

SANTA FE COUNTY
Resolution No. 2009-206

**A RESOLUTION (REPEALING AND REPLACING RESOLUTIONS 2003-61 AND 2004-80)
ESTABLISHING THE PROCESS AND PROCEDURES
FOR ACQUISITION OF REAL PROPERTY UNDER
THE COUNTY'S OPEN SPACE AND TRAILS PROGRAM.**

WHEREAS, on November 3, 1998 and November 7, 2000, the voters of Santa Fe County approved General Obligation Bonds establishing funding for the "Wildlife, Mountains, Trails and Historic Places Program", also known as the Open Space and Trails Program ("Program"); and

WHEREAS, pursuant to Resolution No. 2000-60 on May 22, 2000, the County established an application process ("Application Process") for review and evaluation of acquisition proposals by the County Open Land and Trails Planning Advisory Committee ("COLTPAC") with final approval from the Board of County Commissioners ("BCC") for acquisition of real property by the County under the Program; and

WHEREAS, pursuant to Resolution No. 2003-61 on April 29, 2003, the County adopted an "urgent project" application policy for acquisition of real property under the Program; and

WHEREAS, pursuant to Resolution No. 2004-80 on July 27, 2004, the County adopted a policy amending and refining the Application Process; and

WHEREAS, the Program, with the advice of COLTPAC and the approval of the BCC, has acquired many significant open space and trails properties throughout the County and has established itself as an important program for the benefit of the citizens of the County and those who visit the County; and

WHEREAS, Santa Fe County has and will continue to acquire funding, including but not limited to general obligation bonds, gross receipts taxes, and state appropriations, for the purpose of acquiring real property for open space and trails; and

WHEREAS, the Program has evolved and matured and the Application Process needs to be revised to strengthen the Program's ability to identify and acquire important properties for open space and trails.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Santa Fe County that Resolutions 2003-61 and 2004-80 are hereby repealed and all real property

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acquisitions under the Program including but not limited to fee simple, easement or lease, by purchase, donation, legal disposition, or any other means will be evaluated according to the Application Process as described herein.

1. Prospective applicants must complete an application proposing the acquisition of real property by the County under the Program (attached hereto as Exhibit A and as may be amended from time to time). An applicant may be any interested party, including members of COLTPAC and Program staff ("Staff") (provided that members of COLTPAC and Staff do not have any financial interest or other conflict of interest in the proposed acquisition or application). If the applicant is not the property owner the applicant is responsible for contacting the property owner and establishing in writing the property owner's willingness to consider a sale of the property to the County. The County encourages applicants to work with partners (other governmental entities and non-governmental organizations) to identify other sources of funding in addition to Program funds that could be applied toward the proposed acquisition. Applications may be submitted at any time.

2. Staff will review and evaluate the application as soon as practicable but within 30 days of receipt. Staff will notify the applicant in writing of its decision to accept or reject the application.

(a) If Staff deems that the application is complete and has the potential to meet the threshold criteria established by Resolution No. 2000-60, as may be amended from time to time, staff will accept the application and submit it for COLTPAC's review.

(b) If Staff deems that the application is not complete or does not have the potential to meet the threshold criteria staff will reject the application. The applicant may amend or supplement the application and resubmit it to staff. Staff will have 30 days from receipt of the amended or supplemented application to review the application.

(c) If Staff rejects the amended or supplemented application the applicant may appeal Staff's decision to a reviewing body composed of the Chair and Vice-Chair of COLTPAC (or other members of COLTPAC as their designees) by submitting a request in writing within 30 days of receipt of written notice from Staff rejecting the application. The reviewing body shall review the application within 30 days of receipt of the request for review and will notify the applicant of its decision in writing. The reviewing body will either accept or reject the application. The reviewing body's decision shall be final.

3. Applications accepted by Staff will be reviewed by COLTPAC. COLTPAC review will include (i) discussing the application with the applicant at a regularly held COLTPAC meeting; (ii) a site visit to the property; (iii) consideration of public comments on the application at a regularly scheduled or specially scheduled COLTPAC meeting; and (iv) executive session discussion of the application in

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accordance with the Open Meetings Act (for discussion of the acquisition of real property).

4. Based upon its review, COLTPAC may (i) reject the application; (ii) table the application for a specified time period citing the reasons therefore; or (iii) accept the application and recommend to the BCC that the proposed real property acquisition be approved. COLTPAC will make a reasonable effort to complete its review within 90 days.

5. If COLTPAC recommends approval, Staff will present the proposed acquisition, with COLTPAC's recommendation including terms and conditions, to the BCC. The COLTPAC Chair or Vice Chair will be available at the designated BCC meeting to answer any questions regarding the recommendation. The BCC has final decision-making authority regarding all real property acquisitions.

6. If BCC approves the acquisition, Staff is then authorized to proceed with negotiations with the property owner to enter into a binding commitment (either an option or purchase agreement) to purchase the property contingent upon any and all due diligence Staff and the County Attorney's Office deem prudent. (If the applicant is not the property owner, the applicant must make arrangements for the County to negotiate directly with the landowner or authorized representative.) Staff will arrange for and evaluate the necessary due diligence prior to the acquisition of the property.

PASSED, APPROVED AND ADOPTED the 21 day of October, 2009.

BOARD OF COUNTY COMMISSIONERS

Michael Anaya, Chairman

ATTEST:

Valerie Espinoza
Valerie Espinoza, County Clerk

APPROVED AS TO FORM:

Stephen Ross
Stephen Ross, County Attorney



CERTIFICATE OF FILING

I, Valerie Espinoza, County Clerk,
do hereby certify that the foregoing resolution, designated Resolution No. 2009-206
was filed in my office on the 28 day of October, 2009,
as Document No. 1581405.

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SANTA FE COUNTY CLERK

Valerie Espinoza
Valerie Espinoza



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COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

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I Hereby Certify That This Instrument Was Filed for
Record On The 28TH Day Of October, 2009 at 12:51:47 PM
And Was Duly Recorded as Instrument # 1581405
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy County Clerk, Santa Fe, NM