

Groundswell Conservancy Policy

Name: Disclosures to Donors and Sellers of Land

Approval: Approved by Executive Committee December 14, 2006
Addendum based on *Conflict of Interest: Donors* policy approved by Executive Committee June 14, 2007
Amended by Executive Committee December 8, 2016
Amended by Executive Committee January 10, 2018
Amended by Executive Committee June 27, 2018

Land Trust Alliance Standards and Practices 9B. Legal and Financial Advice. 1. Do not give individualized legal, financial or tax advice when providing transaction-related information 2. Recommend in writing that each party to a land or conservation easement transaction obtain independent legal, financial and tax advice.

Land Trust Alliance Standards and Practices 10A. Landowner Notification. 1. Inform potential land or conservation easement donors who may claim a federal or state income tax deduction (or state tax credit), in writing and early in project discussions, that: (a) The project must meet the requirements of IRC §170 and the accompanying Treasury Department regulations and any other federal or state requirements. (b) The donor is responsible for any determination of the value of the donation. (c) The Treasury Department regulations require the donor to obtain a qualified appraisal prepared by a qualified appraiser for gifts of property valued at more than \$5,000. (d) Prior to making the decision to sign IRS Form 8283, the land trust will request a copy of the completed appraisal. (e) The land trust is not providing individualized legal or tax advice.

Groundswell Conservancy makes the following disclosures to donors or sellers of land or interest in land for conservation purposes:

- Groundswell Conservancy urges the donor to obtain independent legal and tax advice. Groundswell Conservancy requires that mortgages, liens or other encumbrances that could result in extinguishment of the conservation easement or compromise Groundswell Conservancy's ability to protect the important conservation values of the property be satisfied or subordinated prior to acquisition of Groundswell Conservancy's interest in the property.
- Groundswell Conservancy does not guarantee the tax deductibility of a donation; to be eligible, the donation must meet the requirements of IRC.
- Should the donor seek a tax deduction, the donor is responsible for obtaining a "qualified appraisal" of the value of the donation pursuant to Treas. Reg. Sec. 170A-13(c).
- Should the donor decide to file IRS form 8283 (Noncash Charitable Contributions), Groundswell Conservancy will complete the form only if provided with a copy of

the donor's "qualified appraisal") and if Groundswell Conservancy determines that the donation has been accurately described.¹

- Groundswell Conservancy will disclose to the donor/seller if Groundswell Conservancy plans to transfer the property or interest in property to another entity for conservation purposes.
- A conservation easement will likely reduce the fair market value of the land it covers.
- A donation of partial or full value of land or interest in land may be deductible only to the extent that its value exceeds the value of the benefits received ("enhancement").
- During negotiations, Groundswell Conservancy may share information about the proposed transaction with government agencies to build support for the project.
- A purpose of every transaction is to achieve an outcome that is mutually acceptable to the donor/seller and Groundswell Conservancy. Groundswell Conservancy will not complete an acquisition of property or interest in property without the consent of the landowner.
- When the landowner's donation results in the opportunity to match grant funding for another land protection project, Groundswell Conservancy may use the donation in this way.
- Groundswell Conservancy may withdraw from a real estate transaction if it has substantial concerns about the appraised value or other terms of the transaction.
- Should Groundswell Conservancy acquire the property interest, it will post the location of the property interest on a map published on its website. The map information will note if the property interest is not open to the public.

Groundswell Conservancy makes the following disclosures to donors of nonconservation real property assets (such as "tradeland" that does not have sufficient conservation value for Groundswell Conservancy to protect):

- Groundswell Conservancy may sell nonconservation assets and use the proceeds to further its mission.
- Groundswell Conservancy encourages the donor to obtain independent legal and tax advice. Groundswell Conservancy does not guarantee the tax deductibility of a donation.

¹ Per LTA Standard and Practice 10C3 Avoiding Fraudulent or Abusive Transactions, Groundswell Conservancy may discuss substantial concerns about the appraisal with legal counsel and take appropriate action (e.g., seeking additional substantiation of value or refusing to sign the Form 8283).

- Should the donor seek a tax deduction, the donor is responsible for obtaining a “qualified appraisal” of the value of the donation pursuant to Treas. Reg. Sec. 170A-13(c).
- Should the donor decide to file IRS form 8283 (Noncash Charitable Contributions), Groundswell Conservancy will complete the form only if provided with a copy of the donor’s “qualified appraisal” (if applicable) and if Groundswell Conservancy determines that the donation has been accurately described.²
- A purpose of every transaction is to achieve an outcome that is mutually acceptable to the donor and Groundswell Conservancy.
- Groundswell Conservancy may withdraw from a real estate transaction if it has substantial concerns about the appraised value or other terms of the transaction.

These disclosures are made in writing and a copy is maintained in Groundswell Conservancy project files.

Groundswell Conservancy is accredited by the Land Trust Accreditation Commission. Policies may be updated to reflect changing accreditation standards and practices, as well as changing local organizational needs.

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² Per LTA Standard and Practice 10C3 Avoiding Fraudulent or Abusive Transactions, Groundswell Conservancy may discuss substantial concerns about the appraisal with legal counsel and take appropriate action (e.g., seeking additional substantiation of value or refusing to sign the Form 8283).