



SALT RIVER PIMA-MARICOPA INDIAN COMMUNITY

COMMUNITY DEVELOPMENT DEPARTMENT POLICIES

CHAPTER: 9 COMMUNITY DEVELOPMENT

POLICY : 9-2 LAND PURCHASE POLICY

I. PURPOSE

Pursuant to the Constitution of the Pima-Maricopa Indian Community ("Community"), the main goal of this policy is to keep all land within the Community in Community or Community member ownership and to retain such land in trust status. To this end, all Community members are encouraged to maintain ownership of their trust land. However, if the sale of land (whether in trust or fee), or an interest therein, is still contemplated to occur within the boundaries of the Community, this policy provides the procedures and standards for the purchase of such land by the Community.

II. DEFINITIONS

- A. "Conveyance" means the sale, purchase, exchange, gift, devise, inheritance, or acquisition of land within the Community, or an undivided interest therein.
- B. "Cultural Interests" includes but is not limited to: preserving and maintaining the cultures of the Salt River Pima and Maricopa people ("People"); learning about and expressing the cultural experiences of the People; and preserving and protecting historic or prehistoric evidence or reflection of human activity, including but not limited to ruins or monuments, burial grounds or sites and historic sites or features.
- C. "Economic Development" means the generation of business within the Community or the infrastructure required therefore.
- D. "Housing Needs" means the land within the Community, or majority interest therein, necessary for the Community to provide permanent shelter for enrolled members.
- E. "Self-Determination" means the ability of the Community, through the Council, to decide for itself upon any course of action or non-action.
- F. "Undivided Interest" means a fractional ownership, which cannot be identified in and of itself through a specific legal description, in the same parcel of land.

Approved:	Supersedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 1 of 8

- G. “Whole Interest” means a non-fractionated interest in land, which can be identified in and of itself through a specific legal description.

III. POLICY

- A. The public policy of the Community mandates that the Community or the Community’s enrolled members shall forever own all the land within the boundaries of the Community. A secondary but equally important public policy of the Community is to maintain the unique federal trust status of the land within the Community.
- B. Therefore, to the extent legally and financially possible, the Community shall, through purchase or otherwise, work towards the goals of:
1. Obtaining and keeping all land within the Community in Community or Community member ownership; and
 2. Obtaining and keeping all land within the Community in trust status.
- C. Any intent to, or action that will or might, remove trust land into fee status within the Community is adverse to the best interests of the Community and Community members. Therefore, no land located within the Community shall be removed from trust status unless:
1. The Community is properly notified of the intent to remove the trust status by the Bureau of Indian Affairs; and
 2. The Community Council either:
 - a. Expressly and unequivocally approves the removal from trust status; or
 - b. Has a reasonable opportunity to acquire the land or interest therein.
- D. The Community shall purchase land, or an interest therein, only if the purchase meets the standards set forth in this Land Purchase Policy.
- E. Any decision to purchase or not to purchase land, or an interest therein, under this Policy is solely within the discretion of the Community Council.
- F. Unless expressly stated otherwise, nothing in this Land Purchase Policy is intended to, or shall be construed as, providing any claim, right or cause of action to any entity, person or Community member based upon conformance or non-conformance with this policy.

Approved:	Supercedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 2 of 8

- G. Nothing herein constitutes, is intended to be, or is to be construed as, a waiver of the Community's right of first refusal to purchase land, or an interest therein, within the boundaries of the Salt River Pima-Maricopa Indian Community.

IV. PROCEDURE FOR LAND PURCHASES

A. General Considerations.

1. The Council has the authority to seek, or to approve or deny any offer and/or request for, the purchase of land, or an undivided interest therein, on behalf of the Community. Any decision to purchase land by the Community Council shall meet the requirements of this Land Purchase Policy.
2. Subject to applicable Community and federal law or regulations, the Council shall evaluate each offer and/or request to purchase land within the Community based upon, but not limited to, the following factors: this public policy, appraised value, location, cultural interests, legal implications (e.g., fee, undivided interests, resolving litigation, etc.), and benefit to the Community. Heightened interest to purchase land within the Community shall be given to land currently in fee status or land that is at risk of losing its trust status.
3. Where the Conveyance of trust land, or interest therein, will result in the land leaving the ownership of the Community's membership or terminate the trust status thereof, the Council shall be notified of that Conveyance by federal governmental officials pursuant to federal law or regulation or by Community elected officials or Community governmental staff who learn of the proposed action. Council shall have a reasonable opportunity to acquire this land, or interest therein.
4. The Community may choose to purchase a lesser interest in a parcel that is purchased pursuant to this Policy if the purchase of such lesser interest is in the best interests of the Community and will enhance the ownership interest being purchased. For example, if the Community purchases a parcel of land subject to a life estate or a lease, the life estate or lease may, at the Council's discretion, be purchased also.

- B. Initial Staff Review. For all offers and/or requests for the Community to purchase land within the Community, the applicable Community governmental staff shall develop a current list or pool of all the offers and/or requests. The staff shall divide the list or pool into two categories: 1) whole interests; and 2) undivided interests. Staff shall then evaluate, according to the criteria contained below in this policy, which proposed land purchase(s) to recommend to the Community Council.

Approved:	Supersedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 3 of 8

1. Evaluation Criteria for Whole Interests.

- a. In evaluating which whole interest(s) to recommend to Council for purchase, staff shall proceed to rank, for purpose of recommending to the Council, which whole interest(s) to purchase, if any, utilizing the following factors:
- 1) The seller has other land upon which to live, leave to heirs, or produce income;
 - 2) The parcel of land is contiguous to property the Community already owns;
 - 3) The location of the parcel is beneficial to the interests of the Community;
 - 4) The purpose for which the owner wants to sell is to pay for documented emergency needs;
 - 5) The purchase will resolve, or assist to resolve, legal claims or disputes pertaining to the land to be purchased and in which the Community is a party, or potential party, to that litigation;
 - 6) The Community will become the sole owner of all property interests (life estates will be relinquished, etc.) in the land to be purchased;
 - 7) The seller agrees in writing to sell the land at fair market value or there is a special relationship or circumstance between the seller and the Community where the seller agrees in writing to waive the full market value and take less compensation for the sale;
 - 8) The purchase will promote the Community's self-determination, cultural interests, economic development, housing needs, or other public purposes; or
 - 9) The land is held in fee, or is currently held in trust but there is an intent to, or action that will or might, remove the land from trust status to fee status. Examples include a request, or BIA intention, to issue a fee patent, including a fee patent for land obtained by inheritance.
- b. The proposed land purchase meeting the most factors listed in Section IV B (1)(a) above or which is in the best interest of the Community due to the importance of the land to the Community based upon any single factor, shall be recommended by staff as the most suitable for the Community to purchase. Where two or more parcels of land meet the same number of

Approved:	Supersedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 4 of 8

factors or are otherwise similarly important to the best interests of the Community, then the first in time offer and/or request to purchase received by the staff shall take priority in recommendation for purchase.

2. Evaluation Criteria for Undivided Interests.

- a. For undivided interests and to conform with federal regulation 25 CFR § 151.7, staff shall first determine if the Community can meet one of the following criteria in order for the Community to proceed with the possible purchase of a particular undivided interest:
 - 1) The Community already owns a undivided interest in the same parcel where the undivided interest to be purchased is located; or
 - 2) All the remaining undivided interest owners in the same parcel where the initial undivided interest is located agree to sell their interests to the Community; or
 - 3) A specific Community or federal law (such as the new American Indian Probate Reform Act of 2004) exists that would allow the Community to purchase the undivided interest without the Community having to purchase the remaining undivided interests; or
 - 4) The owner of the majority of the remaining undivided interests consents in writing to the Community's purchase; or
 - 5) The undivided interest being acquired is in fee status.
- b. Should staff determine that the Community does not meet at least one of the federal criteria listed above, staff shall, with approval of Council, place that undivided interest in a pool identifying that land as land the Community cannot legally purchase under federal regulation. If thereafter circumstances change and the Community becomes legally eligible to purchase the undivided interest, staff shall advise the Council of this development and proceed to rank the undivided interest according to the criteria below for purposes of recommendation to the Council.
- c. If the staff finds that one or more criteria in IV B (2)(a) above is met, then staff shall proceed to rank, for purpose of recommending to the Community Council, which undivided interest(s) to purchase, if any, utilizing the following factors:
 - 1) The seller has other land upon which to live, leave to heirs, or produce income;

Approved:	Supercedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 5 of 8

- 2) The parcel of land containing the undivided interest is contiguous to property the Community already owns;
 - 3) The purpose for which the owner wants to sell is to pay for documented emergency needs;
 - 4) The purchase will resolve, or assist to resolve, legal claims or disputes pertaining to the undivided interest(s) to be sold and in which the Community is a party, or potential party, to that litigation;
 - 5) The Community will become the sole owner or majority owner in the parcel where the undivided interest(s) are purchased;
 - 6) The seller agrees in writing to sell the undivided interest at fair market value or, subject to the Secretary of the Interior's approval, the seller agrees to waive the full market value and take less compensation for the sale;
 - 7) The purchase will promote self-determination, economic development, cultural interests, housing needs, or other public purposes; and
 - 8) The undivided interest is held in fee, or is currently held in trust but there is an intent to, or action that will or might, remove the undivided interest from trust status to fee status. Examples include a request, or BIA intention, to issue a fee patent, including a fee patent for land obtained by inheritance.
- d. The undivided interest(s) meeting the most factors listed in IV B (2)(c) above or which is in the best interest of the Community due to the importance of the land to the Community based upon any single factor, shall be recommended by staff as the most suitable for the Community to purchase. Where two or more undivided interests meet the same number of factors or are otherwise similarly important to the best interests of the Community, then the first in time offer and/or request to purchase received by the staff shall take priority in recommendation for purchase.

C. Recommending Undivided Interests in Relation to Whole Interests.

1. Once the staff has completed their evaluation and separately ranked the priority of whole interests and undivided interests, the two categories shall be compared with one another to determine the overall priority in which the staff recommends potential purchases to the Community Council.
2. Whole interests in land shall ordinarily take precedence for purchase over undivided interests in land. Consequently, in developing the overall

Approved:	Supercedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 6 of 8

recommendations to the Council, staff shall generally recommend whole interests for purchase first, with undivided interests where the Community will become the sole landowner second, and undivided interests in land where the Community will become an undivided interest holder last. However, staff may recommend for purchase an undivided interest over a whole interest where the circumstances and factors considered warrant the recommendation.

3. Any whole interest or undivided interest:

- a. involving litigation, or potential litigation where the Community is a party; or
- b. held in fee, or is currently held in trust but there is an intent to, or action that will or might, remove the land from trust status to fee;

shall be brought to the attention of the Council, regardless of priority, for purchase consideration.

D. Council Decision to Pursue Purchase.

- 1. On a quarterly basis, staff shall present their recommendation(s) to the Council for the purchase of land, or an undivided interest therein, within the Community. The staff shall support the recommendation(s) with the reasons (criteria) found for making the recommendation(s). This presentation shall be given in open session at a regular Council meeting. However, should confidential information about a recommendation need to be shared with the Council or there is a request by the Seller for anonymity which the Council must consider before discussing the purchase in open session, the Council has the authority to receive that information in executive session. In addition to the Staff's recommendations, staff shall give the Council a total listing of all possible land purchases for the Council's information.
- 2. Once the Council has received the staff's recommendation(s), reasoning, and any other pertinent information, the Council shall, in open session, determine which lands to pursue for possible purchase, if any. Subject to Council discretion, the Council should not deviate from the staff's recommendation(s) for the priority of purchases. Nevertheless, consistent with the Constitution to keep all land in Community member ownership or in trust status, the Council may consider purchasing, or developing a timeframe in which to purchase, any or all the land contained in the pool or listing. Any land or undivided interest not approved for pursuit of purchase shall be returned to the pool or listing for possible consideration during the next round of Council review. However, whether or not that land or undivided interest will again be recommended by the staff for the Council to consider for purchase depends

Approved:	Supersedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 7 of 8

upon the ranking that land or undivided interest possesses relevant to any new land or undivided interests the staff receives since the prior Council review.

3. If the Council decides to pursue the purchase of any land, or an undivided interest in land, the staff shall have an appraisal of that land or undivided interest conducted and proceed to develop or generate any other paperwork, material or requirements necessary for the sale to proceed. Once the appraisal is obtained, the staff shall negotiate with the seller the price to be paid for the land or undivided interest together with any other essential contractual terms. When completed, the negotiated contract and any other necessary conveyance documentation required for the closing shall be presented to the Council for final approval at an open session of a regular Council meeting.
4. Should the Council decide to pursue the purchase of any land, or undivided interest, upon request of the sellers and upon meeting the requirements of the policy for pre-sale down payments for pending land sales, the Council may consider approving a pre-sale down payment, which is totally in the discretion of the Council.
5. Other than an approved pre-sale down payment, no compensation shall change hands between the Community and the seller(s) until all the documentation is prepared, finalized and signed by the applicable parties (including the Bureau of Indian Affairs) necessary for the land or undivided interest to be legally conveyed to the Community.
6. All decisions for the Community purchase of whole interests or undivided interests in land shall be subject to the Community Council's sole discretion and Community budgetary constraints. The Council may declare at any time that no further purchases shall be made for any period of time the Council finds applicable.

Approved:	Supersedes:	Effective Date:
August 3, 2005	NEW	August 3, 2005
		Page 8 of 8