

The Santa Fe Conservation Trust

GIFT ACCEPTANCE POLICIES AND GUIDELINES

Policy 2011-11 = 01

Adopted on: December 1, 2011

Updated: 04-24-2018

Santa Fe Conservation Trust, sometimes also referred to hereinafter as “SFCT”, a not- for-profit organization organized under the laws of the State of New Mexico and recognized as a tax-exempt 501(c)(3) organization by the IRS according to 26 USC, encourages the solicitation and acceptance of gifts to or for the benefit of SFCT for purposes that will help SFCT to further and fulfill its mission. The mission of SFCT is to preserve the spirit of place among the communities of northern New Mexico by protecting open spaces and critical wildlife habitat, by creating trails and by protecting the traditional landscapes of our diverse cultures for the public benefit. The following policies and guidelines govern acceptance of gifts made to SFCT or for the benefit of any of its programs.

I. *Purpose of Policies and Guidelines*

The Board of Directors of SFCT (BOD) and its staff solicit current and deferred gifts from individuals, corporations, and foundations to secure the future growth and mission of SFCT. These policies and guidelines govern the acceptance of gifts by SFCT and provide guidance to prospective donors and their advisors when making gifts to SFCT. The provisions of these policies shall apply to all gifts received by SFCT for any of its programs.

II. *Use of Legal Counsel*

SFCT shall seek the advice of legal counsel in matters relating to acceptance of gifts when appropriate. Review by counsel is recommended for:

- 1) Closely held stock transfers subject to restrictions or buy-sell agreements.
- 2) Documents naming SFCT as Trustee.
- 3) Gifts involving contracts, such as bargain sales or other documents requiring SFCT to assume an obligation.
- 4) Transactions with potential conflict of interest.
- 5) Other instances in which use of counsel is deemed appropriate by the gift acceptance committee.

III. *Conflict of Interest*

SFCT will urge all prospective donors to seek the assistance of independent personal, legal, and financial advisors in matters relating to their gifts and the resulting tax and estate planning consequences. All gifts will conform to the current standing Conflict of Interest Policy. In addition, all related parties will sign a conflict of interest form.

IV. *Restrictions on Gifts* (Other than conservation property gifts)

SFCT will accept unrestricted gifts, and gifts for specified programs and purposes, provided that such gifts are not inconsistent with its stated mission, purposes, and priorities. SFCT will not accept gifts that are too restrictive in purpose. Examples of gifts that are too restrictive are those that violate the terms of the corporate charter, gifts that are too difficult to administer, or gifts that are for purposes outside the mission of SFCT. Restricted gifts are booked into a restricted gift account and tracked accordingly. All grants are treated as individual contracts and reported upon as required by the funder.

Unrestricted planned gifts (#8-14 in Section VI) will be placed at the discretion of SFCT's Board in an unrestricted account unless otherwise directed by the Gift Acceptance Committee. All final decisions on the restrictive nature of a gift, and its acceptance or refusal, shall be made by the Gift Acceptance Committee of the SFCT.

V. *The Gift Acceptance Committee*

Upon a donor's offer of a gift, the Chair of the Board shall appoint a temporary committee to review the acceptance of the gift. The Gift Acceptance Committee ("GAC") shall consist of:

- 1) the Chair of the Board of SFCT;
- 2) the Vice-Chair of the Board of SFCT;
- 3) the Treasurer of SFCT;
- 4) the Secretary of SFCT;
- 5) the Chair of the Development Committee of SFCT; and
- 6) ex-officio members including the executive director and the development director of SFCT.

The Executive Director is responsible for all general communications with the donor and for presenting all the required information to the GAC. The Executive Director is authorized to accept as a gift without action by the committee the following gifts:

- Unrestricted cash gifts except large amounts of currency of \$10,000 or more.
- All unrestricted gifts of publicly traded securities.
- Tangible Personal Property especially if useful for general operations such as computer equipment or furniture.

The GAC is charged with the responsibility of reviewing restricted gifts of \$20,000 or more proposed to SFCT, properly screening, accepting or rejecting those gifts, and making recommendations to the Board on gift acceptance issues when appropriate.

VI. *Types of Gifts*

The following gifts are acceptable but not intended to represent an exclusive list of appropriate gifts:

- Unrestricted cash gifts over \$10,000□
- Securities
- Real Estate
- Remainder Interests in Property
- Oil, Gas, and Mineral Interests
- Bargain Sales
- Life Insurance
- Charitable Gift Annuities
- Charitable Remainder Trusts
- Charitable Lead Trusts
- Retirement Plan Beneficiary Designations
- Bequests
- Life Insurance Beneficiary Designations

The GAC of SFCT shall make the final determination on the acceptance or rejection of gifts of all forms and inform the Board of SFCT of such determinations in a timely manner. Consideration of whether a sizable gift in any given year will jeopardize SFCT's status as a public charity shall always be given, shall seek to avoid jeopardizing such status. The following criteria govern the acceptance of each gift form:

1) **Cash.** Cash is acceptable and checks shall be made payable to "Santa Fe Conservation Trust" or "SFCT", shall appropriately identify the donor or donors and be delivered to the Executive Director at SFCT's administrative offices. Gifts may also be made by credit card, PayPal, or other electronic means. **Pledges:** a "pledge to give" that is made in writing will be booked in the SFCT financials for the fiscal year in which it will be paid. Staff can ask for confirmation of the pledges in emails and responses in email form are acceptable. If a donor makes a multi-year pledge in writing, only the amount for the current fiscal year will be booked. SFCT Bookkeeper will keep a pledge file of all pending written pledges to refer to when budgeting is underway.

2) **Tangible Personal Property.** All other gifts of tangible personal property shall be examined in light of the following criteria:

- Does the property fulfill the mission of SFCT?
- Is the property marketable?
- Are there any undue restrictions on the use, display, or sale of the property?
- Are there any carrying costs for the property?

3) **Securities.** SFCT can accept both publicly traded securities and closely held securities.

- Publicly Traded Securities. Marketable securities may be transferred to an account maintained at one or more brokerage firms or delivered physically with the transferor's signature or stock power attached. As a general rule, all marketable securities shall be sold upon receipt unless otherwise directed by the Finance and Audit Committee. In some cases, marketable securities may be restricted by applicable securities laws; in such instance the final determination on the acceptance of the restricted securities shall be made by the gift acceptance committee of SFCT.
- Closely Held Securities. Closely held securities, which include not only debt and equity positions in non-publicly traded companies but also interests in limited partnerships and limited liability companies, or other ownership forms, can be accepted. However, gifts must be reviewed prior to acceptance to determine that
 - there are no restrictions on the security that would prevent SFCT from ultimately converting it to cash;
 - the security is marketable; and
 - the security will not generate any undesirable tax consequences for SFCT.

If potential problems arise on initial review of the security, further review and recommendation by an outside professional may be sought before making a final decision on acceptance of the gift. The gift acceptance committee of SFCT with the advice of legal counsel shall make the final determination on the acceptance of closely held securities when necessary. Every effort will be made to sell non-marketable securities as quickly as possible.

In the event of any conflict in the above, the Investment Policy Guidelines of the SFCT shall prevail.

4) **Real Estate.** Gifts of real estate may include developed property, undeveloped property, or gifts subject to a prior life interest. Prior to acceptance of real estate, SFCT shall require an initial environmental review of the property by a qualified

member of SFCT's staff to ensure that the property has no environmental damage or potential liability. In the event that the initial inspection reveals a potential problem, SFCT shall retain a qualified inspection firm to conduct an environmental audit. The cost of the environmental audit shall generally be an expense of the donor. When appropriate, a title insurance binder shall be obtained by SFCT prior to the acceptance of the real property gift. The cost of this title binder shall generally be an expense of the donor. Prior to acceptance of the real property, the gift shall be approved by the gift acceptance committee with the advice of SFCT's legal counsel. Criteria for acceptance of the property shall include:

- Is the property useful for the purposes of SFCT?
- Is the property marketable?
- Are there any restrictions, reservations, easements, or other limitations associated with the property?
- Are there carrying costs, which may include insurance, property taxes, mortgages, or notes, etc., associated with the property?
- Does the SFCT have the resources to meet future carrying costs?
- Does the environmental audit reflect that the property is not damaged?

5) Remainder Interests in Property. SFCT will accept a remainder interest in a personal residence, farm, or vacation property subject to the provisions of paragraph 4 above. The donor or other occupants may continue to occupy the real property for the duration of their stated life or lives. Upon termination of the life interest, SFCT may use the property or reduce it to cash. Where SFCT receives a gift of a remainder interest, expenses for maintenance, real estate taxes, insurance are to be paid by the donor or life tenant(s). The SFCT will not accept a gift of mortgaged real estate subject to a life estate.

6) Oil, Gas, and Mineral Interests. SFCT may accept oil and gas property interests, when appropriate. Prior to acceptance of an oil and gas interest the gift shall be approved by the gift acceptance committee, if necessary, with the advice of SFCT's legal counsel. Criteria for acceptance of the property shall include:

- Gifts of surface rights should have a value of \$20,000 or greater.
- Gifts of oil, gas, and mineral interests should generate at least \$3,000 per year in royalties or other income (as determined by the average of the three years prior to the gift).
- The property should not have liabilities or other considerations that make receipt of the gift inappropriate

- A working interest is rarely accepted. A working interest may only be accepted where when there is a plan to minimize potential liability and tax consequences.
- The property should undergo an environmental review to ensure that SFCT will have no current or potential exposure to environmental liability.

7) Bargain Sales. SFCT will enter into a bargain sale arrangement in instances in which the bargain sale furthers the mission and purposes of SFCT. All bargain sales must be reviewed and recommended by the gift acceptance committee and approved by the Board of Directors. Factors used in determining the appropriateness of the transaction include:

- SFCT must obtain an independent appraisal substantiating the value of the property.
- If SFCT assumes debt with the property, the debt ratio must be less than 50% of the appraised market value.
- SFCT must determine that it will use the property or alternately, that there is a market for sale of the property, allowing sale within 12 months of receipt.
- SFCT must calculate and approve the costs to safeguard, insure, and pay expenses of the property (including property tax, if applicable) during the holding period.

8) Life Insurance. SFCT must be named as both beneficiary and irrevocable owner of an insurance policy before a life insurance policy can be recorded as a gift. The gift is valued at its interpolated terminal reserve value, or cash surrender value, upon receipt. Donors are encouraged to consider a gift of fully paid-up life insurance policies.

If the donor contributes future premium payments, SFCT will include the amount of the additional premium payment as a gift in the year that it is made. The minimum death benefit to be considered will be \$250,000 with a written agreement with the donor to pay all premiums due for at least 10 years. If the donor does not elect to continue to make gifts to cover premium payments on the life insurance policy, SFCT may:

- continue to pay the premiums;
- convert the policy to paid up insurance;
- surrender the policy for its current cash value; or
- sell the policy in the secondary market.

The policy being offered must be reviewed by an insurance expert prior to acceptance. In order to qualify for a Federal tax deduction, the donor must obtain a formal appraisal as required by the IRS (Pension Protection Act of 2006). The

donor should be advised that the value of the gift should be the appraised value which might not be the cash surrender value.

9) **Charitable Gift Annuities.** SFCT may offer charitable gift annuities limited to residents of New Mexico. SFCT will not accept real estate, tangible personal property, or any other illiquid asset in exchange for current charitable gift annuities. SFCT may accept real estate, tangible personal property, or other illiquid assets in exchange for deferred gift annuities so long as there is at least a 5-year period before the commencement of the annuity payment date, the value of the property is reasonably certain, and the GAC approves the arrangement. Funds contributed in exchange for a gift annuity shall be set aside and invested during the term of the annuity payments. Once those payments have terminated, the funds representing the remaining principal contributed in exchange for the gift annuity shall be transferred to SFCT's general long-term Board restricted funds, or to such specific fund as designated by the donor. The Investment Policy Guidelines of the SFCT shall determine the manner in which these funds are invested.

- The minimum gift for funding is \$10,000. SFCT's GAC may make exceptions to this minimum. The minimum age for life income beneficiaries of a gift annuity shall be 65 at the time payments begin. Where a deferred gift annuity is offered, the minimum age for life income beneficiaries shall be 55 but in no instance shall payments begin prior to age 65. No more than 2 life income beneficiaries will be permitted for any gift annuity. Annuity payments may be made on a quarterly, semi-annual, or annual schedule. SFCT's GAC may approve exceptions to this payment schedule.

10) **Charitable Remainder Trusts.** SFCT welcomes designation as a remainder beneficiary of a charitable remainder trust, but will not accept appointment as trustee. Donors intending to create such a trust are encouraged to review any contemplated restrictions on the use of the remainder or the income with the SFCT before establishing the trust.

11) **Charitable Lead Trusts.** SFCT may accept a designation as income beneficiary of a charitable lead trust. The Board of SFCT will not accept an appointment as Trustee of a charitable lead trust.

12) **Deferred Compensation/Retirement Plan Beneficiary Designations.** Donors and supporters of SFCT will be encouraged to name SFCT as a beneficiary of their retirement plans including but not limited to IRA's, 401(k)'s, 403 (b)'s and other plans. Such designations will not be recorded as gifts to SFCT until such time as the gift is irrevocable. When the gift is irrevocable, but is not

due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

13) **Bequests.** Donors and supporters of SFCT will be encouraged to make bequests to SFCT under their wills and trusts. Such bequests will not be recorded as gifts to SFCT until such time as the gift is irrevocable. When the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

14) **Life Insurance Beneficiary Designations.** Donors and supporters of SFCT will be encouraged to name SFCT as beneficiary or contingent beneficiary of their life insurance policies. Such designations shall not be recorded as gifts to SFCT until such time as the gift is irrevocable. Where the gift is irrevocable, but is not due until a future date, the present value of that gift may be recorded at the time the gift becomes irrevocable.

VII. *Miscellaneous Provisions*

Securing appraisals, environmental review, assessment or remediation costs and legal fees for gifts to SFCT.

The cost of securing appraisals, environmental review, assessment or remediation costs and legal fees for gifts to the SFCT shall be borne by the Donor. The GAC reserves the right to determine whether the cost to secure an appraisal, environmental review, assessment or remediation (where required) and independent legal counsel for any gifts proposed to be made to or for the benefit of SFCT will be borne by the Trust or the Donor.

Valuation of gifts for development purposes.

SFCT will record a gift “received” at its valuation for gift purposes on the date of gift. The date of a gift is the date on the check or credit card transaction. The date for a security gift is the date the security is received.

Responsibility for IRS Filings upon sale of gift items.

The staff of SFCT is responsible for preparation and filing IRS Form 8282 upon the sale or disposition of any asset sold within three years of receipt by SFCT when the charitable deduction value of the item is more than \$5,000 or such amount as designated by the IRS requiring such filing. SFCT must currently file this form within 125 days of the date of sale or disposition of the asset. The GAC will verify that the filing was complete and timely. Form 8282 with Filing Instructions is attached as an Appendix.

Acknowledgement promptly of all gifts made to SFCT and compliance with the current IRS requirements in acknowledgement of such gifts shall be the responsibility of the staff of SFCT.

IRS Publication 561 Determining the Value of Donated Property and IRS Publication 526 Charitable Contributions are attached as an Appendices.

Periodic review of this policy.

The Board of Directors is responsible for periodic review of this policy at a minimum of every 2 years.

VIII. *Changes to Gift Acceptance Policies*

These policies and guidelines have been reviewed and recommended to the Board by the gift acceptance committee of SFCT. The GAC of SFCT and Board of SFCT must approve any changes to these policies.

IX. *Appendices & References*

Appendix A. Gifts of Non-Conservation Real Estate

Reference 1. IRS Publication 561 Determining the Value of Donated Property.

Reference 2. IRS Publication 526 Charitable Contributions.

Approved on the 24 day of April, 2018.



Sandra Massengill, Secretary, SFCT