

# **The Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund**

## **3.0 Open Space Preservation**

### **3.1 Morris County Park Commission**

Eligible applicants, properties and review procedures of open space projects to be acquired by the Morris County Park Commission shall be determined by this agency.

### **3.2 Morris County Municipal Utilities Authority**

Eligible applicants, properties and review procedures of open space projects to be acquired by the Morris County Municipal Utilities Authority shall be determined by this agency.

## **3.3 Municipal and/or Qualified Charitable Conservancy Projects**

### **3.3.1 Acquisition Strategies**

The following acquisition strategies shall be considered in the allocation of funds from the Municipal and/or Qualified Charitable Conservancy (hereinafter “Non-Profit”) program of the Morris County Preservation Trust Fund:

1. Projects which qualify for State Green Acres funding.
2. Multi-use projects (projects including several elements such as water protection, recreation, historic and scenic preservation, etc.)
3. Projects involving land under immediate threat of commercial, industrial or residential development where development of the property would be inconsistent with overall character of the community.
4. Projects submitted by municipalities with little or no existing lands preserved as open space or recreation.
5. Projects with matching funds.
6. Joint public/private sector projects.
7. Projects consistent with County and Municipal Open Space Plans.

### **3.3.2 Eligible Applicants**

The following entities are eligible to apply for funds:

1. Any of the thirty-nine municipalities in the County of Morris
2. Charitable conservancies

### **3.3.3 Eligible Acquisitions**

Projects eligible for consideration for funding from the Morris County Municipal and/or Non-Profit program of the Morris County Preservation Trust Fund include the following:

1. Land or water areas for recreation and conservation purposes, including but not limited to:
  - a. Parkland, natural areas, greenways
  - b. The protection of ecologically sensitive areas including freshwater wetlands, steep slopes and stream corridors
  - c. The preservation of lands containing exceptional flora or fauna
  - d. The preservation of areas of scenic, historic and cultural value
  - e. Passive and active outdoor recreational opportunities

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- f. The protection of critical water supplies such as areas surrounding municipal/county wells, aquifer recharge protection areas or watershed areas, and floodplains
2. The acquisition of historic sites eligible under the Historic Preservation Trust Fund Program (See Section 5.6).

### 3.3.4 Ineligible Acquisitions

Projects ineligible for consideration for funding from the Morris County Municipal and/or Non-Profit program of the Morris County Preservation Trust Fund include but are not limited to the following:

1. Sites which will remain predominantly covered by buildings or structures, except sites which meet historic preservation criteria under the Historic Preservation Trust Fund Program.
2. Former landfill sites.
3. Sites which at the time of application are designated (i.e., zoning, plan and/or court settlement) for affordable housing.
4. Development costs such as construction of ballfields, tennis courts, roads etc.
5. Any administrative, maintenance, care, custodial or policing expenditures associated with the acquisition of open space.
6. Sites already owned by municipalities/qualified charitable conservancies or acquired during the application process.
7. Flood mitigation acquisition projects, except projects which have been reviewed and rejected by the Flood Mitigation Committee (FMC) or the Board of Chosen Freeholders (See Sec. 6.8 Acquisition Procedures).

### 3.3.5 Open Space Trust Fund Committee

#### 3.3.5.1 Purpose and Appointments

The Open Space Trust Fund Committee (“Committee”) shall review, prioritize, and make recommendations to the Morris County Board of Chosen Freeholders on the funding of projects. The Committee shall not have the authority to amend or modify acquisitions undertaken by the Park Commission, M.U.A., Agriculture Development Board, Flood Mitigation Committee or Historic Preservation Trust Fund Review Board.

All nominees to the fifteen member Committee shall be reviewed according to standard County procedures in order to avoid any potential conflict of interest. The Morris County Board of Chosen Freeholders shall appoint the Committee based upon the recommendation(s) from the various municipalities and/or entities as follows:

Number of Appointees	Appointee Representation
8	Municipal representatives, with one representative from each of the Open Space Regions as stipulated below and on Figure 1.
2	At-Large members
1	Morris County Planning Board from its membership
1	Morris County Park Commission from its membership
1	Morris County Agriculture Development Board from its membership
1	Morris County Municipal Utilities Authority from its membership
1	Morris County Historic Preservation Trust Fund Review Board from its membership

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Region	Municipalities (listed in order of rotation sequence)
I	Mt. Olive, Washington, Chester Twp., Chester Boro.
II	Mendham Boro., Mine Hill, Randolph, Mendham Twp., Victory Gardens, Dover
III	Roxbury, Mt. Arlington, Jefferson, Netcong
IV	Rockaway Twp., Denville, Rockaway Boro., Wharton
V	Parsippany, Mt. Lakes, Boonton Twp., Boonton Town
VI	Pequannock, Butler, Lincoln Park, Kinnelon, Montville, Riverdale
VII	Morristown, Morris Plains, East Hanover, Hanover, Morris Twp.
VIII	Madison, Chatham Boro., Chatham Twp., Florham Park, Harding, Long Hill

Municipal representatives shall be a resident of the municipality, and an elected official or appointed to a municipal board or commission recommended to the Board of Chosen Freeholders from the respective town. Municipal administrators shall not be required to meet the residency requirement of the municipality. The Morris County League of Municipalities shall decide upon the rotation sequence for each municipality within the regions.

The Morris County Board of Chosen Freeholders may also appoint a liaison to the Committee; this member shall not have voting privileges.

All members shall abide by Morris County’s Policy and Procedures for Attendance of Volunteer Members of Advisory Bodies at Scheduled Meetings and Conflict of Interest.

All Committee members shall be residents of Morris County (with the exception noted above for municipal administrators).

3.3.5.2 Terms of Office

Terms for members representing the Morris County M.U.A., the Morris County Planning Board, the Morris County Park Commission, the Morris County Agriculture Development Board, the Morris County Historic Preservation Trust Fund Review Board and the two At-Large appointees shall be for a two year period. All terms for municipal members representing the regions shall be for a three year period.

Municipal members representing the regions shall serve for only one term. All other Committee members shall serve no more than two consecutive terms. All members shall serve on a voluntary basis without compensation.

Members representing the Morris County M.U.A., the Morris County Planning Board, the Morris County Park Commission, the Morris County Agriculture Development Board, the Morris County Historic Preservation Trust Fund Review Board and the two At-Large appointees who have served two consecutive terms cannot be re-appointed to the Committee for a time period of two years from the expiration date of their last term.

If the municipal member's elected or appointed term of office expires prior to the end of his/her term on the Open Space Trust Fund Committee, the municipal member may complete his/her entire term, at the discretion of the appointing municipal governing body. If a municipal member is unable to complete his/her entire term, a new representative from that municipality shall be appointed for the remainder of

the term.

If the term of office of a member representing the Morris County M.U.A., the Morris County Planning Board, the Morris County Park Commission, the Morris County Agriculture Development Board and/or the Morris County Historic Preservation Trust Fund Review Board expires prior to the end of his/her term on the Open Space Trust Fund Committee, the member's term shall be completed by a different individual representing that member's jurisdiction.

#### **3.3.5.3 Selection of a Chairperson, Vice-Chairperson and Secretary**

The Committee shall elect a Chairperson, Vice-Chairperson and Secretary from its membership at its annual re-organization meeting in April. The term of the office shall extend until the reorganization of the subsequent year's Committee.

The Chairperson shall preside at all meetings of the Open Space Trust Fund Committee and be an ex-officio member of any and all sub-committees that may be created. The Chairperson shall appoint all standing and ad hoc committees as may be required.

The Vice-Chairperson shall perform the duties of the Chairperson in his/her absence. Should the office of Chairperson become vacant, the Vice-Chairperson shall succeed to the office of the Chairperson for the balance of the term. The Vice-Chairperson shall perform such duties as may be assigned by the Chairperson.

The Secretary shall sign all official documents as may be required.

#### **3.3.6 Acquisition Review**

The Morris County Office of Planning & Preservation shall develop a grant application package and schedule for review. Each applicant shall complete the grant application form (found at <http://morriscountynj.gov/planning/divisions/prestrust/openspace/application/>) and comply with all application requirements and deadlines found in the form. Office of Planning & Preservation staff shall review submitted applications for eligibility and completeness. All eligible and complete applications will be forwarded to the Open Space Trust Fund Committee that will annually review, prioritize and recommend funding. Recommendations shall be made to the Morris County Board of Chosen Freeholders.

##### **3.3.6.1 Site Visits and Final Presentations**

###### **A. Purpose**

To establish requirements for site visits and final presentations by municipalities and non-profit organizations seeking funding through the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund. This policy will help ensure the Morris County Open Space Trust Fund Committee (hereinafter "Committee") conducts its site visits and final presentation meetings in compliance with the Open Public Meetings Act, N.J.S.A. 10:4-6 et seq. The site visits and final presentations are held in closed session because they are an essential part of the contract negotiation process between the applicants and the property owners for the purchase of property with County funding.

###### **B. Applicability**

All applicants seeking funding shall comply with this policy during site visits and final presentations before the Committee.

C. Definitions

“Representative” shall mean an applicant’s municipal official (whether an employee or volunteer), staff member, board member or paid professional or consultant designated by the municipality to represent it with respect to the application for funding for the subject property. For non-profit applicants, a “representative” shall mean a member of the non-profit board, staff member or paid professional or consultant. Any person who meets the above definition with respect to a funding partner for the subject property is also considered to be a “representative.”

“General public” shall mean anyone other than the Committee who is not a “representative” of the applicant or funding partners. This shall include but not be limited to: the subject property’s owner, other property owners, and members of the press.

D. Requirements

*Site Visits*

Site visits are conducted in “closed session” of a public meeting. During the Committee’s site visit to an applicant’s subject property, only representatives of the applicant are permitted to be present. Members of the general public are not permitted to be present. The applicant is responsible for ensuring that only its representatives are present. Applicants are encouraged to have only a limited number of representatives and to provide the Committee time to ask questions during the site visit.

*Final Presentation*

One or more final presentation meetings will be scheduled for dates after the conclusion of all site visits and will be noticed as public meetings. Members of the public will be given an opportunity to make comment at the beginning of each final presentation meeting during the public comment portion of the meeting, limited to no more than three (3) minutes in duration. Members of the public may also submit written comments in advance of the final presentation meeting. The applicant’s final presentation to the Committee will be held in closed session and only representatives of the applicant and any funding partners are permitted to be present during the closed portion of the meeting. Members of the general public will be excluded from closed session in accordance with the Open Public Meetings Act.

*Handouts*

The applicant shall not distribute any handouts other than maps to the Committee during site visits or the presentation.

3.3.6.2 Appraisal Requirements

A. Purpose

To establish requirements for appraisals and reports submitted by municipalities and non-profit organizations seeking funding through the Municipal and/or Non-Profit program of the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund.

B. Applicability

All applicants seeking funding shall have one appraisal that is documented by a written report which is prepared in compliance with these requirements. All appraisals and reports must be prepared by a New Jersey Certified General Real Property Appraiser who is on the current List of Approved Appraisers of the New Jersey Green Acres program. Two hard copies of the appraisal report and an electronic copy in pdf format shall be submitted to the Office of Planning & Preservation.

C. Definitions

“Pre-appraisal estimated value” shall mean the anticipated appraised value for the subject property and is only for use in determining which type of appraisal to prepare. The applicant may consult tax records and/or the municipal tax assessor for assistance and guidance in this determination.

Informational Note:

For applicants who will also seek funding through the New Jersey Green Acres program, N.J.A.C. 7:36-8.3 requires an on-site meeting with Green Acres staff and the appraiser prior to commencement of the appraisal. Compliance with this Green Acres provision is not required by the County; however, applicants should be aware of this Green Acres requirement.

Each funding year, the appraisal submission date shall coincide with the application deadline. All appraisals shall comply with all appraisal requirements at the time of submission. Applicants are required to submit one appraisal report (i.e., two hard copies of a written appraisal report and an electronic copy in pdf format). Any applicant that does not meet the appraisal submission deadline shall have its application deemed incomplete and not be eligible for consideration in that funding year. The Office of Planning & Preservation shall have the right to disqualify any appraisal that does not meet the criteria outlined in this policy.

All appraisals must specifically include the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund as an Intended User of the appraisal and report.

For properties that have a pre-appraisal estimated value approaching the \$250,000 limit, the applicants are encouraged to have the Summary Appraisal Report or the self-contained appraisal report prepared. If the applicant chooses to prepare the Restricted Use Appraisal Report, documentation must be provided with the funding application that substantiates the estimated value of the property at less than \$250,000. Based on the pre-appraisal estimated value, the following Appraisal Requirements shall apply:

D. Appraisal Requirements for property with an “estimated value” of \$250,000 or more

1. Fee Simple
  - a. The applicant’s appraiser shall prepare an appraisal of the subject property and submit a written report, commonly known as a **“Summary Appraisal Report,”** of its opinion of the market value of the subject property in accordance with the definition of “Market Value” as set forth in the most current edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal and report must contain at a minimum the scope of work contained in the New Jersey Green Acres program’s “Scope of Work for Appraisal Services” (as updated through 10/26/11 or later). Alternatively, the applicant may submit a “Self-Contained Appraisal Report” prepared in conformance with the Green Acres scope of work.
  - b. The “As of Date” of the appraisal shall be the application deadline of the application year or the date of the property inspection with the property owner, whichever date is more current to the date of the appraisal. If an appraisal and report have already been prepared, the “As of Date” must be more recent than August 1 of the year prior to making the application.
    - i. The applicant’s appraiser shall separate the land value from the value of all structures or improvements for all properties that are the subject of the application, and shall provide a discrete land value separated from the value of all structures and improvements for properties under different ownerships.
  - c. The applicant’s appraiser shall be provided with a report from the municipal engineer or licensed professional planner of the municipality in which the subject property is located, demonstrating the development potential of the subject property. This report shall include an evaluation of the development potential of the Subject Property including but not limited to: municipal land use ordinances and regulations, environmental restrictions; such as, wetlands,

Category 1 streams, sub-soil conditions and steep slopes. A copy of this report, which is signed and sealed by the municipal engineer or licensed professional planner, shall be included and attached in the appraisal report. *The Office of Planning & Preservation staff, at their sole discretion in consultation with the County's Review Appraiser, shall have the right to disqualify any development potential report that does not contain sufficient detail.*

- d. The applicant's appraiser shall not prepare an appraisal or issue a report based on any unsubstantiated "extraordinary assumptions and/or hypothetical conditions" relative to the development potential or any environmental conditions of the subject property. The appraiser must rely upon the appraiser's expertise as well as the information provided by the municipal engineer or professional planner in formulating their opinion of the Market Value of the Subject Property.
  - e. If the municipal engineer or professional planner does not provide such analysis, the municipality or the non-profit must hire an independent professional engineer, professional planner or licensed landscape architect to prepare a report on the land's development potential for consideration by the appraiser.
  - f. If the landowner's professional engineer or planner provides an analysis of the development potential of the property, said analysis must be reviewed by an independent professional engineer, professional planner or licensed landscape architect hired by the applicant and a report prepared of the findings for consideration by the appraiser.
  - g. The applicant's appraiser shall provide a separate value in the appraisal and report segregating the value for any and all structures and improvements on the property.
2. For less than fee simple purchases (e.g. a conservation easement), a "before" and "after" appraisal must be prepared utilizing the same standards outlined above. In addition, the easement's deed restrictions must be provided to the appraiser prior to preparation of the appraisal and report, with a copy of the easement language or document included in the appraiser's report.

E. Appraisal Requirements for property with an "estimated value" of less than \$250,000

1. Fee Simple
  - a. The applicant's appraiser shall prepare an appraisal of the Subject Property and submit a written report, commonly known as a "**Restricted Use Appraisal Report**" of its opinion of the market value of the subject property in accordance with the definition of "Market Value" as set forth in the most current edition of the Uniform Standards of Professional Appraisal Practice (USPAP). The appraisal and report must contain at minimum the scope of work contained in the New Jersey Green Acres program's "Scope of Work for Appraisal Services" (as updated through 10/26/2011 or later). Alternatively, the applicant may submit a "Summary Appraisal Report" or "Self-Contained Appraisal Report" prepared in conformance with the Green Acres scope of work.
  - b. The "As of Date" of the appraisal shall be the application deadline of the application year or the date of the property inspection with the property owner, whichever date is more current to the date of the appraisal. If an appraisal and report have already been prepared, the "As of Date" must be more recent than August 1 of the year prior to making application.
  - c. The applicant's appraiser shall separate the land value from the value of all structures or improvements for all properties that are the subject of the application, and shall provide a discrete land value separated from the value of all structures and improvements for properties

under different ownerships.

- d. The applicant's appraiser shall be provided with a report from the municipal engineer or licensed professional planner of the municipality in which the subject property is located, demonstrating the development potential of the subject property. This report shall include an evaluation of the development potential of the Subject Property including but not limited to: municipal land use ordinances and regulations, environmental restrictions; such as, wetlands, Category 1 streams, sub-soil conditions and steep slopes. A copy of this report, which is signed and sealed by the municipal engineer or licensed professional planner, shall be included and attached in the appraisal report. The Preservation Trust staff shall have the right, at their sole discretion, to disqualify any development potential report that does not contain sufficient detail.
  - e. The applicant's appraiser shall not prepare an appraisal or issue a report based on any unsubstantiated "extraordinary assumptions and/or hypothetical conditions" relative to the development potential or any environmental conditions of the subject property. The appraiser must rely upon the appraiser's expertise as well as the information provided by the municipal engineer or professional planner in formulating their opinion of the Market Value of the Subject Property.
  - f. If the municipal engineer or professional planner does not provide such analysis, the municipality or the non-profit must hire an independent professional engineer, professional planner or licensed landscape architect to prepare a report on the land's development potential for consideration by the appraiser.
  - g. If the landowner's professional engineer or planner provides an analysis of the development potential of the property, said analysis must be reviewed by an independent professional engineer, professional planner or licensed landscape architect hired by the applicant and a report prepared of the findings for consideration by the appraiser.
  - h. The applicant's appraiser shall provide a separate value in the appraisal and report segregating the value for any and all structures and improvements on the property.
2. For less than fee simple purchases (e.g. a conservation easement), a "before" and "after" appraisal must be prepared utilizing the same standards outlined above. In addition, the easement's deed restrictions must be provided to the appraiser prior to preparation of the appraisal and report, with a copy of the easement language or document included in the appraiser's report.

#### F. County Appraisal Review

1. All appraisals submitted for funding through the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund shall be reviewed by an appraiser hired by Morris County ("Review Appraiser") who is currently at a minimum a New Jersey State Certified General Real Estate Appraiser (SCGREA) and is on the current List of Approved Appraisers of the New Jersey Green Acres program.
2. The Review Appraiser shall review the appraisal in accordance with USPAP Standard 3 requirements. If applicable, the Review Appraiser shall develop questions regarding development of the opinion of value and transmit these to the applicant's appraiser with copy to the applicant.
3. The Review Appraiser shall contact the applicant's appraiser (via e-mail, phone, or letter) to



address any questions regarding the development of the opinion of value that are not addressed in the appraisal report or resolved via written correspondence from the applicant's appraiser.

4. It is the applicant's sole responsibility to directly contact their appraiser to respond to the Reviewer's questions regarding development of the value conclusion and the final value conclusion which may occur as a result of the appraisal review.
5. The Review Appraiser shall develop an opinion as to the completeness, accuracy, relevance, adherence to appraisal guidelines and reasonableness of the analysis in the work under review given law, regulations and intended user requirements applicable to the work under review (USPAP Sec. 3-3).
6. If the Review Appraiser concludes the applicant's appraiser provides reasonable documentation to support the assumptions and analysis in the report and adequately addresses all questions raised, the value conclusion shall be deemed Morris County's **Accepted Market Value** (AMV) upon which Morris County may cost share for the project.
  - a. The AMV is not a certified value and is not a substitute or replacement for Green Acres' Certified Market Value (CMV) or Average of Appraised Values
  - b. Various program areas receive funding allocations from the Morris County Preservation Trust Fund. These are the Park Commission, Municipal Utilities Authority, Agriculture Development Board, Municipal/Non-Profit Open Space Program, Historic Preservation Program, and Flood Mitigation Program. *Morris County's maximum cost share participation on a project shall include sources of funds from all of these programs, not to exceed the AMV.* Funding participation by other partners and the applicant is encouraged.
  - c. Morris County may cost share on a project up to the lower of either the contract value or AMV.
7. If the Review Appraiser concludes the applicant's appraiser does not provide reasonable documentation to support the assumptions, analysis and value conclusion in the report, and fails to adequately address all questions raised leaving significant issues unresolved, then the Review Appraiser shall, at the direction of the Committee, develop an independent opinion of value which shall be deemed the AMV for Morris County cost share participation.

### **3.3.7 Acquisition Procedures**

#### **(Amended by Resolution #45, 12/22/2014)**

Applicants approved for funding shall fund all costs incurred in connection with the acquisition of any land or interest therein including but not limited to the cost incurred for: appraisals, wetland delineations, surveys, preliminary assessment reports, title searches, legal expenditures and any other costs associated with the acquisition of such land or interest therein.

#### 3.3.7.1 Grant Agreement

All applicants approved for funding shall execute a grant agreement in order to effectuate the grant award. The grant agreement shall be provided by Morris County. No modifications to the grant agreement are permitted. Applicants approved for funding shall have 90 days from January 1 to return the executed grant agreement to the County. Failure to return the executed grant agreement to the County within this time frame shall result in the forfeiture of the grant award.

The grant award approved by the Morris County Board of Chosen Freeholders is based on the cost of

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acquisition (i.e., appraised value, contract amount, verbal offer) provided in the grant application. Upon review and acceptance of an applicant’s appraisal report, the appraised value shall become the Morris County Accepted Market Value (AMV). The final grant award shall be the dollar amount approved by the Freeholder Board or the dollar amount calculated by multiplying the actual acquisition cost by the original grant award percentage of the application acquisition cost, whichever is less. The maximum County cost share shall not exceed the Morris County Accepted Market Value (AMV). The final grant award shall be based on the Morris County AMV when the actual acquisition cost exceeds the AMV.

Examples:

Grant Request	Cost (in Application)	Morris County AMV	Freeholder Grant Award	Maximum County Grant Award	Actual Acquisition Cost	Final Morris County Grant Award
\$300,000	\$500,000 (appraised value)	\$500,000	\$300,000	$300/500 = 60\%$	\$450,000	60% of \$450,000 = <b>\$270,000</b>
\$600,000	\$1,000,000 (verbal offer)	\$750,000	\$500,000	$500/750 = 67\%$	\$900,000	<b>\$500,000</b>
\$400,000	\$800,000 (contract amount)	\$650,000	\$400,000	$400/650 = 62\%$	\$800,000	<b>\$400,000</b>

Applicants approved for funding shall have fifteen (15) months to acquire the property. The timeframe will commence on January 1<sup>st</sup> following the grant award by the Board of Chosen Freeholders. Additionally, all approved applicants can obtain up to two grant extensions if it is shown that there are challenging circumstances which inhibit a project’s acquisition within the initial 15-month deadline. The first grant extension shall extend for six (6) months from the expiration of the initial 15-month deadline. Applicants shall have a fully executed contract by the expiration date of the first grant extension to be eligible for a second grant extension. The Open Space Trust Fund Committee shall have the ability to grant a second grant extension without a fully executed contract, upon showing of good cause (e.g., delays in obtaining NJDEP permits). An updated appraisal may be required as a condition of a second grant extension. The change in requirements for granting a second grant extension shall apply to all grants awarded in 2012 and all subsequent funding rounds. The second grant extension for eligible applicants shall extend from the expiration of the first grant extension to the date of the application deadline for the next year’s funding round. The change in the expiration date of the second grant extension shall apply to all grants awarded in 2008, 2009 and all subsequent funding rounds. Example for a grant awarded in 2009:

Grant Period	Expiration Date
Initial grant of 15 months	April 1, 2011
First grant extension	October 1, 2011
Second grant extension	Open Space application deadline in June 2012

If the applicant fails to complete the project within the aforementioned timeframes, the applicant shall forfeit the grant and may re-apply in a subsequent funding round. Under no circumstances shall this guarantee the project would again be awarded a grant. All resubmissions shall comply with current application requirements, including an updated appraisal in compliance with Section 3.3.5.2.

3.3.7.2 Land Use Restrictions

Land and water areas, and any improvements thereon, acquired by applicants with the aid of funding from

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the Municipal and/or Non-Profit program of the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund shall be used exclusively for purposes authorized pursuant to P.L. 1997, c.24, N.J.S.A. 40:12-15.1, et seq., and any amendments thereto.

Preserved lands shall not be conveyed, transferred, disposed of or diverted to use for other than recreation, conservation, farmland or historic preservation purposes without the prior approval of Morris County.

Applicants shall include in all deeds of lands which are purchased with the aid of funding through the program open space deed restrictions provided by the County. Said deed restrictions will vary depending upon all funding sources used to acquire the property. Public access is a requirement of County funding.

### 3.3.7.3 Subdivision Review and Approval

All Approved Projects which involve subdivision of property are subject to review and, where applicable, approval by the Morris County Planning Board. The applicant shall submit a Land Development Review application to the County Planning Board for any Approved Project subject to a subdivision.

The applicant should submit the Morris County Land Development Review application to the County Planning Board at least 45 days prior to the scheduled closing date. Applicants are encouraged to consult with the Morris County Land Development Review Section prior to submitting the application.

In accordance with Section 313D of the County Land Development Review Standards, subdivisions submitted by municipal governments and non-profits are not subject to review fees.

No funds shall be released until a copy of the County Planning Board approval or exemption letter is received and all dedications to the County of Morris are finalized.

### 3.3.7.4 Requirements for Surveys

#### A. Purpose

To establish requirements for surveys by all applicants with an Approved Project.

#### B. Applicability

All applicants with an Approved Project shall have a survey prepared and submitted that is in compliance with these requirements.

#### C. Definitions

“Approved Project” shall mean the properties subject to the county open space application as referenced in Schedules B and C of the executed grant agreement between municipal and non-profit applicants and the County of Morris.

“Approved Funding Plan” shall mean the cost of acquisition of the approved project referenced in Schedule D (Final Project Finance Sheet) of the executed grant agreement between municipal and non-profit applicants and the County of Morris.

#### D. Survey Requirements

Applicants are required to submit a survey prepared by a New Jersey licensed land surveyor in conformance with this policy not later than 30 days prior to closing for its review and approval. The Office of Planning & Preservation shall have the right to disqualify any survey that does not meet the deadlines and/or requirements. In the event the survey of the property determines that the actual area is less than the area given in Schedule B, the County reserves the right to reduce its grant award on a per acre basis, unless the variation in the acreage is determined by the Office of Planning & Preservation to

be de minimis.

The survey shall show all easements and right-of-way dedications for County roads, bridges and drainage structures, (e.g., sight triangle easements, bridge maintenance easements, and roadway dedications) in accordance with the County Official Map, the County Engineer, and requirements of County Planning Board approval, where applicable.

Scope of Work/Specifications/ Deliverables

One electronic and one paper copy of the survey plat, along with a metes and bounds description, shall be prepared according to the Digital Mapping Submission Standards (Appendix G) of the Morris County Land Development Standards.

1. For Approved Projects with an Approved Funding Plan indicating definite or possible New Jersey Green Acres Program participation, the survey must contain the scope of work contained in the New Jersey Green Acres program’s current “Standard Scope of Survey Work.”
2. For Approved Projects with an Approved Funding Plan indicating no New Jersey Green Acres Program participation, an open space survey must be prepared to the minimum standards for land surveys as defined in N.J.A.C. 13:5.1 et. seq. by the State Board of Professional Engineers and Land Surveyors.

**3.3.8 Diversions of Preserved Lands**

**The County of Morris strongly discourages the diversion of open space lands preserved with funding assistance of the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund for other uses. Diversions of open space and parkland for other uses impacts the use and enjoyment of the remaining open space in potentially many ways including fragmentation of parkland, trails and wildlife habitat as well as impacts to unique environmental features, water quality and buffers. Any diversion of preserved land must fulfill a compelling public need or significant public benefit or service.**

A. Purpose

To establish procedures for all grant recipients seeking to divert preserved open space properties funded entirely or in part through the Morris County Open Space, Farmland, Floodplain Protection and Historic Preservation Trust Fund.

B. Applicability

All grant recipients shall abide by these requirements.

C. Determination of Jurisdiction

1. Prior to making an application to the County Open Space Committee the applicant must verify with NJDEP Green Acres Program (“Green Acres”) that Green Acres does not have jurisdiction over the proposed diversion regardless if it is funded or unfunded parkland. The determination of Green Acres must be in writing.
2. If Green Acres claims jurisdiction over the diversion, Green Acres will take the lead in the process. In such case:
  - a. Applicant shall copy the County on all submissions to Green Acres.
  - b. The County shall review the applicant’s submissions and any public hearing transcripts.
  - c. Applicant shall make a presentation to the Open Space Committee regarding its diversion request for the Committee’s recommendation to the Board of Chosen Freeholders prior to the applicant’s hearing before the Statehouse Commission.

3. If Green Acres declines jurisdiction over the proposed diversion or disposal application, the applicant shall be required to comply with the Morris County Open Space Diversion Rules and Regulations.

D. Morris County Diversion Requirements

1. The applicant must demonstrate that any land acquired by the applicant with County Open Space funds would be better served by, or is required for, another public use.
2. The County shall determine if the diversion is a major or minor diversion. The County shall use the Green Acres rules to define major and minor diversion (see N.J.A.C. 7:36-26.2(b) 1-5).

Minor Diversion

- a. The applicant must provide an ordinance or resolution authorizing the application for the diversion and the proposed use of the property.
- b. The applicant must have one public hearing on the proposed diversion and use of the property. The public hearing must be advertised in accordance with Green Acres requirements. The applicant must submit a summary of the public comments received at the public hearing and the applicant's response to the public comments. In addition the applicant shall post on its website its request for the diversion and its supporting documentation. The applicant shall issue at least one press release at least ten (10) days prior to the public hearing describing the proposed diversion.
- c. The applicant shall submit to the County a survey and description of the property showing the diversion and a survey and description of any replacement property.
- d. The land shall be replaced by land of at least equal fair market value and of equivalent usefulness size, quality and location to the land conveyed and monies derived from the conveyance shall be used to reimburse the Morris County Preservation Trust Fund for its share of the purchase cost of the land. If the applicant conveyed the property as part of an exchange, the land and improvements shall be of at least equal fair market value and reasonably equivalent usefulness, size, quality and location.

Major Diversion

- a. The applicant must provide an ordinance or resolution authorizing the application for the diversion stating the proposed public use of the property and the reason setting forth need and benefit of the diversion.
- b. The applicant shall provide an alternative analysis as set forth in N.J.A.C. 7:36-26.9.
- c. The applicant must have at least one public hearing on the proposed diversion and accept public comment. The applicant shall accept public comment for a minimum of two (2) weeks after the hearing. The hearing shall detail the proposed use of the property and the need for the diversion. The public hearing must be advertised in accordance with Green Acres requirements (N.J.A.C. 7:36-26.8). This includes but is not limited to the applicant (government or non-profit) providing the following:
  1. At least thirty (30) days prior to the hearing:
    - i. Publish legal notice of the hearing in the official newspaper of the municipality where the parkland is located; and
    - ii. Post notices on the official website; and
    - iii. Provide written notice to the County, the Governing Body, local Planning Board,

- Environmental Commission, and Open Space Advisory Committee of the Municipality where the parkland is located;
- iv. Provide written notices to all easement holders;
  - v. Provide written notice to all property owners within 200 feet of the parkland; and
  - vi. Post and maintain a sign to advise the public of the proposed diversion, the public hearing, and the opportunity for all public comment. The sign shall be placed at the entrance to the parkland and shall remain posted and maintained until the conclusion of the public comment period.
2. The information included in this notice shall conform to N.J.A.C. 7:36-26.8(c) 3.
    - d. The applicant must submit a summary of the public comments received at the public hearing and the applicant's response to each of the public comments. In addition, the applicant shall post on its official website its request for the diversion and its supporting documentation. The applicant shall issue at least one press release at least ten (10) days prior to the public hearing describing the proposed diversion.
    - e. The applicant shall submit any additional information the County deems necessary to fully consider the applicant's request.
    - f. The applicant shall provide compensation for a major diversion or disposal. The primary objective is to prevent a net loss of parkland, including, but not limited to quantity, quality and accessibility of parkland and to discourage the use of parkland for other than recreation and conservation purposes, especially when a feasible alternative is available. Compensation shall meet the Green Acres guidelines as set forth N.J.A.C. 7:36-26.9.