

1. An identification of the parcels to be acquired as part of the project site;

2. The declaration, which contains the Recreation and Open Space Inventory (ROSI) required under N.J.A.C. 7:36-6.4(a) as adjusted to correct inaccuracies, if any, discovered during Green Acres' review of the funding application;

3. The estimated cost of acquisition of the project site;

4. Special conditions for the grant incentive projects under N.J.A.C. 7:36-5.1(b)1 and 2, and other special conditions as appropriate;

5. The requirements for recordkeeping, project administration, and loan repayment;

6. The requirement that the deed for each parcel to be acquired as part of the project site contain the following clause:

"It is understood by the seller that the lands being conveyed herein are being purchased with funds from the \_\_\_\_\_ Green Acres Bond Act (P.L. \_\_\_\_\_, c. \_\_\_\_\_) and that this conveyance is made subject to Green Acres restrictions, and the purchaser herein agrees to accept these lands with the Green Acres restrictions against disposal or diversion to a use for other than recreation and conservation purposes"; and

7. Other terms and conditions, including a statement of the remedies described at (f) through (i) below and a statement of the requirements for maintenance, use, development, and disposal or diversion of parkland as described at N.J.A.C. 7:36-20.

(b) When the local unit returns the executed project agreement to Green Acres, it shall also submit verification that a bond ordinance, supplemental debt statement, and revised capital budget have been approved by the Department of Community Affairs.

(c) Upon receipt of the items listed at (b) above, the Department shall establish an account from which Green Acres shall disburse the loan or grant.

(d) Green Acres shall send the declaration to the local unit within 30 days of transferring to the local unit the first disbursement of Green Acres funds under N.J.A.C. 7:36-9.3. The local unit shall have the declaration recorded by the county clerk or registrar and returned to Green Acres.

(e) Green Acres and the local unit shall execute an amendment to the project agreement to add a parcel to the project site if the local unit demonstrates that the parcel meets the project eligibility requirements at N.J.A.C. 7:36-4; to extend the project period established in the project agreement if the local unit demonstrates that it is making a good faith effort to complete the project in an expeditious

manner; or to reflect any supplemental funding provided under N.J.A.C. 7:36-8.3.

(f) In addition to any other rights or remedies available to the Department under law, if the local unit does not comply with any of the requirements of the project agreement, this chapter, or the Green Acres laws, or if the local unit makes any material misrepresentation in the project application and/or the documentation submitted in support of the application, the Department may take any of the following actions:

1. Issue a written notice of noncompliance directing the local unit to take and complete corrective action within 30 days of receipt of the notice.

i. If the local unit does not take corrective action, or if the corrective action taken is not adequate in the judgment of the Department, then the Department may take any of the actions described at (f)2 through 4 and (g) below;

2. Withhold a grant or loan disbursement or portion thereof;

3. Terminate the project agreement; and/or

4. Demand immediate repayment of all Green Acres funds that the local unit has received.

(g) If the local unit fails to comply with any of the terms of the project agreement, this chapter, or the Green Acres laws, the Department may initiate suit for injunctive relief or to seek specific enforcement, without posting bond, it being acknowledged that any actual or threatened failure to comply will cause irreparable harm to the State and that money damages will not provide an adequate remedy.

(h) If the Department incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the local unit's obligations under the project agreement, this chapter, or the Green Acres laws, the local unit shall pay these expenses on demand by the Department.

(i) The Department is not required to mitigate any damages to the local unit resulting from the local unit's noncompliance with the terms of the project agreement, this chapter, or the Green Acres laws.

### **7:36-9.2 Negotiations for purchase of project site**

(a) The local unit may enter into a purchase or option contract with the property owner only after the local unit accepts the eligible land cost under N.J.A.C. 7:36-8.2 or after the local unit receives the at-risk authorization under N.J.A.C. 7:36-6.3.

(b) Any person who performed an appraisal under N.J.A.C. 7:36-6.6 of any parcel in the project site shall not conduct negotiations for such parcel.

**7:36-9.3 Disbursement of loan or grant**

(a) Green Acres shall disburse the loan or grant in advance of closing, or as reimbursement after closing or after the filing of a declaration of taking.

(b) If a local unit seeks payment in advance of closing, it shall submit its request at least 60 working days before the scheduled date of closing.

(c) For each parcel of land in the project site for which payment is requested, the local unit shall submit:

1. For payment in advance of closing, the following:

i. A copy of the contract of sale;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)1ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance binder, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments. The binder shall name the State as additional insured;

v. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, and survey costs;

vi. A Green Trust Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-8.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of local unit, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the local unit's chief executive officer, chief financial officer, or municipal clerk that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the local unit seeks payment; and

vii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site;

2. For reimbursement after closing or after the filing of a declaration of taking, the following:

i. A copy of the cancelled check (both sides) for the purchase of the parcel(s) in the project site;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)2ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance policy, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments, and conforming to the following:

(1) The policy must name the State as additional insured;

(2) The policy must replace the survey exception with a survey endorsement that insures title to the area within the metes and bounds description;

(3) The policy amount must be at least equal to the eligible land cost; and

(4) Schedule B, Section II (Exceptions) must note that the parcel is subject to the Green Acres restrictions;

v. A copy of the recorded deed or declaration of taking, containing the metes and bounds description required under (c)2iii above, including the clause stating that the parcel is subject to the Green Acres restrictions as required by the project agreement under N.J.A.C. 7:36-9.1(a);

vi. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, survey, relocation, and any other allowable costs under N.J.A.C. 7:36-4.9;

vii. A Green Trust Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-8.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of local unit, and county;

(2) An itemized statement of the cost of acquisition of the parcel;

(3) A certification by the local unit's chief executive officer, chief financial officer, or municipal clerk that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the local unit seeks payment;

(4) A justification of any difference between the purchase price and the eligible land cost of the parcel; and

(5) A justification of any difference between the parcel acreage as described in the appraisal and the parcel acreage purchased; and

viii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site.

3. All documents required under (c)2 above not submitted with a request for payment in advance of closing shall be submitted as expeditiously as possible after closing.

(d) Upon receipt of a request for payment under (c) above, Green Acres shall:

1. Send to the local unit a payment invoice for the loan or grant amount. The local unit's chief executive officer, chief financial officer, or municipal clerk shall verify, sign, and return the invoice to Green Acres for processing; and

2. Conduct a site inspection of the parcel of land for which the payment is requested.

(e) The local unit shall establish a separate bank account for the purpose of receiving Green Acres loan disbursements for the project. The State shall transmit each loan disbursement directly into such account, which will be subject to audit by the State. If a local unit has undertaken more than one Green Acres funded project, it may establish a single bank account to receive all loan payments for the projects.

(f) The State shall mail each grant disbursement to the local unit in the form of a check. The local unit shall not sign over the check to the property owner or any other person but shall deposit the check into the local unit's bank account.

(g) The local unit shall immediately inform Green Acres if the closing date established in the contract of sale for the project site is postponed for any reason. A local unit that has received a disbursement in advance of a scheduled closing that is postponed is subject to the following conditions:

1. As of the 30th day after the disbursement is made, the local unit shall pay to the State interest accrued on the amount of the disbursement from that day up to the

90th day after the disbursement. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 30th day.

2. As of the 90th day after the disbursement is made, the local unit shall repay to the State the amount of the disbursement plus accrued interest from 30 days after disbursement to the date of repayment. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 90th day.

(h) A local unit that has repaid the disbursement plus accrued interest under (g)2 above may, upon acquisition of the project site, submit a request for reimbursement after closing in accordance with (c)2 above.

(i) The local unit may unilaterally withdraw the project at any time before it receives Green Acres funds. The local unit shall not terminate the project agreement after it receives any Green Acres funds without the written consent of Green Acres.

(j) If the local unit terminates the project agreement under (i) above, the local unit is responsible for any costs of acquisition incurred as of the time of termination. The local unit shall also repay, with interest at the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect at the time of termination, any disbursements which Green Acres made to the local unit for the project.

#### **7:36-9.4 Terms of loan repayment**

(a) A local unit shall repay the loan amount in semi-annual installments over a period of not more than 20 years from the date of the initial disbursement to the date of the final repayment. The local unit may prepay the loan in whole or in part at any time without penalty. An accelerated repayment schedule may be established under the project agreement executed under N.J.A.C. 7:36-9.1.

(b) Interest shall accrue on the outstanding loan principal at a rate not to exceed two percent per year. Interest accrued against each disbursement shall be paid to the Treasurer of the State three months after the date of the final disbursement.

(c) The first repayment of principal shall be paid to the Treasurer of the State nine months after the final disbursement, two years after the date of the first disbursement, or the date established in the project agreement, whichever is earliest.

(d) The local unit shall allocate a portion of its budget to meet the annual debt service on the loan.

(e) The Department shall assess a late fee when the local unit fails to make any repayment within 30 days of the scheduled payment due date, as follows:

1. When a payment is 30 to 59 days past due, five percent of the payment amount due.
2. When a payment is 60 to 89 days past due, 10 percent of the payment amount due.
3. When a payment is 90 or more days past due, 15 percent of the payment amount due.

(f) A local unit that fails to make payment within 90 days of the repayment due date shall be in default of the project agreement. Upon default:

1. All outstanding principal, interest, and late fees are payable immediately; and
2. Interest accrues at a rate of two percent per year on the outstanding principal, interest, and late fee, calculated from the repayment due date.

(g) Repayment of the loan in full does not terminate the Green Acres restrictions on the local unit's funded and unfunded parkland.

#### **7:36-9.5 Accounting and recordkeeping**

(a) The local unit shall maintain and make available to the Department for inspection on request all financial documents and records related to the project for three years in accordance with (d) below.

(b) The local unit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Green Acres loan or grant.

(c) The local unit shall maintain separate records for each project including the amount, receipt, and disposition of all funding received for the project, including Green Acres loans and grants, and contributions, gifts, or donations from any other sources.

(d) The local unit shall provide a duly authorized representative of the Department access to all records, books, documents, and papers pertaining to the project agreement and/or the project for audit, examination, excerpt, and transcript purposes. Such records shall be maintained and access shall be provided during performance of the project and for three years after the latter date of either final repayment or audit resolution. The local unit shall include this requirement in all project-related contracts.

(e) The local unit shall conduct annual audits and submit audit reports in conformance with the Single Audit Act of 1984, P.L. 98-502 and the Single Audit Act Amendments of 1996, P.L. 104-156, Federal OMB Circular A-133: "Audits of State and Local Governments," incorporated herein by reference, and State OMB Circular 98-07: "Single Audit Policy," incorporated herein by reference.

1. Audit reports shall address the local unit's compliance and all specific instances of noncompliance with the material terms and conditions of the project agreement and applicable laws and regulations.

2. Audit reports shall contain an itemized schedule of all project-related financial assistance received by the local unit identifying: grantor agency, program title, State account number, and total disbursement.

(f) The Department shall adjust the local unit's final payment, if necessary, based on the results of the annual audit.

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### **SUBCHAPTER 10. LOCAL UNIT DEVELOPMENT PROJECTS: PROJECT ELIGIBILITY**

#### **7:36-10.1 General provisions**

(a) The Department shall establish a maximum funding limit per project or per applicant based on available funds and project priorities established under N.J.A.C. 7:36-13.1. There is no minimum or maximum loan or grant request amount. Any Green Acres funding award is subject to legislative appropriation.

(b) A development project shall be located on land which is owned in fee simple by the local unit, or on land for which the local unit has obtained an irrevocable lease approved by Green Acres for at least 25 years.

(c) A local unit is responsible for meeting all requirements of all Green Acres laws, other State statutes, Federal statutes, and local ordinances, as applicable.

#### **7:36-10.2 Eligible projects**

(a) Developments for recreation and conservation purposes, as defined at N.J.A.C. 7:36-2.1, are eligible for Green Acres funding. Development projects may include, for example:

1. A facility that will support the increased public use or enjoyment of outdoor recreation and conservation land, such as a facility for outdoor games and sports, winter sports, boating, picnicking, fishing, biking, hiking, swimming, camping, nature and historic interpretation, or similar activities;
2. Lighting for an existing recreational or conservation facility;
3. A parking area that is part of a larger outdoor recreation or conservation project;
4. A building, such as a restroom or comfort facility, administrative office, maintenance and storage area, or other similar structure;

iv. A project that is cost-effective as determined by weighing the quality of conservation or recreation opportunities provided by the project against the anticipated cost. Considerations include: cost of alternative locations and facilities, bargain sale, donation, easement or takings avoidance, and cost of future operation and maintenance, zero to four points.

4. A maximum of 10 points may be assigned to a project that incorporates or accomplishes the below-listed items, as follows:

i. Private investment and/or ecotourism potential, public/private sector venture, and/or supports municipal and county (urban complex) strategic revitalization plans and programs consistent with the State Plan or the Pinelands Comprehensive Management Plan, as applicable, one point;

ii. Waterfront development or redevelopment, one point;

iii. Trails, bike paths, or greenways, one point;

iv. Historic or archaeological resource enhancement or preservation, one point;

v. Scheduled recreation programming, one point;

vi. Open play areas, one point;

vii. Multiple use projects (active and passive recreation opportunities), one point;

viii. Addition to a prior Green Acres-funded acquisition or development, one point;

ix. Private donation of land, equipment, labor, or cash, one point;

x. Rehabilitation or redevelopment of an existing facility, one point.

5. Five points are assigned to a project undertaken by a county or municipality that has not previously received Green Acres funding.

6. A maximum of 12 points may be assigned to a project whose design minimizes adverse impacts on the environmentally sensitive features of the site, as follows:

i. Locates facilities in already cleared areas, to minimize additional clearing of trees and vegetation, zero to four points;

ii. Locates facilities where topography and soil conditions are suitable, to minimize grading, excavation, fill, and drainage of a site, zero to four points;

iii. Retains, enhances, or establishes vegetative buffers, or incorporates other site-sensitive techniques, to minimize impacts on sensitive areas such as shellfish beds, beach/dune systems, forests, wetlands, steep slopes, endangered or threatened species habitat, and aquifer recharge areas, zero to four points.

(c) The Department shall determine the total number of priority points assigned to each project under (b) above.

(d) The Department shall rank the projects on a priority list according to the total number of priority points assigned each project, with the project assigned the greatest total number of priority points ranking first.

SUBCHAPTER 14. LOCAL UNIT DEVELOPMENT  
PROJECT: PROJECT AGREEMENT, BID  
PROCEDURES, SUPPLEMENTAL FUNDING,  
CONSTRUCTION RESPONSIBILITY,  
DISBURSEMENTS, PROJECT CLOSEOUT,  
LOAN REPAYMENT, ACCOUNTING AND  
RECORDKEEPING REQUIREMENTS

**7:36-14.1 Project agreement**

(a) Green Acres shall send the project agreement to the local unit. The local unit shall ensure that the project agreement and declaration are approved and signed by the local unit's attorney, and executed by the person authorized under the resolution described at N.J.A.C. 7:36-12.4(a). The project agreement shall contain:

1. A description of the project facilities to be developed;

2. The declaration, which contains the Recreation and Open Space Inventory (ROSI) required under N.J.A.C. 7:36-12.4(a) as adjusted to correct inaccuracies, if any, discovered during Green Acres' review of the funding application;

3. The estimated cost of the development project;

4. Special conditions, if any;

5. The requirements for recordkeeping, project administration, and loan repayment; and

6. Other terms and conditions, including a statement of the remedies described at (f) through (i) below and a statement of the requirements for maintenance, use, development, and disposal or diversion of parkland as described at N.J.A.C. 7:36-20.

(b) When the local unit returns the executed project agreement to Green Acres, it shall also submit verification that a bond ordinance, supplemental debt statement, and revised capital budget have been approved by the Department of Community Affairs.

(c) Upon receipt of the items listed at (b) above, the Department shall establish an account from which Green Acres shall disburse the loan or grant.

(d) Green Acres shall send the declaration to the local unit within 30 days of transferring to the local unit the first

disbursement of Green Acres funds. The local unit shall have the declaration recorded by the county clerk or registrar and returned to Green Acres.

(e) Green Acres and the local unit shall execute an amendment to the project agreement to modify the project scope if the local unit demonstrates that the modified project meets the project eligibility requirements at N.J.A.C. 7:36-10; to extend the project period established in the project agreement if the local unit demonstrates that it is making a good faith effort to complete the project in an expeditious manner; or to reflect any supplemental funding provided under N.J.A.C. 7:36-14.3.

(f) In addition to any other rights or remedies available to the Department under law, if the local unit does not comply with any of the requirements of the project agreement, this chapter, or the Green Acres laws, or if the local unit makes any material misrepresentation in the project application and/or the documentation submitted in support of the application, the Department may take any of the following actions:

1. Issue a written notice of noncompliance directing the local unit to take and complete corrective action within 30 days of receipt of the notice.

i. If the local unit does not take corrective action, or if the corrective action taken is not adequate in the judgment of the Department, then the Department may take any of the actions described at (f)2 through 5 and (g) below;

2. Withhold a grant or loan disbursement or portion thereof;

3. Order suspension of work on the project for a period of not more than 45 days after the date of the stop work order, unless the Department and the local unit agree to an extension of that period;

i. A stop work order shall contain the reasons for the issuance of the stop work order, a clear description of the work to be suspended, instructions as to the issuance of further orders by the local unit for materials or services, and other suggestions for minimizing costs;

ii. Upon receipt of the stop work order, the local unit shall immediately comply with the terms of the order and take all reasonable steps to minimize the incurring of costs allocable to the work covered by the order;

iii. The Department shall, within the period of the stop work order or any extension of it, either rescind the stop work order, terminate the work covered by the order, or authorize the resumption of work.

iv. If the Department rescinds a stop work order or if the period of a stop work order or an extension of it expires, the local unit shall promptly resume the suspended work. The Department shall, as necessary, make an equitable adjustment to the project period;

4. Terminate the project agreement; and/or

5. Demand immediate repayment of all Green Acres funds that the local unit has received.

(g) If the local unit fails to comply with any of the terms of the project agreement, this chapter, or the Green Acres laws, the Department may initiate suit for injunctive relief or to seek specific enforcement, without posting bond, it being acknowledged that any actual or threatened failure to comply will cause irreparable harm to the State and that money damages will not provide an adequate remedy.

(h) If the Department incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the local unit's obligations under the project agreement, this chapter, or the Green Acres laws, the local unit shall pay these expenses on demand by the Department.

(i) The Department is not required to mitigate any damages to the local unit resulting from the local unit's noncompliance with the terms of the project agreement, this chapter or the Green Acres laws.

#### 7:36-14.2 Bid procedures

(a) Upon receipt of a letter from Green Acres verifying that the construction plans submitted under N.J.A.C. 7:36-12.5(d) are consistent with the approved project scope, the local unit may solicit bids on the project contracts, if required under the Local Public Contracts Law, N.J.S.A. 40A:11-1 et seq.

(b) The local unit shall include the following statement in each advertisement and invitation to bid:

"Please be advised that State funds through the Green Acres Bond Acts are being utilized in this project. Under N.J.A.C. 7:1-5, vendors currently suspended, debarred, or disqualified are excluded from participation on this project."

(c) All bid specifications and contracts shall require that all facilities must be constructed in accordance with all applicable State and local construction codes.

#### 7:36-14.3 Supplemental funding

(a) A local unit may request, in writing, supplemental funding if:

1. The bid received or the negotiated contract amount for a project exceeds the loan or grant amount awarded under N.J.A.C. 7:36-12.5, provided the local unit has solicited bids on the project at least two times; or

(g) If the Department incurs legal or other expenses, including its own personnel expenses, for the collection of payments due or in the enforcement or performance of any of the nonprofit's obligations under the project agreement, the conservation restriction and/or historic preservation restriction, as applicable, this chapter, or the Green Acres laws, the nonprofit shall pay these expenses on demand by the Department.

(h) The Department is not required to mitigate any damages to the nonprofit resulting from the nonprofit's noncompliance with the terms of the project agreement, the conservation restriction and/or historic preservation restriction, as applicable, this chapter or the Green Acres laws.

### 7:36-19.2 Negotiations for purchase of project site

(a) The nonprofit may enter into a purchase or option contract with the property owner only after the nonprofit accepts the eligible land cost under N.J.A.C. 7:36-18.2 or after the nonprofit receives the at-risk authorization under N.J.A.C. 7:36-16.3.

(b) Any person who performed an appraisal under N.J.A.C. 7:36-16.6 of any parcel in the project site shall not conduct negotiations for such parcel.

### 7:36-19.3 Disbursement of grant

(a) Green Acres shall disburse the grant in advance of closing or as reimbursement after closing.

(b) If the nonprofit seeks payment in advance of closing, it shall submit its request at least 60 days before the scheduled date of closing.

(c) For each parcel of land in the project site for which payment is requested, the nonprofit shall submit:

1. For payment in advance of closing, the following:

i. A copy of the contract of sale;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)1ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance binder, with copies of the deed of record and of all easements, restrictions,

and other instruments of record as attachments. The binder must name the State as additional insured;

v. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, and survey costs;

vi. A Nonprofit Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-18.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of nonprofit, municipality, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the nonprofit's chief executive officer or chief financial officer that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the nonprofit seeks payment; and

vii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site;

2. For reimbursement after closing, the following:

i. A copy of the cancelled check (both sides) for the purchase of the parcel(s) in the project site;

ii. A land survey plan, prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, submitted on paper (two copies) and in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

iii. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (c)2ii above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

iv. A copy of the title insurance policy, with copies of the deed of record and of all easements, restrictions, and other instruments of record as attachments, and conforming to the following:

(1) The policy must name the State as additional insured;

(2) The policy must replace the survey exception with a survey endorsement that insures title to the area within the metes and bounds description;

(3) The policy amount must be at least equal to the eligible land cost; and

(4) Schedule B, Section II (Exceptions) must note that the parcel is subject to the Green Acres restrictions, and to the perpetual conservation restriction or historic preservation restriction, as applicable;

v. A copy of the recorded deed, containing the metes and bounds description required under (c)2iii above;

vi. A copy of each cancelled check (both sides), voucher, or invoice for appraisal, preliminary assessment, survey, and any other allowable costs under N.J.A.C. 7:36-15.9;

vii. A Nonprofit Acquisition Payment Form, which Green Acres provides with the statement of eligible land cost under N.J.A.C. 7:36-18.1, with the following items completed:

(1) The project name, block(s) and lot(s), name of nonprofit, municipality, and county;

(2) An itemized statement of the cost of acquisition of the parcel; and

(3) A certification by the nonprofit's chief executive officer or chief financial officer that the information contained in the form is accurate and that no bonus has been given or received in connection with any bill for which the nonprofit seeks payment;

(4) A justification of any difference between the purchase price and the eligible land cost of the parcel;

(5) A justification of any difference between the parcel acreage as described in the appraisal and the parcel acreage purchased;

viii. If the project involves a donation, a letter of intent from the donor which expresses the donor's intent to donate cash or a portion of the eligible land cost of the project site.

3. All documents required under (c)2 above not submitted with a request for payment in advance of closing shall be submitted as expeditiously as possible after closing.

(d) Upon receipt of a request for payment under (c) above, Green Acres shall:

1. Send to the nonprofit a payment invoice for the grant amount or 50 percent of the cost of acquisition, whichever is less. The nonprofit's chief executive officer or chief financial officer shall verify, sign, and return the invoice to Green Acres for processing; and

2. Conduct a site inspection of the parcel of land for which the payment is requested.

(e) The State shall mail each grant disbursement to the nonprofit in the form of a check. The nonprofit shall not sign over the check to the property owner or any other person but shall deposit the check into the nonprofit's bank account.

(f) The nonprofit shall immediately inform Green Acres if the closing date established in the contract of sale for the project site is postponed for any reason. A nonprofit that has received a disbursement in advance of a scheduled closing that is postponed is subject to the following conditions:

1. As of the 30th day after the disbursement is made, the nonprofit shall pay to the State interest accrued on the amount of the disbursement from that day up to the 90th day after the disbursement. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 30th day.

2. As of the 90th day after the disbursement is made, the nonprofit shall repay to the State the amount of the disbursement plus accrued interest from 30 days after disbursement to the date of repayment. The interest rate shall be the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect on the 90th day.

(g) A nonprofit that has repaid the disbursement plus accrued interest under (f)2 above may, upon acquisition of the project site, submit a request for reimbursement after closing in accordance with (c)2 above.

(h) The nonprofit may unilaterally withdraw the project at any time before it receives Green Acres funds. The nonprofit shall not terminate the project agreement after it receives any Green Acres funds without the written consent of Green Acres.

(i) If the nonprofit terminates the project agreement under (h) above, the nonprofit is responsible for any costs of acquisition incurred as of the time of termination. The nonprofit shall also repay, with interest at the judgment interest rate established under the New Jersey Court Rules Governing Civil Practice at 4:42-11(a)(ii) in effect at the time of termination, any disbursements which Green Acres made to the nonprofit for the project.

#### **7:36-19.4 Accounting and recordkeeping**

(a) The nonprofit shall maintain and make available to the Department for inspection on request all financial documents and records related to the project for three years in accordance with (d) below.

(b) The nonprofit, its contractors, and subcontractors shall employ generally accepted accounting procedures that adequately identify the costs associated with the Green Acres grant.

1. For the proposed disposal or diversion of funded or unfunded parkland, the local unit or nonprofit shall deposit into a dedicated account an amount of money at least equal to the market value of the parkland to be disposed of or diverted, as appraised at the time of the application for Commissioner and State House Commission approval under N.J.A.C. 7:36-21.4. The money in the dedicated account shall be used only for the acquisition of land for recreation and conservation purposes. For each acquisition of land using money from the dedicated account, the local unit or nonprofit shall submit to Green Acres for prior approval all of the information required under N.J.A.C. 7:36-21.4(a)1 through 7. All land acquired using money from the dedicated account shall be subject to Green Acres restrictions, and the deed for each parcel shall specify this;

2. For the proposed disposal or diversion of unfunded parkland with a market value of \$10,000 or less, the local unit shall deposit into a dedicated account an amount of money at least equal to the market value of the parkland to be disposed of or diverted, as appraised at the time of the application for Commissioner and State House Commission approval under N.J.A.C. 7:36-21.4. The money in the dedicated account shall be used only for the development of facilities for recreation and conservation purposes; or

3. For the proposed disposal or diversion of funded or unfunded parkland, the local unit or nonprofit shall repay to the Treasurer of the State, for deposit into the appropriate Green Acres bond fund, the market value of the funded or unfunded parkland to be disposed of or diverted, as appraised at the time of application for Commissioner and State House Commission approval under N.J.A.C. 7:36-21.4.

(b) If a local unit or nonprofit proposes to dispose of or divert a permanent easement of less than one acre on funded or unfunded parkland, the local unit or nonprofit may, as an alternate to replacement land, propose to provide monetary compensation for the disposal or diversion in an amount equal to the appraised value of the easement. The local unit or nonprofit shall use the monetary compensation for capital improvements related to its funded or unfunded parkland or to its recreation program as a whole.

(c) A local unit or nonprofit shall propose to compensate for the loss of any development resulting from the proposed disposal or diversion of funded or unfunded parkland with a development of reasonably equivalent usefulness, size, quality, and location.

(d) Except as provided at (f) below, a local unit or nonprofit shall not propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with land already subject to Green Acres restrictions.

(e) A local unit shall not propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with land on which streets are shown on a subdivision plan as either offered for dedication or dedicated but not constructed (also known as "paper streets"), unless the paper streets are an integral part of the proposed replacement land and are vacated by ordinance.

(f) If the parkland proposed to be disposed of or diverted comprises no more than three acres and no more than five percent of the area of the park in which it is located, the local unit or nonprofit may propose to compensate for the disposal or diversion by "banking" a parcel of land that is significantly larger than the parkland proposed to be disposed of or diverted. The local unit shall specify the portion of the banked parcel that replaces the parkland initially proposed to be disposed of or diverted, and shall reserve the remainder of the banked parcel. The following conditions apply to the reserved remainder:

1. The reserved remainder shall be subject to Green Acres restrictions as of the date that the local unit or nonprofit executes a written agreement with Green Acres establishing the land compensation "bank" subsequent to Commissioner and State House Commission approval under this subchapter of the initial disposal or diversion;

2. The local unit or nonprofit shall use the reserved remainder only as replacement land for subsequent proposed disposals or diversions of funded or unfunded parkland that comprise no more than three acres and no more than five percent of the area of the park in which it is located; and

3. Any subsequent proposed disposal or diversion of parkland for which the banked remainder of the parcel is used as replacement land shall meet all the requirements of this section.

(g) A local unit or nonprofit shall not propose to compensate for the disposal or diversion of funded or unfunded parkland by replacing the parkland with land that has a market value less than that of the parkland proposed to be disposed of or diverted unless:

1. The local unit or nonprofit makes up the difference in market value, up to a maximum of 50 percent of the value of the proposed replacement land, with the cost of developments that the local unit or nonprofit constructs in addition to any developments required to be replaced under (c) above;

2. The area of the proposed replacement land is at least as great as that of the parkland proposed to be disposed of or diverted and is of reasonably equivalent quality, location, and usefulness for recreation and conservation purposes; and

3. The cost of the additional development does not include the cost of any upgrades or improvements to any development required to be replaced under (c) above.

**7:36-21.4 State House Commission application**

(a) A local unit or nonprofit that has been notified under N.J.A.C. 7:36-21.2(e)4 to submit a complete application to the Commissioner and State House Commission for approval shall within 180 days submit to Green Acres the following:

1. An appraisal of the parkland proposed to be disposed of or diverted and an appraisal of the replacement land proposed as compensation, obtained in accordance with the requirements of N.J.A.C. 7:36-6.6(a) through (d);

i. If the ratio of proposed replacement land to the parkland proposed to be disposed of or diverted is at least 2:1, the local unit or nonprofit may submit to Green Acres a certification by the tax assessor of the local unit where the land is located that the replacement land is of at least equal market value and has the same development potential as does the parkland to be disposed of or diverted. The certification shall be on a form provided by Green Acres, and shall include valuation information. If Green Acres concurs with the tax assessor's certification, the local unit or nonprofit need not submit the appraisal(s) required under this section.

ii. In any appraisal of parkland proposed to be disposed of or diverted, the highest and best use shall be considered to be the use intended subsequent to the disposal or diversion, if the disposal or diversion would result in a higher economic value for the land;

2. A title report for the proposed replacement land, if necessary, to determine existing restrictions, encumbrances, easements, liens, or other factors which may affect the value of the land;

3. A copy of an environmental assessment report based on an outline provided by Green Acres which describes the existing environmental features of the land proposed for disposal or diversion and of the replacement land; and identifies and compares alternative replacement lands;

4. A preliminary assessment report for the proposed replacement land if that land has a current or past industrial use, appears to have been disturbed based on aerial photography or a site inspection, or Green Acres receives information regarding a history of contamination. Green Acres shall determine if the report contains the information required under the Technical Requirements for Site Remediation, N.J.A.C. 7:26E, and shall notify the local unit or nonprofit as follows:

i. If the preliminary assessment report does not contain the required information, Green Acres shall send the local unit or nonprofit a deficiency letter identifying the information that must be submitted. The local unit or nonprofit shall submit the information by the date specified in the letter.

ii. If the preliminary assessment report contains the required information and does not identify any areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send the local unit or nonprofit a letter acknowledging the sufficiency of the preliminary assessment report. The chief executive officer of the local unit or nonprofit shall certify, on a form provided by Green Acres with the sufficiency letter, that the local unit or nonprofit has reviewed the preliminary assessment report and determined to proceed with the application for approval of the disposal or diversion. The local unit or nonprofit shall return the certification to Green Acres within 30 days of the date of the sufficiency letter.

iii. If the preliminary assessment report contains the required information and identifies one or more areas of concern, as defined under the Technical Requirements for Site Remediation, Green Acres shall send a letter notifying the local unit or nonprofit that the areas of concern must be addressed to the Department's satisfaction before the application will be submitted for Commissioner and State House Commission approval;

5. Two copies of a land survey plan for the parcel of parkland proposed to be disposed of or diverted and two copies of a land survey plan for the proposed replacement land. Each survey plan shall be prepared in accordance with the rules of State Board of Professional Engineers and Land Surveyors at N.J.A.C. 13:40-5, showing acreage, tax map references (blocks and lots) current as of the date of the plan, all easements of record, fences, improvements, encroachments, water courses, wetlands, and pertinent natural features, and shall be submitted on paper (two copies) and, for the survey plan for the proposed replacement land, also in a format compatible with the Mapping and Digital Data Standards at N.J.A.C. 7:1, Appendix A;

6. Two copies of the metes and bounds description, stating acreage, corresponding to the survey required under (a)5 above, submitted on the surveyor's letterhead, and signed and sealed by the surveyor;

7. Two copies of the site map of the proposed replacement land if there have been any changes in the information shown since the map was submitted with the request for a pre-application conference under N.J.A.C. 7:36-21.2(a)6;

8. A reference map or maps, if necessary, on 8½ by 11 inch paper, showing the general location of the parkland, the specific portion proposed to be disposed of or diverted, and the replacement land;

9. A resolution, adopted by the governing body of the local unit or nonprofit after the public hearing required under (b) below, affirming the local unit's or nonprofit's endorsement of the proposal to dispose of or divert the parkland. The resolution shall include a summary of the proposed disposal or diversion and of the replacement land or cash repayment in lieu of replacement land, or the replacement development, by which the local unit will compensate for the disposal or diversion;

10. Proof of publication and mailing of the notice of the public hearing required under (b)1 below;

11. A copy of the minutes or transcript of the public hearing required under (b) below, including a summary of the public comments and the local unit's or nonprofit's responses to them; and

12. A letter from the local unit's or nonprofit's attorney stating that:

i. The attorney has reviewed the entire application for Commissioner and State House Commission approval;

ii. It is the attorney's opinion that the local unit or nonprofit is empowered to proceed with the application; and

iii. It is the attorney's opinion that the local unit or nonprofit is not in violation of any applicable Federal, State, or local laws, rules, regulations, codes, or ordinances.

(b) The local unit or, in the case of a nonprofit, the Department shall hold a public hearing in the local unit in which the parkland proposed to be disposed of or diverted is located to obtain public comment on the application. The local unit or nonprofit shall provide notice of the public hearing in accordance with (b)1 and 2 below. The notice shall specify that the application for Commissioner and State House Commission approval of the disposal or diversion has been submitted to Green Acres and is available for review at the Green Acres Program offices. In addition, the local unit or nonprofit is encouraged to issue a press release prior to the public hearing.

1. The local unit or nonprofit shall publish a notice in the official newspaper of the municipality in which the parkland is located and, if the local unit is a county, also in a newspaper of general interest and circulation, as a legal notice at least 15 days before the public hearing, and again in the same newspapers as a paid advertisement at least seven days before the hearing; and

2. The local unit or nonprofit shall send a notice by certified mail to the governing body, the local planning

board, and the environmental commission of the municipality in which the parkland is located, and to all owners of real property located within 200 feet of the parkland proposed to be disposed of or diverted.

(c) Within 45 days after Green Acres receives the application required under (a) above, Green Acres shall notify the local unit or nonprofit as to whether the application is complete for Commissioner and State House Commission review or whether additional information is required.

1. If additional information is required, Green Acres shall notify the local unit or nonprofit as to whether the application is complete within 15 days after Green Acres receives the additional information.

(d) Within 60 days after Green Acres notifies the local unit or nonprofit under (c) above that its application is complete, the Commissioner shall notify the local unit or nonprofit in writing of his or her approval or disapproval of the application.

1. The Commissioner shall submit an approved application to the State House Commission for review at the State House Commission's next scheduled meeting, provided the date of the meeting is at least 30 days after the date of the public hearing held under (b) above.

(e) Green Acres shall notify the local unit or nonprofit in writing of the State House Commission's approval or disapproval of the application.

(f) If the local unit or nonprofit determines to proceed with the disposal or diversion after receiving notice under (e) above of the State House Commission approval, Green Acres shall either:

1. Execute a release of the land being disposed of or diverted; or

2. If the compensation for the disposal or diversion is replacement land, execute with the local unit or nonprofit an agreement releasing the Green Acres restrictions on the parkland disposed of or diverted, and subjecting the replacement land to the Green Acres restrictions.