



Working with the Open Space Authority to Leave a Conservation Legacy

About the Open Space Authority

Santa Clara Valley Open Space Authority is an independent special district founded in 1993 for the purpose of balancing rapid development and ensuring protection of valuable open space land and productive farm and ranchland in an around the Santa Clara Valley. The Authority's mission is to conserve the natural environment, support agriculture and connect people to nature by protecting open spaces, natural areas, and working farms and ranches for future generations. The Authority works towards its mission primarily through acquiring land and conservation easements, contributing funds to joint conservation efforts, collaborative partnerships, and careful land management. To date, the Authority has protected over 20,000 acres and operates a system of open space preserves for hiking, biking and equestrian use and for the purpose of protecting important natural resources and wildlife habitat. The Authority's jurisdiction includes the cities of San Jose, Santa Clara, Milpitas, Campbell, Morgan Hill, and the majority of unincorporated Santa Clara County. The Authority has an independently elected seven-member Board of Directors, a Citizens' Advisory Committee, and a staff of dedicated land conservation and land management professionals.

The Land Acquisition Process: How the Authority Works

Many landowners wish to leave a legacy by donating or selling their land to a qualified conservation agency or land trust. The Authority works with willing landowners to preserve land through outright acquisition of fee title or purchase of conservation easements. The entire process of evaluating, negotiating, appraising and closing can take anywhere from 3-4 months to more than a year, depending on the complexity of the transaction, opportunities to work with partners to secure grant funding, and condition of the property.

Pre-Acquisition

The Authority identifies properties that best meet its mission and contacts a landowner or is contacted by a landowner. The Authority conducts preliminary research about the property's history and use including ownership, zoning, past and current land use, known natural resources, and proximity to other protected lands. The Authority then schedules a site visit to the property to assess its conservation values and meets with the landowner(s) to discuss the goals of the Authority and landowner. The Authority's Board of Directors next gives the General Manager authorization to negotiate with the seller, which allows the Authority to begin looking at a property in greater detail, including ordering title reports and commissioning appraisals.

To determine the highest and best use of the property and its market value, the Authority typically commissions a full narrative appraisal of the property. The Authority selects an appraiser skilled in appraising land for conservation purposes from its approved list of appraisers. An appraisal of the property typically takes 2-3 months to complete, depending on the availability of the appraiser and the size and complexity of the property. If grant funds will be used to purchase the property, the Authority may forward the appraisal to the funding agency for its review and approval.

While the seller and property assessor's parcel number(s) may be listed on public agendas to allow the Authority to negotiate, the Authority maintains strict confidentiality of the negotiations until escrow has

closed. During this time, staff may visit the property multiple times to further document the resources of the property, and assess property boundaries, easements, and other issues that may impact the future use of the property for open space purposes.

Acquisition

As a public conservation agency, the Authority seeks to achieve a *bargain sale* (less than full fair market value) or donation wherever possible. A bargain sale or donation to the Authority can be claimed as a charitable contribution under IRS rules (see Treasury Regulations §1.170A-13(c) and §1.170A-14(h) for more detail). If the seller/donor wishes to claim a charitable contribution, the seller/donor is responsible for determining the value of the donation and must obtain a qualified independent appraisal that follows Internal Revenue Code requirements for charitable gifts of property valued at more than \$5,000. The appraisal must follow USPAP standards and must be completed no earlier than 60 days prior to the date of contribution and before the due date for the tax return on which the deduction is first claimed. The Authority will request a copy of the appraisal for review and will not knowingly participate in projects where it has significant concerns about the tax deduction. Sellers should consult with their tax advisor about the details of a charitable contribution as the Authority does not provide legal or financial advice.

The Authority will structure a real estate transaction to meet the unique needs of the seller, including partial purchase, conservation easements, lease back, life estate, etc. The Authority does not usually employ the services of a real estate broker, which saves the sellers commission on the sale. Most large conservation real estate transactions combine funds from multiple sources including State Bond Funds, local funds, federal grants, and foundation grants.

Due Diligence

An important part of the acquisition process is the evaluation of potential hazardous conditions on the property that could require remediation or special attention. The Authority may require a Phase 1 environmental assessment to assess known hazardous conditions. In some cases, the Authority may require a Phase 2 assessment, which is a more detailed study of potentially hazardous conditions or contamination on the property. Due diligence also includes verifying legal access to the property, boundaries of the property, and determining that water, mineral, or other rights have not been severed.

Site Management and Natural Resource Protection

The Authority takes pride in the careful stewardship of its land and natural resources. Prior to the completion of an acquisition, Authority field staff will assess existing conditions and future land management needs such as fencing, resource management, signage, and patrolling to ensure that the property's resources will be well-managed. In many cases, the Authority purchases land adjoining its existing open space preserves and can enroll the property into the larger preserve. The Authority also has a robust volunteer program in which dedicated volunteers from the community are trained to be docents, patrol trails or to take part in restoration projects.

For more information, please contact the Open Space Authority at (408) 224-7476 or www.openspaceauthority.org