
Land Preservation Policy



The Conservation Foundation

Adopted January 25, 2006
Revised February 27, 2013

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THE CONSERVATION FOUNDATION

LAND PRESERVATION POLICY

Adopted on January 25, 2006

PURPOSE

It is a purpose of The Conservation Foundation to actively protect and preserve land in conformance with its stated mission and goals.

The Foundation's criteria for preserving land are:

- A. The primary geographic areas in which the Foundation will concentrate its activities are DuPage, Kane, Kendall, and Will Counties.
- B. The Foundation's preservation priorities are:
 - 1. Land along rivers and streams, and lands significant to watershed protection;
 - 2. Large wooded areas, prairies and wetlands;
 - 3. Areas serving as buffers to forest preserves and other preserved areas;
 - 4. In-holdings in already-preserved property;
 - 5. Property that provides connections to other parcels of preserved land.
- C. The Foundation will seek to protect properties with the following characteristics:
 - 1. Natural ecosystems or unique natural features;
 - 2. Freshwater resources such as floodplains, aquifers, stream corridors, and other lands that protect watersheds;
 - 3. Features of educational, scenic, recreational and/or scientific value.
- D. The Foundation will seek to protect properties that are large enough, or adjoining land already protected, so that it is likely that their conservation values will remain intact even if adjacent properties are developed.
- E. The Foundation will seek to protect properties that benefit the public in ways such as the encouragement of sound land use planning, promotion of open space conservation, and the furtherance of wise stewardship of natural resources.
- F. The Foundation will seek to protect properties in partnership with appropriate conservation agencies and organizations. The Foundation will work with partners that have expressed a desire, and possess the financial resources, to be the ultimate owner of the property. Where feasible, the Foundation will obtain written agreement outlining the terms under which the property will be transferred to the partner.
- G. The Foundation will not acquire or hold property that poses greater financial or organizational burdens than benefits.
- H. A "Project Selection Criteria Checklist for Land and Conservation Easement Acquisitions" (See Appendix H) form will accompany all projects undertaken on behalf of the Foundation.

- I. Assisting public agencies or other not-for-profit land conservation organizations with their land acquisition programs can also further the Foundation's mission. In order to preserve the financial integrity of the organization, the Foundation may charge a fee for facilitating and/or negotiating with landowners.
- J. It is in the interest of the Foundation to avoid conflicts of interest or the appearance thereof. Transactions with present or past board members, staff members, major donors or members of the Foundation's Advisory Council or Leadership Board will be conducted according to the same standards and using the same procedures as transactions with the general public.
- K. It is critical that the Foundation maintain its credibility with its members, donors, stakeholders and the general public. Therefore,
 - a. the Foundation shall establish procedures for all potential land and easement donations which assure professional, honest and ethical transfer of interest held by the donor. Every potential donor shall be provided with a written copy of these procedures.
 - b. if, in the course of due diligence, board or staff members become aware that the value of the gift being claimed by a land or easement donor is suspect, the Foundation shall seek additional substantiation of the value prior to accepting the land or easement. If, upon further examination, it is determined that the acceptance of the gift may harm the reputation and/or the credibility of the organization, the Board will refuse the gift.

Appendix A

CONSERVATION EASEMENTS

Establishing an Easement Defense Fund for Monitoring and Defending Conservation Easements

Conservation easement projects will be conducted according to the “Project Selection Criteria” (See Appendix H). A “Checklist for Conservation Easement Transactions” (Appendix J) shall accompany each project.

It shall be the policy of The Conservation Foundation to find, whenever practical, a governmental entity or nonprofit organization to hold conservation easements offered to or acquired by the Foundation. In cases where the Foundation decides to hold an easement, appropriate steps shall be taken to protect the financial interests of the Foundation. Those steps may include providing for an endowment to cover costs arising from holding the easement.

1. When it accepts a conservation easement, The Conservation Foundation assumes the legal responsibility to uphold the terms of the easement--- in perpetuity. To care properly for an easement, it is necessary to monitor the easement and to be prepared to enforce its terms. At the least, this will require a limited amount of staff time. In the worst case, it may be necessary to defend the terms of an easement through legal action.
2. The Conservation Foundation shall seek an **easement defense fund** for land over which it will hold a conservation easement. The amount of the **fund** will be determined on a case by case basis. The **fund** can be obtained from the donor or through fund raising efforts as needed. The **fund** can be a gift or bequest of cash or securities. Landowners contemplating a conservation easement shall receive a document describing in detail the need for **a fund** that will cover the monitoring and enforcement expenses of the easement as well as the landowner’s responsibility toward providing the **fund**.
3. Each conservation easement shall have attached to it a Management Plan that specifies goals and objectives that ensure the continued existence of the conservation values that the easement is in place to protect. The funding, roles and responsibilities regarding the management shall be defined in the Management Plan.
4. Conservation easements may be amended from time to time, in accordance with the Foundation’s “Conservation Easement Amendment Policy” (see section below) and applicable state and federal laws and regulatory guidelines.

Legal and Financial Matters

The Conservation Easement Donation Template Letter will be sent to the landowner that clearly explains our role, our interest and the need for their own expert tax and legal advisors. Potential conservation easement donors shall be informed in writing of the following:

- A. The Conservation Foundation does not provide legal or financial advice. The landowner needs to obtain their own tax and legal advisors.
- B. In order to qualify for income tax deductions, the project must meet the requirements of IRC 170 and the accompanying Treasury Department regulations and/or any other federal or state requirements.
- C. The Internal Revenue Code requires appraisals for land or easement donations valued at more than \$5,000 to be prepared by a qualified appraiser and be in accordance with the Uniform

Standards of Professional Appraisal Practice, and that appraisals must be conducted within 60 days of the recordation of the land transfer or conservation easement.

- D. The Foundation requires a copy of the completed appraisal.
- E. The donor is responsible for providing the appraisal.
- F. The Foundation makes no assurances as to whether a particular land or easement donation will be deductible or whether the donor's appraisal is accurate.
- G. The Foundation will sign Form 8283 only when the entire form has been completed.

Extinguishing Conservation Easements

It is the policy of The Conservation Foundation to maintain, monitor and defend conservation easements in perpetuity. Realizing that conditions change over time, there may be a time when the original conservation values that the easement was put in place to protect no longer exist. In that event, and if the landowner agrees, the Foundation has two options: it can amend the easement to account for other conservation values, or it could agree to have the easement extinguished by an appropriate court of law.

Transferring Conservation Easements

It is the policy of The Conservation Foundation to maintain, monitor and defend conservation easements in perpetuity. However, if the Foundation finds that duties relating to monitoring and defending conservation easements are impossible to carry out or threaten the existence of the organization, it shall seek to transfer the conservation easement to a public agency or another not-for-profit land conservation organization. For every easement the Foundation seeks to hold, staff shall seek out an appropriate agency or organization to be named as a backup holder, and, once a willing agency or organization is identified, include the organization's contact information as a backup holder. If a transfer of the easement to another organization is to be made, the Foundation's Board of Trustees shall approve the transfer. Staff shall notify the conservation easement landowner according to provisions in the easement.

Should another organization seek to name The Conservation Foundation as a backup holder, or to transfer the responsibilities of a conservation easement to the Foundation, staff shall perform its normal due diligence including:

- Ensuring the easement adheres to all relevant provisions in the Land Preservation Policy;
- Ensuring that an appropriate endowment accompanies the easement;
- Seeking legal counsel regarding the conservation easement document;
- Seeking approval from the Board of Trustees to accept the easement.

Conservation Easement Amendments

The success of The Conservation Foundation's conservation easement program is dependent on landowner confidence that the Foundation will meet its obligation to monitor and enforce the terms of its easements. This confidence would be seriously eroded if the Foundation allowed modifications of its conservation easements that reduce the conservation values of the protected land. Easement amendments could also conflict with policies of the Internal Revenue Service.

Therefore, it is the policy of The Conservation Foundation to hold and enforce its conservation easements

as written. As such, it will permit amendments to easements only in exceptional circumstances. It is the expressed intent that this policy be based on the premise that an amendment reflect a change for the better. The amendment must never result in a net degradation of the conservation values the easement is designed to protect. Any request for an easement amendment will be reviewed according to the procedures set forth in this policy, and will be implemented where the Board of Trustees determines that:

- 1) The requested modification is warranted under one or more of the Purposes set forth below;
- 2) There are no feasible alternatives available to achieve that purpose; and
- 3) It is the minimum change necessary to satisfy that purpose.

Unless the amendment is requested by The Conservation Foundation, the landowner requesting the amendment shall pay all staff costs for the amendment, whether or not the request is approved; and, if approved, all additional costs for its implementation, if any.

Purpose of Requested Amendment

The Conservation Foundation will consider amendments to easements only if they satisfy one or more of the following circumstances:

- 1) **Enhanced protection.** The proposed amendment would significantly enhance the resource protection of the easement.
- 2) **Prior agreement.** In a few cases, a conservation easement may have a specific provision allowing modification of the easement at a future date under specific circumstances. Such agreements must be set forth in the conservation restriction document or in a separate document at the time the conservation agreement was executed.
- 3) **Correction of an error or ambiguity.** The Foundation may authorize an amendment to correct an error or oversight made at the time the conservation easement was executed. This may include, but is not limited to, a misspelling, correction of a legal description, inclusion of standard language or exhibits unintentionally omitted, and clarification of ambiguous language or obsolete terms.
- 4) **Clarification or upgrade of easements.** The Foundation or Grantor may seek to modify an easement in such a way as to conform to current standards and/or formats.
- 5) **Settlement of condemnation proceedings.** Easements held by the Foundation may become subject to condemnation proceedings. Where it appears that the condemnation power would be properly exercised, the Foundation may enter into a settlement agreement with the condemning authority in order to avoid the expense of litigation. In reaching such an agreement, the Foundation shall attempt to preserve the intent of the original conservation easement to the greatest extent possible. In the event that the Foundation is compensated for the extinguishment or amendment of a conservation easement, the Foundation shall use the funds to further conservation activities in its service area.
- 6) **Amendments consistent with conservation purpose and values.** The Foundation may authorize other modifications of a conservation easement if the modification is consistent with the statement of purpose contained within the easement document, and if the new level of protection of conservation values provided by the amended easement is the same or greater than that provided by the easement before the amendment.

Procedures for Requesting an Amendment

Either The Conservation Foundation or the landowner may propose an amendment. Any landowner seeking a modification of an existing conservation easement shall file a request in writing with the Foundation stating what change is being sought and the specific reasons it is needed or warranted. Where appropriate,

the request shall also be accompanied by a map and other documentation. Unless waived by the Board of Trustees, the request shall also be accompanied by a payment of \$500 to cover the Foundation's costs. *Any unexpended portion of the fee shall be refunded; the landowner shall be responsible for all costs exceeding the initial fee, including staff and legal costs.*

The President/CEO shall review all requests and, where appropriate, refer them to the staff for evaluation, site visit and recommendation. The review shall include consultation with the Foundation's legal counsel and, when feasible, with the principal parties to the original agreement, including the landowner who donated or sold the easement, any town or state agency that contributed funds to the acquisition, and any persons who supported the acquisition through financial gifts.

TCF staff, President/CEO and legal counsel will review the amendment to determine if the proposed amendment is consistent with the terms of this Land Preservation Policy and will make a recommendation to the Board of Trustees for final action.

The Board of Trustees shall approve, approve with modification, or reject the request for amendment at its next regularly scheduled meeting or at a special meeting called for that purpose. Notification of the decision by the Board of Trustees will be forwarded in writing to the party proposing the amendment.

Procedures for Enforcing a Conservation Easement

The Foundation will **monitor its conservation easements on at least an annual basis**, and aggressively enforce its conservation easements. Should Foundation staff become aware of a violation of any restriction detailed in a conservation easement, it will as soon as practical inspect the land and document the reported violation. The Foundation staff will then proceed as follows:

- A. If the violation does not present an immediate threat to the conservation values of the land and if ecological damage is neither occurring nor imminent:
 1. The Foundation staff will as soon as practical contact the landowner either in person or by phone or email to advise the landowner of the violation and to determine who is responsible for the violation. Should the landowner fail to respond to these attempts at contact, the Foundation staff shall send a letter via certified mail outlining the violation and seeking the landowner's cooperation in rectifying the violation.
 2. Once contact with the landowner has been made and once the violator is identified, the Foundation staff will work with the violator to correct or otherwise cure the violation.
- B. The Foundation staff shall seek legal help to remedy the violation if any of the following factors are present. (The legal help may include any steps necessary to correct the violation--including injunctive relief, mediation, or other court action.)
 1. If severe ecological damage is either occurring or imminent, or
 2. If the violation presents an immediate threat to the conservation values of the land, or
 3. If the landowner fails or refuses to respond to the Foundation's attempts either to make contact or to correct the violation, or
 4. If the violator fails or refuses to respond to the Foundation's attempts either to make contact or to correct the violation.

Procedures for Reserved and Permitted Rights and Approvals

Landowners who elect to exercise reserved rights must notify the Foundation of their desire to do so and must obtain approval before proceeding. Foundation staff shall carefully review each request, documenting existing and proposed conditions and make a recommendation to the Board. Staff will respond to the landowner within 15 business days of receiving notice (fewer if required to do so in the conservation easement document) of the landowner's intent, and will notify the landowner of its recommendations to the Board. The Board will act at its next regularly-scheduled meeting (earlier if required to do so in the conservation easement document). All documentation relating to the exercise of reserved/permitted rights and approvals shall be retained in accordance with the Land Transaction Records policy (Appendix I).

Appendix B

LAND DONATIONS

Donations of land may come to The Conservation Foundation for several reasons:

- Landowners ask the Foundation to own and preserve their property (long-term preservation);
- Landowners wish to donate the value of their land to the Foundation (financial contribution);
- Public agencies ask the Foundation to accept a donation that will ultimately be transferred to the agency at a more opportune time.

All potential donations of property shall be scrutinized to ensure that the land meets acquisition criteria established in this document, and a “Project Selection Criteria Checklist for Land and Conservation Easement Acquisitions” document (Appendix H) as well as a “Checklist for Land Donations” form (Appendix K) shall accompany each project. The Land Donation Template Letter will be sent to the landowner that clearly explains our role, our interest and the need for their own expert tax and legal advisors. Potential land donors shall be informed in writing of the following:

- A. The Conservation Foundation does not provide legal or financial advice. The landowner needs to obtain their own tax and legal advisors.
- B. In order to qualify for income tax deductions, the project must meet the requirements of IRC 170 and the accompanying Treasury Department regulations and/or any other federal or state requirements.
- C. The Internal Revenue Code requires appraisals for land or easement donations valued at more than \$5,000 to be prepared by a qualified appraiser and be in accordance with the Uniform Standards of Professional Appraisal Practice, and that appraisals must be conducted within 60 days of the recordation of the land transfer or conservation easement.
- D. The Foundation requires a copy of the completed appraisal.
- E. The donor is responsible for providing the appraisal.
- F. The Foundation makes no assurances as to whether a particular land or easement donation will be deductible or whether the donor’s appraisal is accurate.
- G. The Foundation will sign Form 8283 only when the entire form has been completed.

Prior to the Board’s consideration of any potential donation, donors will need to provide a title report, a Phase I Environmental Assessment report and an ALTA survey to The Conservation Foundation. If warranted, the donor will also provide a Phase II Environmental Assessment.

Land donations for long-term preservation

Landowners may donate land to the Foundation in order to preserve its natural value. It shall be the policy of The Conservation Foundation to find, whenever practical, a governmental entity or nonprofit organization to take ownership of land offered to or acquired by the Foundation. In cases where the Foundation decides to retain long-term ownership, staff will develop a management plan for the property that includes estimated costs. Sources of funding for the management will need to be identified. It is in the interest of the Foundation that these management costs be considered when evaluating a land donation.

Land donations as financial contributions

Landowners may donate land to the Foundation so that its value can be used to further the organization's mission. In such cases, it may be appropriate to accept a parcel of land that does not possess sufficient natural or open space characteristics to warrant preservation. In these instances it is important that the donor understand that the donated land may be sold or otherwise disposed of by the Foundation.

Land donations on behalf of public agencies

Circumstances also arise when landowners may wish to donate land to park districts, forest preserve districts and other governmental land preservation entities. Public agencies can often use such donations as a match for grants to accomplish other acquisitions or capital improvements. In cases when landowners are ready to donate, but the agency is not ready to accept the land, The Conservation Foundation can assist by accepting title to the property and holding it until the government entity is ready for it. The property is then transferred to the government entity.

In those instances where The Conservation Foundation accepts donated land on behalf of another organization or governmental entity, it shall be the policy of The Conservation Foundation to recoup the costs of that transaction. It is important that the ultimate owner of the property be notified in advance that The Conservation Foundation will seek to recover costs incurred by it, plus a service fee, if any, in accepting and temporarily holding a property donation.

Costs to be recovered in transactions with public agencies

- a. Staff costs
- b. Property taxes during holding period
- c. Insurance costs during holding period
- d. Environmental assessment, appraisal costs, or other studies
- e. Legal costs
- f. Title and closing costs
- g. Service fee, if any. The amount of the service fee to be collected shall be determined periodically by the Board of Trustees. The service fee may be a percentage of the cost of the property, a flat fee, or other arrangement as determined by the Board. The service fee shall be retained by The Conservation Foundation and used to enhance the ability of the Foundation to carry out its mission.

Appendix C

BUY AND HOLD TRANSACTIONS

Circumstances arise when park districts, forest preserve districts and other governmental land preservation entities wish to buy a parcel of land, but are not financially prepared to do so. The Conservation Foundation will acquire land on behalf of the government agency, hold it and transfer ownership at a later date. In order to protect its financial interests, the Foundation shall transfer ownership to the agency as quickly as possible.

A “Checklist for Buy and Hold Transactions” (Appendix L) shall accompany each project.

In those instances where The Conservation Foundation acquires land on behalf of another organization or governmental entity, The Conservation Foundation shall recoup the costs of that transaction. The Foundation shall seek a service fee for such transactions. A title report, Phase I Environmental Assessment report and ALTA survey are required for all transactions.

1. Costs to be Recovered in Transactions With Third Parties

- a. Amount paid for property
- b. Value of the funds expended by the Foundation (interest costs or interest forgone)
- c. Staff costs
- d. Property taxes during holding period
- e. Insurance costs during holding period
- f. Environmental assessment, appraisal costs, and other studies
- g. Legal costs
- h. Title and closing costs

2. Service Fee

The amount of the service fee to be collected shall be determined periodically by the Board of Trustees. The service fee may be a percentage of the cost of the property, a flat fee, or other arrangement as determined by the Board. The service fee shall be retained by The Conservation Foundation and used to enhance the ability of the Foundation to carry out its mission.

Appendix D

LAND TRANSACTIONS ON BEHALF OF THE CONSERVATION FOUNDATION

Purchases. The Foundation recognizes that a take-out by a public agency or other not-for-profit land conservation organization may not be possible in the short-term or that it may be in the long-term interest of The Conservation Foundation to purchase land without a take-out. Land acquisition projects on behalf of the Foundation will be conducted according to the “Project Selection Criteria” (See Appendix H). A “Checklist for Land Acquisition Transactions” (Appendix M) shall accompany each project.

As part of its due diligence process prior to purchasing the land, staff will develop a management plan for the property that includes estimated costs. Sources of funding for the management will need to be identified. It is in the interest of the Foundation that these management costs be considered when evaluating a land purchase without a take-out.

A Phase I Environmental Assessment report, a title report, an ALTA survey and, if warranted, a Phase II Environmental Assessment report will be provided to the Foundation prior to consideration by the Board of Trustees.

The Foundation shall obtain a qualified independent appraisal to justify the purchase price. In limited circumstances where acquiring above the appraised value is warranted, the Foundation shall document the justification for the purchase price and warrant that there is no private inurement or impermissible private benefit.

Sales. The Foundation recognizes that it may be in the interest of the organization to sell land that it owns. The Foundation will first document the conservation values of the property, put protections in place for the conservation values, and obtain a qualified appraisal that reflects the limits and conditions put in place for the land. The Foundation will market the property and select buyers in a manner that avoids any appearance of impropriety and preserves the public’s confidence in the Foundation.

When contemplating selling land to a Board member, major donor, staff member or member of its Advisory Council or Leadership Board, the Foundation shall avoid the reality or perception that the sale inappropriately benefited that individual by:

- first marketing the property widely,
- following its conflict of interest policy,
- documenting that the project meets the Foundation’s mission,
- following all transaction policies and procedures,
- ensuring that there is no private inurement or impermissible private benefit.

Appendix E

RIGHTS AND INTERESTS THAT CAN BE ACQUIRED

The Foundation recognizes that the following types of ownership meet the goals of the Foundation regarding land preservation.

- A. Fee Simple Ownership---acquiring full legal title and all rights associated with a parcel of land.

- B. Conservation Easement---a legal agreement that a property owner can make to restrict the amount and type of development on his or her property. A conservation easement is typically donated to an organization or government entity which assumes the responsibility of monitoring the easement in perpetuity.

- C. Fee Simple/Leaseback---purchase of full title and then leasing the property to the previous owner or other person/entity. The lease can contain provisions that limit development and activities that can be carried out on the property.

- D. Lease---a short or long term rental of land.

- E. Undivided Interest---situation in which ownership is split between different owners, with each fractional interest extending over the whole parcel. Each owner has equal rights to entire property.

- F. Underlying Fee or Remainder Interest---situation where a property is owned by others (privately) for a term of years or pursuant to a life estate.

Appendix F

WAYS THAT TITLE CAN BE ACQUIRED

The Foundation recognizes the following ways in which title may be acquired to preserve land.

A. Purchase at Fair Market Value

Land is acquired at a price that reflects the highest and best use to which the property could be put.

B. Purchase Pursuant to a Bargain Sale

A bargain sale is part sale and part donation. The property is acquired at a price less than its fair market value. The seller is entitled to a charitable deduction for the difference between the sale price and the fair market value of the property. This combination of sale and donation can be attractive to some property sellers.

C. Outright Donation

A landowner may donate all interests that he or she possesses in a property.

D. Purchase Pursuant to an Installment Contract

Land is purchased over time using a series of regular payments.

E. Bequest

A bequest is a transfer of ownership as specified in a will. The bequeathed property remains in the control of the owner until his or her death, at which time ownership passes to the party designated in the will.

F. Donation with Life Estate

A property owner may donate a property and retain ownership rights and responsibilities during his/her lifetime. At the donor's death, all property rights pass to the recipient of the donation.

G. Land Exchange

It may be possible to acquire land with conservation values in exchange for other types of land owned by the Foundation or other public entity.

Appendix G

MANAGEMENT AND OWNERSHIP OPTIONS FOLLOWING ACQUISITION

The Foundation recognizes that the following management and ownership options are appropriate ways for the Foundation to preserve and protect open space.

A. Conveyance to Public Agency

The Foundation may acquire or accept property on behalf of a government entity and hold it until that public agency is ready to accept the property. The property may be conveyed to the government entity at fair market value, at less than fair market value, free of charge, or traded for other property. A service fee may be added to the purchase price. The public agency may access and manage the property while under Foundation ownership subject to an acceptable lease arrangement.

B. Conveyance to Another Nonprofit

The Foundation may acquire and hold property until another not-for-profit is ready to accept the property. The property may be conveyed to the not-for-profit at fair market value, at less than fair market value, free of charge, or traded for other property. A service fee may be added to the purchase price. The not-for-profit may access and manage the property while under Foundation ownership subject to an acceptable lease arrangement.

C. Permanent Ownership and Management

The Foundation may choose to retain ownership and permanently assume management responsibilities. The Foundation may also choose to retain ownership but to lease the property to a governmental entity, another not-for-profit, or an individual.

D. Limited Development

The Foundation may purchase a property and determine its future by means of a land plan which controls future development and use. This may involve subdivision of the property. Conservation easements, deed restrictions and restrictive covenants may be utilized. The Foundation will then sell or lease, some or all, of the property.

Appendix H

PROJECT SELECTION CRITERIA CHECKLIST FOR LAND AND CONSERVATION EASEMENT ACQUISITIONS

Adapted from the Land Trust Alliance's Standards and Practices Guidebook

These criteria are intended to guide rather than limit the actions of the Foundation.

This form shall be used in evaluating all land transactions.

Mission Statement

The Conservation Foundation works to enhance the quality of life by preserving open space, protecting natural lands and improving rivers and watersheds.

TCF is a private, not-for-profit organization that legally must demonstrate that its land protection projects are consistent with its goals and provide a public benefit.

Proposed Land Project: _____
(Name of Landowner)

(Location and Acreage)

(Date of Property Review)

(Reviewer)

Goals and Purposes

To qualify for selection, property must meet ALL of these criteria:

- The property is located within the Foundation's general service area.
- The protection of this property is consistent with the Land Preservation Policy.
- The property is in a relatively undisturbed natural, scenic, or historical condition, is located along a river or stream, or has recreational value.
- The property is of sufficient size (or sufficient neighboring property is either already protected or to be included) that its conservation values are likely to remain intact even if adjacent properties are developed.
- Protection of this property aids sound land use planning, promotes land conservation, and encourages careful stewardship of land and water resources.

Public Benefit & Natural Resource Values

To qualify for selection, a property must meet ONE OR MORE of these criteria:

- Provides open space (including farmland and forest land) that is either preserved for the scenic enjoyment of the general public or protected pursuant to clearly delineated federal, state, or local governmental conservation plans or policies.
- Contains endangered, threatened, or rare species or natural communities.
- Provides public recreational opportunities consistent with the protection of natural resources.
- Protects quality or quantity of surface or underground waters, or provides natural control of flooding.
- Contains relatively natural ecosystems, natural features, or habitat for wildlife, fish, or plants.
- Contains or has potential to contain natural features of educational or scientific value.
- Provides a buffer for or a connection to an existing conservation easement, park, preserve, or other protected land.
- Will permit public access for education or recreation.
- Sets an important precedent for resource or open space protection in a targeted area.
- Contains unique or outstanding physiographic characteristics.

Feasibility

Factors that may preclude TCF involvement: *A property may meet the selection criteria favoring a land protection proposal and still may not be accepted if one or more of the following considerations apply:*

- The property's values are primarily scenic, but are not readily visible or accessible to the public.
- Protection of the property primarily benefits a single landowner or developer for personal gain, including tax benefits or to ensure personal privacy.
- The proposed open space is part of a development proposal that, overall, is likely to have significant adverse impacts on conservation resources.
- Adjacent properties are not protected and are being, or are likely to be, developed in a manner that would significantly diminish the conservation values of the property in question.
- The landowner insists on provisions in a conservation easement that the Foundation believes would seriously diminish the property's primary conservation values or the Foundation's ability to enforce the easement.
- The project cannot pay for itself or would not lend itself to special fundraising.
- There is reason to believe that the land/easement would be unusually difficult to manage/enforce, for example because of multiple or fractured ownership, frequent incidence of destructive trespassing, fencing restrictions, irregular configuration, or other reasons.
- The property is irreparably contaminated.
- The property cannot be acquired by the Foundation with reasonable effort in relation to the property's conservation value.
- Ethical or public image problems exist in association with the acceptance of this project.

Appendix I

Policy for Maintaining Land Preservation Transaction Records

Land preservation transactions necessarily involve the creation, gathering and analysis of several key documents. Once the transaction has been completed, these documents need to be safeguarded against fire, theft and loss in order to remain accessible for future reference.

Land preservation transactions include donations, purchases, transfers and conservation easements. In each of these transactions, due diligence involves a title commitment, survey, appraisal and legal documents such as a deed or easement. Any or all of these may be important in future times as reference material or as evidence in a legal dispute. Though The Conservation Foundation often chooses to own land for relatively short time periods, the Foundation may be long-term owners of properties and it intends to hold conservation easements in perpetuity. It is imperative that the integrity of the related documents be maintained.

Photographs present an interesting challenge as far as long-term storage *and retrieval* options. We use photographs to document conservation easement lands and conditions, and they may be needed if a dispute arises. The digital age in which we live offers a way to store many photographs in a very tiny space; however, file formats and storage materials are not universal and become obsolete within a decade's time. As such, it is important that photographs are stored in print form, on as archival a paper as is practical.

Manner of storage:

- Long-term storage of original documents (or copies, if originals are not available) must be located off-site, in either safety deposit boxes or with a document storage company. They need to be protected against fire, water, theft, heat, humidity, insects and animals.
- Copies of documents may be stored in on-site files or storage containers. Care should be taken that the documents not be exposed to heat, humidity, insects or water.
- In long-term as well as office storage, files need to be segregated and marked. That is, a file folder should contain all documents relevant to that transaction, and be marked on the outside with the name of the parcel's owner, location and P.I.N.

Materials to be stored:

- | | |
|--|---------------|
| - Title commitment polices | - Surveys |
| - Environmental assessments | - Appraisals |
| - Recorded conservation easement documents | - Deeds |
| - Easement monitoring reports | - Photographs |

Disposal of records:

Upon such time as the records are no longer needed (transfer of title to another entity, dissolution of The Conservation Foundation), the records shall be disposed of as follows:

- If land is transferred to another entity, original documents and other materials should be offered to the new owner of the land.
- If The Conservation Foundation shall cease to exist, all records shall be transferred to the entity holding title to or easements on conservation lands.

Appendix J

Checklist for Conservation Easement Transactions

Land Project: _____
(Name of Landowner)

(Location and Acreage)

(Acreage of Conservation Easement Area)

(Project Coordinator)

(Project Start Date)

Date Completed:

- _____ Template letter sent to landowner
- _____ Sketch of easement area (agreed to by the landowner)
- _____ Outline of conservation easement terms (agreed to by the landowner)
- _____ Title policy (equal to appraised value); names
The Conservation Foundation as insured
- _____ ALTA Plat of Survey and Legal Description
- _____ Existing Conditions and Management Plan
- _____ Appraisal
- _____ Foundation Board resolution approving holding the conservation
easement and authorizing Staff to execute documents
- _____ Easement defense fund
- _____ Conservation easement document signed by landowner
- _____ Recording of conservation easement
- _____ Press release
- _____ Sign for the property

Appendix K

Checklist for Land Donations

Land Project: _____
(Name of Landowner)

(Location and Acreage)

(Take-Out Agency)

(Project Coordinator)

(Project Start Date)

Date Completed:

- _____ Template letter sent to landowner
- _____ Letter of intent to donate (from the donors)
- _____ Letter of intent to accept the donation and pay expenses (from the take-out agency)
- _____ Appraisal
- _____ Phase I Environmental Assessment
- _____ ALTA Survey (either ordered new or accepted if within 1 year)
- _____ Title policy (equal to appraised value); names The Conservation Foundation as insured
- _____ Foundation Board resolution accepting donation and authorizing Staff to execute documents
- _____ Agreement with take-out agency granting immediate access for management purposes
- _____ Press release
- _____ Sign for the property
- _____ Notification to Foundation's insurance carrier
- _____ Closing
- _____ Reimbursement by take-out agency for any closing costs or other expenses

Appendix L

Checklist for Buy and Hold Transactions

Land Project: _____
(Name of Landowner)

(Location and Acreage)

(Take-Out Agency)

(Project Coordinator)

(Project Start Date)

Date Completed:

- _____ Letter of intent to sell (from the landowners)
- _____ Letter of intent to repurchase the property and pay fees and expenses (from the take-out agency)
- _____ Appraisal
- _____ Loan commitment (if necessary)
- _____ Phase I Environmental Assessment
- _____ ALTA Survey (either ordered new or accepted if within 1 year)
- _____ Title policy (equal to appraised value); names The Conservation Foundation as insured
- _____ Foundation Board resolution approving purchase and authorizing Staff to execute documents
- _____ Lease agreement with take-out agency granting immediate access for management purposes
- _____ Press release
- _____ Sign for the property
- _____ Notification to Foundation's insurance carrier
- _____ Closing with landowner
- _____ Reimbursement by take-out agency for any fees, closing costs or other expenses
- _____ Closing with take-out agency

Appendix M

Checklist for Land Acquisition Transactions

Land Project: _____
(Name of Landowner)

(Location and Acreage)

(Project Coordinator)

(Project Start Date)

Date Completed:

- _____ Letter of intent to sell (from the landowners)
- _____ Appraisal
- _____ Loan commitment (if necessary)
- _____ Phase I Environmental Assessment
- _____ ALTA Survey (either ordered new or accepted if within 1 year)
- _____ Title policy (equal to appraised value); names The Conservation Foundation as insured
- _____ Management plan with estimated costs
- _____ Foundation Board resolution approving purchase and authorizing Staff to execute documents
- _____ Press release
- _____ Sign for the property
- _____ Notification to Foundation's insurance carrier
- _____ Closing with landowner