities and promote protection, restoration and stewardship of native habitats, and to develop and distribute educational materials to the public on protection, restoration and stewardship of native habitats.

(Adopted by the Board as part of the Articles of Incorporation and Bylaws (Attachment A)).

The Trust's primary objectives are to: (1) restore and manage aquatic and riparian dependent habitats

located in primarily urban and suburban areas within central and northern California; (2) educate members of the public, private organizations, and other interested persons and organizations about these habitats; and (3) conduct scientific research to support these activities. The Trust's primary focus is on creeks, wetlands and similar habitats that are located on smaller parcels within urban or suburban settings, and generally will not accept easements over large areas that contain substantial upland habitats in rural or undeveloped settings. See Standard 8, below, for more information.

- *Planning and Evaluation. The land trust regularly establishes strategic goals for implementing its mission and routinely evaluates programs, goals and activities to be sure they are consistent with the mission.*

At its annual meeting, the Trust's Board of Directors (the "Board") establishes annual strategic goals for implementing its mission and evaluates the Trust's past and present programs, goals and activities for consistency with the Trust's mission and previously adopted goals. The President of the Board and other members of the Board also conduct less formal assessments of the Trust's ongoing programs and activities throughout the year. By focusing on smaller, primarily urban and suburban resources, the Board can readily evaluate potential projects and implement new and ongoing goals. For example, at its 2013 annual meeting, the Board established a goal of acquiring endowment-bearing easements that include funds for community education. Our progress towards meeting that goal was then assessed by members of the Board through emails and other communications as various potential projects were discussed.

- *Outreach. The land trust communicates its mission, goals and/or programs to members, donors, landowners, the general public, community leaders, conservation organizations and others in its service area as appropriate to carry out its mission.*

The Trust engages in a variety of community education and hands-on projects throughout each year. Most recently, the Trust organized its second annual flood channel revegetation program in cooperation with the Contra Costa County Flood Control District. In each of the past two years, over 100 volunteers have attended this event, many from local environmental organizations; see more in the Clayton Valley Drain Press Release (Attachment B).



Boy Scout Troop 239 takes a break from planting at the Clayton Valley Drain on December 6, 2014.

- *Ethics. The land trust upholds high standards of ethics in implementing its mission and in its governance and operations.*

The Trust upholds and maintains high ethical standards by appointing Board members who have demonstrated a practical and/or legal ability to implement the Trust’s mission, and who are committed to conducting themselves in an ethical manner. The Trust’s financial accounts are reviewed regularly by an independent, professional financial services entity and the Trust has an established relationship with the National Fish and Wildlife Foundation to hold and manage endowment funds in a financially secure manner.

## **2. Compliance with Laws**

### **Standard**

*The land trust fulfills its legal requirements as a nonprofit tax-exempt organization and complies with all laws.*

### **Practices**

- *Compliance with Laws. The land trust complies with all applicable federal, state and local laws.*

The Trust complies with all applicable federal, state and local laws.

- *Nonprofit Incorporation and Bylaws. The land trust has incorporated according to the requirements of state law and maintains its corporate status. It operates under bylaws based on its corporate charter or articles of incorporation. The board periodically reviews the bylaws.*

The Trust was incorporated in the State of California as a 501(c)(3) public benefit corporation on April 15, 1999 and received its tax exempt certification from the Internal Revenue Service on January 18, 2001. The Trust is current with all federal and state reporting requirements and certified as such by the State. See <http://kepler.sos.ca.gov> for the State certification.

- *Tax Exemption. The land trust has qualified for federal tax-exempt status and complies with requirements for retaining this status, including prohibitions on private inurement and political campaign activity, and limitations and reporting on lobbying and unrelated business income. If the land trust holds, or intends to hold, conservation easements, it also meets the Internal Revenue Code's (IRC) public support test for public charities. Where applicable, state tax-exemption requirements are met.*

The Trust has qualified for federal tax-exempt status. The Trust also meets the Internal Revenue Code's (IRC) public support test for public charities and is, therefore, qualified to hold easements. The Trust also has tax-exempt status under California regulations; see [https://www.ftb.ca.gov/businesses/Exempt\\_organizations/Entity\\_list.shtml](https://www.ftb.ca.gov/businesses/Exempt_organizations/Entity_list.shtml).

- *Records Policy. The land trust has adopted a written records policy that governs how organization and transaction records are created, collected, retained, stored and disposed. (See section 9).*

The Restoration Trust maintains all original documents that are essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and maintains copies of these documents at a separate location. Original documents are protected from daily use and are secure from fire, floods, and other damage. Non-essential documents and copies of all essential documents are stored digitally in a network database. The Trust's adopted policy on written records can be found in the Trust Written Records Policy (Attachment C).

- *Public Policy. The land trust may engage in public policy at the federal, state and/or local level (such as supporting or opposing legislation, advocating for sound land use policy, and/or endorsing public funding of conservation) provided that it complies with federal and state lobbying limitations and reporting requirements. Land trusts may not engage in political campaigns or endorse candidates for public office.*

The Trust generally does not support or oppose federal, state, or local legislation or land use policies and generally prefers to remain neutral on matters of public policy. The Trust does not engage in political campaigns nor does it endorse candidates for public office.

### **3. Standard 3: Board Accountability**

#### **Standard**

*The land trust board acts ethically in conducting the affairs of the organization and carries out the board's legal and financial responsibilities as required by law.*

#### **Practices**

- *Board Responsibility. The board is responsible for establishing the organization's mission, determining strategic direction and setting policies to carry out the mission, and, as required by law, the oversight of the organization's finances and operations.*

The Board has established the Trust's mission, and it adopts and prioritizes the Trust's policies, provides direction to the Trust's officers and oversees the Trust's finances and operations.

- *Board Composition. The board is of sufficient size to conduct its work effectively. The board is composed of members with diverse skills, backgrounds and experiences who are committed to board service. There is a systematic process for recruiting, training and evaluating board members.*

The Board is comprised of a minimum of four people with diverse backgrounds and skills in environmental stewardship and law. A majority of the Board has significant experience in ecology and habitat restoration and can speak to the technical issues facing the Trust. New Board members are recruited to fill potential vacancies as individuals with needed skill sets are identified. Further description of Board member numbers, powers, and duties can be found in Bylaws of The Restoration Trust.

- *Board Governance. The land trust provides board members with clear expectations for their service and informs them about the board's legal and fiduciary responsibilities. The board meets regularly enough to conduct its business and fulfill its duties, with a minimum of three meetings per year. Board members are provided with adequate information to*

*make good decisions. Board members attend a majority of meetings and stay informed about the land trust's mission, goals, programs and achievements.*

The Board hosts an annual meeting prior to the end of each calendar year, communicates regularly through electronic mail, and meets frequently by conference call or in-person. Communication occurs at least monthly and when necessary weekly to address current issues and make informed decisions. Since the Trust is focused on a small-scale habitat restoration projects (including easement acquisitions and long-term management/stewardship) and community education (including hands-on restoration activities) and the Board has significant expertise in these areas, issues can be readily addressed and members of the Board can rely on existing expertise and their experience with similar projects.

- *Preventing Minority Rule. The land trust's governing documents contain policies and procedures (such as provisions for a quorum and adequate meeting notices) that prevent a minority of board members from acting for the organization without proper delegation of authority.*

The Board has policies and procedures to prevent a minority of Board members from acting without the proper delegation of authority. Policies discussing preventing minority rule and quorum are laid out in the Bylaws of the Restoration Trust.

- *Delegation of Decision-Making Authority. The board may delegate decision-making and management functions to committees, provided that committees have clearly defined roles and report to the board or staff. If the land trust has staff, the board defines the job of, oversees and periodically evaluates the executive director (or chief staff person).*

The Board does not delegate decision-making to committees, and prefers to rely on the extensive expertise and experience of the entire Board to make decisions. This limits the number of projects the Trust can undertake each year, which is consistent with the Trust's intent to stay focused on a relatively small geographic area with a limited scope.

- *Board Approval of Land Transactions. The board reviews and approves every land and easement transaction, and the land trust provides the board with timely and adequate information prior to final approval. However, the board may delegate decision-making authority on transactions if it establishes policies defining the limits to that authority, the criteria for transactions, the procedures for managing conflicts of interest, and the timely notification of the full board of any completed transactions, and if the board periodically evaluates the effectiveness of these policies.*

The Board reviews and approves every land and easement transaction, and may authorize the President of the Board to consummate such transactions consistent with the Board's direction. The Board may authorize the President of the Board to modify such transactions without further review or additional Board approval, such as modifications to the terms of a conservation easement, provided such modifications are consistent with the nature of the Board-approved transaction. As such, very limited decision-making authority is delegated. Following all land-use transactions, the Board is notified [via electronic mail] and any modifications to the transaction (consistent with the Board's direction) are explained. The Board also reviews all land and easement transactions, which are generally limited to no more than three easements a year, at its annual meeting.

#### **4. Standard 4: Conflicts of Interest**

## Standard

*The land trust has policies and procedures to avoid or manage real or perceived conflicts of interest.*

## Practices

- *Dealing with Conflicts of Interest. The land trust has a written conflict of interest policy to ensure that any conflicts of interest or the appearance thereof are avoided or appropriately managed through disclosure, recusal or other means. The conflict of interest policy applies to insiders including board and staff members, substantial contributors, parties related to the above, those who have an ability to influence decisions of the organization and those with access to information not available to the general public. Federal and state conflict disclosure laws are followed.*

The Trust has a conflict of interest policy that ensures conflicts of interest are avoided or appropriately managed. See Trust Conflict of Interest Policy (Attachment D) for this policy. All Federal and State disclosure laws are followed.

- *Board Compensation. Board members do not serve for personal financial interest and are not compensated except for reimbursement of expenses and, in limited circumstances, for professional services that would otherwise be contracted out. Any compensation must be in compliance with charitable trust laws. The board's presiding officer and treasurer are never compensated for professional services.*

The Trust Board does not serve for personal financial interest. Board members are not compensated except for reimbursement of expenses. In limited circumstances, Board members may be compensated for professional services that would otherwise be contracted out. This is typically for site evaluations completed by Board members with ecological, legal or other expertise. Any compensation is in compliance with charitable trust laws, and does not exceed customary compensation for such services. The Board's presiding officer and treasurer are not, and may not be, compensated for professional services. Further discussion of the Trust's compensation policy for its officers and directors can be found in Bylaws of the Restoration Trust.

- *Transactions with Insiders. When engaging in land and easement transactions with insiders, the land trust: follows its conflict of interest policy; documents that the project meets the land trust's mission; follows all transaction policies and procedures; and ensures that there is no private inurement or impermissible private benefit. For purchases and sales of property to insiders, the land trust obtains a qualified independent appraisal prepared in compliance with the Uniform Standards of Professional Appraisal Practice by a state-licensed or state-certified appraiser who has verifiable conservation easement or conservation real estate experience. When selling property to insiders, the land trust widely markets the property in a manner sufficient to ensure that the property is sold at or above fair market value and to avoid the reality or perception that the sale inappropriately benefited an insider.*

The Trust follows its Conflict of Interest Policy in all transactions. This includes documenting that the project meets the Trust's mission statement, following all transaction procedures and ensuring that there is no private inurement. The Trust does not hold land except in very specific circumstances and these circumstances (pass-through exchanges with other trusts or governmental agencies) do not and will not involve insiders.

## 5. Standard 5: Fundraising

## Standard

*The land trust conducts fundraising activities in an ethical and responsible manner.*

## Practices

- *Legal and Ethical Practices. The land trust complies with all charitable solicitation laws, does not engage in commission-based fundraising, and limits fundraising costs to a reasonable percentage of overall expenses.*

The Trust raises funds through: (1) donations from private and public parties for both specific projects and general assistance to the Trust; and (2) endowments that fund specific projects, which generally include long-term monitoring and management. Endowments are deposited with the National Fish and Wildlife Foundation (NFWF) in accordance with a Master Mitigation Agreement between the Trust and NFWF. Accordingly, the Trust maintains a relatively small budget that complies with all charitable solicitation laws, does not engage in commission-based fundraising and does not have fundraising costs except as internal administrative costs which account for less than 5% of overall expenses.

- *Accountability to Donors. The land trust is accountable to its donors and provides written acknowledgement of gifts as required by law, ensures that donor funds are used as specified, keeps accurate records, honors donor privacy concerns and advises donors to seek independent legal and financial advice for substantial gifts.*

Donations to the Trust are typically made to further specific projects. These donations are acknowledged in writing through receipts, and when applicable, the receipts acknowledge the specific project for which the donation was made. All donations for specific projects are used for the specified projects and records are kept of the expenditures. In many cases, the donors, especially public agencies, require written expenditure details. Although the Trust has not received substantial gifts, the Trust would advise such a donor to seek independent legal and financial advice for such a gift.

- *Accurate Representations. All representations made in promotional, fundraising, and other public information materials are accurate and not misleading with respect to the organization's accomplishments, activities and intended use of funds. All funds are spent for the purpose(s) identified in the solicitation or as directed in writing by the donor.*

Typically, the Trust receives donations in response to project-specific proposals. These proposals typically include budgets, which are then tracked during the expenditure phase. Accordingly, the representations made by the Trust in promotional, fundraising, and other public information materials are specific with regards to each project, accurate and not misleading with respect to the organization's accomplishments, activities and intended use of funds. All funds received are spent for the purpose(s) identified in the proposal or as directed in writing by the donor.

- *Marketing Agreements. Prior to entering into an agreement to allow commercial entities to use the land trust's logo, name or properties, the land trust determines that these agreements will not impair the credibility of the land trust. The land trust and commercial entity publicly disclose how the land trust benefits from the sale of the commercial entity's products or services.*

The Trust does not allow commercial entities to use its logo or name. The Trust does not own, and

does not anticipate owning, land and therefore, commercial entities would not be able to use such land.

## 6. Standard 6: Financial and Asset Management and Fundraising

### Standard

*The land trust manages its finances and assets in a responsible and accountable way.*

### Practices

- *Annual Budget. The land trust prepares an annual budget that is reviewed and approved by the board, or is consistent with board policy. The budget is based on programs planned for the year. Annual revenue is greater than or equal to expenses, unless reserves are deliberately drawn upon.*

The Trust prepares and adopts an annual budget, typically at its annual Board meeting. The budget is based on planned expenditures, which are usually for project-based activities that the Trust has planned to implement during the following year. Annual revenue is projected, based on commitments and expected donations, and revenues are greater than projected expenses. The Trust has not experienced a deficit in its history.

- *Financial Records. The land trust keeps accurate financial records, in a form appropriate to its scale of operations and in accordance with Generally Accepted Accounting Principles (GAAP) or alternative reporting method acceptable to a qualified financial advisor.*

The Trust maintains accurate financial records in accordance with the GAAP standards. A qualified financial advisor periodically reviews financial records to insure that they meet acceptable financial reporting standards.

- *Financial Reports and Statements. The board receives and reviews financial reports and statements in a form and with a frequency appropriate for the scale of the land trust's financial activity.*

The Trust Board receives financial reports from the Trust's Treasurer at the annual meeting and as needs arise during the year in response to specific projects. Reports or other financial forecasts generated by the National Fish and Wildlife Foundation for endowments deposited with the Foundation are also presented to the Board at the annual meeting.

- *Financial Review or Audit. The land trust has an annual financial review or audit, by a qualified financial advisor, in a manner appropriate for the scale of the organization and consistent with state law.*

A Certified Public Accountant regularly audits the Trust. The Trust is not legally required to file audited financial statements with the state of California.

- *Internal System for Handling Money. The land trust has established a sound system of internal controls and procedures for handling money, in a form appropriate for the scale of the organization.*

The Trust has a relatively limited and project-focused budget. Funds used by the Trust consist of



either donations or endowments. When donations are received, they are recorded along with any donor requests and then deposited into the Trust's bank accounts. These funds are then used for plants, or other materials required for community projects. All endowment funds are deposited with NFWF in accordance with the Master Mitigation Agreement between the Trust and NFWF.

- *Investment and Management of Financial Assets and Dedicated Funds. The land trust has a system for the responsible and prudent investment and management of its financial assets, and has established policies on allowable uses of dedicated funds and investment of funds.*

Trust endowments, by far the largest sums accrued by the Trust, are deposited with NFWF, which manages and invests those funds in accordance the Master Mitigation Agreement (Attachment E), and NFWF's "Investment Policy Statement for Long-Term and 'Quasi-Endowment' Accounts Held by the National Fish and Wildlife Foundation". Other funds held by the Trust consist of either project-specific donations, which are then expended to implement a specific project, and limited funds (less than about \$20,000) are held in a standard checking account to pay for day-to-day administrative costs associated with Trust operation (insurance payments, etc.).

- *Funds for Stewardship and Enforcement. The land trust has a secure and lasting source of dedicated or operating funds sufficient to cover the costs of stewarding its land and easements over the long term and enforcing its easements, tracks stewardship and enforcement costs, and periodically evaluates the adequacy of its funds. In the event that full funding for these costs is not secure, the board has adopted a policy committing the organization to raising the necessary funds.*

The Trust does not hold title to land but does hold easements to protect important natural resources. Without exception, stewardship of these easements is financed by endowments held by NFWF. The amount of each endowment includes enforcement costs. As well, the easements themselves provide for collection of enforcement costs.

- *Sale or Transfer of Assets (Including Land and Easements). The land trust has established policies or procedures on the transfer or sale of assets, including real property.*

The policies and procedures for transferring conservation easements are provided for in the terms of the conservation easements, which generally require the Trust to transfer its interests to a qualified land trust or public agency if the Trust is no longer able to hold the easement. The Trust does not currently own any land or other substantial assets, and does not intend to own land or other substantial assets.

- *Risk Management and Insurance. The land trust assesses and manages its risks and carries liability, property, and other insurance appropriate to its risk exposure and state law. The land trust exercises caution before using its land to secure debt and in these circumstances takes into account any legal or implied donor restrictions on the land, the land trust's mission and protection criteria, and public relations impact.*

The Trust minimizes risk through a variety of strategies. First, the Trust does not carry or hold debt; all obligations are paid from identified revenue. The Trust does not hold land and does not, therefore, use land to secure debt. Finally, the Trust carries insurance to cover its directors and Board Members.

## **7. Standard 7: Volunteers, Staff and Consultants**

## Standard

*The land trust has volunteers, staff and/or consultants with appropriate skills and in sufficient numbers to carry out its programs.*

## Practices

- *Capacity. The land trust regularly evaluates its programs, activities and long-term responsibilities and has sufficient volunteers, staff and/or consultants to carry out its work, particularly when managing an active program of easements.*

The Trust uses volunteers in two capacities: as Board members (discussed separately in this document) and as partners in project-specific tasks. Typically, volunteers work with the Trust, and under the supervision of a qualified ecologist, in fall plantings and spring maintenance.



*Volunteers plant native vegetation at a Trust project in Moraga, CA (Fall 2014)*

The Trust has a long history of working with volunteers that come from communities that support natural or restored habitats. Where the Trust holds an easement, we use spring and fall community days to both enhance the habitats and directly involve the community in stewardship activities.

Learn more about the Trust's involvement with community stewardship at our website: [therestorationtrustonline.org/what-we-do/community-habitat-restoration](http://therestorationtrustonline.org/what-we-do/community-habitat-restoration).

The Trust maintains a tight focus on its core aims and the relationship of those aims to its easement management program. As noted elsewhere in the Standards and Practices, the Trust does not own or accept land in fee title but only accepts easements that meet specific goals within a relatively confined geographic area. As well, the Trust does not administer the funds for management of these easements but entrusts that task to the National Fish and Wildlife Foundation. Accordingly, the programs, activities and long-term responsibilities are relatively uniform and do not vary substantially among projects. This allows efficient allocation of volunteer resources (typically for spring and fall planting and maintenance as noted above) and evaluation of those resources, usually through questionnaires and direct communications with volunteers.

- *Volunteers. If the land trust uses volunteers, it has a program to attract, screen, train, supervise and recognize its volunteers.*

The Trust uses volunteers in its land stewardship and community programs. In these programs, the volunteers are typically community members who help to plant and maintain natural or restored habitats in local neighborhoods under the supervision of a qualified ecologist.

Volunteers are screened upon arrival at the work site and provided education and other training. During the work, volunteers are supervised by Trust staff and Board members who have the relevant ecological expertise and experience in volunteer supervision. Additionally, the work is conducted at relatively small sites.

- *Staff. If the land trust uses staff, each staff member has written goals or job descriptions and periodic performance reviews. Job duties or work procedures for key positions are documented to help provide continuity in the event of staff turnover.*

The Trust uses staff only for project-specific activities, e.g. community plantings and similar, limited, short-term projects that require only a day's effort. The goals and job descriptions are well-defined before beginning work as they consist of essentially the same activities in each case.

- *Availability of Training and Expertise. Volunteers and staff have appropriate training and experience for their responsibilities and/or opportunities to gain the necessary knowledge and skills.*

Staff used for community planting and similar projects have all worked in the field previously and understand the issues surrounding volunteer planting and site maintenance activities. Such experiences are common in the environmental field. Volunteers, which are typically community members, rarely have experience with habitat restoration. One of the primary purposes of community habitat restoration/planting activities is to introduce the volunteers to the benefits of habitat restoration and teach them how and when to plant native vegetation. Prior to each event, the Trust staff and experienced volunteers demonstrate proper techniques, identify safety issues and work to ensure the volunteers have a positive experience.

- *Board/Staff Lines of Authority. If the land trust has staff, the lines of authority, communication and responsibility between board and staff are clearly understood and documented. If the board hires an executive director (or chief staff person), the board delegates supervisory authority over all other staff to the executive director. (See section 3.)*

The Trust does not have permanent staff. As discussed above, staff is hired for specific events from a pool of experienced restoration ecologists and lines of authority are not an issue in these cases.

- *Personnel Policies. If the land trust has staff, it has written personnel policies that conform to federal and state law and has appropriate accompanying procedures or guidelines.*

The Trust does not have permanent full- or part-time staff and, accordingly, does not require written personnel policies.

- *Compensation and Benefits. If the land trust has staff, it provides fair and equitable compensation and benefits, appropriate to the scale of the organization.*

The Trust does not have permanent, full- or part-time staff. Staff is hired only as needed for specific events, and are paid a reasonable wage consistent with their current salaries at their full-time jobs.

- *Working with Consultants.* Consultant and contractor relationships are clearly defined, are consistent with federal and state law, and, if appropriate, are documented in a written contract. Consultants and contractors are familiar with sections of Land Trust Standards and Practices that are relevant to their work.

The Trust hires consultants for occasional specialized professional work, e.g. tax or accountancy consulting, easement valuations etc. Work is completed under a contract entered into between the Trust and consultant that clearly defines the relationship and is consistent with federal and state law. To the extent that is relevant to the contractual relationship, consultants and contractors are made familiar with sections of the Land Trust Standards and Practices.

## **8. Standard 8: Evaluating and Selecting Conservation Projects**

### **Standard**

*The land trust carefully evaluates and selects its conservation projects.*

### **Practices**

- *Identifying Focus Areas.* The land trust has identified specific natural resources or geographic areas where it will focus its work.

The Trust's has focused natural resource and geographic priorities. The Trust's primary objectives are to: (1) restore and manage aquatic and riparian dependent habitats located in primarily urban and suburban areas within central and northern California; (2) educate members of the public, private organizations, and other interested persons and organizations about these habitats; and (3) conduct scientific research to support these activities. The Trust's primary focus is on creeks, wetlands and similar habitats that are located on smaller parcels within urban or suburban settings, and generally will not accept easements over large areas that contain substantial upland habitats in rural or undeveloped settings. See Easement Acquisition Project Guidelines (Attachment F) for more information.

- *Project Selection and Criteria.* The land trust has a defined process for selecting land and easement projects, including written selection criteria that are consistent with its mission. For each project, the land trust evaluates its capacity to perform any perpetual stewardship responsibilities.

The Trust Easement Acquisition Project Guidelines inform and guide the evaluation of each potential project, including the availability of Trust resources to provide the necessary stewardship.

- *Federal and State Requirements.* For land and easement projects that may involve federal or state tax incentives, the land trust determines that the project meets the applicable federal or state requirements, especially the conservation purposes test of IRC §170(b).

The Trust's Easement Acquisition Project Guidelines require that any easement project that may involve federal or state tax incentives meets the applicable federal or state requirements, including the

conservation purposes test of IRC §170(h).

- *Public Benefit of Transactions.* The land trust evaluates and clearly documents the public benefit of every land and easement transaction and how the benefits are consistent with the mission of the organization. All projects conform to applicable federal and state charitable trust laws. If the transaction involves public purchase or tax incentive programs, the land trust satisfies any federal, state or local requirements for public benefit.

The Trust's Easement Acquisition Project Guidelines require that the Trust evaluate and document the public benefits of each easement acquisition and the consistency of the benefits with the Trust's mission and the conformance of the project with applicable state and federal charitable trust laws.

- *Site Inspection.* The land trust inspects properties before buying or accepting donations of land or easements to be sure they meet the organization's criteria, to identify the important conservation values on the property and to reveal any potential threats to those values.

The Trusts' Easement Acquisition Project Guidelines require a site inspection prior to preparation of any recommendations to the Board regarding acquisition of an easement.

- *Documenting Conservation Values.* The land trust documents the condition of the important conservation values and public benefit of each property, in a manner appropriate to the individual property and the method of protection.

The Trust documents the conservation values of every easement that it acquires and generally requires the conservation values to be enumerated in the easement document. Conservation values are documented by qualified biological/ecological professionals at both the project planning stage (prior to any acquisition decision) and during the subsequent monitoring stages.

- *Project Planning.* All land and easement projects are individually planned so that the property's important conservation values are identified and protected, the project furthers the land trust's mission and goals, and the project reflects the capacity of the organization to meet future stewardship obligations.

The Trust's Easement Acquisition Project Guidelines require that the Trust evaluate and document the conservation values of every easement acquisition and the consistency of the values with the Trust's mission. The Trust also documents the availability of Trust resources to provide necessary stewardship.

- *Evaluating the Best Conservation Tool.* The land trust works with the landowner to evaluate and select the best conservation tool for the property and takes care that the chosen method can reasonably protect the property's important conservation values over time. This evaluation may include informing the landowner of appropriate conservation tools and partnership opportunities, even those that may not involve the land trust.

The Trust prefers to acquire conservation easement interests, as defined by Sections 815 *et seq.* of the California Civil Code, and landowner's and other interested parties are made aware of this at the onset of project planning. Relying exclusively on conservation easements reduces the Trust's administrative burden and is compatible with the Trust's mission. The Trust will recommend that a landowner work with other entities if the landowner prefers an alternative conservation tool.

- *Evaluating Partnerships.* The land trust evaluates whether it has the skills and resources to protect the important conservation values on the property effectively, or whether it should refer the project to, or engage in a partnership

*with, another qualified conservation organization.*

The Trust evaluates each project to determine its compatibility with the Trust mission as well as the resources required to provide effective stewardship. Our instruments for completing these projects are limited to easement acquisitions and, accordingly, the resources required are readily computed based on past experience and specific project parameters, e.g. size of the easement area, types of resources involved, character of the neighboring properties, etc.

- *Partnership Documentation.* If engaging in a partnership on a joint acquisition or long-term stewardship project, agreements are documented in writing to clarify, as appropriate, the goals of the project, roles and responsibilities of each party, legal and financial arrangements, communications to the public and between parties, and public acknowledgement of each partner's role in the project.

The Trust does not engage in partnerships, joint acquisition or long-term stewardship projects. If the Trust engages in such partnerships in the future, agreements will be documented in writing to clarify, as appropriate, the goals of the project, roles and responsibilities of each party, legal and financial arrangements, communications to the public and between parties, public acknowledgement of each partner's role in the project, and other appropriate issues.

- *Evaluating Risks.* The land trust examines the project for risks to the protection of important conservation values (such as surrounding land uses, extraction leases or other encumbrances, water rights, potential credibility issues or other threats) and evaluates whether it can reduce the risks. The land trust modifies the project or turns it down if the risks outweigh the benefits.

At the planning stage, the Trust evaluates all projects for potential risks, including the protection of important conservation values and whether any such risks can be reduced. If there are substantial risks, which cannot be reduced to a level the Trust finds acceptable, the project will be modified or turned down.

- *Nonconservation Lands.* A land trust may receive land that does not meet its project selection criteria (see 8B) with the intent of using the proceeds from the sale of the property to advance its mission. If the land trust intends to sell the land, it provides clear documentation to the donor of its intent before accepting the property. Practices 4C, 9K and 9L are followed.

The Trust does not accept land that it intends to sell or otherwise transfer.

- *Public Issues.* A land trust engaging in projects beyond direct land protection (such as public policy, regulatory matters or education programs) has criteria or other standard evaluation methods to guide its selection of and engagement in these projects. The criteria or evaluation methods consider mission, capacity and credibility.

The Trust does not engage in projects that go beyond direct land protection. The educational programs the Trusts administers are focused on increasing awareness and stewardship among the community with regards to the importance of land protection.

## **9. Standard 9: Ensuring Sound Transactions**

*The land trust works diligently to see that every land and easement transaction is legally, ethically and technically sound.*

## Practices

- *Legal Review and Technical Expertise.* The land trust obtains a legal review of every land and easement transaction, appropriate to its complexity, by an attorney experienced with real estate law. As dictated by the project, the land trust secures appropriate expertise in financial, real estate, tax, scientific, and land and water management matters.

The Trust obtains a legal review by an experienced attorney for every land and easement transaction as a matter of practice. As necessary, the Trust also secures appropriate expertise in financial, real estate, and other specialized fields as these subjects become significant for easement acquisition or similar work.

- *Independent Legal Advice.* The land trust refrains from giving specific legal, financial and tax advice and recommends in writing that each party to a land or easement transaction obtain independent legal advice.

The Trust does not provide legal, financial, or tax advice to landowners or other parties. The Trust always recommends that each party to an easement transaction retain independent legal advice unless they are already represented by attorneys.

- *Environmental Due Diligence for Hazardous Materials.* The land trust takes steps, as appropriate to the project, to identify and document whether there are hazardous or toxic materials on or near the property that could create future liabilities for the land trust.

As part of its baseline report, the Trust reviews Phase 1 environmental studies and other information sources to identify hazardous materials on-site or in the vicinity of the project. In its easement decisions, the Trust practices due diligence with regards to hazardous or toxic materials to identify and document their presence and take steps to reduce future liabilities.

- *Determining Property Boundaries.* The land trust determines the boundaries of every protected property through legal property descriptions, accurately marked boundary corners or, if appropriate, a survey. If an easement contains restrictions that are specific to certain zones or areas within the property, the locations of these areas are clearly described in the easement and supporting materials and can be identified in the field.

The Trust reviews the site title report, local plat maps and supporting documents as part of its review for the baseline report. Any discrepancies between the title report and local plat maps (or other sources) are resolved with the land owner prior to acceptance of the easement. The Trust further determines and describes with supporting materials all property boundaries and easement restriction zones as part of the baseline report and ascertains the effects of these in its easement acquisition process.

- *Easement Drafting.* Every easement is tailored for the property according to project planning (see section 8) and: identifies the important conservation values protected and public benefit served; allows only permitted uses and/or reserved rights that will not significantly impair the important conservation values; contains only restrictions that the land trust is capable of monitoring; and is enforceable.

The Trust typically accepts easements that are granted to satisfy one or more regulatory permit

conditions; generally as a result of permits issued by the U.S. Army Corps of Engineers (Corps) or other resource agencies. Typically, the Trust uses the Corps' easement template to draft site-specific easements. In each case, the individual conservation values are described, the easement allows only permitted uses or reserved rights that will not significantly impair those conservation values, and includes restrictions the Trust has experience monitoring and are readily enforceable.

- *Documentation of Purposes and Responsibilities.* The land trust documents the intended purposes of each land and easement transaction, the intended uses of the property and the roles, rights and responsibilities of all parties involved in the acquisition and future management of the land or easement.

The Trust does not own, buy or sell land. The Trust does document the purposes, intended uses, and rights and responsibilities of all parties as part of its easement program. Documentation is provided in the baseline report, where the management discussion reviews the intended uses, and in the easement itself, which defines roles, rights and responsibilities.

- *Recordkeeping.* Pursuant to its records policy (see section 2), the land trust keeps originals of all irreplaceable documents essential to the defense of each transaction (such as legal agreements, critical correspondence and appraisals) in one location, and copies in a separate location. Original documents are protected from daily use and are secure from fire, floods and other damage.

The Trust has a Written Records Policy that requires that originals of irreplaceable documents be kept in a secure location protected from daily use and fire, floor and other damage. Copies are kept in paper and digital form and stored separately in the office in file folders and a separate server.

- *Title Investigation and Subordination.* The land trust investigates title to each property for which it intends to acquire title or an easement to be sure that it is negotiating with the legal owner(s) and to uncover liens, mortgages, mineral or other leases, water rights and/ or other encumbrances or matters of record that may affect the transaction. Mortgages, liens and other encumbrances that could result in extinguishment of the easement or significantly undermine the important conservation values on the property are discharged or properly subordinated to the easement.

The Trust investigates the title for every property for which it intends to acquire an easement. The property owner is correctly identified as part of the initial investigation and any discrepancy investigated. Any mortgage, lien, or other encumbrance that could undermine the project's conservation values is also reviewed during the baseline report stage and any issues may result in the Trust declining to take the easement.

- *Recording.* All land and easement transactions are legally recorded at the appropriate records office according to local and state law.

The Land Trust abides by local and state laws regarding easements and ensures that all easements or related transactions are legally recorded.

- *Purchasing Land.* If the land trust buys land, easements or other real property, it obtains a qualified independent appraisal to justify the purchase price. However, the land trust may choose to obtain a letter of opinion (see definitions) 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, the land trust ensures that its



*communications with the landowner are honest and forthright.*

The Trust does not purchase land, easements or other real property.

- *Selling Land or Easements.* If the land trust sells land or easements, it first documents the important conservation values, plans the project according to standard 8, and drafts protection agreements as appropriate to the property. The land trust obtains a qualified independent appraisal that reflects the plans for the project and protection agreements and justifies the selling price. (The land trust may choose to obtain a letter of opinion from a qualified real estate professional in the limited circumstance when a property has a very low economic value.) The land trust markets the property and selects buyers in a manner that avoids any appearance of impropriety and preserves the public's confidence in the land trust, and in the case of selling to an insider (see definitions) follows practice 4C. (See 6H for sales of other assets.)

The Trust does not sell land, easements or other property.

- *Transfers and Exchanges of Land.* If the land trust transfers or exchanges conservation land or easements, the land trust considers whether the new holder can fulfill the long-term stewardship and enforcement responsibilities, ensures that the transaction does not result in a net loss of important conservation values and, for donated properties, ensures that the transfer is in keeping with the donor's intent. If transferring to a party other than another nonprofit organization or public agency, the consideration is based on a qualified independent appraisal (or letter of opinion when the property has a very low economic value) in order to prevent private inurement or impermissible private benefit.

The Trust does not transfer or exchange land or easements at this time. In the rare case in which the Trust might consider transferring an easement, it would only be to another qualified land trust or public agency. In these cases, the Trust would follow the procedures contained within the easement and state law and would ensure that no conservation values are lost and that the donor's intents are followed.

## **10. Standard 10: Tax Benefits**

*The land trust works diligently to see that every charitable gift of land or easements meets federal and state tax law requirements.*

### **Practices**

- *Tax Code Requirements.* The land trust notifies (preferably in writing) potential land or easement donors who may claim a federal or state income tax deduction, or state tax credit, that the project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or any other federal or state requirements. The land trust on its own behalf reviews each transaction for consistency with these requirements.

The Trust typically accepts easements that are granted to satisfy one or more regulatory permit conditions, which may or may not qualify as a charitable gift. Such easements are granted by sophisticated landowners. As such, the Trust does not notify or advise granting parties regarding the state or federal tax consequences. If the Trust accepts an easement in a transaction that is not related to a regulatory permit condition, the Trust will notify the potential easement donor that the donation must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and/or other federal or state requirements to qualify for a tax deduction or tax credit.

- *Appraisals.* The land trust informs potential land or easement donors (preferably in writing) of the following:

*IRC appraisal requirements for a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000, including information on the timing of the appraisal; that the donor is responsible for any determination of the value of the donation; that the donor should use a qualified appraiser who follows Uniform Standards of Professional Appraisal Practice; that the land trust will request a copy of the completed appraisal; and that the land trust will not knowingly participate in projects where it has significant concerns about the tax deduction.*

The Trust does not accept land donations and is not a participant in evaluating the fair market value of the easement donations it receives. As these are typically the result of regulatory mitigation permits, tax benefits may or may not accrue and this is the responsibility of the donor to define. For the rare exception where the Trust might accept a donated easement, the Trust will notify potential easement donors of the need for an appraisal.

- *No Assurances on Deductibility or Tax Benefits.* The land trust does not make assurances as to whether a particular land or easement donation will be deductible, what monetary value of the gift the Internal Revenue Service (IRS) and/or state will accept, what the resulting tax benefits of the deduction will be, or whether the donor's appraisal is accurate.

The Trust does not accept land donations. For easement donations, the Trust does not make any assurances as to the tax value of the donation.

- *Donee Responsibilities — IRS Forms 8282 and 8283.* The land trust understands and complies with its responsibilities to sign the donor's Appraisal Summary Form 8283 and to file Form 8282 regarding resale of donated property when applicable. The land trust signs Form 8283 only if the information in Section B, Part 1, "Information on Donated Property," and Part 3, "Declaration of Appraiser," is complete. If the land trust believes no gift has been made or the property has not been accurately described, it refuses to sign the form. If the land trust has significant reservations about the value of the gift, particularly as it may impact the credibility of the land trust, it may seek additional substantiation of value or may disclose its reservations to the donor. (See section 5 for other gift substantiation requirements.)

The Trust does not accept land donations and does not buy or sell land. Accordingly, the Trust does not participate in the resale of donated property. As noted above, the Trust also does not make any representations as to the tax value of donated easements, as these are typically the result of regulatory processes.

## **11. Standard 11: Conservation Easement Stewardship**

*The land trust has a program of responsible stewardship for its easements.*

### **Practices**

- *Funding Easement Stewardship.* The land trust determines the long-term stewardship and enforcement expenses of each easement transaction and secures the dedicated or operating funds to cover current and future expenses. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose. (See Section 6.)

During the planning phase, the Trust identifies the stewardship and enforcement expenses associated with all properties and easements through development or adoption of a comprehensive long-term management plan and completion of a Property Analysis Record (PAR). The Trust uses the PAR to establish an endowment amount appropriate for the specific property and its stewardship. The Trust

accepts only easements that are accompanied by endowments that cover all pre-determined long-term stewardship and enforcement expenses.

- *Baseline Documentation Report.* For every easement, the land trust has a baseline documentation report (that includes a baseline map) prepared prior to closing and signed by the landowner at closing. The report documents the important conservation values protected by the easement and the relevant conditions of the property as necessary to monitor and enforce the easement. In the event that seasonal conditions prevent the completion of a full baseline documentation report by closing, a schedule for finalizing the full report and an acknowledgement of interim data [that for donations and bargain sales meets Treasury Regulations §1.170A-14(g)(5)(i)] are signed by the landowner at closing.

During the planning phase of all potential projects, the Trust completes baseline documentation (the baseline report) that describes important conservation values and conditions relevant to the management, monitoring and enforcement of the easement over the property.

- *Easement Monitoring.* The land trust monitors its easement properties regularly, at least annually, in a manner appropriate to the size and restrictions of each property, and keeps documentation (such as reports, updated photographs and maps) of each monitoring activity.

The Trust monitors its easements a minimum of 2 times per calendar year and prepares an annual report for each easement. Annual reports summarize relevant monitoring data; topics may include: hydrology (ponding and saturation; flow conditions, etc.), vegetation (composition, diversity, the presence of noxious exotics, etc.), wildlife use, soil conditions and other parameters.

- *Landowner Relationships.* The land trust maintains regular contact with owners of easement properties. When possible, it provides landowners with information on property management and/or referrals to resource managers. The land trust strives to promptly build a positive working relationship with new owners of easement property and informs them about the easement's existence and restrictions and the land trust's stewardship policies and procedures. The land trust establishes and implements systems to track changes in land ownership.

The Trust believes that developing a positive working with landowners and other stakeholders is critical to project success. The Trust provides landowners with a copy of the annual monitoring report and other relevant monitoring data. Additionally, the Trust's community education and stewardship programs are completed with landowner involvement, fostering and providing communication opportunities. The Trust also tracks and documents changes in land ownership.

- *Enforcement of Easements.* The land trust has a written policy and/or procedure detailing how it will respond to a potential violation of an easement, including the role of all parties involved (such as board members, volunteers, staff and partners) in any enforcement action. The land trust takes necessary and consistent steps to see that violations are resolved and has available, or has a strategy to secure, the financial and legal resources for enforcement and defense. (See sections 6 and 11)

If the terms of an easement are violated, the Trust will follow the procedures set forth in the easement document, which generally includes providing the landowner with notice and an opportunity to cure the violation, and notifying specific federal and/or state regulatory agencies of a violation. If the violation is not cured, the Trust may take legal action and it has the financial and legal resources to address a violation. The Trust also uses an easement template supplied by the U.S. Army Corps of Engineers that details the roles of agency staff and the Trust in enforcement.

- *Reserved and Permitted Rights and Approvals.* The land trust has an established procedure for responding to landowner required notices or requests for approvals in a timely and consistent manner, and has a system to track notices, approvals and the exercise of any significant reserved or permitted rights.

The Trust responds to landowner required notices or requests promptly and consistently and all notices and approvals are stored according to the easement requirements and the Trust's Written Records Policy.

- *Contingency Plans/Backups.* The land trust has a contingency plan for all of its easements in the event the land trust ceases to exist or can no longer steward and administer them. If a backup grantee is listed in the easement, the land trust secures prior consent of the backup grantee to accept the easement. To ensure that a backup or contingency holder will accept an easement, the land trust has complete and accurate files and stewardship and enforcement funds available for transfer. (See section 11.)

The easement template that the Trust uses has contingency requirements should the Trust cease to exist. The easement template has been approved by the Corps and other pertinent agencies. The Trust maintains complete and accurate files to ensure that transfers occur smoothly.

- *Contingency Plans for Backup Holder.* If a land trust regularly consents to being named as a backup or contingency holder, it has a policy or procedure for accepting easements from other land trusts and has a plan for how it will obtain the financial resources and organizational capacity for easements it may receive at a future date. (See section 11.)

The Trust is not listed as a contingency holder for any easement.. Should the opportunity to be a contingency holder be presented, the Trust's Board has the knowledge and resources to determine the organization's capacity to manage the property and to draft a policy and procedure for accepting the property.

- *Amendments.* The land trust recognizes that amendments are not routine, but can serve to strengthen an easement or improve its enforceability. The land trust has a written policy or procedure guiding amendment requests that: includes a prohibition against private inurement and impermissible private benefit; requires compliance with the land trust's conflict of interest policy; requires compliance with any funding requirements; addresses the role of the board; and contains a requirement that all amendments result in either a positive or not less than neutral conservation outcome and are consistent with the organization's mission.

The Trust generally accepts only easements that are the result of regulatory procedures. These easements have specific procedures for amendments and generally all amendments require approval by the signatory agencies. Where a landowner or agency submits an amendment request, the Trust will facilitate review of such a request by the pertinent parties and conduct its own review. However, amendments may only occur with a written instrument signed by grantor and grantee and amendments shall comply with Section 815 et seq. of the California Civil Code, and shall not affect the easement's perpetual duration.

- *Condemnation.* The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation and the IRC, and has appropriate documentation of the important conservation values and of the percentage of the full value of the property represented by the easement. The land trust works diligently to prevent a net loss of conservation values.

The Trust understands the potential for condemnation and its rights and obligations. The Trust has documentation of property and conservation values and works to protect the loss of these property values.

- *Extinguishment.* In rare cases, it may be necessary to extinguish, or a court may order the extinguishment of, an easement in whole or in part. In these cases, the land trust notifies any project partners and works diligently to see that the extinguishment will not result in private inurement or impermissible private benefit and to prevent a net loss of important conservation values or impairment of public confidence in the land trust or in easements.

In the rare case of a partial or entire easement extinguishment the Trust shall notify all affected parties. Additionally, the Trust shall work to preserve the conservation values and prevent impermissible private benefit and private inurement.

## **12. Standard 12: Fee Land Stewardship**

*The land trust has a program of responsible stewardship for the land it holds in fee for conservation purposes.*

### **Practices**

- *Funding Land Stewardship.* The land trust determines the immediate and long-term financial and management implications of each land transaction and secures the dedicated and/or operating funds needed to manage the property, including funds for liability insurance, maintenance, improvements, monitoring, enforcement and other costs. If funds are not secured at or before the completion of the transaction, the land trust has a plan to secure these funds and has a policy committing the funds to this purpose.

The Trust does not hold land in fee and does not plan on doing so. See section 11 for Trust policies on funding easement stewardship.

- *Stewardship Principles.* The land trust establishes general principles to guide the stewardship of its fee-owned properties, including determining what uses are and are not appropriate on its properties, the types of improvements it might make and any land management practices it will follow.

The Trust does not hold land in fee and does not plan on doing so.

- *Land Management.* The land trust inventories the natural and cultural features of each property prior to developing a management plan that identifies its conservation goals for the property and how it plans to achieve them. Permitted activities are compatible with the conservation goals, stewardship principles and public benefit mission of the organization. Permitted activities occur only when the activity poses no significant threat to the important conservation values, reduces threats or restores ecological processes, and/or advances learning and demonstration opportunities.

The Trust does not hold land in fee and does not plan on doing so. See above for section 11 Trust policies on baseline documentation and easement monitoring completed as part of its stewardship.

- *Monitoring Land Trust Properties.* The land trust marks its boundaries and regularly monitors its properties for potential management problems (such as trespass, misuse or overuse, vandalism or safety hazards) and takes action to rectify such problems.

The Trust does not hold land in fee and does not plan on doing so. See section 11 for Trust policies on monitoring of its easement properties.

- *Land Stewardship Administration.* The land trust performs administrative duties in a timely and responsible manner. This includes establishing policies and procedures, keeping essential records, filing forms, paying insurance, paying any taxes and/or securing appropriate tax exemptions, budgeting, and maintaining files.

The Trust does not hold land in fee and does not plan on doing so. See previous sections for information on Administrative tasks.

- *Community Outreach.* The land trust keeps neighbors and community leaders informed about its ownership and management of conservation properties.

The Trust does not hold land in fee and does not plan on doing so. See section 11 for Trust policies on landowner relationships at its easement properties.

- *Contingency Backup.* The land trust has a contingency plan for all of its conservation land in the event the land trust ceases to exist or can no longer manage the property. To ensure that a contingency holder will accept the land, the land trust has complete and accurate files and stewardship funds available for transfer.

The Trust does not hold land in fee and does not plan on doing so. See section 11 for Trust policies on transfer of its easement properties should this be required.

- *Nonpermanent Holdings.* When a land trust holds fee land with the intention to sell or transfer the land, the land trust is open about its plans with the public and manages and maintains the property in a manner that retains the land trust's public credibility. (See 8L.)

The Trust does not hold land in fee and does not plan on doing so.

- *Condemnation.* The land trust is aware of the potential for condemnation, understands its rights and obligations under condemnation, and works diligently to prevent a net loss in conservation values.

The Trust does not hold land in fee and does not engage or participate in condemnation proceedings. See section 11 for Trust policies on easement condemnation.