

**San Diego Astronomy Association**

**Real Property Acquisition Process**

Drafted 23 October, 2005

<b>1.0</b>	<b>INTRODUCTION.....</b>	<b>1</b>
<b>2.0</b>	<b>REAL PROPERTY ACQUISITION PROCESS .....</b>	<b>1</b>
2.1	REAL PROPERTY IDENTIFICATION .....	1
2.2	ACQUISITION PROPOSAL DEVELOPMENT.....	2
2.2.1	<i>Real Property Description</i> .....	3
2.2.2	<i>Real Property Stakeholders</i> .....	3
2.2.3	<i>Proposal Type</i> .....	3
2.2.4	<i>Cost Analysis</i> .....	3
2.2.5	<i>Volunteer Requirements Analysis</i> .....	3
2.2.6	<i>Legal Analysis</i> .....	4
2.2.7	<i>Known Usage Restrictions</i> .....	4
2.2.8	<i>Membership Requirements and Requests</i> .....	4
2.2.9	<i>Terms and Conditions</i> .....	5
2.2.10	<i>Site Access and Review Strategy</i> .....	5
2.3	SDAA BoD AND OFFICERS VOTE ON DRAFT PROPOSAL .....	5
2.4	ACQUISITION COMMITTEE ON PROPOSED SITE .....	6
2.4.1	<i>Acquisition Committee Duties and Responsibilities</i> .....	6
2.5	PROPOSAL COMPLETION – FUNDS ALLOCATION .....	7
2.6	PROPOSAL COMPLETION – RESUBMIT TO MEMBERSHIP .....	8
2.7	PROPOSAL APPROVAL PROCESS .....	8
<b>3.0</b>	<b>CONCLUSION.....</b>	<b>9</b>

## 1.0 INTRODUCTION

The San Diego Astronomy Association (SDAA) is facing one of the single biggest challenges in the history of the organization. Ever increasing light pollution threatens our most valuable club asset, our dark sky site located in Tierra Del Sol (TDS). The overall view of the membership, at this time, is that TDS will continue to degrade in quality as a location to conduct certain club activities including outreach and educational programs, scientific research, and member enjoyment of the night skies. This issue presents the SDAA with the difficult task of identifying, evaluating, and making decisions on the acquisition of additional real properties that will allow the continued pursuit of SDAA activities into the future.

In 2004, the SDAA began actively looking for additional real properties. During this process, however, it became clear that a process to guide the large scale acquisition of real property was not adequately defined by the SDAA Articles of Incorporation (from here on referred to as the SDAA Charter) or By-Laws. **The purpose of this document is to define a process to be followed by the SDAA in identifying, evaluating, and ultimately voting on the acquisition of real property.** Please note that this is not simply limited to the purchase of real property, but includes the acquisition of “right, title, or interest in real property” as stated in the SDAA Charter.

## 2.0 REAL PROPERTY ACQUISITION PROCESS

This section of the document outlines the process to be followed for the acquisition of any real property by the SDAA. Upon approval by the Board of Directors (BoD) and Officers, this document will become binding upon all SDAA club members and must be used as the guiding process during any SDAA acquisition of real property. The process outlined here is intended to provide the widest possible membership insight and input into the acquisition process, as well as prevent abuse of the system via the submission of excessive proposals, or other means, by any SDAA member. By staging a progressively wider comment and approval process, the membership is provided with ample opportunities to comment and ultimately approve/disapprove any Acquisition Proposal, but will not be overwhelmed with the excessive requests for input and/or votes on proposals deemed inappropriate or incomplete by the SDAA BoD and Officers.

Throughout this document, decision points (votes) by any SDAA governing body will be clearly identified in bold.

### 2.1 Real Property Identification

Any SDAA contributing member or group of members, as defined in the SDAA By-Laws, has the right to propose the acquisition, either through purchase, lease, or other agreement, of real property by the SDAA. Upon identification of a candidate real

property, the member(s) involved must notify the SDAA BoD and Officers in the form of a written Candidate Real Property Notification. This notification should include preliminary details about the real property, the parties to be involved with any transactions, a brief outline of the proposed use of the real property, an overview of some of the anticipated costs and development requirements, as well as any other information gathered by the proposing member. At this point, the SDAA BoD and Officers should provide initial feedback to the proposing member(s) on the candidate real property. Based upon this initial feedback, the proposing member(s) may choose to continue pursuit of the candidate real property, continue to gather additional information as requested by the SDAA BoD and Officers, or drop the proposal.

### **Step 1: Property Identification**

- SDAA contributing member identifies candidate property and notifies the BoD and Officers
- SDAA BoD and Officers provide member with preliminary feedback on candidate property
- Member sponsoring candidate property decides whether or not to proceed with an Acquisition Proposal.

## **2.2 Acquisition Proposal Development**

After initial notification to the BoD and Officers, the sponsoring member(s) may choose to continue pursuit of the real property by developing an Acquisition Proposal. *At this point, the BoD and Officers may choose to create a special committee (or refer the sponsor(s) to a standing committee on acquisitions if one exists) to assist the sponsoring member(s) develop the acquisition proposal.* Alternatively, the BoD and Officers can permit the sponsoring member(s) to develop a first draft proposal themselves. This is entirely at the discretion of the BoD and Officers. This proposal must include all sections identified in the following subsections of this document. Where possible, all required information should be included with the proposal. It is possible, however, that some items will be beyond the ability of the sponsoring member(s) to complete. Specifically, legal issues and cost estimates may require additional effort by the SDAA to complete. In the instance that the sponsoring member(s) is unable to complete a required section, it should be so noted in the proposal. The completion of these sections will be addressed later in the process.

### **Step 2: Develop Acquisition Proposal**

- The sponsoring member must develop a written Acquisition Proposal for the candidate property.
- See the following subsections for more information on specific Acquisition Proposal section details.

The following section outlines each of the major sections required to be included with any Acquisition Proposal, and provides a description for each section. It is important to note, at this point, that any proposal resulting from this process will not be static until it is put to a final vote by the membership, and will be subject to constant revision based upon

feedback, comments, and questions by the BoD, Officers, and members of the SDAA. Any SDAA member(s) submitting a proposal would do well to understand that this acquisition process, while as simple as possible, will require the dedication of significant time and energy by the proposing member(s). Given the critical importance of this process to the future of the SDAA there can be no deviation from or shortcuts around this process.

### *2.2.1 Real Property Description*

This section is simply a physical description of the real property, and should include as much detail as possible, including topographical maps, aerial/satellite photographs (if available), etc. Specific astronomy related information, such as the elevation, average amounts of rainfall and other weather data should be included if available.

### *2.2.2 Real Property Stakeholders*

This section must clearly identify any and all organizations involved with the candidate real property. This could include the real property owner(s), lease holder(s), government agencies, etc.

### *2.2.3 Proposal Type*

This section identified the type of acquisition transaction being proposed. While not inclusive, such transaction types could include: purchase, lease, or entering into a Memorandum of Understanding (MoU) with an external group or organization.

### *2.2.4 Cost Analysis*

There will likely be financial responsibilities associated with any real property. This section should clearly outline any and all financial responsibilities to be assumed by the SDAA upon acceptance of the proposal and provide an annual cost estimate required to meet each responsibility. While not intended to be an inclusive list, these costs could include: development costs, recurring maintenance costs, etc. Where specific costs are provided in the proposal, a Basis of Estimate (BoE) must also be included that provides specific details on how each cost estimate was generated. For example, a qualified service provider should be consulted for a cost quote for any work and/or obligations that cannot be provided internally by the SDAA membership

### *2.2.5 Volunteer Requirements Analysis*

From routine site clean-up efforts, to the management of observatories and other structures, there will be specific activities that will require volunteer effort by the SDAA membership. These requirements should be clearly outlined here, as well as details on the estimated number of individuals and skills required to meet each obligation. In particular, any items identified in section 2.2.4 "Cost Analysis" that are proposed to

become the volunteer responsibility of the membership must be clearly identified and quantified in terms of number of volunteers, skills, materials required, and the frequency of operations (weekly, monthly, annual, etc.).

### 2.2.6 Legal Analysis

While this is most likely not a section that can be completed initially by the member(s) drafting the Acquisition Proposal, prior to the SDAA engaging into any binding agreements, the legal implications of those agreement(s) must be evaluated by a qualified attorney. This process is intended to confirm that all SDAA interests, as outlined in the final proposal, are fully protected, and that any liabilities to be assumed by the SDAA are clearly identified.

### 2.2.7 Known Usage Restrictions

This section will outline any known restrictions that would be imposed upon the SDAA by any real property stakeholders, laws, zoning restrictions, etc. This section should include, but is not limited to, restrictions on land improvements, access issues, etc.

### 2.2.8 Membership Requirements and Requests

This section should be presented in tabular format, and is to include a short description of all requirements and requests made by the sponsoring member(s), BoD, Officers, and members of the SDAA. Only requirements and requests that pertain to astronomical pursuits as outlined in the SDAA Charter and By-Laws must be included, although a proposal writer may choose to include additional requirements and requests that may be of interest to the general membership. The format of this section is to be as follows.

Member Requirement or Request	Source	Proposal Developer Response	Status	Member Comment
SDAA Members must be permitted to modify <site name> to provide for reliable electrical power to observing areas	Jane Member	Accepted and will be incorporated into final proposal and subsequent agreements.	Closed	N/A
SDAA Members must be permitted to construct personal observatory structures	Joe Member	Rejected, based upon initial discussions with <real property stakeholders> and as outlined in "Known Usage Restrictions", this will not be permitted	OPEN	Should Joe Member reject this restriction he would be permitted to write a succinct addition to the proposal outlining his objection to this restriction. Comments are directly included here.

Please note that initially this table will be completed at the discretion of the sponsoring member(s). Later in the process, however, this table will be a valuable tool in tracking and addressing input to the proposal during the vetting process and will assure that all

membership requirements and requests are captured. Also note that while all items must be captured within this section, there is no obligation on the part of the proposal writer to agree to any request. The point of contention will be identified and the disagreeing parties will be given space in the “Member Comment” section to express their concern(s). Upon being put to a membership vote, this section will act to show members where the proposal meets and does not meet, membership requests, requirements, and wants.

### 2.2.9 Terms and Conditions

This section should again be presented in tabular format, and is to include a short description of all Terms and Conditions (T&Cs) proposed by the sponsoring member, BoD, Officers, and members of the SDAA. The format of this section is to be as follows.

Term/Condition	Source	Proposal Developer Response	Status	Amplification
The SDAA must be permitted to have at least a one year site evaluation process prior to engaging into any long term and binding engagements.	Jane Member	Accepted and will be incorporated into final proposal and subsequent agreements.	Closed	N/A
The SDAA must be transferred full ownership of the site after 50 years of successful site management.	Joe Member	Rejected, based upon initial discussions with <real property stakeholders> and as outlined in “Known Usage Restrictions”, this will not be permitted.	OPEN	Should Joe Member reject this restriction he would be permitted to write a succinct addition to the proposal outlining his objection to this restriction.

Similar to the Membership Requirements and Requests section, this tool will ultimately serve as a running tool for managing input into the T&Cs finally included with the proposal. Again, initially, this will be completed by the proposal sponsor(s) and expanded upon during the vetting process.

### 2.2.10 Site Access and Review Strategy

This section should outline how the SDAA BoD, Officers, and Membership will be permitted to access and review the site. Personal inspection will be a critical deciding factor for many members as they determine their position on the proposed real property.

## 2.3 SDAA BoD and Officers Vote on Draft Proposal

The sponsoring member(s) should present their proposal to the SDAA BoD and Officers for a preliminary review and vote on whether to a) advance the proposal, b) reject the proposal outright, or c) send the proposal back to the sponsoring member for additional development. The BoD and Officers in this case vote in order to prevent unnecessary

SDAA expenses and effort involved with a wider membership review, which will follow in the event that the proposal is accepted.

## 2.4 Acquisition Committee on Proposed Site

### Step 3: DECISION POINT: BoD/Officer Vote

- **The SDAA BoD and Officers vote on the draft proposal.**
- The intent of this vote is only to approve or disapprove of a draft proposal for additional review by the club.

Unless already created to assist the sponsoring member with development of the Acquisition Proposal, upon approval of the draft Acquisition Proposal by the BoD and Officers, the BoD will, in accordance with Article VI of the SDAA By-Laws, appoint a special committee to manage the process of gathering member input on the proposal. If a standing acquisition committee exists, the proposal will be referred to this committee. After the BoD determines a committee is necessary, the SDAA President will appoint a contributing member to chair the committee and the chairperson will identify additional members to serve on the committee. This committee has the responsibility to assist and guide the acquisition process. *It is absolutely imperative that the committee itself remain neutral on any specific proposal. The job of the committee is to guide the process and determine if a proposal is sufficiently developed to present to the membership for a vote. Even if the committee is created early in the process to assist in developing the proposal, the committee must remain absolutely impartial. To help assure this, the committee is not empowered to take any obligatory actions on behalf of the SDAA nor obligate SDAA monies towards any acquisition.* The member(s) sponsoring the site will work with the committee to complete the proposal. The member sponsoring the proposal may not be a member of this acquisition committee, but will be expected to work closely with the committee throughout the acquisition process. As per the SDAA By-Laws, Article VI, Section 4.0, the SDAA President will serve as an ex-officio member of the acquisition committee, and as such, should not be the sponsor of any acquisition proposal. The President may waive his/her right to serve on this committee at his/her discretion, but if this is done, he/she should appoint a Leadership Liaison to act in a non-voting capacity on the committee in order to keep the leadership informed on committee activities.

### 2.4.1 Acquisition Committee Duties and Responsibilities

The appointed acquisition committee shall have the primary responsibility of socializing the draft Acquisition Proposal to the entire SDAA membership, and for assuring that all member requests, requirements, comments, and feedback are incorporated into the draft proposal as appropriate. Specifically, the committee will assure that the draft proposal is sent via a special club mailing to all SDAA members, and will establish public forums for open discussion of the draft proposal. Member feedback will be accepted either in person, via mail, or via the established technical forum(s). The committee should schedule periodic official and public meetings of the membership to discuss the developing proposal.

#### **Step 4: Solicit Member Feedback**

- The SDAA Membership shall be empowered to request the inclusion of items into the developing proposal per the T&C, and Member Requirements/Request sections.

Committee members will work closely with the sponsor member(s) to assure that member feedback is properly documented and addressed in the proposal. Specifically the matrices identified in the proposal format will be used as tools to track

issues/concerns/questions, etc. Updated versions of the proposal will be included with monthly club mailings and/or will be made available via technology forums using the Internet.

The acquisition committee must provide for at least 30 days of member input from the release of the draft acquisition proposal, although this should not be interpreted as to restrict this period to only 30 days should additional time be needed. The acquisition committee chairman is empowered to create sub-committees as necessary and task those subcommittees to assist the sponsoring member in completing specific areas of the proposal as necessary.

## **2.5 Proposal Completion – Funds Allocation**

As noted earlier, some critical sections of the proposal, particularly those related to legal and/or financial concerns may be beyond the ability of the proposal sponsor(s) to complete. The acquisition committee, in this case, will assume responsibility for completing those sections of the proposal and will first tap the club membership to determine if the expertise to complete them exists within the club. If necessary, the committee will work with the BoD and Officers to solicit donations of legal and/or cost estimating services that may require outside expertise.

If absolutely required, the acquisition committee will build cost estimates for purchasing services necessary to complete any proposal sections, such as a legal review of real property easements, etc. *In the event that the total costs are less than or equal to \$2500†, the BoD and Officers shall be authorized to proceed, at their discretion, in contracting the services necessary to complete the proposal. In the event that costs exceed \$2500†, a vote of the membership will be necessary to authorize the procurement of such services.* Note that the BoD is not mandated to allocate funds to support the development of any/all proposals. This is important to prevent possible financial abuse of the acquisition process.

In the event that a vote of the membership is required, the acquisition committee will include a copy of the draft proposal, a cost estimate for completing the proposal,

#### **Step 5: DECISION POINT: Membership Vote**

- The SDAA membership must approve the expenditure of any amount over \$TBD to be spent in order to complete any acquisition proposal.

---

† This amount may be increased 3% annually starting in 2007 to account for inflation

and a voting form with the next scheduled club mailing, or will send out a special club mailing containing this information. In addition, an official special club meeting will be held to discuss the proposal in a public forum.

## 2.6 Proposal Completion – Resubmit to Membership

### Step 6: Updated Proposal Submitted for Input

- Similar to previous membership reviews, the updated proposal, including the updated information, will be provided to the membership for review and comment.

The proposal sponsor(s) and the acquisition committee will work together to complete the proposal and incorporate the information solicited in the previous step. At this point the proposal should be substantively complete. Membership input will be

solicited, gathered, and tracked per the use of the proposal matrices developed for this purpose. See Section 2.4.1 for information on how the acquisition committee will solicit and gather member input. This last period of gathering input shall be no less than 15 days after distribution of the updated acquisition proposal materials.

## 2.7 Proposal Approval Process

Upon the receipt and incorporation of all relevant membership input, the acquisition committee will declare the proposal completed. At this point, two votes will take place. Once the proposal is declared completed by the acquisition committee, the proposal will be submitted to the SDAA Officers and BoD for their consideration. At the first regularly scheduled BoD meeting after receipt of the committee submission, the BoD will act on the proposal. They could choose to refer the proposal back to the committee and/or sponsoring members or submit the proposal to a wider membership vote. Within 30 days of referral to the membership by the BoD, if the proposal passes this vote, it will be presented to the entire membership for their approval. **In order for a proposal to be approved, it is required that 50% of all SDAA members that are empowered to vote cast a “yes” vote on the proposal. For example, if the club has 650 members empowered to vote, a minimum of 326 “yes” votes must be cast in order to approve a proposal.** All voting will be conducted by mail and/or a BoD sanctioned electronic forum.

### Step 7: DECISION POINT: Final Voting

- A vote of the general membership is required to approve any acquisition proposal.

This requirement is clearly stipulated in the SDAA Articles of Incorporation, Section IX, which requires the “*written assent of a majority of all the members. . . [for any actions of the corporation involving] acquiring or disposing of right, title, or interest in real property.*” If the

proposal is rejected at any point, the proposal sponsor(s) will have to choose to a) revise the proposal to meet SDAA requirements of b) terminate the proposal process. In the event that the proposal meets approval in all three forums, the unresolved and/or contended T&Cs and membership requirements and requests will be removed from the final proposal. The final proposal must then be included with any SDAA submissions or binding agreements on the real property in question, and all T&Cs and membership requirements and requests must be fully met by any subsequent agreements.

### 3.0 CONCLUSION

This document is intended to provide a baselines process for the acquisition of real property by the SDAA, and to assure that all members are permitted to have clear insight and input into this process. This process was developed around the requirements stated in the SDAA Charter, Section IX:

*The following actions of the Corporation shall be by written assent of a majority of all the members:*

- a. Acquiring or disposing of right, title, or interest in real property;*
- b. Incurring financial obligations in excess of the Corporation's capacity to pay from current dues-year revenues;*
- c. Amending, adopting, or repealing the Articles of Incorporation or By-Laws;*
- d. Dissolution of the Corporation*

Upon approval, there can be no deviation from the requirements stated within this document as the SDAA moves to acquire any "right, title, or interest" in any real property.